



Little River Band of Ottawa Indians

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

Resolution # 05-0824-409

*Permanent Adoption of Emergency Amendments to Development Committee - 2005
Resort Expansion Act, Ordinance # 05-150-03*

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 adopted emergency amendments to the Development Committee - 2005 Resort Expansion Act which created the committee to manage the Little River Casino Resort Expansion Project; and

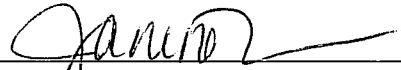
WHEREAS, the emergency action was posted for Public Comment in accordance with section 4.03 of the Administrative Procedures Act - Ordinances, between June 16, 2005 and July 21, 2005, during which no comments were received; and

WHEREAS, the Tribal Council held a final work session in accordance with section 4.04 of the Administrative Procedures Act - Ordinances during which the final draft ordinance was recommended for final adoption without further change; and

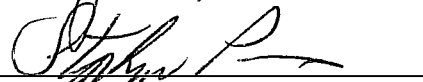
NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts, on a final basis, the amendments to the Development Committee - 2005 Resort Expansion Act, Ordinance # 05-0150-03, as identified by the attached ordinance.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 1 AGAINST, 1 ABSTAINING, 0 ABSENT, and 1 VACANT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on August 24, 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

Revised

Aug 22 2005

DEVELOPMENT COMMITTEE - 2005 RESORT EXPANSION ACT
Ordinance # 05-150-03

Article I. Purpose; Findings

1.01. *Purpose.* The purpose of this Ordinance is to codify the responsibilities of the Tribal Council special committee created to oversee the funds that will be borrowed and allocated to fund the Little River Casino Resort Expansion Project.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds that:

a. the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to "...exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:

1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;

2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members[.]” *Article IV, Section 7(a).*

b. the Tribal Council is vested with the responsibility to manage any funds within the exclusive control of the Little River Band and to appropriate funds for the benefit of the Tribe and its members, *Article IV, Section 7(i)(2)*;

c. the vested authority to manage Tribal funds shall be in accordance with resolutions authorizing appropriations or budgets, or in accordance with ordinances adopted by the Tribal Council, *Id.*;

d. the Tribal Council is vested with the authority to borrow money on behalf of the Tribe, *Article IV, Section 7(i)(4)*;

e. the Tribal Council created the Tribally chartered enterprise the Little River Casino Resort and delegated authority to conduct business activities related to the purposes for which it was created, Resolutions # 04-0728-313 and #05-0223-92;

f. the Tribal Council authorizes the borrowing of funds to finance the Expansion Project regarding the Little River Casino Resort, Resolution # 04-0526-228;

g. the loan authorizes persons to sign draw requests which authorize the creation of increasing amounts of borrowed funds and subsequent loan for the purposes of making payments related to the Expansion Project; and

h. the ongoing creation of obligations to pay the construction expenses and transfer of such loan funds to the Resort requires the creation of a Special Committee of the Tribal Council for the purposes of managing the borrowed funds and transferring such funds to the Resort, *Article IV, Section 7(f)*.

i. that the Ogema has a role, under Article V, Section 5(a)(1 and 2), to enforce and execute the laws of the Tribe and to oversee and manage the Tribal government in accordance with the laws, resolutions and motions adopted by Tribal Council which the Tribal Council wishes to recognize by inclusion of the Ogema on the Special Committee of Tribal Council.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This Ordinance is adopted on an emergency basis by Tribal Council resolution # 05-0615-245.

2.02. *Amendment.* This Ordinance may be amended in accordance with the procedures set forth in the Administrative Procedures Act - Ordinances.

a. Resolution # _____ - Permanent adoption of emergency actions

2.03. *Repeal*. This Ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act - Ordinances.

2.04. *Severability*. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Article III. Definitions

3.01. *General*. As used in this Ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings.

3.02. *Expansion Project* means the construction of additional hotel and entertainment facilities at the Little River Casino Resort identified by resolution # 04-0811-224, *Approval of Conceptual Master Site Plan for Little River Casino Resort*.

3.03. *Architect Contract* means the contract with Hnedak Bobo Group ratified by Resolution # 04-0623-271, as amended.

3.04. *Resort* means the Little River Casino Resort.

3.05. *General Manager* means the highest official employed by the Little River Casino Resort and does not include the Board of Directors.

3.06. *Final Budget* is defined by resolution # 04-0630-285, as amended, which includes the categories of Expansion Project budget costs – Project Costs, Loan Fees, Other Expenses.

Article IV. Development Committee

4.01. *Responsibilities of the Development Committee*. The responsibilities of the Development Committee are as follows.

- a. Act as the Tribe's designated representative for purposes of the Expansion Project.
- b. The Development Committee is authorized to take the following actions:
 1. To make decisions regarding construction activities, subject only to limitations set forth below.
 2. To have authorization power related to aspects of the Expansion Project, provided that any changes exceeding the cost figure(s) specified in the Project Budget shall require approval by resolution adopted by the Tribal Council.
 3. To have the authority to deviate from line items in the budget as long as the collective impact of such deviations does not cause the cost of the Expansion Project to exceed the budget approved by Tribal Council and as may be amended from time to time by the Tribal Council.
 4. To have the authority to make decisions regarding changes related to aspects of the Final Budget in regards to Project Costs and Other Expenses, provided that any changes exceeding the cost figure(s) specified in the Final Budget shall require approval by resolution adopted by the Tribal Council.

4.02. *Membership*. The Development Committee consists of three members made up of the Ogema, a Tribal Council representative, and the General Manager. The contact person for the Development Committee is General Manager. The Tribal Council will advise the Architect of any changes in the Development Committee.

4.03. *Additional Approvals Required*. In addition to the Development Committee review of the Architect's submittals to the Development Committee, Tribal Council shall be required to approve the following:

- a. Schematic Design Documents;

- b. Project Budget identified in Schedule 1.1.2.2 of the Architect Contract;
- c. Change Orders that exceed the approved Project Budget or change the scope of the approved Construction Project;
- d. Construction Manager Contract; and
- e. Technical Advisor/Representative Contract.
- f. Development Committee may approve the following:
 - 1. Design Development Documents;
 - 2. Construction Documents;
 - 3. Award of Construction contracts and subcontracts by Construction Manager for the purposes of identifying and implementing Indian preference guidelines in the Construction Manager contract and in this contract; and
 - 4. Change Orders that do not exceed the approved Project Budget or change the scope of the approved Expansion Project.

4.04. *Action of the Development Committee in the Following Forms.* All actions of the Development Committee regarding the Expansion Project must be in writing and in one of the following categories.

- a. Change Order as commonly utilized in the construction industry - signed by all three members.
- b. Minutes which contain motions and brief descriptions of discussions - signed by General Manager.
- c. Memos which identify direction or action that does not rise to the level of a change order but must be memorialized - signed by two members.

Provided that, all actions which require change orders must be approved by all three Development Committee members. Decisions which identify direction or action that do not rise to the level of a change order, but must be memorialized, must be approved by two of the three members.

4.05. *Phone Conference Prohibited.* Members of the Development Committee are not authorized to attend via telephone conferencing and must attend in person.

4.06. *Sovereign Immunity Waiver Not Authorized.* Nothing in this ordinance, nor in other related resolutions, shall authorize, delegate, or otherwise imply, any authority to waive the sovereign immunity of the Tribe through approvals and executions of change orders, requests for bids or proposals, contracts or subcontracts, or other documents or decisions of the Development Committee, whether by the Committee or a member(s) thereof, except as already explicitly set forth in the Architect's Contract approved by resolution # 04-0623-271, and as may be authorized under additional resolutions separately approved by the Tribal Council. Provided that, the actions of the Development Committee shall not be considered a waiver of the sovereign immunity of the Tribe where that action is not within the scope of an approved contract which contains a waiver, or limited waiver, of the sovereign immunity of the Tribe as identified by a resolution adopted by the Tribal Council.

4.07. *Scope of Purpose; Sunset Clause.* The Development Committee is a Special Committee of Tribal Council created for the purpose of managing the funds of the Tribe borrowed for the express purpose of the Expansion Project. The Development Committee's authority does not include any authority except that expressly identified in this ordinance or clearly related to the construction project, and does not affect the day-to-day activities of the Resort. The authority granted to the Development Committee shall expire upon completion of the Expansion Project which is identified as the issuance of the final payment to the Architect and Contractor(s) unless otherwise extended by a resolution of the Tribal Council.