



TFA

Monthly Newsletter

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IN THE NEWS

Making the Tough Decision

by Kristi Jackson

We've had two client interactions recently that we thought would be of interest to our readers. Each is an example of courageous tribal leadership that involves making a tough decision and doing what is best for his or her Tribe. Tribal leaders know making tough decisions may not always be popular. The consequences can range from losing support from discontent tribal members to outright political instability. In the situations we discuss below, however, tribal leaders made tough decisions that best positioned their tribes for long-term success.

One Tribe has the unfortunate position of finding itself in a cash flow crisis, with overall tribal spending forecasted to exceed income. Lots of tribal programs are a net outflow of cash, meaning grant and other program income does not meet expenditures and the Tribe must supplement the program to keep it going. Programs like this are important services for the community

and they provide jobs for tribal members.

In addition to program spending, this gaming tribe also paid a per capita distribution to each adult and child member. This created the most concern because cutting or eliminating the distribution clearly has a direct impact on tribal members, whereas making the per capita payments would force the Tribe to dip into savings and drain important resources. Council dug deep to find savings within existing programs. All cut backs have a negative effect and are painful to implement. And at the end of the day, the council opted to treat the per capita program as one that should be working like a traditional "dividend" program, one that is paid out of excess cash flows and insures that the Tribe does not distribute more than it can afford. In this case, the Tribe did not have any excess. The per capita decrease was announced and the decision followed.

(continued on Page 2)

Mohegan Sun to Offer Fantasy Sports Through FanDuel Partnership

11/2/16 – GamingIntelligence.com

As New Casino Prepares to Open Two Hours Away, Turning Stone Expands

11/7/16 – TimesUnion.com

Spokane Tribe Breaks Ground on West Plains Casino, Plans for 2017 Opening

11/9/16 – Spokesman.com

Seminole Tribe of Florida Can Keep Blackjack at Casinos

11/10/16 – WorldCasinoDirectory.com

Gov. Doug Ducey Strikes Deal to Reopen Arizona Tribal Gaming Compacts

11/21/16 – AZCentral.com

Pokagon Band Says Casino, Village Project in South Bend Will Restore Its Sovereign Land

11/30/16 – SouthBendTribune.com

(continued from page 1)

While unpopular – it was explained and understood by those willing to listen.

As importantly, making this change was the critical move that allowed the Tribe to avoid a default situation. This would have most likely resulted in eliminating the per capita until such time that there is once again excess cash flow. The new per capita policy also created a strong bargaining stance for the Tribe to get waivers and other needed relief from lenders.

While there was no easy answer for tribe's financial situation, tribal leadership found that making this tough decision avoided disaster and better positioned the Tribe for economic success in the long run.

Another Tribe we are working with is in the midst of planning a project which will require them to borrow a significant amount of money. The project has many elements which were attractive to council members and community constituents. Architects can draw some compelling pictures and those offering the development services paint an incredible dream for the project. High quality amenities, nice finishes and beautiful structures. The trouble is the project became significantly more expensive.

In this Tribe's case, the market studies

did not show an incremental increase to cash flow from a project of this scale that made it a compelling investment. The returns on the expenditures were well less than 10%. Further, the amount of money that would need to be borrowed would not all be available in the bank market, which would have caused the Tribe to have to look to the bond market. Rates in the bond market move into another stratosphere – likely approaching or greater than the forecasted cash return on the project itself.

A decision to scale back isn't fun. However, if a more modest scale effort allows financing to be less expensive – or achievable – it can make the project viable and attractive. Even more important, it keeps the Tribe from having

to overleverage (borrowing more than it needs) and risk tribal programs and services.

This tribal council also voted to scale back, foregoing the fancier alternative now in favor of a phased approach. Tough medicine to swallow, but with the bigger picture in mind, this decision leaves the Tribe on a solid financing footing.

Understand the merits of a project or situation, the risks of certain investment decisions – and then listen to honest advice – even if it's unpopular. Because putting the long term interests of the tribe ahead of short term fixes is definitely the way to “do the right thing”.



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