

Questions for the Review Committee

PCDC Tax Incentive District (TID) Review Committee · special meeting

Tuesday 30 September 2026, 1:00 p.m.

Submitted by Brian West · brian@mcalester.net · petition.mcalester.net

Request. I ask that this paper be entered in the minutes of the meeting, whether or not there is time to answer the questions in it.

Every statutory passage quoted below was taken verbatim from the Oklahoma State Courts Network on 25 September 2026. Every document quoted is published in full, unaltered, at petition.mcalester.net, where each of these questions can be traced to the page it comes from.

A. The authority to skip a public hearing ★ ASK ALOUD

On 25 August 2026 the county's counsel wrote to a member of this committee:

"we've had some amendments proposed to the project plan that the Commissioners are considering and they're still working through that. At some point we will bring the review committee back together for input but because we consider the amendments to be 'minor' we don't have to go back through the public hearing process."

- 1★ The Board tabled the resolution on 22 June 2026, so no project plan has been adopted. **What is being amended?**
- 2★ 62 O.S. § 858(D) permits minor amendments only where "The governing body may grant the department, agency or public entity in charge of the implementation of the project plan the authority to make minor amendments to the plan." Has the Board granted that authority — to whom, by what instrument, and on what date?
- 3★ If no plan has been adopted, then what the Board adopts will be a project plan under § 858(B), and § 858(B) requires that "notice must be given and public hearings must be held pursuant to the provisions of Section 859." On what basis is a hearing not required?
- 4 § 858(C) provides that before adoption of an amendment "the governing body shall give notice concerning such amendment and hold public hearings on such amendment in the manner prescribed by Section 859." What makes this case an exception?
- 5 § 858(D) requires that "All amendments made pursuant to the provisions of this subsection shall be considered on a cumulative basis." What is the running cumulative total to date, as a percentage of district area and of public costs?
- 6 Will the committee see the proposed amendments in writing before it is asked for input today?

B. The two blank exhibits ★ ASK ALOUD

62 O.S. § 858(A) states that "The project plan shall include the following items," and item 5 is:

"A map showing existing uses and conditions of real property in the district and a map showing proposed improvements to and proposed uses of that property."

- 7★ In the plan as circulated, Exhibit "C" (Existing Uses and Conditions) and Exhibit "D" (Proposed Improvements and Uses) are **blank pages**. Section 858(A)(5) requires both. Will they be supplied before any further recommendation?

- 8 The draft circulating on 20 April 2026 carried a margin comment against each of those two exhibits reading “Note to County - what do you need this exhibit”. Who wrote that comment, and was the committee told of it before the 21 April vote?

C. The agreements that do not exist

- 9 The plan refers to a **Tax Incentive Agreement** more than twenty-five times and to an **Economic Development Agreement** more than fifteen. On 21 April the committee recommended approval without either in hand. Do they exist today, and will members read them before giving input?
- 10 Section 8.4 of the plan says the County and the Company “shall enter into an Economic Development Agreement” concurrent with approval of the plan. Has that happened?
- 11 Is there a Road Use Agreement, a water supply agreement, or a corporate guarantee from the parent company? The plan names the first and the committee’s own minutes raise the second.

D. The money

- 12 The table of Minimum Required Payments in the plan is expressly “a non-binding example” that is “not intended to establish fixed or binding payment obligations.” What is the binding minimum the County and the taxing entities are guaranteed?
- 13 Section 8.1 provides that the Base Value, certified as of 1 January 2026, “shall remain fixed for the duration of the Term” — twenty-five years. Has the County Assessor certified it, and at what figure?
- 14 Section 8.8 creates an Introductory Period of up to five years after activation during which the Minimum Required Payment “may be reduced.” Was the committee told of that before the 21 April vote?
- 15 “**MW Energized**” is defined as capacity “physically connected to the electrical grid,” and Community Betterment Payments scale with MW Energized. If the project generates power on site rather than drawing it from the grid, does the Community Betterment Payment fall to zero? Has counsel been asked?

E. The school district and the other taxing entities ★ ASK ALOUD

62 O.S. § 856(B)(4) sets the limits on how large these districts may be — subparagraph (e), fifteen percent of the county’s net assessed value; (f), twenty-five percent of the net assessed value of any affected school district; (g), twenty-five percent of the county’s land area. The paragraph then ends:

*“For districts that are wholly or partially comprised or become comprised of industries operating under **NAICS code 518210**, the provisions of subparagraphs d through g of this paragraph **shall not apply**.”*

NAICS 518210 is data processing, hosting and computing infrastructure. It is this project.

- 16★ Has this committee been advised that the statutory ceilings in § 856(B)(4)(d)–(g) — including the twenty-five percent limit that protects an affected school district’s tax base — **do not apply** to this district because it is a data center?
- 17 62 O.S. § 858(E): “Approval by any ad valorem taxing entities, if required pursuant to the provisions of Section 850 et seq. of this title, shall be secured before any plan or amendment thereto goes into effect.” Which of the five taxing entities have approved, and will each be asked again for the amendments?

- 18 Under Section 12.1 the plan puts **Kiowa Public Schools** at an initial \$11,000,000 a year, fifty-five percent of the total — more than the County, the Health Department, Kiamichi Tech and the library system combined. Does that figure survive the amendments?

F. The land

- 19 Article IV states the Project Site “contains approximately 2,000 acres.” The instruments recorded in the County Clerk’s office in the names of Emerald ProjectCo Inc. and Black Mountain Energy Storage II LLC describe **6,360 acres** in Oklahoma, counting no acre twice, of which 5,790 rest on legal descriptions that name their ground exactly. What is the relationship between the 2,000 acres named in the plan and the ground actually assembled?
- 20 Sections 8.7 and 9.6 together allow the Commissioners to adjust district boundaries and to add up to five percent to a district’s area by minor amendment without further legislative action, and § 858(D) requires those amendments be counted cumulatively. Over a twenty-five-year term, what is the maximum area that may be added to the districts without a public hearing?

G. The record

- 21 ★ Were the minutes of the **21 April 2026** meeting — the meeting at which the recommendation carried — ever approved? Each previous set was approved at the following meeting, and there has not been one since. Will they be approved today, and are they available to the public?
- 22 The minutes of 8 December 2025 record: “Horn asked about attorney fees. Haynes stated that Iren would reimburse for the all expenses.” Is the County’s counsel being paid or reimbursed by the applicant, and how much to date?
- 23 On 3 December 2025 the Chief Deputy wrote that “we are still seeking a seventh name, as required by statute.” Was that seat ever filled, and is the committee properly constituted?

The five to answer first, if time is short

- **1** — What is being amended, when no plan has been adopted?
- **3** — If this is a plan adopted under § 858(B), why is no public hearing required?
- **7** — Exhibits C and D are blank, and § 858(A)(5) requires them.
- **16** — The school district’s statutory protection is switched off by NAICS code. Was the committee told?
- **21** — Were the minutes of 21 April ever approved?

Statutory text: 62 O.S. §§ 856, 858 (OSCN, retrieved 25 September 2026). Committee minutes and correspondence: Kiamichi Technology Centers’ Open Records Act production of 18 September 2026, published in full at petition.mcalester.net/timeline. Land records: Pittsburg County Clerk, published at petition.mcalester.net/black-mountain.