

Little River Band of Ottawa Indians

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

Resolution # 05-0413-149

Resolution Authorizing Written Notice To Lee A. Sprague, Ogema, of the Tribal Council's Intent to Vote to Remove, Adopting the Alleged Grounds for Removal, and Establishing the Date of the Public Meeting to Provide Opportunity to answer the Charges

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, in Accordance with Article X, Section 3, of the Little River Band Constitution, the Tribal Council is empowered to remove the Tribal Ogema from his office for reasons specified therein; and

WHEREAS, the Tribal Council desires to inform the Tribal Membership of the actions that lead to this resolution, and further to provide Lee A. Sprague, Ogema, an opportunity to defend or refute the specific grounds for removal.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council, in accordance with Article X, Section 3, hereby schedules a public meeting of the Tribal Council for April 28, 2005 at 1:00 p.m., to be held at the Three Fires Conference Center at the Little River Casino Resort.

IT IS ADDITIONALLY RESOLVED that the agenda for this meeting shall be set forth as follows:

- I. Opening Prayer
- II. Call to Order S. Parsons
Roll Call J. Sam
- III. Removal Of Lee A. Sprague from the Office of Ogema
 - A. Presentation of Allegations and Supporting Documentation
 - B. Response of Ogema to Allegations
 - C. Consideration and Deliberation of Action
 - D. Consideration of Resolution for Removal
- IV. Adjourn

IT IS FURTHER RESOLVED that the specific grounds for removal set forth herein, and as identified in the attached Resolution for Removal which includes the supporting documentation to substantiate the alleged grounds for removal (identified as exhibits 1 through 7), and are incorporated as cause for removal.

Action 1. Willful neglect of responsibility to oversee and manage the Casino Development Project, including financing activities on behalf of the Tribe, which has the direct potential to result in violation of the terms of the loan agreement funding the Casino Development Project.

- a. Failure to attend meetings on a regular and consistent basis, out of 39 meetings the Ogema attended 7 meetings.
- b. Failure to execute the addendum to the CKA Construction Contract establishing the Guaranteed Maximum Price Amendment by March 11th, as required by the agreement, following a Tribal Council resolution approving the contract amendment.
- c. Allowing an Independent Contractor to execute and sign draw documents in an amount in excess of \$2 million without proper bond/insurance in place to protect the Tribe.

Action 2. Violation of Article V, Section 5(a)(5), failure to submit a complete budget that included an appropriation for existing debt service requirements.

- a. FY2005 Budget did not contain the necessary budgeted amounts to include funding for the existing debt service requirements amounting to approximately \$600,000.

- b. Allowing, authorizing, or condoning, the misappropriation of funds to make expenditures which were unbudgeted, amounting to approximately \$100,000.

Action 3. Willful violation of the Budget and Appropriations Ordinance, Purchasing and Procurement Regulations and Travel Regulations as follows:

- a. Granting authorization for expenditure of funds to the Assistant Tribal Manager up to \$8,000.00, which violates an internal control mechanism assigned to the Ogema by a regulation.
- b. Making expenditures with the Tribe's credit card issued to the Ogema in violation of regulation.

Action 4. Violation of Constitution at Article IV, Section 5(a)(4), which identifies that the Speaker shall "perform the duties of the Tribal Ogema in the absence of or due to the inability of the Ogema to perform those duties," by making an illegal delegation of "all powers of the Office of the Ogema" to the Tribal Assistant Manager.

Action 5. Willful misappropriation of funds by creating or authorizing expenditures either in absence of an approved budget or authorized appropriations, or by incurring expenses outside of the scope of approved contracts, and violating the Constitution at Article IV, Section 7(e) regarding engagement of legal counsel.

- a. Brown & LaCounte –
 - 1) authorization of legal services in violation of Article IV, Section 7(e) to provide work product outside of the scope of the existing contract and in violation of the purpose for which the funds were budgeted.
 - 2) willful violation of the Constitution at Article XI, Sovereign Immunity, by authorizing waivers of immunity without securing appropriate authorization of the Tribal Council by resolution – Dennis Shananaquet
- b. VonBriesen & Roper - authorization of engagement of legal counsel in violation of Article IV, Section 7(e) and for an unbudgeted expense.
- c. Scofes & Associates - authorization of a bill for dinner expense in lieu of the tickets bought by Scofes for the Ogema to attend a function for which the Tribe could not have participated in under State law.

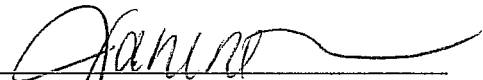
Action 6. Failure to comply with a Tribal Council decision prohibiting authorization by the Tribal Representative of a payment to Miller/Canfield, who was performing duties as general counsel for another Tribal Government, and not as a representative of Let Voters Decide. As a Tribal Representative to Let Voters Decide, voting to authorize the payment of the invoice resulted in a loss of \$23,124.90 to the 3 principals by authorizing the invoice as expenditure to the campaign.

Action 7. Failure to comply with Resolution #04-1215-510 which requires the Ogema to submit a plan for the \$3 million appropriation for revenue enhancement department. This places the Tribe at risk for a potential violation of IGRA, 25 USC section 2710(b)(2)(B).

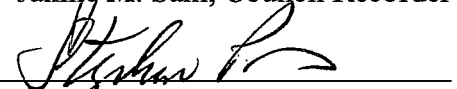
IT IS FINALLY RESOLVED that the Tribal Council directs the Tribal Council Recorder to provide originals to the Public Safety Department to serve written notice to Lee A. Sprague of the Intent to Remove. The written notice must include an executed original copy of this resolution, a copy of the Resolution for Removal setting forth the specific alleged grounds for removal, a copy of all supporting documentation substantiating the alleged grounds for removal (exhibits 1 through 7). The written notice must be hand delivered by an officer of the Public Safety Department to witness such service and returned to the Tribal Council Recorder.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 1 ABSTAINING, and 0 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on April 13, 2005, at the Little River Band's Dome Room 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