



Curtis Koch <ckoch@co.davis.ut.us>

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## WSP Lease

1 message

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**Chris Preston** <cpreston@co.davis.ut.us>  
To: Curtis Koch <ckoch@co.davis.ut.us>

Tue, May 6, 2025 at 3:34 PM

Curtis,

I had a good conversation with Seth Oveson on Friday. He pointed out to me that Section 17-31-2 of the Utah Code governing the Tourism Fund (transient room tax) was amended in this last legislative session. The legislature made some slight modifications, but nothing that would really change what the County is proposing to do. The new law goes into effect on July 1, 2025.

He cautioned against using money earmarked for promoting tourism (Subsection 2(a)) for non-promotional purposes (Subsection 2(b), what the lease payments would fall under). There is a set percentage in the statute that the County must dedicate to promotional expenses. He explained that this was one of the main issues with Grand County, and he said that he discussed this with you. So I am sure this part is under control.

I asked about how the lease payments would be scrutinized. He said that for auditing purposes, the question will be whether the County has used a rational methodology for calculating the lease payments. The more it looks like the County is gouging the Tourism Fund, the less likely it will be that the lease payment meets the rational methodology standard. If the lease payment is similar to what the County would have to pay to lease the same or similar space to perform the same function if it wasn't owned by the County, then the amount being paid is more likely to meet the rational methodology standard.

My ultimate take-away from the discussion with Seth is that the County needs to make sure that the method for computing the lease payment meets the "rational methodology" standard. If we can show that the formula used is one that will stand up in the real estate market as an accepted and "rational" method of calculating a market lease rate for the type of space being used, then I think we have a great chance of surviving scrutiny.

He also pointed out that this resolution is subject to the whim of the commission, and that it can be adjusted, modified, or withdrawn by subsequent commissions. I explained that that was something we had already been discussing and agreed that the County needs to be prepared for that contingency. We may want to consider whether the resolution should have a set term, or if it should just say that the lease payments will continue annually without specifying a term.

I know the resolution includes a formula for calculating the lease rate. Where did this formula come from? Is it one that is generally accepted in the real estate market? Are there multiple methods that are generally accepted? If so, we need to be clear about why the County is using the chosen method, so that under scrutiny, the "rational methodology" standard will be met.

Let me know if you would like to discuss any of this in person.

Thanks,

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