Gmail

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Project Emerald (IREN): Demand for Action at Tomorrow's (Sept. 30) 1:00 p.m. Review Committee Meeting and Compliance with the Local Development Act and Open Meeting Act

3 messages

Ron Durbin <ron@guerrilla.news> Tue, Sep 29, 2026 at 9:37 PM
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Commissioners Selman, Haynes and Rogers, Ms. Trammell, and Members of the Review Committee:

Please see my letter below regarding tomorrow's 1:00 p.m. special meeting (Wednesday, September 30, 2026) of the PCDC Tax Incentive District (TID) Review Committee. It asks the Committee to take specific steps at that meeting. Ms. Trammell, as Acting Secretary of the Committee, please distribute this letter to every Committee member, including Mr. Schulz, Mr. Stone, Mr. Kellogg and Mr. Hatridge, before the meeting begins, and make it part of the record of that meeting and the Board's file on the Project Plan. Please confirm receipt by reply.

Ronald E. Durbin II, J.D.

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September 29, 2026

VIA ELECTRONIC MAIL

Board of County Commissioners of Pittsburg County
Commissioner Ross Selman, Chairman (District 3)
Commissioner Mike Haynes, Vice-Chairman (District 2)
Commissioner Charlie Rogers (District 1)
115 E. Carl Albert Parkway, Room 100
McAlester, Oklahoma 74501
bocc@pittsburgcountyok.gov | district2@pittsburgcountyok.gov

Members, PCDC Tax Incentive District (TID) Review Committee
Mike Haynes (Chair), Sam Rhyne, James Schulz, Shelley Free, Michael Hull,

Brent Stone, Michael Kellogg, and Rex Hatridge
c/o Hope Trammell, County Clerk and Acting Secretary of the Committee
countyclerk@pittsburgcountyok.gov

RE: Emerald ProjectCo Data Center Project Plan (IREN): Demand for Action at the Review Committee's September 30, 2026 Meeting and for Compliance with the Local Development Act, the Open Meeting Act, and Article X, § 6C of the Oklahoma Constitution; Demand for Preservation of Records

Dear Commissioners and Members of the Review Committee:

I am an Oklahoman and a reporter. I do not live in Pittsburg County, and I do not represent anyone. I write in my own name, and I stand with the Pittsburg County citizens who have organized against the tax abatement the County has drafted for IREN Limited and its subsidiary, Emerald ProjectCo Inc. Those citizens are prepared to take the violations described in this letter to court. I intend to stand with them there.

This letter asks for two things. First, at its special meeting at 1:00 p.m. tomorrow, Wednesday, September 30, 2026, the Review Committee must refuse to act on the "minor amendment" listed as Items 5 and 6 and must refuse to seat an "alternate" under Item 4. Second, the Board and the Committee must commit in writing, by **5:00 p.m. on Wednesday, October 7, 2026**, to comply with the Open Meeting Act on every future agenda item concerning this project, to abandon the Project Plan, and to grant this developer no tax incentive of any kind.

I. The "minor amendment" on tomorrow's agenda has no basis in law.

On June 22, 2026, this Board voted 3-0 to table the Project Plan and return it to the Review Committee "for further negotiations." BOCC Special Meeting Minutes, June 22, 2026, at 7. The Board has never adopted the Plan. Nothing exists to amend.

The Local Development Act says so in its own terms. A "project plan" means "the approved plans of a city, town or county." 62 O.S. § 853(15). Amendments apply to a plan already in force, and they require committee review, published notice, two public hearings and approval by resolution. 62 O.S. § 858(C). Minor-amendment authority exists only as a power the governing body delegates under an approved plan. 62 O.S. § 858(D). Two public hearings must precede "the adoption of a project plan or subsequent amendments thereto," and the first must present "an analysis of potential positive or negative impacts." 62 O.S. § 859(A). The Plan itself reserves minor amendments to the County after adoption and limits them to changes that do not "change the character or purpose of the plan." Project Plan §§ 9.4, 9.6. Rewriting the abatement percentages, payment floors or community payments of a twenty-five year tax abatement changes its character by any measure.

The County's counsel understood this in June. According to the minutes of the June 8, 2026 hearing, David Floyd told the public that "if they have to renegotiate the project plan it has to go through the whole process again." BOCC Special Meeting Minutes, June 8, 2026, at 9. By August he had chosen a different course. On August 25, 2026, he wrote to Committee member Shelley Free that amendments were under consideration and that "because we consider the amendments

to be ‘minor’ we don’t have to go back through the public hearing process.” The “minor” label came first, before the Committee saw a word of the changes, and its stated purpose was to avoid the public.

II. The Committee cannot seat an “alternate.”

The Act fixes the Committee’s membership. At-large members are “selected by the other committee members from a list of seven names submitted by the chairperson of the review committee.” 62 O.S. § 855(A). The Act provides for no alternates, and the County knows it: on December 1, 2025, Sandra Crenshaw told this Board that “alternates are not appointed in the statutes.” BOCC Minutes, Dec. 1, 2025. A member seated any other way has no authority to vote, and any recommendation that depends on that vote fails with it.

III. The Plan cannot lawfully be adopted in any form.

The defects go beyond tomorrow’s agenda.

The Plan omits what the Act requires. Exhibit C (existing uses and conditions) and Exhibit D (proposed improvements and uses) carry titles and nothing more, although the Act requires both maps. 62 O.S. § 858(A)(5). The Plan describes no public works or improvements, although the Act requires that description, 62 O.S. § 858(A)(2), and defines the only category the Committee relied on, a “reinvestment area,” as an area “requiring public improvements.” 62 O.S. § 853(17). The Economic Development Agreement remains undated and the Tax Incentive Agreement, which Mr. Floyd told the Committee would hold “the actual numbers,” did not exist when the Committee voted. Review Committee Minutes, Apr. 21, 2026, at 2-3. No governing body can find such a plan “feasible.” 62 O.S. § 858(B).

The Constitution does not reach this site. The Plan grants an exemption from ad valorem taxes. The Constitution permits that relief only “for historic preservation, reinvestment, or enterprise areas that are exhibiting economic stagnation or decline.” Okla. Const. art. X, § 6C(A); see 62 O.S. § 851. The record contains no finding and no evidence of stagnation or decline. IREN told the public it chose the site for “a strong electrical grid, strong gas production,” fiber and highway access. BOCC Special Meeting Minutes, June 8, 2026, at 3.

IREN is building with or without a tax break. The Legislature directed that these tools “not be used in areas where investment, development and economic growth would have occurred anyway.” 62 O.S. § 852(2); see 62 O.S. § 856(B)(4)(c). IREN’s Form 10-K for the year ended June 30, 2026, filed with the Securities and Exchange Commission on August 27, 2026, reports that it acquired Oklahoma land purchase rights and electricity connection rights at “a total acquisition cost of $112.0 million, of which $105.1 million relates to the electricity connection rights,” under a twelve-year term, and that “we have contracted for electric service from Public Service Company of Oklahoma.” On September 22, 2026, IREN told its investors it is “continuing to build” in Oklahoma. The abatement sat tabled the entire time.

Two statutory bars go unaddressed. No incentive may apply while the property holds the five-year manufacturing exemption under Article X, § 6B, 62 O.S. § 860(B), an exemption available to data processing facilities. No incentive may go to an out-of-state firm recruited by more than one

Oklahoma government without a waiver from the Director of the Department of Commerce. 62 O.S. § 860(C). The Plan mentions neither.

IV. The Open Meeting Act governs every step, including the ones taken out of view.

Every agenda must "identify all items of business to be transacted." 25 O.S. § 311(B)(1). An agenda that calls a renegotiated twenty-five year abatement a "minor amendment" does not tell the public what the body intends to do. Mr. Floyd's August 25 email also reports amendments "that the Commissioners are considering." No agenda of this Board from July through September 2026 lists them. Public business belongs in noticed meetings, not in private exchanges relayed through counsel.

The Act attaches real consequences. Action taken in willful violation "shall be invalid." 25 O.S. § 313. Any person may sue for declaratory or injunctive relief and, if successful, recover reasonable attorney fees. 25 O.S. § 314(B). Willful violations also carry criminal penalties. 25 O.S. § 314(A).

V. Demands

At its September 30, 2026 meeting, the Review Committee must:

1. Take no action on Items 5 and 6, and reject on the record any designation of changes to the unadopted Plan as a "minor amendment."
2. Seat no "alternate" under Item 4. Fill any vacancy only under 62 O.S. § 855(A), from a list of seven names submitted by the chairperson, at a meeting whose agenda identifies that business.
3. Place the full text of every proposed change to the Plan in the public record of the meeting.
4. State on the record that any change to the Plan's terms will return to the Committee for new findings under 62 O.S. § 855(B)-(D), followed by new published notice and two new public hearings under 62 O.S. § 859, before the Board may consider it.
5. Act on nothing that does not appear on the posted agenda. 25 O.S. § 311(A)(12).

By 5:00 p.m. on Wednesday, October 7, 2026, the Board and the Committee must confirm in writing that they will:

1. Identify every future agenda item concerning IREN, Emerald ProjectCo or the Plan, for the Board, the Committee, the Pittsburg County Economic Development Authority and any public trust named in the Plan, in plain language that states what the body will consider and do, including any change to abatement percentages, payments, boundaries or parties. 25 O.S. § 311(B)(1).
2. Conduct no deliberation or negotiation of Plan business by a majority of either body outside a noticed meeting, whether in person, by telephone, email or text, or through counsel or staff.
3. File regular meeting schedules as 25 O.S. § 311(A)(1) and (3) require, give forty-eight hours' notice of special meetings and post agendas twenty-four hours in advance under 25 O.S. § 311(A)(12), and post the full text of any plan, amendment or agreement with the agenda that lists it.
4. Keep minutes that show clearly the members present and absent, the place of the meeting, and every matter considered and action taken, 25 O.S. § 312(A), and correct the County's conflicting records of who attended and voted on April 21, 2026.

5. Place the withdrawal of the Plan on a properly noticed Board agenda, adopt no plan for this project, and grant no ad valorem incentive, exemption, abatement, increment apportionment or payment in lieu of taxes arrangement to IREN, Emerald ProjectCo, Black Mountain Energy Storage or any affiliate or successor.
6. Restart the full statutory process under 62 O.S. §§ 855, 858 and 859 if the County pursues any plan for this site despite these demands.
7. Disclose publicly the proposed amendments, the Floyd & Driver engagement agreement and invoices, the "3rd party agreement for the legal fees in the amount of $40,000.00" Mr. Floyd described on June 8, 2026, every payment or reimbursement received from IREN or its agents, and every meeting at which the Commissioners considered the amendments.

VI. Preservation of records

Litigation is reasonably anticipated. Each Commissioner, each Committee member, the County Clerk and her deputies, the Board's staff and the County's outside counsel must preserve every record since January 1, 2025 concerning IREN, Emerald ProjectCo, Black Mountain Energy Storage or the Plan, including email, text and app messages, voicemail, calendars, notes, drafts, recordings, and anything kept on personal phones or accounts used for public business. Suspend any automatic deletion now. Open Records Act requests will follow.

VII. What comes next

If the Committee acts on the "minor amendment" tomorrow, if the Board adopts this Plan without restarting the statutory process, or if the County will not give the written commitments above, the citizens I stand with are ready to ask the District Court of Pittsburg County to void the action and enjoin the County under the Local Development Act, Article X, § 6C and the Open Meeting Act. They will also ask the District Attorney to review any willful violation, ask each taxing entity to refuse the agreement 62 O.S. § 865 requires, and, if the Board adopts any resolution approving this Plan, circulate a referendum petition under 62 O.S. § 868 so the voters of Pittsburg County can decide. I will report on every step, including this letter and the County's response.

The simplest course remains open. Follow the Act tomorrow, withdraw the Plan, and tell this developer that Pittsburg County taxpayers will not underwrite a project IREN has already paid $112 million to build.

I reserve all rights. Please send the written confirmation to me at ron@guerrilla.news.

Sincerely,

Ronald E. Durbin II, J.D.
Investigative Journalist
Guerrilla Publishing
918-346-1755
ron@guerrilla.news

cc:
James Green, District Attorney, District 18 (Pittsburg and Haskell Counties)

Hope Trammell, County Clerk; Bobbi Hartsfield, First Deputy County Clerk
Sandra Crenshaw, Leslie Gray and Brittany Sanders, Board of County Commissioners Office
David C. Floyd, Floyd & Driver, PLLC
Hammons, Hamby & Price, PLLC
Kiowa Public Schools Board of Education, c/o Superintendent Sam Rhyne
Kiamichi Technology Center Board, c/o Superintendent Shelley Free
Southeast Oklahoma Library System Board, c/o Executive Director Michael Hull
Pittsburg County Health Department, Juli Montgomery, Regional Administrative Director, and James Schulz
Senator Warren Hamilton, Oklahoma State Senate
Office of the Attorney General, Open Government Unit

Hope Trammell <hope.trammell@pittsburgcountyok.gov> Wed, Sep 30, 2026 at 10:49 AM
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Respectfully
Hope Trammell
Pittsburg County Clerk
[Quoted text hidden]

Sam Rhyne <srhyne@kiowa.k12.ok.us> Wed, Sep 30, 2026 at 11:33 AM
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Cc: james.schulz@health.ok.gov, sdfree@ktc.edu, Michael Hull <michael.hull@oklibrary.net>, stoneelec@gmail.com, michael.kellogg1@icloud.com, mlynch@ktc.edu, mike.haynes@pittsburgcountyok.gov

I received the email.
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