

City Council Meeting Questions and Comments – December 17, 2013

- Dick Jaques – Against the sale of the golf course; it is a jewel in the City and should be protected. As there was an appraisal done by the Tribe, the City should hire its own appraiser.

It was stated that a covenant running with the land cannot be reversed, but CCNRs (Covenants, Conditions and Restrictions) can in fact be reduced or removed by the entity that originally placed them on the land in the first place. A future Council could change the covenant.

As for the concerns that the Tribe will block out Saturday tee times; Council should keep it in mind that the Tribe is concerned with doing good business and making money. The Tribe will only focus on three groups of people, the Tribe itself, the Rewards Club members and hotel guests.

It is feasible for the Tribe to ask that the land they acquire in the City, be designated as Tribal ground. The Bureau of Indian Affairs – Trust Services was contacted with the question of acquisition and the following email is what the Chief of the Division of Real Estate Services replied. [Mr. Jaques provided a copy of the email to Council.]

**Fee-to-trust question**

Mon, Dec 16, 2013 at 1:13 PM

To: [REDACTED]  
Cc: [REDACTED], [REDACTED], [REDACTED]

Mr. Jacques

I've been asked to respond to a question you presented to [REDACTED] on December 9th.

*"If a tribe acquires/purchases a piece of land within the city limits of a city (not tribal ground), can they later petition/request that the land be designated as tribal ground and therefore under the laws of the tribe rather than the city?"*

The answer to your question will not be as precise as the question itself but I'll do the best I can in responding to the scenario described in your e-mail. A tribe may acquire or purchase land within the jurisdiction of a city as any other party might purchase land. The land would be described as "fee" land and therefore subject to the same oversight by the city as any other land base under the city's jurisdiction. A tribe may also later request that the land be brought into "Trust" status, which you describe as "tribal ground". Bringing fee property into trust status is a lengthy administrative process with no guarantee that the fee land will become trust land because the federal action is discretionary. There are too many variables to be able to answer the question as it is presented. However, in the scenario you describe, lets assume the property does go into trust status. In that case the scope of the legal jurisdiction depends on the state and locality in which the land is located. There are a complex body of laws, as well as agreements between tribes, states and local governments regarding jurisdiction, therefore the question presented in the scenario described can't be answered without knowing the specifics of the case. That said, in my experience, when trust land is also located within the boundaries of a city, tribe's generally have an agreement with the city, county and sometimes state government regarding jurisdiction.

If you have any further questions I would encourage you to contact the local BIA Realty Department in the State where the land is located.

[REDACTED]  
Chief, Division of Real Estate Services  
Office of the Deputy Bureau Director-Trust Services

O: [REDACTED] DOI-Bureau of Indian Affairs  
C: [REDACTED] 1849 C Street, NW, MS 4639-MIB  
F: [REDACTED] Washington, D.C. 20240

The Director of the Fee to Trust Department for the Bureau of Indian Affairs in Sacramento as well as Chief of the Division of Real Estate Services agreed that if the Tribe attempted to place the land into “Trust” status, and were approved, the agreement with the city of Lemoore “becomes null and void”.

- Tom Reed – It appears that Council had previously reached a decision to sell the golf course and are now attempting to go about it.

The City of Dinuba has a lower population than the City of Lemoore as well as its own municipal golf course. It cost \$9.5 million to construct and does not have any debt. Lemoore, however, is very deeply in debt.

[To the Tachi Representative, answered by Representative]

- Has the Tribe asked a financial institution for a loan of \$5 million to purchase a golf course? If so, what was the response?

*No, we have not.*

- Do you have any plans to do that?

*No.*

[To the Council, answered by Council]

- Has the City performed a credit check or requested documentation to see that the Tribe can make the structured payments over 14 years?

*We have not; we are still gathering information from the public to help us make our decision whether or not the course should be sold.*

[To the Tachi Representative, answered by Representative]

- Is the Tribe required to file an annual tax return?

*No*

- Would the tribe be willing to provide an equivalent document that has been audited by an independent agent to prove that the Tribe has the ability to purchase this course?

*We have audited financial statements by Ernst & Young.*

- The Tribe, not the City, paid to have that done?

*Yes.*

- Connie Wlaschin – If the Tribe asked to purchase the course outright; it would be a good decision to sell. If they are offering payments; why would the City accept \$1.5 million dollars now, when the City just paid \$1.4 million dollars pay off a loan was to save interest on the course of 7 or 8 years? The City would not be receiving more payments until 2020. Receiving payments is not a good decision.
- Lisa Elgin – At the December 3<sup>rd</sup> City Council meeting, Ron Meade encouraged the Council to make their decision regarding the potential sale of the golf course based strictly on business and not emotions. Very few of the decisions that Council makes are strictly business, those decisions affect the lives of the citizens of Lemoore. Council should take into consideration the condition of the lands currently owned by the Tribe.

[To Council, answered by Council]

- Has the golf course ever been officially listed as surplus land?

*No, it has also never been listed as “for sale”.*

If the course is now suddenly listed as surplus land, it would appear that this is an unethical attempt on the part of Council to get around the 4/5 rule.

- Robert Beede – The golf course enhances the quality of life of our citizens and it is a desirable asset. The purchase price of \$5 million from the Tribe sounds good in terms of the obligations to the General Fund; however consider the cost of replacing the course. The argument that the Tribe might build another course to compete with the Lemoore course is erroneous; the quality of the Tribe’s and surrounding lands are unsuitable for a course. Good agricultural land sells for approximately \$20,000; the 150 acres of property owned by the City are worth \$3 million dollars for the land alone, adding the clubhouse and other structures, the replacement value might climb to \$10 million.

Under Mr. Rhoads management, the golf course generates \$150,000 less than what it needs to make to satisfy the yearly obligations. Rather than selling the course outright, could the Tachi not be approached to buy time slots on the course equaling \$150,000? Keep the course public, but sell \$150,000 worth of time on the course.

*[Council requests that Mr. Beede provide Council with an email describing how the concept of selling time slots on the course would work.]*

- Gerald Mercer – A youth golf sports coach speaking on behalf of the community youth. Rhoads’ youth golf program has been rated the best junior golf program in Northern California. It takes years for these programs to generate trust and recognition within the community. The Tachi have stated they would support community programs however, for the past two years when approached, the Tribe responded that they were “not interested in sponsoring a youth golf program.”

The public should take notice, that the golf course was not listed for sale, yet its sale is now being discussed due to constraints on the General Fund. The soccer, baseball and other recreational facilities are also not for sale. What will happen to these facilities if Council decides that the General Fund may also benefit from their sale?

- Karen Polk-Osterland – Residents living by the golf course are angry with the possibility that the Tribe could designate the land as tribal land, and that the decision to sell is in the hands of only 5 people. The council should consider this possibility and its consequences.

It appears Council predetermined the sale, and are now looking into its consequences. The City, besides ensuring Fire and Police protection, should provide options for recreation such as the golf course. The Council should recall that they report to the citizens of Lemoore, and the majority of the citizens do not want the golf course sold and wish to see Mr. Rhoads’ proposal.

- Carol Campbell – Against the sale of the golf course, responding to the Council and Tachi Representative’s answers to her questions presented December 3, 2013.

*[Questions presented to the Council, to be answered at the next council meeting.]*

- It was mentioned by Council that “all the processes” regarding possible sale of the golf course were being considered; those “processes” were not explained. What other processes are available and how do they work?

*[To be answered by the City Attorney.]*

- Can Council explain how the golf course is considered surplus property?

*Government Code § 54221 (b) states: the term “surplus land” means land owned by any local agency, that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange.*

*Council has the authority to decide if any property owned by the City should be considered surplus property as well as determining its necessity to the City. The Council has not made this determination regarding the golf course at this time.*

- As Council has stated that the possible sale is a very important and difficult decision, wouldn’t the 4/5 vote be a more thorough process in making that decision?

*The City Council will decide which process to use.*

- Has the City researched courses purchased by other Tribes such as Eagle Springs?

*Yes.*

- Council stated that no decision would be made until enough public hearings have been held; how many will be enough?

*When Council feels that they have heard enough information to make a decision.*

- What are the maintenance costs of the City parks that generate revenue? Is it possible to sell a City park that does not have high use volume?

*It would not be advantageous to sell the City parks because most are ponding basins, and the City would have to find new land to purchase to replace the ponding basin.*

[Questions to the Tachi Representative]

- Regarding the special discount rates; would those apply only after the golf rates were increased?

*The Tribe will have to determine appropriate rates if the course is acquired.*

- As the answers provided by the Tribe were unclear; will there definitely be no monthly rates as well as no senior monthly rates? How will military families be considered?

*The Tribe will have to determine appropriate rates if the course is acquired.*

[Question to Council and Tachi Representative]

- Certain answers provided by the Council and Tachi Representative stated “to be determined”, “unknown”, “still being negotiated” etc. Will these questions be answered and released to the public before the decision is made?

*The terms of any contract will be made public before council approval.*

- Michael Montalbano – Neither for or against selling the golf course. While Mr. Rhoads has improved the course, it is beneficial to consider the Tribe’s offer and for the City to employ an independent appraiser to analyze the offer. The structure of the Tribe’s payments will leave them enough money to make investments into the course. The Palace will have the financial ability to make further improvements; unlike Rhoads Golf. If the course was sold, the rates might be higher but it has the potential to be nicer than Valley Oaks.

The possible sale should remain a business decision as the amount of debt against the City is serious. During the annual golf course audits, the public is concerned about money used from the General Fund when the course is operating in the red. Golfers and monthly-card-holders may want to keep the current status quo, but current non-card-holding citizens and future citizens may not feel that spending \$250,000 to keep the golf course open is worth the cost to the General Fund.

- Tachi Representative Snead – *The Tribe is committed to making \$1 million dollars of improvements to the course within the first year it is purchased. The reasons for structuring the payment have been misunderstood. It enables the Tribe the cash to make those investments.*
- Robert Beede – The \$1 million dollars that the Tribe would improve the golf course is generated by the casino. The community has invested itself in the Tachi Tribe’s business which is the casino. Could the Tribe, contribute back to the community by keeping the course public, making those improvements and using the course for business?
- City Manager Laws – *On December 16, 2013 the City was contacted by a private investment firm that requested due diligence regarding the potential purchase of the Lemoore golf course. They are asking for a 60 to 90 day period to review the course’s financial information and come up with their own proposal for the possible purchase of the course.*
- [City Manager Laws presents the financial history of the golf course.]

*In 1991, when the course was still a 9-hole course; the golf course was approximately \$90,000 in debt. Since then the debt has only grown. In addition to that debt; the City has spent approximately \$500,000 to \$600,000 on refinancing alone. A 1995 staff report states that selling the course had been one option to deal with this debt.*

*Previous Councils and City Managers were given erroneous information regarding course’s financial standing. Projections given to the City by a golf management company state that the course would hold 65,000 rounds of golf per year in 1997 and 1998; this was, and still is, incorrect. Rhoads Golf states they do approximately 39,000 rounds of golf per year. Those income projections were double that of reality today as well as in 1997.*

*While the course was funded by the Redevelopment Agency, the use of their funds assisted the course debt. The Agency has recently been dissolved by the State government and now the City must pay the past debt as well as the Redevelopment Agency funds that were used for the course. This is a total of \$1.6 million at \$300,000 a year. The golf course has not earned \$300,000 per year in revenue during its history.*

- [Finance Director Silva presents the financial history of the golf course.]

*In 1991, the golf course was expanded to 18 holes. For the initial debt schedule, the City paid a total of \$1.9 million from 1991 to 1995. During this time, the Golf Course Fund paid about \$500,000 worth of expenses associated with that debt above and beyond the principal and interest payments. The City received \$1.18 million from the sale of some properties the City held in the course area and the interest from the proceeds that were in the Reserve Account.*

*In 1995, a staff report was prepared to inform Council on the course’s financial standings and it was decided to refinance the original debt. In November of 1995 the initial debt schedule was reissued. The 1995 refinance is the debt that was paid out of the General Fund this year.*

*As of June 20, 2013 the City has paid approximately \$3.89 million toward that debt, with the principal and interest payments as well as \$590,000 of expenses associated with that debt. During this time, the course earned \$230,000 of interest, earnings and revenues.*

*In total, since 1991, the City has spent over \$5.5 million to make payments for the golf course and is still \$3.5 million in debt.*

[Questions to Director Silva from Council, answered by Director Silva]

- Are the sale of the properties around the course is included in that estimate?

*Yes, those sales were netted against the debt.*

- The City sold the properties and used that revenue to pay off some of the debt?

*That revenue was used to make the debt payments in the initial years.*

- Mayor Siegel – *In the past, some payments were funded from Vehicle in Lieu Fees (VLF) from .65% of the value of the sales of new cars and RVs. The City no longer hosts RV or new car dealerships. There is nothing left within the City to refinance the course against, there are no VLF revenues; the only debt and liability option left is the General Fund which competes directly with staff. The next time the course has an issue, the need for those funds will compete with other City departments. If the City loses \$5.5 million dollars over the next years, and has a choice between bankrupting the City or a recreational activity; the choice cannot be the City.*

*When expenses arise, the City will still have to decide who will be responsible for paying for them. There are many options available every one will be researched.*

- ◆ *The course debt could be tied to the public's incomes, their homes.*
- ◆ *Property owners of Lemoore might vote to pay for losses themselves in the future. Will golfers be willing to pay the course to fix an issue?*
- ◆ *Selling the course is an option, yet might not be the best one.*
- ◆ *If the City continues ownership of the course it will not generate enough revenue to cover current and future expenses unless the City raised the course fees.*
- ◆ *Leasing is another option; however the lessee would have to remove liability from the City and the General Fund.*

- Robert Beede - [To Mr. Rhoads, answered by Mr. Rhoads]

- The course is \$200,000 short of the debt payment schedule and there are about 40,000 rounds played a year. How many dollars per round goes to service the debt?

*Right now, \$36-\$37 per round services the debt.*

- How much more money per round would be needed to service the debt.

*Unknown.*

[Answered by Council]

*That will be under analysis in the future, as the Council is exploring all options available.*

- Dan Gudgel – Making payments for the sale is unwise and Council should not rush into the sale. The City already owns the course; if it cannot currently make the payments, the fees should be raised to help meet the debt. Examine the revenue being generated currently and project it for a few years with increases

including a possible 1,200 more Navy personnel and families. The debt schedule might be made with these increases.

- Mark Craver – The Council does not seem to understand the consequences of selling or not selling the golf course. All possible options should be presented to the public by Council, as opposed to the Council asking the public to present options. All “unknowns” should be made known. To sell a piece of property it must first be determined that it is for sale. When approached with the Tachi’s offer the reply should have been “it is not for sale”, then Council should have determined why it should be sold and at what cost.

The Tachi Tribe and Golf Resources, the company performing the erroneous income projections from 1995, are both businesses, who are out for profit and not community welfare. Mr. Rhoads is not focusing on pure profit; he works to give back to the City’s Funds as well as community.