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Beware the Sucker Bet, Part 1

"We don't seem to matter. It's all about money... not what is best for the town or the county." – then-Wawarsing-Supervisor Richard Craft, 2002

"I think the county and the town of Wawarsing need an expert on Indian gaming on their side so we know what questions to ask. We're in there asking questions, but we don't know what questions to ask because we've never been involved with it." – County Legislator Richard Parete, 2002

Remember the Modocs? Whatever happened to them? The Modoc tribe is a group of Native American people who originally lived in the area that is now northeastern California and central-southern Oregon. They are currently divided between Oregon (600 members) and Oklahoma (160-200). The smaller Oklahoma branch, which operates bingo and off-track betting in that state, sent representatives to Ulster County in 2002 to build a \$250-million-plus casino, even though, while a federally-recognized tribe, they were not one of the seven tribes identified by the U.S. Bureau of Indian Affairs as having land claims in New York, a necessary pre-requisite.

By 2003, the tribe had unveiled plans for the *Catskills Casino Resort*, a 950,000-square foot gaming hall and hotel the tribe hoped to build in 2004 in the town of Wawarsing on the Kelly Farm property along Route 209. According to the *Kingston Freeman* (from which most of this narrative is drawn), "the Catskills Casino Resort would have included a roughly 155,000-square-foot casino, 40,000 square feet of meeting and convention space, 600 hotel rooms, a 2,000-seat theater and parking for 3,000 cars and 100 buses, trucks and recreational vehicles. Food-service establishments also would be part of the development, though no information about the number and size of such establishments has been provided. The casino's general gaming area would have 3,025 gaming positions, a 60-seat Keno room, a 200-seat race book room, a bingo hall, and support functions."

This was after closed and secretive 2002 hearings where county legislators Todd, Gerentine, and Cummings (primarily, as part of a select committee) concluded a thick contract with the Modocs that was rammed through a legislature given only a few hours for *some* to read it, and 15 minutes to accept or reject the deal. Justifying the rush, Gerentine "made it clear that they would go straight to the state if the Legislature did not approve the resolution Thursday. 'The tribe said we can walk out of this room, and not deal with you at all,' he said." (One interesting provision was that the county government had to promote the tribe and casino, and only say positive things, or they could lose their share of the revenues!)

These contracts were drafted behind closed doors in Kingston even before relevant local officials in Wawarsing, Ellenville, the school districts, the fire districts, the Chambers of Commerce, etc. even knew about it. "Gerentine said the effect of a casino on roads, emergency services, and the school districts will be dealt with later."

In 2003, in spite of this bad start, the legislature renewed the contract for three years, although without conducting the promised study to review it more closely, or the impacts of casino gambling on Ulster County; many still felt bullied into signing on by threats of litigation from the Modoc's then-attorney, David Lenefsky. (Remember Lenefsky? He was the self-described "smart guy" unaware that much of Route 209 handling the bulk of new traffic to the casino was in Sullivan County, outside the purview of any Ulster agreement. He hasn't disappeared, as you will see!) "I asked him what happens if we take a step back to assess this project, and study the impact on local communities," said Legislator Richard Parete, D-Accord. "He said, 'We're going to sue you.'"

Wawarsing Supervisor Craft seemed to have his original umbrage mollified after Lenefsky handed him a \$5,000 check to "defray" some Town expenses. Ellenville Village Manager Elliott Auerbach, however, asked that the contract "be returned to committee until we can be confident that it represents not only the best interests of county government but also of the town of Wawarsing and the village of Ellenville." (As we'll see, he's similarly been induced to change his tune.)

The contract offered the county \$15 million per year for seven years only, a number based on a \$5 million per year figure in comparable Sullivan County negotiations, which figure itself was later revealed to have been pulled out of thin air, and not based on any reasonable percentage of expected casino profits, or expected municipal costs for increased services or infrastructure maintenance.

A major concern voiced by most local officials (besides being left out of the original discussions and negotiations) was that those who would most be affected by the presence of the casino – the local municipalities who had to provide water, sewer, police, fire, school, road maintenance, etc. – had no guarantees they would ever receive any of the proposed revenues, but would have to beg the county for every penny.

(Meanwhile, and rarely mentioned, the lion's share of the profits, perhaps 30%, were ultimately going to, if I recall correctly, an Indonesian billionaire, who was simply using the small tribe as a front for what could have been a \$300 million per year operation. Oh, then there's the cut for sharp lawyers like Lenefsky. Maybe some as well for the campaigns of local politicians who play ball up front and were willing to do the casino interests' bidding in the future, as is often the case.)

All this eventually evaporated, for a variety of reasons. (Supervisor Craft's 2002 comments – "It's coming and we've got to be ready for it" – seem wistfully non-prescient in retrospect.) And I can't recall any of us actually even getting to see a single Modoc! Yet, along with the county jail debacle, the bad taste this left was likely a major reason for the change of majority party in Kingston in 2005. But I present all this as context, for as a 2002 article notes, in passing: "The Modocs are affiliated with the Western Mohegans, who own the Tamarack Lodge in the Wawarsing hamlet of Greenfield Park. But that tribe also lacks any federal recognition and has been unsuccessful so far in its own effort to open a gaming hall."

Which brings us to 2008, and déjà vu all over again.

As noted in recent articles and editorials, the Ellenville and Wawarsing Boards passed resolutions supporting the so-called Western Mohegans in their attempt to get the required state tribal recognition... necessary to get county legislature support... which is necessary to get state legislature support... for building a casino on their "reservation" at the Tamarack.

As one can see, this is a carefully planned and stacked house of cards. Without state recognition, no casino plans can proceed; but if local governments give tacit approval of a tribe's "legitimacy" and, more importantly, give their blessings for a casino in the town, the county has said it will consider it, and county support is what state officials such as Senator Bonacic have cited is needed for their own support.

Although there has been a recent attempt by "Chief" Roberts, his financial backers, and attorney David Lenefsky (I told you he hadn't vanished!) to whitewash his past and discredit news articles about him, they have NOT refuted the simple facts of his actions, as reported, and the evidence that led to subsequent rulings by courts and government agencies.

The Village Board should NOT have acted so quickly to just rubber stamp the resolution without having done this basic research, which casts doubts on anything Roberts, his "tribe," his lawyer, or his backers say or promise.

The Village Board has NO understanding of the requirements needed to recognize a tribe or tribal leader as authentic; to petition the state or U.S. to recognize as authentic an entity simply because the Village *might* stand to gain some future revenues (what some might call a "bribe," and there's NO guarantee that the monies would even be there, or that a sovereign tribe – once recognized as such, see? – has to honor promises) flies in the face of due process and prudent action.

It now seems clear that Roberts and his attorney are simply *using* the Village and Town to bypass proper official and *knowledgeable* agencies to get recognition it can't otherwise obtain, and grease the skids towards getting a mega-casino, as the county and state won't move on a casino application without local government approval.

Responsible boards using proper due diligence wouldn't have even considered backing such ploys; *revoking* the resolutions pending further study would be a prudent step.

Next: More on the so-called Western Mohegans, former so-called "Chief" Roberts, and what the Village and Town should be doing instead of swallowing more suspicious hokum. And the FACTS about casino gambling, and why it's the ultimate sucker bet for a community.