



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** December 18, 2018

**TO:** Christine Daniel, City Manager

**FROM:** Jennifer Tejada, Chief of Police

**SUBJECT:** Resolution Of The City Council Of The City Of Emeryville Granting An Annual Card Room License To The Oaks Card Club For The Calendar Year 2019

### **RECOMMENDATION**

Staff recommends the City Council adopt the above entitled resolution approving the Oaks Card Club application to renew its annual Card Room License for 2019.

### **BACKGROUND**

The premise listed below currently holds an active Card Room license.

Oaks Card Club (Mr. John Tibbetts, et al, Partner and CEO)  
4097 San Pablo Avenue, Emeryville, CA 94608

### **DISCUSSION**

#### **Applicable Law**

Chapter 5 of the Emeryville Municipal Code (hereinafter "EMC") governs all aspects of the Oaks Card Club rooms in the City. Section 5-5.03 EMC provides that a card room license issued by the City is required to operate a card room. Section 5-5.04, .05, and .07 describe the process for a card room license application, investigation, and issuance. In summary, after receipt of a card room license application, the Police Department conducts an investigation, and submits a report and recommendation to the City Manager. The City Manager then forwards the report to the City Council, which may then direct the Police Department to issue a card room license to the applicant, subject to conditions of approval. A card room license is valid for up to one year and automatically expires on December 31 of each year (5-5.10 EMC). Thereafter, the license holder must apply for a new license for the following year (5-5.11 EMC).

The State of California Department of Justice - Division of Gambling Control, requires anyone who owns, manages, or holds a financial interest in a gaming room to register with the State Attorney General. The Division of Gambling Control provides for concurrent jurisdiction with local governments and does not preempt the authority of local governments from imposing any valid local control over card rooms. The Division of Gambling Control is responsible for licensing card room owners and employees, and conducts its own independent investigations. Disqualifying information, if any, is forwarded to the City of Emeryville Police Department.

Section 5-5.25 EMC, Permitted Games Designated, lists currently authorized games as follows:

1. Draw Poker
2. Lowball Draw Poker
3. Seven Card Stud Poker (High)
4. Seven Card Stud Poker (Low)
5. Texas Hold'em Poker
6. Panguingue (PAN)
7. Pai Gow
8. Double Hand Poker
9. Super Pan 9
10. Pure 21.5 Blackjack
11. 21st Century Blackjack
12. Omaha Poker
13. Baccarat Gold
14. 14 Three Card Poker
15. ZOOBAC

The rules of play for the above permitted games are on file at the Police Department as required by ordinance. No other games may be played or permitted to be played in a licensed Emeryville card room. By revision of the ordinance, additional games may be added, but all games of mere chance are prohibited (that is, State Penal Code Section 330 requires there be some level of skill involved in the game).

The Police Department carefully monitors informational bulletins published by the Division of Gambling Control concerning gaming regulations. From time to time, the Department of Justice (DOJ) provides changes in guidelines to registered businesses and to the local police agency to ensure that violations of the State Penal Code are avoided.

Additionally, the State Attorney General has reminded local law enforcement officials that, if any of the aforementioned games are played in a fashion that constitutes a "banking" or "percentage" game, participants are in violation of State Penal Code Section 330, and State gaming permits are subject to revocation. Moreover, the State appellate court held that jackpot arrangements are illegal.

The Oaks Card Club is in compliance with all of the requirements.

**Authorized Number of Tables.** Section 5-5.16 EMC requires the approval of the City Council concerning the number of designated tables, which sets the monthly per table license fee charged by the City of Emeryville.

The Oaks Card Club has applied for permission to operate forty (40) tables.

**Investigation Concerning the Oaks Card Club:** During 2018, the Emeryville Police Department's Criminal Investigations Section made several unannounced card room inspections. Employees and customers were monitored during these inspections and no unusual or remarkable events occurred.

To date in 2018, there have been one hundred and fifty-three (153) Calls for Service at the Oaks Card Club compared to two hundred and eighty (280) in 2017, three hundred and twenty-seven (327) in 2016, and five hundred and forty-four (544) in 2015. Overall, there was a forty-five percent decrease in reported crimes for the Oaks Card Club when 2017 is compared to 2018 to date. (See Attachment 1: Calls for Service)

There has been no change in the number of uniformed security personnel employed by the Oaks Card Club which is currently at twenty-six (26). The security personnel are deployed in the following manner: five officers on day shift, seven on swing shift, and seven on the midnight shift.

In 2018, there was no change in ownership of the card room. The percentages are as follows:

- John Tibbetts 51%
- Joan Sailer 12.25%
- Nora Ernst 12.25%
- Dorothy Leroux 12.25%
- Kathleen Tibbetts Henry 12.25%
- Dawn Porter(Aunt) is an Income Partner (Life Estate) who passed away October 25, 2014 and there were no changes to her Income Partner Life Estate.

## **FISCAL IMPACT**

The annual card room license fee of \$2,953.00 was paid October 23, 2018. This fee is to recover the cost of reviewing the annual application and determining compliance with the Municipal Code.

According to John Tibbetts, in 2018 he received, \$1,516,504.00 dollars in salary and invested \$11,700 in the business.

## **CONCLUSION**

Since the DOJ conducted their investigation in 2010, the Oaks Card Club management has been responsible in its obligation to report crimes and suspicious activity in and around the licensed property. Part of their agreement with DOJ is to send a copy of an incident report to the DOJ as well as filing a report with the Emeryville Police Department.

The Emeryville Police Department has not received any negative information from the DOJ regarding the Oaks Card Club failing to comply with any of the sanctions related to the 2010 investigation.

The Police Department investigation has revealed no significant information which would warrant a recommendation for denial of the 2019 renewal application of the current card room permit for the Oaks Card Club. Mr. John Tibbetts has been transparent and cooperative with the Police Department in the review of this application and in adherence of the ordinance of the EMC and State law.

Staff is recommending the City Council approve the application and resolution granting a Card Room License to the Oaks Card Club for the calendar year 2019.

## **STAFF COMMUNICATION WITH THE PUBLIC**

None to date.

**PREPARED BY:** Jennifer G. Tejada, Chief of Police

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



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Christine Daniel, City Manager

## **ATTACHMENTS**

- Calls for Service 2018
- Draft Resolution
- Application