



MEMBERS:

Dennis Bjorkquist, Chairperson
B. Allan O'Shea, Vice-Chairperson
Colleen Kenny, Secretary

c/o Manistee County Controller/Administrator's Office
415 Third Street • Manistee, MI 49660
Telephone: (231) 398-3500 • Fax: (231) 723-1795

SPECIAL MEETING MINUTES

Thursday, November 20, 2008
5:00 P.M.

Manistee County Road Commission
8946 Chippewa Highway, Bear Lake, MI 49614

Members Present: Dennis Bjorkquist, Chairperson; B. Allan O'Shea, Vice-Chairperson; and Colleen Kenny, Secretary

Others Present: Thomas Kaminski, Administrative Support, Jeri Lyn Prielipp, Recording Secretary, and numerous audience members representing Manistee County, the City of Manistee, Law Enforcement, the Townships, Villages, School Districts, the public, and the media.

The meeting was called to order at 5:00 P.M. Roll call was taken. The Pledge of Allegiance was recited.

The Chairman requested approval of the meeting Agenda.

There was a motion by Mr. O'Shea, supported by Ms. Kenny to approve the Thursday, November 20, 2008 Meeting Agenda, as presented. Motion carried by a vote of 3 - 0.

The Chairman then requested approval of the minutes from the Monday, October 13, 2008, meeting of the Manistee Local Revenue Sharing Board.

There was a motion by Ms. Kenny, supported by Mr. O'Shea to approve the Monday, October 13, 2008 Minutes of the Manistee Local Revenue Sharing Board, as presented. Motion carried by a vote of 3 - 0.

Chairman Bjorkquist encouraged Board discussion on formalizing a specific definition of public safety, which will be used to determine the eligibility of grant applications submitted under the public safety category. Mr. O'Shea announced that he was instructed by the County Commissioners to refrain from voting for any public safety grants until the Revenue Sharing Board had a definition of "public safety" in place. He feels that there have been a number of times where some applications stretched the definition of public safety and the Commissioners are looking for wording that would tighten things up so that the public safety grants go specifically to police, fire, emergency medical service and roads. Ms. Kenny stated that all along the Board has been consistent in the distribution of public safety grants, and she expressed concern with limiting the definition to just those agencies. Chairman Bjorkquist stated that he is happy that some local units of government had the flexibility to qualify for public safety grants, especially when there isn't a great deal of money left over for grants after meeting the rising P.I.L.T. obligations. Following lengthy discussion over what is and isn't defined as public safety, the Board agreed to accept the definition of public safety that Chairman Bjorkquist had discovered on Wikipedia and that he read into the record.

There was a motion by Ms. Kenny, supported by Mr. O'Shea to adopt and incorporate into the grant application the definition of public safety as: "Public

safety involves the prevention of and protection from events that could endanger the safety of the general public from significant danger, injury/harm or damage, such as crimes or disasters, natural or man-made" and beginning with Cycle I-2009, all applicants submitting an application under the category of public safety will be required to explain how their public safety application meets this definition of public safety. Motion carried by a vote of 3 - 0.

The Board then considered providing a formal response to correspondence received from the Onekama School District Superintendent, Kevin Hughes, which questioned the method being used by the Local Revenue Sharing Board to determine grants distributed to local units of government under the Payment in Lieu of Taxes category. Mr. Hughes's letter specifically questioned why the former Newland property that contains the tribal water tower and security/law offices does not qualify the Onekama School District for approximately \$20,000 to \$30,000 in P.I.L.T. funds? He interprets the Compact to state that those items should be considered non-contiguous appurtenances to the casino.

Chairman Bjorkquist had drafted a response to Mr. Hughes' letter and distributed a copy to the Board members prior to the meeting for their review and consideration (APPENDIX A). Chairman Bjorkquist explained that he has a list of over 30 people connected with the Indian Gaming Commission at the State level from whom he has been trying to get answers to Mr. Hughes's questions, but no one has any. The draft letter explained that the Director of Commerce for the Little River Band of Ottawa Indians advised Mr. Bjorkquist that the security/law enforcement offices are used in all areas of tribal enforcement, and not just for casino/resort related purposes. He was also informed that the water tower also services the casino, but is not owned by the resort/casino. The casino/resort operation purchases water from the tribe. The water tower also services the tribe's housing development and other related properties. Therefore, because this property is not exclusively used by the gaming/resort operation, the Local Revenue Sharing Board has never considered including its value in the annual P.I.L.T. grant calculation. Mr. Bjorkquist's draft letter concluded that the Local Revenue Sharing Board *takes* the position that parcel #51-07-128-001-00 and its improvements is the only parcel which serves to exclusively operate the casino business. Chairman Bjorkquist and Ms. Kenny are of the opinion that anything outside of that parcel is not part of the gaming facility, however Mr. O'Shea is of the opinion that improvements outside of that parcel are part of the gaming facility.

Manistee Township Supervisor, John Anderson, pointed out that the casino had water on site and was operating before the water tower was built. The water tower also services the gas station, and the tribe's housing development on Dontz Road. Maple Grove Township Supervisor, Wayne Beldo, believes that the Board should only be considering the actual gaming floor itself when assessing P.I.L.T. payments. Onekama Township Supervisor, David Meister, questioned the Board how they interpret contiguous and non-contiguous, which are terms included in the Bylaws regarding what should be assessed as part of a Class III gaming facility.

After a lengthy public comment session and discussion amongst the Board members and those present in the audience,

There was a motion by Ms. Kenny, supported by Mr. O'Shea authorizing the Chairman to present the proposed letter to Kevin Hughes, Onekama School District Superintendent, as drafted, with the last paragraph to begin with, "In conclusion, the Local Revenue Sharing Board *has taken* the position that parcel #51-07-128-001-00 and its improvements is the only parcel which serves to exclusively operate the casino business. ...". Motion carried by a vote of 3 - 0.

The Revenue Sharing Board agreed to keep the P.I.L.T. funding the same for Cycle II-2008, but agreed to hold a special meeting prior to the 2009 P.I.L.T. distribution, to evaluate the assessment of the facility and what will be included in future P.I.L.T. grants.

The Board next discussed soliciting bids for Local Revenue Sharing Board legal counsel. Chairman Bjorkquist had a list of attorneys/firms who had a hand in drafting the Compact and he suggested sending letters of solicitation to these four (4) attorneys/firms. Mr. O'Shea also wanted to advertise locally.

There was a motion by Mr. O'Shea, supported by Ms. Kenny to advertise locally for Local Revenue Sharing Board legal counsel and to send letters of solicitation to the four (4) firms/attorneys as proposed by the Chairman. Motion carried by a vote of 3 - 0.

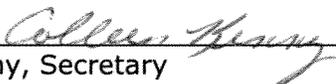
The Board discussed renegotiating the Memorandum of Understanding between the Manistee Local Revenue Sharing Board and the County of Manistee for administrative services. Chairman Bjorkquist commented on the outstanding performance of the County Administrator's Office. Mr. Kaminski pointed out that the administrative fees have been lowered twice in the past and the County Board of Commissioners had no objection. He informed the Board that only a small portion of the administrative fees is for work performed by County Administrative staff. A majority of the fees is for the work performed by the Equalization Director and the County Treasurer, who handles and invests the 2% funds that filter through his office. The Compact requires the County Treasurer to handle and invest the funds, but does not require the Equalization Director to assess the property. The Compact does require the assessment be performed by the local assessor (Manistee Township), however neither the previous or the current Township Assessor wanted to take on that task and asked the County Equalization Department to do so. Mr. Kaminski cautioned the Board that it could cost anywhere from \$30,000 to \$50,000 to hire a private appraiser to perform the work currently done by the Equalization Department. The Board reached consensus that the current Administrative Agreement should remain in place until further notice.

Chairman Bjorkquist announced that the grant award meeting will be held on Monday, December 8, 2008, at 5:00 p.m. at the Manistee County Road Commission building.

There being no further business to come before the Revenue Sharing Board and with no other concerns from Board members, the meeting was adjourned at 7:10 P.M.

Correspondence dated November 13, 2008 from the State Tax Commission; correspondence from the Sheriff; and correspondence dated November 17, 2008 from Dennis Cawthorne were presented to the Board at this meeting and are attached to these minutes under APPENDIX B.

Respectfully submitted,



Colleen Kenny, Secretary

(APPENDIX A-1)

MEMBERS:

Dennis Bjorkquist, Chairperson
B. Allan O'Shea, Vice-Chairperson
Colleen Kenny, Secretary



November __, 2008

Kevin P. Hughes, Superintendent
Onekama Consolidated Schools
5016 Main Street
Onekama, MI 49675

DRAFT

RE: Response to Correspondence Dated April 7, 2008

Dear Mr. Hughes:

First I would like to apologize for the length of time it has taken for me to respond to your letter dated April 7, 2008. Your correspondence specifically addresses the question of why the Newland School property, which was purchased by the Tribe for security/law enforcement offices, and the property in which the water tower is located is not included in the real and personal property values which are used to calculate annual Payment in Lieu of Taxes grants to local taxing jurisdictions.

In 1999 when the Manistee Local Revenue Sharing Board was created, it was the first of its kind. At that time, Mr. Jeff Dontz, representing Manistee County, Mr. Bill Shales, representing the City of Manistee, and I were members of the Board. The compact was reviewed and interpreted by various attorneys and public officials. The Local Revenue Sharing Board, with the guidance of the Kelley Cawthorne law firm, created by-laws which were adopted by the Local Revenue Sharing Board. At that time, parcel #51-07-128-001-00 was the piece of property where the original casino was constructed. This piece of property was taken off the tax roll and put into trust with the Tribe and the Federal Government. The County Equalization Department and the Manistee Township Assessor worked together to value this piece of property and its improvements for the purpose of calculating an annual PILT grant to local taxing jurisdictions. This PILT grant calculation has never deviated from the original parcel number.

In answer to your question about the Newland property and the water tower which is now owned by the Little River Band of Ottawa Indians, I have spoken with the Director of Commerce for the Little River Band of Ottawa Indians, and he has advised me that the security/law enforcement offices are used in all areas of Tribal enforcement, and not just for casino/resort related purposes. I have also been informed that the water tower also services the casino, but is not owned by the resort/casino. The casino/resort operation purchases water from the Tribe. This water tower also services the Tribe's housing development and other related properties. Therefore, because this property is not exclusively used by the gaming/resort operation, the Local Revenue Sharing Board has never considered including its value in the annual PILT grant calculation.

*Change which was made to
letter at the 11/20/08 mtg.*

(APPENDIX A-2)

In conclusion, the Local Revenue Sharing Board ^{has taken} takes the position that parcel #51-07-128-001-00 and its improvements is the only parcel which serves to exclusively operate the casino business. It is my hope that this correspondence clarifies the Local Revenue Sharing Board's position on the calculations used to determine the annual PILT grants.

Once again, I apologize for the delay in providing you with our answer to this very important question.

Sincerely,

Dennis Bjorkquist, Chairman
Manistee Local Revenue Sharing Board

CC: Allan O'Shea, Local Revenue Sharing Board Member
Colleen Kenny, Local Revenue Sharing Board Member

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DRAFT

(APPENDIX B-1)



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

ROBERT J. KLEINE
STATE TREASURER

DATE: November 13, 2008
TO: Assessor's and Equalization Director's
FROM: Kelli Sobel, Executive Secretary State Tax Commission
SUBJECT: Tribal/State Class III Gaming Facilities

As some assessors are aware, specific provisions in the Tribal/State Class III Gaming Compact and related Stipulation for Entry of Consent Judgment require the Tribes to disburse 2% of net win at each casino derived from all class III electronic games of chance to local revenue sharing boards. The compacts further require that the local units of government shall receive from a local revenue sharing board no less than the amount equivalent to its share of ad valorem property taxes that would otherwise be attributed to the facility if it were subject to taxation.

In order to properly ensure that the local units of government are receiving the proper amount, assessors should account for and inventory these properties on a current true cash value basis to maintain an accurate property value. Thank you for your cooperation.

--Forwarded Message Attachment--

www.michigan.gov/treasury

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Get more done, have more fun, and stay more connected with Windows Mobile®. See how.

11/19/2008

County of Manistee

B-2



Office of the Sheriff

Dale Kowalkowski

Sheriff

Dennis Bjorkquist
Chairperson
Manistee County Local Revenue Sharing Board
415 Third Street
Manistee, MI 49660

Dear Mr. Bjorkquist,

On behalf of the Manistee County Board of Commissioners, Public Safety Committee, I write to ask the local Revenue Sharing Board to identify "public safety" as it is used in the compact that establishes the distribution of 2% dollars from casino revenue.

Over the past several years the amount of available grant funds has diminished significantly. Recently the Revenue Sharing Board has distributed the funds under a broad umbrella of interpretation of "public safety". The Board's Public Safety Committee would like to see some identification as to what qualifies as a Public Safety grant.

I would discuss this with any of the board members if you feel that may help clarify the Public Safety Committee's position. Please feel free to call on me anytime.

Sincerely,

A handwritten signature in cursive script that reads "Dale Kowalkowski".

Dale Kowalkowski

Cc: Tom Kaminski, County Administrator
Ed Haik, Public Safety Chairperson



B-3

Recd. 11/19/08

KELLEY CAWTHORNE

ATTORNEYS &
GOVERNMENT
RELATIONS
CONSULTANTS

November 17, 2008

*Frank J. Kelley
Dennis O. Cawthorne
Patrick H. McCollough
Steven D. Weyhing
David Gregory*

Manistee Local Revenue Sharing Board
Dennis Bjorkquist, Chairperson
c/o Manistee County Controller/Administrator's Office
415 Third Street
Manistee, MI 49660

GOVERNMENT
RELATIONS
CONSULTANTS

*Rob Elhenicky
Dave Ladd
Melissa Yutzey*

Dear Mr. Bjorkquist:

This firm represents the Manistee Area Public Schools. We note that the Local Revenue Sharing Board has on its November 20, 2008 agenda an item (number 8) having to do with the future distribution of PILT payments to eligible units of government. We also note that the media has reported that one member of the Board has been instructed to withhold his vote on the distribution of PILT monies. It is apparently the belief of the instructing party that by denying a unanimous vote for PILT distributions, PILT payment to qualified recipients can be at least temporarily blocked.

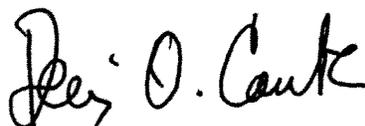
It is the opinion of this firm that timely PILT distributions to qualified recipients cannot be blocked by vote of the Board, nor by the vote or abstention of a single member of the Board. Section 18 (A)(2) of "A Compact Between The Little River Band of Ottawa Indians and The State of Michigan Providing for the Conduct of Tribal Class III Gaming by the Little River Band of Ottawa Indians" says: "...The Local Revenue Sharing Board's sole function shall be to determine and make allocations of the tribal payment...SUBJECT TO THE LIMITATIONS in subsection(iii)-(v) below...(4) "Out of the aggregate payments to local units of government, each local unit of government shall receive no less than an amount equivalent to its share of ad valorem property taxes that would otherwise be attributed to the Class III Gaming Facility if that site were subject to such taxation. "

B-4

Thus, PILT payments to qualified recipients are mandated by the express words of the Compact. A Local Revenue Sharing Board can take no action in derogation of the mandated distribution. The requirement of a unanimous vote can only apply to discretionary actions of the Board; it cannot and does not work to defeat and overcome mandated action. It is therefore our opinion that any instruction or action to block the timely distribution of PILT payments is invalid and of no force and effect.

With respect to additional jurisdictions possibly being entitled to PILT payments under Article IX (I) on account of their containing "appurtenances" or "amenities", after the following: the properties in question are not the property of the enterprise owning the Class III gaming facility, but rather are separately owned properties which supply goods and services by contract. Furthermore, these appurtenances and amenities are used for purposes in addition to their use by the Class III gaming facility. Therefore, we believe a significant question arises under the terms of the Compact as to whether such properties in fact qualify for PILT payments and it would be our preliminary assessment that they probably do not.

Sincerely Yours,



Dennis O. Cawthorne