



KENOSHA COUNTY BOARD OF SUPERVISORS

Resolution No. _____

Subject: A Resolution Expressing Concerns About the Proposed Dairyland Development		
Original <input checked="" type="checkbox"/> Resubmitted <input type="checkbox"/>	Corrected <input type="checkbox"/>	2nd Correction <input type="checkbox"/>
Date Submitted: 8/18/2020		Date Resubmitted:
Submitted by: Supervisor Rose and the Executive Committee		
Fiscal Note Attached <input type="checkbox"/>		Legal Note Attached <input type="checkbox"/> Agreement
Prepared by: Supervisor Terry Rose		Signature:

WHEREAS, the City of Kenosha is considering the creation of a Tax Incremental District (TID) at the site of the former Dairyland Greyhound Park; and

WHEREAS, this site is currently owned by Majestic Midwest Innovation Center, LLC, a limited liability company which is wholly owned by the Forest County Potawatomi Community, a federally recognized Indian tribe; and

WHEREAS, the City of Kenosha and the Forest County Potawatomi Community are contemplating entering into a development agreement for this site; and

WHEREAS, the proposal would redevelop the site into a mixed-use property with office, retail, industrial, and multi-family residential units; and

WHEREAS, it is acknowledged that the property, while owned by the Forest County Potawatomi Community, is not currently placed in trust by the federal government; and

WHEREAS, the Forest County Potawatomi Community has proposed language for the developer's agreement stating that the developer would not take any action to cause the real property to become tax exempt for the life of the TID; and

WHEREAS, it is further acknowledged that the Forest County Potawatomi Community has proposed language for the developer's agreement that would assert the applicability of Wisconsin laws regarding real estate tax assessments, tax foreclosures, condemnation and special assessments by local municipalities and stating that any disputes relating to these issues within the TID would be construed and enforced according to the laws of the State of Wisconsin, be subject to the jurisdiction

of the Circuit Court for Kenosha County, and consenting to the venue and jurisdiction of such courts; and

WHEREAS, the developer's agreement would be with an LLC and not directly with the Forest County Potawatomi Community; and

WHEREAS, because the developer agreement is not with the Forest County Potawatomi Community, the ability to assert sovereign immunity at some point, the transfer of ownership of the property fully to the Forest County Potawatomi Community, or efforts to place the land in trust after the TID expires are all future possibilities that would be unaddressed and potentially unaffected by the proposed language in the developer's agreement; and

WHEREAS, while fully supportive of the concept of this project, questions remain about the role that the Forest County Potawatomi Community's sovereign immunity could play in any future development; and

WHEREAS, the way to best ensure that the property would remain taxable and subject to all applicable statutes, ordinance, and regulations would be to execute an agreement directly with the Forest County Potawatomi Community which explicitly waives tribal sovereign immunity as it relates to these and other potential concerns; and

WHEREAS, in order to fully embrace and support the creation of the proposed TID, the County requests the City take affirmative steps to address these concerns through an agreement with the Forest County Potawatomi Community itself rather than with a developer;

NOW THEREFORE BE IT RESOLVED that the Kenosha County Board of Supervisors states its support for the concept of the proposed development and the accompanying TID; and

BE IT FURTHER RESOLVED that the Kenosha County Board of Supervisors states that the currently proposed language in the developer's agreement is insufficient to address its concerns about the role that sovereign immunity and/or the possible future placing of the land in trust could have on the development of this project; and

BE IT FURTHER RESOLVED that the Kenosha County Board of Supervisors calls on the City of Kenosha to take affirmative action, through a separate agreement with the Forest County Potawatomi Community, to ensure that the land would not go into trust and which clearly, unequivocally, and expressly waives any sovereign immunity in regards to this property; and

BE IT FURTHER RESOLVED that the Kenosha County Board of Supervisors states it cannot support the creation of the proposed TID until such time as such assurances can be made.

Supervisor Terry Rose

EXECUTIVE COMMITTEE:AyeNayAbstainExcused

John O'Day, Chair☐☐☐☐

Monica Yuhas, Vice Chair☐☐☐☐

Laura Belsky☐☐☐☐

Andy Berg☐☐☐☐

Boyd Frederick☐☐☐☐

Daniel Gaschke☐☐☐☐

William Grady☐☐☐☐

Terry Rose☐☐☐☐