

Greenhalgh

Legal Services

April 30, 2009

Hon. J.B. Van Hollen
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Re: Request for Attorney General's Opinion

Dear Mr. Van Hollen:

Our office represents the Town of Delton, a Wisconsin municipal corporation and township located in Sauk County, Wisconsin. Earlier this year, the Town of Delton joined with the Ho-Chunk Nation, a federally recognized Indian Tribe pursuant to the Indian Organization Act of 1934, to establish a joint task force to discuss various means of intergovernmental cooperation between the entities. Enclosed please find copies of Resolution 2009 executed by the Town of Delton and related Ho-Chunk Nation authorizations for this purpose.

The task force has no decisionmaking authority but is to be utilized by both entities as a form for discussion of potential issues on which intergovernmental cooperation may someday be reached. One of the first topics would be investigation of regional water and sewer services. There could be many more activities arising from this.

All of this results from the fact that the Ho-Chunk Nation owns over 700 acres of land in the middle of the Township, some of which is held in trust, but most of which is owned in fee by the Nation and is subject to local Town and County zoning requirements and other regulations.

Unlike the Town of Delton, the Ho-Chunk Nation is not only a government entity, but also actively engages in business development of its gaming and resort operations in the Town of Delton. In connection with the task force, the Nation is reluctant to discuss many of its plans in open session meetings for fear of disclosing trade secrets and other business secrets of a confidential and proprietary nature to potential competitors in and around the Wisconsin Dells vacation area. While the Town is sympathetic to the Nation's position in this regard, the Town does not wish to expose its representatives on the task force to liabilities under Wisconsin's Open Meetings Law.

Accordingly, we seek your opinion as to whether or not the task force may meet in closed session. As constituted, the task force has no decisionmaking authority. Although there are three members appointed by the Town of Delton, only two are members of the Town of Delton Board, a five person Board. Only one member of the Ho-Chunk Nation's legislature is part of its representation on the task force, and the legislature has eleven members.

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