

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

10 A.M. October 18, 2012

MEETING NOTICE

**CITY OF PORTERVILLE
CITY HALL – HAMAMATSU ROOM
291 N. MAIN ST.
PORTERVILLE, CA**

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 August 2, 2012 Meeting**
- 4. Responses from Questions of August 2, 2012 Meeting**
- 5. Update on Indian Gaming Committee Membership**
- 6. Approve Indian Gaming Special Distribution Fund Annual Report Fiscal Year 2011-12**
- 7. Report on future Indian Gaming funding**
- 8. Approve Amendments to Committee Bylaws**
- 9. Direction to Staff regarding Committee Counsel**
- 10. Next Meeting – TBD**
- 11. 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 (b)(1)]

Number of Potential Cases: 5

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.

Tulare County Indian Gaming Local Community Benefit Committee
Minutes
August 2, 2012

Present: Mike Ennis, Joe Garcia, Rhoda M. Hunter, Robin Skiles, Brian Ward
Staff: Jed Chernabaeff, John Hess
Public: John Lollis, Tony Boland, Ramona Contreras, Ted Mendoza, Greg Shelton

1. **Call to Order & Roll Call 10:00 AM** – After Roll Call, Chairperson Rhoda Hunter read the following statement into the record: The Tule River Tribal Counsel is appointing Brian Ward as an alternate to the Tulare County Indian Gaming Local Community Benefit Committee and removing Greg Shelton.
2. **Public Comment:** There was no comment from the public.
3. **Approval of minutes from April 5, 2012 meeting:** Motion to approve the minutes was made by Brian Ward and seconded by Joe Garcia. The vote was unanimous.
4. **Update on Indian Gaming Committee Membership:** As of July 23, 2012, there are five (5) vacancies on the TCLCBC. The vacancies are: one County Representative – Alternate; one Tule Representative; two Mutually Selected Members; one Mutually Selected Member – Alternate.

The County Representative – Alternate position was previously held by County Administrative Analyst John Hess. The term for this position expired June 30, 2012. Mr. Hess will no longer serve as an alternate, as he has resigned from the Alternate position and has been appointed to serve as the backup staff member of the TCLCBC. Tulare County will seek to appoint a person to fill the Alternate position.

The Tule Representative position was previously held by Shannon Alto. The TCLCBC Chairperson Rhoda Hunter received notification from Mr. Alto via electronic mail (e-mail) that he will no longer serve as the Tule Representative on the TCLCBC. The Tule River Indian Tribe will seek to appoint a person to fill the Tule Representative position.

There are a total of three Mutually Selected Member positions on the TCLCBC. Tulare County Supervisor Mike Ennis holds a Mutually Selected position and his term ends on June 30, 2013. Porterville City Councilmember Cam Hamilton has served as a Mutually Selected Member. Mr. Hamilton's term expired June 30, 2012. The third Mutually Selected Member position has been vacant for more than a year. Regarding Mr. Hamilton's position, please note 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 Mutually Selected Member – Alternate position was previously held by Steve Tree. Mr. Tree’s term ended June 30, 2011 and has not attended a meeting for more than a year.

To address the vacancies, staff will work with the County Clerk of the Board to post notices of scheduled and unscheduled vacancies and solicit Committee applications through press releases, email notifications, and post to the County’s website.

Applications were provided to the TCLCBC members and left for the public to take.

Chairperson Hunter asked about the steps Cam Hamilton would have to take to continue as a mutually selected member. Staff said since Hamilton’s term expired, he would have to reapply to the Clerk of the Board’s office, which has generally been the past practice for the mutually selected member seat.

Joe Garcia noted that Cam Hamilton could still serve as a member until the seat is filled or Hamilton wishes to apply again.

Staff also noted that in the future, both the County and the Tule River Tribe will be able to view all applications submitted for the mutually selected seat.

5. **Legislative report on future Indian Gaming funding:** TCLCBC staff has traditionally worked with California State Association of Counties (CSAC) legislative staff to determine if the Legislature would appropriate funding. TCLCBC staff contacted CSAC staff on July 18, 2012 to see if funding would be available for Fiscal Year 2012-13.

CSAC legislative staff reported that the State Budget did not include an SDF appropriation for Fiscal Year 2012-13. In addition, no legislation to make an SDF appropriation has been introduced or amended to date (July 18, 2012) either.

The vehicle for funding appropriations changes from year to year. Either the Governor will include an appropriation in the budget bill, the Legislature will include it in a budget trailer bill, or a legislator can introduce a stand-alone piece of legislation. If each of these fail to happen no funding will be appropriated.

Joe Garcia asked what percentage of the funds that were appropriated of the \$9.1 million go to Subsection (b), which is the Grants Program and how much was generated by each Casino in California. Staff said they weren't sure what it is and would report back during the next meeting.

Mike Ennis said it doesn't surprise him that the State would not appropriate any funding for the next fiscal year, given the economic climate in Sacramento.

Chairperson Hunter asked Tule River Tribe staff about the breakdown of how much funding the Tribe pays into the fund. Staff said they will research and provide the breakdown at a later date.

6. **Review of 2012 Grant Projects:** It has been tradition of the TCLCBC to receive an update from the grant recipients at its August meeting. The update includes the following information: how much funding has the grant recipient used; what has the funding been spent on; and how the recipient plans to utilize the remaining funding.

Kaweah Delta Hospital: Did not attend the meeting, but reported that no funds have been spent. In addition, they would like to send TCLCBC members an invitation to attend a grand opening of the hospital's heli-pad, for which the funds will be used for.

City of Porterville: City Manager John Lollis reported that no funds have been expended. Porterville was waiting to have the newly seated city council in place prior to allocating and expending the funds. \$60,000 of the funds will be used for a firing range. \$30,000 of the funds will be used on a fire prop. \$14,000 will be used to support Porterville's Step Up program.

County of Tulare Fire Department: Fire Captain Ted Mendoza said the \$40,000 allocated to the Department had not been spent. However, the funding will be used to purchase wildland fire shelters for the firefighters who respond to fires near the Tule River Indian Reservation.

County of Tulare Resource Management Agency: Tony Boland reported the \$64,000 allocated had not been expended, but, during the second week of October, Reservation Road between Roads 284 and 296 will be worked on. Specifically, an asphalt overlay project and placing raised pavement markers on the road.

Sierra View District Hospital: Ramona Contreras reported the scope of the Hospital's project changed since grant allocation in April. Expenditures have not been made. The funding expended will be used

to support a Clinical Dietician, yet to be hired, who will provide educational trainings at their resource center. Contreras said they are seeking to hire a Clinical Dietician immediately.

7. Report on response from California State Auditor:

Staff sent a letter to the California State Auditor's Office on June 5, 2012 outlining the TCLCBC's concerns.

Staff received a response from the California State Auditor's Office in July 2012.

The California State Auditor's Office stated:

- Their office does not provide prospective advice on programs that may be subject to audit by their office at some future time.
- They recommend that the TCLCBC review their Office's previous audits.
- Because TCLCBC's request is primarily a request for legal advice, TCLCBC may wish to request one of its representatives in the California State Legislature to submit a request for legal advice from the California Office of Legislative Counsel.

Mike Ennis said he would like to get a clear picture of the four issues outlined so future funding would not be in jeopardy.

Joe Garcia agreed that clear definition needs to be made in the future before allocating funding.

Brian Ward said he would feel more comfortable having legal representation prior to seeking the California Office of Legislative Counsel's opinion. Regarding making an inquiry to the State Legislature, Brian Ward stated he would like to wait to see who the State Assembly and Senate representatives for the Tule River Tribe would be upon Redistricting.

8. Direction to Staff regarding Committee Counsel: Brian Ward said staff's representation of average time/funding spent on administrative costs was a misrepresentation because some years were quite more than others. In addition, he wanted Rule of Professional Conduct, Rule 3-600 recited. Chairperson Hunter read the conduct code out loud.

Robin Skiles wanted to know if seeking County Counsel's services would be an option. Staff said that would be a question the Committee would need to ask County Counsel.

Joe Garcia wanted to know if County Counsel's cost averaged \$10,000, did staff check and see how much outside Counsel would cost. Staff said that outside or independent Counsel would cost the same amount.

Brian Ward said he was concerned about the administrative costs exceeding what was allocated to the Committee. Staff informed the Committee that the County traditionally covered the cost of the additional administrative costs. The County will no longer be able to cover the additional administrative costs for legal representation/expenses if County Counsel is not utilized.

Brian Ward said there is a desire to get legal advice and it would be best to pursue that (referencing the previous agenda item) through representatives at the State level.

Chairperson Hunter pointed out that the Committee has not had legal representation since June and there is no mention in the Bylaws of what the Committee should do if County Counsel is not the legal representative. The Chairperson said that she would feel more comfortable providing direction to staff until the Bylaws were updated.

Brian Ward agreed. Once the Bylaws are amended, the Committee would have the ability to seek legal representation and interpretations.

Robin Skiles said the Committee should decide if the Committee should contact County Counsel to continue its legal representation or seek outside counsel.

Joe Garcia said the amendment of the Bylaws would set the foundation for the Committee to go forward.

Chairperson Hunter agreed and gave direction to the Committee and staff to take a look at the Bylaws and make proposed amendments.

Staff suggested an alternative method in which the Committee would seek counsel through an RFP process and seek counsel that has represented items of this matter in the past or using legal representation of one of the representing organizations on the Committee.

Brian Ward said he wouldn't feel comfortable proposing anything regarding legal counsel until the Bylaws were updated. He added that

future legal counsel should be mutually agreed upon by the County and the Tribe.

The Committee agreed to table the item and move onto the discussion of Committee Bylaws.

Greg Shelton, as a member of the public, said that what he is reading from the Bylaws is that the County Counsel is the counsel for the committee. He assumed that was agreed upon by the County and the Tribe. Shelton said that there is nothing in the Bylaws that states that County Counsel could resign. Shelton questioned if County Counsel could even resign from being Committee Counsel and if doing so violates the Bylaws.

Chairperson Hunter said County Counsel should be viewed as out of compliance because of what the Bylaws state.

Shelton said, for the record, the County is de facto violating both the bylaws and citing a cause that doesn't support their argument for withdrawing.

9. **Discussion of Committee Bylaws:** Chairperson Hunter asked staff why certain sections of the Bylaws were bolded. Staff said they weren't aware of why certain sections of the Bylaws were in bold.

Chairperson Hunter asked the Committee to review the Bylaws and create recommendations to address the issue of legal representation.

Staff requested that all Bylaw proposals/revisions be submitted by 5 p.m. on September 4, 2012 to Jed Chernabaeff.

At the conclusion of this agenda item, the Committee went into Closed Session at 11:28 a.m.

10. **Next meeting** – 10:00 a.m. Hamamatsu Room. Porterville City Hall. October 18, 2012
11. **Adjourned at 11:54 a.m.**



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEM No. 4

AGENDA DATE: October 18, 2012

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:

Article II, Section 1 of the TCLCBC bylaws state the Committee shall be composed of seven (7) members consisting of the following: two (2) representatives from the County, appointed by the Board of Supervisors; three elected representatives from cities located within four miles of a tribal casino in the County, appointed by the Board of Supervisors or, if no such cities are located within four 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 two (2) representatives selected upon the recommendation of a majority of the tribes paying into the Indian Gaming Special Distribution Fund in the County.

Article II, Section 2 of the TCLCBC bylaws state the Committee shall have three (3) alternates: one for each representative classification. The alternates shall not have voting privileges when the appointed members are present. 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.

Article II, Section 3 of the TCLCBC bylaws state the 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. 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.

Article II, Section 5 of the TCLCBC bylaws state upon any vacancy within the Committee, appointment of the representative selected to fill the vacancy shall be in

SUBJECT: Update on Indian Gaming Committee Membership

DATE: October 18, 2012

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. The Chairperson is responsible for immediately notifying the County's Clerk of the Board of Supervisors of any unscheduled vacancies. The Chairperson 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.

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 Chairman 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.

As of October 2, 2012, there are five (5) vacancies on the TCLCBC. (See Attachment A) The vacancies are: one County Representative – Alternate; one Tule Representative; two Mutually Selected Members; one Mutually Selected Member – Alternate.

To address the vacancies, staff worked with the County Clerk of the Board to post notices of scheduled and unscheduled vacancies and solicited Committee applications through press releases, email notifications, and posts to the County's website.

TCLCBC staff did not receive any applications to fill the positions.

FISCAL IMPACT/FINANCING:

N/A

Attachment(s)

A – 2012 TCLCBC Roster/Status as of October 2, 2012

2012 Indian Gaming Committee - Roster/Status (10/2/2012)	Name	Appointed or Reappointed	Term Ends	Mailing Address	Phone Number	Notes
County Representative	Tulare County Fire Department Chief Joe Garcia	7/31/2012	6/30/2015	907 W. Visalia Rd. Farmersville, CA 93223	Work: 559/735-0314	
County Representative	Tulare County Sheriff's Cpt. Robin Skiles	5/10/2011	6/30/2013	17952 Rd. 220 Porterville, CA 93257	Work: 559/733-6543	
County Representative - Alternate	Vacant					

Tule Representative	Rhoda Hunter					
Tule Representative	Vacant					
Tule Representative - Alternate	Brian Ward	8/2/2012		291 N. Main St. Porterville, CA 93257	Work: 559/782-7499	

Mutually Selected Member	Cameron Hamilton	5/12/2010	6/30/2012	1101 W. Olive Ave. Porterville, CA 93257	Work: 559/782-7499	Term has expired. Will hold position until filled.
Mutually Selected Member	Mike Ennis	1/27/2012	6/30/2013	2800 W. Burrel Ave. Visalia, CA 93291	Work: 559/636-5000	
Mutually Selected Member	Vacant					
Mutually Selected Member - Alternate	Vacant					



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEM No. 6

AGENDA DATE: October 18, 2012

SUBJECT: Indian Gaming Special Distribution Fund Annual Report

REQUEST(S):

That the Local Community Benefit Committee:
Ratify and approve Indian Gaming Special Distribution Fund Annual Report for
Fiscal Year 2011-12

SUMMARY:

Pursuant to SB 621 (Chapter 858 Statutes 2003) the Tulare County Indian Gaming Local Community Benefit Committee (TCLCBC) is required to report to the Legislature by October 1 of each calendar year concerning the use of Indian Gaming Special Distribution Funds (SDF) awarded by the committee.

An appropriation of \$9.1 million from the SDF was made in Fiscal Year 2011-12 (AB 1417 – Hall: Chapter 736, Statutes of 2011). Therefore, Counties must report on all new grants made in FY 2011-12 as well as on multi-year grants.

In FY 2011-12, Tulare County requested the release and received \$273,473 from the Tule River Reservation Individual Tribal Casino Account. The TCLCBC approved five grants in the amount of \$268,000 with \$5,473 allocated for Tulare County administrative costs in FY 2011-12.

The annual report for Tulare County (attached) includes the following information for grants awarded in Fiscal Year 2011/2012:

- Description of Projects that were funded.
- Total funding and expenditures to date.
- Detailed information on how the money was spent and remaining funds.
- Detailed information on how and when the remainder of the grant funding will be spent.
- Detailed information regarding ongoing projects that received funding in previous fiscal years.

Per Senate Bill 288, copies of the annual reports are required to be sent to: Chairperson of the Joint Legislative Budget Committee; Chairperson of the Senate Committee on Governmental Organization; Chairperson of the Assembly Committee on Governmental Organization; and the California Gambling Control Commission. As a courtesy, the report is also sent to staff at the California State Association of Counties (CSAC).

SUBJECT: Indian Gaming Special Distribution Fund Annual Report

DATE: October 18, 2012

FISCAL IMPACT/FINANCING:

Submitting an Annual Report allows a County to be eligible for funding in future years. A County that does not submit an Annual Report will not be eligible for funding should an appropriation be made in the future.

Attachment(s) FY 2011-12 Indian Gaming Special Distribution Fund Annual Report

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

IN THE MATTER OF RATIFY AND)
APPROVE INDIAN GAMING SPECIAL) RESOLUTION NO. _____
DISTRIBUTION FUND ANNUAL)
REPORT)

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 _____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

BY: _____
Chairman

* * * * *

Ratified and approved Indian Gaming Special Distribution Fund Annual Report for
Fiscal Year 2011-12

COUNTY OF TULARE
COUNTY ADMINISTRATIVE OFFICE



JEAN M. ROUSSEAU
County Administrative Officer

KRISTIN BENNETT
Assistant County Administrative Officer

September 26, 2012

Dear Interested Parties,

Pursuant to SB 621 (Chapter 858 Statutes 2003) the Tulare County Indian Gaming Local Community Benefit Committee is required to report to the Legislature by October 1 of each year concerning the use of Indian Gaming Special Distribution Funds awarded by the committee.

The annual report for Tulare County is attached and includes the following information for grants awarded in Fiscal Year 2011/2012:

- I. Description of Projects that were funded;
- II. Total funding and expenditures to date;
- III. Detailed information on how the money was spent and remaining funds;
- IV. Detailed information on how and when the remainder of the grant funding will be spent.

Please call me at (559) 636-5000 or email to jchernabaeff@co.tulare.ca.us if you would like to discuss this report or if you have any questions regarding the contents of the report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jed Chernabaeff", is written over a circular stamp or seal.

Jed Chernabaeff, Administrative Analyst
IGLCBC Staff
Tulare County Administrative Office

CC: Jean Rousseau, County Administrative Officer

INDIAN GAMING SPECIAL DISTRIBUTION FUND ANNUAL REPORT FISCAL YEAR 2011-12

County: Tulare County
 Contact Person: Jed Cherrnabaeff
 Phone: 559/636-5005
 E-mail: jchernabaeff@co.tulare.ca.us
 Total Amount of SDF Grant Funds Allotted to County in FY 2011-12: \$273,473
 County Administrative Costs in FY 2011-12: \$5,473
 Total SDF Grant Funds Disbursed by IGLCBC in FY 2011-12: \$273,473
 Amount (if any) of SDF Grant Funds Not Disbursed by IGLCBC in FY 2011-12: \$0
 Tribes Sponsoring LCBC Grants in FY 2011-12: Tule River Indian Tribe

Section 1: SDF Grants Allocated in Fiscal Year 2011-12

DESCRIPTION OF PROJECT	TOTAL GRANT FUNDING AWARDED TO PROJECT FOR FY 2011-12	DESCRIPTION OF PROJECT'S ROLE IN MITIGATING THE IMPACTS OF LOCAL TRIBAL GAMING	TOTAL EXPENDITURES FOR PROJECT IN FY 2011-12	ADMINISTRATIVE COSTS INCURRED BY PROJECT IN FY 2011-12 (excludes County share of administrative fees)	PROJECT FUNDS REMAINING AT THE END OF FY 2011-12 (if any)	EXPLANATION OF PLANNED EXPENDITURE OF REMAINING FUNDS	ESTIMATED TIME FOR EXPENDITURE OF ANY REMAINING FUNDS	WAS THE PROJECT FUNDED ON A ONE-TIME OR CONTINUOUS BASIS?
Tulare County Fire Department: Purchase approximately 40 radio pagers and approximately 125 fire shelters. Pagers and fire shelters will be used by Tulare County Firefighters to receive	\$40,000	New, reliable pagers will ensure that firefighting staff will receive emergency radio dispatch traffic and thereby preventing them from missing a call.	\$0	\$0	\$40,000	\$20,000 Shelters ordered August 31, 2012 \$20,000 planned for Pagers	Fiscal Year 2012-13	One-time

<p>emergency dispatch instructions and to use fire shelters while engaged in wildland firefighting.</p>		<p>Fire Shelters are essential safety equipment used by firefighters during wildland fire control operations. Should a firefighter become entrapped by fire, the firefighter will deploy the shelter to save his/her life.</p>				<p>Funds to be used for helpad construction.</p>	<p>Fiscal Year 2012-13</p>	<p>One-time</p>
<p>Kaweah Delta Health Hospital Foundation Helpad Construction Project: Construct an elevated helicopter landing pad in the east parking lot adjacent to the Acequia Wing emergency trauma entrance. The elevated helpad will be approximately 14' above the existing parking lot level, preserving the majority of the parking spaces and eliminating</p>	<p>\$30,000</p>	<p>Specifically for the impact on the jurisdiction, this provides a life saving service to the casino area residents. Although other hospitals in the area have emergency departments, Kaweah Delta is the hospital with the most complete range of emergency specialists and often cares for the most critical patients. It is the only Level III</p>	<p>\$0</p>	<p>\$0</p>	<p>\$30,000</p>			

<p>most of the helicopter approach and departure clearance problems associated with the "grade level" concept. The helicopter approach and departure path remains from the south over the 198 freeway. The proposed helipad will include an elevated walk-way from the landing pad to a patient transport elevator adjacent to the existing Acequia Wing ambulance port. This will provide direct access to the ground level and the existing Acequia Wing trauma entrance.</p>		<p>Trauma Center in Tulare County. In 2001 there were 4,470 emergency patent encounters from the casino jurisdiction area. That represents approximately 2.4% of all emergency room encounters during that time.</p>				<p>Improvements to new Porterville Police Department Firing Range Facility. Structural Fire</p>	<p>Improvements to new Porterville Police Department Firing Range Facility: \$60,000 by</p>	<p>One-Time</p>
<p>City of Porterville Public Safety Enhancement: The project will continue the construction of improvements at the new Porterville</p>	<p>\$104,000</p>	<p>The City of Porterville Police and Fire Departments are the primary public safety agencies for the Eagle Mountain</p>	<p>\$0</p>	<p>\$0</p>	<p>\$104,000</p>	<p>Improvements to new Porterville Police Department Firing Range Facility. Structural Fire</p>	<p>Improvements to new Porterville Police Department Firing Range Facility: \$60,000 by</p>	<p>One-Time</p>

<p>Police Department Firing Range to create a habitable range training facility, complete with a large classroom, running water, and restroom facilities within the existing structure on the site.</p>		<p>Casino warehouse and maintenance facility located within the TREDC Industrial Park. Services include periodic patrols, response to fire and emergency medical services calls, and other calls for service. The training officers and Sergeants with the Porterville Police Department provide training to Tule Tribe Security and Law Enforcement personnel, including leadership training, impact weapons training and pepper spray training. In addition, the Porterville Police Department provides firearms training and qualifications to</p>				<p>Training Prop at the Regional Training Facility. Coordinated Model of Program/Services in "At-Risk" areas.</p>	<p>Dec. 31, 2012 Structural Fire Training Prop at the Regional Training Facility: \$30,000 by Dec. 31, 2012</p> <p>Coordinated Model of Program/Services in "At-Risk" areas: \$14,000 by June 30, 2013.</p>	
<p>The Project will also assist in initiating a coordinated effort in implementing outreach programs and services in identified neighborhoods, specifically in the area of interest to the Tribal representatives, where juvenile crime, access and utilization of health and social services, educational attainment and achievement, and other important indicators of neighborhood security and vitality are deficient.</p>								

<p>Additionally, the Project will fund the development of a training prop at the Regional Training Facility simulating a structure fire requiring interior fire attack and incorporating live fire, heat, smoke, and flashover conditions.</p>		<p>Tribe officers. The Department also provides traffic enforcement related to nearly all traffic associated with the Eagle Mountain Casino. The City of Porterville participates in a mutual aid agreement with the Sheriff's Department that requires the City to provide backup law enforcement at the Tule River Indian Reservation, when needed. Additionally, the Fire Department's automatic aid agreement supports all the fire agencies in Tulare County.</p>				<p>The remaining funds will be spent when the project beings in October</p>	<p>Fiscal Year 2012-13</p>	<p>One-time</p>
<p>Tulare County Resource Management Agency: Road repairs on M137,</p>	<p>\$64,000</p>	<p>Increase of traffic on Reservation Road due to the presence of the</p>	<p>\$0</p>	<p>\$0</p>	<p>\$64,000</p>			

<p>Reservation Road. Pave about a ½ mile of roadway with asphalt, perform pavement striping.</p>		<p>casino has impacted the condition of the roadway. This grant helps to maintain the roadway leading to the casino.</p>				<p>2012.</p>		
<p>Sierra View District Hospital: Diabetes Education and Prevention.</p>	<p>\$30,000</p>	<p>The Diabetes Education and Prevention program will provide much needed educational opportunities regarding diabetes treatment, prevention and healthy living guidelines to the Tule River Indian Reservation and Eagle Mountain Casino staff and patrons. "The average annual treatment cost per case for diagnosed diabetes was nearly \$10,000.00 in 2007 (California Diabetes Program, 2011)." If</p>	<p>\$0</p>	<p>\$0</p>	<p>\$30,000</p>	<p>Due to changes in the staff in the Dietary Department, Sierra View is currently experiencing a shortage in Clinical Dietitians. At the time the grant was requested the department was at full staffing capacity. As a result, the grant will be delayed in its implementation potentially causing a delayed start of up to 1 year. The hospital staff is exploring options to have the program</p>	<p>Fiscal Year 2013-14</p>	<p>One-time</p>

	<p>applying this estimated cost to Sierra View's 2011 -2012 diabetes statistics, the estimated cost of diabetes treatment would amount to \$44,440,000.00. Implementing a diabetes education and prevention program has the potential to dramatically reduce cost expended for diabetes treatment, by reducing the number of individuals diagnosed annually. Not only could this program dramatically reduce cost, but it can also impact quality of life and increase life expectancy; as diabetes is known to decrease life expectancy based on age of</p>				<p>created by the dietitians yet administered and taught by a clinical social worker or nurse. This could potentially speed up implementation, but the feasibility is still under investigation.</p>		
--	--	--	--	--	--	--	--

		diagnosis.						

Section 2: Grants Funded in Previous Fiscal Year(s) But Expended in Fiscal Year 2011-12:

DESCRIPTION OF PROJECT	BASE FISCAL YEAR IN WHICH GRANT FUNDING WAS FIRST AWARDED	TOTAL GRANT FUNDING AWARDED TO PROJECT TO DATE	DESCRIPTION OF PROJECT'S ROLE IN MITIGATING THE IMPACTS OF LOCAL TRIBAL GAMING	TOTAL EXPENDITURES FOR PROJECT IN FY 2011-12	ADMINISTRATIVE COSTS INCURRED BY PROJECT IN FY 2011-12 (excludes County share of administrative fees)	PROJECT FUNDS REMAINING AT THE END OF FY 2011-12 (if any)	EXPLANATION OF PLANNED EXPENDITURE OF REMAINING FUNDS	ESTIMATED TIME FOR EXPENDITURE OF ANY REMAINING FUNDS	WAS THE PROJECT FUNDED ON A ONE-TIME OR CONTINUOUS BASIS?
City of Porterville Public Safety Enhancement Program.	Fiscal Year 2010-11	\$324,526	The City of Porterville Police and Fire Departments are the primary public safety agencies for the Eagle Mountain Casino warehouse and maintenance facility located within the TREDC Industrial Park. Services include periodic patrols, response to fire and emergency	\$254,637.64	\$0	\$69,888.36	Improvements to new Porterville Police Department Firing Range Facility. Mezzanine & Stairs Project at the Porterville Fire Station #2. Structural Fire Training Prop at the Regional Training Facility.	Fiscal Year 12-13	One-time



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEM No. 7

AGENDA DATE: October 18, 2012

SUBJECT: Report on future Indian Gaming funding.

REQUEST(S):

That the Local Community Benefit Committee:
Receive an update regarding the status of future Indian Gaming Local Special Distribution Fund appropriations.

SUMMARY:

Funding Background

Funding allocated to the Tulare County Indian Gaming Local Community Benefit Committee (IGLCBC) is authorized by Senate Bill 621 (2003), which provides for the issuance of grant funding from the Indian Gaming Special Distribution Fund (SDF) to Counties, Cities, and Special Districts impacted by tribal gaming. Those gaming tribes which operated 200 or more gaming devices on or before September 1, 1999 contribute a variable portion of their net winnings into the SDF.

In Tulare County, the Tule River Tribe contributes winnings to the SDF; Tulare County does not have any other federally-recognized tribes. The Legislature may appropriate money from the SDF for the following purposes:

- a.) grants for programs designed to address gambling addiction;
- b.) grants for the support of state and local government agencies impacted by tribal government gaming;
- c.) compensation for regulatory costs incurred by the California Gambling Control Commission (CGCC) and the Department of Justice (DOJ) in connection with the implementation and administration of compacts;
- d.) payment of shortfalls that may occur in the Indian Gaming Revenue Sharing Trust Fund (RSTF);
- e.) disbursements for the purpose of implementing the terms of tribal labor relations ordinances promulgated in accordance with the terms of the 1999 compacts; and
- f.) any other purpose specified by law.

Fiscal Year 2012-13 Funding

On August 30, 2012, The State Legislature passed Assembly Bill 2515 (Hall), which the Governor signed into law on September 28, 2012. AB 2515 appropriates \$9.1 million in SDF funds for Fiscal Year 2012-13. This is the same amount of funding that was provided by the State Legislature for Fiscal Year 2011-12 (AB 1417).

SUBJECT: Report on future Indian Gaming funding.

DATE: October 18, 2012

New Requirements

In February 2011, the California Bureau of State Audits prepared a report titled, "The Indian Gaming Special Distribution Fund" (Report 2010-036). According to the author of AB 2515, this legislation includes new requirements as a result of the findings of this report. The report indicated that Counties were not reporting and the state "could not determine whether the share provided from the SDF was proportional to the casino's impact, as required by state law" and that the use of SDF funds did not clearly demonstrate how the funds mitigate these impacts.

Consequently, AB 2515 increases the requirements governing the awarding of grants from the SDF by the IGLCBC to ensure that the funds are properly used to mitigate costs associated with Indian Gaming. The following statement has been added to California Government Code Section 12715(b)(1)(a) as part of AB 2515, "each grant application shall clearly show how the grant will mitigate the impact of the casino on the grant applicant."

Future Events

The CGCC and State Controller's Office will initiate the process of determining individual IGLCBC allocations which should be complete by January 1, 2013. This will allow the IGLCBC to begin the process of seeking applicants in January 2013. As a result of the new requirements of AB 2515, staff will be incorporating methodology of demonstrating the mitigation of the impacts of the casino into the 2012-13 Grant Application for review by the IGLCBC.

FISCAL IMPACT/FINANCING:

N/A

Attachment(s) N/A



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEM No. 8

AGENDA DATE: October 18, 2012

SUBJECT: Approve Amendments to Committee Bylaws

REQUEST(S):

That the Local Community Benefit Committee:
Approve amendments to the Bylaws of the Tulare County Indian Gaming Local Community Benefit Committee

SUMMARY:

Article III Section 7 of the Bylaws of the Tulare County Indian Gaming Local Community Benefit Committee state that the "Bylaws shall be reviewed every three (3) years." The Committee most recently reviewed the Bylaws on September 1, 2005. Therefore, staff is requesting that the Committee consider certain amendments to the Bylaws.

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 5:00 PM on September 4, 2012. Staff received comments from two members and provided 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. Staff is requesting consideration and approval of these proposed amendments.

Attached to this Agenda Item is a copy of the recommended amended Bylaws outlining the proposed modifications, additions, and deletions. Also attached is a matrix of the comments received.

FISCAL IMPACT/FINANCING:

None.

Attachment(s)

- A – Amended Bylaws
- B – Amendment Matrix

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

IN THE MATTER OF APPROVAL)
OF AMENDMENTS TO COMMITTEE) RESOLUTION NO. _____
BYLAWS)

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 _____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

BY: _____
Chairman

* * * * *

Approved amendments to the Bylaws of the Tulare County Indian Gaming Local Community Benefit Committee

**BYLAWS OF
THE TULARE COUNTY
INDIAN GAMING LOCAL COMMUNITY
BENEFIT COMMITTEE
April 23, 2004¹**

**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 Revised 9-1-05.

ARTICLE II MEMBERSHIP

SECTION 1: Appointment and Representation of Members

The Committee shall be composed of seven (7) members consisting of the following:

- 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 Article II, Section 1.** The alternates shall not have voting privileges when the appointed members are present. 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. 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.

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 **or designated 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**. 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 votes. A

matter may only be passed by the affirmative vote of a majority of the members or appropriate alternate members present. In cases where only a quorum is present, all members and alternate members 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 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 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.

SECTION 3: Meeting Announcements

Pursuant to the Brown Act, 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 seventy-two

(72) hours before the meeting. 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.

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.

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 **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.

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.
- 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 detailing the specific projects funded by all grants from the Indian Gaming Special Distribution Fund.

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.

**Tulare County Indian Gaming Local Community Benefit Committee
By-Law Recommendations/Draft Language**

Committee Member: Fire Chief Joe Garcia

Recommendation: Section 4: Duration – Delete the 2009 date and replace a current statutory date.

Current Language: 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, 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, deletes or extends that date.

Language Drafted by Staff: Government Code Section 12718 provides that the authority for this Committee (and the Committee’s existence) shall remain in effect only until **January 1, 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, 2021**, deletes or extends that date.

Committee Member: Captain Robin Skiles

Recommendation: Section 9: Committee Staff – I would recommend giving an option that the Committee has the authority to seek administrative services and/or legal services from other entities including the private sector in the event that the Chief Administrative Office or County Counsel is in conflict with the Committee and relinquished their position.

Current Language: Staff from the County of Tulare Chief Administrative Office and County Counsel shall serve as administrative staff and legal advisor to the Committee. County staff shall be reimbursed for demonstrated County administrative and legal costs from the aggregate tribal account pursuant to Section 12715(b)(1)(C) of the Government Code.

Language Drafted by Staff: Staff from the County of Tulare Chief Administrative Office and County Counsel shall serve as administrative staff and legal advisor to the Committee. **If staff from the Chief Administrative Office or County Counsel relinquishes their role from the Committee, the Committee shall seek administrative services and/or legal services from other entities including the private sector.** County staff shall be reimbursed for demonstrated County administrative and legal costs from the aggregate tribal account pursuant to Section 12715(b)(1)(C) of the Government Code.

Staff Recommendation: Section 5 – Committee Vacancies. Allow resigning Committee members to submit written resignation to staff, in addition to the Committee Chairperson.

Current Language: 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. The Chairperson is responsible for immediately notifying the County’s Clerk of the Board of Supervisors of any unscheduled vacancies. The Chairperson 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.

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 Chairman 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.

Language Drafted by Staff: 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 Committee staff. The Chairperson or Committee staff is responsible for immediately notifying the County’s Clerk of the Board of Supervisors of any unscheduled vacancies. The Chairperson or 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. 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 Chairman 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.

Staff Recommendation: Article III, Section 4: Meeting Agendas. Allow staff to send agendas and/or materials electronically prior to meeting.

Current Language: 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 to Committee members one (1) week prior to the next scheduled meeting.

Language Drafted by Staff: 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.

Staff Recommendation: Article II, Section 2 discusses Appointment and Representation of Alternates. It might be beneficial to have this Section be consistent with Article II, Section 1.

Current Language: The Committee shall have **three (3) alternates: one for each representative classification.** The alternates shall not have voting privileges when the appointed members are present. 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.**

Language Drafted by Staff: The Committee shall have **three (3) alternates: one for each representative classification as outlined in Article II, Section 1.** The alternates shall not have voting privileges when the appointed members are present. The alternates shall consist of: **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.**

Staff Recommendation: Article II Section 4.

Current Language: 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.

Language Drafted by Staff: 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.**

Staff Recommendation: Article II Section 5.

Current Language: 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. The Chairperson is responsible for immediately notifying the County's Clerk of the Board of Supervisors of any unscheduled vacancies. The Chairperson 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.

Language Drafted by Staff: 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. The Chairperson is responsible for immediately notifying the County's Clerk of the Board of Supervisors of any unscheduled vacancies. The Chairperson will provide the County's Board of Supervisors and the appropriate appointing authority with written notification of vacancies. 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.

Staff Recommendation: Article II Section 6.

Current Language: A quorum shall consist of a minimum of four (4) Committee members. 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.

Language Drafted by Staff: A quorum shall consist of a minimum of four (4) Committee members or appropriate alternate members. 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..

Staff Recommendation: Article II Section 7.

Current Language: Each Committee member shall have one (1) vote. Committee members shall not have the right to accumulate votes. A matter may only be passed by the affirmative vote of a majority of the members present. In cases where only a quorum is present, all members must vote in the affirmative to take action on the item.

Language Drafted by Staff: Each Committee member and alternate member shall have one (1) vote. Committee members and alternate members shall not have the right to accumulate votes. A matter may only be passed by the affirmative vote of a majority of the members or appropriate alternate members present. In cases where only a quorum is present, all members and alternate members must vote in the affirmative to take action on the item.

Staff Recommendation: Article II Section 9.

Current Language: Staff from the County of Tulare Chief Administrative Office and County Counsel shall serve as administrative staff and legal advisor to the Committee. County staff shall be reimbursed for

demonstrated County administrative and legal costs from the aggregate tribal account pursuant to Section 12715(b)(1)(C) of the Government Code.

Language Drafted by Staff: Staff from the County of ~~Chief~~ Tulare Administrative Office (CAO) and County Counsel shall serve as administrative staff and legal advisor to the Committee, respectively. Should either the CAO or County Counsel no longer serve as the administrative or legal staff to the Committee, the Committee shall identify alternate sources of administrative and/or legal representation. The 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 Committee 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, costs for these alternate sources will not be reimbursed from the aggregate tribal account. Pursuant to Section 12715(b)(1)(C) of the Government Code, only the County of Tulare shall be reimbursed for demonstrated costs incurred for administering the grant programs.

Staff Recommendation: Article III Section 1.

Current Language: The Committee shall meet at least twice each year to consider grant opportunities and to award selected grants. The Committee may meet more frequently than twice each year if necessary to conduct its business.

Language Drafted by Staff: 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.

Staff Recommendation: Article III Section 7.

Current Language: Bylaws shall be reviewed every three (3) years.

Language Drafted by Staff: Bylaws shall be reviewed every three (3) years by resolution of the Committee.

Staff Recommendation: Article V Section 1 Subdivision c. This section does not apply to the Tulare County Indian Gaming Local Community Benefit Committee, since Tulare County does not have any tribes that do not pay into the Indian Gaming Special Distribution Fund.

Current Language: 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.

Language Drafted by Staff: ~~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.



Tulare County Indian Gaming Local Community Benefit Committee



AGENDA ITEM No. 9

AGENDA DATE: October 18, 2012

SUBJECT: Direction to Staff regarding Committee Counsel

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

1. Accept and acknowledge Tulare County Counsel's withdrawal of legal representation of the Tulare County Indian Gaming Local Community Benefit Committee retroactive to June 4, 2012 in accordance with Tulare County Counsel's letter of that date.
2. Identify alternative Counsel to serve as legal advisor and representation for the Committee and provide direction to Committee Staff to replace Tulare County Counsel with identified alternative.
3. Identify funding source for alternative Counsel to serve as legal advisor and representation for the Committee.

SUMMARY:

On June 4, 2012, Tulare County Counsel withdrew their legal representation of the Tulare County Indian Gaming Local Community Benefit Committee (TCLCBC), citing "Rule of Professional Conduct, Rule 3-600." At that time, the TCLCBC Bylaws did not provide any alternative means of acquiring legal representation in the event that County Counsel withdrew their representation.

A proposed amendment to the TCLCBC Bylaws (considered separately) will allow the Committee to identify alternative legal representation in the event the Tulare County Counsel's office withdraw their representation of the Committee. The proposed amendment does not identify what alternative shall be utilized by the Committee, but leaves this responsibility up to the Committee. Therefore, Staff is requesting that the Committee identify and recommend an alternative method of acquiring legal representation and direct staff to pursue that alternative.

Government Code Section 12715 (b)(1)(C) states that the appropriate amount for reimbursement from the aggregate County Tribal Account for the demonstrated costs incurred by the County for administering the grant programs may not exceed two percent (2%) of the aggregate account allocation in any given fiscal year. This 2% provides funding for legal representation and administrative support for the Committee. Furthermore, Government Code Section 12715(b)(1)(C) provides that only costs incurred by the County shall be reimbursed from this 2%. Therefore, if the Committee wishes to utilize legal representation other than through the County,

SUBJECT: Direction to Staff regarding Committee Counsel

DATE: October 18, 2012

the source(s) of funds to reimburse the costs of that legal representation must be identified and will not be allocated from the 2%.

To that end, the Committee has two options that would not significantly affect the way in which legal representation costs are reimbursed:

1. Consult with Tulare County Counsel to see if a viable compromise could be made that would allow for County Counsel to resume legal representation of the TCLCBC; or
2. Direct County staff to procure and contract with a private attorney to provide legal representation to the TCLCBC.

The costs of any other method of legal representation will not be reimbursed by the 2%. Based on the County's records, over the past four years, County Counsel has spent an average of nearly 60 hours providing legal representation for the TCLCBC per fiscal year in years where funding has been allocated from the State's Special Distribution Fund (SDF).

It is projected that County Counsel's annual average costs are near or above \$12,000 in years where funding has been allocated to the TCLCBC from the SDF. However, in Fiscal Year 2011-12, the Committee approved only \$5,473 for both Tulare County administrative and legal costs. Therefore, it is anticipated that an annual deficit exists of greater than \$6,500 for legal representation alone, not accounting for the reimbursement of any administrative costs.

This shortage has been covered by the County in the past through an overhead billing. If the TCLCBC no longer uses County Counsel but utilizes contracted legal representation, this cost overage will not be covered by the County's overhead billing. Therefore, the TCLCBC must also identify the source of funding for any additional costs of legal representation.

FISCAL IMPACT/FINANCING:

Legal representation costs could be as much as \$12,000 per fiscal year in years where funding is allocated to the TCLCBC from the State's SDF. Should these costs be incurred by the County through contracted legal representation, they will be eligible for reimbursement from the 2% portion of the TCLCBC's SDF appropriation.

For example, if the TCLCBC is appropriated \$250,000 from the SDF in a given fiscal year, there would \$5,000 available for both administrative (CAO) and legal representation. If the County incurs more than that for both administrative and legal representation costs, the TCLCBC must identify the source of funding for those additional costs for the additional legal representation costs if legal representation other than County Counsel is used, provided those costs are incurred by the County. Additional administrative costs will continue to be incurred as previously.

Attachment(s) N/A

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

IN THE MATTER OF PROVIDING)
DIRECTION TO STAFF REGARDING)
COMMITTEE COUNSEL) RESOLUTION NO. _____

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 _____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

BY: _____
Chairman

* * * * *

1. Accepted and acknowledged Tulare County Counsel's withdrawal of legal representation of the Tulare County Indian Gaming Local Community Benefit Committee retroactive to June 4, 2012 in accordance with Tulare County Counsel's letter of that date.
2. Identified alternative Counsel to serve as legal advisor and representation for the Committee and provided direction to Committee Staff to replace Tulare County Counsel with identified alternative.
3. Identified funding source for alternative Counsel to serve as legal advisor and representation for the Committee.