

January 31, 2014

Les Therrian
City Manager
396 North State Street
St. Ignace, MI 49781

Re: City Expenditures for the St. Ignace Car Show

Dear Les:

Subsequent to a special events committee meeting that took place on January 28, 2014, I was asked by the Mayor, Paul Grondin, to meet with you to try and resolve the outstanding issues with our Peddlers and Solicitors Ordinance as it pertains to the St. Ignace Car Show. You, Rene and I met the next day and went over a number of issues. The following day I was provided some additional information that you obtained with respect to the question of whether or not City tax dollars can be used for a private purpose without a fair exchange of value. (ICLE Municipal Law August 2013, Public Purposes and Lawful Expenditures, pages 199-203; Chapter 21 of the Handbook for General Law Village Officials on Finance – Municipal Expenditures, August 2006, pages 101-104; a Michigan Municipal League article on Municipal Expenditures, pages 1-9)

Under the 1963 Michigan Constitution, the ability for cities and villages to expend resources is specifically limited. The Michigan Constitution of 1963, Article 7, Subsection 26, provides as follows:

“except as otherwise provided in this Constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose”.

“public resources cannot be expended or given away without a fair exchange of value. Alan vs County of Wayne 388 Mich 210, 200 NW2nd 628 (1972).

In the case of Morrice vs Sutton 139 Mich 643, 650, 103 NW 188 (1905) the Michigan Supreme Court held:

“Public monies of a municipal corporation cannot be lawfully used for the particular benefit of of private individuals even though the general public may incidentally receive some benefits from such use in common with such private individuals”.

In the 1936 case of Skutt vs Grand Rapids, 275 Mich 258, 266 NW 344 states:

“Contracts which involve an attempt to use public money for the furtherance of a private enterprise are void ”.

The Handbook for General Law Village Officials – Chapter 21 provides the following:

“that from time to time municipalities are frequently requested to make donations to various worthy private organizations such as chamber of commerce, hospitals, museums, veteran’s organizations, community funds, boy scouts, Red Cross and other educational, promotional or benevolent associations. Frequently, it is difficult for the legislative body of a municipality to refuse such request. However, it appears clear from the Michigan Law that such request donations are illegal expenditures of public funds”.

In the case of Hays vs City of Kalamazoo, 316 Mich 443, 453-454 (1947) the Michigan Supreme Court stated:

“generally a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and the contentment of all the inhabitants or residents within the municipal corporation, the sovereign powers of which are used to promote such public purpose. The right of the public to receive and enjoy the benefit of the use determines whether the use is public or private”.

The article went on to suggest that we might pose the following four questions in determining whether the expenditure is appropriate and for a “public purpose”.

1. Is the purpose specifically granted by the Michigan Constitution, by statute or by court decision?

I would suggest that there is no specific grant by Michigan Constitution, statute or court decision with respect to the privately run St. Ignace Car Show.

2. Is the expenditure for a public purpose?

The City expenditures last year and many years proceeding were for the benefit of the St. Ignace Car Show, which is a privately run activity within the City of St. Ignace. There is no question that some business entities within the City of St. Ignace and individuals benefit from the Car Show.

3. Is the municipality contracting for services of which the municipality is legally authorized to provide?

The City of St. Ignace is not legally authorized to provide a Car Show to its tax paying citizens.

4. Is the operation or service under the direct control of the city?

As it relates to the Car Show and possibly other activities within the City, such as the Pond Hockey, Golf Scramble and Youth Pond Hockey, I would say the answer is no.

If the answer is no to one or more of these questions then the expenditure should probably not be considered for a public purpose for all the tax payers of the City of St. Ignace.

It would appear that the Car Show expenditures by the City of St. Ignace in 2013 for the City Police expenses was \$4,167 and for the St. Ignace DPW it was \$5,621. Those expenses were not reimbursed by Ed Reavie's organization even though I believe they should have been.

If Mr. Reavie or his organization are unwilling to pay for the City services as indicated above in 2014, the City Council, under the Michigan Constitution and Michigan Case Law, should not grant Mr. Reavie or his organization request for special event status for the 2014 St. Ignace Car Show.

Thank you.

Very truly yours,

Charles M. Brown

CMB:ks

cc: Ed Reavie