

Agenda Report

TO: CITY COUNCIL **DATE:** November 18, 2002
THROUGH: LEGISLATIVE POLICY COMMITTEE (11/5/02)
FROM: CYNTHIA J. KURTZ, CITY MANAGER
SUBJECT: ESTABLISH NEUTRAL POSITION ON H.R. 3824 (Bono) GABRIELENO BAND OF MISSION INDIANS FEDERAL RECOGNITION ACT AND DECLINE PARTICIPATION IN JOINT POWERS AUTHORITY OPPOSING THIS BILL

RECOMMENDATION

It is recommended that the City Council:

- 1) Remain neutral on *H.B.3824 (Bono) Gabrieleno Band of Mission Indians Federal Recognition Act* and similar bills, but place this issue on "watch" status for future developments;
- 2) Decline participation, at this time, in the Joint Powers Authority seeking to oppose this bill.

BACKGROUND

H.R. 3824 Gabrieleno Band of Mission Indians Federal Recognition Act proposes to extend Federal recognition to the Gabrieleno Band of Mission Indians and grant eligibility for all future services and benefits provided by the Federal Government including allowing the establishment of the tribe's aboriginal land into trust. This land traditionally occupied most of what is now Los Angeles and Orange Counties.

Federal recognition would enable the tribe to strengthen its community with increased federal protections for religious freedom (1978 American Indian Religious Freedom Act), child welfare (1978 Indian Child Welfare Act), eligibility for federal assistance in the areas of education and health care (1975 Self-Determination and Educational Assistance Act, 1988 Self-Governance Project), and housing programs through HUD, etc. Some 562 federally recognized Indian nations across the country have utilized the

above-mentioned federal services to strengthen their communities via greater cultural, political and economic self-sufficiency.

However, federal recognition would also endow the tribe with a series of immunities exempting their tribal lands from various federal, state and local taxes, zoning and environmental laws. Should the Gabrieleno Indians purchase land within the trust, they could establish uses not in compliance with the City's zoning code, including casinos. By achieving recognition through a Congressional Act, the tribe also becomes an exception under Section 20 of the Indian Gaming Regulatory Act, which would enable the tribe to purchase land specifically for gaming. The City would have no control over the off-reservation impacts on the surrounding community.

The concern over the use of land throughout the San Gabriel Valley by the Gabrieleno Nation has led to the formation of a Joint Powers Authority seeking to protect their constituents and ensure the continuation of revenues collected from highly regulated legalized gambling establishments within their cities. The Authority is a coalition of the following Los Angeles cities: Bell Gardens; Commerce; Gardena and Hawaiian Gardens. Pasadena has been asked to join this JPA.

As currently drafted, Section 9 of the bill precludes the tribe from sponsoring gaming on any land that is taken into trust. The provision was agreed to by the Gabrieleno Nation at Rep. Bono's urging, as she anticipated it would make the legislation easier to pass. However, Chairman Ben Campbell of the Senate Committee on Indian Affairs has told Representative Bono's office that his committee would not approve the legislation unless the Section 9 provision prohibiting gaming was removed. It also appears that the Chairman of the House Resources Committee has told Representative Bono that he would not consider H.R. 3824 in his Committee unless all parties involved (surrounding jurisdictions, the tribe, etc.) supported it. If Section 9 were to be removed to appease the Senate Indian Affairs Committee, it would lose its consensus support and would not be considered in the House. If Section 9 were kept in, then the Senate would not consider it.

The discrepancy over the bill's language will most likely result in the bill not being considered this year. And moreover, since the Gabrieleno Nation will no longer be in Representative Bono's district after January, it is unlikely she would reintroduce the bill. Similar legislation, H.R. 2619 introduced by Representative Hilda Solis, would recognize a separate tribe, the Gabrieleno-Tongva Nation, and excludes any prohibition on gaming on lands taken into trust by the tribe. It too is unlikely to be heard this year by the House Resources Committee.

Given the improbability of either H.R. 2619 or H.R. 3824 being heard this year by the House Resources Committee, staff is recommending that the City remain neutral at this time.

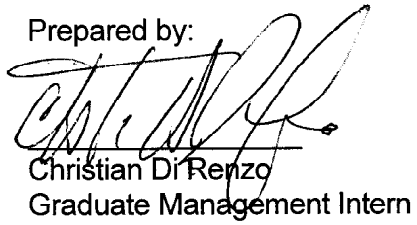
FISCAL IMPACT

Remaining neutral on this bill will not result in a fiscal impact to the City.

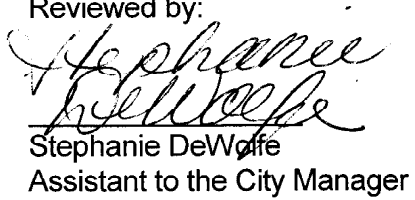
Respectfully submitted,


CYNTHIA J. KURTZ
City Manager

Prepared by:


Christian Di Renzo
Graduate Management Intern

Reviewed by:


Stephanie DeWolfe
Assistant to the City Manager