

MEMORANDUM

TO: **Board of Directors**
FROM: **Joanne Carr, Board Secretary**
DATE: **December 3, 2020**
RE: **Workshop Agenda for December 8, 2020**

AGENDA

10:00 a.m. – Negotiations

Executive Reports

12:00 p.m. – Special Meeting

1:00 p.m. – Legal Strategic Plan

Dec. 15: Claims Care; Marijuana Discussion – **Canceled**

**BOARD OF DIRECTORS SPECIAL MEETING
KEWADIN CASINO AND CONVENTION CENTER
SAULT STE. MARIE, MICHIGAN**

**December 8, 2020
12:00 P.M.**

- I. CALL TO ORDER
- II. INVOCATION: Prayer, Smudging, Presentation of Grandfathers
- III. ROLL CALL
- IV. PRESENTATION:
- V. MINUTES:
- VI. RESOLUTIONS: Designating Building Administrator
Permitting State Inspection/LE Licensed Fac. –SSM
Permitting State Inspection/LE Licensed Fac. –Escanaba
Am. Contract – Morisset
- VII. NEW BUSINESS: Board Concerns
- VIII. ADJOURN TO EXECUTIVE SESSION:
- IX. RECONVENE AND REAFFIRM
- X. ADJOURN

BOARD OF DIRECTORS SPECIAL MEETING
December 8, 2020
Sponsor's List

RESOLUTIONS:

Designating Building Administrator – Legal /Joel Schultz
Permitting State Inspection/LE Licensed Fac. –SSM – Joel Schultz
Permitting State Inspection/LE Licensed Fac. –Escanaba – Joel Schultz
Am. Contract – Morisset - Legal

NEW BUSINESS:

Board Concerns – Director Causley

RESOLUTION NO: _____

DESIGNATING BUILDING ADMINISTRATOR

WHEREAS, this Board of Directors has enacted Tribal Code Chapter 60 to govern and regulate Land Use and Building construction; and

WHEREAS, pursuant to Chapter 60, powers are vested with a Building Administrator to issue certificates of compliance and occupancy, and other such tasks, and

WHEREAS, it is necessary at this time to designate a Building Administrator for the Tribe.

NOW, THEREFORE, BE IT RESOLVED, that this Board of Directors hereby designates the Chairperson of the Tribe, and their successors, to act as Building Administrator for the Tribe, and to exercise such authority as is necessary to that position pursuant to Chapter 60, as it may be amended from time to time.

C E R T I F I C A T I O N

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom _____ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the _____ day of _____ 2020; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of _____ members for, _____ members against, _____ members abstaining, and that said resolution has not been rescinded or amended in any way.

Aaron A. Payment, Chairperson
Sault Ste. Marie Tribe of
Chippewa Indians

Bridgett Sorenson, Secretary
Sault Ste. Marie Tribe of
Chippewa Indians

RESOLUTION NO: _____

**PERMITTING STATE INSPECTION AND LAW ENFORCEMENT
STATE LICENSED FACILITIES - SSM**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, § 461 et seq., and exercising inherent sovereign authority over its members and its territories; and

WHEREAS, [Applicant] has submitted an application (No: 001) to the Michigan Regulatory Agency (MRA) for a State of Michigan license to operate [a/an (establishment type)] under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27101 et seq., and associated administrative rules; and

WHEREAS, the proposed marijuana establishment is located on the property identified in the attached Certificate of Survey which is land held in trust for the Tribe by the United States and leased from the Tribe to [Applicant] ("the premises"); and

WHEREAS, the Tribe does not hold any direct or indirect ownership interest in [Applicant], does not exercise any managerial control over [Applicant], and does not fall within the definition of "applicant" under MRTMA or associated administrative rules for purposes of [Applicant]'s application; and

WHEREAS, the Marijuana Regulatory Agency (MRA) is responsible for administering and enforcing the State of Michigan's marijuana laws and associated administrative rules, including conducting background investigations and inspections of applicants and licensees, investigating alleged violations, and taking disciplinary and other enforcement action against applicants and licensees; and

WHEREAS, the Michigan Department of Treasury (Treasury) and the State Treasurer are responsible for implementing, administering, and ensuring the collection of any taxes imposed under MRTMA and any other applicable taxes imposed under State of Michigan law and associated administrative rules and for administering and /or directing the investment of the funds created under MRTMA; and

WHEREAS, state and local law enforcement are responsible for enforcing and for assisting the MRA in administering and enforcing the State of Michigan's marijuana laws and associated administrative rules, including by conducting background investigations and criminal history checks of applicants and conducting investigations of applicants and licensees to ensure compliance; and

WHEREAS, State of Michigan building code officials, code enforcement officials, and fire officials (collectively, "state building and fire officials") are responsible for enforcing and for assisting the MRA in administering and enforcing the State of Michigan's marijuana laws and associated administrative rules, including by conducting inspections of applicants and licensees; and

WHEREAS, the Tribe desires to lease the premises to [Applicant] for the purpose of [Applicant] participating in the State of Michigan marijuana industry subject to the same requirements, privileges, and responsibilities as any other similarly situated entity outside the Tribe's reservation and trust lands; and

WHEREAS, any actions by the Tribe that attempt to bar the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, or state building and fire officials from entering the premises as permitted under MRTMA and associated administrative rules may result in the denial, suspension, and/or revocation of any state license sought by or issued to [Applicant]; and

WHEREAS, the Tribe has authority under Chapter 44 of the Tribal Code and the Constitution of the Tribe to waive tribal sovereign immunity and tribal court jurisdiction and to waive any right the Tribe may have to exclude persons from its reservation or trust lands by resolution of this Board, the Tribe has provided a copy of relevant authority to the MRA, and this waiver is consistent those authorities; and

WHEREAS, the Tribe finds that the waiver of the right to exclude and the waiver of sovereign immunity and tribal court jurisdiction contained in this resolution are necessary in order for [Applicant] to obtain and maintain a license to operate a marijuana establishment on the premises; and

WHEREAS, the Tribe voluntarily provides this waiver of the right to exclude and this waiver of sovereign immunity and tribal court jurisdiction.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians expressly waives any right the Tribe may have to exclude the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, or state building and fire officials from entering the premises as permitted under MRTMA, applicable tax statutes, and associated administrative rules, without a warrant and without notice to [Applicant] or the Tribe, for the purpose of administering and enforcing the State of Michigan's marijuana laws, applicable tax laws, and associated administrative rules.

2. The right of the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or the Treasury, state and local law enforcement, and state building and fire officials to enter the premises includes the right to go inside, outside, over, or below any structure or feature on the premises in any matter related to [Applicant]'s application or licensure; conduct investigations and inspections; inspect, examine, and audit relevant records of [Applicant]; and impound, seize, assume physical control of, or summarily remove records from the premises if [Applicant] fails to cooperate with an investigation.

3. This limited waiver of the right to exclude is solely for the purpose of ensuring the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, and state building and fire officials have the ability to exercise all authorities, powers, duties, functions, and responsibilities under State of Michigan law and associated administrative rules for the specific purposes identified in this resolution.

4. The Tribe expressly waives its sovereign immunity for the purpose of subjecting the Tribe to the jurisdiction of State of Michigan courts, administrative agencies, and law enforcement agencies for the sole purpose of enforcing this waiver of the Tribe's right to exclude. This waiver is limited to injunctive and declaratory relief and therefore No pledge of specific assets by the Tribe is necessary to satisfy any judgment or decision obtained in a State of Michigan court action or administrative proceeding contemplated by this paragraph.

5. This waiver of the Tribe's right to exclude and limited waiver of sovereign immunity shall take effect immediately.
6. This waiver of the Tribe's right to exclude and limited waiver of sovereign immunity shall continue in effect so long as the above-referenced state license, if issued to [Applicant], is in effect; for the duration of any dispute arising out of or related to the license or operations under the license; and to allow the MRA to take action after expiration of the license as permitted under State of Michigan law and associated administrative rules.
7. If [Applicant]'s application for a state license is denied, this waiver of the Tribe's right to exclude and limited waiver of sovereign immunity shall continue in effect for the duration of any administrative or judicial proceedings related to the license denial, including any appeals.
8. The Tribe, pursuant to Chapter 44 of the Code, expressly waives the jurisdiction of the Tribal Court with respect to any claim or cause of action arising out of or within the scope of this resolution, including but not limited to any claim or cause of action initiated by the Tribe.
9. The Tribe acknowledges that if this limited waiver of sovereign immunity is rescinded or otherwise made ineffective, or if the Tribe asserts any right it may have to exclude the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, or state building and fire officials from entering the premises in any matter related to [Applicant]'s application or licensure, the MRA may in its discretion deny, suspend, revoke, restrict, refuse to renew, impose a fine against, and/or take other disciplinary action against any state license sought by or issued to [Applicant].

C E R T I F I C A T I O N

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom _____ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the _____ day of _____ 2020; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of _____ members for, _____ members against, _____ members abstaining, and that said resolution has not been rescinded or amended in any way.

Aaron A. Payment, Chairperson
Sault Ste. Marie Tribe of
Chippewa Indians

Bridgett Sorenson, Secretary
Sault Ste. Marie Tribe of
Chippewa Indians

RESOLUTION NO: _____

**PERMITTING STATE INSPECTION AND LAW ENFORCEMENT
STATE LICENSED FACILITIES - ESCANABA**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, § 461 et seq., and exercising inherent sovereign authority over its members and its territories; and

WHEREAS, [Applicant] has submitted an application (No. 002) to the Michigan Regulatory Agency (MRA) for a State of Michigan license to operate [a/an (establishment type)] under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27101 et seq., and associated administrative rules; and

WHEREAS, the proposed marijuana establishment is located at 3405 Jingob, Escanaba, Michigan, on land held in trust for the Tribe by the United States and leased from the Tribe to [Applicant] ("the premises"); and

WHEREAS, the Tribe does not hold any direct or indirect ownership interest in [Applicant], does not exercise any managerial control over [Applicant], and does not fall within the definition of "applicant" under MRTMA or associated administrative rules for purposes of [Applicant]'s application; and

WHEREAS, the Marijuana Regulatory Agency (MRA) is responsible for administering and enforcing the State of Michigan's marijuana laws and associated administrative rules, including conducting background investigations and inspections of applicants and licensees, investigating alleged violations, and taking disciplinary and other enforcement action against applicants and licensees; and

WHEREAS, the Michigan Department of Treasury (Treasury) and the State Treasurer are responsible for implementing, administering, and ensuring the collection of any taxes imposed under MRTMA and any other applicable taxes imposed under State of Michigan law and associated administrative rules and for administering and /or directing the investment of the funds created under MRTMA; and

WHEREAS, state and local law enforcement are responsible for enforcing and for assisting the MRA in administering and enforcing the State of Michigan's marijuana laws and associated administrative rules, including by conducting background investigations and criminal history checks of applicants and conducting investigations of applicants and licensees to ensure compliance; and

WHEREAS, State of Michigan building code officials, code enforcement officials, and fire officials (collectively, "state building and fire officials") are responsible for enforcing and for assisting the MRA in administering and enforcing the State of Michigan's marijuana laws and associated administrative rules, including by conducting inspections of applicants and licensees; and

WHEREAS, the Tribe desires to lease the premises to [Applicant] for the purpose of [Applicant] participating in the State of Michigan marijuana industry subject to the same requirements, privileges, and responsibilities as any other similarly situated entity outside the Tribe's reservation and trust lands; and

WHEREAS, any actions by the Tribe that attempt to bar the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, or state building and fire officials from entering the premises as permitted under MRTMA and associated administrative rules may result in the denial, suspension, and/or revocation of any state license sought by or issued to [Applicant]; and

WHEREAS, the Tribe has authority under Chapter 44 of the Tribal Code and the Constitution of the Tribe to waive tribal sovereign immunity and tribal court jurisdiction and to waive any right the Tribe may have to exclude persons from its reservation or trust lands by resolution of this Board, the Tribe has provided a copy of relevant authority to the MRA, and this waiver is consistent those authorities; and

WHEREAS,, the Tribe finds that the waiver of the right to exclude and the waiver of sovereign immunity and tribal court jurisdiction contained in this resolution are necessary in order for [Applicant] to obtain and maintain a license to operate a marijuana establishment on the premises; and

WHEREAS, the Tribe voluntarily provides this waiver of the right to exclude and this waiver of sovereign immunity and tribal court jurisdiction.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians expressly waives any right the Tribe may have to exclude the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, or state building and fire officials from entering the premises as permitted under MRTMA, applicable tax statutes, and associated administrative rules, without a warrant and without notice to [Applicant] or the Tribe, for the purpose of administering and enforcing the State of Michigan's marijuana laws, applicable tax laws, and associated administrative rules.

2. The right of the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or the Treasury, state and local law enforcement, and state building and fire officials to enter the premises includes the right to go inside, outside, over, or below any structure or feature on the premises in any matter related to [Applicant]'s application or licensure; conduct investigations and inspections; inspect, examine, and audit relevant records of [Applicant]; and impound, seize, assume physical control of, or summarily remove records from the premises if [Applicant] fails to cooperate with an investigation.

3. This limited waiver of the right to exclude is solely for the purpose of ensuring the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, and state building and fire officials have the ability to exercise all authorities, powers, duties, functions, and responsibilities under State of Michigan law and associated administrative rules for the specific purposes identified in this resolution.

4. The Tribe expressly waives its sovereign immunity for the purpose of subjecting the Tribe to the jurisdiction of State of Michigan courts, administrative agencies, and law enforcement agencies for the sole purpose of enforcing this waiver of the Tribe's right to exclude. This waiver is limited to injunctive and declaratory relief and therefore No pledge of specific assets by the Tribe is necessary to satisfy any judgment or decision obtained in a State of Michigan court action or administrative proceeding contemplated by this paragraph.

5. This waiver of the Tribe's right to exclude and limited waiver of sovereign immunity shall take effect immediately.
6. This waiver of the Tribe's right to exclude and limited waiver of sovereign immunity shall continue in effect so long as the above-referenced state license, if issued to [Applicant], is in effect; for the duration of any dispute arising out of or related to the license or operations under the license; and to allow the MRA to take action after expiration of the license as permitted under State of Michigan law and associated administrative rules.
7. If [Applicant]'s application for a state license is denied, this waiver of the Tribe's right to exclude and limited waiver of sovereign immunity shall continue in effect for the duration of any administrative or judicial proceedings related to the license denial, including any appeals.
8. The Tribe, pursuant to Chapter 44 of the Code, expressly waives the jurisdiction of the Tribal Court with respect to any claim or cause of action arising out of or within the scope of this resolution, including but not limited to any claim or cause of action initiated by the Tribe.
9. The Tribe acknowledges that if this limited waiver of sovereign immunity is rescinded or otherwise made ineffective, or if the Tribe asserts any right it may have to exclude the MRA and its agents, Treasury and the State Treasurer and their agents, any successors of the MRA or Treasury, state and local law enforcement, or state building and fire officials from entering the premises in any matter related to [Applicant]'s application or licensure, the MRA may in its discretion deny, suspend, revoke, restrict, refuse to renew, impose a fine against, and/or take other disciplinary action against any state license sought by or issued to [Applicant].

C E R T I F I C A T I O N

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom _____ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the _____ day of _____ 2020; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of _____ members for, _____ members against, _____ members abstaining, and that said resolution has not been rescinded or amended in any way.

Aaron A. Payment, Chairperson
Sault Ste. Marie Tribe of
Chippewa Indians

Bridgett Sorenson, Secretary
Sault Ste. Marie Tribe of
Chippewa Indians

RESOLUTION NO: _____

**AMENDING PURPOSES OF CONTRACT
MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE**

WHEREAS, this Board of Directors has contracted with the firm of Morisset, Schlosser, Jozwiak & Somerville for the calendar year 2020; and

WHEREAS, the original contracted amount is anticipated to be exceeded; and

WHEREAS, the Sault Tribe wishes to amend the contract year for 2020 to increase the annual contracted amount to \$50,000 more.

NOW, THEREFORE, BE IT RESOLVED, that the Chairperson, or their designee, is hereby authorized to execute 2020 Amendment No. 2 with Morisset, Schlosser, Jozwiak & Somerville to continue representation through the remainder of the year.

C E R T I F I C A T I O N

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom _____ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the _____ day of _____ 2020; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of _____ members for, _____ members against, _____ members abstaining, and that said resolution has not been rescinded or amended in any way.

Aaron A. Payment, Chairperson
Sault Ste. Marie Tribe of
Chippewa Indians

Bridgett Sorenson, Secretary
Sault Ste. Marie Tribe of
Chippewa Indians