



September 27, 2013

Via U.S. Mail and Facsimile

Marshall Gover, President
Pawnee Business Council
Pawnee Nation of Oklahoma
P.O. Box 470
Pawnee, OK 74058

Re: Pawnee Nation Gaming Ordinance Amendments

Dear President Gover:

This letter responds to your request on behalf of the Pawnee Nation of Oklahoma for the National Indian Gaming Commission Chairwoman to review and approve the Nation's amendments to its gaming ordinance. The Pawnee Business Council approved amendments on August 28, 2013, as reflected in your letter dated August 28, 2013.

The Pawnee Business Council amended Article 3, which relates to the structure and powers of the Gaming Commission. Specifically, the amendments relate to election of commission officers, and prevent dual employment as a commission member and commission staff. Thank you for bringing the amendments to my attention. The amendments are approved as they are consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. It is important to note that the amendments are approved for gaming only on Indian lands, as defined by IGRA, over which the Tribe has jurisdiction.

If you have any questions, please contact Staff Attorney Esther Dittler at (202) 420-9229.

Sincerely,

A handwritten signature in blue ink, appearing to read "L Stevens".

Tracie L. Stevens
Chairwoman

Article 3- Tribal Gaming Commission

Section 3.1 Tribal Gaming Commission Created

There is hereby established a Tribal Gaming Commission which shall be called the Pawnee Nation Gaming Commission ~~(Commission)~~. The ~~Commission~~ Commission may consist of up to five ~~Commissioners~~ members appointed by majority vote of the Pawnee Business Council. Provided that no Commissioner shall be:

- (a) Younger than 25 years of age at the time of appointment;
- ~~(a)(b)~~ An employee of the Pawnee Nation Gaming Commission staff;
- ~~(b)(c)~~ A current member of the Pawnee Business Council.

Section 3.2 Appointment of Members

- (1) Appointments of the Commission shall be for a period of three years. The initial appointments shall have different lengths of terms which shall result in staggered terms. Commissioners may be reappointed for one or more successive terms. Commissioners may remain appointed until a new Commissioner is appointed by the Pawnee Business Council.
- (2) Commissioners may be removed for cause by majority vote of the Pawnee Business Council.
- (3) Commissioners must satisfy a background check. Commissioners may not participate in matters relating to their background investigation. Such background investigations shall be under the direction of the Business Council or its designee.
- (4) Upon completion of the background investigation, the Pawnee Business Council, in Executive Session shall discuss all information gathered, and in regular session by majority vote, shall either:
 - (a) issue a License, or
 - (b) notice the Commissioner for a hearing before the Council, or
 - (c) Deny the license.
- (5) Commissioners may be removed by a majority vote of the Pawnee Business Council.

Section 3.3 Appointment of Officers

The Chairman, Vice-Chairman, and Secretary shall be ~~appointed by the Pawnee Business Council as set forth in Section 3.2 of this Ordinance-~~ elected by majority vote from the members appointed to the Commission by the Pawnee Business Council on an annual basis. In the absence of the Chairman, the Vice-Chairman will serve as Chairman.-

Section 3.4 Conflict of Interest

- (1) No member of the Commission shall engage in any business which is subject to regulation by the provisions of this Ordinance. No member, during his term of office or for two (2) years thereafter, may consult with or in any manner be employed by or own, directly or through a relative, nominee, or trustee, any interest in any business subject to regulation by this Ordinance.

- (2) Members of the Commission and Commission employees are prohibited from playing or participating in any gaming activity in any Gaming Facility regulated by this Ordinance.

Section 3.5 Meetings

- (1) General Meetings of the Commission may be open to the public. Executive sessions may be held for good cause, including but not limited to, protecting the privacy of persons, considering personnel matters, considering licensing determinations, reviewing background investigations, hearing complaints against individuals, and considering whether to include persons on the list of excluded individuals. No vote shall be taken during executive session. Matters discussed in executive session are deemed confidential.
- (2) The Commission shall meet at least monthly within the jurisdiction of the Pawnee Nation.
- (3) Meetings may be called by the Chairman or by majority vote of the Commission at a duly called meeting.
- (4) Notice of a meeting shall be posted in public areas at least 72 hours in advance or the meeting shall be rescheduled.
- (5) An emergency meeting or special meeting may be called by the Chairman or by a majority of the Commission to transact business which could not be reasonably anticipated and placed upon the agenda of a regularly called meeting. Notice of such emergency meeting or special meeting shall be provided to the Commission, the Business Council, the Tribal Development Corporation, and the public. All requirements of this section, except notice, shall be applicable to an emergency meeting or special meeting.
- (6) Members of the Commission may participate in a meeting of the Commission by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting in such manner by a member shall constitute the presence of the member at the meeting.
- (7) Three Commissioners shall constitute a quorum to transact business. Each member of the Commission shall be entitled to one vote. The Chairman/Chairperson shall vote only in the event of a tie.
- (8) The Commission shall act by majority vote of the Commissioners present.
- (9) Minutes of meetings shall be kept and shall at a minimum record the topics discussed, motions made and the Commissioner making such motion, and the votes on motions.
- (10) Nothing herein shall preclude a vote from being taken by the Commission telephone or email poll in an emergency when the circumstances do not allow a meeting of the full board in one location in a timely manner.

Section 3.6 Authority and Responsibility

The Commission shall have the power, authority, and responsibility to:

- (1) Initiate Civil and Criminal actions in court to enforce provisions of this Ordinance, Commission regulations or the IGRA;
- (2) Review, comment and approve management agreements for Class II and Class III Gaming Activities;
- (3) Review, comment and approve construction, development, and vendor contracts or agreements for conformance with this gaming ordinance and other laws of the Nation.
- (4) Approve, deny, suspend or revoke gaming licenses for Class II or Class III Gaming;
- (5) Monitor all Gaming Activities conducted on Pawnee Nation Land on a continuous basis;
- (6) Ensure that background investigations are conducted as required by this Ordinance;
- (7) Demand access to and inspect, examine, copy, and audit all papers, books and records concerning activities and revenues of any Gaming Activities conducted on Nation land and any other matters necessary to carry out its duties under this Ordinance;
- (8) Conduct such hearings as the Commission may deem appropriate in carrying out its duties, including administering oaths or affirmations to witnesses and issuing subpoenas to compel witness to appear at such hearings;
- (9) By majority vote, authorize the Chairman of the Commission to issue, or cause to be issued, subpoenas, which subpoenas shall be of like effect as issued by the Tribal Court;
- (10) Issue Notice of Violations to any person or facility within the jurisdiction of the Nation;
- (11) When information is received through audits or other investigations that indicates a violation of Tribal, Federal or other applicable state Statutes, laws or regulations, to treat as confidential and provide to the appropriate law enforcement officials and the Attorney General for prosecution;
- (12) Promulgate, Adopt or develop regulations, provided that all such regulations shall be filed with the Tribal Secretary and shall be public records open to inspection by any person during normal business hours, deemed necessary to clarify or enforce provision of this Ordinance or the Nation's right and interests established in approved Management Agreements
- (13) Adopt a Class II and Class III Gaming License Application;
- (14) Deposit all payments, fees, assessments, penalties, interest, and civil fines collected under authority of this Ordinance into accounts designated by the Commission to the credit of the Nation;
- (15) Collect fees and assessments as provided for in this Ordinance.

Section 3.7 Quarterly Reports

The Commission shall submit a report, including, if submitted, the views of individual Commission members, ~~if submitted,~~ to the Council on a quarterly basis each calendar year. The report shall include information concerning:

- (1) Funding, including income and expenses, of the Commission;
- (2) Net Revenue and Adjusted Gross Revenues received by the Nation from Gaming Operation;
- (3) Recommendations for amendments to this Ordinance;

- (4) A summary of gaming licenses issued and denied, by type, during the preceding quarterly reporting period; and
- (5) Any other matter considered appropriate and relevant to the conduct of the Tribal Gaming Operations.

Section 3.8 Budget

The Pawnee Business Council is hereby authorized to appropriate such sums as may be necessary for the adequate operation of the Commission.

Section 3.9 Staffing of Tribal Gaming Commission

- (1) **General Counsel.** The Commission shall designate a licensed attorney to act as General Counsel to the Commission.
- (2) **Other Staff.** The Commission may appoint and supervise other staff for the Commission in accordance with the personnel policies and procedures of the Pawnee Nation, at such rates of pay as shall be reflected in the budget of the Commission as approved by the Business Council, provided that no Person may be appointed to the staff of the Commission who is a relative of a member of the Commission, Tribal Manager, Management Contractor, Primary Management Official, Key Employee, or a member of the Pawnee Business Council.
- (3) **Assignment of Other Personnel.** The Commission may request the assignment of personnel to assist the Commission in carrying out its duties under this Ordinance, unless otherwise prohibited by law or contract, and as authorized by the Pawnee Business Council.

Section 3.10 Access to Information

- (1) **General Authorization.** The Commission may secure from any department or agency of the Tribal government, and from cooperating agencies or departments of the government of any Indian Tribe, any State, or the United States information necessary to enable it to carry out its function hereunder. Upon request of the Commission, the head of any department or agency of the Tribe shall furnish such information to the Commission unless otherwise prohibited by law.
- (2) **Distribution.** The Commission is authorized, upon request for law enforcement purposes or as required by law, to distribute to the National Indian Gaming Commission, and any agency of another federally recognized tribe or state having authority to regulate gaming or prosecute offenders for violations of the appropriate gaming laws within the jurisdiction of such Tribe or state, such information as it may have available, unless otherwise prohibited by law.

Section 3.11 Assessment of Fees

- (1) **Authorization.** The Commission shall, from time to time, promulgate regulations establishing a uniform schedule of fees to be paid annually by each Gaming Operation that is regulated by this Ordinance, and shall review said schedule annually

during its budget process. The fee imposed on a Gaming Operation may be reduced or waived by the Gaming Commission in the event a Gaming Operation experiences a severe economic hardship or serious natural disaster. The rate of fees imposed under this Section shall be assessed as follows:

- (a) no less than 0.5 percent nor more than 2.5 percent of the first One Million Dollars (\$1,000,000) of the Gross Receipts, and
 - (b) no more than 5 percent of the Gross Receipts in excess of the first One Million Dollars (\$1,000,000) of the Gross Receipts from each entity regulated by this Ordinance.
- (2) **Non-Payment.** Failure to pay the appropriate fees required under any provision of this Ordinance shall, subject to the regulations of the Tribal Gaming Commission, be grounds for revocation or suspension of the license of the nonpaying entity regulated by this Ordinance..

Section 3.12 Ethics

- (1) The Nation recognizes that the duties of the Commission include making important decisions on highly sensitive issues. As such, the Nation has determined that the Commission and Commission Staff shall be held to extremely high ethical standards. The Commission and Commission Staff shall agree to be bound by the following:
- (a) Endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
 - (b) Not use their positions for private gain.
 - (c) Not hold financial interests that conflict with the conscientious performance of their duties as regulators.
 - (d) Not solicit or accept any gift or other item of monetary value, including complimentary items or services over the amount of \$100 from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Commissions' duties.
 - (e) Make no unauthorized commitments or promises of any kind purporting to bind the Nation.
 - (f) Act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Commissioners or Commission Staff.