



Little River Band of Ottawa Indians

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

Resolution # 05-0119-28

Creation of Legal Departments and Identifying Authority and Responsibilities of those Legal Departments

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 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) 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 responsible to adopt Ordinances and Resolutions that provide guidelines or infrastructure that (defines/empowers, etc) the Ogema to carry out the duties delegated to the Ogema by the Membership as stipulated by the Constitution; and

WHEREAS, the Tribal Council is responsible for engaging legal counsel on behalf of the Tribe, *Article IV, Section 7(e)*; and

WHEREAS, the Tribal Ogema is vested with the Executive Powers by the People of Little River Band, *Article V, Section 5*, and those powers include obligations to enforce and execute Laws, oversee administration and management of the Tribal Government, negotiate contracts or inter-governmental agreements, as well as

other stipulated responsibilities to manage economic affairs, property and other interests of the Tribe; and

WHEREAS, the Ogema has departments and programs that carry out a significant amount of the day-to-day work of the Ogema including implementation of ordinances, regulations, programs, grants, contracts, and other activities of the Tribe which may benefit from legal assistance or advice regarding laws and regulations, drafting of contracts, or legal advice regarding application of program or grant actions, and other services that a legal counsel might provide additional support to the Ogema; and

WHEREAS, the Tribal Council has created various committees and commissions, and oversight departments that may require assistance in interpretation and application of law and regulations; and

WHEREAS, the Tribal Council has responsibility to draft ordinances and regulations for creation and implementation of program activities implemented by the Ogema; as well as responsibility for the protection of the assets and sovereignty of the Tribe; and

WHEREAS, the Prosecutor for the Little River Band is an independent office, and does not provide legal assistance or advice on operational matters or legislative matters to either the Ogema or Tribal Council; and

WHEREAS, the Tribal Council has determined that it is prudent to provide the Ogema and his departments with the resources necessary to ensure that the Executive Powers of the Little River Band are supported by advisors that have the requisite technical background and experience to provide sound legal support and guidance on matters that impact the Tribe.

NOW THEREFORE IT IS RESOLVED THAT, the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes legal resources for the Tribe in the following manner:

Within the Office of the Ogema, the Tribal Council empowers the Ogema to hire legal staff for a Department entitled Executive Legal Department.

Within the Tribal Council, the Tribal Council authorizes the Legislative Legal Department.

IT IS FURTHER RESOLVED THAT, within each Legal Department there shall be an attorney designated a Chief Counsel, and that person is responsible for supervision of the budget approved for each department as well as personnel hired for each department.

IT IS ADDITIONALLY RESOLVED THAT, the Prosecutor and his related office personnel, space and equipment shall not be included in any legal department created by this resolution, due to the independent nature and relationship of the Prosecutor's Office.

IT IS FURTHER RESOLVED THAT any attorneys employed in either legal department shall be employed under an employment contract subject to the approval by the Tribal Council, in accordance with Article IV, Section 7(e). All personnel shall be employed subject to the employment laws and policies of the Tribe.

NOW THEREFORE IT IS FURTHER RESOLVED THAT the Executive Legal Department may be responsible for the following activities, as assigned by the Ogema under the authority and direction of the Ogema, or as directed by Ordinance or Resolution when applicable:

- a. Contract review and construction, for contracts that originate within the Executive Branch.
- b. Participation in negotiation on behalf of the Tribe, provided such negotiation is authorized by the Ogema in writing.
- c. Providing legal counsel to all departments regarding the application of Tribal law or other law or regulations.
- d. Providing legal counsel to all departments regarding the implementation of programs, contracts, and grants.
- e. Providing legal counsel with respect to economic or enterprise affairs.

The Executive Legal Department shall have an approved budget which shall be developed and approved in conformance with all other budget and expenditures shall be made as set forth in approved processes and procedures of the Tribe.

NOW THEREFORE IT IS FURTHER RESOLVED THAT the Legislative Legal Department may be responsible for the following activities as assigned by the Tribal Council for all activities under the authority and direction of the Tribal Council, or as directed by Ordinance or Resolution:

- a. Providing legal counsel regarding the drafting of laws, regulations, resolutions and other actions of the Tribal Council.
- b. Providing legal counsel to all commissions and entities authorized by the Tribal Council regarding the application of Tribal law or other law and regulation.
- c. Providing legal counsel as assigned to litigation involving the Tribe, including federal, state and tribal litigation.

The Legislative Legal Department shall have an approved budget which shall be developed and approved in conformance with all other budget and expenditures shall be made as set forth in approved processes and procedures of the Tribe.

IT IS ADDITIONALLY RESOLVED THAT the Tribal Council directs the Tribal Ogema to draft an amendment to the Organizational Structure of the Tribe to delineate the reporting responsibilities of the Executive Legal Department, including submission of job descriptions and any supplemental appropriations necessary to fund the department, for consideration and action by the Tribal Council, including any reallocation of current associate staff attorneys if the Ogema makes such requests, to be submitted no later than 15 days after adoption of this Resolution. Provided that, the Ogema is not authorized to engage a law firm to fulfill the general counsel purposes authorized in this resolution.

IT IS ADDITIONALLY RESOLVED THAT when or if legal matters arise that involve the Little River Band of Ottawa Indians, and there is a question raised by the Ogema or

Tribal Council regarding the proper assignment of legal department to facilitate and manage the issue, the Tribal Council shall meet with the Ogema prior to determining the appropriate assignment, and the assignment will be made by adoption of a Resolution designating the assignment.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 5 FOR, 1 AGAINST, 1 ABSTAINING, and 2 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on January 19, 2005, at the Little River Band's Conference Room in Manistee, Michigan, with a quorum being present for such vote.



Israel Stone, Council Member



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court