



APR - 9 2008

Thomas Weathers, Esq.
Alexander, Berkley, Williams & Weathers LLP
2030 Addison Street, Suite 410
Berkeley, California 94704

RE: Torres Martinez Desert Cahuilla Indians

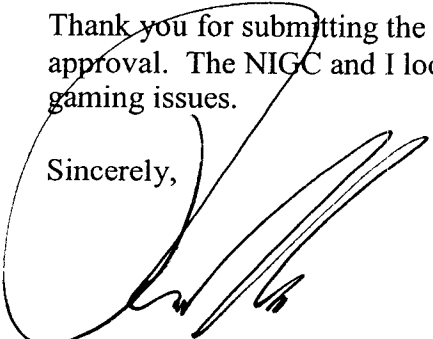
Dear Mr. Weathers:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve Resolution # TM-04-08-005, adopted and approved by the Torres Martinez Desert Cahuilla Indian Tribal Council on April 3, 2008. This Resolution amends the AMENDED CLASS III GAMING ORDINANCE by including Class II as authorized gaming.

This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). It is important to note, however, that the approval is granted for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the Resolution amending the Gaming Code for our review and approval. The NIGC and I look forward to working with you and the Tribe on future gaming issues.

Sincerely,



Philip N. Hogen
Chairman

Amended - 9/2006

Torres Martinez Desert Cahuilla Indian Tribe, Tribal Code

Torres Martinez Desert Cahuilla Indians AMENDED CLASS III GAMING ORDINANCE

Adopted April 10, 1999
Amended September 9, 2006

I. Purpose

The Torres-Martinez Desert Cahuilla Indians empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to set the terms for Class III gaming operations on tribal lands.

II. Gaming Authorized

Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703 (8) (A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission 25 C.F.R § 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized.

III. Ownership of Gaming

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this ordinance (unless the Tribe elects to allow individually owned gaming).

IV. Use of Gaming Revenue

- A. Net revenues from Class III gaming shall be used only for the following purposes: to fund tribal government operations and programs; provide for the general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations, or help fund operations of local government agencies.
- B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710 (b) (3).

V. Audit

- A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission within one hundred twenty (120) days of the fiscal year end of the gaming operation.
- B. All gaming related contracts that result in the purchase of supplies, service, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A. above.

VI. Protection of the Environment and Public Health and Safety

Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

VII. Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class III gaming enterprise operated on Indian lands:

A. Definitions

For the purposes of this section, the following definitions apply:

1. Key employee means

- a. A person who performs one or more of the following functions:
 - (1) caller;
 - (2) Counting room supervisor
 - (3) Chief of security;
 - (4) Custodian of gaming supplies or cash
 - (5) Floor manager
 - (6) Pit boss,
 - (7) Dealer;
 - (8) Croupier;
 - (9) Approver of credit; or
 - (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices,
- b. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

- c. If not otherwise included, the four most highly compensated persons in the gaming operation.

2. **Primary management official means**

- a. The person having management Responsibility for a management contract;
- b. Any person whose authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming; or
- c. The chief financial officer or other person who has financial management responsibility.

B. **Application Forms**

- 1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

- 2. Existing key employees and primary management officials shall be notified in writing that they shall either:
 - a. Complete a new application form that contains a Privacy Act notice; or
 - b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.
- 3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001.)

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:
 - a. Complete a new application form that contains a notice regarding false statements; or
 - b. Sign a statement that contains the notice regarding false statements.

C. **Background Investigations**

1. The Tribe shall request from each primary management official and from each key employee all of the following information:
 - a. Full name, other name used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (b) of this section;
 - d. Current business and residence telephone numbers;
 - e. A description of any existing and previous business relationship with Indian tribes, including ownership interests in those businesses;
 - f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

- h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
 - i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
 - j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1) (h) or (1) (i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
 - k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license was granted;
 - l. A current photograph;
 - m. Any other information the Tribe deems relevant; and
 - n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).
2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management Official position.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.
2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the chairman of the national Indian Gaming Commission.
3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
 - a. Steps taken in conducting a background investigation;
 - b. Results obtained;
 - c. Conclusions reached; and
 - d. The bases for those conclusions.
2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.
3. If a license is not issued to an applicant, the Tribe:
 - a. Shall notify the National Indian Gaming Commission; and
 - b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
4. With respect to key employees and primary management officials, the Tribe shall retain applications for inspection by the Chairman

of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.
2. The Tribe shall respond to a request for additional information from the Chairman of National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G.1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
3. If, within the thirty (30) day period described above, the National Indian Gaming commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, this Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
3. After a revocation hearing the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

VIII. License Locations

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class III gaming is conducted under this ordinance.

IX. [Reserved]

X. TORRES MARTINEZ TRIBAL GAMING COMMISSION

A. Establishment. The General Council hereby creates and establishes the Torres Martinez Desert Cahuilla Indians Tribal Gaming Commission as an agency of the Tribal Government.

1. The Torres Martinez Desert Cahuilla Indians Tribal Gaming Commission shall be referred to throughout this Ordinance as the “Tribal Gaming Commission” or “Commission”.
2. The Tribal Gaming Commission is authorized to regulate all gaming on the Indian lands of the Torres Martinez Desert Cahuilla Indians.
3. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall be and act independently and autonomously from the Tribal Council in all matters within its purview. No prior or subsequent review by the Tribal Council of any actions of the Commission shall be required or permitted except as otherwise provided in this Ordinance.
4. The Tribal Council of the Torres Martinez Desert Cahuilla Indians shall serve as the Tribal Gaming Commission until the Tribal Council appoints the members of the Tribal Gaming Commission pursuant to the guidelines of this Ordinance.

B. Organization and Personnel

1. The Tribal Gaming Commission shall consist of five (5) individuals. The members of the initial Commission shall be recommended by the Gaming Commission Development Committee and affirmed by a majority vote of the Tribal Council. The members of subsequent Commissions shall be appointed by a majority vote of the Tribal Council. There shall be at least three (3) enrolled members of the Torres Martinez Desert Cahuilla Indians on the Tribal Gaming Commission. All Tribal Gaming Commission members must be at least 21 years of age, must be deemed suitable after completion of a background investigation,

and must have proof of High School Diploma or equivalency. Preference will be given to qualified members of the Tribe for all positions and vacancies on the Commission. In addition:

- a. At least one Commissioner shall have five (5) or more years of law enforcement experience or casino gaming security experience, or a bachelor's degree in criminal justice or related field and at least three years of law enforcement experience or casino gaming security experience;
 - b. At least one Commissioner shall have at least five (5) years management or regulatory experience within the private sector, a gaming facility, or a governmental agency;
 - c. At least one Commissioner shall have no less than a bachelor's degree in accounting or a related field and at least five years of accounting experience.
2. Prior to any Tribal Gaming Commission member taking office as a member of the Commission, the Tribal Council shall perform or cause to have performed a comprehensive background investigation on each prospective member. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe hereby finds that, at a minimum, no person shall serve as a Commissioner if:
 - a. The individual's criminal record, if any, reputation, habits, or associations:
 - (1) poses a threat to the public interest;
 - (2) threatens the effective regulation and control of gaming; or
 - (3) enhances the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming;
 - b. The individual has been convicted of, or entered a plea of nolo contendere to a felony or to a misdemeanor involving dishonesty or admission of embezzlement in any jurisdiction; or
 - c. The individual has a direct or indirect financial interest or relationship to a person or entity holding a valid management contract with the Tribe or Tribal enterprise; or

- d. The individual serves as a member of the Tribal Council; or
 - e. The individual serves as a member of any Board, Commission, Committee or other governing body of a Tribal Corporation, Sub-Corporation, Enterprise or other business entity owned or controlled by the Tribe that conducts gaming; or
 - f. The individual owns, operates or is employed by any business or other entity that conducts business with any Tribal gaming operation; or
 - g. The individual is employed by the Tribal Gaming operation; or
 - h. The individual is directly related to or sharing the same residence with any of the above.
3. The Tribal Gaming Commission shall have the authority to hire and fire all staff required to carry out its responsibilities under this Ordinance pursuant to the personnel policies governing employment with the Tribe.
- C. **Terms.** Commissioners shall serve a term of three (3) years and may be removed from office prior to the end of their term only for good cause and by unanimous vote of the remainder of the Tribal Gaming Commission or by the majority vote of the Tribal Council members at an open, regular Tribal Council meeting.
- 1. In order to establish staggered terms, the Tribal Council shall appoint the initial Commissioners as follows: two shall serve a 1-year term, two shall serve a 2-year term, one shall serve a 3-year term. After the initial term, all subsequent terms of appointment shall run for three years.
 - 2. Vacancies resulting from the expiration of a Commissioner's term shall be filled within sixty (60) days by the Commission, with the approval of Tribal Council, provided, however, that a Commissioner whose term has expired shall hold the seat until it is filled. A vacancy shall be deemed to occur when a Commissioner is removed, resigns, dies, or upon expiration of his or her term without regard to whether the Commissioner seeks reappointment. When a vacancy occurs, notice of such vacancy shall be published and posted, for at least fifteen (15) days. The notice shall identify the qualifications, if any, specific to the vacancy and request interested parties to file a statement with the Commission reflecting their qualifications and interest in serving as a Commission member.

3. Commissioners may hold other non-elective and non-managerial tribal positions but may not engage in business with or gamble in any Tribal gaming operation.
4. Commissioners shall be compensated at a rate established annually by the Commission and approved by the Tribal Council. Commissioners shall receive reasonable payment for attending meetings, trainings, and conferences and shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses and be provided with business equipment necessary to carry out their duties in a manner consistent with the applicable policies and procedures of the Tribe.

D. Officers

1. The Tribal Gaming Commission shall select from its membership a Chairperson to serve a three (3) year term. The Commissioner selected as Chairperson must meet at least one of the qualifications set forth in Section B. 1. (a), (b) or (c) of this Ordinance. The Chairperson shall serve as the Executive Director of the Commission. The Tribal Gaming Commission shall select annually from its membership a Vice-Chairperson and Executive Secretary.
2. The Chairperson shall chair Tribal Gaming Commission meetings, and shall have the power to convene special meetings with not less than 48 hours written or verbal notice to members of the Commission.
3. The Chairperson shall be the agent for service of process.
4. The Vice-Chairperson shall Chair Tribal Gaming Commission meetings when the Chairperson is unavailable.
5. The Gaming Commission Secretary shall keep minutes of meetings and provide a copy to the Tribal Council.
6. General sessions of the Commission shall be open to the public.
7. Executive sessions of the Commission shall not be open to the public. The Commission may take official action only while in executive session on Commission personnel and licensing matters.
8. A quorum shall consist of three members. All decisions shall be made by a majority vote provided, however, that no Commission action shall be taken by a vote of less than a majority of the full Commission unless indicated otherwise in this Ordinance.

E. Vacancies

1. A Commissioner's seat shall be immediately vacant upon conviction of any felony, conviction of any misdemeanor related
 - a. To illegal gambling or bribery, or upon having three (3) consecutive unexcused absences from Commission meetings.
 - b. A Tribal Gaming Commissioner may be removed by the Tribal Council for the following reasons: neglect of duty, improper and unlawful execution of duty, nonfeasance, misconduct in office, or for any conduct which threatens the honesty and integrity of the Tribal Gaming Commission or otherwise violates this Ordinance.
 - (1) No Tribal Gaming Commissioner may be removed without notice and an opportunity for a hearing before the Tribal Council, and then only after the Commissioner has been given written notice of the specific charges at least ten (10) days prior to such hearing. At any such hearing, the Commissioner shall have the opportunity to be heard in person or by a representative and to present witnesses on his behalf.
 - (2) Temporary Suspension: If the Tribal Council or Tribal Gaming Commission determines that immediate suspension of a Tribal Gaming Commissioner is necessary to protect the interests of the Tribe, the Tribal Council may hold a preliminary hearing with the Commissioner to consider whether to suspend the Commissioner temporarily. Permanent removal shall be determined thereafter pursuant to Commission hearing procedures.
 - (3) A written record of all removal proceedings together with the charges and findings thereon shall be kept by the Tribal Council Secretary.
 - (4) Removal: The decision of the Tribal Council upon the removal of a Tribal Gaming Commissioner shall be final.

- F.** The Tribal Gaming Commission shall adopt bylaws for the conduct of its business, including, but not limited to, provisions for the adoption of policies, procedures, regulations, or other rules for:

1. Conducting background investigations;
2. Identifying of a law enforcement agency that will take finger prints and describe procedures for conducting a criminal history check by a law enforcement agency;
3. Reporting the results of background investigations to the NIGC and the State Gambling Control Commission;
4. Obtaining and processing fingerprints, or designating a law enforcement agency to obtain and process fingerprints;
5. Making licensing suitability determinations, which shall be signed by the Chairman of the Gaming Commission;
6. Issuing tribal licenses to Primary management officials and key employees;
7. Issuing gaming licenses to management officials and employees of the operation, consistent with the suitability determination;
8. Establishing standards for licensing Tribal gaming operations;
9. Issuing facility gaming licenses to Tribal gaming operations;
10. Inspecting, examining and monitoring all gaming activities, with immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
11. Ensuring compliance with all applicable Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
12. Investigating any suspicion of wrongdoing associated with any gaming activities;
13. Holding hearings on patron complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations;
14. Complying with any and all reporting requirements under the IGRA, the Tribal-State compact to which the Tribe is a party, and any other applicable law;
15. Promulgating and issuing regulations necessary to comply with applicable internal control standards;

16. Promulgating and issuing regulations on the levying of fees and/or taxes associated with gaming license applications;
17. Promulgating and issuing regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations; and
18. Establishing a list of persons not allowed to game in Tribal gaming facilities in order to maintain the integrity of the gaming;
19. Establishing a list of persons who have voluntarily asked to be excluded from Tribal gaming facility and create regulations for enforcing this exclusion;
20. Providing referrals and information to the appropriate law enforcement officials when such information indicates a violation of applicable Tribal, Federal, or State statutes, ordinances, or resolutions;
21. Creating a list of regulatory authorities that conduct vendor background investigations and licensing which the Commission recognizes as trustworthy;
22. Drafting regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
23. Developing a Code of Conduct to ensure that the Commission and its employees are held to high ethical standards;
24. Ensuring that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety;
25. Resolving disputes between the gaming public and the Tribe or the management contractor (if any);
26. Performing such other duties the Commission deems appropriate to fully implement the provision of this Ordinance for the proper regulation of the Tribal gaming operation;

XI. Renewal

To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.