



BILL HORN

CHAIRMAN
SUPERVISOR, FIFTH DISTRICT
SAN DIEGO COUNTY BOARD OF SUPERVISORS

AGENDA ITEM

DATE: October 11, 2011

##

TO: Board of Supervisors

SUBJECT: DIRECTING A SHARE OF TRIBAL GAMING FUNDS TO COUNTY AND LOCAL GOVERNMENT TO MITIGATE OFF-RESERVATION IMPACTS (DISTRICT: ALL)

SUMMARY:

Overview

San Diego County is home to 19 Indian Reservations and 18 Tribal governments, more than any other county in the nation. To date, 14 Tribal governments have signed a Tribal-State Gaming Compact with the State of California, allowing up to two Class III casinos on their tribal lands. In San Diego County, each of these casinos is located on tribal land within the unincorporated area.

Access to these tribal lands and Indian gaming and resort facilities depends upon county and state-maintained roads, and it is necessary to mitigate the environmental, public safety and health related impacts associated with Indian gaming activities. The San Diego County Board of Supervisors has a longstanding policy to reach agreements with Tribes to mitigate fiscal impacts on local governments, significant off-Reservation environmental and public safety impacts caused by gaming-related improvements or operations, and prevention and treatment of gambling addiction.

Recommendation(s)

CHAIRMAN HORN

1. Approve the Preliminary Statement of Terms (Attachment A) for an intergovernmental agreement between the Rincon Band of Luiseño Indians and the County of San Diego.

Fiscal Impact

The fiscal impact associated with this action is to be determined but anticipated to be millions of dollars a year in additional revenues for the region. The Rincon Band has agreed to contribute revenue into a Rincon Shared Benefit Trust Fund to be established in the County Treasurer's Office which will be administered by the County, pursuant to a Tribal-State Gaming Compact currently being negotiated.

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Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

San Diego County is home to 19 Indian Reservations and 18 Tribal governments, more than any other county in the nation. To date, 14 Tribal governments have signed a Tribal-State Gaming Compact with the State of California, allowing up to two Class III casinos on their tribal lands. In San Diego County, each of these casinos is located on tribal land within the unincorporated area.

Access to these tribal lands and Indian gaming and resort facilities depends upon County and State-maintained roads, and it is necessary to mitigate the environmental, public safety, health, and other related impacts associated with Indian gaming activities. The San Diego County Board of Supervisors has a longstanding policy to reach agreements with Tribes to mitigate fiscal impacts on local governments, significant off-Reservation environmental and public safety impacts caused by gaming-related improvements or operations, and prevention and treatment of gambling addiction.

The tribal lands governed by the Rincon Band of Luiseño Indians (Rincon Band) are located in the 5th Supervisorial District of the County of San Diego. In a 2-1 decision by the 9th Circuit Court of Appeals, the Rincon Band prevailed in a decision that stated that Governor Schwarzenegger, negotiating on behalf of the state, could not require Indian tribes to turn over gaming revenue to the state's general fund as a condition of expansion because it would amount to a tax that federal law prohibits. The Schwarzenegger Administration was seeking approximately \$38 million of the projected \$40 million annual profit of the Rincon Band's proposed addition of 900 slot machines to the 1,600 it already operates at their casino. The State appealed the 9th Circuit Court of Appeals ruling to the U.S. Supreme Court, and the ruling was upheld. The Rincon Band and the state were ordered to negotiate a compact. If a compact cannot be agreed upon, each side will submit a compact to a court appointed mediator to determine which of the two will be authorized.

It is the Rincon Band's view that gaming revenues should be shared with local and county governments in order to mitigate the impacts of their gaming operations and provide mutual benefits for tribes and local governments, rather than be given to the state's general fund. This preference is consistent with the San Diego County Board of Supervisors' longstanding policy regarding Indian gaming operations.

In light of the court decision, on September 28, 2010 (9) the Board adopted a resolution entitled "Resolution of the San Diego County Board of Supervisors Concerning Mitigation of Local Gaming Related Impacts." Adopting this resolution allowed the County to negotiate with the

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Rincon Band to create a new model in the State of California for sharing tribal casino mitigation funding with local governments.

Through a series of government-to-government meetings held in August and September 2011, the Rincon Band and the County have drafted the Rincon Shared Benefit Fund Preliminary Statement of Terms, which is the framework of provisions for the intergovernmental agreement between the Rincon Band of Luiseño Indians and the County of San Diego, pursuant to a Tribal-State Gaming Compact currently being negotiated. Under the terms of the proposed intergovernmental agreement, the Tribal-State Compact would require tribal gaming revenues to be set aside for county and local government to mitigate the impacts associated with gaming operations. The Rincon Band has agreed to contribute annual revenue into a Rincon Shared Benefit Trust Fund to be established in the County Treasurer's Office. The fund will be administered by the County and distributed to projects selected by a Selection Committee to be comprised of County and Rincon Band representatives. Priorities for funding include roads & transportation, fire/EMS, Sheriff's department and problem gambling treatment. Adopting the proposed statement of terms will allow the County of San Diego and the Rincon Band to bring this mutually agreed upon proposal for sharing gaming revenue with local governments to the State, for approval by Governor Brown. Once approved, the County and Rincon Band will draft the associated intergovernmental agreement for this Board's approval.

Linkage to the County of San Diego Strategic Plan

N//A

Respectfully submitted,

BILL HORN
Supervisor, Fifth District

ATTACHMENT(S)

A. Rincon Shared Benefit Fund Preliminary Statement of Terms

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:
N/A

BOARD POLICIES APPLICABLE:
N/A

BOARD POLICY STATEMENTS:
N/A

MANDATORY COMPLIANCE:
N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):
N/A

ORIGINATING DEPARTMENT: District 5, Board of Supervisors

OTHER CONCURRENCE(S): N/A

CONTACT PERSON(S):

Chris Champine	_____	_____
Name	_____	Name
619-531-5555	_____	_____
Phone	_____	Phone
619-685-2662	_____	_____
Fax	_____	Fax
A 500	_____	_____
Mail Station	_____	Mail Station
Christopher.champine@sdcountry.ca.gov	_____	_____
E-mail	_____	E-mail