

October 3, 2006

Information for the ballot to approve the Tribal LLC

Ballot:

Shall the Tribe approve the SYBCI (Santa Ynez Band of Chumash Indians) Limited Liability Company Act?

Approval of the SYBCI Limited Liability Company Act (Tribal LLC) would establish a business entity wholly-owned by the Tribe for the conducting of off-reservation business. The General Council delegates to the Business Committee the authorities and responsibilities to serve as the Tribal LLC Board just as they do for the Enterprise Board and with the same limitations.

*SYBCI Limited Liability Company Act document:
Page 3, Chapter I, General Provisions, Item 1. Authority, paragraphs b. and c. and Page 6, Item 8, Nation as Member, Item f. Governance; LLC Board and Item h. Enumerated Limitations subparagraphs (a) through (f).
Page 14, Chapter III, Members and Managers, Item 22. Voting, paragraphs a and b.*

The Limited Liability Company has the liability shield of a corporation but is disregarded for tax purposes.

*SYBCI Limited Liability Company Act document:
Page 11, Chapter II, Articles of Organization and Dealing with LLC, Item 16. Liability of Members to Third Parties, and also see pages 13 and 14, Chapter III, Members and Managers, Item 21. Limitation of Liability and Indemnification.*

Ownership title to property acquisitions made by the Tribe would be taken by the Tribal LLC.

*SYBCI Limited Liability Company Act document:
Page 19, Chapter VI, Ownership and Transfer of Property, Item 37. Ownership of LLC Property, paragraphs a., b., and c.*

Information for the ballot to approve the Tribal LLC, continued.

The Tribe recently purchased the McCormix gas station and the transfer of title or closing on that property is pending the results of the environmental study. The Tribe should not put the title of ownership of the gas station in the name of the Tribe but in the name of the Tribal LLC. Should something happen at the gas station such as a spill, the LLC would be the legal entity between the Tribe and the gas station. The LLC has the liability of a corporation but is disregarded for tax purposes. Title to all the Tribe's property acquisitions should be in the name of the LLC.

The Tribal LLC:

- Will serve to shield the Tribe from law suits that may arise from events occurring on properties owned by the Tribe.
- Will be solely owed by the Tribe. There will be no provision for individual ownership.
- Will keep all the sovereign immunity limitations the current Enterprise has. The LLC Board cannot waive sovereign immunity without the approval of the General Council.
- May not sell or encumber real property without the approval of the General Council.
- All profits from the LLC shall go back to the Tribe or its members in accordance with Tribal law.
- The power of the LLC Board emanates from the General Council. The limitations of the LLC Board will be the same as those for the Enterprise Board.

**PROPOSED ADDITIONS TO
SYBCI LIMITED LIABILITY COMPANY ACT
FROM
CHUMASH CASINO AND RESORT LLC ORDINANCE**

Section 4. Creation and Nature of LLC.

(a) The LLC shall be a limited liability business entity wholly-owned by the Tribe created by this ordinance, and governed by the LLC Board. The LLC shall be an instrumentality of the Tribe through which the LLC Business shall hereafter be conducted.

(b) The LLC shall be exempt from all federal or state income taxes or other impositions to the same extent as the Tribe.

Section 5. Sovereign Immunity and Waivers of Sovereign Immunity.

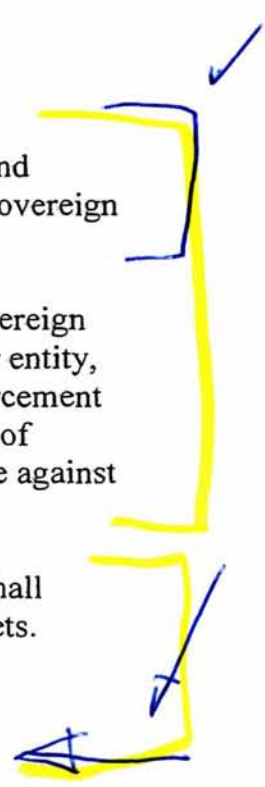
(a) The LLC shall have and enjoy the Tribe's sovereign immunity from unconsented suits and other legal process and claims, together with all other rights and privileges arising from tribal sovereignty, to the fullest extent that the Tribe enjoys sovereign immunity and the rights and privileges of tribal sovereignty.

(b) Except as provided in Section 7(i) of this Ordinance, no waiver of sovereign immunity by the Tribe or any Tribal Party other than the LLC or any other person or entity, shall ever permit or allow or be construed or interpreted to permit or allow any enforcement or recourse as against the LLC, its assets, revenues or business, except that a waiver of sovereign immunity meeting each of the following requirements will permit recourse against explicitly identified assets, revenues, business or activity of the LLC:

- (i) the waiver is in writing and expressly states that such waiver shall permit recourse and enforcement against the explicitly designated assets, Revenues, business or activity of the LLC; and
- (ii) the waiver is duly approved by the LLC Board.

Section 6. Enforcement of Claims; Separation of Liabilities, Assets Etc.

(a) Any liability or obligation of the LLC of any nature, whether arising under contract, law, or otherwise, shall be enforceable only as against the LLC, its assets and revenues (but only to the extent the LLC waives its sovereign immunity as permitted herein). No liability or obligation of the LLC shall be enforceable as against any assets or revenues of the Tribe or any other Tribal Party, except with the express consent of the Tribe that has been authorized by the General Council.



(b) No liabilities or obligations of the Tribe or any Tribal Party other than the LLC shall be enforceable as against the assets, revenues, business or activities of the LLC, except as the same may arise from the LLC Business.

(c) No assets, liabilities, rights, obligations, receipts or expenditures of the LLC shall be considered those of the Tribe, and no assets, liabilities, rights, obligations, receipts or expenditures of the Tribe or any Tribal Party other than the LLC shall be considered those of the LLC unless used in the LLC Business.

Section 8. Enumerated Limitations. Notwithstanding any other provision in this Ordinance, the LLC shall not take any of the following actions without written authorization from the General Council, or if permitted by the Articles of Organization, the Business Council:

- (a) waive or purport to waive the sovereign immunity of the Tribe or any Tribal Party, except as expressly authorized in Section 7(i) with respect to the LLC;
- (b) pledge as security for any debt or other obligation any revenues or assets of the Tribe other than those of the LLC;
- (c) bind the Tribe or create any obligation or liability of the Tribe; and
- (d) convey or encumber any interest in real property.

Section 9. Governance; LLC Board. The LLC shall be governed by the LLC Board. Members of the LLC Board shall at all times consist of those persons who are members of the Business Council. The officers of the LLC shall at all times consist of the same persons who are the corresponding officers of the Business Council. Upon any resignation, removal, vacancy, election or other change in the membership or the officers of the Business Council, without the need for any further action or event, a corresponding resignation, removal, vacancy, election, or change shall occur in the membership or officers of the LLC Board. Each officer of the LLC shall have the same duties, powers and authority with respect to the LLC, as such officer has with respect to the Business Council and the Tribe. Meetings of the LLC Board shall be noticed, convened and conducted in accordance with the same rules and requirements that cover such matters with respect to meetings of the Business Council. No member of the LLC Board shall be personally liable for any debt or obligation of the LLC. Each officer and member of the LLC Board shall be indemnified by the LLC to the same extent that an officer or member of the Business Council has a right to be indemnified by the Tribe.

Section 10. Application of Revenues. All revenues derived from the LLC Business that are not required to be applied to or reserved for the operation of the business (including the payment of principal, interest or other amounts on debt of the LLC) or

maintenance of related facilities and reserves, shall be distributed to the Tribe or its members in accordance with Tribal law.

Section 11. Records, Audits and Reports. The LLC shall maintain such books and records with respect to its operations and assets as are customary or required by any applicable legal requirement. The LLC shall cause annual audits of the LLC Business in compliance with generally accepted auditing procedures and the preparation of financial statements based thereon in accordance with generally accepted accounting principles. The LLC shall prepare such other reports at such times and relating to such matters with respect to the LLC Business as the General Council may from time to time request.

Section 12. Miscellaneous.

(a) To the extent reasonable, this Ordinance shall be read and interpreted in a manner that is consistent with the Articles of Organization of the Tribe, but in the event of any inconsistency, the provisions of the Articles of Organization shall control.

(b) Subject to subsection (a) of this Section, all provisions of any law, statute, ordinance, resolution or action of the Tribe that are inconsistent with or would frustrate the intent of this Ordinance are hereby repealed.

(c) When approved, this Ordinance shall be deemed effective as the law of the Tribe for all purposes as of _____.

SYBCI LIMITED LIABILITY COMPANY ACT
ENACTED BY GENERAL COUNCIL: _____, 2006

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**CHAPTER I
GENERAL PROVISIONS**

1. Authority.

- a. The Santa Ynez Band of Chumash Indians is a federally recognized Self-Governance Indian Tribe by the United States Government possessing inherent powers of self-governance with duties, rights, responsibilities, and with power and authority over the lands within the exterior boundaries of the Santa Ynez Band of Chumash Indians Reservation.
- b. The General Council of the Santa Ynez Band of Chumash Indians as the governing body of the Tribe pursuant to the Tribe’s Constitution and Articles of Organization, seeks to promote Tribal economic development on and off the Reservation through the creation of business entities such as limited liability companies by the enactment of this LIMITED LIABILITY COMPANY ACT pursuant to Tribal law.
- c. The implementation of such ACT and the establishment of limited liability companies thereunder is hereby delegated by the General Council to the Tribe’s Business Committee to operate a legal and administrative framework sufficient to protect the interests of the Tribe, LLC managers and members and others.

2. **Purpose.** This Act establishes SYBCI law for the establishment and operation of Limited Liability Companies (LLC).

3. **Applicability.** The provisions of this Act shall apply to all limited liability companies (LLC) organized hereunder.

4. Rules of Construction.

- a. It is the policy of this Act to give maximum effect to the principle of freedom of contract and to the enforceability of articles of operation and other agreements.
- b. Unless displaced by particular provision of this Act, the principles of law equity supplement this Act.

5. **Definitions.** Terms used in this Act have the following meaning:

- a. "Articles of Operation" means an agreement in writing among all of the members as to the conduct of the business of a limited liability company and its relationships with its members.
- b. "Articles of Organization" means the articles filed under Section 13 and those articles as amended or restated.
- c. "Corporation" means a "domestic corporation" for profit organized under the Tribal law and a foreign corporation formed under the laws of any other jurisdiction.
- d. "Court" means the SYBCI Tribal Court, or until one is established by the General Council, the Business Committee.
- e. "Distribution" means a direct or indirect transfer by a limited liability company of money or other property to or for the benefit of its members in respect of their interests.
- f. "Entity" includes an individual, a general partnership, limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity and the Nation.
- g. "Foreign" refers to limited liability companies and limited partnerships organized under the laws of a jurisdiction other than the SYBCI.
- h. "Legislative" means the SYBCI General Council.
- i. "Limited Liability Company" or "Domestic Limited Liability Company" means an organization formed under this Act, except as provided for in paragraph 52a.
- j. "Limited Liability Company Interest" or "Interest in the Limited Liability Company" or "Member's Interest" means a member's rights in the limited liability company, including rights to distributions, profits and losses, and to participate in management, as specified in the Articles of Operation.
- k. "LLC" means a limited liability company.
- l. "Majority in Interest" means members contributing more than fifty percent (50%) of the value of total capital contributions to the limited liability company excluding any interest which is not to be counted as voting on a matter as described elsewhere in this Act.
- m. "Manager" or "Managers" means the entity or entities designated to manage the company and this is not necessarily determined by percentage of ownership in the company.
- n. "Member" means a person who has been admitted to membership in a limited liability company and who has not dissociated from the limited liability company.

- o. "Nation" means the SYBCI.
- p. "Organizer(s)" means the entity(ies) which signs and delivers the articles of organization for filing to the Nation's Chairman of the Business Committee.
- q. "State" includes a state, territory, or possession of the United States and the District of Columbia.
- r. "Trust Land" means land held in trust by the United States for the benefit of the SYBCI or its members.

6. Name.

- a. The name of a limited liability company as set forth in its articles of organization must contain the words "limited liability company" or end with the abbreviation "L.L.C." or "LLC." The name may not contain language stating or implying that the limited liability company is organized for any purpose other than that permitted under Section 9, below.
- b. The name of a domestic LLC shall be distinguishable from any LLC or corporation previously organized under the laws of the Nation.

7. Registered Office and Registered Agent. A limited liabilities company's registered agent is the company's agent for service of process, notice, or demand required or permitted by law to be served on the company under the laws of the Nation.

- a. Each LLC shall continuously maintain a registered office and a registered agent. The registered office may, but need not, be the same as any of its places of business. The agent may be the same person then serving in a designated office of the Nation rather than a specified person if the Nation is a Member in the LLC of which the Nation's officer is the appointed agent.
- b. An LLC may change its registered office or registered agent, or both, by including the name of its registered agent and the street address of its registered office, as changed, in articles of amendment to its articles of organization or in articles of merger.
- c. The registered agent of a LLC may resign as registered agent by delivering to the Nation's Chairman of the Business Committee for filing a written statement of resignation and the appointment by the LLC of another registered agent.

8. Nation as Member.

- a. The Nation shall form or become a member of a LLC formed under this Act only upon approval of such action by resolution of the Business Committee.
- b. If the Nation is a member of any LLC formed under this Act, any action which the Nation is required or permitted to take with respect to any vote, approval,

consent, appointment, direction, or other matter shall be taken as stated by a resolution of the Business Committee.

- c. In no event shall any manager not a member of a LLC in which the Nation is a member, bind the Nation in any manner; provided that the Nation's interest as a member may be bound by manager or member actions as stated in this Act and the Articles of Operation of the LLC.
- d. Nothing contained in this Act shall be construed as creating any liability or waiving of sovereign immunity of the Nation in any manner; provided that the assets of the LLC in which the Nation holds an interest may be subject to liabilities and claims unless otherwise provided herein. In no event shall any action taken by the concerning the exercise of any right or privilege or discharge of any duty with respect to an interest in a LLC be construed as a waiver of immunity or creation of a liability on the part of the Nation separate and apart from its interests as a member of the LLC.
- e. If the Nation is the sole member of a LLC formed under this Act, that LLC shall possess the Nation's sovereign immunity from suit except to the extent otherwise provided in its Articles of Operation.
- f. **Governance; LLC Board.** If the Nation is the sole member of the LLC, the LLC shall be governed by the LLC Board. Members of the LLC Board shall at all times consist of those persons who are members of the Business Council. The officers of the LLC shall at all times consist of the same persons who are the corresponding officers of the Business Council. Upon any resignation, removal, vacancy, election or other change in the membership or the officers of the Business Council, without the need for any further action or event, a corresponding resignation, removal, vacancy, election, or change shall occur in the membership or officers of the LLC Board. Each officer of the LLC shall have the same duties, powers and authority with respect to the LLC, as such officer has with respect to the Business Council and the Tribe. Meetings of the LLC Board shall be noticed, convened and conducted in accordance with the same rules and requirements that cover such matters with respect to meetings of the Business Council. No member of the LLC Board shall be personally liable for any debt or obligation of the LLC. Each officer and member of the LLC Board shall be indemnified by the LLC to the same extent that an officer or member of the Business Council has a right to be indemnified by the Tribe.
- g. A limited liability company may be organized under this Act for any lawful purpose. Unless otherwise provided in Constitution of the Santa Ynez Band or articles of operation, a LLC organized and existing under this Act has the same powers as an individual to do all things necessary and convenient to carry out it business.
- h. **Enumerated Limitations.** Notwithstanding any other provision in this Ordinance, the LLC shall not take any of the following actions without written

