

# GUEST OPINION: What's been happening with your county's finances

By **Staff Reports** - February 18, 2021



*Kevin Fleming*

*By KEVIN FLEMING, guest columnist*

Two issues that are interconnected in Brown County have maintained a high level of interest. One is, of course, the impact the pandemic is having here. The other concerns a consequence of the pandemic, namely the situation regarding the Brown County Music Center. BCMC has been unable to generate any revenue since the spring of 2020.

On Dec. 8, the county announced receipt of about \$494,000 in federal funding from the CARES Act, passed by Congress and signed March 27. That presented county officials with the responsibility to properly administer those funds.

That's not been a smooth path for them to follow by any means. Before the funding was received, there was a change in determining what expenditures could be reimbursed and how to obtain reimbursement. But some things did not change. The funds were intended to reimburse expenditures of local tax funds, and explicitly not to replace revenue lost due to the pandemic. The requirement to follow longstanding procedures in accounting for the receipt and subsequent use of the funds remained, such as putting it in the county general fund and creating appropriations prior to spending it.

These considerations were central to actions recently taken by the commissioners, the county council, the county auditor and a BCMC representative. A hint about what was in the works first appeared a few months ago at a commissioner meeting when commissioner Biddle discussed the use of then-anticipated CARES funds to pay the BCMC rent for county use of the music center for socially-distanced meetings. The idea seemed sound to me, but the amount, \$239,000, seemed ridiculously excessive. I asked how the figure was determined. The answer was non-responsive.

What neither I, nor more importantly, apparently any other county officeholder knew about was a memorandum of understanding (MOU) signed by commissioner Biddle, representing the county (she also represents the Maple Leaf Management Group/BCMC as a board member) and Christian Webb, BCMC executive director and employee of the Maple Leaf Management Group board and Biddle. It creates an agreement made by commissioner Biddle and her employee for the county to pay \$239,000 to BCMC, covering rent Aug 1, 2020, through Dec. 31, 2020, with no explanation of how the rent was calculated.

The MOU bears no other signatures representing the commissioners or county council. It was not discussed at any commissioner meeting prior to the Jan. 19 county council meeting, where multiple council members asked how the rent amount was derived. It was never previously discussed or voted upon by the county council in public. The only way another commissioner could know about it was to discuss it with commissioner Biddle outside of a public meeting. Indiana's Open Door Law prohibits that.

The MOU further commits the county to pay for liability insurance for the music center, including auto liability. And it provides for the terms to be continued in 2021. The county council had the \$239,000 payment on the agenda for its Dec. 28 meeting, but President David Redding said that he wanted more information about what was included in the amount. Action on the matter was postponed and put on the council meeting agenda for Jan. 19.

During discussion on the matter on Jan. 19, Webb said the \$239,000 was based upon the amount BCMC charges touring performers to rent the facility for an event, \$10,000, minus a 30 percent discount. I asked commissioner Biddle if the payment amount also included insurance premiums as indicated in the MOU. Her answer was that "It's for any expenditures the music center might need it for." That describes the \$239,000 payment unequivocally as a subsidy for the music center, not a rent payment.

The music center was still on the drawing board on Nov. 28, 2017, when an article covering a county council meeting ran in The Democrat. The article reported: "Before the council voted, council President Dave Critser told the audience twice that income and property taxes would not be used to pay for the venue." It quoted Critser about paying for the venue with property taxes, "No, they can't," Critser said. "You can't pass something and then turn around and start dumping it on the taxpayers." Commissioner Biddle was quoted regarding "putting county taxpayers on the hook" as replying that the county "can't do a bait-and-switch that way." Neither has refuted the article. Commissioner Jerry Pittman has stated the same at more than one commissioner meeting since the pandemic began.

Those assurances were dishonored by the county council on Jan. 19. County officeholders may dismiss this with the notion that the \$239,000 is "COVID reimbursement money." One purpose of the CARES Act was to reimburse local governments for the unanticipated expenditures of tax money because of the pandemic. It's a reimbursement of that expenditure of county tax money, just as surely as if the county bought a fleet of vehicles for the sheriff's department, then returned them as lemons. The reimbursement for those lemons would certainly be a return of county tax money. So is COVID reimbursement money.

The State Board of Accounts issued a directive requiring that COVID reimbursement be receipted into the general fund where "normal appropriation procedures apply." But giving some of that money to the music center replaces its lost revenue, which contradicts the federal government guidelines that it cannot be used to replace lost revenue.

Council Vice president Critser rationalized his support for giving money to the BCMC as okay because the money wasn't coming from the county general fund. First of all, the belief that all tax money is in the general fund is incorrect. Collected tax funds are receipted into many funds in addition to the general fund. And Critser apparently didn't know what the county auditor confirmed to me by email earlier in the day, that the \$494,000 CARES reimbursement money received was, in fact, in the general fund.

This sad story may get worse. The extremely complicated arrangements concocted in creating BCMC include a document called "Installment Purchase Contract." It's a contract wherein the county is purchasing the music center with payments of innkeepers tax money used to pay the music center mortgage payments. And one of its provisions gives the county access to the building. If you're wondering why the county would owe rent for building access it's already been granted in exchange for funding the mortgage payments, you're thinking what I'm thinking.

There could be more fallout. The county council adopted additional appropriations totaling about \$50,000 to cover overdrawn appropriation balances on Dec. 28. But neither advance notice to the Department of Local Government Finance, nor advance public notice in the newspaper, both of which are required by state law, were made. An appropriation was also needed to pay rent to the music center but likewise not complied with.

These are events that will likely be in the final report of the next State Board of Accounts audit. The SBOA will audit CARES reimbursement to the county, and it's possible the county will have to repay these funds back to the Indiana Finance Authority from which they came.

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