



APR 11 2005

Tobin White
Tribal Administrator
Soboba Band of Luiseño Indians
P.O. Box 487
San Jacinto, CA 92581

RE: Soboba Band of Luiseño Indians Amended Gaming Ordinance

Dear Chairman:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve an amendment to the Soboba Band of Luiseño Indians Amended Gaming Ordinance (Ordinance Amendment), #GC93-BGO-04, approved by the Tribal Council on April 20, 2005. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the Ordinance Amendment is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the Ordinance Amendment for review and approval. The NIGC staff and I look forward to working with you and the Soboba Band of Luiseño Indians on future gaming issues.

Sincerely yours,

A large, stylized handwritten signature in black ink, appearing to read "Philip N. Hogen".

Philip N. Hogen
Chairman

**SOBOBA BAND OF MISSION INDIANS
SOBOBA RESERVATION, CALIFORNIA
ORDINANCE NO. GC93-BG0-04
JULY 24, 1993
Revised on March 3, 2003**

JAN 13 2005

**AN ORDINANCE TO ESTABLISH REQUIREMENTS FOR CLASS II
AND/OR CLASS III GAMING OPERATIONS OR TRIBAL LANDS.**

I. Purpose

The Soboba Band of Mission Indians, as the beneficial owner of the Soboba Indian Reservation, and acting through its General Council in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety, and welfare of the Soboba Indian Reservation and the members of the Band, hereby ordains and establishes this Ordinance for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III gaming may be conducted within the boundaries of the Soboba Indian Reservation.

II. Gaming Authorized

- A. Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7) (A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. ss502.3 (as published in the Federal Register at ~~as published in the Federal Register at 57 FR 12382-12393, April 9, 1992~~) (as published in the Federal Register at 67 FR 433389-43445, June 27, 2002) {amended 3/3/03} is hereby authorized.
- B. Class III Gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission ("NIGC") at 25 C.F.R. ss502.4 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary or the Interior or federal law.

III. Ownership of Gaming and/or Enterprises

The Band shall have the sole propriety interest in and responsibility for the conduct of any gaming facilities and or enterprise(s) authorized by this Ordinance.

IV. Use of Gaming Revenue

- A. Except as specifically authorized pursuant to Subsection 3 of this Section, net revenues from Class II and Class III gaming on the Soboba Reservation shall be used only for the following purposes:
 - 1) to fund Tribal government operations and programs;
 - 2) provide for the general welfare of the Band and its members;
 - 3) promote Tribal economic development;
 - 4) donate to charitable organizations; or
 - 5) help fund operations of local government agencies.

- B. If the Band elects to make per capita payments to Tribal members, it shall authorized such payments only in conformity with a plan submitted to and approved by Secretary of the Interior pursuant to 25 U.S.C. ss2710(b) (3).
- C. The Band shall cause license renewal of all employees every two years. {amended 3/3/03}

V. Audit

- A. The Band shall cause to be conducted at least annually an independent audit of all gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission, and to such other agencies as may be required by the terms and conditions of any Class III compact or other document authorizing Class III gaming on the Soboba Reservation.
- 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.

VI. Protection of the Environment and Public Health and Safety.

Class II and Class III gaming facilities on the Soboba Reservation 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 Band 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 and/or Class III gaming enterprises operated on Indian lands within the boundaries of the Soboba Indian Reservation:

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, and other person whose total cash compensation is in excess of \$50,000.00 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 who has authority:
 - (1) To hire and fire employees.
 - (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 of 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 investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission 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 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.

- 1. 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.
- 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. 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. (18 U.S.C. ss1001).
- 3. The Band 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 Information

1. The Tribe shall request from each primary management official and from each key employee all of the following:
 - 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 10 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 subsection;
 - 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 every 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 subsection, the criminal charge, the name and address of the court involved and the date and disposition;
 - k. The name and address of each 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 the Band may deem relevant under The circumstances; and

n. Fingerprints consistent with procedures adopted by the Band according to 25 C.F.R. ss522.2(h)

2. The Band shall conduct an investigation sufficient to make a determination under Subsection D below. In conducting a background investigation, the Band or its agent(s) 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 Band 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 gaming practices and methods, and activities in the conduct of gaming, the 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 Band 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 Band 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 Band 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 Band 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 Band:
 - 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 Band shall retain applications for employment and reports, (if any) of background investigations 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 or denial 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 Gaming Commission notifies the Band 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 Band has provided an application and investigative report to the National Indian Gaming Commission, the Band may issue a license to such applicant.
2. The Band shall respond to a request for additional information from the Chairman of the 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 Band with a statement itemizing its objection(s) to the issuance of a license to a key employee or to a primary management official for whom the Band has provided an application and investigative report to the National Indian Gaming Commission, the Band 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 Band 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 Band shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Band 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 Band shall decide whether to revoke or to reinstate a gaming license. The Band shall notify the National Indian Gaming Commission of its decision.

VIII. Licensing of Gaming Places, Facilities and Locations

A separate license shall be required for each place, facility, or location on Indian lands where Class II and/or Class III gaming is to be on the Soboba Reservation.

IX. Creation of Tribal Gaming Commission

- A. There is hereby created the Soboba Tribal Gaming Commission, which shall consist of ~~three members~~ no more than five (5) members, who would themselves qualify for licensing under this Ordinance, one being the chairperson. (amended 3/3/03)
- B. The members of the Tribal Gaming Commission shall be appointed by the Soboba Tribal Council, and shall not be removed during their terms of office except for misconduct, neglect of duties or other acts that would render such persons unqualified for licensure hereunder. An affirmative vote of at least four members of the Tribal Council, taken in an open meeting after a duly-noticed hearing at which the member charged with misconduct shall have the right to hear and present evidence concerning his/her removal, shall be required to remove a member of the Commission. At the request of the member whose removal is at issue, the hearing may be held in executive session. The Tribal Council also may elect to receive in executive session any evidence public disclosure of which might compromise any on-going law-enforcement investigation.
- C. There shall be a Chairperson of the Tribal Gaming Commission, who shall be appointed for a term of two years. ~~The remaining members of the Commission shall be appointed for terms of one year~~ (amended 3/3/03) The Tribal Council shall determine and authorize the compensation to be paid to members of the Tribal Gaming Commission based upon the Tribal Council's determination of the time required to be expended upon Commission duties and the qualifications that the Tribal Council establishes for appointment to the Commission.
- D. The Tribal Gaming Commission shall be authorized and hereby is directed to promulgate, subject to review and approval by the Tribal Council, detailed and comprehensive regulations for the implementation and enforcement of this Ordinance. Said regulations shall describe and establish the rules for each specific Class II and Class III gaming activity to be authorized to be conducted on the Soboba Reservation, and no form of such gaming may be conducted on the Soboba Reservation without prior approval by the Tribal Gaming Commission.
- E. The Tribal Gaming Commission, independent of the Tribal Council, shall have full authority to monitor compliance with this Ordinance and its regulations, and to investigate and act to prevent any violation(s) thereof. [This authority includes, among other things, unrestricted access to any area of the gaming operation, including the books and records of the operation, in order to carry out the regulatory duties] {added 3/3/03}
- F. Subject to the approval of the Tribal Council and the appropriation of funds therefore, the Tribal Gaming Commission shall be authorized to employ such staff as reasonably may be required to fulfill its responsibilities under this Ordinance. Compensation of Commission employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.
- G. The Tribal Council hereby is authorized to establish and impose upon gaming facilities, permittees, applicants and licenses such application, permit and license fees as may be necessary to fully reimburse the Band for its actual costs of operating the Tribal Gaming Commission, enforcing this Ordinance and Tribal Gaming Commission regulations, processing of licensing and permit applications, and otherwise fulfilling its regulatory responsibilities under IGRA. All such fees shall be collected by the Tribal Gaming Commission and hereby are continuously appropriated solely for the purposes enumerated in the Subsection.
- H. Failure to timely pay and gaming-related fee imposed by the Tribal Council for the Tribal Gaming Commission, or to comply with any Commission regulations or order, or any other violation of this Ordinance or the terms of any Class III gaming compact authorizing and regulating gaming on the Soboba Reservation, shall be grounds for suspension or revocation of any license or permit issued pursuant to this Ordinance, exclusion of any non-member of

the Soboba Band from the Soboba Reservation, and imposition of such other sanctions as may be lawful and appropriate.

- I. The Tribal Gaming Commission shall establish its own budget for operations, and acquire such furnishings, equipment, supplies, stationary, books, and other things as it may deem necessary or desirable in carrying out its functions, and incur such other expenses within the limit of funds available to it, as may deem necessary, within the limits of a Tribal Council approve budget. At the Council's discretion, said budget may be reviewed and modified by the Council every six (6) months. Upon the end of the budget year, any surplus, which might exist, shall revert to the Tribal Government. The Commission shall keep and maintain a file of all applications for licenses under this section, together with a record of all actions taken with respect to such applications. The Commission shall keep and maintain such other files and records as deemed desirable. {Section I. added in its entirety on 3/3/03}

X. **Amendments**

The Soboba Tribal Council is hereby delegated the authority to amend this Ordinance in any manner that is no inconsistent with the original terms hereof, upon the Tribal Council's determination that such amendment is in the best interests of the Band; provided, that the Tribal Council shall have no authority to enact any amendment to this Ordinance that is less restrictive than the original terms of this Ordinance, or that would constitute a violation of federal law or would be inconsistent with the terms of an approved Tribal=State Class III compact that is in effect.

XI. **Repeal**

To the extent that they are inconsistent with this Ordinance, all gaming ordinances previously enacted or amended by the Soboba Band hereby are repealed.