

**TULARE COUNTY INDIAN GAMING
LOCAL COMMUNITY BENEFIT COMMITTEE**

10:00 A.M. JULY 24, 2013

**MEETING NOTICE
TULARE COUNTY
BOARD OF SUPERVISORS CHAMBERS
2800 W. BURREL AVE.
VISALIA, CA 93291**

NOTICE TO THE PUBLIC - PUBLIC COMMENT PERIOD

At this time, members of the public may comment on any item not appearing on the agenda. Under state law, matters presented under this item cannot be discussed or acted upon by the Committee at this time. For items appearing on the agenda, the public is invited to make comments at the time the item comes up for Committee consideration. Any person addressing the Committee will be limited to a maximum of three (3) minutes so that all interested parties have an opportunity to speak. At all times, please state your name and address for the record.

AGENDA

- 1. Call to Order & Roll Call**
- 2. Public Comment**
- 3. Approve Minutes from the May 15, May 22, and June 19, 2013 meetings**
- 4. Review Letter to the State Attorney General regarding the letter sent to the City of Porterville requesting the return of \$217,313 in grant funds to the State**
- 5. Membership Roster Update**
- 6. By-Laws Discussion**
- 7. Direct Staff to Begin Circulating Proposed By-Law Amendments**
- 8. Next Meeting: TBD**
- 9. Adjourn**

Contact Person: Jed Chernabaeff or John Hess, Tulare County Staff (559) 636-5005

As a courtesy to those in attendance, please turn off or place in alert mode all cell phones and pagers.

Information concerning items on this Agenda is available for public consideration during normal working hours at the Board of Supervisors office at 2800 W. Burrel Ave., Visalia, CA 93291. The staff will assist in answering questions.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk of the Board's Office at (559) 636-5000.

CLOSED SESSION

NOTICE TO THE PUBLIC CLOSED SESSIONS

As provided in the Ralph M. Brown Act, Government Code sections 54950 et seq., the Tulare County Indian Gaming Local Community Benefit Committee may meet in closed session with members of its staff, employees, and its attorneys. These sessions are not open to the public and may not be attended by members of the public. The matters the Committee will meet on in closed session are identified below or are those matters appropriately identified in open session as requiring immediate attention and arising after the posting of the agenda. Any public reports of action taken in the closed session will be made in accordance with Government Code sections 54957.1

It is the intention of the Committee to meet in closed session concerning:

ITEM A

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Litigation [Government Code Section 54956.9 (d)(2)]

Number of Potential Cases: 2

Review Letter to the State Attorney General regarding letter sent to the City of Porterville requesting the return of \$217,313 in grant funds to the State. Tulare County Indian Gaming Local Community Benefit Committee agenda item July 24, 2013.

As a courtesy to those in attendance, please turn off or place in alert mode all cell phones and pagers.

Information concerning items on this Agenda is available for public consideration during normal working hours at the Board of Supervisors office at 2800 W. Burrel Ave., Visalia, CA 93291. The staff will assist in answering questions.

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**Tulare County Indian Gaming Local Community Benefit Committee
Minutes
May 15, 2013**

COUNTY ADMINISTRATION BUILDING

Present: Robin Skiles, Kenneth McDarment, Mike Ennis, Joe Garcia, Cameron Hamilton, Rhoda Hunter (Tule Representative – Alternate)

Absent: John Crivello (County Representative – Alternate), Nancy McDarment

Staff: Jed Chernabaeff, John Hess, Nina Dong

Public: John Lollis, Greg Shelton, John Lollis, Glenn Irish, James Diaz, Allison Pierce

1. **Call to Order & Roll Call 10:02 A.M.** – Prior to roll call, staff John Hess read a letter from the Tule River Indian Tribal Council regarding LCBC membership. The letter stated the Tribe withdrew their endorsement of Mutually Selected Member Gilbert Ynigues and Mutually Selected Member – Alternate Michael Waters. In addition, the Tribe withdrew Holly Bella as Tribe Representative – Alternate and replaced her with Rhoda Hunter. The letter also stated that the County should consider Greg Shelton and Willie Garfield as Mutually Selected Members.

Staff acknowledged that Ynigues and Waters were no longer members of the LCBC and that a formal recruitment process would have to take place to fill the vacancies.

Mike Ennis recommended that the Committee amend its bylaws at a later date to allow Mutually Selected Members to serve at least one grant cycle when appointed. Robin Skiles recommended that the Committee also consider adding a provision regarding the time in which the Committee is notified of a Mutually Selected Member losing support.

Cameron Hamilton announced his resignation and indicated that he will be submitting a formal resignation letter at a later date.

Staff noted the following Committee members in attendance: Mike Ennis, Joe Garcia, Robin Skiles, Rhoda Hunter (Alternate), and Kenneth McDarment were present.

After Roll Call, Greg Shelton approached the Committee and stated it was the intent of the tribe to appoint Willie Garfield as the Committee Alternate, which, in the original bylaws, states there is only one alternate to the Committee. Shelton believed by his interpretation of the original bylaws, Garfield should be the only alternate. Shelton cited Article II,

Section II of the original bylaws, which he said stated that one alternate was to fill a vacancy of the Committee, regardless of the position. Staff read Article II, Section II of the amended bylaws, which states each Committee position type – County, Tribe, Mutually Selected – each has one alternate.

Shelton contended that the Bylaws have never been amended. Staff indicated the Bylaws had been amended. Shelton asked to see the minutes that reflect the action that the Committee took to amend the Bylaws.

Rhoda Hunter asked what date the Bylaws were amended. Shelton said September 2, 2005.

At 10:17 a.m., the Committee took recess so staff could locate the minutes which reflect the Committee's past action to amend the bylaws to reflect three alternate positions on the Committee.

At 10:26, the meeting was brought back to order. Staff presented the minutes from the meeting (March 3, 2005) that approved the Bylaw changes that allowed three alternates on the Committee.

Greg Shelton asked to see the minutes that staff mentioned. Shelton then contended that the Bylaws did not remove the original alternate, which he said would be able to fill any vacancy on the Committee. Shelton recommended that the Committee should not make any decisions today until the legality of positions filled is cleared up.

Rhoda Hunter said the footnote on the bylaws were confusing because the footnotes did not include what the bylaw changes were.

Counsel suggested that the Committee could continue the meeting until the issues was addressed.

Robin Skiles suggested the meeting be continued one week so issues could be addressed.

2. Public Comment:

Porterville City Attorney Julia Lew thanked the Committee for moving the meeting back one week. Lew had concerns about the meeting being properly noticed. Lew had a comment about item number five, since Porterville didn't receive the letter until Monday, May 13. Lew said she needs to go over it with the Porterville City Council so they could craft a response to the Committee. Lew said she wanted to voice concerns

from a legal standpoint. Lew wanted clarification to see if letter is a rescission of the committee of its original decision to award grant funds in previous fiscal years. The committee made the decision to grant those funds to Porterville. Lew reminded the Committee that there may be consequences because the Porterville has used those funds based on the decision of the Committee to grant those funds. Lew said Porterville will submit a formal response to the Committee.

Kenneth McDarment asked if Porterville had to pay back the funds, why the rest of the applicants shouldn't have to pay back the funds as well.

Robin Skiles said the letter was sent based on the opinions of Committee Counsel and the State Office of Legislative Counsel that the City of Porterville did not qualify for the 60 percent Nexus.

Kenneth McDarment said he thinks everybody should have to pay money back.

Robin Skiles said there were other applicants that qualified for the 60 percent Nexus.

Member of the public James Diaz said he understands there are legal steps, but asked the Committee to use common sense and do the best thing for the people of Tulare County. Diaz said his opinion is that Porterville deserves the money. Diaz said the money should be returned to the state.

Robin Skiles noted that the money would go back to the state.

Greg Shelton said if the Committee wanted to effectively say they felt the City of Porterville improperly received the money then the Committee would have to acknowledge that they made a mistake and sue themselves. Greg Shelton said the liability should probably fall on the Committee members for improperly giving money to the City of Porterville. In addition, Greg Shelton said, there is a clause in the original sponsorship letter that states if there is any legal challenge by anybody, everybody loses, and it's retroactive. Greg Shelton said the meeting place needs to be more convenient and not in Visalia.

Rhoda Hunter spoke as a member of the public to state that when she received the agenda she saw that there was Closed Session agenda item and was disappointed. Rhoda Hunter didn't understand why County Counsel served as the Committee Counsel and wanted to know why they were representing the Committee again. Rhoda Hunter said she believes agenda item five should be tabled because she was not familiar with that.

Robin Skiles said the issue was with the Nexus determination. Robin Skiles said prior to the funds being disbursed at last year's funding meeting, Committee Counsel advised that Porterville didn't meet the 60 percent Nexus criteria and the Committee went against the opinion and allocated the funds. Robin Skiles said in order to get the Counsel back; the Committee had to right the wrong the Committee made.

Rhoda Hunter thought the Committee gave out the money first, then Counsel disagreed.

Nina Dong said a lot of the discussion should be in Closed Session.

Kenneth McDarment said the Committee members who voted last year should step down.

James Diaz said there should be no closed session discussion because the Committee is public servants. Kenneth McDarment agreed.

Robin Skiles made the motion to continue the meeting until 10 a.m. on Wednesday, May 22 at Porterville City Council Chambers. Rhoda Hunter seconded the motion. The vote passed unanimously.

3. Adjourned at 10:49 a.m.

**Tulare County Indian Gaming Local Community Benefit Committee
Minutes
May 22, 2013 (Continued from May 15, 2013)**

PORTERVILLE CITY HALL

Present: Robin Skiles, Mike Ennis, Joe Garcia, Rhoda Hunter (Tule Representative – Alternate)
Absent: Kenneth McDarment, Nancy McDarment, John Crivello (County Representative – Alternate)
Staff: Jed Chernabaeff, John Hess, Nina Dong
Public: John Lollis, Greg Shelton, Glenn Irish, James Diaz, Julia Langley, Neil Peyron, Julia Lew, Johnny Wong

1. **Call to Order & Roll Call:** Greg Shelton asked that the meeting be delayed to the afternoon so the absent Tule Representatives could attend. Chairman Skiles denied the request because other Committee members could not make the meeting in the afternoon. Rhoda Hunter asked if Ryan Garfield could sit on as a Committee member. Staff informed Rhoda Hunter that she was serving as the Alternate and there is only one Alternate per Committee position category.
2. **Public Comment:** There was no comment from the public.
3. **Approve Minutes from February 21, 2013 and March 12, 2013 meetings:** Mike Ennis moved for approval and Joe Garcia seconded. Vote: 4-0.
4. **Review and award Tulare County Indian Gaming grant funding. Authorize Chairman to sign grant agreements subject to County Counsel approval:** Applicants provided a presentation regarding their proposed projects. The Committee discussed appropriate funding amounts for each eligible applicant and made the following proposal for allocations: County of Tulare – RMA (Success Valley Drive & Reservation Road: \$130,000; County of Tulare – Fire Department: \$30,906; City of Porterville – Sunday Transit Service/Mass Casualty Equipment: \$107,271.
Joe Garcia motioned and Mike Ennis seconded. Vote: 4-0
5. **Ratify Letter to City of Porterville Requesting Repayment of Funds:** Porterville City Attorney Julia Lew said the Committee is asking the City bear the consequences of the Committee's decision. Lew said the Committee did not follow its Counsel's legal advice and ultimately made the final decision. Lew added that asking the city to repay the funds it inappropriate. In addition, the funds have already been spent.

Motion was made by Robin Skiles to table the item and get an opinion from County Counsel and Rhoda Hunter seconded. Vote: 4-0

6. **Ratify Attorney Conflict Waiver with Tulare County Counsel:** Mike Ennis motioned to approve and Joe Garcia seconded. Vote: 4-0.
7. **Ralph M. Brown Act – Informational Presentation:** Moved to future meeting date so all Committee members are present.
8. **Membership & Bylaws Discussion:** Staff reported at the beginning of the May 15, 2013 Committee meeting, the Tule River Tribal Council delivered a letter and two resolutions to the Committee. The letter and resolutions outlined several changes to the composition of the Committee membership by the Tribal Council. The letter indicated that the Tribal Council was removing their support for Mutually Selected Principal member Gilbert Ynigues, Mutually Selected Alternate Member Michael Waters, and Tribal Council Selected Alternate Member Holly Bella.

The letter also indicated that the Tribal Council was appointing Rhoda Hunter to fill the Tribal Council Selected Alternate Member position previously filled by Holly Bella. The Tribal Council also recommended two individuals to the Mutually Selected and Mutually Selected Alternate positions upon “mutual agreement of the County and a majority of tribes operating Casinos in the County,” acknowledging that the Tule River Indian Tribe is the only such tribe (Tribal Council Resolution No. FY2013-135). At the announcement of this reorganization, Mutually Selected Member Cameron Hamilton resigned during the meeting of May 15, 2013. As a result of the Tribal Council’s decision to remove their support for the two Mutually Selected individuals and Mr. Hamilton’s subsequent resignation, the Committee’s current composition included two County representatives – Robin Skiles and Joe Garcia – one Mutually Selected Member – Mike Ennis – two Tribal representatives – Kenneth McDarment and Nancy McDarment – and on Tribal alternate – Rhoda Hunter.

The original By-Laws for the Committee were approved by the Committee on April 22, 2004. The By-Laws were then amended on March 3, 2005, with the amended changes taking effect immediately. Committee legal representation completed the amendments to the published By-Laws on September 1, 2005.

Originally, the By-Laws provided for one alternate member, who was appointed by the Tribal Council. It was then determined that one alternate member was not sufficient and was not consistent with the

statutory composition of the Committee. Therefore, the March 3, 2005 amendment modified the composition of alternates to the Committee, adding one for each category of membership. Furthermore, the authority that appoints the principal member was identified as the same authority that appoints the alternate member.

This means that the Tribal Council has unilateral appointing authority for three positions (two principal and one alternate); the Board of Supervisors has unilateral appointing authority for three positions (two principal and one alternate); and the four remaining positions (three principal and one alternate) are subject to approval by both the Board of Supervisors and the Tribal Council.

The Committee has adhered to the requirement of having three separately categorized alternate members appointed by their respective individual or joint authorities since these amendments were adopted in 2005. The Board of Supervisors and Tribal Council have utilized this very process to appoint two Mutually Selected principal and alternate members twice in the last six months. Furthermore, the Tule River Indian Tribe recognized the need for mutual agreement of mutually selected principal and alternate members on their Resolution No. FY2013-135. The process utilized by Committee staff and Tribal staff over the past nine years for filling vacancies is as follows.

County Selected Members: the vacancy is posted at the Board of Supervisors office and online for a minimum of 10 days. Applications are received and a recommendation is provided to the Board of Supervisors. The Board of Supervisors makes a final selection.

Tribe Selected Members: the Tribal Council provides documentation regarding appointment of selected members to Committee staff.

Mutually Selected Members: the vacancy is posted at the Board of Supervisors office and online for a minimum of 10 days. Applications are received. All applications are forwarded to the Tribal Council. The Tribal Council forwards their approved members to the Board of Supervisors. The Board of Supervisors confirms or rejects the Tribal Council's recommendation.

Committee staff will begin the process of seeking applicants for the three Mutually Selected vacancies (two principal and one alternate) pursuant to the process outlined above. All applicants will be forwarded to the Tribal Council for their review. Once approved by the Tribal Council, the Board of Supervisors will confirm the appointees.

Greg Shelton provided staff and Counsel with a letter that was crafted by Sam Cohen. Cohen's letter contended that the Committee did not properly amend the bylaws in 2005 because it did not circulate the bylaws for 30 days prior to the Committee's review and approval.

Julia Langley said she served as Counsel for the Committee when it was first formed in 2004. Langley said she set up basic provisions for the Committee when it was first formed in order to allocate funds in 2004. Langley said the Committee determined that there weren't enough members and decided to create alternate positions for each member category so business could be conducted in the event of absences. In 2005, three alternate positions were formed and approved by the Committee. Langley noted that the bylaws were updated appropriately, and, if there was an objection at the time, they would have been noted in the minutes in 2005.

Greg Shelton said he wasn't disputing the amended bylaws. Shelton said his position is that the minutes do not clarify how the alternate members are chosen and believed the Tribe has unilateral authority to appoint any alternate position.

Mike Ennis said if Greg Shelton continued to try to make the Committee meetings a circus, he will leave and pull staff from the Committee.

Neil Peyron said it's the Tribes intent that the funding the Committee allocates be awarded during the meeting. Peyron added that Greg Shelton does not represent the Tribe and hopes that Mike Ennis would stay for the duration of the Committee.

Legal staff reminded the Chairman could remove members of the public if certain criteria were met.

Mike Ennis noted that the Committee is here to conduct business and award the funding without disruption.

Greg Shelton apologized for being disruptive and took offense that a member from the dais would accuse him of creating a circus.

Robin Skiles noted that since there was no objection to the bylaw change in 2005, any challenge to the current composition of the Committee is not warranted and past due.

9. **Election of Vice-Chairperson:** Rhoda Hunter nominated Kenneth McDarment and Mike Ennis seconded. Vote: 4-0.

10. **Rescind a Portion of Grant Funds Awarded to City of Porterville:** No action taken.
11. **Adjourned at 12:51 p.m.**

**Tulare County Indian Gaming Local Community Benefit Committee
Minutes
June 19, 2013**

TULE RIVER INDIAN TRIBAL COUNCIL CHAMBERS

Present: Robin Skiles, Mike Ennis, Joe Garcia, Nancy McDarment, Rhoda Hunter
(Tule Representative – Alternate)

Absent: Kenneth McDarment, John Crivello (County Representative – Alternate)

Staff: Jed Chernabaeff, John Hess, Nina Dong

Public: John Lollis, Greg Shelton, Julia Lew

1. **Call to Order & Roll Call:**
2. **Ralph M. Brown Act:** Staff provided an informal presentation.
3. **Ratify Letter to City of Porterville Requesting Repayment of Funds:**
Staff reported on April 5, 2012, the Committee made several grant awards to a variety of recipients for a variety of activities. Based off of the response from the Office of Legislative Counsel, on March 12, 2013 through Resolution No. 2013-07, the Committee directed Committee Counsel, the Committee's legal representation, to send a letter to the City of Porterville requesting that the funds awarded to the City by the Committee in Fiscal Years 2010/11 and 2011/12 be repaid to the State of California Indian Gaming Special Distribution Fund. This letter was sent on or approximately May 9, 2013 to the City of Porterville by the Committee's legal representation. Therefore, staff requested that the Committee ratify the letter.

Porterville City Attorney Julia Lew urged the Committee not to ratify the letter or rescind a portion of the grant funds because it wasn't practical or legal. Lew said the funds have been spent based on Committee's decision to award them. Lew said the City believes that doing so is a violation of promissory estoppels and detrimental reliance. Lew said the Committee should live by the decision it made.

Greg Shelton said he was on the Committee when the funds were awarded. Shelton said if this was a "gotcha" to the City of Porterville it is a mistake. Shelton said if the Committee is going to look at the funds awarded to Porterville it should look at all funds awarded by the Committee.

The Committee adjourned to closed session and came back at 10:46 a.m.

Robin Skiles motioned to oppose ratifying the letter to the City of Porterville requesting repayment of funds. Vote: 5-0.

4. **Rescind a Portion of Grant Funds Awarded to City of Porterville:**
Robin Skiles motioned to oppose ratifying the letter to the City of Porterville requesting repayment of funds. Vote: 5-0.

Robin Skiles motioned to send the letter provided to the City of Porterville requesting repayment of funds to the state. In addition: adding any response letter from the City of Porterville had in regards to the repayment letter; and sending a summary memo along with the letter that details of the funding awarded. Vote: 4-1. Rhoda Hunter voted no.

5. **Membership & Bylaws Discussion:** Staff reported that the Committee reviewed a number of bylaw revisions last year and decided to not take action at the time because of lack of legal counsel. Since the Committee retained its Counsel, staff recommended that the proposed bylaw amendments be reviewed and begin the circulation process. The Committee agreed to review the proposed bylaw changes at its next meeting.
6. **The Committee agreed to meet on July 24. The meeting adjourned at 11 a.m.**



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEMS No. 4

AGENDA DATE: July 24, 2013

SUBJECT: Letter to Attorney General

REQUEST(S):
That the Local Community Benefit Committee:

Review Letter to the State Attorney General regarding the letter sent to the City of Porterville requesting the return of \$217,313 in grant funds to the State

SUMMARY:

On June 19, 2013, the Committee directed staff to prepare a letter to be sent to the California State Attorney General's office. The purpose of the letter is to inform the state of the actions the Committee has taken to seek the repayment from the City of Porterville for a portion of grant funds awarded in Fiscal Years 2011 and 2012. Staff and counsel have drafted this letter and have reviewed the letter with the Committee Chairman.

The purpose of this agenda item is to provide the entire Committee the opportunity to review the letter. This is not an action item. Once reviewed, staff will send the letter to the State, authorization was provided by the Committee on June 19.

FISCAL IMPACT/FINANCING:

N/A

The Tulare County Indian Gaming Local Community Benefit Committee has had the opportunity to award \$3.5 million in Special Distribution Fund monies to a variety of partners since 2004. The Committee has worked with the Tule River Tribal Council to ensure that these funds are spent on projects that benefit communities and the Tribe, and mitigate impacts from the Eagle Mountain Casino. The Committee and Tribal Council have intentionally awarded funds to projects that provide a wide range of services. The Committee has awarded funds to public works, public safety, health and safety, and environmental mitigation projects.

In Fiscal Years 2011 and 2012, the Committee awarded funds to the City of Porterville for public safety enhancements, including improvements of the City's Police Department Firing Range Facility, hiring a Juvenile Diversion Officer, a Community Service Officer, and a Fire Prevention/Public Education Officer, coordinating programs and services in "at-risk" areas, and the purchase of a vehicle for the Police Department. The City has indicated that as of June 2013, all of these funds have been spend on these activities.

All of these projects meet the eligibility requirements for funding, and each has provided much needed benefit to the community. However, the Tulare County Indian Gaming Local Community Benefit Committee has concluded that the Committee awarded funds to the City of Porterville from the 60% Nexus Test Criteria Amount of the Special Distribution Fund in Fiscal Years 2011 and 2012, but the City did not meet the Nexus Test Criteria. Therefore, the City of Porterville is eligible to receive funding only from the 40% Discretionary Amount.

To that end, on May 9, 2013, Committee Counsel sent a letter to the City of Porterville demanding the repayment of a portion of the 2011 and 2012 Committee grant awards. The Committee is requesting a total repayment of \$217,313. Committee Counsel has directed the City of Porterville that this money is to be repaid to the State of California, not the County of Tulare nor the Tulare County Indian Gaming Local Community Benefit Committee.

Please find attached a copy of the May 9, 2013 Demand Letter addressed to the City of Porterville. Should you have any questions regarding this matter, please feel free to give me a call at (559) 636-4625.

Sincerely,

Captain Robin Skiles,
Committee Chairman



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEM No. 5

AGENDA DATE: July 24, 2013

SUBJECT: Update on Indian Gaming Committee Membership

REQUEST(S):

That the Local Community Benefit Committee:

Receive update regarding the status of Tulare County Indian Gaming Local Community Benefit Committee membership.

SUMMARY:

The Tulare County Indian Gaming Local Community Benefit Committee is composed of seven principal members and three alternate members. The seven members are categorized as follows:

- 2 Tribal Council Selected Members
- 2 County Board of Supervisors Selected Members
- 3 Mutually Selected Members (Tribe & County jointly)

There are currently three vacancies – two Mutually Selected Members and one Mutually Selected: Alternate – on the LCBC due to one resignation and Tribal sponsorship being pulled for one Mutually Selected Member and one Mutually Selected: Alternate. In addition, the term for Mutually Selected Member Mike Ennis expired June 30, 2014. Please note, Article II - Section 3 of the bylaws state *“a member or an alternate whose term of office has expired shall continue to serve in that capacity until a new appointment is made.”*

The Committee’s current composition is described on the table on the following page:

Appointing Authority	Member	Alternate
County	Robin Skiles	John Crivello
County	Joe Garcia	
Mutual	Vacant	Vacant
Mutual	Vacant	
Mutual	Mike Ennis	
Tribe	Kenneth McDarment	Rhoda Hunter
Tribe	Nancy McDarment	

Staff conducted a successful search to fill five vacancies on the Committee in 2012. Staff plans to follow the same process in 2013. To address the vacancies, staff will work with the County Clerk of the Board to post notices of scheduled and

SUBJECT: Update on Indian Gaming Committee Membership

DATE: July 24, 2013

unscheduled vacancies and solicit Committee applications through press releases, email notifications, and posts to the County's website.

The process for filling a Mutually Selected Member position is as follows:

- Committee solicits applicants.
- Interested residents send applications to Clerk of the Board.
- County reviews applications/applicants and recommends Mutually Selected Member to Tribe Council. All applications are forwarded to Tribe.
- Tribe places County recommendation at Tribal Council meeting for consideration.
- Tribal Council votes on recommendation for Mutually Selected Member.
- Tribe submits letter to County agreeing to Mutually Selected Member recommendation.
- Board of Supervisors appoint Mutually Selected Member.
- Interested member becomes official Committee member.

FISCAL IMPACT/FINANCING:

N/A

Attachment(s)

A – TCLCBC Roster

2013 Indian Gaming Committee - Roster/Status (5/17/13)	Name	Appointed or Reappointed	Term Ends
County Representative	Joe Garcia	7/31/2012	6/30/2015
County Representative	Robin Skiles	5/10/2011	6/30/2013
County Representative - Alternate	John Crivello	11/13/2012	6/30/2015

Tule Representative	Kenneth McDarment		
Tule Representative	Nancy McDarment		
Tule Representative - Alternate	Rhoda Hunter		

Mutually Selected Member	Vacant	12/11/2012	6/30/2017
Mutually Selected Member	Mike Ennis	1/27/2012	6/30/2013
Mutually Selected Member	Vacant	12/11/2012	6/30/2017
Mutually Selected Member - Alternate	Vacant	3/1/2013	6/30/2016



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEMS No. 6 & 7

AGENDA DATE: July 24, 2013

SUBJECT: Committee By-Laws Circulation

REQUEST(S):
That the Local Community Benefit Committee:

1. Direct Staff to Begin Circulating Proposed By-Law Amendments.
2. Set the final date for proposed By-Law changes for thirty days from circulation, August 23, 2013.

SUMMARY:

The original By-Laws for the Tulare County Indian Gaming Local Community Benefit Committee were approved on April 22, 2004. The By-Laws were then amended on March 3, 2005, with the changes taking effect immediately. Committee legal representation completed the amendments to the published By-Laws on September 1, 2005. The By-Laws have not been amended since that time. Article III Section 7 of the Bylaws state that the "Bylaws shall be reviewed every three (3) years."

During the August 2, 2012 Committee Meeting, staff presented and the Committee discussed various amendments to the Bylaws. Staff requested that the Committee provide proposed amendments and revisions to the Bylaws by 5 PM on September 4, 2012. Staff received comments from two members and provided their own recommended comments.

Pursuant to Article VII Section 3, which states that "proposed Bylaw amendments shall be circulated to the Committee, in writing, at least thirty (30) days in advance of the meeting at which a vote may be called," staff circulated the proposed amendments to the Committee on September 14, 2012.

On October 18, 2012, staff presented the proposed By-Law amendments to the Committee for approval. The Committee declined to review or consider the proposed By-Law amendments as they had not been reviewed by legal counsel. At the time, the Committee did not have legal counsel. On March 12, 2013, County Counsel resumed legal representation for the Committee. The proposed amendments have been reviewed by County Counsel, and Counsel has provided their own proposed changes.

Staff is requesting that the Committee discuss the proposed changes, provide any additional changes, and direct staff to begin circulating the proposed By-Law Amendments for 30 days pursuant to the By-Laws. The By-Laws would then be provided to the Committee five days prior to the meeting at which a vote to approve

SUBJECT: Committee By-Laws Circulation

DATE: July 24, 2013

the By-Laws will be considered. Therefore, if the Committee directs the circulation of the By-Laws, the soonest the Committee could vote to approve or deny the proposed By-Law Amendments would be August 28, 2013.

FISCAL IMPACT/FINANCING:

N/A

**BEFORE THE TULARE COUNTY
INDIAN GAMING LOCAL COMMUNITY
BENEFIT COMMITTEE**

IN THE MATTER OF CIRCULATION)
OF COMMITTEE BY-LAWS) RESOLUTION NO. 2013-

UPON MOTION OF MEMBER _____, SECONDED BY MEMBER _____, THE FOLLOWING WAS ADOPTED BY THE TULARE COUNTY INDIAN GAMING LOCAL COMMUNITY BENEFIT COMMITTEE, AT AN OFFICIAL MEETING HELD JULY 24, 2013, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

BY: _____
Chairman

* * * * *

1. Directed Staff to Begin Circulating Proposed By-Law Amendments.
2. Set the final date for proposed By-Law changes for thirty days from circulation, August 23, 2013.

BYLAWS OF
THE TULARE COUNTY
INDIAN GAMING LOCAL COMMUNITY
BENEFIT COMMITTEE

~~April 23, 2004~~ 2013¹

**ARTICLE I
AUTHORIZATION**

SECTION 1: Jurisdiction

The Tulare County Indian Gaming Local Community Benefit Committee (“Committee”) serves the geographic area of the County of Tulare (“County”). Within such geographic area currently exists one tribal casino, called Eagle Mountain Casino, owned and operated by the Tule River Indian Tribe (“Tribe”).

SECTION 2: Purpose

The Committee is established pursuant to Paragraph (1) of subsection (b) of Section 12715 of the California Government Code. It is the responsibility of the Committee to facilitate the distribution of appropriations from the Indian Gaming Distribution Fund by selecting those grants from each County Tribal Casino Account that will be applied toward the support of local government agencies within the County impacted by tribal gaming.

SECTION 3: Authority

The Committee is formed pursuant to Chapter 7.5 (commencing with Section 12710) of Part 2 of Division 3 of Title 2 of the California Government Code). Any conflict between these Bylaws and such sections of Chapter 7.5 shall be resolved in favor of the Government Code.

SECTION 4: Duration

Government Code Section 12718 provides that the authority for this Committee (and the Committee’s existence) shall remain in effect only until January 1, 2009 2021, and as of that date, the Committee and its authority are dissolved, unless a later enacted state statute that is enacted before January 1, 2009 2021, deletes or extends that date.

¹ Original April 23, 2004 (Res. No. ____), Revised 9-1-2005 (Res. No. ____), and ____-____-2013 (Res. No. ____).

ARTICLE II MEMBERSHIP

SECTION 1: Appointment and Representation of Members

The Committee shall be composed of seven (7) members consisting of the following **and from the following representative classifications:**

- a. Two (2) representatives from the County, appointed by the County Board of Supervisors;
- b. Three (3) elected representatives from cities located within four (4) miles of a tribal casino in the County, appointed by the County Board of Supervisors or, if no such cities are located within four (4) miles of a tribal casino in the County, then by mutual agreement of the County and a majority of tribes operating casinos in the county; and
- c. Two (2) representatives selected upon the recommendation of a majority of the tribes paying into the Indian Gaming Special Distribution Fund in the County.

SECTION 2: Appointment and Representation of Alternates

The Committee shall have **three (3) alternates: one for each representative classification as outlined in subdivisions a, b, and c in Article II, Section 1.** The alternates shall not have voting privileges when **all of the appointed members in their representative classification** are present. **If one or more appointed members in a representative classification is absent, or if a member position is vacant, then the corresponding alternate for the representative classification shall have the voting privilege of, and count toward a quorum for, one member.** The alternates shall consist of: **one representative appointed by the Board of Supervisors; one representative selected by the Tule River Tribe; and, one representative jointly selected by the Board of Supervisors and the Tule River Tribe.** ~~one representative from the County, appointed by the County Board of Supervisors; one representative from cities located within four (4) miles of a tribal casino in the County, appointed by the County Board of Supervisors or, if no such cities are located within four (4) miles of a tribal casino in the County, then by mutual agreement of the County and a majority of tribes operating casinos in the county; and one representative selected upon the recommendation of a majority of the tribes paying into the Indian Gaming Special Distribution Fund in the County.~~

SECTION 3: Term of Office

Terms of office for members and alternates shall be four (4) years expiring on June 30 of the appropriate years and subsequent new terms shall begin July 1 of that year. The terms shall be staggered so that no more than two thirds (2/3) of the terms of the total number of members of the Committee shall expire in any one (1) year period. A member or an alternate

whose term of office has expired shall continue to serve in that capacity until a new appointment is made. Committee members appointed by the Board of Supervisors may be removed from the Committee at any time by a majority vote of the County Board of Supervisors, **upon presentation of a Board resolution.** Committee members appointed by the Tule Tribe (the only Tribe currently paying into the Indian Gaming Special Distribution Fund in the County) may be removed from the Committee at any time by a majority vote of Tule River Tribal Council, **upon presentation of a Tribal Council resolution.**

SECTION 4: Election of Chairperson, Vice-Chairperson

A Chairperson and Vice-Chairperson shall be elected annually from the voting members of the Committee at the first meeting of each calendar year by a simple majority of the committee members present. The Vice-Chairperson shall assume the responsibilities of the Chairperson in his/her absence. Either the Chairperson or the Vice-Chairperson shall attend each meeting of the Committee. **In the event that neither the Chairperson nor the Vice-Chairperson is present, no business will be conducted and a meeting will not be called to order.**

SECTION 5: Committee Vacancies

Upon any vacancy within the Committee, appointment of the representative selected to fill the vacancy shall be in the same manner as that used in the original appointment of the departing Committee member. A resigning Committee member or alternate shall submit his/her original written resignation to the Committee Chairperson **or designated Committee Staff.** The Chairperson **or designated Committee Staff** is responsible for immediately notifying the County's Clerk of the Board of Supervisors of any unscheduled vacancies. The Chairperson **or designated Committee Staff** will provide the County's Board of Supervisors and the appropriate appointing authority with written notification of vacancies. The County's Board of Supervisors or the appropriate appointing authority will take the necessary action to declare the position vacant and fill the position. **Vacancies will be filled in the same manner as described in Article II, Section 1. A duly appointed alternate member will fill any corresponding vacancies until a permanent appointment is made pursuant to this Section.**

The absence of a Committee member from two (2) consecutive meetings of the Committee shall be cause for the Chairman of the Committee to contact the Committee member to discuss participation in the meetings. Whenever a Committee member fails to attend two (2) consecutive meetings or three (3) total meetings in a calendar year, without good cause entered into the minutes, the Committee Chairperson **man-person or Committee Staff** shall correspond with the Chairman of the County Board of Supervisors or the appropriate appointing authority and recommend that the Committee member be removed from the Committee.

SECTION 6: Quorum

A quorum shall consist of a minimum of four (4) Committee members **or corresponding appropriate** alternate members **from the representative classification of an absent member or a vacant member position.** **Any action of the Committee shall require affirmative votes of not less than a quorum,** except less than a quorum may adjourn a meeting to a specified time and place.

SECTION 7: Voting

Each Committee member ~~and alternate member~~ shall have one (1) vote. Committee members ~~and alternate members~~ shall not have the right to accumulate ~~or poll~~ votes ~~prior to the public meeting~~. A matter may only be passed by the affirmative vote of a majority of the members ~~present or and appropriate~~ alternate members ~~present~~ from the representative classification of an absent member or a vacant member position. ~~present~~. In cases where only a quorum is present, all members ~~and alternate members~~ making up the quorum must vote in the affirmative to take action on the item.

SECTION 8: Official Action

All official action of the Committee shall be by resolution.

SECTION 9: Committee Staff

Staff from the County of Tulare ~~Chief~~ Administrative Office (CAO) and County Counsel ~~shall will~~ serve as administrative staff and legal advisor to the Committee. Should either the CAO or County Counsel departments no longer serve as administrative and/or legal advisor to the Committee, the Committee ~~shall may~~ identify alternate sources of administrative and/or legal representation. County of Tulare staff shall be reimbursed for demonstrated ~~County administrative and legal~~ costs incurred by the County for administering the Indian Gaming Local Community Benefit grant programs from the aggregate tribal account pursuant to Section 12715(b)(1)(C) of the Government Code. Should alternate sources of administrative and legal representation be utilized other than the CAO or County Counsel, costs for these alternate sources will only be reimbursed from the aggregate tribal account if those costs are incurred by the County of Tulare. Pursuant to Section 12715(b)(1)(C) of the Government Code, only the County of Tulare is eligible for reimbursement of demonstrated costs incurred for administering the grant programs.

ARTICLE III MEETINGS

SECTION 1: Regular Meetings

The Committee shall meet at least twice each year to consider grant opportunities and to award selected grants, provided funding has been allocated to the Tulare County Indian Gaming Local Community Benefit Committee from the State of California's Special Distribution Fund in that year. Should funding not be allocated to the Committee, the Committee will not be required to meet in that year. The Committee may meet more frequently than twice each year if necessary to conduct its business.

SECTION 2: Special Meetings

Special meetings may be called at the discretion of the Chairperson or at the

request of a majority of the members. Committee members must be given at least ten (10) working days advance notice, in writing, of all special meetings. **Notice of Special Meetings will be posted pursuant to the Brown Act (Government Code section 54956.).**

SECTION 3: Meeting Announcements

Pursuant to the Brown Act (**Government Code section 54950 et. seq.**), all meetings of the Committee shall be open to the public and notices of the meeting posted in a location fully accessible to the public, **and on the LCBC website if a website is available to the public**, seventy-two (72) hours before ~~the meeting~~**regular meetings, and twenty-four (24) hours before special meetings.** Nothing herein shall subject the Tribe or any of its officers, affiliates, members, employees or agents to the Brown Act other than when acting in their capacity as members or staff of this Committee.

SECTION 4: Meeting Agendas

Meeting agendas, for all scheduled Committee meetings, shall be transmitted in advance, in writing, to all Committee members and other interested persons who have submitted a request in writing. Proposed agenda items shall be submitted, in writing, to the administrative staff no later than five (5) days prior to a scheduled meeting. Agendas will be prepared by County staff, in cooperation with the Chairperson. Where appropriate and feasible, written backup information material should be submitted concurrently with the proposed agenda items for advance distribution to Committee members. There shall be a notation on the agenda for public comments. Agendas should be mailed **via the United States Postal Service or electronic mail** to Committee members **one (1) week prior to the next scheduled meeting** **or if this is not possible, at the same time the agenda is posted.**

SECTION 5: Meeting Commencement

All Committee meetings will begin at precisely the time stated on the agenda. If there is no quorum at the designated starting time of the meeting, the meeting will not be conducted. **Meetings may be adjourned or continued in accordance with Government Code Sections 54955 and 54955.1.**

SECTION 6: Rules of Order and Brown Act

All meetings will be **conducted in accordance with the Rules of Procedure adopted by the Tulare County Board of Supervisors.** All meetings of the Committee shall be subject to the Brown Act (California Government Code section 54950 et seq.).

SECTION 7: Review of Bylaws

Bylaws shall be reviewed every three (3) years **and may be amended by resolution of the Committee.**

**ARTICLE IV
SUBCOMMITTEES**

SECTION 1: Establishment and Appointment

Subcommittees may be established and appointed by the Chairperson. The Chairperson, with the concurrence of the Committee, shall appoint the members and the chair of the Subcommittees. Regular and alternate Committee members may be appointed to the Subcommittees. Only appointed members of the Committee shall be allowed to vote on a decision to be presented to the Committee at large. **An advisory Subcommittee must comply with the Brown Act unless it is composed solely of the members of the Committee that are less than a quorum of the Committee, and is not a standing committee with a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of the Committee (Government Code section 54952 (b)).**

SECTION 2: Assignments

The Chairperson will define, in precise terms, the assignment to be completed, providing a definitive time frame for reporting to the Committee. The Subcommittee will be dissolved once the assignment is completed and a report is submitted for consideration to the Committee.

**ARTICLE V
COMMITTEE RESPONSIBILITIES**

SECTION 1: Responsibilities

The Committee shall perform the duties as stated in the Government Code, Section 12710 et. seq. as follows:

- a. Select all grants for funding from the Individual Tribal Casino Account or County Tribal Casino Account.
- b. Ensure that the following uses shall be the priorities for the receipt of grant money from the Individual Tribal Casino Account: law enforcement; fire services; emergency medical services; environmental impacts; water supplies; waste disposal; behavioral; health; planning and adjacent land uses; public health; roads, recreation and youth programs, and child care programs.
- ~~e. Grants awarded through this Committee shall be limited to addressing service-oriented impacts and providing assistance with one-time large capital projects related to Indian gaming impacts.~~
- c. Establish all application policies and procedures for grants from the Individual Casino Account or County Tribal Casino Account.

- d. Assess the eligibility of applications for grants from local jurisdictions impacted by tribal gaming operations, pursuant to Government Code section 12715.
- e. Determine the appropriate amount for reimbursement, from the aggregate County tribal account, of the demonstrated costs incurred by the County for administering the grant programs.
- f. Submit to the State Controller a list of approved projects for funding from Individual Tribal Casino Accounts.
- g. Prepare and submit an annual report to the County Board of Supervisors each year, so the County can submit a report to the State by October 1st, detailing the specific projects funded by all grants from the Indian Gaming Special Distribution Fund in the previous fiscal year. The report shall provide detailed information required in Government Code section 12716.

SECTION 2: Additional duties and responsibilities

The Committee shall perform additional duties and responsibilities as specified in County Code and/or state laws.

ARTICLE VI STANDARDS OF ETHICS AND CONDUCT

SECTION 1: Responsibilities of Public Office

Individuals appointed to the Committee are agents of the public and serve for the benefit of the public. They shall uphold and act in accordance with the Constitution of the United States of America, and the Constitution of the State of California.

SECTION 2: Conflict of Interest Forms

All members of the Committee shall be required to complete the Conflict of Interest forms, entitled “Statement of Economic Interests for Designated Officials and Employees”, Form 700 of the Fair Political Practices Commission (FPPC).

ARTICLE VII AMENDMENT TO BYLAWS

SECTION 1: Adoption of Bylaws

The proposed Bylaws shall be circulated to the Committee, in writing, at least five

| (-5-) days in advance of the meeting at which a vote may be called.

SECTION 2: Required Vote for Adoption

The Bylaws of the Committee shall be adopted if approved by a majority of the voting Committee members.

SECTION 3: Proposed Amendments

Proposed Bylaw amendments shall be circulated to the Committee, in writing, at least thirty (30) days in advance of the meeting at which a vote may be called.

SECTION 4: Required Vote for Adoption of Amendments

The Bylaws of the Committee may be amended if approved by a majority of the voting Committee members.

**ARTICLE VIII
SEVERABILITY AND INVALIDITY**

If any provision of these Bylaws, or any Amendment thereto is found to be invalid, void or unenforceable by any court of competent jurisdiction, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way, and shall be in effect only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions.