

MINUTES  
EXECUTIVE COMMITTEE  
NOVEMBER 30, 2011

Members Present: Supervisors Molinaro, Ekornaas, Elverman, Clark, Breunig, Michel and Noble

YIG Present: Jekot

YIG Absent: Rende

- 6:30 pm
1. The meeting was called to order by Chairman Molinaro in the second floor committee conference room at the Administration Building.

- 6:31 pm
2. Citizen Comments: None

- 6:31 pm
3. Chair, Supervisor and YIG comments:  
Supervisor Elverman reported on an accident at the Detention Center that injured two employees and said their injuries were not as serious as the news media made it sound.

Supervisor Breunig distributed an economic impact analysis proposal for Country Thunder. Chairman Molinaro will be meeting next week with the County Executive.

Chairman Molinaro mentioned a transfer of funds that will be needed to pay legal fees associated with the Redistricting case with the City. Usually that request would come to this committee as the oversight committee for Corporation Counsel. He is comfortable with the request going to the Admin/Finance Committee at tomorrow night's meeting.

- 6:38 pm
4. Report from Menominee Tribe regarding BIA application to place land into trust and update on status of BIA application:  
Molinaro expressed his displeasure with being here for a third extension. He feels the responses from the Tribe to concerns raised by the County have been almost non-existent. He is looking for specific answers tonight to questions asked previously.

Laurie Boivin said she is in her last year with only two months to go. She introduced Lisa Walker, former Chairman of the Tribal Legislature, John Wilhelmi, their attorney and Eric Olson, their local representative. The Tribe met with the BIA on September 26. Their application is solid but due to the time that has gone by, they need to update several things. The BIA was going to send them a list of the things that need to be updated. That was not received until October 17. The regional office has to review the updates and send their recommendation to Washington DC. The goal is to have everything requested done by mid-January and the regional office recommendation should be in by the end of January. They have hired the same company, AES, to update the environmental impact study. AES is working with the regional office and should have their review done within sixty days. The BIA wants to know if the Tribe can still do everything they proposed to do before and that piece still has to be done. They have sent two mailings to the regional office so far. They have hired Steven Erickson who specializes in municipal and Native American finance. Price Waterhouse Cooper did the original market study. They predict tribal gaming revenue for 2014 will be the largest growth. Erickson told them the project can still be done but probably in more phases than originally planned. There have been major changes in the capital market. We may not be able to borrow as much as we could before. He said we should still be

able to do what we wanted to do as far as the scope and size of the project. When we have a more formalized update, we will provide it to Kenosha County.

Regarding the question of attorney fees, Boivin said they took the matter to the Tribal Legislature. They are not willing to pay attorney fees. They feel it is a government to government relationship. Molinaro said it is a government to developer relationship. This has been costly to taxpayers. When you talk about the environmental impact statement update, we asked for that at the first extension. We still don't have it. We asked for an update on finances and a business plan. The Erickson letter is not what I was looking for. There is nothing special in the report. You have not answered the scope of the project or financing issues.

Boivin said we had a meeting with the BIA to see what they required. We do not have the money to do things that were not going to be required by the BIA. The update for the environmental impact study is going to cost \$100,000. We did not want to do that unless they required it. The IGA is critical. As part of the update, we have to show the land option is in place and the IGA is in place. If we don't have an IGA, we are done.

Molinaro said if you are looking at an \$800M development that you can't afford to put \$10M in up front, you should not be doing the deal. Those are the guarantees we have been looking for. We asked about the timing of the land going into trust and that has not been answered. I don't know what I can present to the county board.

Boivin said regarding your comment about we should not be doing it if we can't afford it, we have put in \$3M. We had a backer that put in \$12M. This is not the Tribe's fault. It is at the Federal level. We are trying to get a new developer. We have gone through a third of our reserves.

Supervisor Clark said his concern has always been can you still do the project. We want to see people getting work. He is concerned with what the initial phase is going to be. If we give you this extension and you don't get financing, has the land gone into trust? Wilhelmi said in order to purchase the site, we need \$40M. Molinaro asked what initiates the land going into trust. When can I back out? How do we take land out of trust? Wilhelmi said when land goes into trust, it is difficult to get it out of trust. Molinaro wants protection for the county from having land in trust and no project. Supervisor Noble said he does not think the project looks good. You have no developer and you're operating on a shoestring. Do we have to renew for 3 years? Can we renew for 90 days? Frank Volpintesta told the committee they can renew for 90 days. Supervisor Michel said he thinks three years is too much. We should know within a year. We still have to take it to Madison and we have friends in Milwaukee who are going to put up roadblocks.

Volpintesta said at one time he sent a list of questions to the Tribe. He still doesn't have answers to a number of the questions. The regional office is supposed to make recommendations to Washington DC in mid-January. He thinks the regional office would want the answers to these questions. He thinks the City and the County need to be at the table when the Tribe meets with the BIA. We asked for review by outside counsel. They took note of the fact there have been a couple of off reservation applications approved or denied by the BIA. The one denied they feel creates a challenge for the Menominee. They are concerned about the Jemez decision.

8:17 pm

5. Discussion regarding reimbursement of county attorney fees by the Tribe and address response to future cessation of Indian gaming:

Regarding the issue of the cessation of Indian gaming, Volpintesta sent proposed language to Wilhelmi from our outside counsel. He just got that yesterday.

Molinaro said regarding attorney fees, the County should not have to foot the bill. The answer from the Tribe was that was not something they would entertain. He would like to counter that if the project is successful, the county will pay its own way. If not, the Tribe will reimburse the County. Supervisor Elverman said attorney fees is not a deal breaker for him. We have given

money to other entities. He is disturbed by the lack of communication but he is still on board with the project. Wilhelmi said everything flows from the updated revenue projections. We had hoped to have PWC do it but they couldn't. The environmental impact study is on track. Volpintesta said again it sounds like you are going to submit projected revenues to the BIA from someone the County does not know or know their qualifications without any County input prior to it going to the BIA in mid-January. How can we accept those numbers without knowing who they are and how the numbers were arrived at?

Regarding the cessation of gaming language, Wilhelmi said the first paragraph is in the IGA. The second paragraph was their proposal and the third paragraph came from Perkins Coie. His only concern is that anytime you change something, we have to send it to the Bureau and it is something they have to look at. Molinaro asked is this an entire reopener if we amend this language. Volpintesta said it is no different than extending with a new date. Wilhelmi said anything could cause a problem with the BIA. The Tribe has no problem with it. Boivin said Lisa and I are OK with it. If you want it in the extension agreement, we will agree to that. Supervisor Ekornaas said he has a concern that the BIA can use the change in language as a reason to study it further. He would rather not give them that opportunity. Volpintesta said if you want to make a modification, this is the time to do it.

8:40 pm

Chairman Molinaro said he would take up item 7 at this time.

7. Resolution addressing the extension of all IGAs between Kenosha County, the Menominee Indian Nation, Menominee Gaming Authority and the City of Kenosha:  
**Supervisor Clark made a motion to approve the resolution with an expiration date of 12/31/12 and incorporate the "Cessation of Gaming" amendment. Seconded by Supervisor Michel.**

Molinaro said we need to move quickly due to elections. By 12/31/12, we will either need another extension or kill the deal before allowing the next president to weigh in on it. Supervisor Ekornaas made a friendly amendment to extend the date to 6/30/13. Supervisors Clark and Michel were OK with the friendly amendment. Boivin said their current option on the land goes to 3/31/13.

**Supervisor Clark made a friendly motion to change the expiration date of his original motion to 3/31/13. All aye. YIG voted aye. Motion carried.**

Supervisor Clark left the meeting at 8:49 pm.

8:49 pm

6. Resolution in response to BIA notice received 11/7/11 inviting comment by Kenosha County:  
Volpintesta explained the correspondence received from the BIA. Wilhelmi said this notice also went to the City Council and the State of Wisconsin. People who comment are usually opposed to it. You don't need to comment. Volpintesta said based on the committee's actions tonight, he does not see a need to do anything. If we do respond, he would recommend a note to the BIA that we are in favor of the proposal, we are in contact with the Tribe and we have asked for information that we are sure is forthcoming.

Molinaro said how do we wrap this up. He doesn't think we need to comment. There is a list of questions out there. The Tribe needs to respond definitively to:

- What is the scope of the project. Answer so that we believe you understand it, are committed to it and it is doable.
- Putting the land into Trust.
- What have you accomplished and what is next.
- Phases and financials

- BIA time line

Molinaro requested Volpintesta follow up with outside counsel, get their feedback as to what our response should be and we can fill the Board in on Tuesday. Wilhelmi requested if the County responds to the BIA that he be allowed to see the response in case the response includes something that he thinks is going to cause a problem.

9:09 pm

8. Any other business: None

9:09 pm

9. **Supervisor Ekornaas made a motion to adjourn. Seconded by Supervisor Noble. All aye. YIG voted aye. Motion carried.**

Meeting adjourned at 9:09 pm.

Respectfully submitted,

Linda Haney  
Legal Assistant