



Moved to open 7-26-06

Little River Band of Ottawa Indians

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

Resolution # 04-0211-65

Authorizing the Release of Portions of Certain Closed Session Meeting Minutes Relating to the Compensation Issue Involved in LRBOI v Guenthardt Litigation Pursuant to the Defendant's Requests for Production of Documents

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 is, pursuant to Article IV, Section 6(d) of the Constitution, authorized to meet in closed session for the purpose of discussing actual or potential claims by the Tribe; and

WHEREAS, Article IV, Section 6(d) provides that the minutes of business conducted in closed session shall maintained in a closed file except to the extent those minutes are opened to the public upon a vote of a majority of the Tribal Council, upon final disposition of the matter concerned or upon order of the Tribal Judiciary; and

WHEREAS, the Tribal Council discussed certain financial improprieties involving compensation paid to the prior Tribal Ogema during certain closed sessions commencing in approximately August 2002 in the course of determining whether civil or criminal claims should be brought against the Tribal Ogema to recover funds improperly paid to, or received by, the prior Ogema; and

WHEREAS, the Tribal Council did authorize the commencement of civil litigation (Little River Band of Ottawa Indians v Guenthardt, Case No. 03156GC) against the former Tribal Ogema, Robert Guenthardt, to recover funds improperly paid to Mr. Guenthardt at the time he resigned from the Office of Tribal Ogema; and

WHEREAS, Mr. Guenthardt's attorney has requested production of certain closed session minutes for all Tribal Council meetings between 1996 and July 2003; and

WHEREAS, the available minutes for all Closed Sessions of the Tribal Council at which the compensation issues involved in the Guenthardt litigation were discussed by Tribal Council have been identified and it was determined that the facts involved in that compensation issue were discussed at the following meetings during Calendar Year 2002:

August 7, 2002; August 14, 2002; August 21, 2002; August 28, 2002; September 11, 2002; September 18, 2002; and September 25, 2002.

WHEREAS, a review of the minutes from those sessions indicates that substance of the discussions at those meetings do not include any discussion of litigation theories or strategies with the Tribe's attorneys that require assertion of either the attorney-client or work product privileges.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby waives its any attorney-client privilege with respect to, and authorizes the release of, those portions of the Closed Session minutes involving discussion of the compensation issues involved in the Guenthardt litigation, contained in the approved Closed Session Meeting minutes for the following meetings:

August 7, 2002; August 14, 2002; August 21, 2002; August 28, 2002; September 11, 2002; September 18, 2002; and September 25, 2002.

IT IS FURTHER RESOLVED THAT the waiver and authorization contained in this Resolution is specific to the meeting dates identified above and is specific to only those portions of the minutes addressing the compensation issues involved in the instant Guenthardt litigation. The Tribal Council specifically and unambiguously asserts and retains its attorney-client privilege with respect to all other Closed Session records, including all materials contained in the record of Closed Sessions held during Calendar Year 2003 during which the Tribal Council was engaged in privileged discussions with counsel concerning the initiation of litigation against Mr. Guenthardt.

IT IS FINALLY RESOLVED THAT prior to the release of any Closed Session minutes or any portions of the record of the Closed Session meetings identified above, all materials unrelated to the compensation issue be redacted and such materials shall remain closed.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 1 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on February 11, 2004, at the Little River Band's Downtown Offices 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