

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

**10:00 A.M. SEPTEMBER 18, 2013**

**MEETING NOTICE  
TULE RIVER INDIAN TRIBAL COUNCIL CHAMBERS**

**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, June 19, and July 24, 2013 meetings**
- 4. Membership Roster Update**
- 5. Consider and Approve By-Law Amendments**
- 6. Review and Direct Staff to Send the Final Draft of the Letter to the State Attorney General, after allowing a response by City or Porterville and Tule River Indian Tribe, regarding the Committee's request to the City of Porterville to return \$217,313 in grant funds to the State.**
- 7. Next Meeting: TBD**
- 8. 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.

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## CLOSED SESSION

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### **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.

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# Tulare County Indian Gaming Local Community Benefit Committee



## **AGENDA ITEM No. 3**

**AGENDA DATE:** September 18, 2013 - **REVISED**

**SUBJECT:** Approve Minutes from the May 15, May 22, June 19 and July 24, 2013 meetings

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

Approve Minutes from the May 15, May 22, June 19 and July 24, 2013 meetings

**SUMMARY:**

At the July 24, 2013 meeting, Committee members did not approve minutes from the May 15, May 22, or June 19 meetings because of clerical errors and the need for clarification on some items.

Staff amended the meeting minutes to reflect accuracy.

The amendments are as follows:

**May 15, 2013**

Item 2, Public Comment:

Original line: Diaz said the money should be returned to the state.

Amended line: Diaz said **all** the money should be returned to the state.

**May 22, 2013**

Item 1, Call to Order & Roll Call:

Original line: Rhoda Hunter asked if Ryan Garfield could sit on as a Committee member.

Amended line: Rhoda Hunter asked if **William** Garfield could sit on as a Committee member.

Item 8, Membership & Bylaws Discussion:

Original line: the Committee's current composition included two County representatives – Robin Skiles and Joe Garcia – one Mutually Selected Member –

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Mike Ennis – two Tribal representatives – Kenneth McDarment and Nancy McDarment – and on Tribal alternate – Rhoda Hunter.

Amended line: 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 **one** Tribal alternate – Rhoda Hunter.

Item 8, Membership & Bylaws Discussion:

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

Amended line: **The Committee's** legal staff reminded the Chairman **he** could remove members of the public if certain criteria were met.

### **June 19, 2013**

Attendance

Original line:

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

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

Amended line:

Present: Robin Skiles, Mike Ennis, Nancy McDarment, Rhoda Hunter (Tule Representative – Alternate), **John Crivello (County Representative – Alternate)**

Absent: Kenneth McDarment, **Joe Garcia**

Item 4, Rescind a Portion of Grant Funds Awarded to City of Porterville

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

Amended line: Robin Skiles asked the committee to consider approving ratification of sending letter to City of Porterville requesting repayment of funds. There was no motion provided.

Original line: 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

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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 with details of the funding awarded. Vote: 4-1. Rhoda Hunter voted no.

Amended line: Robin Skiles asked the committee to consider rescinding a portion of grant funds awarded to City of Porterville. Vote: There was no motion.

Robin Skiles motioned to modify Item No. 4, rescission of grants funds awarded to City of Porterville. Skiles motioned to send a copy of the letter sent to the City of Porterville requesting repayment of funds, along with a cover letter, to the State. In addition, prior to the copy of the letter and cover letter being sent to the State, the Committee would allow the City of Porterville to provide a response regarding the letter sent to the City of Porterville for repayment of funds. If provided, the City of Porterville's response would be attached to the Committee's cover letter and copy of the letter sent to the City of Porterville for repayment of funds and sent to the State. The cover letter would ask the State's opinion as to what to do and include a summary of how the funds were spent and the positive impacts of the funds. There was no second made.

Regarding the changes to Items 3 & 4 from the June 19, 2013 meeting. No further action is necessary regarding the letter to the City of Porterville requesting repayment of funds. The Committee is not pursuing any further action regarding this letter.

While no official action was taken on Item 4 at the June 19, 2013 meeting, your Committee is considering this item at today's meeting.

**FISCAL IMPACT/FINANCING:**

N/A

**ATTACHMENT(S):**

- A – May 15, 2013 Minutes
- B – May 22, 2013 Minutes
- C – June 19, 2013 Minutes
- D – July 24, 2013 Minutes

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

**IN THE MATTER OF APPROVE )  
MINUTES FROM THE MAY 15, MAY ) RESOLUTION NO. 2013-  
22, JUNE 19 AND JULY 24, 2013 )  
MEETINGS )**

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 SEPTEMBER 18, 2013, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

BY: \_\_\_\_\_  
Chairman

\* \* \* \* \*

1. Approved minutes from the May 15, May 22, June 19 and July 24, 2013 meetings.

**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 on 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 a.m., 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 May 13, 2013. 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 the 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 all the money should be returned to the state if the Committee was going to haggle with awarding the funds.

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 William 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 is 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 one 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 Tribe's 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.

The Committee's legal staff reminded the Chairman he 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 is 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, Nancy McDarment, Rhoda Hunter (Tule Representative – Alternate), John Crivello (County Representative – Alternate)

**Absent:** Kenneth McDarment, Joe Garcia

**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 asked the committee to consider approving ratification of sending letter to City of Porterville requesting repayment of funds. There was no motion provided.

4. **Rescind a Portion of Grant Funds Awarded to City of Porterville:** Robin Skiles asked the committee to consider rescinding a portion of grant funds awarded to City of Porterville. Vote: There was no motion.

Robin Skiles motioned to modify Item No. 4, rescission of grants funds awarded to City of Porterville. Skiles motioned to send a copy of the letter sent to the City of Porterville requesting repayment of funds, along with a cover letter, to the State. In addition, prior to the copy of the letter and cover letter being sent to the State, the Committee would allow the City of Porterville to provide a response regarding the letter sent to the City of Porterville for repayment of funds. If provided, the City of Porterville's response would be attached to the Committee's cover letter and copy of the letter sent to the City of Porterville for repayment of funds and sent to the State. The cover letter would ask the State's opinion as to what to do and include a summary of how the funds were spent and the positive impacts of the funds. There was no second made.

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  
Minutes  
July 24, 2013**

**COUNTY ADMINISTRATIVE OFFICE – CONFERENCE ROOMS A & B**

**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, Julia Lew, Allison Pierce, Will Jackson

1. **Call to Order & Roll Call:** The meeting started at 10:08 a.m.
2. **Public Comment**
3. **Approve Minutes from the May 15, May 22, and June 19, 2013 meetings:** The vote to approve the minutes was postponed to allow staff time to edit minor errors and verify statements.
4. **Ratify 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:** Staff reported that 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 the 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.

Staff read the draft letter to the Committee.

The Committee agreed on the following changes to the draft letter: language that reflects that the Committee made its decision not to award the City of Porterville funds from the 60% Nexus Criteria for FY 2012/13 and language that asks the State for direction. In addition, the opinion from the Office of Legislative Counsel and any resolutions pertaining to the 60% Nexus criteria decision be included with the cover letter and letter.

In addition, the Committee agreed that all approved documents to be sent to the State should be sent to the City of Porterville and the Tule River Indian Tribe for response. Upon completion, the document package would be sent to the State Attorney General and State Controller.

- 5. Membership Roster Update:** Staff reported that three vacancies existed on the Committee. In addition, the term of Committee member Mike Ennis expired on June 30, 2013. However, per the bylaws, Mike Ennis is allowed to serve until that position is filled.

Rhoda Hunter asked why some Committee members were appointed at a certain date, but their term expires before four years. Per the bylaws, Committee members' terms last four years.

Staff explained that some Committee members are appointed to serve out the terms of Committee members who resigned or lost sponsorship. Staff added that when the Committee was formed, staggering terms were assigned to specific positions on the Committee to limit the amount of vacancies at one time on the Committee.

Rhoda Hunter asked why did Mike Ennis' term expire in 2013 when he was reappointed in 2012.

Staff said they would work with the Clerk of the Board to determine exact dates of Committee member terms expiring.

- 6. Direct Staff to Begin Circulating Proposed By-Law Amendments:** Rhoda Hunter motioned to begin circulating proposed by-law amendments. Mike Ennis seconded. Vote: 4-0.
- 7. The Committee agreed to meet on September 18. 10 a.m. Tribal Chambers.**



# Tulare County Indian Gaming Local Community Benefit Committee



## **AGENDA ITEM No. 4**

**AGENDA DATE:** September 18, 2013

**SUBJECT:** Membership Roster Update

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

Receive presentation regarding Committee membership

### **SUMMARY:**

At the July 24, 2013 meeting, Committee members raised several questions regarding membership terms and expiration dates. Staff responded and indicated research would be conducted with the Tulare County Clerk of the Board, whose office maintains records of appointments and terms to a wide variety of Boards, Commissions, and Special Districts – including the Tulare County Indian Gaming Local Community Benefit Committee.

Staff reviewed Committee meeting minutes and identified two errors pertaining to current Committee member terms and expiration.

### **Member Terms**

The seven member Tulare County Indian Gaming Local Community Benefit Committee first met on April 22, 2004. During this meeting, members approved having four members serve two-year terms and three members serve three year terms initially. The decision ensured that no more than two thirds (2/3) of the terms of the total number of members would expire in any one year period, per the Committee's bylaws.

Per the April 22, 2004 (Attachment A) meeting minutes:

*“A motion was made by David Whaley and seconded by Cameron Hamilton to approve the terms of office as having 4 members with 2-year terms and 3 members with 3-year terms, and having the Chair and Vice-Chair serve 1-year terms. The motion passed unanimously. The identification of which terms apply to which Committee members was deferred until the next meeting.”*

At its April 27, 2004 meeting, Committee members conducted a drawing to determine term expirations. Per the April 27, 2004 (Attachment B) meeting minutes:

*“The committee conducted a drawing to determine the term expirations of committee members. The drawing resulted in the following terms, Dave Hillman, Cameron Hamilton,*

**SUBJECT:** Membership Roster Update

**DATE:** September 18, 2013

*Lali Moheno and Neil Peyron will serve an initial two year term, and David Whaley, Neil Smith, and Shannon Alto will serve an initial three year term.”*

### **Term Expiration**

At its June 21, 2004 meeting, Committee members unanimously approved having the terms expire January 1. Per the June 21, 2004 (Attachment C) meeting minutes:

*“Neil Smith motioned to have the term expiration as of January 1<sup>st</sup> of each year. Neil Peyron seconded the motion. Motion was approved unanimously.”*

### **Analysis**

After a review of resolutions which include appointment dates and terms, it was determined Committee members have been appointed to two and three year terms after the initial two and three year terms served by the original Committee members. Rather than being appointed or reappointed to continuous two and three year terms, Committee members should have been serving four year terms after the initial terms were served.

For example, Committee member Cameron Hamilton filled an original position that included an initial two year term. When Hamilton’s term expired on June 30, 2006, he or whoever was selected to fill that seat and term should have been reappointed or appointed to a four year term with a term ending Jan. 1, 2010. Instead, according to a Board of Supervisors resolution, Hamilton was reappointed on June 26, 2007 with a term expiration of June 30, 2009 – another two year term.

The pattern of two and three year appointments and reappointments is consistent with all membership seats.

Based on the analysis, staff has put together a membership roster (Attachment D) which reflects the accurate term ending date for each Committee position.

In addition, the Clerk of the Board’s office will ask the Board of Supervisors to approve reappointments for each current member so their term reflects the most accurate information.

### **FISCAL IMPACT/FINANCING:**

N/A

### **ATTACHMENT(S):**

- A – April 22, 2004 Minutes
- B – April 27, 2004 Minutes
- C – June 21, 2004 Minutes
- D – Roster with Terms



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

## **MEETING MINUTES**

April 22, 2004

### Members Present:

Dave Hillman, County Representative  
David Whaley, County Representative  
Cameron Hamilton, Mutually Selected Member  
Neil Smith, Mutually Selected Member  
Neil Peyron, Tribe Representative

### Members Absent:

Shannon Alto, Tribe Representative  
Lali Moheno, Mutually Selected Member

### Vacant:

None

### Staff Present:

Julia Langley, Deputy County Counsel  
Dave Bryant, Deputy CAO-Program

### Members of the Public Present:

Sam Cohen  
Claudia Elliot

### 1. CALL TO ORDER/INTRODUCTIONS

The meeting was called to order at 9:00 a.m. by Michelle Baldwin who introduced Julia Langley and Dave Bryant as staff of the committee.

### 2. APPROVAL OF MINUTES

No minutes were approved as this was the first meeting of the committee.

### 3. ELECTION OF OFFICERS

A motion was made by Neil Smith and seconded by Neil Peyron to nominate Cameron Hamilton as Chairman and Dave Hillman as Vice-Chairman for a term of one year. The motion passed unanimously. The Committee by consensus agreed to have Julia Langley and Dave

Bryant continue as staff.

#### 4. REVIEW OF COMMITTEE BYLAWS

A motion was made by Neil Smith and seconded by Cameron Hamilton to approve the committee bylaws. The motion passed unanimously. The Committee by consensus requested that Dave Bryant send a letter to Rick McIntyre asking him if he would be interested in serving as an alternate member of the committee.

#### 5. TERMS OF OFFICE

A motion was made by David Whaley and seconded by Cameron Hamilton to approve the terms of office as having 4 members with 2-year terms and 3 members with 3-year terms, and having the Chair and Vice-Chair serve 1-year terms. The motion passed unanimously. The identification of which terms apply to which Committee members was deferred until the next meeting.

#### 6. REVIEW OF SB 621 REQUIREMENTS

Julia Langley provided an overview of the provisions regarding SB 621 and indicated that the committee will need to approve grant applications and send a list of approved grants to the state controller by May 31, 2004, and that the state controller would pay the approved grant applicants by June 30, 2004. The committee by consensus directed staff to publish an article in newspapers regarding grant applications, and a Press Release soliciting grant application with reference to the County website. In addition the committee requested that staff provide an overview of bill, finalize an application, staff contact information including tribal contacts, and timeframes as accepted by the committee to post on the county website.

The committee asked if staff could check with the county auditor regarding completion dates of grant projects.

#### 7. REVIEW OF BROWN ACT REQUIREMENTS

Julia Langley provided an overview of the Brown Act. The committee by consensus requested that Gary De Malignon provide a workshop at the next meeting.

#### 8. OTHER BUSINESS

The committee discussed grant program timeframes in relationship to the state deadlines. The committee determined if the timing is difficult, applications can be sent Overnight certified Fed Ex or hand carried to the state controller. Staff will draft up a framework for grant applications. The committee discussed a procedure or framework for review of denied applications, but determined that there is no time this year for review of denial process. The committee discussed whether a deadline to complete the project should be included as part of the application, and staff

indicated they will check into that provision.

#### 9. NEXT MEETING DATE

After discussion, it was the consensus of the committee that a meeting would be scheduled on Tuesday April 27, 2004 at 1:00 P.M.

#### 15. ADJOURNMENT

The meeting was adjourned at 11:30 A.M.

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

## **MEETING MINUTES**

April 27, 2004

### Members Present:

Dave Hillman, County Representative  
David Whaley, County Representative  
Cameron Hamilton, Mutually Selected Member  
Lali Moheno, Mutually Selected Member  
Neil Smith, Mutually Selected Member  
Neil Peyron, Tribe Representative

### Members Absent:

Shannon Alto, Tribe Representative

### Vacant:

None

### Staff Present:

Julia Langley, Deputy County Counsel  
Dave Bryant, Deputy CAO-Program

### Members of the Public Present:

Sam Cohen

### 1. CALL TO ORDER/INTRODUCTIONS

The meeting was called to order at 1:00 P.M. by Chairman Hamilton.

### 2. APPROVAL OF MINUTES FOR APRIL 22, 2004 MEETING

No minutes were approved as staff indicated that the minutes were in the process of being completed.

### 3. OPPORTUNITY FOR PUBLIC COMMENT

The public was invited to make comments and no one responded.

#### 4. SWEARING-IN OF COMMITTEE MEMBERS

Michelle Baldwin conducted the swearing –in of all committee members in attendance.

#### 5. REVIEW OF BROWN ACT REQUIREMENTS

Gary De Malignon, Deputy County Counsel provided a workshop to discuss the open meeting requirements of the Brown Act. A general discussion was held regarding correspondence, communication, and decision making.

#### 6. REVIEW AND REVISION OF PROCEDURES AND TIME-LINE FOR GRANT APPLICATION ACCEPTANCE, REVIEW AND APPROVAL

Julia Langley requested a change in the timeline to specify that grant application requests must first receive a sponsorship letter from the Tule River Tribal Council before they are submitted to the Indian Gaming Local Community Benefit Committee. Neil Smith and Lali Moheno volunteered to serve as a sub-committee if needed to evaluate grant review procedures. The committee decided by concensus to wait until applications are received to review procedures. A motion was made by Dave Hillman and seconded by David Whaley to amend the timeline as recommended by staff. The motion passed unanimously.

#### 7. MEMBERSHIP UPDATE, REVIEW AND ADOPTION OF TERM EXPIRATIONS

The committee discussed the status of alternate committee members. Staff was requested to review whether the committee or the Board of Supervisors appoints alternate committee members. The committee conducted a drawing to determine the tem expirations of committee members. The drawing resulted in the following terms, Dave Hillman, Cameron Hamilton, Lali Moheno and Neil Peyron will serve an initial two year term, and David Whaley, Neil Smith, and Shannon Alto will serve an initial three year term.

#### 8. OTHER MATTERS

The committee discussed the funding table prepared by staff. Sam Cohen requested that wording in the table and the website should be modified to reflect local jurisdictions which are defiend as a city, county, or special district. The committee asked staff to collect information on professional liability insurance for errors and omissions, and to include rules of procedures to adopt at the next meeting. The committee asked staff to classify all grant applications according to the funding matrix and deliver agenda packets to all members prior to the next meeting.

#### 9. NEXT MEETING DATE

After discussion, it was the consensus of the committee that a meeting would be scheduled on Thursday May 27, 2004 at 9:00 A.M.

## 15. ADJOURNMENT

The meeting was adjourned at 2:55 P.M.

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

**MEETING MINUTES**

**June 21, 2004**

Members Present:

- Dave Hillman, County Representative
- Neil Smith, Mutually Selected Member
- Shannon Alto, Tribe Representative
- Neil Peyron, Tribe Representative
- Cameron Hamilton, Mutually Selected Member

Members Absent:

- David Whaley, County Representative
- Lali Moheno, Mutually Selected Member

Vacant:

None

Staff Present:

- Julia Langley, Deputy County Counsel
- Dave Bryant, Deputy CAO-Program

Members of the Public Present:

- Sam Cohen
- John Longley

**1. CALL TO ORDER/INTRODUCTIONS**

Chairman Hamilton called the meeting to order at 3:02 p.m.

**2. APPROVAL OF MINUTES**

The minutes for the May 27, 2004 were motioned for approval by Committee Member Dave Hillman, and seconded by Committee Member Neil Peyron. Motion was carried.

**3. OPPORTUNITY FOR PUBLIC COMMENT**

John Longley made a comment regarding the Performance Standards and Risk Management pool meeting insurance requirements and noted concern regarding funding in Part 3 not becoming available.

Sam Cohen commented on the clarification of the proportionate funding clause in the MOU. Julia Langely stated that the MOU concerns are addressed in the handout.

There was a general discussion regarding performance. Neil Smith and Neil Peyron commented that the language in the MOU include flexibility in grant performance based on available money.

#### 4. REVIEW AND APPROVAL OF MOU'S FOR 2004 APPROVED GRANT APPLICATIONS

Dave Hillman and Neil Smith recommended approval of MOU's as amended by County Counsel recommendations. Dave Hillman made the motion and Neil Smith seconded. Motion was carried.

#### 5. REVIEW AND APPROVAL OF RULES OF PROCEDURE

There was a discussion regarding committee alternates. It was noted that the Tribe, on their own, can have alternates and the committee will do a posting for an alternate position vacancy for a general member to serve in any position. Dave Hillman motioned to accept the rules of procedures as the Board of Supervisors approved it. Neil Smith seconded the motion. Motion was approved unanimously.

#### 6. MEMBERSHIP UPDATE, REVIEW OF COMMITTEE ROSTER AND TERM EXPIRATIONS

Neil Smith motioned to have the term expiration as of January 1<sup>st</sup> of each year. Neil Peyron seconded the motion. Motion was approved unanimously.

#### 7. DISCUSS AND SET NEXT MEETING DATE

There was a discussion on drafting a letter to support the passage of AB3089 and to encourage each entity to send a letter as well. The consensus was approval.

The status of the grants, along with the legislation update, was talked about.

#### 8. NEXT MEETING DATE

After discussion, it was the consensus of the committee that a meeting would be scheduled on Thursday, October 7, 2004 at 9:00 A.M. at the Main City Hall Conference Room in the City of Porterville, 291 N. Main Street.

#### 9. ADJOURNMENT

The meeting was adjourned at 3:55 P.M.

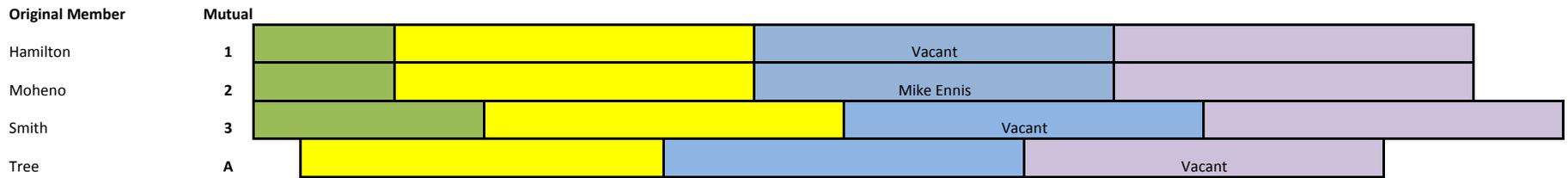
## Roster with Terms & Expiration

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
13-Apr	Jan. 1 Dec. 31													

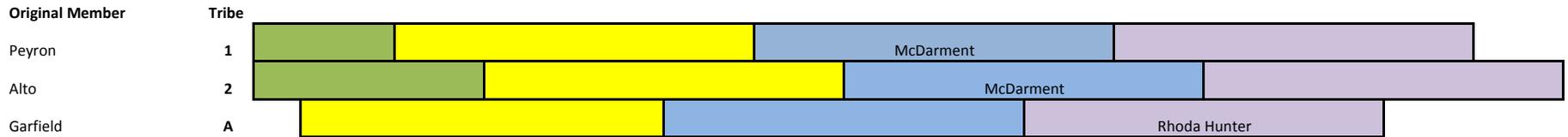
**Original Member**



**Original Member**



**Original Member**





# Tulare County Indian Gaming Local Community Benefit Committee



## **AGENDA ITEM No. 5**

**AGENDA DATE:** September 18, 2013

**SUBJECT:** Committee Bylaws Circulation

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

Approve amendments to Committee Bylaws

### **SUMMARY:**

The original Bylaws for the Tulare County Indian Gaming Local Community Benefit Committee were approved on April 22, 2004. The Bylaws were then amended on March 3, 2005, with the changes taking effect immediately. Committee legal representation completed the amendments to the published Bylaws on September 1, 2005. The Bylaws 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 Bylaw amendments to the Committee for approval. The Committee declined to review or consider the proposed Bylaw amendments because the proposed changes had not been reviewed by the Committee's 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.

On July 24, 2013, staff presented many proposed changes to the Bylaws and the Committee provided additional changes. Staff reviewed each proposed change individually with the Committee at that meeting.

The Committee voted to circulate the proposed Bylaw Amendments for 30 days pursuant to the Bylaws. The circulation period ended on August 23, 2013. During

**SUBJECT:** Committee Bylaws Circulation

**DATE:** September 18, 2013

that time, staff received proposed changes from Committee Members Joe Garcia and Mike Ennis. These two proposed changes were similar and can be summarized as follows:

1. Mutually selected members can be removed upon mutual agreement of the Board of Supervisors and Tribal Council; and
2. Members of the Committee shall be notified prior to the next scheduled meeting when there is a change in membership.

The proposed Bylaw changes were provided to the Committee five days prior to this meeting on September 11, 2013. Staff and Counsel have reviewed all of the proposed changes and recommend that the Committee approve all proposed changes.

**FISCAL IMPACT/FINANCING:**

N/A

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

IN THE MATTER OF CIRCULATION    )  
OF COMMITTEE BYLAWS            )    **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 SEPTEMBER 18, 2013, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

BY: \_\_\_\_\_  
Chairman

\* \* \* \* \*

Approved amendments to Committee Bylaws

BYLAWS OF  
THE TULARE COUNTY  
INDIAN GAMING LOCAL COMMUNITY  
BENEFIT COMMITTEE

~~April 23, 2004~~ 2013<sup>1</sup>

**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.

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<sup>1</sup> 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. Committee members appointed mutually by the County Board of Supervisors and the Tule Tribe may be removed from the Committee at any time by a majority vote of both the County Board of Supervisors and the Tule Tribe, upon presentation of resolutions from both entities. Committee members who are removed pursuant to this Section shall be notified of their removal prior to the next Committee meeting; sitting members of the Committee shall also be notified when there is a change in membership.-

#### **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 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.

#### **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 1<sup>st</sup>, 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.

BYLAWS OF  
THE TULARE COUNTY  
INDIAN GAMING LOCAL COMMUNITY  
BENEFIT COMMITTEE

April 23, 2004~~2013~~<sup>1</sup>

**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.

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<sup>1</sup> 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. Committee members appointed mutually by the County Board of Supervisors and the Tule Tribe may be removed from the Committee at any time by a majority vote of both the County Board of Supervisors and the Tule Tribe, upon presentation of resolutions from both entities. Committee members who are removed pursuant to this Section shall be notified of their removal prior to the next Committee meeting; sitting members of the Committee shall also be notified when there is a change in membership.

#### **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 ~~Chairman~~ 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.

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#### 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 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.

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#### 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.

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## **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 1<sup>st</sup>, 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.

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## **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



## **AGENDA ITEM No. 6**

**AGENDA DATE:** September 18, 2013

**SUBJECT:** Letter to Attorney General

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

Review and Direct Staff to Send the Final Draft of the Letter to the State Attorney General, after allowing a response by City or Porterville and Tule River Indian Tribe, regarding the Committee's request to the City of Porterville to return \$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.

At the July 24, 2013 Committee meeting, Staff presented the draft letter and the Committee directed the following changes to the letter:

- Include language that reflects the Committee made its decision not to award the City of Porterville funds from the 60% Nexus amount for Fiscal Year 2012/13;
- Include language that asks the State for direction regarding this matter;
- Provide a copy of the letter to the City of Porterville and Tule River Indian Tribe prior to submitting the letter to the State;
- Attach any responses received from the City of Porterville and Tule River Indian Tribe to the State;
- Attach the February 3, 2013 Opinion from the Office of Legislative Counsel;
- Attach any Committee resolutions pertaining to the 60% Nexus amount;
- Send the final letter and all attachments to both the State Attorney General and the State Controller's Office

The purpose of this agenda item is to provide the entire Committee the opportunity to review the final draft of the letter prior to it being sent to the City of Porterville and Tule River Indian Tribe. Staff and Counsel are recommending that the City and Tribe be given 45 days to provide a response to be included in the package to the State.

Once reviewed, staff will send the letter to the City of Porterville and the Tule River Indian Tribe; provide 45 days for a response; and send the letter plus attachments to the State, pursuant to the Committee's authorization of June 19, 2013.

**SUBJECT:** Letter to Attorney General  
**DATE:** September 18, 2013

**FISCAL IMPACT/FINANCING:**  
N/A

**ATTACHMENT(S):**  
Draft Cover Letter



- June:
  - Directed to send a letter with certain details
  - Staff prepared the letter
- July:
  - Staff presented the letter from June
  - Committee directed changes to the letter
- September
  - Staff has made the changes from July
  - Staff is presenting the final draft of the letter
    - Staff will be sending the letter with July changes



# Tulare County Indian Gaming Local Community Benefit Committee



## Committee Members

Mike Ennis  
Mutually Selected

Joe Garcia  
Tulare County Representative

Kenneth McDarment  
Tule Tribe Representative

Nancy McDarment  
Tule Tribe Representative

Robin Skiles, *Chairman*  
Tulare County Representative

Vacant  
Mutually Selected

Vacant  
Mutually Selected

## Alternate Members

John Crivello  
Tulare County Representative

Vacant  
Mutually Selected

Rhoda Hunter  
Tule Tribe Representative

## Committee Staff

Jed Chernabaeff &  
John Hess  
2800 W. Burrel Ave.  
Visalia, CA 93291  
(559) 636-5005

State of California Department of Justice  
Office of the Attorney General  
Bureau of Gambling Control  
PO Box 168024  
Sacramento, CA 95816-8024

State of California  
Office of the State Controller  
Division of Accounting and Reporting  
PO Box 942850  
Sacramento, CA 94250

To whom it may concern:

The Tulare County Indian Gaming Local Community Benefit Committee has had the opportunity to award \$3.5 million in Special Distribution Fund monies since 2004. The Committee has worked with the Tule River Tribal Council to ensure 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.

In Fiscal Years 2011 and 2012, the Committee awarded funds to the City of Porterville for public safety enhancements, including the following: 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 of Porterville has indicated that, as of June 2013, all of these funds have been spent on these activities. All of these projects meet the eligibility requirements for funding, and each has provided much needed benefit to the community.

Based on an opinion of the California Office of Legislative Counsel (OLC) provided to Senator Michael Rubio's office at the request of the Committee dated February 4, 2013, 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 a sufficient number of the Nexus Test Criteria to qualify for this level of funding. On February 21, 2013, the Committee passed a resolution determining that the City of Porterville does not qualify for the 60% Nexus Test Criteria grants for Fiscal Year 2013. As a result, the Committee did not award any funds from the 60% Nexus Test Criteria amount to the City of Porterville in Fiscal Year 2013.

On May 9, 2013, Committee Legal 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. This amount represents the difference between the actual amount awarded to Porterville and the amount that the City was eligible to receive under the 40% Discretionary Funding. Committee Legal 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.

The Committee would like to bring this matter to your attention and seek any further direction that you may have at this time. The following documents are enclosed to provide further background information: the May 9, 2013 Demand Letter addressed to the City of Porterville; the February 4, 2013 Opinion from the OLC, and the February 21, 2013 Resolution of the Committee identifying the County of Tulare as the only eligible recipient of funds from the 60% Nexus Test Criteria amount. Should you have any questions regarding this matter, please contact the undersigned.

Sincerely,

Captain Robin Skiles,  
Committee Chairman