Resolution # 09-0902-254

Emergency Adoption of Amendments to Muschigon Construction Ordinance

WHEREAS, the status of the Gaá Číng Ziibi Daáwaa Aníshinaábek (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) of the Constitution to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council is empowered by Article IV, Section 7(a) of the Constitution to establish laws through the enactment of ordinances and adoption of resolutions; and

WHEREAS, the Tribal Council is empowered by Article IV, Section 7(f) of the Constitution of the Tribe to create subordinate regulatory commissions or subordinate organizations and to delegate to such organizations the power to manage the affairs and enterprises of the Tribe; and

WHEREAS, the Tribal Council adopted amendments to the Muschigon Construction Company Ordinance, Ordinance Number 05-800-04, by Tribal Council Resolution on October 4, 2006; and
WHEREAS, the Tribal Council adopted the Administrative Procedures Act, which identifies
the processes by which ordinances may be adopted, amended or repealed, and which
also identifies processes by which emergency amendments may be authorized; and

WHEREAS, Section 5.01 of the Administrative Procedures Act authorizes emergency action
in the interests of protecting the health, safety, or welfare of the Tribe, its members or
the community; and

WHEREAS, Section 5.01 of the Administrative Procedures Act allows emergency action
when an emergency is “imminent and [does] not allow the normal rule making
processes to be conducted without causing or resulting in danger to the health, safety
or welfare of the Tribe, including injury to person, property, business, or finances;”
and

WHEREAS, Section 5.02 of the Administrative Procedures Act requires that a resolution
authorizing emergency action clearly state the nature of the emergency and the
potential harm that could be caused by a failure to act, and also that it clearly state the
amendments or directions which will be taken to avoid or lessen the potential harm;
and

WHEREAS, Tribal Council has received information that Board of Directors of Muschigon
Construction Company has been unable to conduct business at its last two monthly
meetings because of its inability to form a quorum; and

WHEREAS, the Muschigon Construction Company Ordinance requires emergency
amendments to reduce the number of members of its Board of Directors from five (5)
to three (3), prior to its next meeting, which is scheduled for September 11, 2009; and

WHEREAS, the Muschigon Construction Company Ordinance requires emergency
amendments to reduce the number of Board of Directors members necessary to form
a quorum from three (3) to two (2); and

WHEREAS, the Muschigon Construction Company Ordinance also requires revisions to
clearly define the responsibilities and duties of the Board of Directors; and

WHEREAS, emergency action is required to adopt the revisions to the Muschigon
Construction Company Ordinance so that the Board of Directors can conduct
business at its September 11, 2009 meeting.

NOW THEREFORE IT IS RESOLVED that the Tribal Council of the Little River Band of
Ottawa Indians hereby adopts, under authority of Article V of the Administrative Procedures
Act, the emergency amendments to the Muschigon Construction Company Ordinance, which
shall be effective for a six month period or until amendments have been presented for public
comment and permanently adopted.
IT IS FURTHER RESOLVED that Tribal Council directs that the amendments to the Muschigon Construction Company Ordinance be posted for public comment.

IT IS FINALLY RESOLVED that the emergency amendments to the Muschigon Construction Company Ordinance be effective immediately upon adoption by Tribal Council.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 0 AGAINST, 0 ABSTAINING, and 2 ABSENT, at a Regular Open Session Meeting of the Little River Band of Ottawa Indians Tribal Council held on September 2, 2009 at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.

Janice M. Sam, Council Recorder

Attest:

Stephen Parsons, Council Speaker

Distribution: Council Records
Tribal Ogema
Board of Directors - Muschigon Construction Company