



**DOOR COUNTY TOURISM ZONE
EXECUTIVE COMMITTEE
Minutes of November 21st, 2019
City of Sturgeon Bay - 421 Michigan Street, Sturgeon Bay**

ACTION ITEMS:

Nellen moved and Weddig seconded to approve the agenda. Motion carried.

Nellen moved and LeClair seconded to approve the October 17th, 2019 Full Commission Meeting minutes with suggested clarifications as submitted by Nellen. Motion carried.

Le Clair moved and Nellen seconded to approve KerberRose Reports, Payables, and Receipts to Date. Motion carried.

Weddig moved and Nellen seconded to adjourn.

Committee Members Present by Roll Call: Elizabeth Le Clair, Jim Nellen, Bill Weddig and Josh Van Lieshout.

Excused: Bryan Nelson, Dick Skare and Kathleen Maci-Schmidt.

Also in Attendance: Kim Roberts/Administrator and Cathy Ward/Town of Liberty Grove representative for the DCTZC.

Call to Order

Van Lieshout called the meeting to order at 9:00 a.m.

Approval of the Agenda

Skare moved and Weddig seconded to approve the agenda. Motion carried.

Approval of the October 17th, 2019 Full Commission Meeting Minutes

Nellen moved and LeClair seconded to approve the October 17th, 2019 Full Commission Meeting minutes with suggested clarifications as submitted by Nellen. Motion carried. Van Lieshout noted that these were not material corrections.

Report by the Door County Visitor Bureau on Marketing Efforts

Moneypenny updated the committee with current news from the DCVB, explained social media metrics and trackable impressions. He also gave an update on the shift to the name Destination Door County including a 501c3 educational foundation the Spirit of Door County, construction of the new Visitor Center (from 425 sq. feet with two toilets to 5,000 sq feet with multiple restroom fixtures to handle buses) with the focus on exhibits and education for the Door County traveler. He discussed a shift from destination marketing to destination management with a focus on ecotourism. He added that destination management includes marketing. He explained that is really exciting; tourism can be more than a drainer on our natural environment it can also be a support system for it. More information is forthcoming with the Strategic Plan presentation to the full commission at the December meeting.

Report from the Administrator

Roberts reported Baileys Harbor has filled their vacant position; Dave Eliot will be joining us.

Roberts reviewed the number of permit holders for each month who were late to report. She said that for May and June 2019 all properties have reported. For July, she said, five (5) properties remain to report. For August there are eighteen (18) properties to report. She went on to say that she was able to run September and there are seventy-eight (78) to report. She added that there are several large properties to report for September.

Roberts said that the total outstanding due as of November 19th, 2019 was three thousand four hundred forty-five dollars and seventy three cents (\$3,445.73) from eleven (11) permit holders.

1 Roberts reported that there were ten (10) properties permitted since October, three (3) of which
2 were permitted through compliance channels.

3 Roberts reviewed online rental by owner platforms and the corresponding number of listings and
4 number of un-permitted listings.

5 Roberts said that she has been thinking ahead to all the possible scenarios with ACT 10 taking effect
6 and what steps she can take to ready the office without knowing what is really coming.

7 Roberts reviewed a reference document to assist with the conversation that is happening in some
8 municipalities with regards to what regulations they can impose on short term rentals. The documents
9 also provided information on how the Tourism Zone ensures a level playing field for all lodging
10 providers. The idea originated from a request for assistance from one (1) municipality and morphed
11 into something to assist all municipalities. The feedback received was that there were eyebrows
12 raised that this is not the Wild West and we are on top of things on our end. Roberts said that she
13 would like to get the reference out to all municipalities unless changes need to be made.

14 Van Lieshout asked Roberts to distribute the reference document with a cover letter.

15 Roberts proposed the 2020 meeting schedule. She added that she felt it was important to get up to
16 Washington Island.

17 Van Lieshout proposed that we hold the May 2020 Executive Committee meeting on Washington
18 Island.

19 Roberts reviewed the By-Property report for September 2019. She noted that there were seventy eight
20 (78) to report for September 2019: four (4) resorts, three (3) hotel/motel, ten (10) condos, and sixty-
21 one (61) cottage/cabins/homes.

22 **Discussion of the current comparable occupancy numbers.**

23 Roberts noted that since the last report cycle collections for August 2019 had increased from 4.4% to
24 6.8%. Year to date we are up 3.5% over 2018-year end collections.

25 **Consideration of approving reporting and payables plus receipts to date.**

26 **Le Clair moved and Nellen seconded to approve KerberRose Reports, Payables, and Receipts to**
27 **date.** Motion carried.

28 **2019 WIS ACT 10 – Lodging Marketplace Tax collection**

29 Roberts said we were so close. There was agreed upon legislation between WI DOR and WH&LA. All
30 was moving forward as hoped and then the news came that the legislature has adjourned early for
31 the holidays.

32 Van Lieshout said they are no longer in session, but that this by no means indicates that it is over. We
33 will stay with it, which will be our strategy going forward. The challenge will be the interim period
34 between January 1 and whenever we can get this legislation enacted. The brunt of the concern is
35 that frankly it is going to put things into chaos and no real way to manage through it.

36 Roberts added it is hard to know how to prepare.

37 Weddig asked if there are other areas sharing the same concerns.

38 Roberts said no one seems to get it.

39 Moneypenny said, I will be honest with you, a lot of his peers in fact most, don't understand our
40 craziness. He used the example of the Fox Cities/Appleton. Appleton is a Zone and they have a lot
41 of communities, but they pay back the bonds on their buildings first. Very little goes to the
42 communities, it is so little they are not worried about it. Green Bay is the same way. By the time the
43 money gets back to the community it so little money it isn't worth being worried about it.

44 Nellen agreed with the perception that areas like Green Bay and Appleton have. He stressed that
45 people don't lend millions and millions of dollars to municipalities without having a credit agreement
46 and there has to be a sharing at the end of the day. When you put the question to the auditors and

1 say, ok we may be unique because of the amount of money that goes back to our municipalities,
2 but what if Green Bay has an eighty million dollar bond outstanding and it is floated to be paid for by
3 room tax that is assessed against hosts in all the municipalities in their zone. Under the terms of the
4 bond indenture, one must ask, is there an obligation in the event of default for municipalities to
5 declare themselves, because a member municipality has failed to make their pro-rata contribution
6 to stratify the bond indebtedness. No one thinks that there is ever going to be a default, but the
7 lawyers do. What are you going to do, he asked. The other municipalities would have a direct
8 interest in knowing if there is a default and if they are proportionally liable or under joint and
9 severable theory liable for whatever the amount of the default is. He added that he has not been
10 able to talk to bond council that does these types of deals around the state. He would like to know
11 under the bond indentures if there a pro-rata sharing of the default or if it is handled differently. He
12 suspected that it is handled differently. When the rubber meets the road, the auditors want to know
13 that the funds being received by the entity on behalf of the obligors (municipality) they want to know
14 exactly where the money is coming from because they maintain notional accounts as to what is
15 owed and what they have contributed towards the pot. He felt sometime in March or April there are
16 going to be some very difficult conversations when the auditors come and say we have this problem
17 because we can't identify where this money is coming from.

18 Van Lieshout said we know the money will come, but we more than likely won't be able to tell where
19 it came from. We won't be able to provide the audit record and the accountability. Some
20 communities will have a debt obligation and have to figure out what fund to assign it to and if they
21 have received sufficient room tax revenues to pay for it. They could end up having to hit their
22 general fund reserves to make up the difference, and hopefully they have it, or they will have to cut
23 their budgets and fulfill their obligations.

24 Nellen said his point is simply this, everyone is going around and saying this is not a problem because
25 they never get the money or they never see the money because it goes into a pot to amortize the
26 bonds. But they don't understand they may have a problem if through their notional accounts they
27 maintain, they can't accurately reflect where those monies come from. Unless it's possible that the
28 municipalities in the Green Bay zone mutually agreed that the other municipalities via the bond
29 indentures will make up the difference. He stressed that he doesn't believe it and in those bond
30 indentures are allocation formulas. It doesn't help us, but if he is right, in the New Year, everyone is
31 going have a heightened regard for this because the auditors will be on to it. He stressed not to beat
32 ourselves up for not being able to get the law changed; it was a very heavy lift anyways. Even if we
33 had been successful he has no conviction that the lodging marketplaces would adhere.

34 Roberts said there is so much more that she doesn't know than she does. She added that we need
35 to start getting information out to permit holders; it's extremely difficult to communicate changes
36 when we have no knowledge of how the changes are going to work.

37 Van Lieshout stressed that we will need to remind our permit holders that under the local municipal
38 ordinances they will be required to file a monthly return; they are the responsible party. With that we
39 should be able to ascertain what is owed and what isn't it.

40 Roberts stressed that it is going to be a mess. What happens when you get permit holders that file
41 zero for the amount that was paid on their behalf or file late all the while the money is coming in from
42 the marketplaces and we can't reconcile it.

43 Van Lieshout said he understands. It's not going to get reconciled to the penny. Maintaining the
44 returns come into us, we can go back to the property owner and require them to report what was
45 paid on their behalf. In a perfect situation all permit holders would report what was paid on their
46 behalf and it would reconcile to the bulk payment made by the lodging marketplace; we know that
47 is not going to happen.

48 Nellen added if for no other reason than timing issues.

1 Van Lieshout said timing issues and people not being able to figure out what was paid on their
2 behalf.

3 Roberts pointed out it that it is not easy for permit holders to access the information about what is
4 paid on their behalf. We have watched this play out this summer when VRBO commenced collecting
5 state sales tax. She added that she has sat with a number of permit holders to assist them with how
6 to access what reservations sales tax was paid by VRBO and which ones weren't. It is not intuitive,
7 there is no report to run, and it is reservation by reservation. On VRBO there is no report to run, you
8 have to open up each post stay and then the full payment detail and then it comes down to
9 wording in the payment detail. For the average person, it is a lot to figure out. It should be so much
10 easier for folks on the back end.

11 Le Clair said they almost need to track each reservation in an excel spreadsheet.

12 Roberts said exactly, that is what they should be doing.

13 Nellen addressed Roberts and assured her that what Van Lieshout is saying makes all the sense in the
14 world. There is no alternative; there is no more that we can do.

15 Roberts said she is worried about the municipalities.

16 Nellen said we have an obligation to inform the municipalities and give them an idea of how difficult
17 this interim arrangement will be until we are satisfied that we have some comfort that the taxes are
18 being properly applied. But he said what you are better off doing is proceeding with business as usual
19 along the lines of what Van Lieshout outlined and get something out to permit holders. As always
20 you are required to remit monthly reporting as provided by municipal ordinance with the necessary
21 information as to what you can account for being paid on your behalf by the entity and then we will
22 see what happens.

23 Roberts outlined what she had started on with the report form. She said in Oregon, they call the
24 payments from lodging marketplaces 'allowable exemptions'. She outlined the newly created line
25 items for exemptions to be claimed for lodging marketplace payments on the permit holder's behalf.
26 She added that the permit holder would report their total lodging sales and then enter for each
27 lodging marketplace the amount that was paid on their behalf. They would then only owe the tax
28 on any direct bookings.

29 Weddig asked how much money we are looking at.

30 Roberts said she couldn't estimate how much comes from each platform.

31 Nellen asked if there were full compliance, what percentage of the revenue would that be.

32 Roberts said she didn't know. You can't correlate the number of listings to an amount of revenue.

33 Nellen asked based on her gut feeling, what is that percentage.

34 Roberts said she didn't feel comfortable guessing at a number.

35 Nellen said we know that both residential and commercial properties are booking through these
36 platforms. It's a good question, if there were full and in, complete compliance with the law as of
37 January 1 what percentage of our revenue is at risk since we may not be able to allocate it to the
38 municipalities.

39 Roberts again said she didn't know. She said that she is so much more focused on how to make
40 these changes work rather than determining how much revenue is at stake. We know its happening
41 and we need to take steps to communicate to municipalities and our permit holders. We need to
42 shift, that is what I am trying to encourage the committee to do. At this point, the law is there, it will
43 go into effect. She asked, do we look at incentivizing or encouraging Airbnb hosts to utilize the
44 custom tax option. That is a really good for option to solve this problem; how do we encourage them

1 to opt out the default tax collection settings. If they take back control of their tax collection and
2 remittance, it benefits everyone.

3 We have not run that by counsel, Nellen said.

4 Roberts said no.

5 Nellen said Airbnb is offering a benefit to their hosts.

6 Le Clair encouraged her town board to talk to other municipalities at their Towns Association
7 meeting. She added that the meeting is tonight.

8 Van Lieshout expressed desire to focus on what our steps are going to be. He went on to say that the
9 committee needed to provide clear direction to Roberts with how to proceed. This isn't going to be
10 Roberts' fault, no one is going to point fingers; this is a decision of the commission. All agreed that
11 Roberts should proceed under the following direction: We are going to continue to do business as we
12 always have. Property owners, whether they are hotel, motel or a condo/home on Airbnb, they will
13 continue to remit monthly returns to us. Allocations to the municipalities will be based on the returns
14 collected for those municipalities just as they are today. The payments from Lodging Marketplaces
15 will be based on remitted returns and payments made by lodging marketplaces and will be
16 dispersed based on remitted permit holder reporting (new line items to report what was paid on
17 permit holder's behalf by each lodging marketplace). That is the only way we can do this, it is the
18 most equitable way to do this. In matters of compliance, it will be the permit holder's responsibility to
19 show us what was remitted on their behalf, it is their responsibility.

20 Van Lieshout said this is why we are going to continue to do business as we always have. Currently
21 every report that comes in we can with certainty confirm where that property is and where the tax
22 needs to be returned to. What we don't know is when we get an aggregate check; we don't know
23 where that distribution is. What we are going to do is take the information that is given to us on
24 reports and we are going to have a pool of money. We are going to disburse that revenue based on
25 the returns. It is the only way we can do it. When and if there is a day we need to reconcile or find
26 some corrections, we will have a record of what we did and how we did it. He said he was less
27 worried about that.

28 Nellen said we might be backed into doing just that. He also posed that we really don't know how
29 severe the problem is going to be. It may turn out that it is just nothing and people will just continue
30 to file and it is business as usual. We understand the gravity of the problem but we don't want to talk
31 about it being complete chaos because we don't know that to be the case. We can only do what
32 we do; we can't force Airbnb and VRBO to do our bidding. They show no inclination to
33 accommodate our interests. He asked, depending on how severe the problem is, do you want to
34 create a hold back of certain monies in anticipation of timing issues with the following month.

35 Van Lieshout said that is a really good question. At some point with revenues from online lodging
36 marketplaces there may be a point that we have less revenue from them than what was reported on
37 monthly returns; there could be a shortfall. There are two things we could say, we could use our
38 available fund balance and pay out which creates a cash shortfall that is now our issue, the other
39 option is that we can only disburse based on ratios with the funds that we have on hand.

40 Ward asked in the case of an aggregate check where do we anticipate that check going. She
41 asked, whose mailbox is it going to arrive in.

42 Van Lieshout said if it goes to the clerks, they should remit it to the Zone for distribution.

43 Roberts said WI DOR has directed lodging marketplaces to work with municipalities. Roberts added
44 that she has sent information to the municipalities to direct contact to the Tourism Zone.

45 Weddig asked if the municipalities have been getting checks from Airbnb.

46 Roberts said no. This doesn't go into effect until January 1, 2020.

1 Van Lieshout brainstormed ideas with fund balances. He proposed separating regular revenues
2 versus aggregate check payments from Lodging Marketplaces. Property owners will have to break
3 down how much for each platform was paid on their behalf.

4 Nellen said there may need to be sub-funds based on zip codes.

5 Ward asked again where the checks are going to go.

6 All agreed that we don't know. The clerks have been directed to refer Lodging Marketplaces to the
7 Tourism Zone.

8 Roberts said it would be appropriate to issue another communication.

9 Van Lieshout agreed that another communication on blaze orange letterhead to make sure you do
10 this. He went on to discuss how to disperse should delays occur or a lag. Who gets paid first, the
11 marketing entity. That is why we have these funds, the municipalities get paid second.

12 Roberts asked if we are going to sit down with counsel and auditors to discuss these methodologies
13 and make sure we can do what we are talking about.

14 Van Lieshout said no.

15 Nellen said he wouldn't sit down to ask permission, the question would be, we plan to do this what
16 problems do you see. Ultimately it will be up to the board how we want to proceed. He added that
17 he wants the auditors to understand and buy into this. We don't want the auditors to come and say
18 we have real problems here; they have to be willing to agree with this or quite frankly tell us how we
19 should reform it so that we can come up with something that works. We can't put everything into a
20 suspense account for the next twelve months.

21 Van Lieshout said he would back off his no, but was not going to ask permission. There is no answer in
22 the law. What we will do is we will work with Kerber Rose and inform them of what we want to do so
23 that they can be prepared to set up the books and get the mechanics ready. We should make sure
24 that KerberRose has a conversation with our auditors so that our accountants and our auditors are in
25 agreement with strategy.

26 Nellen stressed that Van Lieshout needs to be there. He added that essentially Van Lieshout is the
27 CEO of the organization; we don't want institutional memory to be lost on this.

28 Van Lieshout said this is the direction we need to go. We need to give Roberts that direction so that
29 she can move on with the business of the Commission so that between now and January 1 the task
30 will be to tell KerberRose this is how we want to handle the problem.

31 Roberts asked if we were still going to pursue contact with Avalara to see if they will work us.

32 Van Lieshout said we can still do those things and we should, but absent that happening we need to
33 move forward.

34 Roberts said there is a lot that is going to have to change with KerberRose.

35 Van Lieshout said this is just fund accounting. Internally there are separate revenue funds.

36 Roberts tried to explain the balancing system for each payment day and how it has to balance.

37 Nellen and Van Lieshout agreed that it won't balance.

38 Van Lieshout said at year end we will have to reconcile and if we have more funds than we should
39 we will have to distribute those funds. He noted that he says this knowing the substantial amount of
40 room tax that the City receives.

41 Weddig asked if it is going to be paid by zip code.

42 Roberts said it will either be by zip code or just one bulk check for all of Door County with no
43 reporting.

1 Weddig said that is a real problem.
2 Roberts said what worries her is that permit holders aren't going to complete reporting correctly as to
3 what was paid on their behalf and if a municipality were to receive a payment and chose not to
4 forward the payment to the Tourism Zone.
5 Van Lieshout said they can't, they would run into complying with the Statute for the 70/30 distribution.
6 That is another issue that we will deal with if it arises.

7 **2020 Draft Budget**

8 Van Lieshout said we are putting forth a balanced budget; we will need to bring forward
9 accumulated excess revenues to balance the budget but the funds are relatively small. The
10 reasoning for that is that we know we are going to have additional expenses that we would not
11 customarily have to deal with; online lodging marketplace matters. The bulk of the increases are on
12 the whole with legal and KerberRose.

13 Nellen asked if KerberRose has asked for a year over year increase.

14 Roberts said yes and that 2020 work that falls in the normal scope of work is billed at our negotiated
15 rate. Anything that has to do with sorting out the lodging marketplace issues will be billed at their
16 employee's normal rate with a 20% discount.

17 Nellen said the deficit we are going to run will be funded out of positive fund balance is essentially
18 going to go towards professional fees.

19 Van Lieshout said yes.

20 Nellen asked how low of a fund balance would be troubling.

21 Van Lieshout said about \$80,000.

22 Nellen said this is an unusual event and he thought the positive cash balance is there for instances
23 such as this. He added that we need to hear from counsel about how we have framed our
24 approach and is that in compliance with what is set forth in the ordinances. We don't want to deal
25 with a recalcitrant party and they say we are getting hosed in the process. We need to be able to
26 say to them, this is still in keeping with what the parties understood.

27 Le Clair left the meeting. There was no longer a quorum.

28 There was a consensus to present the budget to the full commission.

29 **Kerber Rose Engagement**

30 Van Lieshout updated the committee with the recent meeting with KerberRose. He added their
31 rates were discussed, but he was promptly reminded that we are paying below market rates. He
32 added that if he had his thinking cap on he would have remembered that the highest paid
33 consultants at the City are the accountants and the auditors, it is not the attorney. He stressed for
34 their services this is a very favorable rate.

35 Nellen said at some point in time you don't want to get your rate to a point where people won't work
36 on your account. It all comes down to realizations.

37 The engagement letter will be approved at the December meeting.

38 **Adjournment**

39 Weddig moved and Nellen seconded to adjourn.

40 Respectfully submitted,

41
42 Kim Roberts
43 Administrator