

ECGRA MINUTES FOR February 5, 2009

The meeting was called to order by Chairman Cleaver at 11:31 a.m. in the Caucus Room of Erie County Council. Present were Authority Members Kathy DeSante, Jennifer Dobbs Woods, Mike Paris, David Sample, Stephanie Freeman, Pat Bruno via telephone, Board Solicitor Thomas Talarico. as well as others including Councilman Giles, County Director of Economic Development Robert Spaulding and Gaming Revenue Manager Carolyn Gold. Absent was Board Member Art Smaltz. No one from the public chose to speak.

A motion was made by Mr. Sample to begin the review of the projects that applied for 2007 gaming funds; Ms. DeSante seconded and it was approved by all. Ms DeSante began by presenting the projects which she and Mr. Smaltz had reviewed; the first was R-2007-5 Millcreek Sewer project which had requested \$732,000. The request had been received on time and the entity was sponsored by Millcreek Township, a contiguous municipality. The applicants, however, were unable to effectively demonstrate a connection to the Racino other than the fact that the water project would benefit the Travel Lodge facility which is listed on the Racino website. It was also noted that the Travel Lodge was in arrears on its County taxes. Ms. DeSante moved that the application be rejected due to its lack of connection to the effects of the casino. It was seconded by Mr. Sample and approved unanimously.

Millcreek Township Project R-2007-09, requesting \$600,000 to stop erosion of banks in Walnut Creek was the next application. It was on time and came from an entity with standing coming under the category of infrastructure. The project's connection to the casino was not effectively shown in the application owing to the fact that water from the casino is trapped in ponds on the casino property and is, therefore, not the likely source of erosion for Walnut Creek. A motion was made by Ms. DeSante to reject the application because it didn't meet the criteria of being clearly associated with the licensed facility, second by Mrs. Freeman; all voted in favor.

Waterford Township R-2007-11 requesting \$141,704 for the purchase of a plow truck was the next project. While the application was on time, it came from an entity with standing and it came under the infrastructure/public safety categories. However Ms. DeSante reported that the application did not effectively demonstrate the project's association with the operation of the licensed facility. The applicants failed to demonstrate that Elk Creek, Moore, Himrod, Donation, and Talcott Roads have seen an increase in traffic related to the casino. Generally speaking the roads run east to west connecting Route 19 to Route 97 and no traffic study was included in the application. Ms DeSante moved that the project be rejected, second by Mrs. Freeman and unanimously approved.

Presented next was Waterford Township application R-2007-12 requesting \$157,263 for the reconstruction of Elk Creek Road. Ms. DeSante stated that a traffic study was imperative to connecting traffic patterns on Elk Creek Road with the operations of the casino. She then made a motion to reject the application for failing to

show a nexus to the operation of the licensed facility, second by Mrs. Freeman and all unanimously approved. The next project was R-2007-14 for \$178,359. The application was on time but was lacking a third party due diligence letter though that was not considered a fatal flaw by Ms. DeSante. More important in her and Mr. Smaltz's view was the failure of the applicant to demonstrate that Moore Road has seen an increase in traffic related to the casino through traffic studies or other means. Having failed to find a nexus with the operation of the licensed facility, Ms. DeSante made a motion to reject the application. The motion received a second and was passed unanimously.

Presented next was R-2007-15 requesting \$134,720 for the purchase of a loader for Waterford Township. The applicants failed to demonstrate that Elk Creek, Moore, Himrod, Donation, and Talcott Roads have seen an increase in traffic related to the casino and are in need therefore of increased maintenance. Ms. DeSante made a motion to reject the project application for failing to show a nexus to the operation of the licensed facility, for lacking a third party due diligence letter, and for failing to answer an application question as to whether the supplier (of the loader) was current with their taxes. The motion received a second and was approved unanimously.

The next application presented was R-2007-17 from Summit Township for \$2,722,000 to fund water system improvements. The application was on time, met the requirement for standing, had all necessary documents; fell under the category of infrastructure improvements & public safety, and showed a nexus to the operation of the licensed facility. Ms. DeSante then moved that the project go the ranking level in the process; second by Mrs. Freeman and approved unanimously.

Next discussed was R-2007-20 Route 97 Flow Retention Project requesting \$590,000. The application was in on time, was an infrastructure & health related project. The application lacked some data: where the flows have been allocated, what is the current excess capacity since the facility came on line, whether other alternatives been looked at, identified intrusions of storm water and monitoring of discharge. Having lacked this data the project failed to show a nexus to the operations of the licensed facility. A motion to reject the project was made by Ms. DeSante, seconded and approved unanimously.

Projects reviewed by Ms. Dobbs-Woods and Mr. Sample were next on the agenda. Ms. Dobbs-Woods presented R-2007-2 from McKean Township. It was submitted on time, standing requirements met, all documents were included but it did not demonstrate a clear nexus to the operations of the licensed facility. Ms. Dobbs-Woods made a motion to reject the application; it was seconded by Mr. Sample and approved unanimously.

Next was R-2007-03, to purchase an ambulance, submitted through McKean Township. It met the standing requirement and was in the category of public safety but it failed to show that the need was connected to the presence of the licensed facility. Ms. Dobbs-Woods then moved to reject the application, second by Mrs. Freeman and approved unanimously. Ms. Dobbs Woods moved to table R-2007-06 Millcreek Pumping Station seconded by Mr. Paris and approved unanimously.

Examined next was R-2007-08 Millcreek Township RELCO System; requesting \$927,117.80. The application for this public safety project was submitted on time and met the standing requirement, but it failed to show that the need was connected to the presence of the licensed facility. JDW moved to reject the application, moved by Ms. DeSante and approved by all.

Next was R-2007-10 Waterford Township reconstruction of Talcott Road requesting \$476,269. The application for this infrastructure project was submitted on time, contained all necessary items and came from a body with standing. Ms. Dobbs-Woods made a motion for its rejection owing to the fact that it failed to show a nexus to the operation of the licensed facility. The motion was seconded by Ms. DeSante and approved unanimously.

The next project application was R-2007-21; which Ms. Dobbs-Woods moved to table. The motion was seconded by Mrs. Freeman and unanimously approved.

The next application was R-2007-22 Pennbriar Reconstruction which was delivered on time, from a body with standing, Summit Township. However, in the opinion of the review team it failed to demonstrate a nexus to the operation of the licensed facility. A discussion followed concerning the issue that many others, not just racino visitors might use the road in question. Attorney Talarico, when asked by the Chairman Cleaver, stated he would write an opinion concerning the issue of partial funding. Ms. Dobbs-Woods then moved to reject the application; it was seconded and passed unanimously.

The final application was R-2007-25, Presque Isle Downs for \$13,710,662. Ms. Dobbs-Woods stated that the paperwork was complete, but it failed in the requirement for standing because it did not emanate from the contiguous municipalities nor did it meet the project requirements of the law. Mr. Sample stated that you must have a facility before you can have an impact and, therefore, the application sought to cover the costs of doing business and did not address????? Ms. Dobbs-Woods made a motion to reject the application, second by Ms. DeSante and unanimously approved.

Mr. Cleaver congratulated the Board on their hard work reviewing the projects. He then asked the board to review a budget for restricted funds for use by the Authority when it receives uncommitted funds. Part of the budget reflected the addition of an assistant to Mrs. Gold. The Board discussed legal expenses for the appeal and other costs represented in the budget. Mr. Giles and Mr. Cleaver felt more discussion with Council would take place at the finance meeting later in the day. There was some disagreement as to whether a full time person was warranted at this time but Mr. Spaulding and Mrs. Gold felt there was a lot of work that was yet to be done.

A motion made by Mr. Sample to support the hiring of an assistant to Mrs. Gold, it was seconded and passed unanimously. Mr. Bruno had to hang up and leave the meeting. A 15 minute break was taken for lunch and the meeting resumed after that. Mrs. Gold started a discussion about funding procedures for the approved projects. Mr. Sample

wished to rank them and then decide as to the level of funding. Ms. Dobbs-Woods discussed granting a certain level of funding based on their rank. There was no agreement as to what language would be appropriate so Members decided to think about the issue before the next meeting. The meeting was adjourned.

NOTE: These minutes were approved at the March 19, 2009, meeting of the Erie County Gaming Revenue Authority. s/Carolyn E. Gold, Esquire; October 16, 2009.