

AGENDA

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF ST. LOUIS COUNTY, MINNESOTA



Tuesday, January 15, 2013, 9:30 A.M.

**County Board Room, Second Floor
St. Louis County Courthouse
100 N. 5th Avenue West
Duluth, Minnesota**

**CHRIS DAHLBERG, Chair
Third District**

**FRANK JEWELL
First District**

**STEVE O'NEIL
Second District**

**MIKE FORSMAN – Vice Chair
Fourth District**

**PETE STAUBER
Fifth District**

**KEITH NELSON
Sixth District**

**STEVE RAUKAR
Seventh District**

County Auditor
Donald Dicklich

County Administrator
Kevin Gray

County Attorney
Mark Rubin

Clerk of the Board
Roberta Museta

The St. Louis County Board of Commissioners welcomes you to this meeting. This agenda contains a brief description of each item to be considered. The Board encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Board when a motion is on the floor. If you wish to speak on a matter that does not appear on the agenda, you may do so during the public comment period at the beginning of the meeting. Except as otherwise provided by the Standing Rules of the County Board, no action shall be taken on any item not appearing in the agenda.

When addressing the Board, please sign in at the podium and state your name and address for the record. Please address the Board as a whole through the Chair. Comments to individual Commissioners or staff are not permitted. The St. Louis County Board promotes adherence to civility in conducting the business of the County. Civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issue before the Board. Tools of civility include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility [County Board Resolution No. 560, adopted on September 9, 2003]. Speakers will be limited to five (5) minutes.

****In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify Property Management 72 hours prior to the meeting at (218)725-5085.****

All supporting documentation is available for public review in the County Auditor's Office, 100 North 5th Avenue West - Room No. 214, St. Louis County Courthouse, Duluth, MN, during regular business hours 8:00 A.M. - 4:30 P.M., Monday through Friday. Agenda is also available on our website at <http://www.stlouiscountymn.gov/GOVERNMENT/BoardofCommissioners.aspx>

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9:30 A.M. Pledge of Allegiance
Roll Call

AT THIS TIME CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD ON ITEMS NOT ON THE AGENDA. [Speakers will be limited to 5 minutes each.]

FOR ITEMS LISTED ON THE BOARD AGENDA OR COMMITTEE OF THE WHOLE AGENDA, CITIZENS WILL BE ALLOWED TO ADDRESS THE BOARD AT THE TIME A MOTION IS ON THE FLOOR.

9:40 A.M. Public hearing, pursuant to Resolution No. 12-648, adopted December 11, 2012, to consider the suspension/revocation of county liquor licenses for failure to pay real estate or personal property taxes when due, pursuant to St. Louis County Ordinance No. 28. **{13-15}**

9:45 A.M. Public hearing, pursuant to Resolution No. 12-715, adopted December 18, 2012, to receive citizen comments on the Minnesota Investment Fund Disaster Recovery Financing Application. **{13-16}**

CONSENT AGENDA

Approval of business submitted on the consent agenda.

REGULAR AGENDA

ADJOURNED:

BOARD LETTER NO. 13 - 15

FINANCE & BUDGET COMMITTEE

JANUARY 15, 2013 BOARD AGENDA 9:40 A.M. PUBLIC HEARING

DATE: January 15, 2013 **RE:** Public Hearing for Suspension/
Revocation of Liquor Licenses for
Property Tax Non-Payment

FROM: Kevin Z. Gray
County Administrator

Donald Dicklich
County Auditor

RELATED DEPARTMENT GOAL:

Provide mandated and discretionary licensing services in a timely manner.

ACTION REQUESTED:

The St. Louis County Board is requested to hold a public hearing to consider the suspension/revocation of liquor licenses of any establishments in the county with property taxes not current.

BACKGROUND:

Pursuant to St. Louis County Ordinance No. 28, past due or delinquent real or personal property taxes assessed to the licensed premises must be paid in full at the time of application and thereafter must be paid when due. Failure to pay real estate or personal property taxes when due shall result in suspension of any liquor license until such time as the taxes are paid or the license expires or revocation. The County Board passed Resolution No. 12-648 dated December 11, 2012, setting a public hearing for January 15, 2013, to consider liquor license revocations for any such establishments.

RECOMMENDATION:

It is recommended that the St. Louis County Board consider suspension of liquor license holders who have failed to pay the required property taxes.

**Public Hearing for Suspension/ Revocation of Liquor Licenses
for Property Tax Non-Payment**

BY COMMISSIONER _____

WHEREAS, St. Louis County Ordinance No. 28 (Liquor Ordinance), Section 4.15, requires all licensed establishments to pay all real and personal property taxes when due; and

WHEREAS, ILI, LLC d/b/a Island Lake Inn, Gnesen Township, was issued Combination On/Off-Sale and Sunday On-Sale Intoxicating Liquor Licenses for the period of July 1, 2012, through June 30, 2013; and

WHEREAS, the establishment has past due or delinquent real or personal property taxes for the second half of 2012; and

WHEREAS, a public hearing was held on January 15, 2013, to consider suspension of the intoxicating liquor licenses for the establishment for failure to pay real or personal property taxes when due.

NOW, THEREFORE, BE IT RESOLVED, that Combination On/Off-Sale License No. CMB13130 and Sunday On-Sale Intoxicating Liquor License No. SUN13130 issued to ILI, LLC d/b/a Island Lake Inn, Gnesen Township, are hereby suspended effective _____, at _____ o'clock.

RESOLVED FURTHER, that said licenses will remain suspended until such time as the taxes are paid in full or the licenses expire or are revoked.

BOARD LETTER NO. 13 – 16

FINANCE & BUDGET COMMITTEE

JANUARY 15, 2013 BOARD AGENDA 9:45 A.M. PUBLIC HEARING

DATE: January 15, 2013 **RE:** Public Hearing on Minnesota
Investment Fund Disaster
Recovery Financing

FROM: Kevin Z. Gray
County Administrator

Barbara Hayden, Director
Planning and Community Development

RELATED DEPARTMENT GOALS:

Assist communities in achieving housing, economic development and community development objectives. Secure and administer federal, state and other funding which implements county policies and maximizes local resources.

ACTION REQUESTED:

The St. Louis County Board is requested to authorize an application to the Minnesota Department of Employment and Economic Development (DEED) for Minnesota Investment Funds (MIF) Disaster Recovery Financing to assist businesses to recover from the 2012 flood. The Board is further requested to adopt guidelines, authorize the Planning and Community Development Director to execute an MIF funding agreement with the state, authorize project loan agreements and all necessary actions to administer the MIF Disaster Recovery Financing.

BACKGROUND:

St. Louis County submitted an application for Minnesota Investment Fund Disaster Recovery Financing in November 2012. DEED requires the county to conduct a public hearing prior to the approval of the application. Following the public hearing, which was established by Board Resolution No. 12-715, the County Board is requested to reaffirm the actions taken in Board Resolution No. 12-588.

On August 24, 2012, state legislation was passed which provided \$15 million in the MIF Disaster Recovery Financing for local units of government to assist businesses impacted from the 2012 flood. MIF is designed to fund capital expenses, reestablish operations and ultimately retain and create jobs for businesses damaged in the flood. Assistance is provided in the form of an interest free loan that is 50% forgivable. Each

loan will have a 10 year term. One half of the principal amount will be amortized over nine years. No payment is required the first year. The remaining one half of the principal amount will be forgiven if the business remains in the community for the full 10 years.

DEED administers the MIF program and is currently taking applications for the 2012 MIF Disaster Recovery Financing. St. Louis County will serve as the sponsor and administer the program to St. Louis County businesses outside the City of Duluth, which will administer its own program.

Following media outreach and contact with individual businesses, the following two businesses are currently interested in pursuing MIF Disaster Recovery Financing:

1. Lake States Insulation, Proctor, MN. Proposed Application: \$150,000 for costs associated with clean up, repairs and loss of inventory.
2. Retreat Golf Course, Floodwood, MN. Proposed Application: \$15,000 for costs associated with repair of tee boxes and cart paths.

The county will be responsible for collecting information from businesses and submitting annual reports to DEED. It is recommended that the county proceed with an application for \$170,000, \$165,000 in loans and \$5,000 the amount allowed to cover administrative expenses.

RECOMMENDATION:

It is recommended that the St. Louis County Board authorize an application in the amount of \$170,000 to the Minnesota Department of Employment and Economic Development for Minnesota Investment Fund Disaster Recovery Financing, approve the MIF guidelines, authorize the Planning and Community Development Director to execute the state grant agreement and all other necessary documents to accept the MIF Disaster Recovery Financing, and further authorize the execution of loan agreements with Lake States Insulation and the Retreat Golf Course in accordance with all St. Louis County and Minnesota Department of Employment and Economic Development requirements. Funds will be deposited in and dispersed from Fund 176, Agency 176999, Grant 17601, Year 2012.

Public Hearing on Minnesota Investment Fund Disaster Recovery Financing

BY COMMISSIONER _____

WHEREAS, on August 24, 2012, state legislation was passed which provided \$15 million in the Minnesota Investment Fund (MIF) Disaster Recovery Financing for local units of government to assist businesses impacted from the 2012 flood; and

WHEREAS, the Minnesota Department of Employment and Economic Development is currently taking applications for the 2012 MIF Disaster Recovery Financing; and

WHEREAS, two St. Louis County businesses have requested MIF Disaster Recovery Financing and an application for \$170,000 will be prepared to include funding Lake States Insulation for \$150,000, the Retreat Golf Course for \$15,000 and administration for \$5,000.

WHEREAS, the St. Louis County Board conducted a public hearing on January 15, 2013, at 9:45 a.m. at the St. Louis County Courthouse in Duluth, Minnesota, for the purpose of receiving public comments on the Minnesota Investment Fund Disaster Recovery Financing application.

NOW, THEREFORE, BE IT RESOLVED, that St. Louis County act as the legal sponsor for projects contained in the \$170,000 Minnesota Investment Fund Disaster Recovery Application to be submitted on or about January 16, 2013, and that the St. Louis County Planning and Community Development Director is authorized to apply to the Minnesota Department of Employment and Economic Development for funding on behalf of St. Louis County.

RESOLVED FURTHER, that St. Louis County has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate administration of the projects.

RESOLVED FURTHER, that St. Louis County has not violated any federal, state, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

RESOLVED FURTHER, that St. Louis County adopts the St. Louis County Guidelines for administering the Minnesota Investment Fund contended in Board File No. _____.

RESOLVED FURTHER, that upon state approval of the application, St. Louis County may enter into an agreement with the state of Minnesota for the MIF Disaster Recovery Financing and that St. Louis County certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

RESOLVED FURTHER, that the St. Louis County Planning and Community Development Director is authorized to execute such agreements, and amendments thereto, as are necessary to implement the projects on behalf of St. Louis County.

RESOLVED FURTHER, that the St. Louis County Planning and Community Development Director and a representative of the County Attorney are authorized to execute loan agreements and all necessary documents for the approved projects.

RESOLVED FURTHER, that funds be deposited into and dispersed from Fund 176, Agency 176999, Grant 17601, Year 2012.

**St. Louis County Guidelines for
Administering Business Recovery Funds
Awarded through the
Minnesota Investment Fund (MIF)
Adopted on: October 23, 2012 Resolution No. 12-588**

I. Purpose of Guidelines

The purpose of these guidelines is to establish policies and procedures to regulate, coordinate and facilitate the process for underwriting new financing requests, servicing recovery loans, and ensuring borrower compliance with loan terms and conditions. These guidelines must be used for the administration of the MIF funds, however, under extraordinary circumstances exceptions may be made with permission from the MN Department of Employment and Economic Development.

II. Authorization and Funding Sources

Minnesota Statute 12A.07 and Chapters 1 and 2, 2012 1st Special Session authorize the distribution of financial assistance to local units of government in the area designated under Presidential Declaration of Major Disaster, DR-4069. Counties and tribal lands included in the declaration are: Aitkin, Carlton, Cass, Cook, Crow Wing, Dakota, Goodhue, Itasca, Kandiyohi, Lake, Meeker, Pine, Rice, Sibley, St. Louis, and the Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, and the Mille Lacs Band of Ojibwe.

St. Louis County (County) has requested funds to administer a local loan program to assist a business, cooperative, utility, commercial, retail and/or nonprofit organization that was directly and adversely affected by the June 2012 flood. The County has contracted with Northspan Group Inc. (Northspan) which will administer the program. The Business Recovery Loan Fund was capitalized by an appropriation of the Legislature of the State of Minnesota through the Minnesota Department of Employment and Economic Development.

III. Equal Opportunity and Affirmative Action

No one shall be denied assistance based upon race, color, creed, religion, national origin, sex, marital status, age, familial status, or disability. All loan recipients, developers, contractors and subcontractors must agree not to discriminate in any manner against an employee or applicants because of race, color, creed, religion, sex, marital status, age, familial status, or disability.

IV. Conflict of Interest

All officials and employees shall comply with the applicable conflict of interest laws set forth in Minnesota Statutes Section 471.87 and 471.88.

V. Staff Responsibility

County staff or its agent shall have the general responsibility for coordinating the application process, reviewing loan applications, preparing applications and summaries for review by the review committee, and coordinating the loan approval and servicing process.

VI. Eligibility

A. Eligible applicants.

1. Applicants may be any business, cooperative, utility, industrial, commercial, retail and or non-profit organization including those nonprofits that provide residential, health care, child care, social, or other services on behalf of the Dept. of Human Services to residents included in the disaster area.

2. Business applicants must be organized as a proprietorship, partnership, LLC, or a corporation.
 3. Applicants must have been in operation before June 14, 2012.
- B. Eligible activities. Loan funds may be used to assist businesses only in their recovery efforts but are not available to provide relief from economic losses.
- C. Eligible costs. Eligible costs may include the following: repair of buildings, leasehold improvements, fixtures and/or equipment, loss of inventory, and cleanup costs.

VII. Ineligible Activities

- A. Ineligible applicants. Any applicants not meeting the eligibility requirements are not ineligible to receive recovery loan funds.
- B. Ineligible activities. Funds may not be used for lending or investment organizations, land speculation, or any deemed illegal by federal, state, or local law or ordinance.
- C. Ineligible costs. Ineligible costs include but are not limited to: economic injury losses, relocation, management fees, financing costs, franchise fees, debt consolidation, moving costs, refinancing debt existing prior to the date of the disaster, June 14, 2012 and operating costs.

VIII. Loan Application

- A. Application process. All parties seeking recovery loan funds must file an application with the county. Applicants are encouraged to use DEED's Business Recovery Application, however, SBA application forms may be substituted, as long as the additional information as detailed in the application is submitted.
- B. Application information. Only completed applications will be reviewed for consideration. Submittal of the following information constitutes a complete application:
1. MIF Recovery Loan Fund Application;
 2. SBA Business Disaster Application, if applicable.
 3. Regional development organization or responsible local government application, if applicable;
 4. Administrative contact;
 5. Documentation through financial and tax records that the business was a viable operating entity at the time of the disaster;
 6. Amount of loan request;
 7. Business release for local government to review SBA damage assessment/loss verification, if applicable;
 8. Proof of loss statement from insurer; if not available, a letter from the insurance company stating insurance coverage;
 9. Documentation of damages incurred; this could include third party loss verification as provided by the SBA, insurance Proof of Loss statement, photographs, etc.;
 10. Construction cost estimates;
 11. Invoices for work completed;
 12. Quotes for Equipment;
 13. Proposed security;
 14. Applicant's historical financial statements for the 24 months immediately prior to the application date;
 15. Credit check release;
 16. Ownership or lease agreements of the subject property;
 17. Number of jobs to be retained and wages paid for those jobs;
 18. Property taxes paid and current;
 19. Judgments, tax and other liens, agreements, consent decrees, stipulations for settlements, or other such actions which would prevent the applicant from participating in any program administered by the responsible local, state, or regional government;

20. Compliance with all applicable local ordinances and plans;
21. Business Tax Identification Number;
22. Owner's Encumbrance Report from the county Recorder's Office; and,
23. Other documentation as requested.

- C. Incomplete applications. County staff, in its sole discretion, will determine if the application is complete and actionable. Incomplete applications will be assigned pending status and the applicant will be informed in writing of the missing documentation.
- D. Determination of eligibility. Applicant eligibility will be determined by staff using criteria enumerated in subsection VI. A. A credit check for the company and each of its principal owners may be conducted.

IX. Loan Review Process

County staff or agent will prepare loan applications and present summary information to the Review Committee.

- A. Loan Review Committee. The St. Louis County Auditor, Attorney and Director of Planning and Community Development or their designee will serve as the loan review committee. Anyone employed by Northspan cannot be a member of the Review Committee. The final determination on all recovery loan applications rests with the Review Committee.
- B. Review Committee agenda. Upon determining the eligibility of the completed application and reviewing for soundness of plan, including ability to repay, County staff will place the loan application on the agenda for the Committee's next scheduled meeting.
 1. Criteria. The Review Committee will base its decision on the economic benefit to County, the collateral offered to secure the loan, the number of jobs to be retained, wage rates of jobs retained and the borrower's ability to repay the loan.
 2. Review committee action. Upon placement on the agenda, the Review Committee shall approve, deny, or table for consideration at a future meeting the loan application request.
 3. Notification of Review Committee action. The applicant shall be notified in writing within fourteen (14) days of the Review Committee's decision.
- C. Approval. If approved, the applicant will be sent a written commitment letter that will outline the terms and conditions of the loan approval. County staff will prepare documentation and coordinate the loan closing with the Borrower or the Borrower's counsel.
- D. Loan denial. The Review Committee will not approve a loan if the applicant cannot provide: 1) firm project costs; 2) documentation of loss; 3) job retention; 4) ability to repay the loan. The Committee will consider Conditions 1, 2, and 3 as priority in reviewing the loan.
- E. Appeal. There will be a complaint and appeal procedure for aggrieved applicants:
 1. Written notice. Applicants will receive written notice of the denial of the loan and the reason(s) for the determination within fourteen (14) days of the determination.
 2. Petition. The aggrieved applicant may petition the Review Committee in writing for reconsideration within fourteen (14) days from the date of the written notice of denial. Any request to appear before the Committee must be in writing and must be submitted at least seven (7) days prior to the Committee's scheduled meeting. Upon receipt of the written petition for reconsideration, the Review Committee shall consider the petition at its next scheduled meeting and advise the petitioner in writing of its decision within fourteen (14) days of that meeting. The Committee's decision will be final.
 3. Re-application. Applicants aggrieved by the Committee's final decision may re-apply for recovery loan funds after ninety (90) days if the concerns in the preceding application are adequately and appropriately addressed.

4. Notice of award or denial. Applicants will be notified in writing not more than fourteen (14) days after final action has been taken on their recovery loan fund application by the Review Committee.

F. Upon approval by the Review Committee, the recovery loan application and the Review Committee's recommendation will be sent to DEED for final approval.

X. Loan Terms and Conditions

The County shall make available to eligible applicants an interest free loan of which fifty percent (50%) will be forgiven if the business remains in operation at the same location in the county for ten years.

A. Loan Terms.

1. Loan amount. The loan amount available is based on a documented need for the financing, less insurance proceeds. The minimum loan amount available for businesses located in counties served by the Northland Foundation is \$5,000 (or higher if grant award is higher). The minimum may increase (i.e., lower MIF loan) if equivalent assistance is available from other sources or other funding is available through other programs funding through Chapters 1 and 2, 2012 1st Special Session.
2. Installment loan. Fifty percent (50%) of each loan will be an installment loan amortized over nine (9) years which will be repaid to the County and remitted to DEED on an annual basis
4. Deferred payments. Payments will be deferred for the first year from the date of the loan.
5. Forgiveness. Fifty percent (50%) of each loan may be forgiven if the business remains in operation for ten (10) years from the date of the loan. If the business closes or moves during the 10-year period, the remaining outstanding balance of the loan will be due and payable.

B. Balance due. All balances will be due and payable if and when the loan recipient sells or otherwise transfers any or part of his/her interest in the property or fails to meet any of the guidelines established within this document or moves out of the community during the 10-year period.

C. Collateral requirements. All loans will be collateralized to the extent possible. The recovery fund may take a subordinate position to the primary lender on the assets financed. Mortgages and security agreements will be required for all loans.

D. Personal guaranty. Personal guarantees of persons with ownership interest of 20% or greater may be required.

E. Loan repayments. Repayment of the loan must begin no later than one year following loan closing.

F. Loan prepayment. Prepayments are permitted where the Borrower makes the County whole for any losses or costs associated with the prepayment.

G. Loan closing documents. The County will close the loan within sixty (60) days of final Review Committee approval of the loan application. At that time, the County will deliver to the Borrower all closing documents and a final debt service schedule. All loans must be closed no later than December 31, 2013.

H. Post-closing amendments and modifications. Requests for amendments and modifications following award, closing or disbursement of funds to the underwriting of the original request require Review Committee approval and shall be presented at the next scheduled meeting of the Board.

XI. Delinquency

There shall be a notification procedure for delinquent loans.

- A. The County Auditor is responsible for the timely posting and accounting of all loan repayments.
- B. Thirty day notice. Upon thirty (30) days delinquency, the County Auditor will notify the County Director of Planning and Community Development of the delinquency and the Director shall send the borrower a delinquency notice requesting payment within fifteen (15) days.
- C. Forty-five day notice. If payment has not been received by the 45th day, a second delinquency notice will be sent to the Borrower by the Director of Planning and Community Development requesting payment within fifteen (15) days.
- D. Sixty day notice. If payment has not been received by the 60th day, the Director of Planning and Community Development will attempt to contact the Borrower by telephone to discuss the delinquency. The Director shall also send a notice of default to the borrower via certified mail requesting immediate payment and advising the borrower that the delinquency will be placed on the County Board agenda for discussion at the next scheduled meeting.
- E. Ninety day notice. If no repayment plan is submitted by the Borrower, or if there is no attempt by the Borrower to negotiate the amount due, the Director of Planning and Community Development will contact the County Administrator and the County Attorney to discuss sending a 90 day letter calling due the loan in full.
- F. Negotiation. Throughout this process, every attempt will be made to preserve the borrower's business operation, the jobs and the loan funds.

XII. Default

If the County determines a loan to be in default, it will pass a resolution declaring the entity in default and convey the matter to the County Attorney for disposition.

XIII. Loan Servicing

County staff will coordinate loan servicing activities.

- A. Monitoring. County staff will monitor loans for compliance with the accepted terms and conditions including job creation statistics and wage and benefit levels.
- B. Reports. County staff are responsible for ensuring that all required reports are filed in a timely manner.
- C. Records. Electronic files and conventional paper files will be maintained for the purpose of documenting, tracking, and monitoring program and project activities. Program and financial records will be maintained primarily by the County. Where applicable, the following records will be maintained:
 - 1. Program records. The following program information will be maintained in the program project file, including but not limited to:
 - a. Eligibility determination records as set forth in Section VI, A, B and C;
 - b. Review Committee Actions of Record;
 - c. Correspondence;
 - d. Loan documents and executed loan agreement.
 - e. Business Loan Application as set forth in Section VIII.
 - 2. Financial records. The following financial information will be maintained in the financial project file, including but not limited to:
 - a. Copy of the executed loan agreement;

