

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA  
PUBLIC MEETING AND CONTRACTING STANDARDS  
APPLICABLE TO GAMING OPERATIONS AT THE FOND-DU-LUTH CASINO  
ORDINANCE #02/95

Adopted by Resolution #1136/95 of the Fond du Lac Reservation  
Business Committee on April 26, 1995.

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

PUBLIC MEETING AND CONTRACTING STANDARDS

APPLICABLE TO OPERATIONS OF THE FOND-DU-LUTH CASINO

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CHAPTER 1

AUTHORITY AND PURPOSE

Section 101 Authority. This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as exercised in accordance with Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, and as recognized under the laws of the United States of America, particularly under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § 2701 et seq.

Section 102 Purpose. The purpose of this Ordinance is to give regulatory force and effect to the contractual obligation of the Reservation Business Committee under Section 3 of the "Tribal-City Accord Between the City of Duluth and the Fond du Lac Band of Lake Superior Chippewa," dated June 20, 1995, to adopt the substantive standards and requirements of the municipal contracting and open meeting laws of the State of Minnesota as the law of the Fond du Lac Band applicable to the gaming operations of the Band at the Fond-du-Luth Casino, located at 129 East Superior Street, Duluth, Minnesota, which is within the Fond du Lac Reservation, to the extent that such application is not inconsistent with the laws of the United States.

Section 103 Reservation of rights. The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time and there shall be no vested rights of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the power of the Reservation Business Committee to amend or repeal this Ordinance or any part herein at any time. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any forum not expressly authorized to exercise jurisdiction under this Ordinance. Any provision of this Ordinance which is inconsistent or incompatible with applicable federal law shall be invalid and unenforceable to the extent of such inconsistency or incompatibility, provided, however, that all remaining provisions shall be given full force and effect.

## CHAPTER 2

### DEFINITIONS

The following definitions shall apply in the meanings and interpretation of the provisions of this Ordinance, unless otherwise expressly indicated by the context of a specific provision:

Section 201 "Active investigative data" shall mean data collected or created by a law enforcement agency of the State of Minnesota in order to prepare a case against a person, whether known or unknown, for the commission of a civil or criminal wrong, but does not include arrest data, request for service data, or response or incident data created or collected by such law enforcement agency.

Section 202 "Band" shall mean the Fond du Lac Band of Lake Superior Chippewa.

Section 203 "Contract" shall mean any agreement entered into by the Reservation Business Committee or any corporate subdivision of the Fond du Lac Band for the sale or purchase of supplies, materials, equipment or the rental thereof for use at the Fond-du-Luth Casino, or for the construction, alteration, repair or maintenance of real or personal property located at the Fond-du-Luth Casino.

Section 204 "Indian bidder" shall mean an enrolled member of a federally-recognized Indian tribe, as defined under 25 U.S.C. § 2703(5)(a) and (b).

## CHAPTER 3

### PUBLIC CONTRACTING PROCEDURES

Section 301 Contracts over \$25,000. If the amount of the contract is estimated to exceed \$25,000, sealed bids shall be solicited by public notice in the manner and subject to such procedures as adopted by the Reservation Business Committee. All bids so obtained shall be kept on file for a period of at least one year after receipt thereof.

Section 302 Contracts from \$10,000 to \$25,000. If the amount of the contract is estimated to exceed \$10,000 but not to exceed \$25,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Section 303 Contracts less than \$10,000. If the amount of the contract is estimated to be \$10,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the decisionmaking body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt.

Section 304 Indian contract preference. All published advertisements for bids shall state: "This contract is subject to Indian preference bidding." Preference in the award of contracts shall be given to qualified Indian bidders, in accordance with the requirements of the Fond du Lac Indian Contract Preference Ordinance, FDL Ord. #05/84, and any successor or similar ordinances or laws of the Fond du Lac Band not otherwise inconsistent with the requirements of this Ordinance, provided that the proposed price of the duly qualified Indian bidder is no more than ten percent (10%) higher than the qualifying bid of the lowest non-Indian bidder.

Section 305 Minimum labor standards. Nothing in this chapter shall be construed to prohibit the Reservation Business Committee from adopting rules, regulations, or ordinances which establish the prevailing wage rate as a minimum standard for wages and which establish the hours and working conditions prevailing for the largest number of workers engaged in the same class of labor within the area as a minimum standard for a contractor's employees which must be agreed to by any contractor before the contractor may be awarded any contract for the furnishing of any labor, material, supplies, or service.

#### CHAPTER 4

##### OPEN MEETING PROCEDURES

Section 401 Presumption of Openness. Except as otherwise expressly provided herein or by applicable law, all meetings of the Reservation Business Committee or any corporate subdivision of the Fond du Lac Band pertaining to the gaming operations at the Fond-du-Luth Casino shall be open to the public, and the votes of the members of the Reservation Business Committee or such corporate subdivision of the Band so required to be open to the public shall be recorded in a journal kept for that purpose, and the journal shall be open to the public during all normal business hours where such records are kept. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by applicable law. This section shall not apply to quasi-judicial functions involving disciplinary proceedings.

Section 402 Data Privacy Act Exceptions. The presumption of openness required under Section 401 shall not apply to the consideration of data which is otherwise subject to restrictions on disclosure under the Privacy Act of 1974, 5 U.S.C. § 552a, as applicable to tribal gaming operations under 25 C.F.R. Part 515 et al.

Section 403 Written materials. In any meeting which under Section 401 must be open to the public, at least one copy of any printed materials relating to the agenda items of the meeting shall be prepared and distributed at the meeting to all members of the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band holding such meeting, and shall be available in the meeting room for inspection by the public while their subject matter is under consideration. This section does not apply to materials classified by law as confidential or nonpublic data.

Section 404 Notice of meetings. (a) Regular meetings. A schedule of the regular meetings of the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band pertaining to the gaming operations at the Fond-du-Luth Casino shall be kept on file at governmental offices of the Fond du Lac Band. If the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band decides to hold a regular meeting pertaining to the gaming operations at the Fond-du-Luth Casino at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided in subdivision (b) of this section for a special meeting.

(b) Special meetings. For a special meeting pertaining to the gaming operations at the Fond-du-Luth Casino, except an emergency meeting or a special meeting for which a notice requirement is otherwise expressly established by law, the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band holding such meeting shall post written notice of the date, time, place, and purpose of the meeting on the principal public posting locations of the Reservation Business Committee, and such notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band pertaining to the gaming operations at the Fond-du-Luth Casino. This notice shall be posted and mailed or delivered at least three days before the date of the meeting. As an alternative to mailing or otherwise delivering notice to persons who have filed a written request for notice of special meetings, the notice may be published the notice once, at least three days before the meeting, in the official newspaper of the public body or, if there is none, in a qualified newspaper of general circulation within the Duluth area. A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects pertaining to the gaming operations at the Fond-du-Luth Casino, in which case the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band holding such meeting is required to send

notice to that person only concerning special meetings involving those subjects. The Reservation Business Committee may establish an expiration date for requests for notices of special meetings pursuant to this paragraph and require refiling of the request once each year. Not more than 60 days before the expiration date of a request for notice, the public body shall send notice of the refiling requirement to each person who filed during the preceding year.

(c) Emergency meetings. For an emergency meeting, the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band holding such meeting shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number. Notice of the emergency meeting shall be given by telephone or by any other method used to notify the members of the public body. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the members. Notice shall include the subject of the meeting. Posted or published notice of an emergency meeting shall not be required. An "emergency" meeting is a special meeting called because of circumstances that require immediate consideration by, and in the judgment of, the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band holding such meeting. If matters not directly related to the emergency are discussed or acted upon at an emergency meeting, the minutes of the meeting shall include a specific description of the matters. The notice requirement of this paragraph supersedes any other notice requirement under this Ordinance for a special meeting that is an emergency meeting.

(d) Recessed or continued meetings. If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.

(e) Closed meetings. The notice requirements of this subdivision apply to closed meetings.

(g) Actual notice. If a person receives actual notice of a meeting of the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band pertaining to the gaming operations at the Fond-du-Luth Casino at least 24 hours before the meeting, all notice requirements of this section are satisfied with respect to that person, regardless of the method of receipt of notice.

Section 405 Treatment of data classified as nonpublic. (a) Except as provided in this section and Section 402, meetings may not be closed to discuss data that are nonpublic data. Data that are nonpublic data may be discussed at a meeting subject to this section without liability or penalty, if the disclosure relates to a matter within the scope of authority of the Reservation Business Committee or the corporate subdivision of the Fond du Lac Band pertaining to the gaming operations at the Fond-du-Luth Casino and

is reasonably necessary to conduct the business or agenda item. Data discussed at an open meeting retain the data's original classification; however, a record of the meeting, regardless of form, shall be public.

(b) Any portion of a meeting must be closed if expressly required by other law or if the following types of data are discussed: (1) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults; (2) a c t i v e investigative data; or (3) preliminary consideration of allegations or charges against an individual subject to its authority. If the members conclude that discipline of any nature may be warranted as a result of those specific charges or allegations, further meetings or hearings relating to those specific charges or allegations held after that conclusion is reached must be open, unless otherwise required to be closed under Section 402. A meeting must also be open at the request of the individual who is the subject of the meeting.

(c) The Reservation Business Committee or corporate subdivision of the Fond du Lac Band may close a meeting to evaluate the performance of an individual who is subject to its authority in relation to the gaming operations at the Fond-du-Luth Casino, and shall identify the individual to be evaluated prior to closing a meeting unless otherwise prohibited under Section 402. At its next open meeting pertaining to the gaming operations at the Fond-du-Luth Casino held under this Ordinance, the Reservation Business Committee or corporate subdivision of the Fond du Lac Band shall summarize its conclusions regarding the evaluation, unless otherwise prohibited under Section 402. A meeting must be open at the request of the individual who is the subject of the meeting.

Section 406 Attorney-client privilege. Meetings may be closed if the closure is expressly authorized by applicable law or permitted by the attorney-client privilege.

Section 407 Reasons for closing a meeting. Before closing a meeting, the Reservation Business Committee or corporate subdivision of the Fond du Lac Band holding such meeting shall state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed, except to the extent prohibited under Section 402.

## CHAPTER 5

### ENFORCEMENT AND REMEDIES

Section 501 Federal jurisdiction. The remedies contained under this chapter shall be exclusively enforceable in federal district court in accordance with Section 3 of the "Tribal-City Accord Between the City of Duluth and the Fond du Lac Band of Lake Superior Chippewa," dated June 20, 1995.

Section 502 Challenges to contract awards. In any action brought challenging the validity of a contract awarded within the scope of Chapter 3 of this Ordinance, the court shall not award, as any part of its judgment, damages, or attorney's fees, but may award an unsuccessful bidder the costs of preparing an unsuccessful bid.

Section 503 Personal liability for violations of Chapter 4. Any person who intentionally violates the open meeting provisions of Chapter 4 shall be subject to personal liability in the form of a civil penalty in an amount not to exceed \$300 for a single occurrence, which may not be paid by the Reservation Business Committee or a corporate subdivision of the Fond du Lac Band. No monetary penalties or attorney fees may be awarded unless the court finds that there was a specific intent to violate Chapter 4.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #02/95 was duly presented and adopted by Resolution #1136/95 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on April 26, 1995 in Cloquet, Minnesota.

  
Robert B. Peacock, Chairman

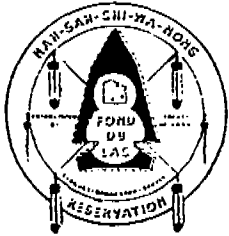
  
Peter J. Defoe, Sec./Treas.

# Fond du Lac Reservation Business Committee

105 University Road,  
Cloquet, MN. 55720  
Phone (218) 879-4593  
Fax (218) 879-4146

RESOLUTION #1136/95

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:



WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

Chairman  
Robert B. Peacock

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

Secretary/Treasurer  
Peter J. Defoe

WHEREAS, the Reservation Business Committee is exclusively responsible for the regulation of all Class II and Class III gaming conducted on the Fond du Lac Reservation; and

Dist. I Councilman  
Clifton Rabideaux

Dist. II Councilman  
Daryold Blacketter

WHEREAS, the Reservation Business Committee entered into a "Tribal-City Accord Between the City of Duluth and the Fond du Lac Band of Lake Superior Chippewa," dated June 20, 1995, relating to the operation by the Fond du Lac Band of the Fond-du-Luth Casino, which is operated on the Fond du Lac Reservation within the city limits of the City of Duluth; and

Dist. III Councilman  
George Dupuis

Executive Director  
I. Jean Mulder


WHEREAS, Section 3 of the aforementioned Accord adopts the substantive standards and requirements of the municipal contracting and open meeting laws of the State of Minnesota as applicable to the operations at the Fond-du-Luth Casino, subject to the Band's option of adopting its own Ordinance to apply the aforementioned standards to operations at the Fond-du-Luth Casino as the law of the Fond du Lac Band; and

WHEREAS, the Reservation Business Committee has now developed a proposed Ordinance entitled "Public Meeting and Contracting Standards Applicable to Gaming Operations at the Fond-du-Luth Casino," and has determined that the adoption of the proposed Ordinance is in the best interests of the Fond du Lac Band;

NOW THEREFORE BE IT RESOLVED, that the Fond du Lac Reservation Business Committee does hereby adopt Ordinance #02/95, entitled "Public Meeting and Contracting Standards Applicable to Gaming Operations at the Fond-du-Luth Casino," to become effective immediately as the law of the Fond du Lac Band applicable to its operations at the Fond-du-Luth Casino.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on April 26, 1995 in Cloquet, Minnesota.

  
Robert B. Peacock, Chairman

  
Peter J. Defoe, Sec./Treas.