

**Arena Tax Oversight Committee**  
**July 24, 2007 - 3:00pm**  
**Minutes**

Committee members present: Bruce Armstrong, John Clevenger, Frank DeSocio, Bradley Hawthorne, Greg Sevier, Tim Short, and Max Weddle

Committee members absent: Mark Dennett, Tad Mayhall, Christina Ricke

Others in attendance: Chris Chronis, Ginger Radley, Anne Smarsh, Ron Holt, Commissioner Kelly Parks, Richard Euson, Stephanie Knebel, Anthony Swartzendruber, Joe Norton, Charlie Peaster, John Dailey, Karl Peterjohn, James Barfield, Jerry Winkelman

Call to Order           The meeting was called to order by Committee Chairman Greg Sevier

Acceptance of Minutes           Greg Sevier asked for a motion to approve the minutes from the April 24, 2007 meeting

- Max Weddle pointed out the incorrect spelling of his name in the minutes.
  - Motion made accept minutes with the corrected spelling by Max Weddle
  - Motion seconded by Tim Short
  - Motion passed

Introductions

- Greg Sevier asked everyone present to introduce themselves.
- Greg Sevier began the meeting by briefly reviewing the purpose of the committee, which is to ensure citizens that all money collected under the terms of the special 1% Arena Sales Tax are spent on the Sedgwick County Arena Project. The committee will also review and monitor project progress, generated revenues and expenditures and report findings to the Board of County Commissioners at least once every six months.
- Having reviewed the purpose, Greg Sevier began to discuss an inquiry letter that Max Weddle had sent to the committee. After reviewing the letter, Greg Sevier stated that only 4 of the inquiries are within the scope of this committee, including the following: 1. Provide details of the Dancer's building sale including any trading of real estate and how the finances were accounted for in the accounting

system; 2. Provide data on interest earnings on undistributed sales taxes to date and update future interest earning projections; 3. What notice of election dollar figure is to be used when evaluating the status of the big totals vs. notice of election as provided for in K.S.A. 12-6,122; and 5. When was Turner Construction engaged in the estimating process and how are they paid? Greg Sevier went on to state that the other items referred to in Max Weddle's inquiry were outside of the scope of what the Board of County Commissioners has tasked this committee with accomplishing.

- Max Weddle responded by stating that the other inquiry questions relate to the tracking of dollars and functions and obtaining the history of how the construction expenditures increased by such a large amount. He stated that he understands that the County Commission had authorized an increase in expenditures, but that he was concerned that engineers would find a way to spend all of the budgeted funds. Max Weddle continued by asking what constituted the changes in the budget and when this change took place. Greg Sevier stated again that remaining inquiries in the letter are not within the committee's purpose as defined by the County Commission. Greg went on to say that Max should send these other questions to Commissioners, which Max intends to do. Chris Chronis informed all committee members that they should feel free to contact County Commissioners with additional questions that may not be in the purview of this committee and that he is also available to answer questions, especially if they are finance related.
- Greg Sevier informed the committee members that he doesn't want to create additional oversight for this committee which was not granted by the County Commission. Commissioner Parks then asked for the document stating the charge of this group. Copies were made and distributed. Tim Short pointed out that the committee had also been given a copy of the resolution which created this committee and wanted to make sure that it did not conflict with the document that was just handed out. Greg Sevier then clarified that the document stating the charge of the group had been written directly from the resolution.

## Old Business

### Legal Opinion regarding expenditure limits

- Greg Sevier stated that in the last meeting Max Weddle had brought up questions about expenditure limits, on which research was conducted. K.S.A. 12-6,122 and supporting

Old Business  
(cont'd)

documents were then handed out to everyone present. Richard Euson discussed the definition of "public improvement" as defined in this statute and then pointed out that "improvement" is not defined in the resolution passed by the County Commission. Richard Euson stated that since "improvement" is not defined in the resolution, that a Court would likely go the dictionary to find the meaning of improvement. Therefore, in his opinion, all of the items on page 9 of the supporting documentation would be considered "improvements." In turn, the "improvement" against which a 20% cost limit should be applied is the entire project because projected cost stated in the notice is the \$184,528,000. As a result, K.S.A. 12-6,122(c) would prohibit the County from letting contracts that would cause total spending on the project to exceed \$221,433,600 without first conducting a public hearing.

- Greg Sevier then asked for questions on this item. Max Weddle pointed out that his intent in bringing up this statute was to make sure everyone on the committee is aware of the 20% rule.

#### Law regarding interest income

- Richard Euson stated that according to K.S.A. 12-1677, which was included on page 11 of the documents just handed out, interest income on this project should go into the County's General Fund.
- Chris Chronis then explained that Sedgwick County had held the arena referendum in 2004 prior to the receiving sales tax authority from the State and had anticipated that the legislature would require the interest from the sales tax to be included in the arena revenues. In 2005, when the legislature granted sales tax authority to the County, they did not address the disposition of interest earnings, so unless otherwise stated, the County must comply with K.S.A. 12-1677 which places the interest earnings in the General Fund.
- Chris Chronis also pointed out that the Commissioners have asked the staff to estimate the interest income on the arena sales tax and keep track of those funds. Then if there are cost overruns beyond which the state legislature has authorized, this interest income would be the first source of additional revenues to be used. Also, unless there is action in the budget adopting process by the County Commission to transfer this interest income to the arena fund, it will remain in the General Fund.
- Greg Sevier then asked for questions on this item, but

Expenditure Reports as of July 19, 2007 - Chris Chronis

- The first report discussed was the Budget-Actual report as it appears in the County's financial system. Chris Chronis reviewed what each of the columns in the report means in regards to fund expenditure: (beginning from the left)
  - Budget - The amount of budget authority currently established for each component of the project
  - Released Budget - The amount of budget authority released by Finance and currently eligible to be spent
  - Pre-Encumbrance - Occurs when the County knows they are going to spend a particular amount but have not established a contract with a vendor yet. This prevents the budget from being overspent
  - Encumbrance - For work that has been contracted but not yet finished, thus no check has been cut
  - Expended - Reflects actual checks written for completed work
  - Total Committed - Total of pre-encumbered, encumbered and expended funds and reflects the entire amount currently committed to the project
  - Available budget - The difference between the released budget and the total committed
  - Total budget - The difference between the original budget and the total committed
- Chris Chronis then discussed the Project Budget, which is based on numbers pulled from the County's financial system but presented in a form that provides greater clarity for analysis. Chris explained each category listed on the sheet in terms of the amount seen by the committee in prior reports, the expenditures reflected on the new report and the total spent for each category. This Project Budget also reflects the original arena budget of \$184,528,000 and the revised budget (approved by the BoCC in December 2006) of \$201,024,000. Chris also pointed out that since the last meeting, the County has spent \$5.6 million and that if members wish to know details of any line item that supporting documentation can be shown.
- Bradley Hawthorne then asked if land acquisition is complete and what happens to the money left in this category once land acquisition is complete. Stephanie Knebel stated that the County has acquired all of the land on the arena site, but is still working to acquire three pieces of land along Washington Street. To answer the second part of the question, Chris Chronis stated that once a category can be

New Business  
(cont'd)

closed, the remaining funds stay in that category until the County Commission amends the arena budget.

- Greg Sevier then proceeded to discuss Max Weddle's inquiry about the Dancer's Building. In responding, Chris Chronis provided everyone with a copy of the real estate purchase agreement and supporting documentation on this item. Max Weddle stated that he was less concerned with the specific details of the transaction and more interested in how the money comes back into the arena fund. Chris Chronis then referred to the last page of the documentation which identifies the sale proceeds from the Dancer's Building sale, which is shown as a reduction in net expenditures. Max Weddle then asked if there was a building trade that took place for the Dancer's building property. Ron Holt answered by stating that there was not a trade, but that two separate transactions took place regarding the Dancer's Building.
- Greg Sevier then brought up Max Weddle's inquiry about Turner Construction and their role in the arena process. Chris Chronis responded by stating that Turner Construction was brought to the table by the Arena Design Consortium (ADC) to perform cost estimations in advance of bids being let. Chris Chronis also stated that Turner Construction is paid by the ADC.
- Greg Sevier then asked to drill down into the pavilion renovation expenditures that were incurred since the last meeting. Chris Chronis walked the committee through this process showing transactions and the costs associated with those transactions, showing the vendors and what payments have been made to the vendors. Greg Sevier specifically asked to look at the invoice for \$1.7 million relating to pavilion renovation. Chris Chronis walked the group through the standard AIA document.
- Greg Sevier asked if all of these invoices were examined by County staff. Stephanie Knebel replied by stating that all invoices go across her desk and she signs them once they are reviewed. John Clevenger then asked how vendors bill the County for their work. The continuation sheet was displayed, which itemizes costs and the percent of completion. Stephanie pointed out that this document allows her to see what has been completed and the associated itemized costs.
- Bradley Hawthorne asked about the unencumbered balance on the pavilions and Chris Chronis responded that approximately \$1.8 million will be unspent. Greg Sevier then asked if there is someone onsite at the pavilions who physically checks to make sure that all improvements are

New Business  
(cont'd)

being made according to the invoices. Stephanie Knebel responded by stating that there are project coordinators who physically check all of the improvements. Ron Holt that pointed out that Larry Pecenka will be at the arena site on a full-time basis performing oversight duties. Bradley Hawthorne then asked if everything at the pavilions has been accomplished as planned, to which Stephanie Knebel replied in the affirmative. Greg Sevier then asked when the pavilion renovations would be complete. Stephanie Knebel replied that they would be complete prior to September 20, 2007.

- Bruce Armstrong asked if the remaining pavilion renovation funds would remain in the pavilion budget category unless the County Commissioners move it, to which Chris Chronis responded affirmatively. Commissioner Parks questioned if the additional funds would be left for operating and maintenance. Chris Chronis responded that at the end of the project, all remaining funds will become the operating and maintenance reserve, which will be available for operating losses or major maintenance of anything which the sales tax originally paid for.
- Bradley Hawthorne asked if it would be possible to determine what percentage of the work the encumbered funds represent, so that the committee would have an idea of how much of the remaining unencumbered balances would likely be spent on improvements. Chris Chronis confirmed that this could be done.

Revenue Reports as of July 19, 2007 - Chris Chronis

- Chris Chronis stated that to date, the arena sales tax has collected \$148,365,656. Chris also walked the committee through the forecasts stating that the County expects to collect just over the estimate of \$201,024,000 once the sales tax has ended. The County will still receive 7 months of additional sales tax receipts. Ron Holt also reminded the committee that although the arena sales tax will expire at the end of this year, a two month lag in remittance of collected sales tax by the state means all sales tax receipts will be recorded by the county at the end of February 2008.

Draft Report to County Commissioners

- Greg Sevier walked the committee through the proposed draft report to the County Commission. John Clevenger asked why the statute had been included on page 2. Greg Sevier stated that it was added to allow the County Commissioners know that the committee had discussed this statute and the statutes implications. Bradley Hawthorne

New Business  
(cont'd)

pointed out that he didn't believe that including this statute in the report was needed, and was in support of removing the statute. Chris Chronis clarified the section to be removed started on page 2 with "Such increases..." and ends on page 3 just prior to the Sales Tax Collections heading.

- Bradley Hawthorne then stated interest in making an addition to the report relating to the amount of interest that had been collected to date on the arena sales tax proceeds. John Clevenger pointed out that if the committee has not reported this amount in previous reports, that there is no need to add it now. Bradley Hawthorne replied by stating that in his opinion the public is going to want an accounting of the interest revenues and that it could be an important issue for County Commissioners. Bruce Armstrong noted that adding this to the report was not part of this committee's task at this time. Bradley Hawthorne stated that this committee could also make a recommendation to the County Commissioners on how to account for this interest income. Greg Sevier stated that this topic was outside of the authority of this group, to which John Clevenger and Frank DeSocio agreed.
- Max Weddle asked to add "and subsequent to BOCC action" to the end on sentence 2 on page 2 and to eliminate sentence 3. Max Weddle also stated that sentence 4 is outside of the purview of this committee and believed that it should also be eliminated. Greg Sevier stated that sentence 4 should be included, as this committee has oversight over the 1% arena sales tax. Tim Short stated that any remaining revenue from the sales tax ends up as operating reserve and maintenance fund. Greg Sevier reiterated that whatever sales tax is collected is committed to the arena project as approved in the original resolution and that this committee has a responsibility for how the money is spent.
- Greg Sevier then asked for a motion to approve the draft as revised, including the elimination of section starting on page 2 with "Such increases..." and ends on page 3 just prior to the Sales Tax Collections heading; adding "and subsequent to BOCC action" to the end of the second sentence on page 2 and to eliminate sentence 3 on page 2.
  - Motion made by John Clevenger
  - Motion seconded by Bruce Armstrong
  - Motion passed

Next Meeting

Greg Sevier stated that the next meeting of the Arena Tax Oversight Committee will be **Tuesday, October 30, 2007 at 3:00 in the Ark Valley Board Room.**

- Max Weddle inquired as to whether the committee had interest in looking at bids prior to letting contracts. John Clevenger stated that he was not, and there was general agreement not to pursue this topic.

Adjourn

Greg Sevier adjourned the meeting at 4:12pm

Handouts

- Minutes from the April 24, 2007 meeting
- SAP Expenditure detail
- SAP Revenue detail
- Arena sales tax revenue forecast
- Project Budget
- Max Weddle Inquiry Letter
- Draft Letter to County Commissioners
- K.S.A. 12-6,122 and supporting documents
- K.S.A. 12-1677
- Real Estate Purchase Agreement on Dancer's Building
- Sedgwick County Arena Sales Tax Oversight Committee 'Fast Facts'