



FireKeepers Local Revenue Sharing Board

FireKeepers Local Revenue Sharing Board • 315 West Green Street • Marshall, MI 49068

MEETING MINUTES MARCH 14, 2014

The meeting of the FireKeepers Local Revenue Sharing Board was called to order at 8:30 a.m. by Chairman Kale.

Corporation Counsel Richard Lindsey stated he had received a resolution from the City of Battle Creek appointing Dan Ryan in place of Ken Tsuchiyama.

Member Kale recognized Ken Tsuchiyama for his work on the FireKeepers Local Revenue Sharing Board. He noted Ken was one of the original members, he contributed a lot of experience and knowledge and his service was appreciated.

1. Roll Call

Present: Art Kale, Calhoun County; Jamie Stuck, Nottawaseppi Huron Band of the Potawatomi; Greg Moore, Athens Township; Jim Dyer, City of Marshall; Dan Ryan, City of Battle Creek, Tim Hill, Emmett Charter Township .

Also Present: Kelli Scott, Calhoun County Administrator/Controller; Richard Lindsey, Calhoun County Corporation Counsel; Christine McComb, Calhoun County Administration.

2. Approval of Agenda

Motion by Member Moore, supported by Member Stuck, to approve the March 14, 2014 agenda as presented.

Voice Vote. Motion CARRIED.

3. Consent Agenda

- a. 1/10/14 Meeting Minutes

Motion by Member Moore, supported by Member Stuck to approve the March 14, 2014 Consent Agenda as presented.

Voice Vote. Motion CARRIED.

4. Public Comment

Allyn Miller, President of the Battle Creek Board of Education, stated he was concerned about the potential impact of approval of Emmett Township's funding request. He stated the school budget needs to be in place by July 1 and they plan on a monetary receipt from the FireKeepers Local Revenue Sharing Board. He stated they anticipate there will be requests but never anticipated this large of a request. He stated the impact on Harper Creek Schools will be significant if Emmett's request is approved. He noted that other members of the PILT will be impacted. He stated they would be able to budget better if the request was put off until next year.

Homer Mandoka, Chairman of the Nottawaseppi Huron Band of Pottawatomi Tribal Council, congratulated and welcomed Dan Ryan. He acknowledged Ken Tsuchiyama for being a valuable asset to the board and wished him well. He stated the Tribe was in discussions with the State for a possible Compact amendment. He stated the original intent of the compact was to fund projects and most until now have been reimbursements. He stated the amendment would allow the Board to set up a strategic funding to pay in advance for projects critical to the operation of FireKeepers. He stated they were looking at plans for a loan or grant application the Board can take into consideration. He asked the Board to consider what is critical when deciding distributions.

Gordon VanWieren, Attorney for Harper Creek Schools, stated the application from Emmett Township is for Michigan Avenue sewer improvements based on an engineer's study. He noted the Board's policy is to reimburse and there is nothing in the Compact that would permit any type of front expenditure before the cost has been incurred. He stated Emmett has not even solicited bids for the work yet.

Gary Lincoln, Harper Creek School Board, referenced the problems that New Buffalo had with their LRSB.

5. Old Business

There was none.

6. New Business

a. Emmett Township

John McFarlane, Attorney for Emmett Township, introduced himself and Justin Crane, engineer for the proposed project. He stated most of the application is self-explanatory, asking for reimbursement for attorney, engineering and public safety fees. He stated the biggest component was a \$1 million request for a sewer project. He stated it was important to understand that they were confronted with the situation that we are utilizing a sewer that is failing. He explained they were experiencing an excessive level of hydrogen sulfide gas and much greater flows of waste water than anticipated. He stated it was a dangerous proposition in which there could be sewage overflow and we were experiencing high levels of gas that make it unpleasant for people who live and work in the area plus the people who have to work on the system. He stated ordinarily when a municipality is confronted with this we would create a special assessment district and sell bonds to finance the improvements. He explained that since we are dealing with sovereign territory, so we can't assess the property and when approached the Tribe

indicated they were not interested in assisting with the financial obligation and referred the Township to the FLRSB. He noted the Tribe recognizes the repairs are necessary. He stated the suggestion might be made that we could perhaps allow the Revenue Sharing Board to make the commitment to pay it over time but the problem with that approach is that is uncertain if the Township could sell bonds to finance the project in the meantime. McFarlane stated the only way the Township can pay for improvements with certainty is to obtain funds in advance from the Revenue Sharing Board. He stated if we don't make these improvements, the sewer system is going to fail. He stated he understands the other component of the argument is that the Compact does not allow for payment in advance. He then referenced language in Section 18a of the Compact and stated they believe there is no inherent language that states costs must be incurred before they are requested from the Board. He stated he doesn't think there is any doubt that the fixing the sewer that serves the Casino is an appropriate use of this Board's funds. He stated the Board should not delay this decision and put the Township in the position to look elsewhere for funding.

Member Dyer asked if the casino pays the Township a rate for sewage handling.

McFarlane acknowledged they do pay a usage fee and since there hasn't been any significant development in that area since 2009 we know that the increase is due to the casino.

Member Dyer asked what evidence they had to show the casino is at fault for the gas causing the deterioration?

Justin Crane, Engineer for CEI, stated they had performed testing for multiple weeks on the manholes. He stated the Casino was at the end of the sewer system line so there is nothing upstream that is causing it. He explained when the manholes were opened they were deteriorating with concrete falling apart and steel corroding and they were installed with the extension of the system to the casino. He stated they haven't solicited bids for the actual work. What is presented is an engineering study, but they have good ideas what typical construction costs are in this area. He stated they had looked at what the agreed to flow was and are seeing it over 50% higher. He stated what we are proposing needs to be done just to handle the flow that is currently coming in. He stated their proposal was to restore the capacity that was there before the casino went in. He stated what's causing the hydrogen sulfide could be something they could control and they had made some suggestions to the casino. Crane stated he understood the Casino has taken steps to change how they handle kitchen waste but at this point it will not reverse the damage done.

Member Moore stated it was clear the original agreed to amounts were exceeded but asked what steps were taken by the Township to address it with the casino. He asked what the agreement was between the Township and the Tribe to pay for the system. He stated everyone knew at the beginning that the Casino and at least one hotel were included in the study of anticipated flow.

McFarlane stated initially the agreement was that the Township would install the system and present a bill to the tribe. He stated that as time went on, the Tribe acquired the land and it went to trust, and then they reconsidered their request and took over construction. He explained that the Tribe presented the system back to the Township after construction. He noted there is an agreement between the City of Battle Creek and Emmett Township that calls for the City of Battle Creek to maintain the system. McFarlane stated this isn't a problem the Township has in isolation; it's a problem the Casino has, the City of Battle Creek has and the residents have.

McFarlane stated an amendment to the Compact was presented about three months ago, but the Governor's office has not given an indication if or when they would address the modification because they were waiting for an opinion from the Attorney General's office for guidance.

Member Dyer stated his principal concern is that it is not a reimbursement. He noted the casino does pay for the treatment of its sewage and so they are willing to pay, just not the full cost of entering into a special assessment district for upgrades that are directly associated to the Casino. He stated most of what the Board reimburses the Casino does not pay anything toward. But with the sewer, they are submitting payment to assist in the treatment.

McFarlane stated he understands the impact on Harper Creek Schools, but he encourages them not to be short sighted. He stated if the Board commits to a multi-year reimbursement, it will cost us more for interest on the bonds. He noted that if there is a sewage overflow, it will affect property values. He stated with all due respect, they are being short-sighted and there is a benefit to the schools when these upgrades are made.

Member Moore stated he had no problem being a partner in projects, but he doesn't like being a partner after the fact. He stated these problems have been known for years and this is the first we have heard of it.

Motion by Member Dyer, supported by Member Stuck to table the application for reimbursement to Emmett Charter Township for 60 days to allow for compilation of more information and for the amendment to the Compact to be formally accepted or rejected by the State of Michigan.

Voice Vote. Motion CARRIED.

Motion by Member Dyer, supported by Member Stuck to direct County Administrative Staff to meet with stakeholders and present alternatives to the proposed request at the April 25, 2014 FireKeepers Local Revenue Sharing Board meeting.

Voice Vote. Motion CARRIED.

Motion by Member Dyer, supported by Member Moore to approve the Emmett Charter Township request for \$21,266.95 for engineering costs incurred as presented.

Administrator/Controller Kelli Scott referenced the supporting documentation received from Emmett Township, noting that expenses from 2012 and 2014 were included but the timeline for expenses incurred was traditionally the previous calendar year.

Motion by Member Dyer, supported by Member Moore to table the motion approving the Emmett Charter Township request to allow for review of dates on reimbursements submitted.

Voice Vote. Motion CARRIED.

Motion by Member Stuck, supported by Member Dyer to approve the Emmett Charter Township request for \$8,564.00 for legal costs incurred as presented.

Motion by Member Dyer, supported by Member Moore to amend the motion to approve the Emmett Township request to \$7,142.00 for legal costs incurred in the 2013 calendar year.

Roll Call Vote, Yes – 6. Motion CARRIED.

Motion by Member Stuck, supported by Member Dyer to approve the Emmett Charter Township request for \$36,269.84 for public safety costs incurred as presented.

Roll Call Vote, Yes – 6. Motion CARRIED.

b. Calhoun County Consolidated Dispatch Authority

Motion by Member Dyer, supported by Member Stuck to approve the Calhoun County Consolidated Dispatch Authority's request for \$5,067.03 as presented.

Roll Call Vote, Yes – 6. Motion CARRIED.

7. Adjournment

Chairman Kale adjourned the meeting at 10:23 a.m.