

**TULSA COUNTY CRIMINAL JUSTICE  
SALES TAX OVERVIEW COMMITTEE  
MINUTES OF JULY 2, 2015**

A special meeting of the Tulsa County Criminal Justice Sales Tax Overview Committee (STOC) was held on Thursday, July 2, 2015, in the Classroom on the 1<sup>st</sup> Floor of David L. Moss Criminal Justice Center, 300 North Denver Avenue, Tulsa, Oklahoma at 2:00 p.m. Pursuant to the Open Meeting Law, the agenda was posted at the Tulsa County Courthouse on June 22, 2015, at 4:17 p.m.

**Members Present:** Lee Belmonte, Shea Boschee, Robert Breuning, Tom Daniels, Paul McCurtain, Joe Shelton, Tommy Thompson, Pam Vreeland, Dan Witham

**Members Absent:** Jim East, Steve Knight, Erik Stuckey, Dr. Donald Tyler, and Troy Zickefoose

**Others Present:** Chief Robinette, Eric Kitch and Meredith Baker; Tom Gerard; Commissioner Ron Peters and Michael Willis; Douglas Wilson and Kimberly Hall; Kevin Canfield (Media); and Sherry Langston

**Call to Order:**  
Dan Witham called the meeting to order at 2:10 p.m.

**Chairman Remarks**

Chairman Dan Witham began the meeting by reminding the attending members that it has been presented in the past that he could have a conflict of interest operating the Chairman's chair and if anyone would like for him to recuse himself in this conversation he would do so, if not then he will proceed with the meeting. The members instructed Witham to proceed as the Chair.

Witham recognized Commissioner Ron Peters who explained he was attending the meeting for the only purpose to observe; that he had been invited in the past and wants to see what the committee does and he thanked the members on behalf of the County Commissioners for taking time from their busy schedules to serve on the committee for Tulsa County (County) because it is a very important endeavor.

**Report and Possible Action Regarding Tulsa County Criminal Justice Authority (TCCJA) Correspondence and Exhibits from Mayors Bartlett, Burdge and Moberly addressed to the Trustees of the TCCJA Dated June 15, 2015**

Witham explained he asked District Attorney (DA) Douglas Wilson to present on this agenda item noting his comments would be somewhat brief and will answer the committee's questions. Wilson explained that the majority Trustees received a letter with 156 pages of exhibits from the minor Trustees of the Criminal Justice Authority (Authority) approximately two weeks ago which raises a number of legal issues. Wilson explained the context to answering the questions is framed around the ongoing negotiations between the County and the City of Tulsa (City) regarding the detention agreement to house their municipal prisoners in the David L. Moss Justice Center; he noted that a grand jury will be in-paneled on July 20, 2015; he explained he thought the OSBI was conducting an investigation; he noted it is rumored that the FBI is interviewing people; and he explained that he understands that Sand Springs recently has authorized their City Attorney to file a lawsuit against the County and the Authority. Therefore, it will be against this backdrop that Wilson will consider his professional duties; he explained that the DA Office advises and gives opinions to the Board of

County Commissioners (BOCC), other County civil officers on request, prosecutes and defends all civil actions or proceedings which the County is interested in, and upon request, if a County employee or officer is sued because of work completed in good faith in the course of their employment the DA's Office is duty-bound to step in. Wilson noted there are exceptions to this that outside private counsel can be hired. Wilson reminded the committee that the DA's Office does not represent any public trust and that he is not an expert in public trusts; he explained that James Orbison of Riggs, Abney, Neal, Turpen, Orbison and Lewis Law Firm represents the Authority. {Tom Daniels arrived at this point 2:15 p.m.} Wilson noted he has concerns about on-going criminal investigations, matters that are privileged between attorney and client, and rules of professional conduct. Wilson explained that soon the County maybe in civil litigation regarding these matters and he does not necessarily want to expose any strategies in a public open meeting; therefore, he is encouraged to say nothing and do nothing; regardless, Wilson focused on the letter looking at some basic issues that won't tip his hand, won't violate any attorney/client confidences and won't interfere with any factual investigation that is on-going. Wilson noted he will talk about those things he can and won't talk about those things he cannot. Wilson pointed out since July 1, 2005, the duties and responsibilities of operating the County jail have fallen upon the Sheriff's Office pursuant to the constitution and the statutes of the state of Oklahoma which is 24 hours a day, 7 days a week enterprise. The Authority is a public trust that exists while it meets in open public meeting and disappears at the close of the meeting when it adjourns. Whenever you look to what is going on at the County jail you will see the County's fingerprint all over the jail because the Authority has no fingerprint. The Authority does not have employees or a federal employer identification number; clearly everything that is done at the County jail is completed by County employees; the handling of funds is by County employees; County personnel take care of business at the County jail. The three ways to operate a county jail are: 1) the Sheriff's Office can operate the jail pursuant to the constitution and the statutes of the state of Oklahoma; 2) the public trust can employ a jail administrator and detention personnel; or 3) the County or the public trust can contract with a private entity to operate the jail. Wilson referenced the mayors' letter regarding the last sentence on page 1, *The Authority is also responsible for the administration of income received from the operation of the jail, which income becomes part of the trust estate by virtue of the trust indenture and TCCJA's leasehold interest in the jail facility and the real estate upon which the facility is located.* Wilson explained at least one of the letter signing mayors is trying to negotiate a contract with the County for housing municipal prisoners in the County jail and some of the suburban communities are concerned by a letter written by the Sheriff last year that discusses charging them for prisoners that are arrested on open state charges; therefore, Wilson believes the municipalities have an interest how they are treated at the jail with regards to housing their prisoners. Wilson explained none of the cities have ever been charged for bringing their prisoners to the County jail on open state charges. There are other counties that do and they are concerned that may become a practice with Tulsa County. Wilson provided a list of Oklahoma counties showing what they do and a copy of the Joint Jail Financing Agreement reflecting the budget for the county jail. Wilson did state that he believes that the County should not charge the other municipalities for open state charged prisoners but it is the policy makers' decision not his. In reviewing the budget with the STOC members he pointed out the County will be making up the Authority's deficit, approximately \$8.3 million dollars. Wilson pointed out the user revenues are the revenues that the above sentence from the letter is referencing based on conversations he has had with the various parties, approximately \$7.5 million dollars. In a previous Authority meeting the subject was broached on

exactly what is included in the trust estate, with the Authority's Counsel Orbison explaining it was the quarter penny sales tax revenue and does not include the user revenues. Wilson explained the County has contributed the revenue fees toward the operation of the jail this past 10 years but it is not the property of the trust estate and the Trustees don't have control of the user revenues; the authors of the letter are taking a position that is contrary to the Trust Attorney's position who has advised the Trustees the user revenues are not a part of the trust estate. Witham believes the user revenues are part of the litigation the mayors want to pursue in a friendly suit with Commissioner Peters agreeing that it is part of the suit. In response to Tommy Thompson's question concerning why the minor Trustees feel that they should have management of user revenues, Witham explained it comes from a statement in the Trust estate. Wilson explained that when the authors of the letter reach over seeking the user revenues they are doing so against the advice of their attorney, Counselor Orbison. Robert Breuning brought out that the County has control of the 1995 use tax which was put against the County fairgrounds. Wilson explained that the County's understanding of the user revenues comes from statutes 19 Section 180.43 and 19 Section 513.2 (he gave a copy of the statutes to the STOC members); Wilson explained 180.43 is a power or authorization with 513.2 being a duty or responsibility with obligations to do daily (not once a month during an Authority meeting). If the Authority were to hire a jail operator and detention personnel to operate the jail, they would have to do everything in regards to taking care of the prisoners that the Sheriff's Office is currently doing every day, 24 hours a day. In response to Breuning's question concerning the situation with Corrections Corporation of America (CCA) when they operated the jail, Wilson explained if a private entity were hired to operate the jail they would acquire all the duties and responsibilities to operate the jail not the Authority. Wilson explained the key word is *operate*; the reason that the County properly refers to the user revenues as their revenues because the County is at the jail every day, 24 hours a day, operating the jail; the County is generating the user revenues; the statutes state how to collect, deposit and use those revenues. Therefore, Wilson does not understand why the three mayors have the opinion they have concerning the user revenues especially since the Trust attorney has advised them that the user revenues belong to the County. Wilson referenced page 2 and 3 of the letter which discussed the County's handling of the sales tax revenue circumventing the oversight of the Budget Board and the Excise Board. The letter states the Authority *is escaping oversight* by these two boards by placing the sales tax revenue in a revolving fund. Wilson explained that the statute states the sales tax revenue can be placed in a revolving sales tax fund or in the general fund; he tracked down 19 other jail trusts in the state of Oklahoma and Steve Blue, County Treasurer's Office, called every jail trust with 15 of the trusts depositing to and making payments from a revolving fund (Delaware County and Grady Counties do not have a dedicated jail sales tax; Kay and McCurtain Counties administer their sales tax outside the custody and control of the County). Wilson referenced pages 4 and 5 of the letter which suggests the detention personnel cannot be paid because the sales tax revenue is deposited into a revolving fund instead of the general fund. Wilson reviewed the statute sited discovering it was enacted by the 30<sup>th</sup> legislature in 1965 by House Bill 1044 which detailed those to be paid from the general fund as the County Sheriff, Treasurer, County Clerk, Court Clerk, Clerk from the Court of Common Pleas (doesn't exist anymore), Assessor, County Judge, and members of the Board of County Commissioners, Judges in the Court of Common Pleas, and the County Superintendent of Schools and to the best of Wilson's knowledge this is happening now. The Attorney General recently issued an opinion that Tulsa County could pay their detention personnel with sales tax revenue. Wilson referenced page 5 that deals with the handling of the money by the County rather than the Authority

with Wilson explaining the Authority has no one hired to handle the money thus the County currently provides that function out of necessity. Because of some words used in the letter (i.e. conceal, escaping oversight), Wilson explained to the STOC members that the Authority complies with the Open Meetings Act and every month the expenditures are reported and approved by the Authority; all of these are open records; the exhibits provided today were obtained through the open records act; transparency in government these days is a reality; the meetings and documents belong to the people and the idea that the County is concealing anything is an idea that Wilson explained he does not understand where it comes from. Wilson noted he has personally sent documents to the City of Tulsa's attorney, David O'Meilia. Wilson referenced page 8 which discusses legal fees, noting this is the 21<sup>st</sup> century and one cannot operate a jail and not be sued. Wilson explained if a private company operates the county jail it would have lawyers to represent them in lawsuits brought against them in the operation of the jail; Breuning noted CCA did have lawyers representing them while they operated the county jail. Wilson explained if the Authority operated the jail hiring jail administrator and detention personnel and showing up every day for work at the jail, the Authority could hire attorneys to represent them in any proceeds or cases; the Authority could purchase liability insurance turning any and all claims over to the insurance company for payment but just think how much that type of insurance would cost for a jail the size of the county jail. Therefore, the idea the Sheriff is hiring legal counsel to represent him against claims that have something to do with the jail is somehow wrong, Wilson explained he does not understand how this is believed to be wrong. Wilson explained pages 10 through 12 of the letter are about the budgets and he has talked with Tom Gerard about these items; he noted that Gerard has persuaded him these are, though highly technical, non-issues. Wilson explained the Sheriff's Office is working on the other accounting issues referenced in the letter. In response to Thompson's question concerning if everything that is been charged in the letter is correct what would be the end result (their goal), Wilson stated he won't jump into that and he does not know what their motives are and it would be improper to speak to that. Thompson asked what would be the result if everything they are charging is correct would the Sheriff be out of a job; Wilson stated he is confident the courts will resolve any disputes in an appropriate manner and if we end up there we will present our evidence at that time. Breuning explained that the STOC committee has been trying to keep the jail open over the years and funded properly; it has been a tough job and the Sheriff has done a great job but if this happens, in his opinion, they want to shut down the jail. Wilson explained the County has to provide a jail and, clearly, the Authority could operate the jail or privatize the operation of the jail. In response to Breuning's question concerning if the budget numbers have been compared between CCA and the Sheriff's Office, Gerard stated the last year CCA's budget was \$22 million dollars and they increase every rate by a \$1 million dollars a year; so roughly from 10 years ago to today it would be \$32 million dollars for the upcoming year; the Sheriff's Office budget for jail operations is \$31.5 million dollars. Therefore, using this rough measurement the budget numbers are in-line; Gerard suspects CCA would be considerable more than if they were operating the jail. Breuning agreed with that statement. In response to Shea Boschee's question concerning the legal fees referenced in the letter explaining she read it more as some fees were paid that should have been paid from another fund (she explained she is a new committee member and read the letter somewhat differently), Wilson explained that the County is obligated to defend a County employee who is sued for work they are performing for the County. Wilson explained the idea individual representation of a County employee is improper is simply incorrect; it is a statutory duty of the DA's Office and that can be contracted out to private counsel. Boschee said it would be helpful to have a budget that is clearer. Wilson explained that going forward the Authority's fund will be separate and apart from the

the County's contribution fund; the expenses for the Authority are ranked in the priority as the Trustees wanted those categories paid. Wilson explained the proposed Interlocal Cooperative Jail Financing Agreement given to the Trustees at the June Authority meeting was motivated because of a new sales tax, .026 sales tax for the mental health pods, which will be administered by the County, not the Authority. There are two different entities administering two different sales tax and yet there is one jail; how are we going to finance the jail operations, it becomes really complicated without an agreement. Therefore, this interlocal agreement was proposed to address how to jointly finance the jail going forward with rules, guidelines and standards which all parties can follow and know exactly where they are at. In response to Paul McCurtain's question concerning the timeline of the approval of the agreement, Wilson explained it was given to the Trustees two weeks ago for their review and that he and Orbison negotiated the terms of the agreement. In response to McCurtain's question concerning if other attorneys or anyone else is dialoguing about the agreement, Wilson explained that he did not know if others were dialoguing about the agreement because they have not included him; but he did express that he felt some folks have discussed the agreement in great detail. McCurtain expressed he is very concerned and it is hard to conceive that these mayors are pushing forward when their attorney is not in agreement with them; there has to be something that is keeping them on track rather than listening to their attorney and he is wrestling with that trying to figure out what that could be. In response to McCurtain's question if Wilson knows what that *something* could be, Wilson explained he is not commenting on the mayor's motives. Witham reiterated to McCurtain that the attorney that does not agree with the mayors is the attorney that represents the Authority, Jim Orbison; the City of Tulsa's attorney, David O'Meilia, agrees with Mayor Bartlett for the most part, but that he (Witham) does not speak for O'Meilia; Witham explained he invited O'Meilia and Mayor Bartlett to attend the STOC meeting but they chose not to come. Witham explained that Mayor Bartlett may not be the author of the letter but he did sign the letter. In response to Thompson's question that this impasse was over the desire to request an increase from the City for their prisoners, Wilson explained that the increase in tensions between the municipalities and the County always occurs when the City's jail contract needs to be renewed; last time it ended up in a lawsuit which was settled with a five or six year agreement that expired last summer. Daniels' question concerned the accumulation of problems listed in the letter that have not come up until now and why weren't these taken care of when they first came up, Wilson noted he could not address that; Breuning opined there were no problems according to the Authority meetings. Witham noted that the entire climate of the Authority meetings has changed in the last year; the climate of the meetings once were very civil but they are not that way now and he feels it has a lot to do with the contract with the City; there is a lot of tension. {Pam Vreeland left the meeting 3:05 p.m.} Breuning noted the audits have been clean audits but even those are being brought into question. In response to Witham's question concerning if a document is being prepared to respond to the letter, Gerard explained his department is leaning on Wilson concerning how much of the letter he needs to respond to. Gerard explained he has spent many hours on the letter's budget section and the Sheriff's Office has done the same with the items that have been paid from the jail fund. Wilson noted the breath and scope of the response will be a strategic decision. Witham explained his reasoning deals with the fact if a response will be available then it would be acceptable to wait until the regularly scheduled July meeting to address the response then; but if a document will not be available because of legal reasons then it changes the direction Witham will have to take with the remainder of the STOC meeting. Gerard indicated they will have a document ready by the July 27,

2015 meeting and can talk with the committee at that time. Gerard explained that page 7 of the letter deals with expenditures from the Sheriff's Office; the Fiscal Office will respond to expenditures beginning on page 10 which deals with the budgets. In response to Witham's question if anything in the letter jumps out at Gerard that is not being done right, Gerard responded that he relies heavily on legal counsel, outside auditors that audit the Authority's accounts, and State auditors that audit the jail account; he explained as long as he has worked at the County (approximately 8 years) he has never had an auditor or attorney tell him that something is being done wrong; obviously, if that were the case we would fix it. In response to Breuning's question if Stanfield & O'Dell gave a clean audit opinion on their last audit, Gerard explained that was correct noting they have been with the County for quite a few years and they have addressed some of these issues. Gerard confirmed for Witham that Stanfield & O'Dell has not had any issues with the basic accounting or how the money is handled. Witham asked Gerard to address the letter's questions concerning the legal fees explaining his interpretation is that someone is trying to hide legal fees, Gerard explained that all the legal fees that pass through the Fiscal Office are those that are paid to the Authority's Attorney, Orbison, which are for the Authority; all the other legal fees that are paid from the jail account are from the Sheriff's Office and he explained he does not know what is appropriate legal fees in relationship to operating the jail. Wilson explained the County is run by eight elected officials that are constitutional positions, generally, but there is no CEO that makes all eight go in the same direction; one of the things Wilson has found out that the Fiscal Office has a category called *legal fees* and the Sheriff's Office has a category called *professional and technical services*; therefore, it is hard to compare when the categories are called different things. In response to Witham's question concerning the payment of legal fees from two different accounts for different purposes, Wilson explained that Orbison's legal fees are paid from the Authority's account and the professional and technical services account is in the Sheriff's Office jail operations account. Witham explained that the letter implies someone is playing smoke and mirrors between those two accounts and from the letter he ascertained these were the same funds but now you (Wilson & Gerard) are saying these are not the same accounts. Wilson noted though words like smoke and mirrors, concealed, budget foolery were used, the County is going to deal with facts and numbers and if something is not right then it will be fixed. Witham noted Orbison is being paid from one account and all the other lawyers are being paid from another account with one being for the Authority and one for the jail, with Wilson confirming that is correct. Gerard explained this is traditionally how the accounts have been handled; Burdge was a part of the March meeting to discuss how to clearly identify the expenditure categories which has been changed; the last six to eight months all this information has been presented to the Authority with the Authority deciding the expenditure priorities though this letter says *things magically disappear*; these are the changes that were decided that needed to be made. Peters explained that Witham had noted the contentious atmosphere of the Authority meetings and the question about the \$10,647 IT charge to the Sheriff's Office, Gerard sent the details that included the employees that performed the work, how many hours, and what their charge was; then the question comes back that the employees should not be paid that much money, you are paying them too much; the County replied back that it is their salary plus their benefits; then the question is how much is their benefits; this is County money not Authority money; then it's you should not be paying high benefits; so, yes, it is contentious. {Commissioner Peters left at this point; 3:15 p.m.} Boschee noted as she read the legal fee portion of the letter it stated *in which he (the Sheriff) is a defendant in both his official and individual capacities*, so official means his being the Sheriff and Wilson explained that when the Sheriff is sued in his official capacity you are suing the County and the

County is on the hook for that and when the Sheriff is sued in his individual capacity you are suing Stanley Glanz and his wallet is on the hook for that; when someone sues an individual like Stanley Glanz and his wallet it is the DA's obligation to defend him if the lawsuit involves work he was doing for the County in good faith, if he requests it. In response to Boschee's question if there is any wrong doing in doing that, Wilson confirmed that is no wrong doing. Witham explained that when the issue first hit the media concerning the legal fees he called John David Luton of the DA's Office who assured Witham it was performed according to the statutes and acted appropriately and the County agreeing to pay for legal fees was proper. In response to McCurtain's question concerning bringing more information to the next STOC meeting, Wilson and Gerard noted they plan to do that.

**Consider and Vote on Any Other Business to Come Before the STOC not Known About or Which could not Have Reasonably Been Anticipated at the Time of the Posting of This Notice**

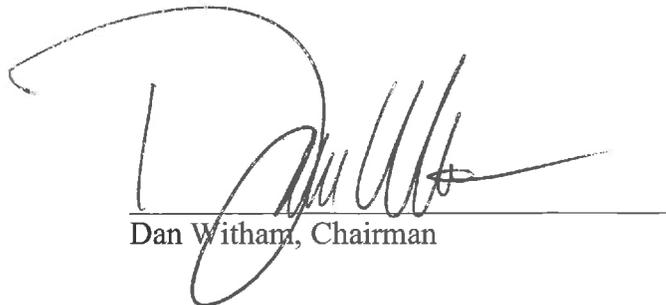
None. Witham thanked the committee members and guests for coming to the meeting on a day before a holiday.

**Vote to Adjourn**

Motion made by Tommy Thompson, seconded by Tom Daniels to adjourn the meeting. Motion carried.

Aye:	Belmonte, Boschee, Breuning, Daniels, McCurtain, Shelton, Thompson, Witham
Nay:	None
Abstain:	None

Meeting adjourned at 3:20 p.m.



Dan Witham, Chairman