

EXECUTIVE ORDER No. 22-07-01
Executive Order for the Ogema's Advisory Group
to Assist the Ogema in the Management of the
Little River Band of Ottawa Indians Gaming Enterprise(s)

Section 1. Constitutional Authority; Purpose; Findings.

- 1.01. *Constitutional Authority.* The Ogema of the Little River Band of Ottawa Indians (LRBOI) promulgates this Order pursuant to the following constitutional authority:
- a. Article V, Section 5(a)(2) of the Constitution provides that the Ogema has the power:

To oversee the administration and management of the Tribal Government
In accordance with the laws, resolutions, and motions adopted by the
Tribal Council.
 - b. Article V, Section 5 (a)(8) of the Constitution provides that the Ogema has the power:

To manage the economic affairs, enterprises, property (both real and
personal) and other interests of the Tribe, consistent with ordinances
and resolutions enacted by Tribal Council.
 - c. The Ogema's powers to manage the gaming enterprise(s) of the Tribe are the separate
and distinct powers constitutionally granted to the Ogema that may not be usurped or
interfered with by the other branches of tribal government. *Ogema, et al v. Tribal
Council*, 2020-051-AP.
- 1.02 *Purpose.* The purpose of this Executive Order (Order) is to establish a Gaming
Enterprise(s) Advisory Group (GEAG) to assist the Ogema in the operation and
management of the Little River Casino Resort (LRCR) and any future gaming enterprises
of the LRBOI.

1.03 *Findings.* The Ogema finds that:

- a. The Indian Gaming Regulatory Act identifies that a principal goal of federal Indian policy is to promote Tribal economic development, tribal self-sufficiency, and strong Tribal governments, and has set forth limitations regarding the use of gaming revenues by Indian Tribes, as well as imposing on Tribes the way they must operate their gaming enterprises; and
- b. The gaming enterprise is an economic enterprise operated and governed by the Little River Band of Ottawa Indians.
- c. The gaming enterprise(s) continue to grow and expand as the Tribe's primary source of governmental revenue and jobs; and
- d. The nature of the gaming enterprise(s)' 24-hour, year-round operation requires regular monitoring, oversight, and goals and objectives, and
- e. The establishment of an Advisory Group for the gaming enterprise(s) to assist the Ogema in the monitoring, oversight, and goals and objectives regarding the management and operation of any and all existing and future gaming enterprise(s) will serve the best interests of the Tribe by maximizing generation of income from gaming for the benefit of the Tribe, reducing expenses where appropriate, and minimizing the potential for political interference of business decision-making, all in accordance with the Constitution, Fair Employment Practices Code, and Section 5.03 of the Budget and Appropriations Act of 2013.

2.01. *Adoption.* This Order is promulgated on July 7, 2022 pursuant to Ogema, et al v. LRBOI Tribal Council, 20-051-AP, and to replace Tribal Council Resolution #17-0111-002 permanently adopting the Gaming Enterprises Oversight Act of 2010, which Resolution was declared unconstitutional in Ogema, et al v. LRBOI Tribal Council, 20-051-AP.

2.02. *Repeal.* Executive Orders 21-0812-01, 21-1028-01, 22-0112-01, 22-0202-01, and 22-06-01 are hereby repealed.

2.03. *Severability Clause.* If any provision of this Order or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or

applications of this Order which can be given effect without the invalid provision or application, and to this end the provisions of this Order are severable.

Section 3. Definitions. For purposes of this Order, certain terms are defined in this Section.

- 3.01. The word "shall" is always mandatory and not merely advisory.
- 3.02. *Group Member* means a member of the Gaming Enterprise Advisory Group who is not an elected official of the Tribe and is an enrolled member of the LRBOI.
- 3.03. *Capital Expenditures* means the amount spent to add to the value of or extend the useful life of property, plant, or equipment or to adapt it to a new or different use. Expenses that keep property, plant, and equipment in an ordinarily efficient operating condition and do not add to its value or appreciably add to its useful life are not capital expenditures.
- 3.04. *Collective Bargaining Agreement* means a contract between a gaming enterprise and a labor organization regarding wages, hours, terms, or conditions of employment pursuant to the Fair Employment Practices Code.
- 3.05. *Contract* means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. All contracts negotiated under this Order must be approved by the Ogema.
- 3.06. *Daily Operational Expense* means those expenses identified in the enterprise budget as necessary to operate and manage the gaming enterprise on a day-to-day basis and include but are not limited to payroll, insurance premiums, utilities, and payments made in accordance with the terms of an approved contract.
- 3.07. *Elected Official* as used in this Order, shall mean the Ogema.
- 3.08. *Gaming Enterprise(s)* as used in this Order, shall mean the existing gaming enterprise, online gaming, and any future facility at which gaming is authorized under Tribal, State, and/or Federal law including, but not limited to, the Indian Gaming Regulatory Act, the Tribal State Gaming Compact(s), and the Tribal Gaming Ordinance. Gaming enterprises are considered public employers, and are authorized to conduct activities including, but not limited to, the following:
 - a. Gaming activities authorized under the Tribal-State Gaming Compact.

- b. Online gaming
 - c. Hotel and recreational activities
 - d. Entertainment and conference activities
 - e. Dining and banquet activities
 - f. Activities reasonably related to subparagraphs (a)-(e) above; and
 - g. Other activities as may be authorized from time to time.
- 3.09. *Good Cause* as used in this Order as a basis for removal of a member of the Advisory Group, shall have the meaning ascribed to it under Section 5 of this Order.
- 3.10. *Majority vote shall* mean more than 50% of the votes cast.
- 3.11. *Ogema or their Designee as used in this Order shall* mean the Tribal Ogema pursuant to Article V of the LRBOI Constitution, or a person to whom the Ogema has delegated his powers to manage the business of the gaming enterprise(s) for a specific period.
- 3.12. *Primary Management Official (PMO)* means an employee who has the authority:
- a. To hire and fire employees; or
 - b. To set up working policy for any gaming activity; or
 - c. The Chief Financial Officer or other person who has fiscal management responsibility; or
 - d. Any person having management responsibility for a management contract; or
 - e. Any other person delegated by the regulatory agency as a Primary Management Official.

Section 4. Advisory Group Creation; Composition; Qualifications.

4.01. *Creation of the Advisory Group.* The Ogema hereby creates and establishes the Gaming Enterprise(s) Advisory Group to function as a subordinate organization to assist the Ogema of the Tribe in overseeing the Tribe's gaming enterprise(s), subject to the following conditions:

- a. The Advisory Group and its members shall be subject to all federal laws, or any laws promulgated pursuant to federal law, including but not limited to, the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming Ordinance of the Tribe, and all applicable laws, regulations, internal operating procedures, and minimum internal control standards.
- b. The members of the Advisory Group shall take an oath of office given by a member of the Judiciary of the Little River Tribal Court and shall file a signed confidentiality statement.
- c. The Little River Band of Ottawa Indians Gaming Commission as a Primary Management Official shall license the members of the Advisory Group.
- d. The Little River Casino Resort shall hold and save harmless the members of the Advisory Group from personal liability for any acts performed in connection with their service as members of the Advisory Group and shall provide suitable errors and omissions coverage for each of the members under a suitable policy of liability insurance.

4.02. *Composition of the Advisory Group.* The Advisory Group shall be comprised of five (5) Members seated as follows:

- a. The Ogema, or the Ogema's designee, shall be a voting member of the Advisory Group. Such designee shall not be required to meet the qualifications of Section 4.03 (a) and (b) below.
- b. Four (4) Members to be appointed by the Ogema.
- c. The Ogema or his designee shall serve as Chairperson of the Advisory Group.

4.03. *Qualifications of Advisory Group Members.* Each member of the Advisory Group, except for an elected official, shall have one or more of the following qualifications:

- a. At least seven (7) years of experience of executive management in the fields of finance, operations, hospitality management or gaming management, or comparative fields; or

- b. A comparable amount of executive management experience that lends demonstrable skills to the management of a gaming enterprise.
- c. Be an enrolled member of the LRBOI.

Section 5. Removal.

5.01. *Removal by the Ogema.* The Ogema shall have the power to remove an Advisory Group Member for good cause.

5.02. *Good cause,* as used in this Order as a basis for removal, means that a member of the Advisory Group may be removed by the Ogema for the following reasons:

- a. Failure to attend four meetings of the Advisory Group, including special or emergency meetings, within a twelve-month period.
- b. Revocation of a professional license, PMO license, permit or certification that reflects on the qualifications of the member to sit on the Advisory Group or reflects on the professional responsibilities and integrity of the member.
- c. Conviction of a felony, or conviction of a misdemeanor act that impinges on the professional responsibilities and integrity of the member. Any member of the Advisory Group shall immediately notify the Ogema of any arrest or conviction of a felony or misdemeanor.
- d. Failure to carry out the fiscal obligations mandated by this Order.
- e. Is no longer an enrolled member of the LRBOI.
- f. The decision of the Ogema to remove an Advisory Group Member shall be final.

5.03 *Return of Property.* Any Advisory Group Member subject to removal shall immediately, upon receipt of notification of removal, return any property, including documents or records of any type, that rightfully belongs in the possession of the Advisory Group.

Section 6. Disqualification.

- 6.01 *Automatic Disqualification - General.* Automatic disqualifications are non-discretionary and must be strictly enforced by the Ogema, or his/her designee presiding in the Ogema's absence.
- 6.02 *Grounds for Disqualification.* An Advisory Group Member shall be automatically disqualified from serving on the Advisory Group when one of the following occurs:
- a. The Group Member no longer holds, or is ineligible to hold, a valid PMO Gaming License issued by the Tribe's Gaming Commission; or
 - b. The group member ceases to be an enrolled member of the LRBOI, or
 - c. The Group Member was an elected official who no longer holds an elected office during that term.
- 6.03. *Disqualification - Procedure.* When an Advisory Group Member is subject to disqualification under Section 6.02 above, the Ogema, or his/her designee presiding in the Ogema's absence, shall notify the Advisory Group member in writing. The notification shall contain, at a minimum:
- a. The reason(s) for the disqualification; and
 - b. Notice that the Advisory Group Member is disqualified may be appealed directly to the Ogema.

Section 7. Notice; Posting Required; Vacancies.

- 7.01. *Notification Required.* The Advisory Group is required to immediately notify the Ogema in writing, when a vacancy is created by conclusion of a term, disqualification, or resignation of a member.
- 7.02. *Posting Notice of Vacancy for Applicants.* The Ogema shall post in the Tribal newspaper, the LRCR, and the Tribal Government Center a notice that a vacancy on the Advisory Group exists, the preferred qualifications for the vacant seat, the term of office for the vacant seat, and that the posting shall remain open until all seats are filled.
- 7.03. *Vacancy Exists.* A vacancy exists upon removal by the Ogema, automatic disqualification, resignation, expiration of term of office, or upon receipt of the notice of vacancy to or by the Ogema.
- 7.04. *Procedure for Filling Vacancies.* The following procedures shall be adhered to when filling vacancies on the Advisory Group:

- a. The Advisory Group performs duties necessary to the activities of the gaming enterprise(s) such that it is important that vacancies be filled in an efficient and timely manner. The Ogema shall make appointments to fill vacancies on the Advisory Group within forty-five (45) days of receipt of notice of a vacancy.
- b. With respect to vacancies existing on the date of adoption of this Order, the Ogema shall continue the appointments of members serving under a prior executive order or make new appointments within seven (7) days after the date of adoption.
- c. If a vacancy occurs on the Advisory Group in one or more of the member seats, the remaining members of the Advisory Group may continue to conduct business.
- d. A vacancy in a member seat shall be filled for the remainder of the unexpired term.
- e. A vacancy in the Advisory Group seat reserved for the Ogema due to removal, disqualification, or resignation shall remain vacant until a new Ogema is sworn in.

Section 8; Meetings; Minutes; Compensation.

- 8.01 *Quorum.* A quorum shall exist for purposes of conducting business whenever two (2) members of the GEAG are present for a properly convened meeting.
- 8.02. *Meetings.* The Advisory Group shall hold regularly scheduled meetings at least once per month. The Advisory Group may convene special or emergency meetings, as necessary. The Advisory Group shall post its regular meeting schedule at the LRRCR and the LRBOI Government Center at the first meeting of each year. The Advisory Group may convene virtual meetings; however, the Advisory Group shall convene at least one on site meeting each year unless excused by the Ogema.
- 8.03. *Requirement to Attend Meetings.* All Advisory Group Members shall participate in all regularly scheduled monthly meetings to be compensated.
- 8.04. *Procedures.* The Advisory Group shall be authorized to establish its own meeting procedures consistent with this Order provided that the Advisory Group shall act only by a written recommendation under the following circumstances:
 - a. When recommending the approval of contracts and agreements in accordance with Sections 9.03 and Section 11.03.

- a. When recommending the approval and execution of Collective Bargaining Agreements in accordance with Section 9.03; and
 - b. When recommending the authorization of expenditures in accordance with Section 9.03
- 8.05. *Minutes.* The Advisory Group shall prepare minutes of all open and closed session meetings which shall describe with specificity all official actions taken by the Advisory Group and shall memorialize all discussions related to those official actions. Copies of the Advisory Group minutes shall be submitted to Tribal Council Recorder for acceptance to the record in a timely manner.
- 8.06 *Compensation.* Each Member of the Advisory Group shall be paid reasonable compensation as authorized by the Ogema subject to the following limitations:
 - a. Compensation for Members of the Advisory Group shall not be diminished during their term of office.
 - b. The Ogema shall not receive additional compensation for serving on the Advisory Group.
 - c. Member compensation shall be at the discretion of the Ogema.
 - d. If the Ogema sitting on the Advisory Group is not re- elected to his or her Tribal government position, he or she shall be paid the same compensation as Members of the Advisory Group for a period of not more than sixty (60) days following the swearing-in of the new Ogema, consistent with the hold-over provision in Section 14 below.

Section 9. Responsibilities and Duties.

- 9.01. *Responsibilities.* The Advisory Group shall be responsible for the following:
 - a. To review compliance with the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming Ordinance of the Tribe.
 - b. To review compliance with the provisions of IGRA (Indian Gaming Regulatory Act) and NIGA (National Indian Gaming Act)

- c. To review the accounting and transfer of all revenues generated by the gaming enterprise(s), excluding authorized operating funds, on a regular basis according to GEAG by-laws.
- d. To maintain a consistent and regular attendance record.
- e. To be accountable, to the highest degree, for the accuracy and thoroughness of the records and reports of the gaming enterprise(s); and

9.02. *General Duties.* The Advisory Group shall:

- a. Create, develop, and implement an effective strategy of business organization for the gaming enterprise(s) including setting of objectives for future growth and expansion in accordance with the Annual Operating Plan and annual budget approved by the Ogema.
- b. Ensure the quality of management activities and operations in all areas of the gaming enterprise(s); and,
- c. Have all duties and responsibilities customary for an executive body of a gaming, restaurant, hotel, and entertainment enterprise subject to any limitations or prohibitions set forth in this Order.

9.03. *Specific Duties.*

- a. *General Manager.* The Advisory Group shall have the power to recommend the hiring of a General Manager for the gaming enterprise(s). The Advisory Group shall assist the Ogema to negotiate an employment contract with the General Manager; provided, that such contract shall be presented to the Tribal Council by the Ogema and approved or ratified by the Tribal Council. The Advisory Group shall evaluate the performance of the General Manager on an annual basis or more frequently as needed. The Ogema shall have the power to terminate the employment of the General Manager in accordance with applicable laws.
- b. The General Manager shall have the authority to manage day to day gaming and resort operations, and to make daily budgeted operating expenditures without the further approval of the Advisory Group.

- c. *Primary Management Official Employment.* The General Manager shall have the power to employ Primary Management Officials for the gaming enterprise(s) in accordance with applicable laws.
- d. Any employment contract entered in accordance with this Section shall be ratified by the Advisory Group. The Advisory Group shall be provided annual performance evaluations regarding the performance of all Primary Management Officials who report to the General Manager. The General Manager shall keep the Advisory Group informed of any matters concerning performance of Primary Management Official team members.
- e. *Team Member Handbook.* The Advisory Group shall have the power to approve and amend the Team Member Handbook for the gaming enterprise(s). The Advisory Group shall provide at least thirty (30) day's advance notice to the Ogema of all proposed amendments to the Team Member Handbook.
- f. *Grievance Procedures.* The Advisory Group, in consultation with the General Manager, shall abide by the Grievance Procedures currently followed by the gaming enterprise(s). The Advisory Group, in consultation with the General Manager, shall have the authority to amend or modify the grievance procedure policy by recommendation to the Ogema in compliance with applicable laws and collective bargaining agreements.
- g. *Collective Bargaining Agreements; Contracts.* The Advisory Group may assist the Ogema in the negotiation of Collective Bargaining Agreements for the gaming enterprise(s) on behalf of the Tribe in accordance with Section 9 of this Order. Collective Bargaining Agreements shall be submitted to the Tribal Council for approval, followed by signature by the Ogema.
- h. *Release of Financial Information.* The Advisory Group is expressly delegated the authority to release necessary financial information to support the gaming enterprise(s) position(s) during any collective bargaining process. Financial information released shall be subject to the confidentiality provisions under Article XVI of the Fair Employment Practices Code.
- i. *Contracts.* The Advisory Group and the General Manager may assist the Ogema in negotiating contracts with the LRCR. The contracts shall be submitted for legal review.
- j. *Expenditures.* The Advisory Group shall review all gaming enterprise capital expenditures and shall make recommendations to the Ogema for his approval.

Section 10. Authority to Waive Sovereign Immunity.

- 10.01. The sovereign immunity of the Tribe may only be waived with the approval of the Tribal Council unless Tribal Council delegates the power to waive sovereign immunity by ordinance or resolution.

Section 11. Limitations to Authority and Access.

- 11.01. *Official Action Required.* No member of the Advisory Group shall be authorized to act independently or in the absence of an official action taken by roll call vote.
- 11.02. *Limitations on Access.* The Advisory Group shall not be authorized to access pits, cage, surveillance, count rooms, vaults, IT server and router locations, and behind bars serving food and/or alcohol in any gaming enterprise.
- 11.03. *Limitations on Contracting Authority.* The Advisory Group shall not have the power to enter or approve any construction contracts, nor may the Advisory Group enter into any form of contract or agreement or initiate negotiations with any municipality, nation, Indian Tribe, state, or body politic, without the participation of the Ogema. Contracts and agreements shall only be recommended to the Ogema after a complete legal review. The Advisory Group shall submit the legal review and the contract to the Ogema for signature and submission to the Tribal Council Recorder for filing with the gaming enterprise(s) monthly report.
- 11.04. *Limitation on Authority to Terminate Employment.* The Advisory Group shall have no independent authority to intervene or intercede in any personnel related matter, including termination of employment. The Advisory Group shall retain authority related to employment of the General Manager in accordance with Section 9.03 (a) of this Order
- 11.05. *Limitation on Authority to Obligate Funds.* The Advisory Group shall have no authority to obligate funds outside the parameters of the approved enterprise budget without prior approval by the Ogema including, but not limited to, funding connected to any bonus or profit-sharing programs.

Section 12. Annual Budget, Reports and Operating Plan.

- 12.01 The Advisory Group shall review each separate proposed annual budget submitted by the General Manager for each gaming enterprise in accordance with the power of the Ogema to manage the gaming enterprise(s) of the Tribe pursuant to Article V, Section 5 (a)(8) of the Constitution.
1. Statements of projected revenue and proposed expenses for the budget year, actual results for the prior year and actual results year-to-date plus the remaining budget for the current year

2. The statement of revenue and expenses shall be presented by month, with summary statements of all departments and operating segments, detailed statements by department or other operating segment and detailed statements of monthly revenue by category
 3. Schedule of budgeted depreciation & capital replacement reserves
 4. Detail of budgeted capital expenditures, including justification for each expenditure over \$100,000.00.
 5. Budgeted Distribution to the Tribe forecast by month
 6. Loan amortization schedule for the budget year
 7. Loan covenant compliance calculation by month for the budget year
 8. Schedule and discussion of risks and opportunities for the budget year; and
 9. Budgeted Advisory Group expenditures including, but not limited to, compensation, expenses, office space requirements, staff costs, consulting fees and professional fees.
- b. *Annual Marketing Report.* The Advisory Group review and recommendation shall report on the activities of the current fiscal year to date as well as for the upcoming fiscal year, and shall include but not be limited to the following:
1. Executive summary
 2. Situation analysis
 3. Market analysis / target markets
 4. Competitive analysis
 5. Marketing strategies
 6. Direct mail
 7. Player development activities; and
 8. Event profiles and pro-forma.

- c. *Annual Human Resources Department Report.* The Advisory Group review and recommendation regarding human resources shall report on the activities of the current fiscal year to date as well as for the upcoming fiscal year, and shall include but not be limited to the following:
1. Budgeted FTEs by department
 2. Preference employment report
 3. Hiring plans
 4. Training schedules
 5. Employee development plans
 6. Proposed changes to employee benefit plans
 7. Compensation plans
 8. Disclosure of any bonus type plans
 9. Status of Collective Bargaining Agreements and other union activities; and
 10. Termination reports.
- d. *Annual Operating Plan & Report.* The Advisory Group review and recommendation on the proposed activities for the upcoming fiscal year, and shall include but not be limited to the following:
1. Operating goals for the gaming enterprise
 2. Operating goals for each department
 3. Proposed changes in operations
 4. Status of Collective Bargaining Agreements and other union activities; and
 5. Schedule and discussion of risks and opportunities.
- e. *Schedule for Submission of Annual Budgets and Reports.* The annual budget and annual reports described in items (a)-(d) above shall be submitted to the Ogema

beginning the fiscal year following the promulgation of this Order. The Ogema will submit copies of the LRRC Budget to the Tribal Council Recorder for filing with Tribal Council records.

- f. *Confidentiality.* Reports and statements submitted to the Ogema under this subsection shall be treated as privileged and confidential and submitted only in Tribal Council closed meetings.

12.02. *Monthly Reports.* The Advisory Group shall prepare, or cause to be prepared, a written monthly report to be submitted to the Ogema. The monthly report shall include as attachments all recommendations made by the Advisory Group during the reporting period and shall summarize the status of all relevant aspects of the operation of each gaming enterprise. The monthly report shall include, at a minimum the following:

- a. Statements of revenue and expenses that shall include:

- 1. Actual budget and prior year results for the current month and year to date

12.03. *Applicable Accounting Standards.* The Advisory Group shall ensure that all budgets and reporting requirements contained in this Order comply with the Generally Accepted Accounting Principles.

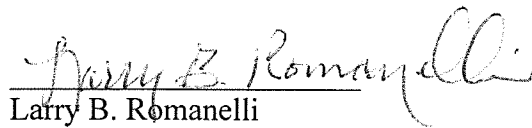
Section 13. Terms of Office; Hold-Over Period.

13.01 *Terms of Office.* Each member of the Advisory Group appointed under the provisions of this Order shall have a term of office in accordance with the following schedule:

- a. Seat 1 shall be filled by the Ogema or their designee for a term of office consistent with the Ogema's term of office.
- b. Seat 2 is a Member who shall serve a term of office of four (4) years.
- c. Seat 3 is a Member who shall serve a term of office of four (4) years.
- d. Seat 4 is a Member who shall serve a term of office of four (4) years.
- e. Seat 5 is a Member who shall serve a term of office of four (4) years.

13.02 Hold-Over Period. To accommodate the appointment and approval provisions for seating Advisory Group Members, each member of the Advisory Group appointed and approved in accordance with this Order may be held over in office for a period not to exceed sixty (60) days.

So ordered on July 7, 2022


Larry B. Romanelli
Ogema