

TOURISM EXPENDITURE REVIEW COMMITTEE
MEETING MINUTES
June 20, 2011
SC Department of Revenue
Conference Room 2D21
10 a.m.

ATTENDANCE:

Committee Members in Attendance: Frans Mustert, Andy Cajka, Edward Riggs, Kevin Yokim, Mark Williams, Harriett Green, Rod Swaim and Toni Nance.

Guests in Attendance: John Hoefler, TERC Counsel; Joe Meadows, Joe Kernell, John Hensley – Greenville County; Wesley Crosby, Rod Dooley – Town of Lexington

Staff in Attendance: Damita Jeter, TERC Staff.

CALL TO ORDER /ADMINISTRATIVE TASKS/UPDATES:

1. **Call to Order:** The Meeting was called to order by Chairman Mustert.
2. **Minutes Approval:** Mr. Riggs motioned to approve the minutes from the April 4, 2011 meeting, Mr. Yokim seconded, and the committee unanimously voted to approve the minutes.
3. **Executive Session:** Mr. Riggs made a motion to go into executive session to discuss confidential matters with TERC's attorney, Mr. John Hoefler. The motion was seconded by Mr. Cajka. Upon ending executive session, Mr. Riggs made a motion to come out of it, followed by a second from Mr. Swaim. After some discussion, Ms. Green motioned that TERC continue with its appeal case currently with the ALJ concerning TERC vs. COMB. Mr. Cajka seconded with opposition from Mr. Williams and Mr. Yokim.

3. Updates/Review/Discussion:

Clarification: Chairman Mustert had written some atax clarification guidelines that he has asked John Hoefler to review. Mr. Hoefler reviewed and suggested that TERC put out to the public in an informal manner (such as its website) that these guidelines are intended as advice by TERC and are not legally binding. Mr. Riggs made a motion to accept these new guidelines/advice as an advisory opinion by TERC. Mr. Swaim seconded.

Group from Greenville County: Representatives from Greenville County presented additional information requested in TERC's letter to them dated January 27, 2011 concerning Freedom Alford weekend and an expenditure in the amount of \$31,731.65. The letter stated that TERC directed the State Treasurers office to withhold these funds based on the fact that the expenditure was not reviewed by the local advisory committee. However, Mr. Mustert led the discussion by apologizing to the group saying that TERC sent the wrong letter. It did vote to withhold funds, but it was because of the appearance that the atax funds were used to "re-grant" funds to the Greenville Hospital System, as explained in TERC's letter to the County dated March 15, 2010. The County representatives stated that the County does follow the law and that Council does have a right to change the disbursement amount voted upon by the local advisory committee. It had measures in place now to circumvent some previous issues and to do some outside monitoring of the tourism impact. It said it is in compliance with state law and that the non profit (the hospital foundation) gives them a loan where they have to pay back 50%, however, many of their funds are spent on advertising. Many committee members said that the out of market advertising appeared to be a small part of the expenditure and it

did not appear to be enough out of market advertising. Chairman Mustert asked since it was questionable regarding the nonprofits involved, such as the Hospital System, Boy Scouts and Bilo, could the County use local ataxes or hospitality taxes instead? There are many other expenses that may have qualified for the \$30,000 expenditure, such as TRUE out of market advertising in order to attract tourists. Mr. Williams questioned how we can really know whether or not the funds are being regranted? Chairman Mustert said that the Committee would take the discussion under advisement and have further discussion regarding the issue and get back to the Greenville County representatives.

Town of Lexington: Mr. Wesley Crosby and Mr. Rod Dooley appeared before the Committee to provide additional information regarding TERC's decision to withhold approximately \$16,000 from the Town due to the Lexington Wine Walk being primarily a local event. It appears in the budget provided by the Town to TERC that atax funds were used primarily for operations of the event, which appears to be mostly local in nature. Initially, Chairman Mustert was concerned that the Beautification Committee, the nonprofit recipient of the wine walk funds, was being given re-granted atax funds. However, Mr. Crosby explained that the Beautification Committee is the nonprofit applicant of the funds and that the Wine Walk is simply the name of the event. Mr. Dooley said based on internet sales, it appears that 1,800 people came to the event, with approximately 434 of those being tourists and 17 states were represented. Mr. Dooley stated that currently the group has \$110,000 and its wish it to build its funds and use the money to beautify businesses around Lexington. Mr. Riggs asked if they had any hotel room night figures to substantiate their claims to having that many tourists? Mr. Crosby said the Town did not have those figures but hoped to work with some of the hotels in the future, and possibly use the funds to beautify interstate signage. He also said that funds in the future would be used for advertising in Southern Living and various wine magazines. After the Town representatives presented their information, TERC discussed the issue. Mr. Riggs said that it still appeared to be local in nature and that the beautification of the area would not be the best use of funds because it is customarily provided by the Town. Additionally, TERC was concerned that instead of marketing the event appropriately to tourists, which the Town could have done with the \$16,000 expenditure, it instead used it as seed money. Mr. Riggs made a motion to re-affirm TERC's original position and request the State Treasurer's Office to withhold funds. Mr. Cajka seconded and the motion passed unanimously.

Greenville County: TERC continued its discussion on the Greenville County issue. Mr. Mustert wanted to reaffirm his position that TERC withhold funds from Greenville County, based on that the fact that the County used Freedom Aloft as a pass through to grant funds to the Greenville Hospital System. Mr. Riggs motioned that the Committee re-affirm its original position. The motion was seconded by Rod, but received opposition from Mr. Cajka, Mr. Williams and Mr. Yokim. Mr. Williams said he was still concerned about the burden of proof that this was a "re-granting" issue. Mr. Cajka made a new motion that TERC request additional information from the County, which will provide backup information concerning the charitable organizations and their role. The motion was seconded by Mark Williams and approved unanimously by TERC.

4. Review of FY 09-10 Reports-

Susan/Ed/Andy. None at this time.

Mark- City of Clinton –ok. TERC will ask the State Treasurer's Office to stop withholding funds due to noncompliance now that the City has submitted its report.

Rod/Harriett – Town of Santee- ok, Town of Goose Creek – ok, but please in the future provide more details.

6. Review of FY 09-10 Responses:

The following entities will have letters drafted to them letting them know that the additional information TERC received is acceptable OR they will be questioned further.

Susan/Ed/Andy:

City of Greenville – TERC had previously questioned the expenditure of \$15,900 for the Downtown Trolley and its tourism impact. The City responded that it really could not monitor the tourism impact of the trolley due to limitations with recording that information. Mr. Riggs said the burden of proof needed to be on the City and until the information can be provided TERC needed to withhold funds. He made a motion to this effect, which was seconded by Mr. Swaim and approved by the Committee.

City of Simpsonville – ok

Town of Hilton Head – TERC determined that the documents shared by the Town were not detailed enough to provide TERC with the information it needed. It will request that the Town submit more detailed information.

Anderson County – ok

Newberry County - ok

Kevin/Lanneau

Kershaw County - ok

Mark:

Town of Duncan – The balance on previous reports did not accurately reflect what was reported on the Town’s 09-10 reporting form. The Town said because of a change in staff it did not have access to the needed information in order to make the clarification. TERC determined that the Town needed to provide proof of what was currently in their atax account and base their 10-11 report on that figure.

Horry County – The County requested two things of TERC: 1) It wanted to know if TERC thought it would be an appropriate use of funds to pay for a lot of land that it would develop into beach access parking for tourists. The total atax amount would be 1/3 of the total amount of the lot. Mr. Williams motioned to let the County know this would be an appropriate use of funds, followed by a second from Mr. Yokim. The motion passed unanimously but Mr. Swaim abstained from voting. 2) TERC previously asked the State Treasurer’s office to withhold \$10,000 from atax funds. The County has since reimbursed their atax funds from their general fund account and asked if TERC could request the State Treasurer’s Office to reimburse them. TERC discussed the issue and determined it did not have the legal authority to make this request. Mr. Swaim abstained from the discussion.

Rod/Harriett:

Town of St. George: because the Town’s report is not a true reflection of what it receives from the State in ataxes due to the Town having a different fiscal year, TERC would like to request that any future reports show receipts from the State as well.

City of Charleston – ok

Charleston County – ok

Dillon County – ok

Dorchester County – ok

Florence County – ok

Town of Edisto Beach – ok

City of Florence – ok

City of Folly Beach – ok

Isle of Palms – ok

Seabrook Island – ok

Committee Appointments:

The following members wish to rotate off the Committee: Frans Mustert, Mark Williams, Susan Cruse, Rod Swaim, Lanneau Siegling and John Munro. Frans and the Committee named several

people who would make good replacements. Frans will work on this and let Mrs. Jeter know how to proceed.

The next meeting of TERC will be in October 2011 at SCDOR (date to be determined). Chairman Mustert asked that all TERC members attend this meeting and help with the transition.

There being no other business, the meeting adjourned.

Respectfully Submitted,

Damita Jeter

Damita Jeter, TERC Staff