

DOOR COUNTY TOURISM ZONE COMMISSION

MINUTES OF THE FINANCE COMMITTEE

November 12, 2009

Kerber Rose Offices, Sister Bay

Committee Members Present: Bob Kufrin, Tom Benzshawel, Andy Coulson, Bryan Nelson, Dick Skare

Also Present: Dianne Lensert, Kerber Rose; Kathy Kirkland, Administrative Assistant

Call to Order

Kufrin called the meeting to order at 12:34 p.m.

Discussion on 2009 and 2010 Budgets & Occupancy Reports

Lensert said the September figures are up 3.2% from last September even unadjusted, so it will have a significant increase by December's meeting when it's nearly adjusted. Coulson said that's with taking out the newer municipalities, so the original Zone is up 3.2% but we don't know how newer municipalities are faring. Kufrin said Sturgeon Bay's report was quarterly but we have those updates. Lensert felt that all municipalities are up.

Lensert said August picked up \$41,000 in late collections so YTD has improved from the -2.6% to only -2%.

Kufrin reminded that by this time next year, we'll be operating with all the communities for a full calendar year and with Sturgeon Bay statistics month by month, so that bottom section will disappear.

Skare asked if the total revenue (yellow section) is accurate; Lensert said its gross revenues; it's \$7 million through the month of September, which includes all municipalities. Coulson said September's higher than August; Lensert said August 2009 is inaccurate; she'll delete. Nelson said November and December won't be too significant, but we could be down less than 2%. Kufrin said on the Administrative Budget 2010 sheet, Lensert had to estimate September through December's 2009 income so we could project 2010; effectively, the decision was made to keep it flat and then reduce it by 3%. Coulson said the -3% less is conservative. The -3% has been taken off September through December as projections, Lensert said; the earlier months are actuals. In addition, in 2010, she did not factor in about \$40,000 in late payments.

Kufrin plugged in the new September numbers, which added roughly \$8,000 to the far-right column for a new total of \$3,028,288. It didn't impact the budget because we kept the budget flat and effectively down. Coulson asked 2010 income projected for the beginning months of the year are less than 2009? Lensert said because of the \$40,000 lates in 2009; Kufrin said the \$2.90 million as opposed to \$3.02 million was spread across all the months at the same percentage as 2009. Coulson asked why the CMF December 2009 figure is negative. Kufrin said there won't be enough Sturgeon Bay lodging income to make it to the predicted \$300,000 room tax. When negotiating Sturgeon Bay's entry into the Zone, numbers from the City suggested room tax income, adjusting for the extra percentage, and a portion going to the Visitors Bureau for the CMF; however, the City's not generating as much income as expected. Kufrin said instead of CMF generating \$300,000, it would be \$268,000 (a shortfall of about 10% or \$32,000). In reading the agreement, it was written so that if there was a shortfall, Sturgeon Bay didn't have to make it up and neither does the Visitor Bureau. Moneypenny did commit to the fixed amount, so he has now sent memos to the municipalities saying, "There will be reductions for the rest of 2009 because the money's not going to be there." Kufrin said the second year of the CMF agreement states \$285,000 and then drops to \$265,000 the third year; it's not

1 written as a percentage. Whatever is collected up to those amounts is distributed; if there's more than that,
2 Money Penny does not have to distribute that. If it's less, the municipalities have been adjusted appropriately
3 if there's a shortfall. Coulson said the municipalities should base 2010 on what they got this year, with
4 lowered expectations. This year's shortfall should be spread out for the last four months of the year. Kuftrin
5 said we have the agreement, and if Money Penny wants to make whole on the original numbers, he could do
6 that. However, we can't bind him to pay out money not given to him for that purpose.

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8 Next spring Benzshawel would like to have Money Penny discuss with the commission have a conversation
9 how effective he feels the CMF funds are being utilized and what can be improved upon, as well as it
10 dropping each year for municipalities. Kuftrin feels the Board members hearing from the local groups as to
11 whether the money should disappear after three years. Nelson said many municipalities give their marketing
12 entity some of the room tax money, so municipalities are already getting money above and beyond CMF.
13 Kuftrin said Bruce Hill should make the CMF presentation because the Agreement provides for reporting on
14 progress. It would be hard to justify giving communities the money if they're not sure how to spend it.

15
16 Back to the budget, Lensert said Income is actual through August, keeping it flat through 2010. Kuftrin asked
17 where the \$40,000 late fees from 2007 and 2008 get spread in 2009; Lensert said its continuing compliance,
18 and the \$2,980,000 discounts for the large number of lates. Nelson asked if we want to be more conservative.
19 Lensert said 2009 is just revenues, not including late fees, which are not guaranteed to be recouped.

20
21 Looking at Income, Lensert says revenues are spread by percentages across the months and splitting to
22 different allocations. We're running a deficit of \$4,755 this year, and she budgeted \$4,600 for 2010. Lensert
23 reminded that Compliance Enforcement is not included in the budget yet; there's no way to predict. Coulson
24 asked if we could spend more on getting people to be compliant than we take in. Lensert said the
25 Commission gets only 4%. There was a decision by the municipalities to turn compliance over to the
26 Commission, but it didn't state how to cover those costs. Now we're finding out just how much it's costing.
27 Nelson said it was an unfunded mandate, so instead of 30%, maybe give the municipalities just 29.5%.
28 However, State statute may mandate 30% to municipalities; Kuftrin will check. Coulson suggested that
29 whenever we have a compliance issue, we'll do the work but our costs above and beyond 4% will be billed to
30 the community involved; Nelson felt it'd be a disincentive to find noncompliant. Coulson felt the opposite,
31 because if, for example, Gibraltar has a noncompliant business for \$10,000, which would be \$3,333 to them,
32 and we spend \$1,800 on pursuing, wouldn't Gibraltar want to spend the \$1800 to get \$3,333? It causes each
33 community to focus on their own. Benzshawel noted what if the recoupment is just \$1,000 and we spend
34 \$1,800. Kuftrin said a judge could decide not to award attorney's fees, and in the case of Barbican, didn't
35 even award the taxes, so we don't recoup those dollars. Benzshawel proposed that once action is initiated and
36 the settlement paid, can it just go to into Compliance reserves? Kuftrin said we could put out a lot upfront and
37 wind up without a dime. We're funding legal issues out of cash flow.

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39 Nelson asked if there's action against a Baileys Harbor property, do we withhold the 30% until we recoup
40 costs? No, the municipality has budgeted for expectations; in addition, Liberty Grove hasn't gotten money
41 because nothing has been paid yet. One proposal is that if there's a settlement of \$10,000 and our cost is
42 \$5,000, then before we write the check, we cover our costs and then give out 66%, 30%, we keep 4% of the
43 remainder—basically, paying ourselves on contingency. Lensert said what about costs incurred that we never
44 get? Kuftrin said that's why all compliance issues come to the Commission first without going forward: Do
45 we go to court or try to settle? Coulson said what if Vande Castle thinks there's no way to recoup; do we still
46 go to court to make a statement?

1
2 Skare said if there's a co-op fund for compliance, we don't have community against community, because we
3 should prosecute. Coulson said we could do the half-percent (or a hybrid), change the agreement to include
4 an "insurance" fund. If we spend \$4,000 that month and collect \$100,000, then we take it off the top and
5 distribute only \$96,000. Nelson said we have to stick to State statutes.

6
7 Lensert felt it's better to adjust the percentage rather than month by month. Kufrin would rather know it's
8 29.5% instead of 30%; we'll be able to demonstrate that we're increasing the permitted establishments and
9 collections. Our initial 4% for Administrative was a guess; if 30% is a State statute, it'd have to come from
10 the DCVB. We'd have to redo the Intergovernmental Agreement; Coulson said we should ask Vande Castle
11 what he experienced with the stadium tax; is compliance hot for the first three or four years and then goes
12 away? Once people see what happens, they make future decisions on whether to skirt the tax; however, one
13 big case could be a lot of money.

14
15 Kufrin noted on the budget that there was a lot of money spent on the Annual Meeting and notice. Kirkland
16 said mailing fees were minimal; most were e-mailed. The costs were mostly the venue and catering. All felt
17 we can skip the catering and venue. Perhaps just send a postcard stating that the information is online and
18 offer to send a hard copy if requested. All information would be sent to local elected officials. The 2010
19 figure should be \$250, saving about \$900. Compliance wants letters to be Certified letters for every step,
20 which is pricey.

21
22 **Discussion on Auditing and Insurance Services**

23 There is a bond payment due in 2010; it was a two-year bond and should be continued. Kufrin noted that the
24 League of Municipalities is asking for renewal on the commercial package. Cyrus had suggested at October's
25 meeting about soliciting proposals; back in 2007, the Commission had a couple of proposals. However,
26 consensus was that most municipalities are with the League and have stayed with the League. The Finance
27 Committee will recommend that the TZC.

28
29 **Budget/Compliance**

30 So far, the legal fees have been mostly administrative and getting new municipalities onboard. Having to
31 redo the Intergovernmental Agreement will be fairly simple; it will require an amendment and needs a
32 majority to pass. However, the compliance language is inconsistent across the municipalities, and Vande
33 Castle will need to review for proper language. The Entity Agreement is easy to change; it's a document that
34 the TZC did internally. The category "Enforcement" is court and legal costs for specific properties, court
35 filing fees, and so on. "General" is ongoing legal opinions for Compliance Committee language, general
36 issues, found properties, correspondence. The 2010 budget at \$700/month for General, which is expensive
37 and likely to increase. Kufrin said if we took 1/2% from the DCVB, it comes close but doesn't allow room
38 for growth, and the attorney is \$120/hour; however, if we take 1% and the DCVB gets 65%, we could put the
39 money into a reserve fund; if not used by year end, it could be distributed. We have to know exactly what is
40 coming out of that; Kufrin said simple late notices are the normal cost of doing business and collections, but
41 once we start sending out certified letters, get the attorney involved, and do more aggressive collection, he
42 felt the recouped collections will make up that 1% difference for the DCVB. We would have to change the
43 Entity Agreement and also Intergovernmental Agreement if that states the percentages.

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1 **Budget Recommendations**

2 Kufrin said we're not bound to approve a budget by a date-certain. We should meet again and tell the
3 Commission there are revenue shortfalls due to Compliance. By then, we'll have all compliance language
4 and check all agreements for needed changes. He'll talk to Moneypenny and let him know about the 1%
5 because he's presenting his budget at November's meeting. Coulson said if there's no conflict with State
6 statutes and agreements, then our recommendation is to change the Entity Agreement to 65% for the DCVB
7 and the extra 1% going into a Compliance Fund. That fund would be audited annually; Coulson suggested
8 returning any excess by the end of the first quarter of following year. Kufrin suggested giving the money
9 back the year after; we don't always have cash flow January through April.

10
11 Telephone is \$61 a month and the final months are shown higher; Lensert said those are only projections.
12 Regarding Kerber Rose fees, could we do better? Lensert said Kirkland will be doing more in-house and can
13 transfer some things, but we have to keep arm's length between accounting and the Commission, a
14 separation of duties. Lensert has given a new Kerber Rose employee some of her hours and has always tried
15 to adjust hours pro bono. There are daily deposits, entering reports two days a week. We need a clean audit
16 as well. If we can increase online participation, that will cut down on report-entry time. She noted that some
17 Lodgical reports that agents use can take three hours to enter. There was talk about a link between Lodgical
18 and Inline; Bay Lake would want software fees to do that. If linking the databases saves 20 hours a month,
19 its \$12,000 a year; is it worth it or feasible? Kufrin suggested that Justin sit down with Finance to discuss the
20 possibilities. Benz said Greg Swain might be the best person since he was the point person at the start.

21
22 Kufrin said we only adjust the figures twice a year; if we were adjusting monthly, it would cost much more
23 in accounting. Benzshawel said money for accounting is well spent, including rent, and Kerber Rose has kept
24 the same rate. We have a two-year audit contract, and we have to renew it. We have until April when the
25 audit is due; Schenk is our auditor. Do we solicit proposals, chop \$1,000 off? Nelson said they already write
26 give municipalities and other non-profits a break. Lensert said the audit number is a guess; she sees others'
27 fees going up. Kufrin will call Mike Konecny to discuss. Kufrin said Chuck's compliance policy is a must.
28 We have to agree on what we want and then flow that information to the member municipalities. There has
29 to be closure on his recommendation. He asked that the Finance Committee members read Compliance's
30 recommendation and be conscious of the costs. Kufrin will look at agreements and Statutes.

31
32 The Closed Session agenda item is moved to the next meeting.
33

34 **Next Meeting**

35 The next Financial Committee meeting will be Monday, November 23, 2 p.m. at Kerber Rose.


36

37 **Adjournment**

38 Coulson moved to adjourn; Nelson seconded. All ayes. The meeting adjourned at 2:24 p.m.

39

40 Respectfully submitted,

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45 Kathy Kirkland
46 Administrative Assistant