

## AGENDA

**Tobyhanna Township  
Economic Development Authority  
April 4, 2018  
6:00 PM**

1. Call Meeting to Order: Anne Lamberton, Chair
2. Pledge of Allegiance
3. Consider the Minutes of: March 14, 2018, Regular Meeting
4. Old Business
5. New Business
  - a. Consider appointing depositories
  - b. Consider Riley and Company Engagement Letter
  - c. Consider Resolution 2018-\_\_\_\_, establishing a PIL
6. Public Comment
7. Adjournment

THE TOBYHANNA TOWNSHIP ECONOMIC DEVELOPMENT AUTHORITY  
REGULAR BUSINESS MEETING  
APRIL 4, 2018

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The April 2018 Regular Business Meeting of the Tobyhanna Township Economic Development Authority was held on April 4, 2018, at the Tobyhanna Township Government Center Building, 105 Government Center Way, Pocono Pines, Pennsylvania, 18350.

Present are Anne Lamberton, John Holahan, III, Robert Bossuyt, Edwin Miller, and Solicitor Mark Bufalino. William Van Gilder, Solicitor John Dean, and Township Manager John Jablowski Jr. are absent.

1. Chair Anne Lamberton calls the meeting to order at 6:00PM. It is determined that a quorum is present.
2. The Pledge of Allegiance is recited.
3. Announcements
  - a. Anne Lamberton announces that John Holahan's birthday was yesterday.
4. Robert Bossuyt motions to approve the meeting minutes for the March 14, 2018 Regular Meeting, Edwin Miller seconds. Vote: All in favor; minutes accepted.
5. Old Business – none.
6. New Business
  - a. Consider appointing depositories. Robert Bossuyt states that First Northern had 1.67%, M & T had 1.27%, and ESSA had 1.20%. John Holahan motions to appoint First Northern Bank and Trust, ESSA Bank and Trust, and M & T Bank as depositories for the Authority, Robert Bossuyt seconds. Vote: all in favor; motion carries.
  - b. Consider Riley and Company Engagement Letter. Robert Bossuyt motions to accept the Riley and Company Engagement Letter, John Holahan seconds. John Holahan states that the hourly rates for Debra Borger is \$265, Jay Grobelny is \$135, and bookkeeping is \$50. For other staff needs, the rates range from \$95-\$175 per hour. Vote: all in favor; motion carries.
  - c. Consider Resolution 2018-002, establishing a Public Improvement Levy (PIL). John Holahan motions to adopt Resolution 2018-002, establishing a PIL, Edwin Miller seconds. Thomas Bowen from Stevens & Lee states that there is an updated resolution dated April 3, 2018, in the green packet he gave the Authority. He explains the following changes he made compared to the March 28<sup>th</sup> draft:

On page 2, concerning c - Gross Revenues, he added a provision so a PIL payer could disclose and show the 1% gross receipts levy on their bill. If they do show the 1% on their bill, that total will also be subject to the total 1% gross levy. This is consistent with Wisconsin's resort fee, which Kalahari is familiar with.

On page 2, concerning item d - Gross Revenue Exclusions, he moved the sourcing issue of tangible personal property sales and services sales from page 6 to here. The intent is to subject only tangible personal property delivered in and services provided in the PIL area to the PIL. This way, if a retailer sent a property directly to a location outside of the PIL area, it would not be subject to the levy. This provision exists to limit the levy to the gross revenues in the area. The presumption is that if the property was first used or purchased in the PIL area, it would be sourced to the PIL area. The Authority discusses deleting this provision. Thomas Bowen states that without this provision, the Authority could potentially tax the sales Kalahari makes at their Wisconsin Dells location. He recommends under item c Gross Revenues, stating that the gross revenues are based on transactions in the PIL area. Thus, the issue of sourcing and non-sourcing is removed, and the discussion is limited to transactions within the PIL area. John Holahan asks if this would affect tickets purchased from sites like Trip Advisor. Thomas Bowen replies that the resolution can be amended to address any problems.

Thomas Bowen suggests avoiding the sourcing issue by on page 2, d.iii, taking the second sentence that states "generally, gross revenues is sourced to the location where the purchaser (A) takes possession of the product and/or (B) makes first use of a service," deleting the word "generally," and inserting this sentence into item c, which defines gross revenues. He also suggests changing "possession" to "consummates the purchase" in the above sentence. Anne Lamberton clarifies that this is based on point of sale. The Authority agrees.

On page 3, item xi – "insurance proceeds for damages to tangible property located in the PIL area" was added.

On page 6, under (d) PIL Reporting, item i, reference to electronic forms was included, so reports and forms may be reported electronically. Also, the last sentence was changed to comport with language concerning unsworn falsification to public officials.

On page 6, under (d) PIL Reporting, item iii was changed and expanded in an administrative capacity.

On page 6, under (d) PIL Reporting, item iv, the word "reconciliation" was added. The concept behind an annual reconciliation is to make sure the total gross revenues for the year are correct and up to date.



On page 7, (f) Inspection of PIL Payer Books and Records, was extensively enhanced, and is entirely discretionary. Much of this language comes from the Erie Authority. If on an audit or inspection there is an unpaid amount, in addition to interest (at a suggested 1% per month), a service charge of 2% a month could be imposed. The Authority can wave these charges. If the unpaid amount is significant, then the service charge would be 3%. If a retailer is found to be underreporting by 25% or more, the statute of limitations can rise to 6 years. This provision is to limit the number of years companies need to keep records.

On page 9, Section 3 – Use of PIL Proceeds was added. It is not necessary, but delineates how proceeds will be used. Debt service on debt obligations is the first priority, second is other costs for debt, third is maintenance and operating expenses, fourth is to fund against shortfalls, fifth is to defease or prepay amounts of indebtedness, and sixth is to hold money in reserve to pay future costs.

Thomas Bowen states that the Municipal Authorities Act states that levy proceeds cannot exceed the amount of anticipated expenses. Anne Lamberton asks what the lead is for building capital. Thomas Bowen replies that there is no time period, percent, or amount. It is important to make sure that the project will exceed whatever money the Authority has. Brian Koscelansky states that Section 3 will also have a trust indenture.

Thomas Bowen states that the only other change was the effective date in Section 5. After the word “immediately,” he added language to state that the resolution will not go into effect until the “Board of Supervisors has approved (a) the TTEDA plan for its “business improvements” and “administrative costs” as those terms are defined in Section 5602 of the Act, (b) the estimated costs of such business improvements and administrative services, and (c) the proposed method of the PIL charge.”

Mark Bufalino states that the Authority is not looking to adopt the resolution as is. John Holahan states that he speaks against the motion. Vote: all opposed, motion fails.

John Holahan motions to adopt the April 3, 2018, draft as amended and reflected in the minutes of tonight’s meeting, Robert Bossuyt seconds. Vote: all in favor; motion carries.

## 7. Public Comment

- a. Thomas Bowen states that it was not part of the motion to include additional parcels in the PIL. On page 4, only two parcels, being Kalahari and the Pocono Manor parcel, are listed. John Holahan suggests amending the map at a later time, and the Authority agrees.

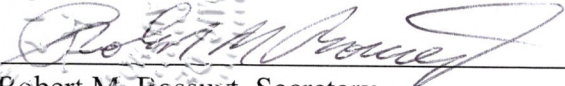
Thomas Bowen states that the Board of Supervisors does not necessarily need to approve every change the Authority makes to this resolution; adding parcels may not affect any of the terms defined in Section 5 as needing Board approval.

8. Meeting adjourned at 6:43PM; Authority enters executive session at 6:45PM.

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Minutes recorded by Julia Heilakka

Respectfully submitted:

  
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Robert M. Bossuyt, Secretary