

March 31, 2009 Gaming Fund Bdgt Revised Exp & Creation of New Line Items for Rest.
Gaming Prjcts. adopted; Amend. Ord. 231, 2008 adopted.

ERIE COUNTY COUNCIL – Special Meeting

Mr. Cleaver called to order a Special Meeting of the Erie County Council at 7:30 p.m. in the Erie County Council Chambers, Erie County Courthouse. Following the Pledge of Allegiance, the County Clerk called the roll:

Members Present: Mr. Cleaver, Chairman
 Mr. Foust, Vice Chairman
 Mr. Fatica
 Mr. Giles
 Mr. Leone
 Mrs. Loll

Members Absent: Mr. Mitchell

Also Present: Douglas R. Smith, County Clerk
 Joseph P. Maloney, Council CPA
 Thomas Talarico, Council Solicitor
 Bob Spaulding, Director of Administration
 Jim Sparber, Director of Finance
 Sue Ellen Pasquale, Manager of Accounting

Gaming Fund Bdgt
Revis. Expen. &
Creat. New Line
Items for Rest.
Gaming Prjcts.

Mr. Smith gave a second reading of Ordinance Number 22, 2009, “2009 Gaming Fund Budget Revised Expenditures and Creation of New Line Items for Restricted Gaming Projects.” Mr. Giles moved to adopt; Mrs. Loll seconded.

Mr. Giles noted that questions arose regarding financial and related issues on this particular ordinance. William Steff, the Manager for the Summit Township Sewer Authority, has forwarded a letter which addressed these concerns and questions. Mr. Giles requested that the letter be included in the minutes.

Honorable Joseph Giles
Erie County Courthouse, Room 116
140 West Sixth Street
Erie, PA 16501

Re: Collection of Tapping Fees on Grants
 Municipal Grants of Gaming Revenue
 Summit Township Sewer Authority

Dear Councilman Giles:

It has come to our attention that some members of Erie County Council have concerns that some agencies, authorities in particular, may attempt to bill their customers for projects costs when these costs have been paid for via a grant. Let me reassure Council that the idea of “double dipping”, so to say, is entirely out of the question.

Sewer authorities are highly regulated entities and Pennsylvania statutes are very clear on this issue. Please review with your solicitor 53 Pa.Con.Stat.Ann. Section 5607(d)(24)(i), which deals with fees that may be charged by an authority in an approved resolution. Specifically, the tapping fee that may be charged for the cost of distribution or collection facilities, must exclude “facilities contributed to the authority by any person, government or agency, or *portions of facilities paid for with contributions or grants.*” The Summit Township Sewer Authority, (STSA) and all authorities as well administer this phrase by subtracting all grant monies from the project cost before determining tapping fees. Simply put, it is illegal to charge tapping fees on grant dollars. The STSA has not, nor will it start charging customers for projects costs that have been already paid via a grant(s).

Please feel free to contact me at 868-4495 if you have any questions or if you desire any additional information.

Sincerely,

/s/ William C. Steff, P.E.
Manager

Mr. Cleaver called for a vote on Ordinance Number 22, 2009, and it carried in a unanimous roll call vote.

Amend. Ord. 231, 2008
Further Amend. Amd.
Code of Erie Cnty.

Mr. Smith gave a second reading of Ordinance Number 24, 2009, “Amending Ordinance Number 231, 2008, Further Amending the Administrative Code of Erie County.” Mr. Giles moved to adopt; Mr. Leone seconded.

Mr. Giles moved to amend Exhibit A, Section 3(a) to add Treasurer and Secretary as follows:

3. Organization of Authority

*(a) The Authority shall organize within the first ten (10) days of April of each year. The Authority, at such organization meeting, shall elect from its membership a Chairman, Vice Chairman, **Treasurer, and Secretary.** The Chairman, or in the absence of the Chairman, the Vice Chairman shall preside and vote at all meetings of the Authority. The members of the Authority shall elect from its membership such other officers as the membership deems necessary and appropriate to the conduct of Authority business.*

Mr. Giles also moved to amend Section 5(b)(3) of Exhibit A to add:

“Such standards shall include:

- a) The funding of any major project previously committed to by the County
- b) The importance of the project to the community
- c) The extent to which the project achieves multiple objectives
- d) The economic development impact of the project
- e) The risks and rewards associated with the project
- f) The readiness of the project
- g) The capability of the project to be properly operated or maintained over time”

To amend Section 5(b)(5) as follows:

- 5) The Authority shall make an annual report of its activities for the preceding year and submit the same to the County Executive and County Council **no later than June 1 of each year.**

Mr. Giles also referred to the last paragraph in Exhibit A on the last page. He explained that there is an overlapping year in which everything was slightly behind in terms of the calendar for restricted money, and therefore, these months need to be changed on the Authority's recommendation as follows:

***Provided, 2007 grant applications shall be submitted to the Authority on or before December 1, 2008 and awarded by the Authority not later than **April 1, 2009**. 2008 grant applications shall be submitted to the Authority not later than May 1, 2009 and awarded by the Authority not later than September 1, 2009. 2009 grant applications shall be submitted to the Authority not later than October 1, 2009 and awarded by the Authority not later than **April 1, 2010**.

Mr. Giles stated he believes this incorporates all changes discussed in caucus prior to the meeting.

Mr. Foust expressed his belief that the additional officers were already in place. Mr. Talarico pointed out there some additional items proposed by Mr. Giles which are not in the current Exhibit A, and he assumes these are proposed amendments to the Exhibit.

Mr. Cleaver suggested addressing the amendments separately. It was his belief that items a through g, which Mr. Giles mentioned, were currently a part of the criteria of the gaming and this was not discussed. Mr. Talarico agreed that Council should vote separately on each amendment. Mr. Leone also agreed these amendments should be voted on separately as this has caused some confusion.

Mr. Cleaver addressed the first amendment, the Organization of the Authority, involving Mr. Giles' request to add a treasurer and secretary. Mr. Giles explained the rationale for this is the existence of these positions in the by-laws. This is a standard function of any authority, and in this particular case, because of the fact that the Authority has their own checking account, these positions would be standard.

Mr. Fatica seconded the motion to amend.

Mr. Leone asked Mr. Talarico, Council Solicitor, whether implementing these positions would be the right of the Authority. He believes it should be up to the Authority to determine whether a secretary and a treasurer are necessary. He also questioned the need for this amendment if the Authority has the right to implement these positions as they wish. Mr. Talarico agreed with Mr. Leone, noting the Authority has the power to appoint as many officers as they need or want. Mr. Fatica expressed his agreement, but feels someone should be designated in these positions. Mr. Leone commented that he does not feel County Council should be acting as an authority and this issue belongs in the hands of the Authority, not Council's. Mr. Talarico added the Authority will most likely appoint a treasurer. Mr. Foust suggested that since this was already in the by-laws for the Authority, it is not necessary. Mr. Talarico acknowledged that this was currently in the by-laws and the Authority will hold a reorganization meeting in April.

Mr. Cleaver asked Mrs. Gold, Gaming Officer, whether the Authority has already elected a secretary and treasurer. Mrs. Gold confirmed that those positions are in place and are held by one person.

Mr. Cleaver stated this amendment is not necessary and Mr. Giles withdrew his motion to amend Exhibit A, Section 3(a).

Mr. Cleaver then asked for a second on Mr. Giles' motion to amend Exhibit A, Section 5(b)(3) to add sections a through g. Mr. Giles noted these came from the Gaming Committee policy itself in terms of

standards, as well as individuals representing Growth Partnership. These issues were voted on in Ordinance Number 166, 2007. Mr. Foust seconded the motion.

Mr. Leone noted that these amendments are not in Council's finance packet. This makes it difficult for him to vote on something that he does not have before him. Mr. Giles apologized stating he was under the impression that everyone had the same changes. Mr. Leone explained that it would also be helpful to have this information to digest what is being amended, not just have it read, and then vote. Mr. Cleaver understood that everyone had a copy that Mr. Giles had provided a few weeks ago in their mailbox. He asked Mr. Giles to review his proposed amendment. Mr. Giles read these changes:

Such standards shall include:

- a) The funding of any major project previously committed to by the County
- b) The importance of the project to the community
- c) The extent to which the project achieves multiple objectives
- d) The economic development impact of the project
- e) The risks and rewards associated with the project
- f) The readiness of the project
- g) The capability of the project to be properly operated or maintained over time

Mr. Giles addressed Mrs. Gold to confirm that these items were included in the application forms that were drafted. Mrs. Gold replied that those particular guidelines were guidelines for restricted funds. ECGRA wishes to retain the autonomous ability to set up its own independent criteria for the distribution of uncommitted funds. Although she is not a member of ECGRA, Mrs. Gold stated she can represent her belief that ECGRA would object to the incorporation of that proposed amendment for that reason. The Authority asserts that it has complete autonomy to create a grant program for the distribution of uncommitted funds consistent with state statutes. Mr. Giles noted this came from the Gaming Committee that set up Ordinance Number 166, 2007. He did not draft this proposed amendment; this came in partnership with Growth Partnership. Mrs. Gold stated that ECGRA highly respects the work of the Gaming Committee and incorporated those guidelines in the restricted funds policy. She explained that it is ECGRA's view that sections a through g should not be mandated to be included in the uncommitted funds process.

Mr. Talarico further explained that when ECGRA administers funds on behalf of the county, the county has most of the control over that. The county can do whatever it wishes with respect to those funds. Of course, the county will want to defer to ECGRA, but it still has the last say. In dealing with uncommitted funds and under the statute, these funds are ECGRA's funds; they are no longer the county's, and the county is obligated under the statute to pay ECGRA these funds. Mr. Talarico also explained that it would be an illegal imposition or interference with ECGRA for Council to tell ECGRA how to handle its own funds as opposed to ECGRA following the Industrial Development Law under which it is chartered.

Mr. Giles asked whether Mr. Talarico was suggesting he withdraw this amendment and no standards would be put forth from the county in regard to this authority. Mr. Talarico responded that it would be the same as if the county decided to tell the Redevelopment Authority what to do or the General Authority how to act, or any other authority for that matter. Once the county creates an authority, they must defer to that authority.

Mr. Giles agreed to withdraw his motion to amend Exhibit A, Section 5(b)(3) to add sections a through g.

Mr. Giles wished to address his motion to amend Section 5(b)(5) as follows:

- 5) The Authority shall make an annual report of its activities for the preceding year and submit the same to the County Executive and County Council **no later than June 1 of each year.**

Mr. Fatica seconded the motion to amend. Mr. Giles also wished to amend the last paragraph on the last page. He noted those months need to be changed to one month later because of this transitional year. Mr. Talarico stated that the March 1 date stays the same. The other dates are bumped forward one month. Mr. Cleaver further explained that the March date remains the same because the Authority did their work in the month of February, so March remains, and the other dates change.

Mr. Giles further moved to amend the last paragraph of Exhibit A, as follows:

Provided, 2007 grant applications shall be submitted to the Authority on or before December 1, 2008 and awarded by the Authority not later than March 1, 2009. 2008 grant applications shall be submitted to the Authority not later than **June** 1, 2009 and awarded by the Authority not later than **October*** 1, 2009. 2009 grant applications shall be submitted to the Authority not later than **November*** 1, 2009 and awarded by the Authority not later than March 1, 2010.

Mr. Leone seconded, and the motion to amend Exhibit A, Section 5(b)(5) and the last paragraph of Exhibit A. The motion carried in a unanimous roll call vote.

Mr. Cleaver called for a roll call vote on Ordinance Number 24, 2009, as amended, and it carried unanimously.

Adjournment

There being no further business, the meeting adjourned at 7:45 p.m.

Ann M. Bruno, Council Secretary
