

Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 03-0813-244

*Approving Final Proposed Amendments to Tribal Constitution and Request for
Secretarial Election*

WHEREAS, the status of the *Gaá Čhíng 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 Tribal Council is authorized under Article IV, Section 7(a) 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 adopted resolutions which approved presentation of amendments to the Constitution of the Little River Band of Ottawa (*Constitution*) in accordance with Article XIV, Section 2; and

WHEREAS, these amendments were presented by a tribal member proposing the election of all government officials created in the Constitution and for the recall of Tribal Judges and Appellate Judges; and

WHEREAS, the proposed amendments were forwarded to the Secretary of the Interior for the purposes of requesting a Secretarial Election; and

WHEREAS, the Tribal Council has received the technical review letter from the Secretary of Interior which suggested changes that clarified the intentions of the Tribal Council and the member making the request, and in some circumstances, exceeded those intentions; and

WHEREAS, the Tribal Council has determined that the final additional clarifying amendments are in an appropriate format and that a request for a Secretarial Election should be made;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby requests the Secretary of the Interior to call a Secretarial Election to present the amendments to the Constitution of the Little River Band of Ottawa consisting of electing all government officials and the ability to recall Judges to the membership for consideration in a Secretarial Election in accordance with Article XIV, Sections 1 and 2 of the Constitution and 25 C.F.R. Part 81 and in the form of ballot proposals as set forth below.

PROPOSAL #1. Election of All Government Officials Created in Constitution

Article IV

Section 2. Qualifications.

(a) Member of the Tribe. Any member of the Tribe *may serve as a Tribal Judge provided that he/she is twenty-five (25) years of age, is not a member of the Tribal Council or running for a seat on the Tribal Council, and has not been convicted of any crime involving dishonesty, or moral turpitude, nor been convicted of a felony under Federal, Tribal, or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.* ~~who is twenty five (25) years of age or older, who is not a member of the Tribal Council or running for a seat on the Tribal Council, and has not been convicted of a felony under Federal, Tribal, or State law within the seven (7) year period immediately preceding his/her appointment, or convicted of any other crime involving dishonesty or moral turpitude, may serve as a Tribal Judge.~~

(b) Non-Member Qualifications. A non-member of the Tribe may be appointed to *or elected to serve as a Tribal Judge if such individual possesses a Law degree and has practiced in Federal Indian law or as a tribal judge, and has not been convicted of any crime involving dishonesty, or moral turpitude, nor been convicted of a felony under Federal, Tribal, or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.*

Section 4 - Appointment Election and Compensation.

(a) ~~Judges of the Tribal Courts, including the Court of Appeals, shall be appointed by the Tribal Ogema, provided such appointment must be confirmed by the Tribal Council.~~ *Judges of the Tribal Court, including the Court of Appeals, shall be elected by the registered voters.*

1. *Current Judges. The current tribal judges as of adoption of these amendments shall identify the following:*

A. *Tribal Court judges shall determine staggered terms from amongst themselves and new terms shall be set at either two years or four years. Each term thereafter shall be as set forth in Section 5(a).*

B. Court of Appeals judges shall determine staggered terms from amongst themselves and new terms shall be set at either two years or four years. Each term thereafter shall be as set forth in Section 5(a).

2. Declaration of Tribal Court or Court of Appeals Candidacy. Candidates shall declare their intention to run for a position on the Tribal Court or Court of Appeals. Provided that, the Election Board shall identify positions on the Court of Appeals requiring specific qualifications as identified in Section 3(b). Where no candidate, at the conclusion of any deadlines set by the Election Board, declares for a position on the Court of Appeals requiring specific qualifications, the Tribal Ogema shall appoint, and the Tribal Council shall approve a judge for that vacancy.

(b) Compensation. The Tribal Council shall have the power to establish the level of compensation for each judge; provided that the compensation due to each individual judge shall not be diminished during the term of his/her appointment.

(c) Tribal Judges shall be sworn in by the Speaker of the Tribal Council.

Section 5. Term of Office.

(a) Except as provided for in Section 6 of this Article VI, the term of office for all Tribal Judges shall be six (6) years.

(b) Tribal Judges will continue in office until a successor is sworn in.

(c) There shall be no prohibition against continuous service.

Section 7. Vacancy. A vacancy in any *Judge Judicial* position resulting from a Judge's death, resignation, or removal, or recall, shall be filled in the same manner as the original appointment as set forth in Article X, Section 4. The term of office for any Tribal Judge elected or appointed under this Section shall be six (6) years from the date of such appointment shall be for the remainder of the vacant term.

Article IX.

Section 4. Election Board.

~~(a) Subject to the approval of the Tribal Council, the Tribal Ogema shall appoint an Election Board consisting of five (5) adult members of the Tribe, to register voters, hold elections, certify election results, and settle election disputes other than allegations of impropriety by the Election Board. The Election Board shall consist of five members to be elected by the registered voters.~~

1. First Election of Members. The first election shall be conducted by the Election Board currently seated and their terms of office shall be concluded when the newly elected Election Board members are sworn into office.

2. First Election Date. The first such election shall be conducted during the next general election of the Tribe.

3. Staggered Terms. Election Board candidates elected to these positions shall serve as follows:

A. The three (3) candidates receiving the highest number of votes shall serve a four year term of office.

B. The two (2) candidates receiving the next highest number of votes shall serve a two year term of office, and the term shall thereafter be as set forth in subsection (b).

(b) The term of office for an Election Board member shall be four (4) years.

(c) Allegations in impropriety by the Election Board shall be settled by the Tribal Judiciary.

(d) Tribal members who are holding elected office, or running for *elected* office, shall not be eligible to serve as an Election Board member.

(e) The Election Board shall be authorized to issue such rules and procedures as may be necessary to carry out tribal elections and to provide for ongoing voter registration.

(f) Candidates for tribal office may choose a representative to be present when the election ballots are counted by the Election Board.

(g) A Tribal member shall have five (5) business days from the date of the election to file an election challenge.

(h) A vacancy in any Election Board position resulting from the death, resignation, removal, or recall shall be filed in the manner as set forth in Article X, Section 4.

Article X.

Section 4. Vacancies. A vacancy in the office of ~~the Tribal Ogema or on the Tribal Council~~ *an elected official* resulting from death, resignation, forfeiture, removal, or recall shall be filled as follows:

(a) If less than eighteen (18) months remain in the term of office ~~for the Tribal Ogema or Tribal Council member~~ *of an elected official*, an individual shall be appointed to fill such vacant position at the next regular Tribal Council meeting, provided such appointment is approved by a majority vote of the Tribal Council. The Speaker of the Tribal Council shall nominate an individual to fill the vacancy in the Office of the Tribal Ogema. The Tribal Ogema shall ~~nominate~~ *appoint* an individual to fill ~~a vacancy on the Tribal Council~~ *any other vacancy of an elected official*.

(b) If more than eighteen (18) months remain in the term of office ~~for the Tribal Ogema or a Tribal Council member~~ *of an elected official*, a special election shall be held within three (3) months after the vacancy occurs. When calling a special election to fill the vacancy of a Tribal Council member, the qualifications for candidates and registered voters entitled to participate shall be consistent with those applicable to the District in which such vacant seat exists *and in regards to any other office the individual must meet the qualifications required in the vacant position*.

(c) Any special election required to be held under this Section shall be conducted in accordance with applicable provisions of this Constitution, and any applicable tribal ordinance and any rules and regulations issued by the Election Board.

(d) The ~~Tribal Ogema or Tribal Council member~~ *elected official* taking office under the provisions of this Section shall only serve until the term of office for the vacant office he/she is filling expires.

A vacancy occurring in the position of the Speaker or Recorder of the Tribal Council shall be filled by a majority vote of the Tribal Council.

PROPOSAL #2. Authority to Recall Tribal Judges and Appellate Judges

Article X.


Section 2 - Recall.

The registered voters of the Tribe shall have the right to recall the Tribal Ogema, or any member of the Tribal Council, *or a Tribal Judge or Appellate Judge* by filing a recall petition with the Election Board. The petition must be signed by at least twenty-five percent (25%) of the registered voters of the Tribe. The Election Board shall verify and approve/deny the petition within thirty (30) days of receipt. At least fifty percent (50%) of the verified signatures on the petition must be registered voters who are eligible to vote in the election of the Tribal Council member now subject to recall.

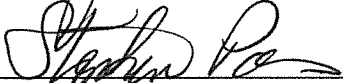
The Election Board shall conduct a recall election within ninety (90) days of the Election Board's verification and approval of the petition and its signatures. If the term of office for the Tribal Ogema or Tribal Council member being recalled will end within six (6) months of the date the Election Board verifies and approves the recall petition the issue will be held until the next regularly scheduled session.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 2 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on August 13, 2003, at the Little River Band's Community Center in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court
Legal Department