

TRIBAL Council motioned 6/14/09 to open minutes

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Tribal Chair: The way I read this letter is that Jim is proposing to devote all of his professional time to Little Traverse Bay Band. Is that the way I read this?

Jim: That is the bottom line.

Tribal Chair: So you are signing on for as much as we need you throughout the week? Jim:

Yup, that's it. To do that I would have to be MILS.

Tribal Chair: With maybe a few clients in your private practice?

Jim: Well, I hadn't really, that is why I have a big discussion draft here. I think that is what the initial discussion draft would be. I mean, it would be a private contract, but the assumption would be that I would be spending the vast majority of my time working for the tribe, and that I could not take on anything else where it might cause me to... I mean it would be just to look at a will or something and I would come over tonight, but I would not take on anything that might cause me to say, oh I cannot do that this as I have this trial or something like that.

Tribal Chair: Like this lawyer, she is full-time at Bay Mills? Jim: Yea I believe she is.

Tribal Chair: She is there on call.

Jim: Yea, I think that she is basically there full-time. What I had envisioned, was keeping regular office hours here, but I would not need an office at first, and my office is like wherever I have to meet with people who needs me and just being available up here at least twice a week, and also just available to come when there are just meetings or anything, and just doing the real concentrative research such as writing, phone negotiation, going to other meetings based in the home office in Traverse, and with taking advantage of the moderate technology that we are all getting used to.

Councilor Yellowbanks: Well, didn't you say something about wanting to have offices here? No, only two day's minimum.

Jim: Yea I was trying to come up with a way to optimize what one person could reasonably do to meet both the tribe's needs and mine, and I thought that splitting the time like that could accomplish everything that needed to be accomplished and it would make me accessible in all the work that I have done over the years, that I laid out in that letter, and that I have done from Traverse City to the extent that I have not been able to keep up on everything. It hasn't been because I have been in Traverse City, but because I have been MILS with lots of other responsibilities. So I think that now if I could dedicate

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All my time to the tribe, plus be here on a regular basis that could be the best of both worlds. I would be available but also not be, I think, the people who are in-house all the time can kind of get themselves tied up on internal administrative issues that could almost interfere with getting work done, and this would give me a place to just get the legal part done, but I would be available anyway, just by phone, fax, email, all these different things we use but also be here on a regular basis instead of just meetings.

Tribal Chair: One of the works you would be doing for us would be to require is research and consulting with other attorneys and firms, who covers that cost? Or if you would say, oh I have to call somebody to find out about an issue and spend three hours on a telephone. Who pays for that particular research?

Jim: It would depend on how productive the call. If I called one of attorneys who likes to talk, say Rafsteder and we spend 20 minutes really sorting out important issues and a half hour talking about this, that and the other thing, I would bill for those 20 minutes. It would be basically based on how other private attorneys' bills. I would make sure that it was all productive work.

Tribal Chair: That would be how you bill our time, but how would Rafsteder bill you for the time that he spend consulting with you?

Jim: He would not bill me. It would be just kind of a professional courtesy thing and if he called me likewise I would do the same.

Tribal Chair: Is that how the lawyer at Bay Mills would do with you.

Jim: She would bill someone.

Tribal Chair: Yea we are trying to avoid getting billed by all these other firms that is why we are considering going with a single firm.

Councilor Comment: He wouldn't be calling Marianna to do that work if we did not approve it ahead of time though.

Jim: If there is a time that Council wanted me to consult with her, she is an expert in a lot of this and I am not saying that I can do every last thing that she is doing. I might think that I could cover a lot of it, you know, at a much lower price.

Tribal Chair: Would you have the resources that she has available to her to do a lot of things?

Jim: Well, everything at MILS is window-dressing and now everything is on-line. Most of it is free on the Internet, all the different statutes and things, and there is a decent law

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Library in town. In addition, West Law would probably have a recommendation if we ended up wanting to work together and figure out a way to work this out, offer us a tribal rate, 150 dollars a month flat fee total for all the down-loading and everything, if you like a private firm to go into a private firm like West Law, you can go that an hour. That is what we have at MILS because it also applies to tribal organizations. That is 150 dollars for password, and the tribe could get a single password for the tribal judge, tribal prosecutor, court personnel and tribal attorney to use, and the only limitation would be no two people could be on it at once. At the same time we would have to call each other and figure out who has the most important job right then, but generally that isn't a problem, so you know, research work could really be cut down that way.

Tribal Chair: Okay, is the special contract.....aren't we supposed to be talking about this.....

Jim: I am not really troubled by this, it is up to the council. As a lawyer I am not troubled about talking about things in open session as long as there is not litigation where it could compromise the tribe's interest.

In talking about this, I don't see where it is compromising the tribe's interest, as long as we don't start talking about any individual case or what needs to be done on it, then.

Tribal Chair: Okay, then the total hourly conversation we have does not exceed x number of hours for a calendar year, and the expenses does not exceed x number of dollars per year. So those are just figures that, we won't expect that, the work load that we place on you will not exceed that number.

Jim: Right, and if that ends up exceeding that, then it meant that I did a lot of work, then I would lower the hourly fee afterwards, if you want to keep using me during that year. In looking at that, I was trying to figure out what would work out, if I am doing this as a private contractor, at first I was thinking if I do lower this, I could still make a good living compared, but then when I look at other attorneys charges, I was thinking, well wait a second, what happens when I am paying my own insurance and this and that, and after tax income then I began thinking I would stick to about a little less than half of what attorneys are charging, instead of going down a third or a quarter.

Tribal Chair: The only thing, the retainer and that is something that we would have to come up with immediately.

Jim: Yea and that is not a trust issue at all. As you notice, there is no weight for sovereign unity in this proposal of discussion draft. I figure that even though at times I have recommended there is no way around it. It would be really hypocritical after all these years. That is not a trust issue at all. At this point, I just cannot have any gap in income as far as getting the mortgage in on time, so I would just be able to work a bunch and be able to draw that down.

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Tribal Chair: I think that we would all agree that this is an excellent idea and we hired you, how much time would you have to give MILS?

Jim: I would give MILS 30 days notice. That is in the personnel policies, and the only real hammer they have is being able to catch up vacation time, and if I started working a bunch right away, you know to honor this contract, that would not really be a factor, but I feel that I owe them that, you know that respect after all these years of MILS being a vehicle for me being able to do this kind of work. It has been very gratifying to me to have a dedicated hardworking board and all that, I think I would have to give them 30 days notice, and it would take me a few weeks to, after being at MILS almost 15 years to really feel comfortable turning my office over in good shape, closing out all the files, and during that time period I could still be an MILS employee and do work for the tribe. But there would be a lot of time spent just dealing with the transition.

Councilor Comment: Would he get an ID?

Councilor Comment: Because we are going to be working on tribal housing budget, I would think that the ideal situation would be to have the attorney to have a budget, or have a line item within our budget.

Tribal Chair: Well in the contracting consultant, there is already a line item for that. So conceivably we could bring him on board, but what was your question?

Councilor Comment: That was it. Well I was just trying to figure to offer him a contract to incorporate into the

Tribal Chair: Any discussion.....

Jim: There is one other thing that I wanted to add in there that I wouldn't charge for travel between here and Traverse City, and I also meant to put in that I wouldn't charge for long distance calls to Petoskey. I would not be expecting to be reimbursed for calling the office on the days that I am working outside. I could add that in if you want me to.

Councilor Comment: Because the other thing I was thinking, if he is going to be one of our tribal attorney, we should be able to offer him insurance for his family, and all that is offered to a regular employee.

Jim: If you could do that, I could lower the hourly rate.

Councilor Comment: Like the contract that we have with the administrator or Human Resources.

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Councilor Comment: I think leave like you have it the way you described it. I think that it would be better.

Jim: Yea it keeps things simple. I just have to buy my own equipment and pay for my own insurance and all that.

Tribal Chair: You have all that billed into your fee Jim: I kind of figured that in there.

Tribal Chair: Any more discussion? All those in favor say aye "aye, opposed. The motion carries. So are you going to give MILS your notice tomorrow?

Jim: Tuesday. I will do that statute tomorrow and get it up here. I appreciate that because I really like to get work done quietly, but my clients from point A to point B, but I don't like really selling myself.

Councilor Comment: Well, it was an easy sell.

(Opened 061409)