

Agenda Item _____
July 2, 2012
File No. _____

AGENDA BILL

Subject: Discussion and Necessary Decisions Related to the Status of and Agreements Reached During the 60-Day AB 506 Mediation; State Court's Writ of Mandate to Pay MLLA the Full Judgment Amount; and Next Steps.

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DISCUSSION

A) Status of and Agreements Reached During the 60-day AB 506 Mediation

On April 30, 2012 the Town initiated a mediation ("neutral evaluation") process pursuant to the new California State law, AB 506. A total of 16 "interested parties", or creditors, have participated in a 60-day mediation process, with the guidance of the Honorable Judge David Coar. Regrettably, as of June 28, 2012, the Town's largest creditor, Mammoth Lakes Land Acquisition (MLLA), has refused to join the mediation, despite the Town's multiple invitations.

The State law generally requires that the mediation be confidential. However, the Town and the mediating parties have signed confidentiality waivers consenting to making public the names of the mediating parties, requests made by the Town to these parties, and any agreements reached in mediation.

The Town has created and kept up to date a website with information concerning the mediation, including the agreements reached. The website, <http://www.ci.mammoth-lakes.ca.us/index.aspx?NID=445>, contained the following status as of the writing of this report (June 28, 2012). Additional updates to this status will be verbally discussed at the July 2, 2012 meeting.

1. Concessions Sought and Agreements Reached

The Town has sought agreements with its creditors in an attempt to restructure its current debts and obligations outside of bankruptcy, or pursuant to a Chapter 9 plan if a bankruptcy is commenced. The table below summarizes the concessions sought, and the status of reaching agreements. All of these agreements are contingent upon and will be finally approved in

connection with either: (a) consummation of a settlement with MLLA, or (b) consummation of a Plan of Reorganization in a Chapter 9 bankruptcy case.

CREDITOR / "INTERESTED PARTY"	IMPAIRMENT PROPOSED: More detail	STATUS OF REACHING AN AGREEMENT
PARTICIPATING IN MEDIATION		
CaIPERS	NO IMPAIRMENT sought, and no current plan to seek impairment.	N/A
All civilian employees		
General Employees Association (GEA)	8% retirement pick-up, discontinue 2% deferred comp, limit annual cash out of leave to 80 hours, change how overtime is calculated. Recommend that members vote in favor of 10% cut in pre-July 2012 leave balances.	MOU SIGNED – See Attachment "A"
Management Employee Association (MEA)	8% retirement pick-up, discontinue 2% deferred comp, limit annual cash out of leave to 80 hours. Recommend that members vote in favor of 10% cut in pre-July 2012 leave balances.	MOU SIGNED – See Attachment "A"
Public Works Employee Association (PWEA)	8% retirement pick-up, discontinue 2% deferred comp, limit annual cash out of leave to 80 hours. Recommend that members vote in favor of 10% cut in pre-July 2012 leave balances.	MOU SIGNED – See Attachment "A"
Unrepresented civilian employees	8% retirement pick-up, discontinue 2% deferred comp, limit annual cash out of leave to 80 hours. Support plan that provides for 10% cut in pre-July 2012 leave balances.	Agreements SIGNED – See Attachment "A"
All sworn police employees		
Mammoth Lakes Police Officers Association (MLPOA)	9% retirement pick-up, discontinue 2% deferred comp, discontinue PARS (5% savings), cut one position (7%), limit annual cash out of leave to 80 hours. Recommend that members vote in favor of 10% cut in pre-July 2012 leave balances.	MOU SIGNED – See Attachment "A"
Unrepresented sworn employees	9% retirement pick-up, discontinue 2% deferred comp, discontinue PARS (5% savings), limit annual cash out of leave to 80 hours. Support plan that provides for 10% cut in pre-July 2012 leave balances.	Agreements SIGNED – See Attachment "A"
Mammoth Unified School District	Ice Rink: reduce lease payments by 10%	Discussions underway.

CREDITOR / "INTERESTED PARTY"	IMPAIRMENT PROPOSED: More detail	STATUS OF REACHING AN AGREEMENT
Mammoth Lakes Chamber of Commerce	Reduce contract amount by 10%	MOU SIGNED – See Attachment “A”
BRAVO GARDENS: Represented by Mammoth Sierra Properties	Reduce contract for Maintenance of Promenade (Main Street) and other Town properties by 10%	Discussions underway.
Mono County	Cancel the contract for the Whitmore Animal Control Shelter	
Mono County Sheriff	Reduce by 10% contract for Public Safety Dispatch	Discussions underway.
Steve Searles	Reduce by 10% contract for Wildlife Officer services	MOU SIGNED – See Attachment “A”
High Sierra Energy Foundation (HSEF)	CONTRACT CANCELLATION	N/A
Mammoth Lakes Tourism (MLT) Less return of the 5% TOT enhancement to MLT (see below) <i>Net MLT reduction</i>	Reduce annual funding (TOT and BLT) by 10% Less return of the 5% TOT enhancement to MLT (see below) <i>Net MLT reduction</i>	MOU SIGNED – See Attachment “A”
Mammoth Lakes Housing (MLH) Less return of the 5% TOT enhancement to MLH (see below) <i>Net MLH reduction</i>	Reduce contract amount by 10% Less return of the 5% TOT enhancement to MLH (see below) <i>Net MLH reduction</i>	MOU SIGNED – See Attachment “A”
Eastern Sierra Transportation Authority (ESTA) Less return of the 5% TOT enhancement to ESTA (see below) <i>Net ESTA reduction</i>	Reduce funding amount by 10%; and reduce contract vehicle service hours by up to 10%. Less return of the 5% TOT enhancement to ESTA (see below) <i>Net ESTA reduction - funding cut by 5%, vehicle service hours reduced by up to 5%.</i>	MOU SIGNED – See Attachment “A”

CREDITOR / "INTERESTED PARTY"	IMPAIRMENT PROPOSED: More detail	STATUS OF REACHING AN AGREEMENT
Hot Creek Aviation AND Hot Creek Aviation Management, LLC - Fixed-Based Operator (FBO) for the Mammoth-Yosemite Airport. Represented by Pat Foster.	At the FBO's request, restructure a contract that is no longer financially feasible, resulting in a \$135,000 annual revenue loss to the Town.	Agreement reached and SIGNED – See Attachment "A"
Hot Creek Development Agreement - Terry Ballas, Developer. Represented by Pat Foster.	Discussions underway.	
Hot Creek Companies. Represented by Pat Foster.		
Hot Creek FBO Facilities Group. Represented by Pat Foster.		
Hot Creek Hangar Group, LLC. Represented by Pat Foster.		
Union Bank	Discussions underway.	
Mono County Historical Society	Reduce annual audit contract amount by 10%	MOU SIGNED – See Attachment "A"

<u>NOT PARTICIPATING IN MEDIATION</u>		
Minaret Village Center	Town Administrative Offices: reduce lease payments by 10%	
Bradmont LLC	Police Building: reduce lease payments by 10%	Discussions underway.
Marcello & Co	Reduce annual audit contract amount by 10%	New contract delivered to the Town.

CREDITOR / "INTERESTED PARTY"	IMPAIRMENT PROPOSED: More detail	STATUS OF REACHING AN AGREEMENT
Citizens Business Bank	Debt term extension.	Conceptual agreement reached.
California Joint Powers Insurance Authority	10-year payment on past liabilities, amounting to \$1.4 million.	Conceptual agreement reached.
Mammoth Lakes Land Acquisition	Reduced payment on the \$43 million judgment (amount including interest and fees)	

2. Proposed Plan of Debt Adjustment

The Outline for Town of Mammoth Lakes' Proposed Plan of Debt Adjustment, to be filed with the Bankruptcy Court if MLLA never comes to negotiate and the Town determines to commence a Chapter 9 bankruptcy case, is also available on the Town's website (see the AB 506 mediation page). A copy is provided in Attachment "B".

B) State Court's Writ of Mandate to Pay MLLA the Full Judgment Amount

On February 2, 2012, MLLA filed a petition with the Mono County Superior Court, seeking a writ of mandate demanding the Town to pay the full \$43 million judgment. A State Court judge heard arguments from both MLLA and the Town on March 8, 2012, and on March 23, 2012 entered a writ of mandate that commanded the Town to: "(i) immediately take steps to obtain funds to satisfy the judgment; (ii) include in all current and future budgets provision to provide funds in an amount sufficient to pay satisfy [sic] the judgment; and (iii) pay to the Hot Creek Developers the amount of \$42,186,032.24, with additional interest accrued by law until the time of payment, by June 30, 2012, the end of the 2011-2012 fiscal year." The Writ also provided that "[i]f the Town believes payment of this amount by the end of the 2011-12 fiscal year is an unreasonable hardship, the Town should move this Court for permission to pay the amounts owed in equal annual installments over the course of 10 years with the required interest under Cal. Gov't Code § 970.6."

A copy of the writ is provided in Attachment "C".

C) FTI's Fiscal Forecast

The Town engaged a financial advisor, FTI, to assist with a long-term projection of its revenues and spending, and the corresponding forecast of the contemplated balancing measures. After taking into account the Town's baseline budget and the Budget Reduction Plan approved by the Town Council on June 20, 2012, the FTI model estimates that over the five-year forecast period, some \$3.6 million in net funds will be generated. After the five-year forecast period, some \$550,000 in annual funds are projected as available.

FTI's forecast is included in Attachment "D", was previously presented in a public meeting, and is available on the Town's website.

D) FTI's Tax Study

The Town also engaged FTI Capital Advisors to prepare an analysis of the Town's current tax burden and the impact of potential tax increases. The analysis was necessary to assess the feasibility of increasing taxes (with voter approval) to generate revenues to help satisfy the Town's debts and obligations, including the litigation judgment of Mammoth Lakes Land Acquisition (MLLA).

The FTI Tax Study concludes that the current level of taxation within the Town is already high, the Town's population is generally not wealthy, and the Town's economy is not likely to sustain additional tax burden.

FTI's Tax Study is included in Attachment "E", was previously presented in a public meeting, and is available on the Town's website.

E) Next Steps

The above State Court writ becomes effective on July 2, 2012 (the first business day after June 30, 2012). The Town is not able to pay the full \$43 million judgment, neither in full nor in 10-year installments that come with a 7% interest. If, by July 2, 2012, MLLA is not in mediation or otherwise has not reached out to the Town to work out a reasonable settlement, the Town and its leaders will evaluate other options available to them under the circumstances.

If the Town Council makes a legislative decision in order to provide direction to staff on any such next steps, appropriate legislation will be prepared and handed out during the meeting on July 2, 2012.

RECOMMENDATION:

Staff recommends that the Town Council provide direction to staff, and, if necessary, approve appropriate legislation.

Attachments:

- A – Copies of agreements reached in mediation. (Also available online.)
- B – Outline for Town of Mammoth Lakes' Proposed Plan of Debt Adjustment. (Also available online.)
- C – State Court Writ of Mandate.
- D – FTI's financial projections.
- E – FTI's Tax Study.

