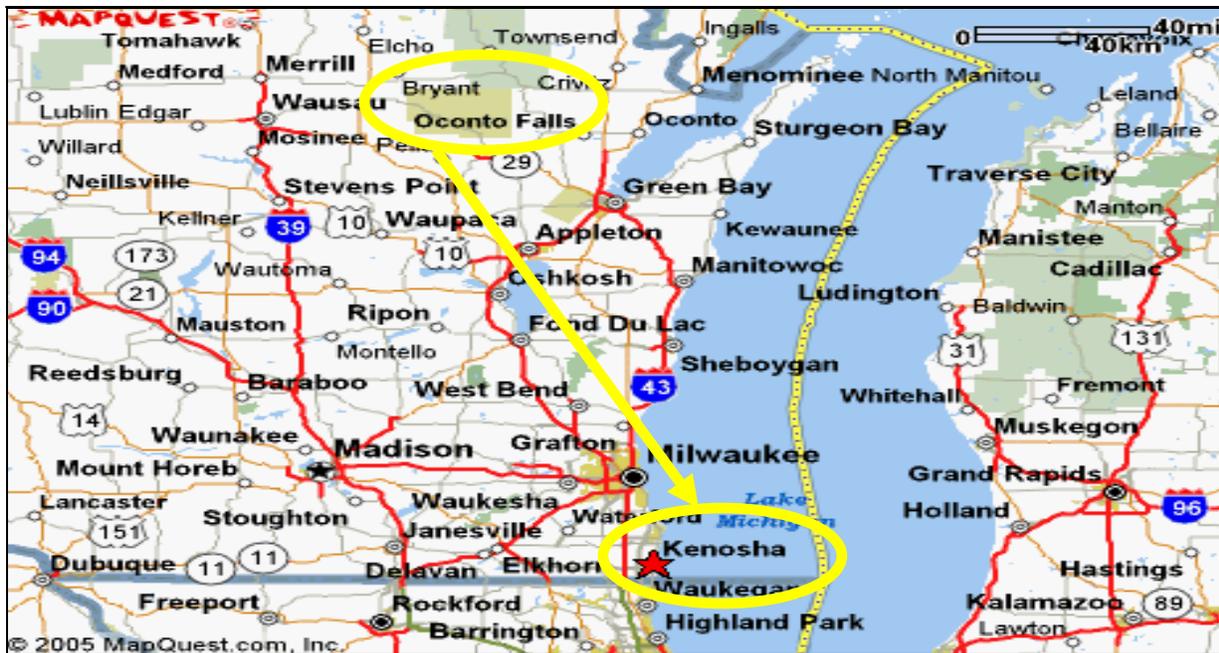


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Intergovernmental Cooperation and Revenue Sharing Agreement Between the City of Kenosha, Wisconsin, the County of Kenosha, Wisconsin, and the Menominee Tribe

The headlines of the local newspaper, The Kenosha News, reads, “The Menominee Indian Tribe of Wisconsin, along with local Business leader Dennis Troha and his Kenosha-based Kenesah Gaming Development LLC, have reached an agreement with Dairyland Greyhound Park Inc. to obtain exclusive rights to purchase the track and its assets. Together with the Connecticut-based Mohegan Tribe, which runs the renowned Mohegan Sun Resort in Connecticut, have put together a plan to build an entertainment destination center and casino, along with updating the current racetrack and facility.” (<http://dairylandgreyhoundpark.com>) For the Menominee Indian Tribe this is not their first successful venture, on June 5, 1987 the Menominee Tribe opened up the Menominee Casino-Bingo-Hotel. When it opened it was dubbed, “Wisconsin’s First Las Vegas Style Casino.” (<http://dairylandgreyhoundpark.com>) Before the Casino, the Menominee Tribe ran a Bingo Parlor that opened in 1982. More recently, the Menominee Tribe has begun to diversify and expand its business holdings. The Tribe has taken initial steps to develop the land in the City of Kenosha by appointing a committee of its enrolled members to serve as the Menominee Kenosha Gaming Authority. (Kenosha, Wisconsin is quite a distance away from the Menominee Tribal Reservation as shown on the following page. The Menominee Reservation is the top circled area and the City of Kenosha is the bottom yellow circled area.)



Since a Gaming Casino can only be constructed on Tribal land in the State of Wisconsin, the Menominee Tribe had to get the approval from the Bureau of Indian Affairs (BIA) to place the Dairyland Greyhound Track land into Federal trust. The Menominee Tribes land application form was reviewed by the BIA using the following guidelines:

“In reviewing the Tribe’s Trust land application, the BIA must make a two part determination in order to place such lands into federal trust. The BIA determination must conclude (a) that the proposed activity is in the best interest of the Tribe and (b), not detrimental to the surrounding community. The Governor of Wisconsin must concur in this two part determination in order to place such lands into federal trust. In evaluating (b) the BIA will examine evidence in the Tribe’s trust land application that the Tribe has sought to mitigate the impact that the placement of such lands into federal trust will on the City and County” (Intergovernmental Agreement, Executive Summary, Jan 05)

As part of the process for placing land into trust, the Tribe had to consider the impact that placing the Dairyland purchase into trust would have on the surrounding area. The Menominee Tribe had already shown by their successes of running a casino on their land that a casino venture would be in their best interest. Having overcome the first hurdle in the trust land application, the Menominee Tribe set out to satisfy the last two requirements. To remedy the purchase and

placement of the Dairyland Greyhound Park into trust by determining that it would not be detrimental to the surrounding community and if there were impediments that the Menominee Tribe “could show evidence that the Tribe has sought to mitigate the impact on the City and County.” (Intergovernmental Agreement, Executive Summary, Jan 05)

The Menominee Tribe went into consultation with the Governor of Wisconsin, Jim Doyle, first because the federal government defers their regulatory authority to the governor of the state in which any tribe requests to build a gaming casino. Then, the Menominee Tribe, Joan R. Delabreau Chairperson and the Menominee Kenosha Gaming Authority began the consultation process with Jim Doyle, the governor of Wisconsin, John M. Antaramian, Mayor of the City of Kenosha as well as Allan K. Kehl, County Executive of the County of Kenosha to discover how or if placing the Dairyland Park land into trust would affect the surrounding communities. During the consultation process that lasted several years with the John M. Antaramian, Allan K. Kehl, the Menominee Tribe and the Menominee Kenosha Gaming Authority discussions surrounding the Dairyland Park into Trust land purchase impacts were shared. As the consultation process for the proposed \$808 million entertainment destination center and casino continued, the duress it would place on Kenosha’s infrastructure and community was realized. One of the issues that arose was the influx of more people due to the projected 4,000 more jobs in the area that would call for more community services such as police, fire, water, garbage, sewer, and medical support. It would also mean more traffic, a need for better roadway system, and traffic control devices to maintain order and decrease the impact on the community. Additionally, the consultation group had to take into consideration that the Dairyland Greyhound Park was 75% of the tax revenue base that maintained the City of Kenosha. Moreover, if the city lost 75% of its tax base by the Tribe placing Dairyland Park into Trust; the infrastructure needed to support a destination resort would be non-existent and the existing structures would quickly fall into disrepair.

After identifying the impact issues, the Menominee Tribe, the Menominee Kenosha Gaming Authority, State, County, and City officials came up with plan for a Revenue Sharing Agreement that would offset the costs related the Dairyland project. On October 4, 1999, the Kenosha City Council approved a revenue sharing provision as part of the plans for developing a tribal casino at Dairyland Greyhound Park. As part of the plan, the County and City of Kenosha would send letters of support for the Dairyland Greyhound Park project to the BIA which was a requirement that “Showed proof that the Tribe sought to mitigate the impact that the placement of such lands into federal trust with the City and County.” (Intergovernmental Agreement, Executive Summary, Jan, 02) It was further agreed that the Menominee Kenosha Gaming Authority would hire the Pricewaterhouse Coopers Consultants L. L. P., a Hospitality and Leisure Consultation Group, to begin a feasibility study on the land use and its impacts as well as projected dollar amounts available for revenue sharing. The feasibility study would initially include the following items:

- 1) The services that the City and County would provide.
- 2) The separate judicial authority in each area of contention.
- 3) How the Menominee Kenosha Gaming Authority would make payments to the city and that the City would make payments to the County as well as the percentage owed to each.
- 4) Improvements that the Menominee Tribe/ Menominee Kenosha Gaming Authority will be responsible for executing.
- 5) Outlining of Tribal intentions and governance issues of non-Indian enterprises authority on Tribal land that reverts to the City, County, State jurisdiction.
- 6) Authority of local law enforcement to have the authority to enforce any non-gaming criminal laws on the project’s trust property.

- 7) Identifying that the Menominee Kenosha Gaming Authority follow all state laws regarding the sale of alcoholic beverages.
- 8) That the Menominee Kenosha Gaming Authority will establish a program that addresses and supports efforts to assist problem gambling.
- 9) That the Menominee Kenosha Gaming Authority will follow all applicable building and Federal Aviation Rules during the construction and operation of the project.
- 10) That the Menominee Kenosha Gaming Authority based upon the overall performance of the project support charitable efforts.
- 11) That the Menominee Kenosha Gaming Authority will assist the City and the County to support efforts to explain the project to the community to hear about the project and the Intergovernmental Agreement.
- 12) All project entities will work to create initiatives and rules that support an open forum and a cooperative environment for the community at large to draw upon when making a decision surrounding the Dairyland Greyhound Project.
- 13) Fiscal responsibility of each, the Menominee Tribe, the City of Kenosha, and the County of Kenosha.

The Pricewaterhouse Cooper study was completed by 2004 and all available plan information was included into a packet entitled an Intergovernmental Revenue Sharing Executive Summary that would be the first presentation to the general public about the Dairyland project.

Furthermore, the Menominee Tribe, the Menominee Kenosha Gaming Authority, the City of Kenosha, and the County of Kenosha agreed to be full participants in open forums to present the Intergovernmental Revenue Sharing Agreement and plan for the Dairyland project. The project committee began holding open Town Hall Style meetings in several places at different dates and times to give the community an opportunity to ask questions and get answers. Their goal was to

educate the community and get them acquainted with the proposition before the community vote that was slated for 6 months later in that same year. By the time voting day approached the Intergovernmental Revenue Sharing Agreement participants held ten meetings in five locations and at morning, afternoon, and evening time frames. The resulting outcome of the community wide vote was 57% for 43% against. Although this was not an overwhelming majority it was enough of a win that the Dairyland project was underway. The Dairyland Park land was purchased and placed into trust, and the Intergovernmental Revenue Sharing Agreement was signed and put into action. Below is a brief description of the agreements line items:

- 1) Commitments of the City and the County – Section I
 - a. The City and the county are agreeing to provide the usual and customary services to the trust land in the same fashion as there services are provided
 - b. In addition, the City and the County agree to support the Tribe’s trust land application.
 - c. The City and the County also agree to not support any other casino proposal in Kenosha County unless by agreement among all the parties to the IGA.
- 2) Support Payments – II
 - a. Support payments have been addressed to support local governments.
 - b. Net Win - The Tribe will make quarterly payments to the city based upon a share of the Tribe’s net win.
 - c. A reopenen with respect to Phase 2 payments will occur at calendar year twenty and each succeeding year ten (10) intervals.
 - d. Minimum payments in calendar years one through six if the new win payments were less than \$1,000,000 and beginning in year seven and thereafter, if the net win payments are less than \$2,000,000, the Tribe will make an additional payment to the City to equal the \$1,000,000 or \$2,000,000 adjusted for inflation.
 - e. Based on the first 22 years of projected casino operations, it is not anticipated that the minimum payment provision would take effect.
 - f. To include payments to school districts under Section (B) (2).
 - g. To include payments to Charitable Contributions under Section (B) (1).
- 3) Responsible Gaming Program – Section III
 - a. Issue of responsible gaming is addressed in Section 2(C) of the IGA. The Tribe has agreed to create a responsible gaming policy and to

pay the County up to \$150,000.00 annually for assessment and treatment of problem gamblers.

- b. The City will provide a one time payment of \$150,000.00 to the County in the first calendar year that the county appropriates such funds.
- c. It is estimated that the total payments to local governments over the 22 year period for which financial projections have been made will exceed \$521,000,000.00.
- d. The City will distribute to the County, the County's share of these payments as outlined in the Intergovernmental Cooperation and Revenue Sharing Agreement.

4) Minority Recruitment and Vendors – Section 2

- a. The issue of minority employment can be found in Section 2(D) minority recruitment and retention. The Tribe has agreed to designate a compliance office to ensure that minority recruitment and retention complies with a goal of 25% minority employment, including tribal preference.
- d. minority and local vendors can be found in Section 2(E) preference for local and minority contractors. 3% local vendors, 15% state contractors 10% owned, controlled or managed by women or Indians.

5) Subject to Criminal Laws - Section 2

- a. The issue of law enforcement jurisdiction is addressed in Section 2(F). The City and County will have authority to enforce state criminal laws on the trust lands.

6) Public Health and Safety Standards; Adoption of Ordinances: Inspections – Section 2

- a. State public health and safety standards for public building, electrical wiring, fire prevention, plumbing and sanitation are applicable to the casino as required by the Tribal/State Compact.
- b. The Tribe will adopt certain City and County ordinances governing Land Use, Environmental Health and Food, Smoking, Animals, Noise Control, Weights and Measures, Alarms and Emergency 911 and Shore lands and enforce such standards as addressed in Sections 2(F) and 2(I).

7) Alcohol Beverages – Section 2

- a. Alcohol issues have been addressed, Alcohol beverages, Federal Laws require the Tribe to comply with State law relating to the sale or consumption of alcohol beverages. No alcohol beverages

may be sold for off-premises consumption, alcohol beverages may be served at the casino only during the hours permitted by state law.

- 8) Cessation of Gaming – Section 2
 - a. If gaming should cease, the issue of removing trust status once land had been placed into federal trust is addressed, to remove land from trust requires an Act of Congress.
- 9) Expansion of Trust Land – Section 2
 - a. The issue of expansion, The Tribe has agreed to not expand the Federal Trust Land beyond the present application.
- 10) The Tribe and Authority have agreed to include the proposal submitted to the City and County with respect to planned construction and physical development.
- 11) Effective Date and Term
 - a. The IGA is effective upon execution by the parties. The term of the IGA is indefinite and remains in effect for as long as the trust lands exist, unless all parties terminate the IGA by written agreement.
- 12) Waiver of Sovereign Immunity for the Project
 - a. The Menominee Tribe and Menominee Kenosha Gaming Authority would waive there Sovereign Immunity status for the Dairyland project only. (Delabreau, Doyle, Antaramian, Kehl, Feburary 2005)

In summary, the Menominee Tribal consultation with the City of Kenosha and the County of Kenosha appears that it will be of great benefit to all concerned. The Tribe gets to develop a destination resort and casino and the City and community members will have a more profitable tax base that will support its infrastructure including schools and community services. It was unclear what type of arrangement that the Mohegan Tribe had with the Menominee Tribe; hopefully it was a fair and equitable proposition for both. Additionally, I am always concerned when I hear a Tribe has to waive its Sovereign Immunity to enter into an agreement. However in this instance the City and County's only recourse for recouping revenue from the Tribe was to guarantee that they could take them to court in case of default.

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