HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE
GRANTING A SUITABILITY WAIVER
FOR CASE NO. WV09-003
RESOLUTION 3-03-09 G

WHEREAS, on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and

WHEREAS, the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and

WHEREAS, Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") grants the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and

WHEREAS, Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget; and

WHEREAS, Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel; and

WHEREAS, Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulation conduct, and imposing penalties upon all persons within the jurisdiction of the Nation; and

WHEREAS, Article V, Section 2(i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals; and

WHEREAS, Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation; and

WHEREAS, Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and

WHEREAS, the Legislature adopted an *Amended and Restated Gaming Ordinance* (5 HCC § 1) (hereinafter "Gaming Ordinance"), which was last amended by resolution 1-28-08 D; and

WHEREAS, Section 17(c)(4) of the *Gaming Ordinance* grants the Legislature the power to waive by legislative resolution any requirements set forth in Section 17 (c)(2) for any applicant when the applicant has demonstrated on the record before the Ho-Chunk Nation Gaming Commission ("Gaming Commission") evidence of sufficient rehabilitation and present fitness to hold a license. The recommendation to grant a waiver will be submitted by the Gaming Commission to the Legislature for their consideration and final decision; and

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WHEREAS, Section 14 of the *Gaming Ordinance* grants the Gaming Commission the power and responsibility to enforce this Ordinance, and to ensure compliance with this Ordinance, the *Indian Gaming Regulatory Act* (25 U.S.C. §2701 *et seq.*), the Compact, any licenses issued, and any orders of the Commission or Legislature; and

WHEREAS, on February 4, 2009 the Gaming Commission convened Preliminary Waiver Hearing Case No. WV09-003 for Virgil S. Pettibone and finds that, based on the testimony and exhibits offered, Mr. Pettibone has provided the required evidence of present fitness to hold a gaming license; therefore, the Gaming Commission submits their recommendation to the Legislature that Mr. Pettibone be granted a waiver; and

WHEREAS, on March 3, 2009 the Legislature, having considered the records and recommendations in Preliminary Waiver Hearing Case No. WV09-003, finds that Virgil S. Pettibone provided evidence of sufficient rehabilitation and present fitness to hold a gaming license.

NOW THEREFORE BE IT RESOLVED that the Ho-Chunk Nation Legislature, pursuant to its Constitutional authority, and pursuant to the standards set forth in the *Amended and Restated Gaming Ordinance*, hereby grants a suitability waiver to Virgil S. Pettibone with the following conditions:

1. Mr. Pettibone must continue to comply with any and all court ordered obligations; and
2. Mr. Pettibone will have no new criminal convictions in any jurisdiction.

BE IT FURTHER RESOLVED that the failure to comply with any applicable laws pertaining to gaming conducted by the Ho-Chunk Nation will result in the revocation of the gaming license pursuant to the *Ho-Chunk Nation Gaming Ordinance*, or termination of employment pursuant to the *Ho-Chunk Nation Personnel Policies and Procedures*.

CERTIFICATION

I, the undersigned, as Tribal Secretary of the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **11 members**, of whom **7** constituting a quorum were present at a meeting duly called and convened and held on the **3rd day of March, 2009**, that foregoing resolution adopted at said meeting by an affirmative vote of **5 members, 1 opposed, and 1 abstaining,** pursuant to the authority of Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that said resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Elliott Garvin, Tribal Secretary

3-3-09
Date