



Little River Band of Ottawa Indians

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LITTLE RIVER BAND OF OTTAWA INDIANS TRIBAL COUNCIL MEETING SUNDAY NOVEMBER 8, 1998 12:00 P.M.

I. PRAYER. The prayer was given by Bob Stone.

II. GENERAL BUSINESS

- A. CALL TO ORDER. The meeting was called to order by Chairman Robert Guenthardt at approximately 12:02 p.m. at the Muskegon County Museum, in Muskegon, MI.
- B. ROLL CALL. The roll was taken by Chuck Fisher. Present: K. Berentsen, C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt.
- C. ADOPTION OF AGENDA. Moved by Bill M., to adopt the agenda, seconded by Kim, all in favor (7), K. Berentsen, C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, Opposed (0), Absent (0). Motion carried.
- D. ADOPTION OF MINUTES. Moved by Kathy, to adopt the minutes from the September 13, 1998 Tribal Council meeting, seconded by Kim, all in favor (7), C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen, Opposed (0), Absent (0). Motion carried.
- The October 8, 1998 Tribal Council meeting minutes were not adopted because they were not finished.
- E. FINANCIAL REPORT. Chris gave an update on the financial report. Bill M. asked about the Indian Child Welfare budget, do we have money there for continued training for the folks on that commission. Chris said that actually we are already overspent. Discussion followed. Moved by Kim, to approve the financial report as presented by Chris, seconded by Don, all in favor (7), K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen, C. Fisher, Opposed (0), Absent (0). Motion carried.
- F. STAFF REPORTS. Bob said that he talked with some of the Council Members about staff reports. If any Council Members have any questions about any staff reports, please call the individual and ask them the question.

Discussion followed. Moved by Don, to approve staff reports, seconded by Steve, all in favor (7), D. Koon, B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen, C. Fisher, K. Kequom, Opposed (0), Absent (0). Motion carried.

- G. TRIBAL MANAGER REPORT. Bob said that his report was not detailed enough. Bill M., had a question in regards to the Management Team meetings. Bob said that he did not attend one. He said that he was gone. Discussion followed. Moved by Kathy to approve the Tribal Manager report, seconded by Don, all in favor (6), B. Memberto, S. Parsons, K. Berentsen, C. Fisher, K. Kequom, D. Koon, Abstaining (1), B. Guenthardt, Opposed (0), Absent (0). Motion carried.
- H. ATTORNEY'S REPORT. Bill B. said that he didn't get to a written report because most of the items in his report is on the agenda. The items in this report will be covered as they go through the agenda.
- I. INTRODUCTION OF GUESTS. There were no guests present. This meeting was not well attended by area folks.

III. OLD BUSINESS

- A. TO JOIN NATIVE AMERICAN FISH AND WILDLIFE SOCIETY. Tom gave a brief explanation of what this is. Tom said that they meet once a year, these are open meetings and next years meeting is in Minnesota. Moved by Don, to approve Resolution # 98-1108-01 (To join Native American Fish and Wildlife Society) seconded by Kathy, all in favor (7), K. Berentsen, C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, Opposed (0), Absent (0). Motion carried.
- B. APPROVAL OF TRUST AGREEMENT RE: ADMINISTRATION OF INDIVIDUAL PER CAPITA ACCOUNTS. Bill B. said that the 80/20 plan required restitution of a trust agreement for the management of the individual per capita accounts that are being held in trust for minors and members who are legally incompetent and incarcerated. The agreement that was in the Council packets has been revised a little based on Bill B's conversation with the people at Huntington Bank. Discussion followed. Moved by Kim, to approve Resolution # 98-1108-02 (Approval of Trust Agreement Re: Administration of Individual Per Capita Accounts), seconded by Don, all in favor (7), C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen, Opposed (0), Absent (0). Motion carried.
- C. APPROVAL OF ORDINANCE GOVERNING THE ADMINISTRATION OF CERTAIN ASPECTS OF THE 80/20 PLAN TO INCLUDE THE ADOPTION OF THE 80/20 PLAN AS ORDINANCE #98-200-04. Bill B. said that the main purpose of this ordinance is to flush out the procedure for authorization of the release of funds held in trust for minors, incompetent, and incarcerated Tribal members. Discussion followed. Moved by Don, to approve Ordinance # 9200-04, seconded by Bill M., all in favor (7), K. Kequom, D. Koon, B. Memberto, S.

Parsons, B. Guenthardt, K. Berentsen, C. Fisher. Opposed (0), Absent (0).
Motion carried.

- D. APPROVAL OF CONTRACT FOR DESIGN/CONSTRUCTION SERVICES WITH CUNNINGHAM-LIMP FOR CLASS II (TEMPORARY) GAMING FACILITY WITH AGREEMENT TO WAIVE SOVEREIGN IMMUNITY FOR PURPOSES OF INTERPRETING AND ENFORCING THAT AGREEMENT. Bill B. said that the actual contract form is not completed yet but what it is for is for the contract with the company that is going to act as the design builder for the bingo hall/interim, a Casino facility which is the 19,500 square foot facility that the Council approved. Bill B. said that since we are looking at still hoping to begin construction on this project prior to the next Council meeting, why don't we get a Resolution which authorizes execution of the agreement in advance of that. Some of the highlights of the contract are that the contract form is what's called a cost of work plus the design and contractors fees or profit on the project with a guaranteed maximum price. Bill B. said that the guaranteed maximum price that we are looking at for the project at this time is \$3,016,408. Discussion followed. Moved by Don, to approve Resolution # 98-1108-03 (Resolution authorizing the Tribal Council Chairperson Speaker to execute a design development agreement with Cunningham-Limp Company), seconded by Kim, all in favor (7), C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen. Opposed (0), Absent (0). Motion carried.
- E. RELEASE DUTIES FROM CULTURAL PRESERVATION COMMITTEE OF THE POW WOW AND TO HAVE A POW WOW COMMITTEE. Brenda Hyma said that her concern was that when she found out that this was on the agenda once again, is that when the request was made when it first came to Council back in August, the recommendation was that the parties concerned would be talking to the Cultural Preservation Committee. Once they talked to the Cultural Preservation Committee, she was under the assumption that there was no further questions. Now it has come up again. Brenda said that they met with the parties on the 4th of October and there were quite a few people there, Kathy was there, and Chuck was there. Brenda said that the Cultural Preservation Committee is a committee because it was first initially the Pow Wow committee. The people on that committee wished in hopes that they could have other culturally enrichment things to offer to their members then they pursued it by needing a budget and after they got a budget, those members all at once resigned from their seats and a brand new committee came in and jumped in. Brenda said that she has information knowing that the grant from the Saginaw Chips came through and that the debt would be covered by the grant but her concern is that everyone said that it wasn't a successful pow wow and she really don't understand what they mean, the dancers were there, drummers were there, vendors were there and people came. She didn't hear complaints coming from dancers, drummers or the vendors, the only people that she heard complaints from are from people that were not satisfied in the way that it was handled. Brenda made the recommendation that instead of having a task force, have 12 members on the

Cultural Preservation Committee instead of 5 that way those people that want to participate in it can but that doesn't mean the responsibility would not be removed from the Cultural Preservation Committee. Moved by Kim that the Pow Wow stay within the Cultural Preservation Committee, seconded by Bill M., all in favor (4), K. Kequom, D. Koon, B. Memberto, Opposed (3), B. Guenthardt, K. Berentsen, C. Fisher, Absent (0). Motion carried.

- F. REVIEW OF AMENDMENTS TO HOUSING COMMISSION ORDINANCE AND RECODIFICATION TO FORMAT ORDINANCE CONSISTENT WITH OTHER TRIBAL ORDINANCES. Bill B. said that this is just for information only. He said that he just got the revisions done this week. The main purpose for the revisions was based on the Housing Commissions discussions with someone from the American Indian Housing Council. Discussion followed.

IV. NEW BUSINESS

- A. BIA CIRCLE OF FLIGHT PROGRAM PROJECT FUNDING PROPOSAL. Tom Guenthardt said that the Natural Resources wishes to request funding from the BIA Circle of Flight program for a wetland/waterfowl project and are requesting approval to proceed. The Natural Resource Conservation Department would like to request this funding. Tom explained what the funds would be used for. Discussion followed. Moved by Kathy to join the BIA Circle of Flight Program, seconded by Don, all in favor (7), S. Parsons, B. Guenthardt, K. Berentsen, C. Fisher, K. Kequom, D. Koon, B. Memberto, Opposed (0), Absent (0). Motion carried.
- B. REVIEW AND/OR APPROVE LOAN AGREEMENT FOR CONSTRUCTION AND DEVELOPMENT OF CLASS II GAMING FACILITY. This agenda item was combined with the next agenda item C. Approval of Loan Agreement with Comerica Bank for Construction of Class II Gaming Facility.
- C. APPROVAL OF LOAN AGREEMENT WITH COMERICA BANK FOR CONSTRUCTION OF CLASS II (TEMPORARY) GAMING FACILITY. Bill B. said that Council had in their packets the initial draft of the loan documents from Comerica Bank and his comments on these documents is what was handed out today is the revised proposal from Comerica. The request is for authorization for Chairperson/Speaker to execute loan documents for construction/development loan in the amount not to exceed \$3.8 Million for temporary Class II gaming facility to be approximately 20,000 square feet. Interest rate to be 1% below prime or 7%. The Tribe does not have to waive immunity to provide security. Loan to be secured by guarantees from North American Gaming. Loan documents need to be submitted to the National Indian Gaming Commission. Discussion followed. Moved by Don to approve Resolution # 98-1108-04 (Authorizing the Chairperson/Speaker to execute Loan Documents Agreements, Master Advance note, and Variable Interest Rate Installment Notes for the purpose of funding the development costs of a Class II Interim Gaming Facility and agreeing to a limited waiver of sovereign immunity), seconded by Bill M., all in favor (7), B. Guenthardt, K. Berentsen,

C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, Opposed (0), Absent (0). Motion carried.

- D. RESOLUTION AUTHORIZING SUBMISSION OF REQUEST FOR APPROPRIATED ATTORNEY FEES FOR FISCAL YEAR 1999. Bill B. said that there is a need for a resolution to authorize submission of application for funds for attorney work related to U.S. v. Michigan treaty rights litigation. This will give the Tribe a source of funds to pay a portion of Marc Slonim's fees for work and representation in this case. The balance will be billed to the Tribe and payable when the Tribe has the means to do so. Bill B. said that there is a pot of money in the BIA to pay for Attorney fees associated with treaty rights matters and given the Tribes now active participation in the U.S. v. Michigan case. The Tribe has retained Ziontz, Chestnut law firm to do this work. Discussion followed. Moved by Steve to approve Resolution # 98-1108-05 (Authorizing the submission for a request for BIA attorney fees funding for fiscal year 1999), seconded by Chuck, all in favor (7), C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen, Opposed (0), Absent (0). Motion carried.
- E. RESOLUTION SUPPORTING SUBMISSION OF REQUEST FOR LITIGATION SUPPORT FUNDS FOR U.S. v. MICHIGAN FOR FISCAL YEAR 1999. Bill B. said that there is another pot of money to cover litigation plan expenses related to treaty rights issues. There was an application for funding that the Chippewa Ottawa Treaty Management Authority is preparing and that is going to be revised and presented this Thursday at the COTFMA meeting. Discussion followed. Moved by Kim to table this at this time, seconded by Don, all in favor (7), K. Kequom, D. Koon, B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen, C. Fisher, Opposed (0), Absent (0). Motion carried.
- F. CONTRACTUAL LABOR AGREEMENT FOR PLANNING DEPARTMENT. The Planning department proposes to enter into a contractual agreement with Melissa Waitner as reflected in a draft scope of work with the final work plan to be negotiated by Manager and Counsel (Attorney). Jim Wabindato said that he would like to use the resources that we already have within our salaries/wages budget line item to request additional support to meet priorities and objectives of the Tribe in the way Community and Economic Development. Discussion followed. Moved by Bill M., to table this until the next regular Tribal Council meeting, seconded by Kim, all in favor, (4), D. Koon, B. Memberto, S. Parsons, K. Kequom, Opposed (3), B. Guenthardt, K. Berentsen, C. Fisher, Absent (0). Motion carried.
- G. APPROVAL OF PERSONAL SERVICE CONTRACT FOR (1) B. NIETZKE TO SERVE AS FAMILY NURSE PRACTITIONER AND (2) JEFFERY KITTLE, MD TO SERVE AS SUPERVISING PHYSICIAN. Bill B. said that what Council has in their packets is the initial drafts of the contracts that were prepared by Bill Calcutt based on the outlined agreement that was negotiated by Chuck and Steve with Bonnie Nietzke and Dr. Jeffery Kittle. Bill B. said that we

haven't heard any response from Dr. Kittle other than he is still reviewing it. Discussion followed. Moved by Chuck Fisher, to authorize Bob to execute a contract with Bonnie Nietzke to serve as Family Nurse Practitioner at the Health Clinic, seconded by Don, all in favor (7), S. Parsons, B. Guenthardt, K. Berentsen, C. Fisher, K. Kequom, D. Koon, B. Memberto, Opposed (0), Absent (0). Motion carried. Moved by Don, to authorize Bob to execute a contract with Dr. Jeffery Kittle, MD to serve as a supervising physician of Bonnie Nietzke, seconded by Chuck all in favor (7), B. Guenthardt, K. Berentsen, C. Fisher, K. Kequom, D. Koon, B Memberto, S. Parsons, Opposed (0), Absent (0). Motion carried.

V. CONCLUDING BUSINESS

- A. PUBLIC COMMENT. Joan Spalding asked if the next meeting date could be set prior to Council going into closed session.
- B. TRIBAL COUNCIL MOTION TO GO INTO CLOSED SESSION. Moved by Bill M., to move into closed session, seconded by Kim, all in favor (7), B. Memberto, S. Parsons, B. Guenthardt, K. Berentsen, C. Fisher, K. Kequom, D. Koon, Opposed (0), Absent (0). Motion carried.
- C. TRIBAL COUNCIL MOTION TO GO BACK INTO OPEN SESSION. Moved by Bill M., to go back into open session, seconded by Steve, all in favor (7), S. Parsons, B. Guenthardt, K. Berentsen, C. Fisher, K. Kequom, D. Koon, B. Memberto, Opposed (0), Absent (0). Motion carried.
- D. NEXT MEETING. The next regular Tribal Council meeting will be on December 13, 1998 at the Tribal Community Center.
- E. TRIBAL COUNCIL TO ADJOURN MEETING. Moved by Kim, to adjourn the meeting at approximately 3:00 p.m., seconded by Chuck, all in favor (7), B. Guenthardt, K. Berentsen, C. Fisher, K. Kequom, D. Koon, B. Memberto, S. Parsons, Opposed (0), Absent (0). Motion carried.

12/2/98--mo