

NATIONAL
INDIAN
GAMING
COMMISSION

NOV 17 1994

Joseph P. Sanchez, Governor
Pueblo of San Felipe
P.O. Box A
San Felipe, New Mexico 87001

Dear Governor Sanchez:


This letter responds to your request to review and approve the tribal gaming ordinance adopted on August 19, 1994, by the Pueblo of San Felipe (Pueblo). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Pueblo's gaming ordinance, the Pueblo is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Pueblo of San Felipe for review and approval. The NIGC staff and I look forward to working with you and the Pueblo in implementing the IGRA.

Sincerely yours,


Harold A. Monteau
Chairman

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cc: Lawrence Troncosa
Daniel Rosenfelt, Esq.

SAN FELIPE PUEBLO CLASS II AND CLASS III GAMING ORDINANCE

Ordinance No. 94-

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PUEBLO OF SAN FELIPE

ORDINANCE NO. 94-__

WHEREAS, the Pueblo of San Felipe wishes to enter the gaming business in order to provide revenue for the people and government of the San Felipe Pueblo;

NOW THEREFORE BE IT RESOLVED BY THE GENERAL COUNCIL OF SAN FELIPE PUEBLO:

I. SHORT TITLE

This Act shall be cited as the "San Felipe Pueblo Class II and Class III Gaming Ordinance".

II. PURPOSE

The General Council of San Felipe Pueblo (hereinafter called the "Council"), empowered by San Felipe Pueblo (sometimes referred to as "Pueblo of San Felipe") traditional law to enact ordinances, hereby enacts this Ordinance to set the terms for Class II and Class III gaming operations on San Felipe Pueblo lands.

III. GAMING AUTHORIZED

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703 (7) (A) and 2703 (8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission ("NIGC") at 25 C.F.R. 502.3 (as published in the Federal Register at 57 C.F.R. 12382-12393, April 9, 1992) and Class III gaming as defined in IGRA, 25 U.S.C. Section 2703 (8) and by the regulations promulgated by the NIGC at 25 C.F.R. 502.4 are hereby authorized, provided that the authority for Class III gaming is subject to the execution of a compact by the Pueblo and the State of New Mexico and approval of such compact by the Secretary of the Interior or, if the State of New Mexico refuses to enter into such a compact, the adoption by the U.S. Government of rules permitting and regulating Class III gaming on Indian lands within New Mexico.

IV. OWNERSHIP OF GAMING

The Pueblo of San Felipe (which term includes the San Felipe Gaming Enterprise, an entity wholly-owned by the Pueblo of San Felipe which is authorized by the General Council to conduct aspects of gaming) shall

have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

V. USE OF GAMING REVENUE

A. Net revenues from Class II and Class III gaming shall be used only for the following purposes: 1) to fund San Felipe Pueblo government operations and programs in accordance with the budgets approved by the San Felipe Pueblo Council; 2) to provide for the general welfare of the Pueblo of San Felipe and its members; 3) to promote San Felipe Pueblo economic development; and 4) to protect and preserve the traditions and culture of San Felipe Pueblo.

B. Net revenues shall not be used to make per capita payments to San Felipe Pueblo members except in accordance with a plan to allocate revenues to the purposes permitted by this section V and provided that such a plan is approved by the Secretary of the Interior under 25 U.S.C. 2710 (b) (3).

VI. AUDIT

A. The Pueblo of San Felipe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC.

B. All gaming-related contracts that result in the purchase of supplies, services 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.

VII. PROTECTION OF THE ENVIRONMENT, PUBLIC HEALTH AND SAFETY

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

VIII. MANAGEMENT

A. The Pueblo of San Felipe may enter into a management contract with a qualified entity to provide assistance in operating and managing, Class II and Class III gaming authorized by this ordinance for a fee in accordance with 25 U.S.C. 2711.

B. No member of the San Felipe Pueblo government shall be eligible to participate in any such management contract for a fee either as a party to the contract or as an employee of the contractor.

IX. LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

The Pueblo of San Felipe 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 II or Class III gaming enterprise operated on San Felipe Pueblo lands:

A. Definitions

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

1. Key Employee means:

- (a) A person who performs one or more of the following functions:
 - (1) Bingo 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 (4) most highly compensated persons in the gaming operation.

2. Primary Management Official means:

- (a) The person having management responsibility for any management contract;
- (b) Any person who has authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming operation 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 the National Indian Gaming Commission ("NIGC") members and staff who have need for the information in 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 by the NIGC in connection with the 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 the Pueblo'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. 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)

C. Background Investigations/Fingerprint Processing

1. The Pueblo of San Felipe shall request from each primary management official and from each key employee all of the following information:

- a. Full name, other names 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 driver's 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 relationships 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 or permit was granted;
- l. A current photograph;
- m. Any other information which the Pueblo of San Felipe deems relevant; and

n. Fingerprints consistent with procedures adopted by the Pueblo of San Felipe according to 25 C.F.R. 522.2(h).

2. The Pueblo of San Felipe shall conduct an investigation sufficient to make a determination under subsection D below. In conducting a background investigation, the Pueblo of San Felipe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

1. The Pueblo of San Felipe 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 Pueblo of San Felipe determines that employment of the person poses a threat to the public interest or 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 San Felipe Pueblo gaming operation shall not employ that person in a key employee or primary management official position.

2. The San Felipe Gaming Enterprise shall appoint a Director of Security to conduct the necessary background investigations.

3. The Director of Security shall appoint one or more investigators to conduct the background investigations. The investigators shall verify by written or oral communication information submitted by each applicant. The investigators shall inquire into the applicant's prior activities, criminal record, if any, and reputation, habits and associations and shall interview a sufficient number of knowledgeable people such as former employers, personal references, and others to whom reference may be made in such inquiry in order to provide a basis for the Director of Security to make a finding concerning the eligibility for employment in the gaming operation. The investigators shall document and make notes of the disposition of all potential problems noted and qualifying information obtained.

4. The Director of Security shall supervise, review and approve or disapprove the investigative work done by the investigator.

5. The Director of Security shall report the results of the background investigation to the Governor of San Felipe Pueblo.

6. The Governor of San Felipe Pueblo shall make the final eligibility determinations. He shall then notify the Board of the Gaming Enterprise of his decision.

7. The Board of the San Felipe Gaming Enterprise shall report to the National Indian Gaming Commission the results of the background investigation on an "Investigation Report" form setting forth: a) the steps taken in conducting the background investigation, b) the results

obtained, c) the conclusions reached, and d) the basis for these conclusions.

8. The Director of Security shall refer all applicants to the Governor of the San Felipe Pueblo, who shall be responsible for obtaining fingerprints. The Governor shall return completed fingerprint cards directly to the NIGC. Any completed fingerprint cards returned to the NIGC via any subdivision of the tribe, the San Felipe Gaming Enterprise or any party other than the Governor shall be invalid for purposes of determining compliance with the Indian Gaming Regulatory Act and the NIGC regulations. San Felipe Pueblo appoints the NIGC as the agency responsible for submitting the fingerprint cards for processing through the Federal Bureau of Investigation.

9. The Director of Security and any Assistant shall be subject to the supervision of the Board of the San Felipe Gaming Enterprise.

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 Pueblo of San Felipe shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.

2. The Pueblo of San Felipe shall forward the report referred to in subsection F of this section to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the NIGC.

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 NIGC

1. Pursuant to the procedures set out in subsection E of this section, the Pueblo of San Felipe shall prepare and forward to the NIGC 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 Pueblo of San Felipe 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 Pueblo of San Felipe:

- a. Shall notify the NIGC; and
- b. May forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Pueblo of San Felipe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC 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 NIGC receives a report, the NIGC notifies the Pueblo of San Felipe 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 Pueblo of San Felipe has provided an application and investigative report to the NIGC, the Pueblo of San Felipe may issue a license to such applicant.

2. The Pueblo of San Felipe shall respond to a request for additional information from the Chairman of the NIGC 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 NIGC receives the additional information.

3. If, within the thirty (30) day period described above, the NIGC provides the Pueblo of San Felipe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Pueblo of San Felipe has provided an application and investigative report to the NIGC, the Pueblo of San Felipe shall reconsider the application, taking into account the objections itemized by the NIGC. The Pueblo of San Felipe 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 Pueblo of San Felipe receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D above, the Pueblo of San Felipe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Pueblo of San Felipe 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 Pueblo of San Felipe shall decide to revoke or to reinstate a gaming license. The Pueblo of San Felipe shall notify the NIGC of its decision.

X. LICENSE LOCATIONS

The Pueblo of San Felipe shall issue a separate license to each place, facility, or location on San Felipe Pueblo lands where Class II or Class III gaming is conducted under this ordinance.

XI. REPEAL

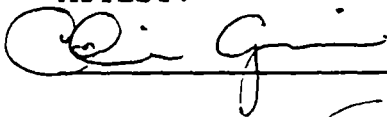
To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed, and all of Ordinance No. 93-02 is hereby repealed.

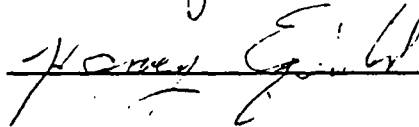
CERTIFICATION

THE FOREGOING SAN FELIPE PUEBLO ORDINANCE NO. 94-22, ENTITLED "SAN FELIPE PUEBLO CLASS II AND CLASS III GAMING ORDINANCE" WAS UNANIMOUSLY ADOPTED AT A DULY CALLED MEETING OF THE SAN FELIPE PUEBLO TRIBAL COUNCIL HELD ON THE 21 DAY OF July, 1994, AT WHICH A QUORUM WAS PRESENT.

SAN FELIPE PUEBLO TRIBAL COUNCIL

ATTEST:







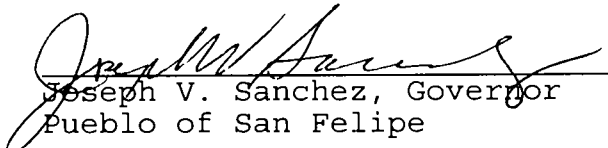
JOSEPH V. SANCHEZ, GOVERNOR



RAYMOND SANDOVAL, LT. GOVERNOR

I, Joseph V. Sanchez, Governor of the Pueblo of San Felipe, hereby certify that the attached SAN FELIPE PUEBLO CLASS II GAMING ORDINANCE is a true and correct copy of the original.

DATED this 19th day of August, 1994.


Joseph V. Sanchez, Governor
Pueblo of San Felipe

SUBSCRIBED AND SWORN to before me this 19th day of August, 1994.


Notary Public

My Commission Expires:

July 22, 1996