



## Little River Band of Ottawa Indians Tribal Court of Appeals

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**LARRY ROMANELLI AS OGEMA OF THE  
LITTLE RIVER BAND OF OTTAWA INDIANS  
& ISRAEL STONE**

Appellees/Plaintiffs,

v.

**LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COUNCIL,**

Appellant/Defendant.

Case Number: 20-051

Hon. Melissa L. Pope,  
Hon. Berni Carlson, As  
Hon. Joseph LaPorte, J.

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### ORDER AND OPINION

#### INTRODUCTION AND STATEMENT OF FACTS

This case involves the consolidated cases of Tribal Court Case No. CV 16308GC and Tribal Court Case No. CV 16206GC in which Appellee/Plaintiff Larry Romanelli in his official capacity as Ogema of the Little River Band of Ottawa Indians ("Appellee/Plaintiff Romanelli") and Appellee/Plaintiff Israel Stone ("Appellee/Plaintiff Stone") brought suit against Appellant/Defendant Little River Band of Ottawa Indians Tribal Council ("Appellant/Defendant Tribal Council"). The Trial Court issued multiple *Orders* from

Tribal Members,

Here you will find a highlighted version of the court case between the Legislative and Executive branches of government. Case Number 20-051-AP from the LRBOI Appellate court and the Council Meeting Minutes from August 10th, 2016.

The highlighted areas point out key facts of the case. The case involves the actions of the Tribal Council primarily of the Tribal Council meeting of August 10th, 2016. Additionally, I will post a highlighted copy from that meeting to give you clarity as to what transpired. That case cost hundreds of thousands of dollars and years of harm to the Resort and Tribal Government. I would encourage you to read this information.  
Miigwetch— *Ogema Romanelli*

October 15, 2018 to March 2, 2020 that, in very general terms, held that Appellant/Defendant Tribal Council exercised powers that the Little River Band of Ottawa Indians ("LRBOI") Constitution did not delegate to Appellant/Defendant Tribal Council in violation of the separation of powers, the Administrative Procedures Act, and the Unified Legal Department Act of 2015. Initially, Appellant/Defendant Tribal Council filed two appeals in relation to these Trial Court Orders. On March 16, 2020, the Chief Justice issued the *Order for Amended Comprehensive Notice of Appeal*, consolidating the two appellate cases, requiring the filing of an amended notice of appeal that included all of the issues being appealed with the cases consolidated, and ordering return of the filing fee enclosed with the second Notice of Appeal submitted by the Appellant/Defendant Tribal Council. On March 31, 2020, the Chief Justice issued the *Order for Amended Comprehensive Notice of Appeal – First Amended* to extend the deadline due to the ongoing impact of the COVID-19 Pandemic. The Appellant/Defendant Tribal Council filed its Amended Comprehensive Notice of Appeal on or about May 8, 2020.

On May 22, 2020, the Chief Justice issued the *Notice & Order for Appellate Scheduling Conference*. On June 5, 2020, the Appellate Scheduling Conference was held by phone with all parties, by and through their attorneys, appearing. On June 12, 2020, the Chief Justice issued the *Order After June 5, 2020 Appellate Scheduling Conference* that set forth the motion briefing scheduled as agreed upon by the parties at the June 5, 2020 Appellate Scheduling Conference.

On September 1, 2020, the Court issued the *Opinion on Appellate Motions* denying the Appellant's Petition to Stay Execution of Trial Court Judgments and Appellee/Plaintiff Stone's Motion Objecting to Defendant-Appellant's Filing of Appeal based on the parties' Briefs as it was agreed upon at the Appellate Scheduling Conference that oral argument would not be held.

On September 2, 2020, the Chief Justice issued the *Notice and Order for Second Appellate Scheduling Conference*. On September 18, 2020, the second Appellate Scheduling Conference was held via Zoom with all parties, by and through their attorneys, appearing. That same day, the Chief Justice issued the *Order After September 18, 2020 Second Appellate Scheduling Conference* that set forth the briefing scheduled on the substantive issues presented as agreed upon by the parties at the September 18, 2020 Appellate Scheduling Conference. The parties submitted their Briefs pursuant to this *Order*.

Upon the request of the Chief Justice, the Tribal Court Administrator worked with the parties, and the Chief Justice with the Appellate Justices, to select a date available to

all for Oral Argument. On January 22, 2021, the Chief Justice issued the *Notice and Order for Oral Argument*. Oral Argument was held before the Court of Appeals with the Justices and parties appearing via Zoom. The Court of Appeals now issues this unanimous *Order and Opinion*.

## **JURISDICTION**

This case involves the determination of whether Tribal Council had the Constitutional authority to take the actions that are the subject of this consolidated action. The jurisdiction of this Court is defined in Article VI § 8 of the LRBOI Constitution as follows:

Section 8 – *Jurisdiction and Powers of the Tribal Courts*. The jurisdiction and judicial powers of the Little River Band of Ottawa Indians shall extend to all cases and matters in law and equity arising under the Tribal Constitution or under the laws and ordinances applicable to the Little River Band of Ottawa Indians. Such powers shall include, but are not limited to,

- a) To adjudicate all civil and criminal matters arising within the territorial or membership-based jurisdiction of the Tribe.
- b) To review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution.
- c) To hear cases based on ordinances and laws of the Tribe for purposes of determining innocence or guilt where trial by jury has been waived.
- d) To assign fines and penalties as allowed by Tribal and Federal law.
- e) To grant warrants for search to enforcement officers when just cause is shown.
- f) To grant warrants, writs, injunctions and orders not inconsistent with this Constitution.
- g) To swear in Tribal Council members and the Tribal Ogema by administering the oath of office.
- h) To establish, by general rules, the practice and procedures for all courts of the Little River Band.
- i) To prepare and present to the Tribal Ogema and Tribal Council a budget requesting an appropriation of funds to permit the Tribal Courts to employ personnel or to retain by contract such independent contractors, professional services and whatever other services may be necessary to carry out the dictates of this Constitution, the Tribal Court Ordinance and all Ordinances creating lower courts of limited jurisdiction.
- j) To preside over all suits for declaratory or injunctive relief as provided for in accordance with Article XI of this Constitution.

The Tribal Council actions that serve as the basis for the original cases that have consolidated in this case relate to the Emergency Adoption of Amendments to the Gaming

Enterprise Board of Directors Ordinance, Ordinance No. 10-800-03, and Renaming the Act the Gaming Enterprise(s) Oversight Act, Resolution No. 16-0810-228 and 250. This Court, therefore, has jurisdiction over this matter pursuant to Article VI § 8 (a) “[t]o adjudicate all civil and criminal matters arising within the territorial or membership-based jurisdiction of the Tribe” and (b) “[t]o review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution”.

### THE COVID-19 PANDEMIC

In December 2019, individuals in countries outside of the United States began to present symptoms of what is now known as the coronavirus or COVID-19.<sup>1</sup> On January 21, 2020, the United States had its first confirmed case of COVID-19.<sup>2</sup> On January 30, 2020, the World Health Organization (WHO) Director-General issued the Statement of the International Health Regulations (IHR) Emergency Committee that declared a public health emergency of international concern.<sup>3</sup>

On March 10, 2020, Michigan Governor Gretchen Whitmer declared a state of emergency in Executive Order No. 2020-4 with the announcement that Michigan had its first confirmed cases of COVID-19, a woman from Oakland County who had traveled internationally and a man from Wayne County who had traveled domestically<sup>4</sup>. The first person in Michigan, a man in his fifties from Southgate, walked on due to COVID-19.<sup>5</sup>

The Canadian – U.S. Border closed to non-essential travel on March 21, 2020 with that closure still in effect at the time that this Order and Opinion was issued.<sup>6</sup>

The State of Michigan simultaneously developed statewide policies and procedures to slow the spread of COVID-19 with Governor Whitmer issuing the first of

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<sup>1</sup> See: <https://www.who.int/news/item/29-06-2020-covid-timeline> &

<https://abcnews.go.com/Health/timeline-coronavirus-started/story?id=69435165>

<sup>2</sup> <https://abcnews.go.com/Health/timeline-coronavirus-started/story?id=69435165>

<sup>3</sup> [https://www.who.int/director-general/speeches/detail/who-director-general-s-statement-on-ihr-emergency-committee-on-novel-coronavirus-\(2019-ncov\)](https://www.who.int/director-general/speeches/detail/who-director-general-s-statement-on-ihr-emergency-committee-on-novel-coronavirus-(2019-ncov))

<sup>4</sup> [https://cdn.knightlab.com/libs/timeline3/latest/embed/index.html?source=1F3yB-Sm5-6t-K2yvZ06uBPjurEfH1uQzxb3zwpY\\_tIA&font=Default&lang=en&initial\\_zoom=2&height=650](https://cdn.knightlab.com/libs/timeline3/latest/embed/index.html?source=1F3yB-Sm5-6t-K2yvZ06uBPjurEfH1uQzxb3zwpY_tIA&font=Default&lang=en&initial_zoom=2&height=650)

<sup>5</sup> [https://cdn.knightlab.com/libs/timeline3/latest/embed/index.html?source=1F3yB-Sm5-6t-K2yvZ06uBPjurEfH1uQzxb3zwpY\\_tIA&font=Default&lang=en&initial\\_zoom=2&height=650](https://cdn.knightlab.com/libs/timeline3/latest/embed/index.html?source=1F3yB-Sm5-6t-K2yvZ06uBPjurEfH1uQzxb3zwpY_tIA&font=Default&lang=en&initial_zoom=2&height=650)

<sup>6</sup> Executive Order 2020-21 available at: [https://www.michigan.gov/whitmer/0,9309,7-387-90499\\_90705-522626--,00.html](https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-522626--,00.html) See also:

[https://cdn.knightlab.com/libs/timeline3/latest/embed/index.html?source=1F3yB-Sm5-6t-K2yvZ06uBPjurEfH1uQzxb3zwpY\\_tIA&font=Default&lang=en&initial\\_zoom=2&height=650](https://cdn.knightlab.com/libs/timeline3/latest/embed/index.html?source=1F3yB-Sm5-6t-K2yvZ06uBPjurEfH1uQzxb3zwpY_tIA&font=Default&lang=en&initial_zoom=2&height=650) & <https://www.voanews.com/covid-19-pandemic/one-year-after-closing-us-canada-border-remains-closed>

many Executive Orders on March 23, 2020, referred to generally as the “Stay Home, Stay Safe” Order, to protect Michigan residents as the number of COVID-19 cases – and COVID-19 deaths – increased throughout the State of Michigan. Once the time-frame for emergency powers expired, the Michigan Legislature and Governor have been responsible for collectively managing the Pandemic, along with the heads of various Michigan Departments, to implement statewide safety protocols, administer the two-dose vaccine, provide economic relief, develop strategies for access to critical services, and develop other strategies for managing the Pandemic.

It is critical to note that the primary strategies for reducing the spread of COVID-19 has been to wear a mask, keep at least six feet (6’) distance from all other people which is referred to now as “social distancing”, frequent sanitization of surfaces, and frequent washing of and using sanitizers on hands. It should also be noted that the requirement for social distancing has an impact on all places where people gather through reduced maximum capacities for these locations, from businesses like gaming enterprises and restaurants to essential services like courts. All of these strategies remain in place, in part due to the individuals who have made the personal decision to decline to get the vaccine for a multitude of reasons ranging from the scientific uncertainty of the long-term impact on the health of those receiving the vaccine to those who do not believe that the COVID-19 Pandemic is a public health crisis with the number of people declining the vaccine a significant population in Michigan, and the ongoing appearance of variants, some of which appear to pose an even greater risk for death.

The Little River Band of Ottawa Indians is a federally recognized American Indian Tribe that is governed by the LRBOI Constitution and the three branches of government – the Ogema as the Executive Branch, Tribal Council as the Legislative Branch, and the Tribal Court as the Judicial Branch – that are created within that Constitution. As a sovereign Native Nation, LRBOI has the responsibility to protect all those within its jurisdiction.

Ogema Larry Romanelli has utilized Executive Orders and worked cooperatively in government-to-government relationships throughout the Pandemic to manage the impact of the Pandemic on the Tribal Government and promote the safety of Tribal Citizens, Employees, and the public within the jurisdiction of the LRBOI. With the Pandemic continuing in Michigan, both through the periodic surges of individuals testing positive for COVID-19 that have occurred throughout the Pandemic and the appearance of COVID-19 variants that continue to emerge, the Ogema posts the current Executive Order to the LRBOI website.

Associate Judge Angela K. Sherigan has issued Administrative Orders on the operation of the Court throughout the Pandemic pursuant to the applicable guidelines implemented by Ogema Romanelli. Chief Justice Melissa L. Pope, in consultation with Associate Justice Berni Carlson and Associate Justice Joseph LaPorte, has also issued Administrative Orders specific to management of the Court of Appeals. Whenever applicable, these Administrative Orders are available on the Tribal Court website.

The Justices of this Court of Appeals offer prayers for all those who have lost their lives to the COVID-19 Pandemic and to their loved ones. We also offer prayers for all those who have suffered, are suffering, or will suffer from the impact of this Pandemic with the knowledge that this suffering includes: food insecurity; loss of employment; homelessness; lack of access to essential services due to not having the financial resources for remote access or living in an area where access to technology is limited, not reliable, or nonexistent; the increase in the crime of domestic violence, as well as the severity of the violence being committed against domestic violence victims; the overall increase in violence, including hate crimes committed against Asian Americans and Pacific Islanders; lack of access to medical treatment; and isolation, to name some of the difficult circumstances that Tribal Citizens, Michigan residents, U.S. residents, and communities world side are experiencing. This Court of Appeals remains committed to continuing meaningful access to justice and caring for Tribal Citizens, employees, and the public as we collectively respond to the ongoing COVID-19 Pandemic.

## **ANALYSIS**

This case involves compliance with the most important Little River Band of Ottawa Indians document – the supreme law of this Native Nation – the Constitution. The actions reviewed for compliance with this Constitution are those of the entities established in that Constitution to govern this Native Nation pursuant to the powers and duties that the Constitution mandates.

The LRBOI Court Rules of Appellate Procedure § 5.902 provides the standard of review in appellate matters as follows:

5.902 Standard of Review. The following standards apply to the Tribal Court of Appeals when deciding an appeal, unless a clear miscarriage of justice would result:

- (A) Finding of Fact by a Judge. A finding of fact by a judge shall be sustained unless clearly erroneous. The trial court's decision will not be changed unless the Appellate Court is definitely and firmly convinced

that a mistake has been made. In other words, it is not enough that the Appellate Court may have weighed the evidence differently and/or reached a different conclusion; the trial court's decision will only be reversed if it is implausible in light of all the evidence.

- (B) Finding of Fact by a Jury. A finding of fact by a jury shall be sustained if there is any credible evidence to support it.
- (C) Factual Inference. A factual inference drawn by a judge or jury shall be reviewed as a finding of fact if more than one reasonable inference can be drawn from the fact(s).
- (D) §5.902 (D) Witness Credibility. Any finding, whether explicit or implicit, of witness credibility shall be reviewed as a finding of fact.
- (E) Conclusion of Law. A conclusion of law shall be reviewed by the Tribal Court of Appeals de novo, meaning that the Appellate Court shall review it as though it is the first time a court has ruled on this matter.
- (F) Contracts. An unambiguous contract term is reviewed as a conclusion of law.
- (G) Mixture of Law and Fact. A matter which is a mixture of law and fact is reviewed by the standard applicable to each element.
- (H) Discretion of the Court. A matter which is determined to be within the Tribal Court's discretion shall be sustained if it is apparent from the record that the Tribal Court exercised its discretionary authority and applied the appropriate legal standard to the fact(s).
- (I) Sentence or Penalty. A sentence and the imposition of fine, forfeiture, and/or penalty, excluding the assessment of damages, shall be reviewed as a discretionary determination by the Tribal Court of Appeals.
- (J) Substituted Judgment. A matter committed to the discretion of the Tribal Court shall not be subject to the substituted judgment of the Tribal Court of Appeals.

The present case involves review of both findings of facts and conclusions of law. Pursuant to § 5.902 (G), "a matter which is a mixture of law and fact is reviewed by the standard applicable to each element" with § 5.902 (A) providing that "[a] finding of fact by a judge shall be sustained unless clearly erroneous" and § 5.902 (E) providing that "[a] conclusion of law shall be reviewed by the Tribal Court of Appeals de novo, meaning that the Appellate Court shall review it as though it is the first time a court has ruled on this matter". The Court notes that § 5.902 (A) provides additional guidance in reviewing findings of by a judges in that "[t]he trial court's decision will not be changed unless the Appellate Court is definitely and firmly convinced that a mistake has been made" meaning

that "it is not enough that the Appellate Court may have weighed the evidence differently and/or reached a different conclusion", mandating that "the trial court's decision will only be reversed if it is implausible in light of all the evidence".

In some respects, this is a complicated case. The Trial Court issued multiple *Orders* in this case on the individual issues presented with each *Order* representing review by the Tribal Court of arguments presented, in writing and at hearings, as well as the review of evidence presented by the parties. The Trial Court was deliberate in its approach of peeling back each layer to reach the center of this case: the actions taken by the LRBOI Tribal Council as it relates to the management of the Little River Casino Resort. In other respects, however, this case is a straightforward analysis of whether the actions taken by Tribal Council violated the separation of powers, as well as the Administrative Procedures Act and the Unified Legal Department Act, with the focus of these actions – although not the sole actions reviewed – rooted in the legislation enacted by the Appellant/Defendant Tribal Council.

The Appellant/Defendant Tribal Council initially raised the following three questions in the Amended Notice of Appeal, along with the initial Brief and the Reply Brief on the Appellant's Petition to Stay Execution of Trial Court Judgments filed, with these questions again noted in the Appellant's Brief and the Appellant's Reply Brief filed after this Court's *Opinion on Appellate Motions*:

Whether the Tribal Council acted in accordance with Sections 5.01 and 5.02 of the APA and its constitutional powers when passing Resolution Nos. 16-810-228 and 16-829-250

Whether the Tribal Council acted in accordance with Section 6.01 of the Unified Legal Department Act of 2015 when hiring Dykema Gossett

Whether the Tribal Council acted in accordance with LRBOI separation of powers principles with passing the Gaming Enterprise(s) Oversight Act and creating the Oversight Task Force

After this Court of Appeals denied the Appellant/Defendant Tribal Council's request for a stay of the Trial Court's *Orders* and Appellee/Plaintiff Stone's Motion Objecting to Defendant-Appellant's Filing of Appeal in the September 1, 2020 *Opinion on Appellate Motions*, the Appellant/Defendant restated these questions with responses that reframed review of the case and added the following new allegation:

**That the Tribal Court Failed to Fully Dispose of the Separation of Powers Claim Against the Tribal Council, Frustrating a Proper Appeal (Appellant Brief at 16)**

Although the Appellant/Defendant Tribal Council provides specific arguments for each of the original and new questions raised, the underlying argument in the Appellant's Brief, Appellant's Reply Brief, and at Oral Argument, is that Tribal Council has been denied due process by the decision-making process of the Trial Court.

The Trial Court was required to navigate through a complex maze of topics and procedures to decide the issues in this case. One aspect of this complex maze involved determination that the two original cases filed against the Appellant/Defendant Tribal Council be consolidated into one case. The parties presented a significant amount of evidence to the Trial Court. The testimony presented – including witnesses that not only testified to the arguments put forth by the Appellant/Defendant Tribal Council but were hostile to the Appellees/Plaintiffs Ogema Romanelli and Stone – was extensive. Also extensive were the opportunities for the parties to be heard, both in writing and in court, throughout the process.

The allegation that the Trial Court denied the Appellant/Defendant Tribal Council due process protections is not supported by the facts nor history of this case. The Appellant/Defendant, as well as the Appellee/Plaintiffs, had a multitude of opportunities to be heard in this case, even if not in the specific procedural approach desired by the Appellant/Defendant. The Appellant/Defendant Tribal Council's arguments alleging it did not have the opportunity to be heard are procedural and based in the form of a motion, reference to a directed verdict, or wording in an order. The newest argument of the Appellant/Defendant Tribal Council demonstrates the lack of merit to their allegations when the Trial Court clearly found that Tribal Council violated the separation of powers but simply did not include the numbers of the specific Counts.

This Court will not deprive the Citizens of this Native Nation with a resolution to this case nor will it fail to fulfill its own Constitutional mandate in Article VI § 8 (b) "[t]o review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution". The parties were presented with numerous opportunities to be heard and this Court will decide the substantive issues presented.

Although questions of law are present and reviewed de novo, the findings of fact by the Trial Court Judge in this case – with review of those findings of fact made pursuant

to the clearly erroneous standard – guide the review by this Court of the Trial Court's decision-making process.

All issues relate to Resolutions that the Appellant/Defendant Tribal Council enacted regarding governance of the Little River Casino Resort, specifically Resolution No. 16-0810-228, Emergency Adoption of Amendments to the Gaming Enterprise Board of Directors Ordinance, Ordinance No. 10-800-03, and Renaming the Act the Gaming Enterprise(s) Oversight Act that was enacted on or about August 10, 2016, and Emergency Resolution No. 16-0829-250 that was enacted on or about August 29, 2016.

The LRBOI Constitution establishes three branches of government: the Ogema as the Executive Branch; Tribal Council as the Legislative Branch; and the Tribal Court as the Judicial Branch. This Court has recognized that these are three distinct branches in previous *Opinions*, including one of its earliest cases, *In re: Waitner v. Guenthardt*, 98/95-1001-1-8.3. The Citizens of this Nation directly elect the individuals for each branch of government, unlike in some Tribes where Citizens elect the members of Tribal Council and then the executive is chosen by some other avenue, such as elected by the other members of Tribal Council or positions assigned pursuant to the number of votes each elected member of Tribal Council received in the election. The direct election of each branch by the Tribal Citizens of this Nation is important to both this case and the ongoing operation of the LRBOI Tribal Government.

Also important to this analysis is that the LRBOI Constitution mandates the powers and duties of each branch of government. The Appellees/Plaintiffs make the following argument:

While the LRBOI Tribal Court of Appeals has correctly held that the separation of powers between the executive and legislative branches are not absolute in *Willis v. Tribal Council*, Case #01034MR/01034APP(2001), pp 4-6, the Court of Appeals did not fully reject the concept of separate powers. Rather it spoke to the need for communication and cooperation between the two branches. To take the position that the holding in *Willis* means that Tribal Council has the power to manage all facets of the operation of the LRBOI would render the powers given to the Ogema in Article V of the Constitution a nullity. (Appellee/Plaintiff Brief at 20).

This Court agrees. A government where the executive and legislative branches do not communicate or work in cooperation with each other deprives Tribal Citizens of the rights they are guaranteed under the Constitution, including the operation of their Tribal Government by the individuals they elected to serve fulfilling the Constitutionally mandated duties of their position. The Tribal Citizens of this Native Nation established the powers

and duties for each branch of government. For the LRBOI Government to operate as LRBOI Citizens intended, the duties and powers of these position must be respected by the individuals who are elected to fulfill them.

The arguments presented by the parties, as well as the actions of the Appellant/Defendant Tribal Council, indicate that this Court must be clear and concise to facilitate the operation of this Tribal Government pursuant to the Constitution adopted by LRBOI Tribal Citizens. The creation of three branches of government in the Constitution – the Ogema, Tribal Council, and this Court – with the powers and duties of each branch enumerated in that Constitution requires the separation of powers to ensure governance of the Little River Band of Ottawa Indians as enacted by the Tribal Citizens who comprise this Native Nation.

In the present case, the Trial Court had to determine whether Appellant/Defendant Tribal Council violated the separation of powers doctrine when it assumed management of the Little River Casino Resort through enactment of Resolution No. 16-0810-228. The Appellant/Defendant Tribal Council argues that it enacted Resolution No. 16-0810-228 due to the emergency circumstances of the U.S. Supreme Court denying the Tribe's petition for writ of certiorari in *Little River Band of Ottawa Indians v. NLRB*, 136 S. Ct. 2508. The quotation from the Appellee/Plaintiff's Brief below summarizes the facts in a manner this Court finds helpful, including retaining the emphasis of the text underlined by the Appellee/Plaintiff:

The preamble to the resolution focused exclusively on the denial of an application for a writ of *certiorari* to the Supreme Court of the United States from a decision of the United States Court of Appeals for the 6<sup>th</sup> Circuit. The preamble continued by raising the concern that the particular case '...has given rise to a false perception that the Tribe's gaming enterprise is commercial in nature, rather than an arm of the tribal government, leading to an increased willingness of third parties to challenge the sovereign status of the Gaming Enterprise...' Without further documentation, Tribal Council made a finding '...that the perceived separation of the Gaming Enterprise from the Tribe's government is exacerbated by the scope of authority provided to the intermediate layer of the Gaming Enterprise Board of Directors, and specifically to those members of the Gaming Board of Directors who are not elected officials of the Tribe...' (Emphasis in Appellee/Plaintiff Brief)

The Tribal Council continued with findings that the Gaming Enterprise Board of Directors should be eliminated, 'replaced in part by the elected officials of the Tribe, then, at Tribal Council's election, by a Interim Oversight Task Force, and the responsibilities and duties of the General Manager revised accordingly.' (Emphasis in Appellee/Plaintiff Brief)

Resolution 16-810-228 continued by making findings that oversight of the gaming enterprise should be vested in the hands of elected officials 'or in the hands of an Interim Oversight Task Force (OTF) on which the Tribe's elected officials have a voting role...'

The Gaming Enterprise Board of Directors was eliminated without prior notice on or about August 29, 2016.

(Appellee/Plaintiff Brief at 3-4).

The first issue is whether an emergency actually existed. According to the text of the Resolution, the denial of the petition for writ in *Little River Band of Ottawa Indians v. NLRB* created an emergency that required an immediate response. The testimony, however, did not support this assertion. The individuals who testified were individuals who had first-hand knowledge of the considerations for the alleged emergency requiring Tribal Council to seize control of the Little River Casino Resort. While the parties interpret some of this testimony differently, these witnesses articulated various considerations for seizing control that were not consistent with Appellant/Defendant Tribal Council's stated reason of the denial of the petition for writ in certiorari, including an investigation by the National Indian Gaming Commission and a report by an outside agency. In addition, there was testimony that planning for Tribal Council to take control of management of the LRCR had been going on for a significant period of time, perhaps as long as two years.

The Appellant/Defendant Tribal Council argues that the evidence presented does not detract from the emergency circumstances. At Oral Argument, Appellant/Defendant Tribal Council admitted that the Resolutions could have been better written but argue the lack of information does not create a critical defect.

When addressing the fact that Tribal Council had been making preparations for seizing control of the management of the Little River Casino Resort for a significant period of time, the Appellant/Defendant compared the planning that Tribal Council engaged in as similar to that as emergency preparedness. The argument would be that a body must develop a detailed plan for an emergency, such as a natural disaster, so that the plan can be immediately implemented if a natural disaster occurs. The Appellant/Defendant Tribal Council argued planning for the potential outcomes in the case of *Little River Band of Ottawa Indians v. NLRB* supports the emergency circumstances:

Nevertheless, the Ogema misapprehends the import of the fact that the Tribal Council had been preparing these Resolutions for a long time. Instead of demonstrating the lack of emergency, the prior preparations of the Tribal Council ahead of the denial of certiorari in the NLRB case is

strong evidence that the Tribal Council viewed that possibility as a true emergency for the Tribe and its enterprises, and that the Tribal Council believed it needed to be prepared for that emergency should it come to pass. (Appellant/Defendant Reply Brief at 6-7).

**While a valiant effort to legitimize the preparation that Tribal Council engaged in to assume control over managing the Little River Casino Resort – and then actually seizing that control – the arguments of the Appellant/Defendant Tribal Council fail on all counts.**

To begin, when emergency protocols are engaged, it is critical to include detailed information relating to both the circumstances creating the emergency and the actions being taken to address that emergency. Had Tribal Council been engaging in planning for issues relating to the possible outcomes of the *Little River Band of Ottawa Indians v. NLRB* – even for a few months – it is reasonable to expect that the language would be clear, concise, and comprehensive. It is not.

It is also reasonable to expect consistency among the individuals voting on an emergency action. The array of reasoning that the witnesses testified to demonstrates that Tribal Council was not responding to the sole “emergency” articulated in the body of the Resolution of the denial of the petition for writ of certiorari. If it was, the language itself was not sufficient.

This Court of Appeals takes pause at this point to highlight that the standard for review of the Trial Court finding of facts is that “[a] finding of fact by a judge shall be sustained unless clearly erroneous” pursuant to LRBOI Tribal Court Rules § 5.902 (A). In applying the remainder of this standard to the facts discussed thus far, “[t]he trial court’s decision will not be changed unless the Appellate Court is definitely and firmly convinced that a mistake has been made”. While this Court does not appear to have “weighed the evidence differently and/or reached a different conclusion”, even if it did, this Court of Appeals could not reverse the Trial Court as the findings made are not “implausible in light of all the evidence”.

The last consideration of this Court for determining that the Appellant/Defendant Tribal Council did not take control over management of the Little River Casino Resort in response to an emergency relates directly to the separation of powers doctrine. If engaging in a process akin to emergency preparedness in advance of the emergency occurring, especially in a situation such as this case presents when the specific outcomes have been narrowed down in the written *Opinion* of the Sixth Circuit Court of Appeals, all stakeholders would be engaged in the planning process. Here, Tribal Council did not

engage the Ogema despite the powers and duties of the position of Ogema as provided in pertinent part in Article V:

LRBOI in Article V § 5 (a) (8)

To manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council.

The Appellant/Defendant Tribal Council points to the enumerated authorities and duties of Tribal Council in Article IV of the Constitution as the source of authority for Tribal Council assuming management of the Little River Casino Resort:

Article IV § 7 (f)

To create by ordinance regulatory commissions or subordinate organizations and to delegate to such organizations the manage the affairs and enterprises of the Little River Band, provided that no such commission or subordinate organization shall exercise powers of the Tribal Council unless they are expressly delegated by Tribal Council

These two Articles in the Constitution do not grant the same authority to both the Ogema and Tribal Council. Article V § 5 (a) (8) grants the authority “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe” to the Ogema. This provision also requires the Ogema to provide that management in a manner that is “consistent with ordinances and resolutions enacted by the Tribal Council”. Tribal Council is authorized in Article IV § 7 (f) of the Constitution “[t]o create by ordinance regulatory commissions or subordinate organizations”, as well as delegate powers to the regulatory commissions or subordinate organizations it creates provided that any powers are “expressly delegated”. This Constitutional provision only permits the delegation of powers that Tribal Council has pursuant to the Constitution.

As stated earlier in this *Opinion*, the Constitution creates three branches of government with the powers and duties of each branch enumerated within this Constitution. There are specific circumstances where individual branches may delegate some powers of that branch. However, a branch of government may only exercise or delegate the powers that the Constitution establishes that it has. No branch of government may exercise what it does not have, including the enumerated powers of another branch.

In assuming and exercising control of the management of the Little River Casino Resort, both initially and with subsequent Resolutions discussed in this *Opinion*, the Appellant/Defendant Tribal Council violated the separation of powers doctrine as it

usurped the authority the Constitution entrusts to the office of Ogema in Article V § 5 (a) (8) “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe”.

As indicated at the start of this *Opinion*, this Court will not permit procedural technicalities to hinder resolution of the substantive issues in this case. In reviewing the other findings of the Trial Court as they relate to the separation of powers, the Appellant/Defendant Tribal Council argues that the Trial Court only references one of the two separation of powers claims, thereby depriving a full appeal. Whether Counts IV and V are both referenced in the Trial Court Order is a technicality as the Court discusses the content of both claims. The Appellee/Plaintiff Ogema explains this well in his Brief:

Paragraphs 48 through 51 of Count IV of the Ogema’s First Amended Complaint address the issues of granting Tribal Council the power to hire the General [M]anager of the LRCR, granting the power to create an Oversight Task Force, failing to create the Oversight Task Force, and diluting the constitutional authority of the Ogema.

Paragraphs 53 through 59 of Count V of the Ogema’s First Amended Complaint address the issue of membership on the Oversight Task Force, removal of members of the Oversight Task Force, management of the LRCR by the Tribal Council, imposing a duty on the General Manager to present corrective action plans to Tribal Council within 3 days of any default, the micromanagement of the LRCR by the Tribal Council in usurpation of the Ogema’s Constitutional powers, and the unconstitutional use of closed sessions to address such corrective actions.

The trial court found that the Gaming Oversight Act designated that all members of the Oversight Task Force are Primary Management Officials of the LRCR, and that the Oversight Task Force has not been created, thus leaving the Tribal Council in the position of the Oversight Task Force, thereby usurping the powers of the Ogema. The Court additionally found that the Tribal Council had given itself the power to remove members of the Oversight Task Force, thus violating the separation of powers.

The trial court went on to find that requiring the General Manager to submit corrective action plans for consideration during closed sessions of the Tribal Council violates Article IV, Section 6(d) of the LRBOI Constitution. The trial court also found that the mandate to report corrective action plans to the Tribal Council violates the separation of powers. Lastly, the trial court specifically held that, ‘Tribal Council does not have the Constitutional authority to manages the affairs of the enterprises’.  
(Appellee/Plaintiff Ogema’s Brief at 17-18).

In addressing the substantive matters presented in this case, this Court began by finding that the creation of three separate and distinct branches of government with the

powers and duties enumerated for each in the LRBOI Constitution establishes the requirement for the separation of powers within the LRBOI Tribal Government. Within this doctrine is the mandate that each branch only exercise the authority enumerated in the Constitution, thus all branches of government are prohibited from exercising the Constitutional authority of another branch, usurping the power of another branch, or otherwise encroaching upon the enumerated powers of another branch. The Court then found that Article V § 5 (a) (8) grants the authority “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe” to the Ogema and not Tribal Council. This Court intentionally analyzed this power first as an avenue for facilitating analysis of the remainder of the separation of powers findings by the Trial Court. To review the other findings of fact by the Trial Court Judge, we return to the standard of review in LRBOI Tribal Court Rule § 5.902 (A) that establishes that “[a] finding of fact by a judge shall be sustained unless clearly erroneous”. In reviewing the findings of fact by the Trial Court, these findings are not only plausible, but supported by the weight of the evidence.

This Court also intentionally cites the Appellee/Plaintiff Ogema’s Brief as it provides information relating to Count IV and Count V of the Ogema’s First Amended Complaint and the Trial Court *Order*. This excerpt highlights that the Trial Court addressed the content of both Count IV and Count V in the Ogema’s First Amended Complaint although it did not specifically state the term “Count V”. Sending this issue back to the Trial Court will only cause unnecessary delays that harm this Tribe when the Trial Court fully considered the issues and evidence presented. All of the information was available for review. If the Appellant/Defendant Tribal Council failed to make any arguments simply because the term “Count V” was not in the Trial Court *Order*, that is the fault of the Appellant/Defendant and not the Trial Court or this Court of Appeals. To be clear, this Court of Appeals affirms the Trial Court in finding that Tribal Council violated the separation of powers as alleged in both Count IV and Count V of the Ogema’s First Amended Complaint.

For the reasons already discussed in this *Opinion*, this Court affirms the Trial Court findings that that Tribal Council violated the Administrative Procedures Act (“APA”) when enacting Resolution No. 16-0810-228 and Emergency Resolution No. 16-0829-250 because no emergency existed. In addition to the analysis already conducted, this Court further notes that an “emergency” resolution like Emergency Resolution No. 16-0829-250 that does not state any information on the emergency alleged or reasoning for the emergency action being taken is not likely to pass this Court’s review. While the

Appellant/Defendant Tribal Council presented other evidence relating to the emergency it alleged made the Resolution necessary, the information necessitating an emergency resolution should be in the resolution itself.

The final issue to address is the Appellant/Defendant's allegation that the Trial Court process for finding that Tribal Council violated the Unified Legal Department Act did not provide sufficient due process protections to the Appellant/Defendant Tribal Council because of when and how the Ogema's motion was made and the Trial Court titling the decision a "directed verdict". The Appellant/Defendant Tribal Council raises the issue of fundamental fairness in the motion being decided, or directed verdict being issued, at the close of the Ogema's presentation of evidence. The Appellant/Defendant states in its Brief the following: "The Tribal Court clearly relied on the evidence presented at the hearing to determine that the contract was not negotiated, without allowing Tribal Council to present any contrary evidence. The Court's action in granting Ogema Romanelli's improper motion violated the fundamental due process rights of Tribal Council and should be reversed." (Appellant/Defendant Tribal Council Brief at 13).

There is also disagreement among the parties as to whether the "directed verdict" was granted on the pleadings or the pleadings and the evidence presented over a two-day period. While the Appellant/Defendant focuses on the Trial Court's reliance on evidence presented at the Hearing, it does not openly oppose the argument that a decision could be made on the briefs and/or other pleadings filed with the Court. It does contest the Appellee/Plaintiff Ogema's assertion that the Trial Court stated that the Appellant/Defendant made a general denial in the pleadings as he did not provide a citation for this reference.

This Court does not deny that a "motion for a directed verdict" or that a new or renewed "motion for summary disposition" may be most appropriate after the close of the opponent's evidence. This Court also recognizes that Tribal Council objected to the Trial Court's approach of addressing this issue in hope that it may impact the Trial Court's finding of facts regarding whether the Ogema negotiated the contract with Dykema Gosset.

The Court purposefully placed this issue at the end of this *Opinion* to analyze the fundamental fairness of the Trial Court's decision within the full context of this case. This case began with Tribal Council enacting Resolutions that usurped the Constitutional authority of the Ogema "[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council" in violation of the separation of powers. These Resolutions

were enacted under the premise of an emergency that the evidence showed did not exist with Tribal Council having planned this unconstitutional seizure of power to manage the Little River Casino Resort over a significant period of time that was not focused on the emergency alleged nor include the Ogema as the position Constitutionally authorized to manage the Little River Casino Resort as an enterprise of the Tribe. It is within this context of violating the separation of powers and Administrative Procedures Act by stripping the Ogema of the Constitutionally mandated authority of managing the Little River Casino Resort under the premise of an emergency that did not exist, that the Appellant/Defendant Tribal Council placed the Ogema into the position of having to “negotiate” a contract by engaging outside counsel.

This Court also notes that the Tribal Council actions being held as violations of the separation of powers and other Ordinances occurred almost five years ago. This is not a criticism on the process for reviewing these actions, but rather, acknowledgement of the careful presentation and consideration of all of the issues presented, as well as an acknowledgement of the impact of the ongoing COVID-19 Pandemic over this past year. Although understandable, five years is a long time for final resolution of the critical issues presented that include Constitutional analyses crucial to the operation of the LRBOI Tribal Government – and management of the Little River Casino Resort as a fundamental source of funds for operation of that Tribal Government – so that the LRBOI Tribal Government operates pursuant to the LRBOI Constitution adopted by Tribal Citizens to ensure that the LRBOI Tribal Government cares for Tribal Citizens now and in the Seventh Generation to come.

It is within this context of Tribal Council seizing control of managing the Little River Casino Resort, without final resolution since Tribal Council took these unconstitutional actions in 2016, that this Court reviews the fundamental fairness of the procedural challenges of the Appellant/Defendant Tribal Council to the Trial Court finding that Tribal Council violated the Unified Legal Department Act. The Trial Court issued its decision following a Hearing where the Appellant/Defendant was present, participated, and made arguments to the Court, regardless of whether these arguments swayed the Court. Although the Appellant/Defendant appears to have evidence it wanted to present, the Court notes that the individual most likely to be key to findings of fact about whether Ogema Romanelli negotiated the contract with Dykema Gossett is Ogema Romanelli. In addition, the Appellant/Defendant Tribal Council had the opportunity to challenge the evidence that was presented by the Ogema.

Further, when reviewing the decision of the Trial Court within the context of all of the evidence presented – a fair approach due to the amount of evidence that has now been presented by all parties – and the standard of review for findings of fact, this Court cannot find that the Trial Court was “clearly erroneous” when finding that Tribal Council violated the Unified Legal Department Act based on the evidence presented, including the testimony of the Ogema that he did not negotiate the contract with Dykema Gosset. Finally, it would not be fundamentally fair to set aside the Trial Court finding that Tribal Council violated the Unified Legal Department Act and remand the issue to the Trial Court with the Tribe then subject to the continuing harm of not having a final resolution to this case and further increasing the cost already paid for outside counsel when taking into consideration that this Court has upheld the Trial Court’s findings of fact from that evidence.

## CONCLUSION

This Court began analysis of the substantive issues in this case by finding that the creation of three separate and distinct branches of government – the Ogema, Tribal Council, and this Court – with the powers and duties enumerated for each branch in the LRBOI Constitution, and Tribal Citizens directly electing the positions governing these three branches, establishes the separation of powers within the LRBOI Tribal Government. Within the separation of powers doctrine is the mandate that each branch only exercise the authority it has as enumerated in the Constitution, thus all branches of government are prohibited from exercising the Constitutional authority of another branch, usurping the power of another branch, or otherwise encroaching upon the enumerated powers of another branch.

In finding that a branch of government may delegate some powers when authorized by the Constitution to do so, this Court also held that a branch may only delegate the powers that the Constitution designates to that branch. The Court found that the Constitution does not grant the same authority to both the Ogema and Tribal Council in relation to management of the economic enterprises of the Tribe. Specifically, Article V § 5 (a) (8) grants the authority “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe” to the Ogema. This provision also requires the Ogema to provide that management in a manner that is “consistent with ordinances and resolutions enacted by the Tribal Council”. Tribal Council is authorized in Article IV § 7 (f) of the Constitution “[t]o create by ordinance regulatory commissions or subordinate organizations”, as well as delegate powers to the regulatory commissions or

subordinate organizations it creates provided that any powers are “expressly delegated”, but not usurp the Constitutionally mandated authority of the Ogema “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe”

The Court noted that it had intentionally analyzed the authority of the Ogema and Tribal Council in relation to management of the Little River Casino Resort as an avenue for facilitating analysis of the remainder of the separation of powers findings by the Trial Court. This Court emphasized that LRBOI Tribal Court Rule § 5.902 (A) establishes that “[a] finding of fact by a judge shall be sustained unless clearly erroneous”.

This Court found that the Appellant/Defendant Tribal Council violated the separation of powers doctrine as it usurped the authority the Constitution entrusts to the office of Ogema in Article V § 5 (a) (8) “[t]o manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe” when it assumed and exercised control of the management of the Little River Casino Resort, both initially and with subsequent Resolutions.

This Court went on to affirm the Trial Court in finding that Tribal Council violated the separation of powers as alleged in both Count IV and Count V of the Ogema’s First Amended Complaint, finding that not including the term of “Count V” as the Trial Court fully considered the issues and evidence presented.

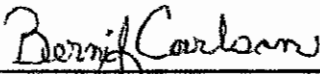
This Court affirmed the Trial Court findings that Tribal Council violated the Administrative Procedures Act (“APA”) when enacting Resolution No. 16-0810-228 and Emergency Resolution No. 16-0829-250 because no emergency existed, noting that an “emergency” resolution that does not state any information on the emergency alleged or reasoning for the emergency action being taken is not likely to pass this Court’s review.

The Court stated that it purposefully addressed review of the Trial Court’s finding that Appellant/Defendant Tribal Council violated the Unified Legal Department Act at the end of the *Opinion* to analyze the fundamental fairness of the Trial Court’s decision within the full context of this case. This context was discussed in relation to the time required for briefs, hearings where evidence was presented, and decisions of the Trial Court on each of the complicated issues presented, and then the process before this Court of Appeals with the original actions requiring filing of this consolidated case being Tribal Council seizing control of managing the Little River Casino Resort in violation of the Constitution in 2016. This Court further noted that the Trial Court issued its decision following a Hearing where the Appellant/Defendant was present, participated, and made arguments to the Court with the testimony of Ogema Romanelli – testimony the Appellant/Defendant Tribal


Council had the opportunity to challenge – being key to whether Ogema Romanelli negotiated the contract with Dykema Gosset, protecting the fundamental fairness of the proceedings.

For all of these reasons, this Court unanimously upholds the Trial Court. With these Constitutional issues now fully resolved, the Trial Court may proceed with the remaining issue of attorney fees.

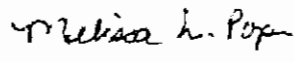
ON BEHALF OF THE UNANIMOUS COURT OF APPEALS, IT IS HEREBY ORDERED:

  
\_\_\_\_\_  
Hon. Berni Carlson, Associate Justice

5/10/2021  
Date

  
\_\_\_\_\_  
Hon. Joseph LaPorte, Associate Justice

5-10-2021  
Date

  
\_\_\_\_\_  
Hon. Melissa L. Pope, Chief Justice

May 10, 2021  
Date



**LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COUNCIL  
REGULAR MEETING  
WEDNESDAY, AUGUST 10, 2016  
LITTLE RIVER BAND  
GOVERNMENT CENTER**

**OPEN SESSION  
MINUTES**

The Little River Band of Ottawa Indians held a meeting at the Little River Band Government Center on August 10, 2016. Following are the minutes of that meeting. Speaker Johnson said for those that were here last Saturday the Geothermal works and it is a little bit cooler so now they can appreciate the technology they have.

**I. Opening Prayer**

Jerry Ramsey, Tribal Elder, offered the Opening Prayer in Anishinaabemowin.

Our Creator, we thank you for this day.

Please bless my brothers and sisters.

Creator, we thank you for this day.

We thank you for everything that you have given us and everything that you have taken away.

We will walk in beauty and especially in peace today.

Thank you Creator for everything that you have done for us.

Ahaaw. Miigwech. Miigwech. Miigwech. Miigwech. Ahaaw.

**II. General Business**

**A. Call to Order**

The regularly scheduled Tribal Council meeting was called to order at 10:02 a.m.

**B. Roll Call**

J. Riley - Absent	J. Burger- Present	F. Medacco- Absent
S. Crampton - Present	G. DiPiazza- Present	M. Wabindato -Present
R. Wittenberg-Present	V. Johnson - Present	S. Lewis - Present

Quorum established.

Others Present: Pat Morris, Darleen Martin, Peggy & Jim Derouin, Rosemary Smith, Jonnie Sam, Diane Lonn, Ron Pete, Frank Beaver, Jennifer Crampton, Lee Ivinson, Melissa Alexander, Dawn Mc Grudy, Jake Kequom, Lynn Saunders, Charmaine Stone, Connie Waitner, Fran Pitts, Sandy Mezeske, Jodi Walter, Rom

St. Dennis, Steve Parsons, Chuck Fisher, Bill Willis, Jason Cross, Michael Burmeister, Julie Wolfe, Jacquelyn Cabarrubia, Frank Figgels, Rita Gale, Jeanie Gibson, Janine Sam, Alicia Knapp, Jamie Friedel, Steven Wheeler, Nikki Nelson, Marcella Leusby, Patrick Wilson (p.m.).

Others Present That Did Not Sign In: Grace Hendler, George Le Vasseur, Drew Jewrick, Mary Thomas, Ogema Romanelli, Three Officers from Public Safety, Jerry Ramsey, Israel Stone, Elaine Porter, Tom Guenthardt.

Speaker Johnson said just for the membership Councilor Medacco is on business travel over to Mt. Pleasant and he will be gone for the balance of the week. Johnson said he believe that Councilor Riley is out on some personal issues but plans on being back at 10:30 a.m.

**C. Approval of Agenda**

**MOVE TO APPROVE THE AGENDA FOR WEDNESDAY,  
AUGUST 10, 2016; by Burger; supported by Wittenberg.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

**Roll Call #1**

J. Riley - Absent	J. Burger- Yes	F. Medacco- Absent
S. Crampton - Yes	G. DiPiazza- Yes	M. Wabindato -Yes
R. Wittenberg-Yes	V. Johnson - Yes	S. Lewis - Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted the agenda was adopted.

**D. Tribal Council Minutes ☐ None Submitted**

Speaker Johnson noted they do not have any Tribal Council Minutes to approve.

**III. Continuing Business**

**A. Grants & Contracts**

- 1. Approval of Submission of Grant Application to the Department of Health and Human Services-Administration for Children and Families, American Indian/Alaska Native Early Head Start (EHS) Expansion and EHS-Child Care Partnerships Program in an amount not to exceed \$500,000**  
The American Indian/Alaska Native Early Head Start (EHS) Expansion and EHS-Child Care Partnerships Program provides funding for infants and toddlers. This element of child care is part of the more comprehensive child care delivery system associated

with the overall Tribal Child and Family Development Center that is currently being developed.

Chuck Fisher from the Grants Department and Jason Cross from the Family Services Department represented this agenda item. Cross said this is a request to submit a grant application to the Department of Health and Human Services for Early Head Start Expansion in the amount not to exceed \$500,000.

**MOVE TO APPROVE RESOLUTION #16-0810-219; APPROVING THE SUBMISSION OF A GRANT APPLICATION TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, UNDER THE AMERICAN INDIAN/ALASKA NATIVE EARLY HEAD START (EHS) EXPANSION AND EHS-CHILD CARE PARTNERSHIPS FUNDING OPPORTUNITY IN AN AMOUNT NOT TO EXCEED \$500,000; by Burger; supported by Di Piazza.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

Acting Recorder Burger said she was just going to ask Jason Cross if he could just explain a little bit about maybe the grant objectives. Burger said give a brief overview of what the grant will be utilized here for at the Tribe.

Jason Cross said the grant is to expand the Early Head Start slots in Manistee County. Cross said those slots will be utilized at the Child & Family Development Center and this is a Native American Early Head Start Expansion Grant for Tribal children but they can use that for other children as well. Cross said obviously Tribal children will go first in this grant.

Speaker Johnson asked if there was any other discussion on this item.

**Roll Call #2**

J. Riley -	Absent	J. Burger-	Yes	F. Medacco-	Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -	Yes
R. Wittenberg-	Yes	V. Johnson -	Yes	S. Lewis -	Yes

Motion carried (7-0-0-2)

Acting Recorder Burger confirmed that the resolution is adopted.

- 2. Approving the Submission of a Grant Application to the Michigan Children's Trust Fund in the amount of \$175,000 to support Child Abuse and Neglect Prevention at the Child & Family Development Center**

This grant will allow the staff of the Child & Family Development Center to implement a Child Abuse and Neglect Model.

Chuck Fisher from the Grants Department and Jason Cross from the Family Services Department represented this agenda item. Cross said this is another request to submit an application and this one will be to the Michigan Children's Trust Fund in the amount of \$175,000. Cross said this grant will support Child Abuse & Neglect Prevention also that program will be at the Child & Family Development Center as well.

**MOTION TO APPROVE RESOLUTION #16-0810-220;  
APPROVING THE SUBMISSION OF A GRANT APPLICATION  
TO THE MICHIGAN CHILDREN'S TRUST FUND IN THE  
AMOUNT OF \$175,000 TO SUPPORT CHILD ABUSE AND  
NEGLECT PREVENTION AT THE CHILD & FAMILY  
DEVELOPMENT CENTER;** by Lewis; supported by Wabindato.

Speaker Johnson said it was open for discussion.

Julie Wolfe, Tribal #1062, asked if they had any data collected on how many Tribal children possibly are going to be utilizing or any Feasibility Studies or anything on the daycare. Wolfe said she knows they have been discussing it for some time and seeing it move forward. Wolfe said so she was just wondering if there was any data to substantiate such a great need for Tribal citizens verses Manistee Community. Wolfe said she knows it is a Community Project and there is a lot of benefits in there but do they have any real data on Tribal citizens and Tribal Descendent Children that are going to be using services. Wolfe said to the Ogema that she had asked a long time ago if the Tribal members could get a Presentation and thinks even at the last Membership Meeting of like what they are sharing with the community how this facility is going to look and stuff. Wolfe said she thinks a couple of times the Ogema said he was going to schedule something and she still.....maybe she missed that or she hasn't seen it.

Ogema Romanelli responded that no she had not missed it and they are still in the process and again he thinks that the work that is being done now could be shared at the next Council.....Membership Meeting possibly or even before.

Julie Wolfe said okay and asked Speaker Johnson about the data part.

Speaker Johnson said he would invite Jason Cross to respond to the data.

Jason Cross said they have data but he doesn't have it on him but in his office and is willing to share that with anyone who would like to give him a call or stop by his office at any time on terms of how many Tribal children and how many Descendent children they have. Cross said obviously if they look at the numbers they have a lot of Descendent children so they are helping Tribal members even

though their children are not actually Tribal members the parents are. Cross said the predominant number of their employees at the Resort are also not Tribal as well so they are helping the Tribal Community but again he doesn't have those numbers on him but he would be more than willing to share those with anyone who would like to see them and would be willing to put on any kind of Presentation that the community would like. Cross said he can do that at the Fall Membership Meeting or any other time that Council or the Ogema would like him to do that.

Speaker Johnson said to Jason Cross that what he would like to do on this situation or question, and thinks it is a very valid question and the membership needs to know this, what he would invite him to do is get that information provided to Council and to Grace Hendler and they will record that number as an attachment to their minutes for approval next week.

Jason Cross said he has it in his office.

*Jason Cross submitted the numbers and they are attached to these minutes and roll call sheets.*

Speaker Johnson asked Julie Wolfe if that would work for her. Johnson asked if there was any other discussion on this item.

Acting Recorder Burger said to the Speaker that she just wanted to make sure that Grace Hendler knows that this is Resolution #16-0810-220 because she thinks Councilor Lewis stated 20.

### **Roll Call #3**

J. Riley -	Absent	J. Burger-	Yes	F. Medacco-	Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -	Yes
R. Wittenberg-	Yes	V. Johnson -	Yes	S. Lewis -	Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted the item is approved.

Speaker Johnson said he wanted to thank Jason Cross and Chuck Fisher for bringing these things forward and knows with Sequestration in the last few years that there are very difficult issues to get moving forward and they appreciate the hard work. Johnson said this represents quite a number there and it may help the Tribe. Johnson said Miigwech.

### **B. Budget Modifications**

- 1. Approval of Budget Modification MB-2016-\_\_;  
Authorizing the modification of the Commerce Department  
Budget, Program #1070-164 in the amount of \$68,300**

Tribal Council must approve the re-allocation of funds within a Program Budget that exceeds 10% of the total original Program Budget.

Bill Willis, Budget Coordinator, represented this agenda item. Willis said this particular request is a budget modification request to move existing budgeted funds within the Commerce Department into other Line Items for additional unforeseen needs. Willis said the money is going to be moved into Professional Fees and Property Taxes.

**MOVE TO APPROVE RESOLUTION #16-0810-221; APPROVAL OF BUDGET MODIFICATION MB-2016-39; AUTHORIZING THE MODIFICATION OF THE COMMERCE DEPARTMENT BUDGET, PROGRAM #1070-164 IN THE AMOUNT OF \$68,300; by Burger; supported by Di Piazza.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

**Roll Call #4**

J. Riley - Absent	J. Burger- Yes	F. Medacco-Absent
S. Crampton - Yes	G. DiPiazza- No	M. Wabindato -Yes
R. Wittenberg-Yes	V. Johnson - Yes	S. Lewis - Yes

Motion carried (6-1-0-2)

Acting Recorder Burger confirmed Resolution #16-0810-221 carries and is adopted.

**2. Acceptance of contract funds from the Inter-Tribal Council of Michigan, Inc.-Honoring Our Children and approving a modification to the Operating Budget MB-2016-\_\_ in the amount of \$10,000**

The Tribe has received a new grant award for the Honoring Our Children Initiative.

Bill Willis, Budget Coordinator, represented this agenda item. Willis said these funds are specifically going to be used for Client Services Activities and Tribal Activities for Early Childhood Development type activities. Willis said they just need to accept the money and amend the Operating Budget.

**MOTION TO APPROVE RESOLUTION #16-0810-222; ACCEPTANCE OF GRANT FUNDS FROM THE INTER-TRIBAL COUNCIL OF MICHIGAN, INC.-HONORING OUR CHILDREN INITIATIVE AND APPROVING A MODIFICATION TO THE**

**OPERATING BUDGET MB-2016-40 IN THE AMOUNT OF \$10,000; by Lewis; supported by Burger.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

**Roll Call #5**

J. Riley -	Absent	J. Burger-	Yes	F. Medacco-	Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -	Yes
R. Wittenberg-	Yes	V. Johnson -	Yes	S. Lewis -	Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted the motion is adopted.

**3. Acceptance of contract funds from the Department of Health and Human Services-Indian Health Services and approving a modification to the Operating Budget MB-2016-\_\_ in the amount of \$616**

The Tribe has received additional funding for the 2016 Self-Governance Compact.

Bill Willis, Budget Coordinator, represented this agenda item. Willis said these are additional 2016 Self-Governance Compact Funds from the Indian Health Service. Willis said this brings them up to a Year to Date Funding Total of \$2,662,958 for Indian Health Service Funding.

**MOVE TO APPROVE RESOLUTION #16-0810-223;  
ACCEPTANCE OF CONTRACT FUNDS FROM THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES-INDIAN  
HEALTH SERVICES AND APPROVING A MODIFICATION TO  
THE OPERATING BUDGET MB-2016-41 IN THE AMOUNT OF  
\$616; by Burger; supported by Di Piazza.**

Acting Recorder Burger said to Bill Willis that it should be Compact Funds.

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

Acting Recorder Burger asked Bill Willis if he could just state the dollar amount one more time that they received from IHS.

Bill Willis repeated the total Year to Date Funding from Indian Health Service under the 2016 Self-Governance Compact is \$2,662,958.

Acting Recorder Burger thanked Bill Willis.

Bill Willis said she was welcome.

Speaker Johnson asked if there was any other discussion on this item.

#### **Roll Call #6**

J. Riley - Absent	J. Burger- Yes	F. Medacco-Absent
S. Crampton - Yes	G. DiPiazza- Yes	M. Wabindato -Yes
R. Wittenberg-Yes	V. Johnson - Yes	S. Lewis - Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted the motion is approved.

#### **C. Approval of Budgeted Expenditure**

Speaker Johnson noted they do not have anything for Approval of Budgeted Expenditures.

#### **IV. Old Business**

- |   |  |
|---|--|
| <b>A. Operations Report</b>                         | <input type="checkbox"/> <b>June 2016</b>      |
| <b>B. Financial Report</b>                          | <input type="checkbox"/> <b>None Submitted</b> |
| <b>C. Health Commission</b>                         | <input type="checkbox"/> <b>None Submitted</b> |
| <b>D. Natural Resource Commission</b>               | <input type="checkbox"/> <b>None Submitted</b> |
| <b>E. Commerce Commission</b>                       | <input type="checkbox"/> <b>None Submitted</b> |
| <b>F. Elders Committee Minutes</b>                  | <input type="checkbox"/> <b>None Submitted</b> |
| <b>G. LRBOI Tribal Government Preference Report</b> | <input type="checkbox"/> <b>None Submitted</b> |

Speaker Johnson noted they have received the Operations Report for June 2016. Johnson said in their Agenda Review he asked the question if there were any action items in there that Council had to respond on and he did not hear anything from Council that they had to. Johnson said he will ask that question again. Johnson asked Council if there was anything they had to respond to in that report.

Acting Recorder Burger replied no not at this time.

Speaker Johnson said okay with that said let it be known that they have received the report and it is going to be filed.

#### **V. New Business**

- A. Approval of Resolution of Support for the M-22 Pure Michigan Byway Designation**  
The Alliance for Economic Success (AES) has requested a Resolution of Support from the Tribe to accompany their Application to the Michigan Department of Transportation (MDOT) to designate a portion of M-22 as a "*Pure Michigan Byway*."

Steve Parsons from the Planning Department represented this agenda item. Parsons said this item is a request from the Alliance for Economic Success which is a local organization here in Manistee County that is requesting a Resolution of Support from the Tribe for an initiative they are sponsoring to designate a portion of M-22 as a Pure Michigan Byway. Parsons said it is an initiative through the Michigan Department of Transportation because apparently they can make application to the State to have a designation for a Pure Michigan Byway and what they would like to do is a section of M-22 between.....right out here where 22 meets 31 on the other casino entrance all the way up to the county line between Benzie and Leelanau Counties. Parsons said in any event what they have done is they gone around to various local Units of Government in both Manistee and Benzie Counties requesting Resolutions of Support and they would also like one from the Tribe as they are here in the area and they think it would be an important addition to their application for the request to MDOT. Parsons said that is why it is on the agenda because they are requesting the resolution. Parsons said with that he will answer any questions that they have.

**MOTION TO APPROVE RESOLUTION #16-0810-224;  
RESOLUTION OF SUPPORT FOR THE M-22 PURE MICHIGAN  
BYWAY DESIGNATION; by Di Piazza; supported by Lewis.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion. Johnson said he would just like to make something light of this, not that it is not an important issue here in front of them for economic growth in so forth helping the Resort out because it is the gateway to M-22 as a travel, but he would like to use the word Pure Ottawa rather than Pure Michigan.

Steve Parsons said they have been talking to them about changing the signage on M-22 so they can see what they can do.

Speaker Johnson asked if there was anything else on this item for discussion.

**Roll Call #7**

J. Riley -	Absent	J. Burger-	Yes	F. Medacco-Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -Yes
R. Wittenberg-	Yes	V. Johnson -	Yes	S. Lewis - Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted that resolution is approved.

- B. Approval of Nomination of Jason Cross to the Housing Review Board**  
In order to be in compliance with the Aki maadiziwin Subdivision Building Restrictions Ordinance, a resident of Aki maadiziwin needs to be approved to sit on the Housing Review Board.

Steve Parsons from the Planning Department represented this agenda item. Parsons said this item is a request for the Council to approve the nomination of Jason Cross to the Housing Review Board. Parsons said the Ogema has made the nomination and they are asking for Council approval by resolution.....no he thinks this is by motion. Parsons said in any event just for some background on this the Aki maadiziwin Subdivision Building Restrictions Ordinance which has been in effect since 2006 calls for the creation of a Housing Review Board. Parsons said it is a three person Board and two of the seats are determined in the ordinance and that would be the Housing Director and the Planning Director which is essentially himself and Frank Figgels who would be the two permanent members. Parsons said the third member which would need to be a resident of Aki maadiziwin who would then serve as the sort of Community Representative on the Board. Parsons said Jason Cross has expressed an interest in that position. Parsons said the ordinance calls for the Ogema to make the nomination and for Tribal Council to approve it. Parsons said essentially what this Board will do and it really doesn't have much in the way of authority and its primary responsibility is to make sure that the ordinance is enforced and if there are any questions or decisions relative to the ordinance then the Housing Review Board would make those decisions or approvals. Parsons said essentially it is a community covenant ordinance so there is nothing sort of major in there but one of the reasons for this coming up is that they do have a Tribal family who is intending to build a residence at Aki maadiziwin through the Leasehold Mortgage Program and they are in the process now of getting their home designed, getting the blueprints taken care of, and this is one of the things that would have to be done for them to be able to build because they would actually have to submit information to the Board and the Board would have to approve it to make sure they are in compliance with the Building Restrictions Ordinance. Parsons said once that's done then they can basically go ahead and build their home so this will help them get that done.

**MOTION FOR THE APPROVAL OF NOMINATION OF JASON CROSS TO THE HOUSING REVIEW BOARD;** by Lewis; supported by Di Piazza.

Speaker Johnson said he has a hand up and asked Ron Pete to please come forward.

Ron Pete, Tribal #4158, said he just wanted to say personally that he had a.....he would actually say a great pleasure for partnering with Jason Cross for a number of years and that he would wholeheartedly back from a personal standpoint Jason Cross for this nomination. Pete said he is an incredible person and has served the Tribe for a number of years and he just wanted to say from a personal standpoint if he can do that at the podium he wanted to say that he supports this nomination for Jason Cross.

Speaker Johnson asked if there was any other discussion on this item.

### Roll Call #8

J. Riley - Absent	J. Burger- Yes	F. Medacco- Absent
S. Crampton - Yes	G. DiPiazza- Yes	M. Wabindato -Yes
R. Wittenberg-Yes	V. Johnson - Yes	S. Lewis - Yes

Motion carried (7-0-0-2)

Acting Recorder Burger said Jason Cross' nomination to the Housing Review Board is approved.

Steve Parsons thanked Council for both items. Parsons said he is back again after the next one so he will just stay up there.

### C. Approval to Adopt the Tribal Wage Ordinance #16-550-03

The adoption of a Tribal Wage Rate will allow the Tribe to determine its own Wage Scale for Federally Funded Construction Projects that occur on Tribal Lands.

Shayne Machen, Unified Legal Department Attorney, represented this agenda item. Machen said just to give them a brief summary of what this is currently when the Tribe uses Federal Funds to do Construction Projects on Tribal Lands they are required to use what is called Davis-Bacon Wages. Machen said those are wages set by the Federal Government and are determined based on the region that they are in. Machen said in their region includes Cadillac, Traverse City, and just north of Muskegon so the wage rate that they are required to use is actually quite higher than what would be present in Manistee County. Machen said so what a Tribal Wage Rate Ordinance allows them to do is to send out to a third party to have a study conducted to determine what the wage should be for these Construction Projects and then that be the wage so this allows their Federal Funds to go much further than they would with Davis-Bacon Wages.

### **MOTION TO APPROVE RESOLUTION #16-0810-225; RESOLUTION APPROVING THE TRIBAL WAGE ORDINANCE #16-550-03; by Lewis; supported by Burger.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

Acting Recorder Burger said she just wanted to state that this is a necessary step for the Tribe in order for the Tribe to set its Davis-Bacon like wage rates because they are required under certain bodies of law in their Compact Agreements in particular with the Indian Health Service in the Construction Clause of the Self-Determination Act to apply Davis-Bacon but years ago the Tribes won the right to adopt their own laws so this is a good step forward.

Speaker Johnson asked if there was any other discussion on this item.

**Roll Call #9**

J. Riley -	Absent	J. Burger-	Yes	F. Medacco-	Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -	Yes
R. Wittenberg-	Yes	V. Johnson -	Yes	S. Lewis -	Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted that Ordinance #16-550-03 Tribal Wage Rate is adopted.

**D. Approval of Memorandum of Agreement with the City of Norton Shores for the Reconstruction of Harvey Street**

The Memorandum of Agreement (MOA) will provide the Framework for the Tribe to work with the City of Norton Shores on the Harvey Street Reconstruction Project.

Steve Parsons from the Planning Department represented this agenda item. Parsons said he will try not to get too far in the weeds on this but wanted to give them some background on the request. Parsons said the City of Norton Shores has a tentative plan actually its part of their Transportation Improvement Plan and is obviously going to happen in 2017 to do a major reconstruction of Harvey Street which is in Muskegon County and actually adjacent to the proposed Muskegon Gaming Facility that the Tribe is in the process of trying to get that approved. Parsons said essentially they had planned to basically just do some reconstruction of the road itself without any really major renovations or anything in addition to that. Parsons said the Tribe recently requested a Traffic Study to be done which Tom St. Dennis is in charge of that project and the preliminary results from the Traffic Study of the area indicates that there will be a considerable amount of traffic on the Henry Street section.....the Harvey Street section that is near the casino that would be between the Harvey Street section between Hile Roads and Ellis Road. Parsons said so in any event the City of Norton Shores reached out to them because they knew about the Traffic Study to see if the Tribe was interested in any additional improvements that they had not originally planned to do. Parsons said based on the Traffic Study there were basically two recommendations that they made to them. Parsons said one was to add two additional lanes basically going one additional lane going north one additional lane going south to make it a four lane highway along with a center turn lane through the entire half mile strip of Harvey Street. Parsons said the other improvement was to update or upgrade the traffic light at the corner of Harvey Street and Hile Road which would be a main way into the casino facility from the expressway. Parsons said basically based again upon the traffic patterns and the amount of traffic it was deemed that they wanted to upgrade that signal to make the traffic flow more smoothly. Parsons said so essentially what this MOA is an

agreement between the City of Norton Shores who is in charge of the Construction Project and the Tribe in regard to what additional work is going to be required and also the Tribe's portion of payment which they can use through the BIA Road Funding. Parsons said the BIA knows about this and are okay with it and have seen the agreement and have said the agreement will certainly meet their requirements and so they essentially with this agreement in place Norton Shores can begin their engineering design for the project itself which they actually need to begin very soon because that design plan is to go into MDOT in October of this year for their approval so they can access the State Funding. Parsons apologized and said he was trying to give them a shorter version but he didn't do that. Parsons said that essentially is what it is and he will see if they have any questions.

Councilor Di Piazza asked what was the cost on this.

Steve Parsons said the total cost, and this is an estimated cost, which he has here somewhere, is \$414,795 and that is roughly 25% of the available road funding that they have currently for road construction.

Acting Recorder Burger said just one of the things that she found really interesting in the MOA is that the Bureau of Indian Affairs has the final say because the utilization of the funds so it is not as though the City of Norton Shores or the Tribe has the final say.

Steve Parsons said they were absolutely adamant about that. Parsons said he guessed their motto is if there is Federal Funding involved it needs to meet their requirements as it would with any other project that they are paying for. Parsons said they did make that point with the folks down in Norton Shores and they understand that and that is why the agreement is detailed as it is. Parsons said all the reports and things have to come back to them and they have to have those on file for audit by the BIA so they are fully aware of that.

**MOTION TO APPROVE RESOLUTION #16-0810-226;  
RATIFICATION OF MEMORANDUM OF AGREEMENT WITH  
THE CITY OF NORTON SHORES FOR THE PERFORMANCE  
AND FUNDING OF THE HARVEY STREET RECONSTRUCTION  
PROJECT; by Lewis; supported by Wittenberg.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

**Roll Call #10**

J. Riley -	Absent	J. Burger-	Yes	F. Medacco-	Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -	Yes
R. Wittenberg-	Yes	V. Johnson -	Yes	S. Lewis -	Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted the MOA is approved.

Speaker Johnson said he thinks something is going on between Steve Parsons and Jason Cross.

**E. Approving Tribal Ogema's Execution of a Memorandum of Understanding with the Inter-Tribal Council of Michigan for the purposes of creating a Collaborative Partnership to enhance service delivery and coordination of services to Pregnant Women, Children Birth to Age 5, and their Families who may be eligible for Head Start Programs**

The Memorandum of Understanding (MOU) will allow new collaboration with the Inter-Tribal Council (ITC) to improve services to Tribal Children and Families. The MOU will also allow the Little River Band of Ottawa Indians (LRBOI) to list the ITC as a Collaborative Partner on the upcoming Early Head Start Expansion Grant due 8/24/16.

Jason Cross, Director of Family Services, represented this agenda item. Cross said this is a resolution asking for Tribal Council to give the Ogema approval to enter into a Memorandum of Understanding between the Tribe and the Inter-Tribal Council of Michigan. Cross said the MOU in question does not have any financial component but just allows them to list the Inter-Tribal Council as a collaborative partner in some grants that they are writing and also able to share training and resources with them. Cross said it can be cancelled with a 60-day notice at any time and it is really just so they can work together and share some resources.

**MOVE TO APPROVE RESOLUTION #16-0810-227; APPROVING TRIBAL OGEMA'S EXECUTION OF A MEMORANDUM OF UNDERSTANDING WITH THE INTER-TRIBAL COUNCIL OF MICHIGAN FOR THE PURPOSES OF CREATING A COLLABORATIVE PARTNERSHIP TO ENHANCE SERVICE DELIVERY AND COORDINATION OF SERVICES TO PREGNANT WOMEN, CHILDREN BIRTH TO AGE 5, AND THEIR FAMILIES WHO MAY BE ELIGIBLE FOR HEAD START PROGRAMS; by Burger; supported by Lewis.**

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

**Roll Call #11**

J. Riley -	Absent	J. Burger-	Yes	F. Medacco-	Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -	Yes

R. Wittenberg-Yes

V. Johnson – Yes

S. Lewis – Yes

Motion carried (7-0-0-2)

Acting Recorder Burger noted that the Memorandum of Understanding is approved.

**F. Emergency Adoption of Amendments to the Gaming Enterprise Board of Directors Act of 2010, Ordinance #10-800-03, and Renaming the Act the Gaming Enterprise Oversight Act**

Tribal Council is authorized by the Administrative Procedures Act, Ordinance #04-100-07, to adopt, amend and repeal ordinances and which also identifies processes by which emergency amendments and adoption of ordinances may be authorized.

Speaker Johnson said before he entertains a motion or discussion on this item, he knows there are a lot of people in the audience, who are anxious to respond to this and he appreciates that because that is what they are here to listen to. Johnson said they do have a five minute clock here and if there is a lot of people raising their hands and he is going to ask respectfully to everybody is that they go through the entire list first and then they can go back and revisit to anybody else that has any additional comments but they are allowed five minutes for each person. Johnson said it is open for discussion and/or a motion. Johnson said he has Ron Pete and then Israel Stone.

Ron Pete, Tribal #4158, said first thing that he would like to say to Speaker Johnson and he knows that it can be done because they have a quorum of seven but he thinks this is one of the most important votes this Council is going to take in a long time. Pete said so what he is going to ask them and he doesn't think they have the votes to do it but he is going to ask anyways is he believed that all nine people from Council should vote on this to be on record to vote on it. Pete said he knows Councilor Riley isn't here today which it is none of his business.....he is not sure why and he knows that Councilor Medacco that he believes is on travel that he was told on Monday so he just doesn't understand why one week to wait till all nine people can put themselves on record on how they are voting on this because he knows membership people have a very big opinion on how this is going.....on what should happen here. Pete said so he guessed his thing is, and that opinion isn't always one way, that is a lot of different ways, so he just feels this vote today is even though they could .....everything.....they have the authority.....there is something about doing things right and sometimes about doing the right thing. Pete said he thinks the right thing is that they postpone this vote today and he is asking Council to do that and wait until all nine people are sitting up there and they can hear their vote for the record and he is assuming that would be probably next week because he doesn't see any travel coming up here for next week on this agenda. Pete said he thinks.....then thanked them.

Israel Stone, Tribal #1735, said he is here today because he sees the action that is before Tribal Council and quite often in the Tribe they react to things that are happening around them whether it is hunting, fishing, or gathering whether it is most essential rights or the Gaming Enterprise or whatever it is. Stone said there is some confusion that he has on this matter though. Stone said first and foremost why this piece of legislation moved through a closed session setting all the way through its process until the end when they brought it out to actually have a vote on it not giving citizens the opportunity to partake in the work sessions to give input or feedback. Stone said the other confusion that he has on it is why it is being done on an emergency basis, in fact, the emergency amendments require an imminent threat or danger and so.....and that is in their.....in their procedures and that is what qualifies as an emergency. Stone said so he would like to know what the emergency was. Stone said he is going to go down a different path than that right now and that is respectfully Council members they did not elect them to run businesses and elected them to be legislators. Stone said they elected them to put in place law for the Tribe and not to operate the Enterprises of the Tribe and in fact that responsibility is assigned to the Ogema and in accordance with Council Resolution. Stone said there is a caveat Council can put in place subordinate committees or regulatory.....or regulatory committees or subordinate organizations but if they read \_\_\_\_\_ Law which is the defining law or definition of law of a subordinate organization that is a position lower in hierarchy. Stone said when they place Council members or Elected Officials on a Board that is called a subcommittee. Stone said in their Constitution it doesn't address subcommittees. Stone said the next point he will make on that is he would hope that every person that would be seated on this Board presumably if it passes would have the same Gaming License he is required to have as a primary Management Official. Stone said he noticed in the law it says they may put in place the Interim Oversight Board and in another place it says they can do it but basically it is Council's choice so they have an incomplete piece of legislation because it doesn't say what happens if they decide not to do that. Stone asked who sits there and are there Gaming Licenses required. Stone said the other thing he will say on this matter is this "this is going to be one of the most highly contested pieces of legislation that goes through this Council's Agenda in probably in their term." Stone said simply because there is a lot of people on both sides of this issue that have a vested interest in making sure that they have a level of security between politics and business. Stone said now he will remind them they are the parent body for the Gaming Commission, the regulatory body. Stone said they are the parent body for the Regulatory Body of the Gaming Commission and now they are going to place themselves in a position to oversee the operation. Stone said that is a Conflict of Interest. Stone said also in their law they have a Hold Over Provision that says that if Council members aren't.....or Elected Officials aren't re-elected they will be paid as Board members for a 60-day period and then it gives the option of a Hold Over after that so he will remind them this anywhere there could be potentially be personal gain for them and it is right in the piece of legislation they have in front of them it is a Conflict of Interest for them to vote on it. Stone said according to their Constitution any potential Conflict of

Interest has to be declared and if they don't disclose that Conflict of Interest and they vote on it and it is personal gain that is a removable offense for Elected Officials. Stone said he questions the Constitutionality of this action and he is not the courts and they are not the courts only the courts can decide Constitutionality of an action by this body and he questions it. Stone said it has to be challenged. Stone said if this passes today it has to be challenged. Stone said the Ogema has the responsibility from the Ogema's Office as the Executive Branch to challenge this piece of legislation because these are Separation of Powers issues that need to be addressed once and for all. Stone said they went through this with every Ogema they have ever had and Lee Sprague got removed over Separation of Powers issues and other issues but his point to that is it has never been posed before the courts the Constitutionality and where those Separation of Powers lie. Stone said it is not personal, he likes all of them, they may have their disagreements at times but the fact of the matter is they elected them to be legislators not business operators.

Speaker Johnson thanked Shannon Crampton. Johnson said he has in the queue yet Julie Wolfe, Acting Recorder Burger and asked if he missed anybody, Councilor Crampton okay.

Councilor Crampton said no, no, no.

Acting Recorder Burger said to the Speaker that he said "thank you Shannon."

Councilor Crampton said that is incorrect.

Speaker Johnson said he has Julie Wolfe and asked Councilor Crampton if he had his hand up. Johnson said he has Julie Wolfe and Councilor Burger. Johnson asked if he missed anybody else in the audience.

Julie Wolfe, Tribal #1062, said she too agrees with Ron Pete in this is a very essential and important piece of legislation that they are voting on but she thinks if quorum is here it is business as usual a lot of things have been in the same situation, maybe not to this magnitude or under the radar of certain people, but they have always operated with quorum that she is thinks is standard of practice that would be good implement. Wolfe said she agrees with some of what Israel Stone was saying but it is already in place that if a Board member is.....if there is a vacancy there is a 60-day Hold Over that they can be compensated just the same as what they are putting into place now. Wolfe said that is addressed in the legislation. Wolfe said some of the current Gaming Board of Directors Act is in this new replacement one that is exactly the same as what they have in place now. Wolfe said one thing she does think is that it gives greater oversight to the General Manager and he still has the same job responsibilities, day to day activities, as he currently has under this and all it puts is a new accountability or transparency in for membership through their government, through their Elected Body. Wolfe said let her see, she is getting a little bit lost because things are

going so fast. Wolfe said there was a public work session which she did attend and a lot of the questions that Israel Stone had were answered and she doesn't feel like she has the authority to answer them and is sure that Councilor Burger will. Wolfe said she thinks the legislators are doing their job and are not bringing forward something else other than legislation and that is their job and that is what they are doing. Wolfe said don't get into the word semantics because they did have that in the work session and she looked up on Merriam Webster's Learners Dictionary and the simple definition of an emergency is "unexpected or usual dangerous situation that calls for immediate action." Wolfe said she doesn't think that is refutable. Wolfe said the definition for kids for an emergency is "the unexpected situation that requires immediate action." Wolfe said with their legislators that is a form and process that it has an emergency in front of there and this is no different than the one that happened back in December when the Board of Directors Act had emergency adoptions to it to change the voting forum. Wolfe said this is no different than that so those are her inputs.

Speaker Johnson thanked Julie Wolfe and asked Councilor Crampton if he had his hand up.

Councilor Crampton said he will see what Councilor Burger says first.

Speaker Johnson said okay then Councilor Crampton is going to defer then.

Acting Recorder Burger said she was going to defer to Councilor Crampton but that is okay. Burger said first off a couple of things and this is an emergency adoption of amendments and not the calling of an emergency meeting so make some clarity on how the syntax and semantics of emergency is applied in this instance. Burger said these are amendments to an existing law and they are not a special meeting or an emergent meeting so they have the wherewithal and the authority under the Constitution and their Meetings Procedures Ordinance and Act to adopt and act on this matter and they do have a quorum. Burger said the other thing that she will say is she has served in a lot of capacities for the Tribal organization and the government. Burger said one of the capacities that she served in as the Tribal Manager put her in the middle of Government Operations and Enterprise Expenses. Burger said let her repeat that Government Operations and Enterprise Expenses. Burger said the Enterprise and its operation exists for the purpose of supporting the priorities of the government. Burger said when the priorities of the government over time cannot be addressed because the revenue is not being generated that becomes an emergent matter for this body. Burger said she reminds them that the Constitution puts and she quotes "the management of any funds within the exclusive control of the Little River Band and the power to appropriate these funds for the benefit of its members in the hands of the Tribal Council." Burger said the Enterprise revenue she believed fully qualifies under that particular portion of the Constitution. Burger said let her repeat that the Enterprise Funds are under the control and the management and the responsibility of their appropriation of this body. Burger said she takes that very seriously

because the people that elected her to sit on this body believed that she was going to help manage and grow services here at the government side of the house. Burger said the other thing she is going to say is that while it is very important for all of them to cast a vote they do conduct business by quorum and that is also provided for in the Constitution. Burger said it is very disappointing to her when individuals come in without a full understanding or having reviewed the full context of the body of the law. Burger said she is looking in the audience and she is seeing right now conservatively \$250 an hour in Enterprise Management Wages and Salaries sitting in this room and frankly this particular body of law doesn't touch their jobs it touches the General Manager's jobs. Burger said she fully supported this legislation because she has been watching the finances of the Enterprise for the last three and a half years in this capacity and in a previous capacity. Burger said she will say this it's on paper folks and the revenues are down and the expenses are up. Burger said guess what the bus isn't slowing down any on the expenses and she has a responsibility as a legislator to do something about that. Burger said this particular piece of legislation puts the onus of the Management at that Enterprise on, squarely on, the shoulders of the General Manager. Burger said they don't get to tell the General Manager what his job is he has a job to do and it is articulated in the law, read it. Burger said these are emergency measures which means they have to be in place for a minimum of 60 days and they go in effect today if it passes and they will be in place for 60 days. Burger said they will revisit them and will determine whether or not they need to be adopted and if they are adopted they will be implemented as permanent. Burger said to the Speaker with that she calls the question.

Speaker Johnson said to Councilor Burger that he doesn't believe she can call the question at this point because they don't have a motion yet.

Acting Recorder Burger said let's put the motion on the floor and thought that Councilor Lewis had put the motion on the floor.

Speaker Johnson said no.

Acting Recorder Burger said she will put the motion on the floor then.

Speaker Johnson said to Councilor Burger that she still has the floor and he can respect.....go ahead.

**MOVE TO APPROVE RESOLUTION #16-0810-228; EMERGENCY ADOPTION OF AMENDMENTS TO THE GAMING ENTERPRISE BOARD OF DIRECTORS ACT OF 2010, ORDINANCE #10-800-03, AND RENAMING THE ACT THE GAMING ENTERPRISE OVERSIGHT ACT; by Burger; supported by Crampton.**

Speaker Johnson said he has a lot of hands. Johnson said he has Ron Pete.....well as he said earlier he wanted to go through.....exhaust the list first then go

through it again. Johnson said he has Sandy Mezeske and the Ogema and asked if there was anybody that he missed.

Acting Recorder Burger said Councilor Crampton had his hand up after her.

Speaker Johnson said Councilor Crampton did say that he wanted.....okay he has Councilor Crampton, Sandy Mezeske, the Ogema, and.....okay Charmaine Stone and then Ron Pete. Johnson said okay to Councilor Crampton and that he had the floor.

Councilor Crampton said well the membership gets caught up in this "he said, she said" and stuff all the time and they never really get down to the brass tacks of it and what it really means to the membership. Crampton said the Ogema held a Budget Hearing and he is accepting or putting forth the same number they had last year. Crampton asked what does that mean. Crampton said that means that guarantees that there is no growth, no growth in that casino over there, none at all. Crampton said they are going to operate on the same as they did last year. Crampton said their Per Capita will go down and they will not be able to keep up all of their services going for the year. Crampton said they have to replenish them. Crampton reiterated no growth. Crampton said as Councilor Burger said the expenses over there are out of control and that is what affects their Per Capita and that is what affects service numbers over here. Crampton said while their services are going down, their Per Capita is going down, the expenses are not. Crampton said with that he calls the question.

Speaker Johnson said he can't argue the call the question. Johnson said the question has been called. Johnson said he is very disappointed though that the question was called and there hasn't anybody been.....or he has one, two, three people that haven't even been heard on this discussion.

Councilor Crampton said wait, wait, wait.

Speaker Johnson said Councilor Crampton!

Councilor Crampton said no.

Speaker Johnson said to Councilor Crampton he is running this meeting.....

Councilor Crampton said to Speaker Johnson that he is breaking the rules.

Speaker Johnson said he is explaining to the people.

Councilor Crampton said to Speaker Johnson that he is not allowed to because the question has been called.

Speaker Johnson said anyways, he is very disappointed but he has to honor that.....the question being called even though there are three other people who haven't even spoke yet on this item. Johnson said he cannot entertain those people the question has been called and asked Acting Recorder Burger to do a roll call.

#### Roll Call #12

J. Riley - Absent	J. Burger- Yes	F. Medacco- Absent
S. Crampton - Yes	G. DiPiazza- No	M. Wabindato -No
R. Wittenberg-Yes	V. Johnson - No	S. Lewis - Yes

Motion carried (4-3-0-2)

Acting Recorder Burger noted that the motion passes.

Speaker Johnson said he has still in the list in the queue Sandy Mezeske who exhausted.....left. Johnson said so he has the Ogema, Charmaine Stone, and Ron Pete. Johnson said he believed that Ron Pete left also. Johnson said to the Ogema that he had the floor.

Ogema Romanelli said he must say that action he is disappointed in when they talk about transparency he should think they would want to know what their membership has to say and there was very limited conservation and he knew this thing would pass. Romanelli said he has written a few notes and has taken some information, yes, the Executive Branch is the branch that has to oversee to make sure that there is money enough to provide the services that are enacted by the Tribal Council. Romanelli said that money mainly comes from this Resort so he is very much in tune of what should be happening and what needs to happen. Romanelli said he absolutely agree that there are issues at the Resort and with the Board of Directors that need to be looked at. Romanelli said having said that he is very concerned with the timing of this, with the speed in which this is happening, and with the process. Romanelli said when he says the process his concern is that this Legal Department of this government was not fully informed of what was going on and when they talk about transparency that is a big issue for him. Romanelli said he also believed that there are some concerns with having Gaming Licenses which he has expressed from day one. Romanelli said anybody that they hold top level Management accountable to when they are going to be the overseers they absolutely should have Gaming Licenses. Romanelli said he thinks that they continually down grade those things, those responsibilities, those accountabilities, and those needs of people that are going to be overseeing a multi-million dollar project, Enterprise. Romanelli said he believed that in his opinion and this has been discussed time and again within their Constitution the Constitution says to \_\_\_\_\_ that the Ogema is to manage the economic affairs, Enterprises, property, both real and personal, and other interests of the Tribe consistent with, and this is where people get it a little off track, consistence.....consistent with the ordinances and resolutions enacted by Tribal

Council. Romanelli said Tribal Council just enacted it so they give him his directive as to how much power he should have and could have. Romanelli said he still believes sometimes that this may be a usurping of the Ogema's authority in the fact that he believed that as the leader, as the Chief of this Tribe, the Ogema, not him, the Ogema should have broad oversight of these things because the Executive Branch is the one that has to follow the directives of the Tribal Council. Romanelli said if he sees something wrong he should absolutely have that power and it shouldn't be diluted or taken away and in this case, when they are talking about an oversight, or putting, even if the Ogema is involved, there is a disillusion, and a serious disillusion of the Ogema's power, he believes that. Romanelli said he....it has been recently told to him that when they are talking about two wolves and a lamb going.....making decisions on what they are going to have for dinner that's a position that he really believed that he is put in many times. Romanelli said if they say that this Oversight Committee will have any number of Council members and one Ogema what do they think his chances of his vote going forward can be if they disagree and that is always a problem that they have. Romanelli said so he has a problem with that. Romanelli said he thinks that when the 2010 Act was enacted it was supposed to take care of these problems but what was told to him was they have to have Elected Officials sitting on that Board to get better transparency to get better communication, to get more information back to their....them as Elected Officials. Romanelli asked what happened that was supposed to take care of it and then there were additional amendments that were made to the 2010 Act which was again supposed to take care of it. Romanelli asked why are they in the situation that they say they are in. Romanelli said the problem he thinks is what always happens in this Tribe is they can make the rules and make the rules and make the rules but there is no follow through on accountability. Romanelli said people want accountability that is part of it. Romanelli said the Council, in his opinion, and correct him if he is wrong, when they took of the Chain of Command, they have a group of people over there, the employees, are overseen by the General Manager of the Resort. Romanelli said that oversight has been the Board of Directors that oversees the General Manager, to hire to fire, and to have oversight. Romanelli said that Board of Directors is created by a commission or committee or a Board which the Constitution gives to Tribal Council the ability to do to create a Board, committee, to oversee the administration.....let him see where he is.....excuse him, the Council has the ability to create by ordinance regulatory commissions or subordinate organizations to delegate such organizations the power to manage the affairs and the enterprises of the Little River Band provided that those commissions or subordinate organizations shall exercise powers of the Tribal Council unless they are expressly delegated by the Tribal Council. Romanelli said what that says to him is that the Tribal Council still has the ability to oversee the Board of Directors if they see a problem they already had this. Romanelli said they already had this and they are doing anything other than shaking it up again. Romanelli said he has a concern, he has a concern, that he will be that lamb at the table with a couple of wolves saying what are they going to have for dinner. Romanelli said that puts him in a very bad spot and they

should not have the Ogema sitting on a Board, and that is why he has objected over the years, to a subordinate organization that is subordinate to the Council.....Ogema himself. Romanelli said that is a Conflict of Interest in so many ways. Romanelli said he can tell them that in the past they keep talking about transparency and the transparency didn't happen when they exclude their Legal Department when they are not aware of what is going on. Romanelli said in part some of this was excluded from the Ogema, some of the information recently. Romanelli said he also knows that in the past he asked the Tribal Council, he asked the Board, and he also asked the Gaming Commission to address key issues that he had. Romanelli said \_\_\_\_ key problems with that Resort with no solid answers. Romanelli said that is a problem. Romanelli reiterated that is a problem folks. Romanelli said so if he gets in there and he asks a question, a serious question, as a leader of this Tribe, and he is not getting a sufficient answer from the Board of Directors, yes, they have problems with the Board he will admit that. Romanelli said they have problems with their financial part too, and he is going to conclude this because he thinks he is close to his five minutes, but he wants to let them know that he has serious issues with this and he has asked for a challenge from their Legal Department as well.

Speaker Johnson said he has in the queue.....

Ogema Romanelli said he has asked for an opinion.

Speaker Johnson reiterated that he has in the queue Charmaine Stone, himself, Ron Pete, Julie Wolfe, Councilors Di Piazza and Crampton. Johnson asked if anybody that he had missed. Johnson called up Charmaine Stone.

Charmaine Stone, Tribal #2977, said to Councilor Burger that she guessed she probably only has one question with all due respect. Stone said she understands that she feels that they are over here when they should be working. Stone said she don't look at one Executive there that puts in a 40 hour week so just for the record it's not like they are 40 hour a week employees and, gosh, she herself was there until 8:00 o'clock last night and the day before she was there until 10:00 o'clock. Stone said there is not one Director sitting around there that doesn't have a right to be here, that doesn't have a right to be here as a Tribal member. Stone said her question to her is this they now have a Tribal Ogema, a Tribal General Manager, and so she has a question for all the Council members who voted yes for this. Stone asked where is the lack of respect in the opportunity for people to change what they feel is wrong. Stone asked where the respect was for the Board of Directors where they sat down with them and said "listen we are giving you a timeline, we are giving you a timeline to fix this. Stone asked isn't that what they expect them to do for their employees. Stone said they expect them to sit down with them and say "hey you're missing up and you need to fix this." Stone asked why didn't they do the same thing for their Council or Board of Directors and how come they didn't do the same thing for the General Manager. Stone asked if any of them can answer that.

Acting Recorder Burger said yes, she would be happy to answer that. Burger said to Charmaine Stone that she is glad that she asked that question.....

Speaker Johnson said ah.....

Acting Recorder Burger said to Speaker Johnson that she asked a question of the Council and she is ready to.....

Speaker Johnson said he doesn't want to get into a discussion at this point because.....the clock.....

*The people in the audience protested this.*

Speaker Johnson said they will get the point.....go ahead.

Acting Recorder Burger thanked Speaker Johnson.

Charmaine Stone also thanked Speaker Johnson.

Acting Recorder Burger said just a couple of things and first thing....and she is glad that Charmaine Stone brought up the fact that none of the Executive Director Personnel.....and didn't Speaker Johnson want her to put this on.....none of the Executive Director Personnel put in a 40 hour work week if they often exceed that work schedule and she is very happy to hear that because one of the responsibilities being on Tribal Council is to have evaluations and assessments and audits completed on the Enterprise's and the entities that they touch. Burger said they have done that and they have some concerns in some of those findings and those were shared with the Board of Directors. Burger said in answer to Charmaine Stone's question this particular piece of legislation has been in the cooker since last November and there is nothing new here. Burger said these discussions have been on-going. Burger said they have had on-going discussions with the Board of Directors, quite frankly, they have had very tough on-going discussions with the Board of Directors with suggestions, directives, and what they seem to find out is when the Board of Directors fails to act is that they fail to act because they have forgotten their fiduciary responsibility which is the protection of the government. Burger said the Board of Directors Act puts them in place in the interest of the government however there seems to be confusion about that and over the past several months it has become very clear to them, those of them especially that voted yes on this measure, that they have been acting in the best interest of the Enterprise. Burger said when she says that she doesn't say that isn't appropriate however when the government has responsibilities to its members and the Enterprise is not performing to meet those responsibilities and the Board of Directors fails to take the directive of its governing authority, this body, then something needs to happen. Burger said so in November when they started really looking at the trending data and no one can argue with the trending

data, it's in black and white, and in the Financial Reports in particular. Burger said when they started looking at the trending data it became very apparent that something had to happen so they took a look at the Act and tried to make the Act in particular these emergency amendments as unobtrusive to the Enterprise as possible to give the Enterprise Personnel, the General Manager and its Management Team, the opportunity to make the necessary changes to write the bus as it were and perform at a better level for the benefit of the government. Burger said that is what they did.

Charmaine Stone said okay.....

Acting Recorder Burger said let her finish.

Charmaine Stone apologized.

Acting Recorder Burger said one more thing before.....then she will let Charmaine Stone continue. Burger said the other part of that equation is that they have a Budget next year and she is glad that the Ogema's expressed his somewhat displeasure and concerns over this.....they have a Budget next year a Budget Projection that puts them at the same Budget Projection as this year. Burger said they are not going to make that Budget Projection this year unless some drastic measures happen at the Enterprise. Burger said they are now into August and the disbursement to the government is lagging nearly \$2 million in revenue. Burger said that impacts how they provide services and that is a fact. Burger said next year they have a loan to repay and a \$26.7 million Projected Disbursement again to the government now for those of them that may or may not be from the area she attended a little school east of here called Breathen High School and they had simple math there. Burger said \$26.7 and they have a \$5 million payment that leaves them \$21.7 to operate the government.

Charmaine Stone said she thinks Councilor Burger answered her question but can she finish her time up there. Stone said so she answered her question but if she didn't see results did she then go back and say "hey, what are you guys doing and what you going to do" because little do they know that that man sitting right there has been busting his butt.....

Acting Recorder Burger said to Charmaine Stone that she just wanted to tell her.....

Charmaine Stone went on to say.....making sure that every single Director is looking at every single Line Item in their Budget, making sure that they are managing their people properly. Stone said this is what their entire focus has been recently it seems like that is all that they are worried about is making sure that they meet their Budget in order to make sure that things like this do not occur but in the meantime again, they have a General Manager there who is a Tribal citizen, who is an Elder, who is busting his butt to make sure that this Resort is

successful and so she is a little bit, a little bit just kind of just put back by their....their one comment about the fact that they might not know. Stone said she is not in politics and she is not going to stand up there and act like she knows politics. Stone said she is a business woman and not in politics. Stone said she is not going to try and act like she knows. Stone asked does she know how to manage a Budget, heck yes she does. Stone asked does she know how to do cut backs when she is told to do cut backs, heck yes she does. Stone asked will she ever know this political stuff, she really doesn't want to know, she doesn't really want to know because that's not, that's not her thing. Stone said she don't intend to act like she knows anything about politics but all she can tell them is that man right there is doing everything in his power to make sure they are successful. Stone said she will end there and thanked them.

Acting Recorder Burger said she just wanted to follow-up to Charmaine Stone's comment because she wants her to very much understand.....

Speaker Johnson said to Councilor Burger he is going to put her in the queue.....

Acting Recorder Burger said that this.....

Speaker Johnson said to Councilor Burger he will put her in the queue then she can finish.....

Acting Recorder Burger said address the Board of Directors.

Speaker Johnson said to Councilor Burger that they are getting into a discussion and these are comments and not discussions and he would rather put her in the queue and she can respond at that point.

Charmaine Stone thanked them for their time.

Speaker Johnson said they have a lot of people in the queue here. Johnson said they have himself, Ron Pete, Julie Wolfe, Councilors Di Piazza and Crampton, Jake Kequom, Diane Lonn, Councilor Lewis, Councilor Burger.

Acting Recorder Burger said they have Janine Sam standing there.

Speaker Johnson said he has Janine Sam too. Johnson said one of the things and he is going to try to be brief on this is that when they walk through that lobby they will see the four....five....seven teachings up there. Johnson said one of them is respect and he saw the action that happened here, in his opinion, it was a lack of respect to their membership. Johnson said the reason why he says that is that he had three Tribal members who wanted to share their views on this issue that were not given a chance to talk because of the action taken by Council. Johnson said they were given.....and they were not heard yet and their teachings say as Elected Officials they are supposed to be here to listen to their membership on issues.

Johnson said they give everybody a chance to talk once and when they don't do that shame on them. Johnson said they are not being respectful to their membership. Johnson said they heard a strong "no" from him and that was the reason why. Johnson said he was walking the fence on this issue and he didn't know which way he wanted to go. Johnson said he wanted to listen to the words of the people out here and see what they felt but when that action was taking place it just set him in the other direction. Johnson apologized and said they are better people than that he knows they are. Johnson said now he is going to go on and add a little more to this. Johnson said they had a meeting with the Board last Friday and Councilor Crampton was not there. Johnson said they had a meeting on the Financial Reports from the Board.....from the Coun....from the Resort yesterday and they had two people missing from that one.....three. Johnson said they were Councilors Di Piazza, Crampton and Medacco. Johnson said Councilor Medacco was on business in Mt. Pleasant. Johnson said he is saying this is a very important issue and they have to listen to every opportunity they get on these issues so they make sure they make sound decisions. Johnson said when they start avoiding to have discussions shame on them they have to be there and if they can't be there they should communicate why they can't be there so everybody in the room fully understands it. Johnson said these are critical times and it is important that they are all there. Johnson said when he saw there.....when he saw what would happen there in that discussion or lack of people being there especially key people to hear the words of other people to him it gets back to what's out there in that hallway about that respect and that wisdom. Johnson reiterated in that wisdom because that is how they learn when they close their mouth and listen that is when they start learning. Johnson said it is very important. Johnson said with that said he is going to turn this over now to the rest of the people. Johnson said he has.....what he is going to do they are going to go through this one time only because they are not going to sit here and go through over and over. Johnson said they have five minutes to state their piece because the action has already been taken and there is no changing that. Johnson said with that said he have Ron Pete, Julie Wolfe, Councilor Di Piazza, Councilor Crampton, Jake Kequom, Diane Lonn, Councilor Lewis, Councilor Burger and Janine Sam. Johnson asked if he missed anybody, any Tribal member. Johnson said Ron Pete and he got Ron Pete down didn't he. Johnson said no he didn't but he has him now.

Ron Pete, Tribal #4158, said okay so this is comment time and he is going to comment and he raised his hand again and for one reason only but Charmaine Stone already did something to address that but he is going to address it as the General Manager. Pete said he is going to say the same thing that another colleague that this isn't about like or who likes whatever its about but when he has a person on Council that takes a shot at his Management Team for being here because of what.....he knows one thing they are short Housekeepers at the Resort, and it is comment time right, he knows.....

Speaker Johnson said Ron Pete.....

Ron Pete said wait a minute his Director and here.....

Speaker Johnson said to Ron Pete that he is trying to stay on the issue.....

Ron Pete said on the issue of this okay then would he also let his Council know not to take shots at his people. Pete said he doesn't care if they take them at him.....he is a.....the way that he stands right now and the way he sees this legislation is going his contract is done in December and they can take all the shots at him they want to and it sounds like they are taking shots at the GM that he is not doing.....if he is not doing his job then they should tell him. Pete said he is okay with that and is 67 years old and he knows where the Social Security Office is and it is not all that bad but he will tell them this if he is not doing his job because this is where this is they are trying to do their job. Pete said he didn't build Gun Lake and he didn't build the two satellite ca...ca....casinos that Four Winds has and he didn't build Fire Keepers and he didn't build the other new casino in Saginaw that the.....Mt. Pleasant.....he can't even think of their name.....that they have. Pete said he didn't bring.....and they know what when this thing started years ago he remembers standing in front of a different Council at that time and remember one of the people that is here, Janine Sam was on that Council and he said the thing of it is this pie isn't growing in Michigan. Pete said there is not two pies now in Michigan and it is the same pie only it continues to shrink and unfortunately they know.....he wants them to know.....he wants Virgil Johnson to know that they are doing everything that they can. Pete said he didn't know that this construction was going to take five months overrun from different promises that they made with them. Pete said they were held at some mercy at some certain things too but they are doing everything they can. Pete said they meet every single week....twice a week and if a Director can't make a meeting in theirs they make them send their Manager or a Call In. Pete said they are all represented at every one of their meetings and no one misses a meeting. Pete said they are not allowed to. Pete said to Speaker Johnson they need to know what is going on and he does know this and he looks at these people over here and he is going to tell them what he knows for a fact and then he is done so he doesn't have to admonish him.....he knows for a fact that every one of these Managers and every one of these Directors work far more hours than the people he is looking at right now. Pete thanked them.

Speaker Johnson said no applause please, don't applaud. Johnson said he has Julie Wolfe, Councilor Di Piazza, Councilor Crampton, Jake Kequom, Diane Lonn, Councilor Lewis, Councilor Burger, Janine Sam and Councilor Wittenberg.

Julie Wolfe, Tribal #1062, said she just.....her question is kind of.....or.....maybe they have been answered and they haven't but how many Tribal members, and they probably can't answer anyway because she is addressing the Board, are in this room on their own time. Wolfe said not being paid to be over there because each one comes up here and represents and they say

they are Tribal member “\_\_\_”, Tribal #\_\_\_. Wolfe said they don’t come up here and say they are Hotel Manager or the General Manager he.....so she just wants that clear. Wolfe asked what are they representing here are they representing the membership or are they representing their positions. Wolfe said also what they changed in this ordinance and this law does not change day to day operations or activities. Wolfe said they are questioning.....she believed from what she understood and followed through this that they are not questioning their ability to do their jobs or not do their job. Wolfe said it got questioned to their Council, to their leaders, are they doing their job, and are they making laws but it is not a day to day question of what they are doing or not doing. Wolfe said the numbers are there she went to the public Budget Meeting and she didn’t see this many Tribal members there, projected numbers, they are ½ million dollars behind and there are still two things under here that need to be funded that are not in here and they just applied for seven grants for them. Wolfe said she can’t understand why there is so much conflict over showing authority and she wants to thank her Council and elected body that they did take some of this serious and look at it and said “this is an emergency.” Wolfe said a ¼ million dollars short and two programs that were diligently trying to bring to the community aren’t listed in this Budget or funded yet. Wolfe said they are doing a great job looking at this law and with emergency on there that means it is a work in progress, no it is not posted for public comment for 30 days, but it is not adopted in its entirety either and is in place for something in laws and restrictions and authority of what the Council may have what the Ogema’s duties are but it is not about the General Manager, the Front Line Employees. Wolfe said this law changes the Board of Directors nothing else at the casino but the Board of Directors.

Speaker Johnson said he has Councilor Di Piazza, Councilor Crampton, Jake Kequom, Diane Lonn, Councilor Lewis, Councilor Burger and Janine Sam.

Councilor Di Piazza asked if his time started.

Speaker Johnson confirmed that it had.

Councilor Di Piazza said there is a couple of things that he seen was a dilemma. Di Piazza said one was absolutely they by passed their Unified Legal Department which there is an ordinance that states that the Unified Legal will do legal or direct it which is a dilemma because they went outside and that is why he voted no on something earlier also. Di Piazza said it cost them money to do that. Di Piazza said they have three Unified Legal people and if they are not qualified to do that that is a shame. Di Piazza said also a lot of it was kept secret from them and also the BOD of what was transpiring and yeah, there was a meeting last week with the.....or Friday with the BOD and nothing was discussed not even that this was going to be on the agenda. Di Piazza said everybody sat in that room and didn’t even say that Friday that this was going to be on the agenda so a lot of it was in his.....he is not happy a lot of it was probably done kind of in closed.....behind closed doors. Di Piazza said he gets here extremely early in

the morning for two reasons. Di Piazza said one.....most probably don't even know how many pages are in a spreadsheet and there is about 127.

Acting Recorder Burger said in the Financials.

Councilor Di Piazza said in the Financials so being here.....there is a lot more to it than what some are speculating and yeah, there is some other cost saving measures that could probably could be done all over the place. Di Piazza said just electricity alone across the street they are almost \$2 million and asked if anybody addressed that, thought about it, no. Di Piazza said this building \$150,000 just in electricity and what about all of their other components. Di Piazza asked if anybody has thought about that some have, but then again he is an Anishinaabe so he will be skirted off to the side. Di Piazza said if he wasn't they would all be tripping over themselves over something but.....and there was a plan for some cost savings that if he is not mistaken people had said they had a certain timeframe and that timeframe wasn't even allowed to happen. Di Piazza said he is done.

Speaker Johnson said to Councilor Crampton that he had the floor.

Councilor Crampton said oh, okay, why he is so glad that he brought the wall out there because one of those things on the wall is truth, one of their teachings, and he just went through some of the meeting minutes that they had from their Council Meetings and there has been several instances where the question had been called and the Speaker has not made such a fuss but only said that he will pick up the people after comment. Crampton said so that is really not an issue and he doesn't know why it is being so pretentiously blown up today, well actually he does. Crampton said there is nothing in this law that.....that usurps any kind of authority from the Ogema and in fact if they look at the minutes of 2005 January they will go back and see the Ogema protesting the Council taking away authority from him for the BOD and they will see a very eloquent argument put forth by one of the Council members on how they are able to do that. Crampton said it seems to be the same person that just stood up there and said they can't. Crampton said he don't know why they are being so pretentious up here but he knows that in the end this is the right thing to do and the truth will come out and then he wants all the members to remember what was said here today by who because there is some information that they are all privy to that is going to come out that will let them know how up there is being pretentious and who is really looking out for the membership.

Jake Kequom, Tribal #4284, some of his questions were already answered but he just got a copy of the Budget Hearing but with the decision made on that he is not going to disagree or agree with it. Kequom said what he is going to ask for is for Council to put their information in the newspaper so all members can see it. Kequom said to make sure that everybody is informed why they made the decision is because a lot of things are hidden so now if they open them up then it

is going to make for more pleased members because they know their Council is on their side and the ones who said no it is their decision though too. Kequom said everybody is entitled to their opinion. Kequom said that is all and thanked them.

Speaker Johnson said he has Diane Lonn.

Diane Lonn, Tribal #0194, said she is the Enrollment Director but they are allowed as Directors to be there. Lonn said she doesn't have a lot to say except that she feels bad that that passed so fast. Lonn said to her it was like a set up that get it through and don't let the ones out in the audience have a say and that is sad. Lonn said as far as the Unified Legal she sat here in numerous meetings and it is always said that the Ogema and the Council were together but it seems like this was passed with no one knowing what was going on so they are back to stage one where they are doing things under the covers if they wanted to say. Lonn said as far as what money they make she has no problem with that because she does not see all Council here every single day and they make quite a bit of money as well so don't sit there and criticize other people and look at themselves because she is there at seven in the morning and she is here late at night and she does not see a lot them here every day. Lonn said she as an Elder and feels so bad that they can't get along. Lonn said it is sad that this stuff should have been put out whether it be the paper, the Rapid River or somewhere in a big meeting so every Tribal member could have their say on what is going on. Lonn said she has worked for five of those General Managers for five years.....that she worked for five of them and they try hard to bring people in. Lonn said she used to sit at the meetings with them and they would strategized on how to bring them in because they knew all these other casinos were coming in. Lonn said it isn't something new and it is just that they added more casinos and if they have been on that side then they understand where they are coming from and she sits on this side so she also understands what is happening with their Budget here but it is just dividing them even more. Lonn said that as a Tribal Elder she is disappointed in both sides that they can't sit together and get together and do the right thing.

Speaker Johnson thanked Councilor Burger for being patient with him.

Councilor Burger said it is not a problem and will give herself her five minutes.

Councilor Lewis asked Recorder Burger if she was after her.

Acting Recorder Burger asked Councilor Lewis if she was in the queue. Burger said to the Speaker that Councilor Lewis wanted in the queue.

Speaker Johnson apologized and that he had Councilor Lewis then Councilor Burger.

Councilor Lewis said she says this with all respect to all her people. Lewis said this is not about power but is about being transparent to their Tribal members financially. Lewis said it is a very simple thing and she don't understand how something simple can be twisted so much because they are being honest. Lewis said they are bringing it to the table for their Tribal members so they are.....can see where their dollars are going. Lewis said she has nothing to hide and that is her truth.

Speaker Johnson said now they have Councilor Burger.

Acting Recorder Burger said she is glad that they are having a pretty well rounded discussion because she does want to address the issue of transparency in particular and is glad that Councilor Lewis had brought it up. **Burger said again she is going to state again for the record that this particular piece of legislation has been in the hopper since November and if her memory serves her correctly 2015.** Burger said one of the things that they have to look at when they are on Tribal Council is they have to look at the Financial Reports, all 127 pages of the spreadsheet and some of them take them home and highlight them and some of them review the broad sheet and get a response and analysis out of their Chief Financial Officer. Burger said there were just some things that jump out and glare on those sheets. Burger said salaries & wages and costs overruns in the health.....in healthcare and benefit structures. Burger said when they are looking at a million dollars in costs.....million dollars costs overruns in some lines that becomes a problem. Burger said she doesn't care how they slice the pie this is not new and started looking at that in November of last year because they had the same issues happening last year. **Burger said so let's talk about transparency as it relates to the Unified Legal Department.** Burger said they held these meetings and these meetings were on their agenda and they were on their.....in a.....certain individuals were appraised of those meetings and did not attend, it's true, including the Tribal Ogema. Burger said the Unified Legal Department in a discussion with the Tribal Council it was determined that they would exceed.....would seek an outside Counsel for one reason and one reason only to protect the interest of the Muskegon Project. Burger said they didn't do this willy-nilly and just go grab somebody off the street they got some advice about this particular piece of legislation from a very interested Counsel that wants to protect their interest and the development of that project. Burger said that's not new and not unknown and pretty straight up front. Burger asked did the Unified Legal offer an opinion, no, frankly they weren't asked to because they looked at this with regard to that project and one other thing, the covenants with the loan that they have on the \$18 million loan that this government authorized for the benefit of the Enterprise to upgrade it. Burger said they have a loan covenant...covenants kids and she is not saying that in a condescending way. Burger said that is the responsibility of this office to protect the government's interest. Burger said the Board of Directors was notified regarding issues and they have been notified regarding issues right along. Burger said she, herself, had a discussion, one of the colleagues in their Legal Department was in the room at

the time with the Board of Directors regarding a review that they had put in place and the issues that were brought up in that review. Burger said the Board was fully apprised of it, the Board members that were in attendance that is, and they did ask them to come back with a corrective plan or they did ask them to come back with a plan and she for one was very disappointed in the document they received. Burger said at the end of the day there are some things that are going to be changed with this legislation. Burger said the hiring of the General Manager, the Board does it now, and it is going to be a joint effort of the Council and the Ogema as it should be. Burger said goals for the Gaming Enterprise that should rest in the wheelhouse of the Tribal Council and that is what the Board's Act says now and that is what it says going forward and the Task Force is going to have a hand in it going forward. Burger said Operating Plan and Annual Budget who has that authority today to approve it, the Tribal Council, and who is going to do it in the future the Tribal Council. Burger asked how is that going to happen it is going to happen through the Task Force with the Tribal Council in the future. Burger said Performance Evaluations with respect to the Enterprise Board of Directors did that before now it is going to sit on the wheelhouse of the Tribal Council and the Ogema and that is going to become the Task Force's responsibility. Burger said so she suggests that they pick this sheet up and take a look at it to see where the authorities rest because it is not going to be here, not anything that is outside this particular document, and she gets a little frustrated when they start talking about the Seven Grandfather Teachings because one of those teachings is Truth, Debwewin, and she takes that very seriously because she has a responsibility to the people just like everybody else sitting up here does.

Janine Sam, Tribal #0150, said not much has changed because everybody is still taking shots at everybody and she just wants them to know that when she was on Council people took shots then too and what is really unfortunate is the attacking of Council members amongst each other. Sam apologized and said but that hasn't stopped yet. Sam said when she was first hired into Tribal Government the very first task assigned to her by her Director was review for Staff Reductions. Sam said she was hired in 2014 and there were 25 positions on the list and the goal was to reduce the staff due to the lack of revenue, heads that was on the list. Sam said fortunately HR Department and Finance Department worked together and came up with other options so they were able to preserve those jobs, preserve those jobs and not add new ones, preserve. Sam said also the next assignment she was given was to go to the Board of Directors in December of 2014 because they had done an analysis under the Blue Cross and Blue Shield and all of the Claims Histories that they were brought. Sam said Councilor Di Piazza was there and a couple of other Council members may have been there, the Ogema was there, and she warned the Board repeatedly that their health overruns were going to happen in the healthcare. Sam said she gave them numbers specifically and Steve Wheeler was there with her. Sam said the GM at the time didn't really care to hear about it and basically said in that meeting that is a government issue because it is just going to have to be paid for by the government along those lines but her point is she had the figures and she went there and told them. Sam said the changes that

they had made in the healthcare and the changes that they were doing increasing the stop loss was not going to save money in the long run because they had five claims pending that were major health issues. Sam said when they up their stop loss that means they increase their own personal exposure to paying those bills when they are a self-funded company. Sam said she pointed that out, nobody listened, and she thinks that is what they have going on here now. Sam said everybody is arguing but nobody's listening. Sam said she also has to say that wasn't very fun for her first experience as an employee here to get handed those two big things and even worse to be ignored at the Board level like she didn't know what she was talking about even though she had a stack of papers with her to prove it. Sam said today realistically the same assessment that she talked about with the positions hasn't stopped for their HR Department. Sam said her department very acutely sees functions of governments that are not being addressed for a variety of reasons. Sam said they were only recently able to start correcting wage grids here in the past year or so and she is happy to report right now to this Tribal Council that for the first time in the history of the Tribe they are about to be fully staffed in the Health Clinic Operations and fully staffed in the Family Services Operations before the end of this year. Sam said think about that for a minute and let that sink in. Sam repeated that they are about to be fully staffed because she used to sit where they sit and know how long they have been waiting to do that and she is not talking about expanding services, by the way, she is talking about the basic needs of their people, they are finally going to be staffed in 2016 to address the basic needs of their people. Sam said the trick is going to be moving forward to make sure they have enough revenues to sustain all the hires they just made. Sam reiterated that is the trick of it. Sam said she knows that many people have comments and opinions and hers is only one however she wanted to point out to Council one very critical issue. Sam said she hears a lot about business, the needs of the business, business decisions, in fact this Tribe has invested a great deal of money in that business over time. Sam said the government paid off its entire debt. Sam said over time the Enterprise has been able to add new departments and they have been able to address customer service to the clients and knows many people who work there personally and she loves some of them dearly. Sam said the casino has been able to expand and for that she is grateful but they are not able to say that about the government. Sam said as they review the services on the government side they see the Education Programs have actually been reduced over time from what they once were when she first wrote them. Sam said there have been very few new initiatives being brought forward and even as they are the worries and the longevity about being able to keep that initiative in place due to funding concerns. Sam said as she said their Clinic and Family Services Departments are just now becoming fully staffed for basic services but without sustainable revenue streams they can't guarantee they are even going to be able to keep the minimum level in place and think about that for a minute, it is 2016, and they are now just getting to the minimum for government services for their people in those two areas. Sam said if that is not shocking to somebody it should be it is not enough for them but it is a

competition. Sam said their decisions affect the entire membership. Sam thanked them for their time.

Speaker Johnson said he has Elaine Porter.

Councilor Crampton asked if he was after Elaine Porter.

Speaker Johnson said no, he has Julie Wolfe then him. Johnson said he thinks he saw Austen Brauker.

Elaine Porter said she really doesn't know where to start but thank you for allowing her to come up here and speak. Porter said this morning when she left to come over here she didn't know if she was ready to say goodbye or what. Porter said she would have appreciated a little bit of notice and they could have let them know Tuesday where they were going. Porter said it wouldn't have mattered because it is the same difference. Porter said they let her and their staff make plans and working on reducing the Budget to bare bones and three days later told them they don't need to bother because it is gone. Porter said she is going to tell what they are doing she doesn't think that is exactly fair on them when they expect the same from them too. Porter said as far as the Board of Directors go that is fine and is glad that they would be able to do it but what education is sitting there to take care of it and where are they going to find these people that is not Council that is going to do it. Porter asked if they are going to have to pass a background check as everybody else does and that is in their plans. Porter said they have a very capable staff over there whether they want to realize it or not and the shortfall they are talking about every casino has had that shortfall due to economy reasons not necessarily the structure or whatever. Porter said it is not the building it is economy that cut that Budget down or the money coming in down. Porter said they can't pull in people and tell them they got to spend this much monies because they need to make this much money today. Porter said they got more things to think about and the ones who want to play they need encour.....an extra little bit every once in a while to keep coming back. Porter said they have people coming back there and they don't know who she is and she sits out there and talks to them. Porter said they come back because they like Little River because of the staff they have over there. Porter said it is not legislatively things but it is the people they have working over there that gets that Budget going or deleted whichever way they want to look at it. Porter said they can look at it as a cup half full or is it half empty. Porter said she just wanted to say they have very great people working for them and as far as the Board of Directors that will give her some free time that she can play in her own casino which she cannot do today. Porter said they will win a little bit more money coming through the cash flow because she has to, right now, give it to their cousins up north. Porter said she guesses that is all she wants to say but thinks that is all she better say. Porter thanked them.

Speaker Johnson said he has Julie Wolfe, Councilor Crampton, Austen Brauker and it is getting close to 12:00 and if they can't finish up then they will reconvene at 1:15 to continue on.

Councilor Wabindato said to the Speaker Tommy Guenthardt.

Speaker Johnson said Tommy Guenthardt and he didn't see him, okay.

Ogema Romanelli said the Ogema if he can.

Councilor Wabindato said the Ogema.

Speaker Johnson said they are going to come back after 12:00 because they are going to break for lunch and come back and finish up.

Julie Wolfe, Tribal #1062, said in her professional life where she works the biggest thing for people to overcome or understand is change and she thinks that is what a lot of them is feeling and they are wearing it out there on their heart sleeve. Wolfe said they don't want the change, good or bad or otherwise, let's try something different because what they have in place now is not working. Wolfe said change has to happen for new growth change has to happen to continue and develop new things and try new things. Wolfe said this Board's been in place since 2010 they have put amendments and put resolutions and changed different things. Wolfe said they have never had this much, in her opinion, conflict of it but change has to happen. Wolfe said that is why they have changed some of the Council members that were sitting there. Wolfe said that is why they might change the Ogema when he is up for election next time. Wolfe reiterated change has to happen and it is simple. Wolfe said they don't agree with it and that's where it comes out on their heart sleeve that change because they don't like it so they want to be up there and say these Seven Grandfathers and this teaching. Wolfe asked where is the humility in getting up there and slapping their hand and yelling and raising their voice and voting as loud as they can. Wolfe asked where the humility is in that. Wolfe said there is not one teaching there's seven teachings but actually there is 14 teachings. Wolfe said her mentor told her that they have Seven Grandfather Teachings and they have Seven Rascal Teachings and she thinks a lot that is what is coming out in this room is those Rascal Teachings but not those Seven Grandfathers so change has to happen. Wolfe said they are not all going to agree. Wolfe said they didn't all agree with the timeclock that the Ogema installed but they are all still here and they are all using it. Wolfe said they know there is a lot of conflict in things that they don't agree with but they accept and continue to do their jobs and put their best forward foot forward and give the things that they want for their people. Wolfe said it's not the government and the casino it is Tribal membership and she doesn't think anything that she read with this passage or with this ordinance as it is wrote is in conflict with providing for the general welfare of the Tribal members and that is what she

elected these people to do and that is what they are doing so she again, 100% support of it.

Councilor Crampton said well he is glad that Julie Wolfe brought up change because they have been.....had this Board of Directors for more than 2010 but has been since 2005. **Crampton said it has been a battle the whole way.** Crampton said this was not brought up overnight, in fact, when this was first brought up it was last year. Crampton said he was asked at that time by the GM who invited him to go over and meet with him and it was a very cordial meeting to give him some time to rectify the issue. Crampton said he believed he asked for two months. Crampton said that was over a year ago and he has allowed this to go on for over a year before putting this before the Council. Crampton said the definition of insanity is doing the same thing over and over again and expecting a different outcome. Crampton said that is the definition of insanity. Crampton said he sits up here today and is really embarrassed by some of the comments that he has heard coming from the Elected Officials and he has no worry that the membership will find out what he is doing is right. **Crampton said time reveals all truths and there is some information that is going to come out very soon and he wants them to remember this date 8/10/16 go back and look at these minutes** when that information comes out review who said what because they all knew this information before they made those statements. Crampton said they all knew that information. Crampton said when they find it out go back and look at those Seven Teachings again, Truth and Humility, and they are going to find out. Crampton said he really doesn't want to go down that road because he thinks that is the kind of person he is. **Crampton said all he is going to say is "thank you" to those who voted yes because they are truly looking out for the membership and the membership will find that out very soon.**

Speaker Johnson said he has Austen Brauker, Tom Guenthardt and the Ogema. Johnson said to Acting Recorder Burger to reset the clock.

Austen Brauker, Tribal #4762, said he is an Organization Development Manager over at the casino and he is a couple classes shy of getting his Bachelor's Degree in Industrial Organizational Management in Psychology then he will be entering into a Master's Program to continue down that course so he has pursued these things to try to educate himself the best he can to understand these processes of organization development. Brauker said he doesn't pretend to know other aspects of the business that he don't have training in and have been Executive Coach for a couple of years or a year over there and then with some experts in Casino Operations. Brauker said so over the last two years he really expanded his knowledge of these things and he is a Certified Executive Coach himself now and so he focuses on these areas where he has an understanding and continue to increase his education in those things so he can better serve his people and better do his job over there. Brauker said his question is, they know just because they can't do something doesn't always mean they should do something, so he has a few questions on.....are they better off with Tribal Council being in control of

things and do they have the experience and education to make those same kind of decisions or could they even get Gaming Licenses or things like that and those are pertinent questions to put people in charge of things like that. Brauker asked do they have the experience, what is their experience and what is their education background. Brauker asked what do they know about operating businesses like that and could they even become a Supervisor over there if they weren't.....they know.....if they went to apply for a position over there but yet they want to be above those people who are required to have Gaming Licenses so he has a question on that, ethically, he thought it was kind of strange how this vote went through so quickly too as well. Brauker said he would have liked to see maybe some more discussion prior to that but that is just his personal opinion but regarding truth there is many truths and people see truth from their own perspective from where they are sitting because sometimes they have the eyes of a mouse and only see what is close up to them and what is on their path, they know, and they think that might be the only truth that exists but there are many truths and many people can see things from different sides of an issue. Brauker said if they go above the problem and maybe look with the eyes of an eagle as well as the eyes of a mouse they can see the bigger picture, they know, their road leads up that mountain and they get there on the path that they go by but when they get to the top there may be other people who went different paths and got there by their own truths and the truths aren't necessarily conflicting. Brauker said they have different perceptions from their vantage point of the truth so it doesn't mean that somebody is a liar just because their truth is different it is part of their journey to attempt to fuse these truths together and do the best that they can for their people. Brauker said allowing other people to have different truths and stepping away to see if from their perspective for a moment sometimes gives them greater insight into the picture and so he would ask that they look into their own hearts and ask what qualifies.....they know.....what plan do they have he hasn't heard anything about a plan that is going to be better and all he has really heard is that they have all these problems, they have all these problems, and they are going to take over but he hasn't heard any offer of what is going to be better. Brauker asked what do they know that they don't know and why isn't that information being shared if there is something that they are not seeing. Brauker asked why can't they communicate and bring these sides together so it is not oppositional because that deviceness breaks them down they don't have to like each other but they have to respect each other, right, they have to acknowledge each other and acknowledge that other people do have different ways of looking at something and if he takes the time to get off of his spot that is so ingrained and take a look at how someone else is seeing it sometimes he gets a thing called enlightenment and sometimes he can go "I was wrong about that." Brauker said or they know that they are both right that both paths lead down to the same place, right, so that goes back to that respect because none of those Grandfathers can be taken and thrown out any one by itself because they can be honest but be disrespectful. Brauker said they can be truthful but not be humble they all need to be taken together and worked incongruence with one another so that they do the best for their people, right, so he hopes this is the time where they can all say they all want the same

thing because in Peacemaking that is what they look for. Brauker asked where is some common ground, okay, they all agree on this one aspect and let's start from there and build on the shared truth and the shared goals and the shared values and say what can they do together better instead of having it be us versus them or infighting amongst the Council or.....how can they make it better. Brauker said that is what they are looking for here, right.

Speaker Johnson called for Tom Guenthardt. Johnson said he has the Ogema and after that he has just a brief comment and they are going to recess until 1:15.

Tom Guenthardt, Tribal #0040, said he is up here on his own to speak and not to put down anybody. Guenthardt said he has been at the casino, Security Director, since 1991 and had some good times there now they are sloping downwards. Guenthardt said all the other casinos that opened are putting the hurting to them also years ago they should have looked into businesses. Guenthardt said the Tribe needs to start some businesses other Tribes have started businesses to help the casino because he will tell them the casino is trending down and they are going to have.....if they have a Budget like they are having for next year good luck because they ain't going to make it. Guenthardt said they are going to need some help and they are going to need some businesses to help them to get to that because they are just not going to make it so they need to try and get some businesses started in this Tribe because that could help a lot there.

Ogema Romanelli said in answer to Tom Guenthardt's question they are looking at several businesses including the Sewer Project and Housing and different commercial things so....but he does thank him for that because that is exactly the way they need to go. Romanelli said they also know they need to have the Muskegon Project as a crucial one too because they can't rely on that golden egg to produce everything. Romanelli thanked Tom Guenthardt. Romanelli said he wants to get back and wants to be clear there is no disagreement with the Ogema regarding the financial concerns or with the Board or anything else, they know that. Romanelli said he cautions a little bit about the issues that are raised that says there is something coming out that they know and they don't know because they can't be transparent at this time and while he understands what he is saying they all know there are things that may be coming out but he doesn't know if that is fair to their membership nor their Resort at this time to bring it up in this way so let him be clear. Romanelli said he is not opposed to concerns of the Board of Directors or the Resort or the Ogema or anything else. Romanelli said with that said he thinks that it speaks to transparency and he has to tell them he is really concerned they talk about the definition of insanity doing the same thing over and over and over again so now they have the Board Act of 2005, they have the Board Act of.....change of 2010, and now they are renaming those Acts as the Gaming Enterprise Oversight Act. Romanelli said over and over and over again when in each case the ability to take action has been there. Romanelli said they keep changing the processes but the.....they always had that oversight so he is confused about that. Romanelli said the other thing that he wanted to say and the

last thing he wanted to say is that they.....he finds it insulting to the Tribe, to the Tribal members, and to the Office of the Ogema, not him, he has been slammed before but to take that action in that short fashion to call the question when the Ogema, the leader of the Executive Branch, for example, was in the queue to speak, and to take that action without listening to those other Tribal members that they knew were there and the Ogema wanting to say his piece and say let's take this action quickly and get this voted on before they hear he can tell them how it is going to be with this new and improved oversight commission. Romanelli said he can tell them what kind of clout he is going to have on there when they are saying "well excuse me but we are going to call the question" before they listen to their Ogema, their Ogema, not him, the Ogema of the Executive Branch and if they cannot give that due respect he finds it a little concerning at best. Romanelli said he will give them one last piece there was a time, and this is what he spoke to earlier, when he talked to the Board of Directors and he was insulted by the Board and he talked to the Tribal Council and was insulted by the Council because they had an attorney that put out information, and this was important issue to the.....to the Tribe, and this attorney said in a memo they don't need the Ogema's grief so don't share this information. Romanelli said nothing was done nothing was ever done and he approached the Board and said he had a concern with this and he approached Tribal Council and had a concern and nothing was done and if that comes up again and they are going to have the same attitude that they are not going to listen to the Ogema and don't have to respond to him and they don't have to listen to him then they have problems folks. Romanelli said pure and simple they have problems. Romanelli Chi Miigwech for the time.

Speaker Johnson said he is next in the queue but he knows that Nikki Nelson has not spoke yet and he respectfully invites her to come up and speak at this point then he will make a closing comment and they are going to recess and come back at 1:15 p.m.

Nikki Nelson, Tribal #0421, said okay first she wanted to start out with saying as Natives obviously they are automatically resistant to change and it's in their blood. Nelson said that is why they hear stories of Native Families that won't leave their lands because they are resistant to change and it is inherited in them. Nelson said change is what they need. Nelson said the most dangerous things they can say is they always did it this way because without change there is not progress and that is why there is term limits in governments and that is why there is term limits in all kinds of things because things need to be changed so as far as things changing as she said things aren't working so what is the harm in changing because they can always change back but they can't recover what they lost so, she means, she don't see why. Nelson said one thing that keeps coming up is about the Gaming License and guessed she doesn't understand why people are trusting the Council to run the entire government but never where they like well can they pass a background check. Nelson said they will trust them to run the entire government but now they don't want them on this oversight task and that makes

absolutely no sense whatsoever, at all. Nelson said she is going to assume there is way more responsibility on Council than the Board of Directors there is, they know, so she doesn't understand why that is an issue. Nelson said as far as Council they are supposed to be leading them by example and that is in their title they are leaders. Nelson said shame on them for fighting in front of them and putting their personal opinions out on record in front of them. Nelson said a Tribal Council member just went on record saying they think most of this was probably done behind closed doors. Nelson said that puts in the back of their minds as Tribal members that they are implementing that Tribal Council members are hiding something from them. Nelson said they look to them for leadership and they have no other.....no other choice but to listen to what they say and try to follow it and it was not until that was said that it wasn't started to be repeated by members in the audience so shame on them. Nelson said to pull it together and do what is best for the membership as a whole.

Speaker Johnson said he is only going to take about a minute or so. Johnson said first of all he appreciate one of the kwe's coming forward and talking about those teachings and about the loud voice and he apologizes to his colleagues out there when he voted with such a large voice. Johnson said that is not necessary and he is not going to make any excuses for it an apology is an apology but he is moving on though. Johnson said he listens to those things about humility and yes, it is important to him and he is glad that they talked about they can't just have one teaching they got to have them all together because it is part of that wheel. Johnson said the other thing is 9:30 this morning he had a Council member come into his office and shut the door and asked him how he was going to vote on this issue. Johnson said they talked about it a little bit and that Council member was torn on this and he was looking.....asked him how he felt about this. Johnson said they talked about it for about five minutes or so and he told him in that min.....in that thing that he has a real tough time with this issue but he is not happy on how things are going right now. Johnson said because of that it is going to be a hard yes for him and that is what he told that person in the room. Johnson said he can confirm that if he wants to but he is not bringing his name up because of confidentiality between him and any of the Council members that come in that door and asks him and when he shuts that door he keeps it private. Johnson said he responded to him that it was yes but it was going to be a hard yes. Johnson said when the action they took here today when he made it very clear to everybody that he was very disappointed because of those teachings and respect and they are Councils and are Elected Officials they have to listen to the membership as they present here and they are listening. Johnson said this is how they get stronger and how they gain that wisdom by listening and when they don't do that they start avoiding that only makes them weaker. Johnson said at this point that Council person that wants to speak up he will let everybody hear that, if not, they are going to recess at this point.

Acting Recorder Burger asked Speaker Johnson if that was everybody in the queue.

Speaker Johnson said they have done everybody in the queue. Johnson thanked everyone and said they are going to recess. Johnson said they still got more on Open Session to do on the Ogema's Status Update and Legislator and Public things and they are going to start at 1:15 p.m.

*Tribal Council recessed at 12:00 p.m.*

*Tribal Council reconvened at 1:19 p.m. and Recorder Riley joined this part of the meeting.*

**Roll Call #13**

J. Riley - Present	J. Burger- Present	F. Medacco-Absent
S. Crampton - Present	G. DiPiazza- Present	M. Wabindato -Present
R. Wittenberg-Absent	V. Johnson - Present	S. Lewis - Present

Quorum established.

Speaker Johnson said okay they left off on the last item F. and they are moving on now into Concluding Business.

**VI. Concluding Business**

**A. Next Meeting Date(s) - Wednesday, August 17, 2016**

Speaker Johnson noted that the next meeting was September 17, 2016 which was misquoted and the actual meeting date is August 17, 2016.

**B. Ogema Weekly Status and Business Update**

Ogema Romanelli said the first item he has is he knows that they had something on their agenda today from the Inter-Tribal Council and he knows that in the past several years ago they had some issues between the Tribe and the Council but he thinks it might be in the Tribe's interest to at least reconsider possibly joining that. Romanelli said he doesn't know what the benefits and negatives are but he thinks the benefits might outweigh the negatives in that so just an FYI. Romanelli said two in the recent elections primaries they have a new Fruitport Township Supervisor by the name of Heidi Tiese who is replacing Brian Worshum in that and so they need to get to know the new Township Supervisor as they know the former one was a very big supporter of their project but they probably need to get the new.....know the new person. Romanelli said lastly it just came out that the White House Tribal Nations Conference will be happening in September about the third week and that is it.

Speaker Johnson asked if there are any questions for the Ogema in Business Status Updates.

Councilor Crampton asked the Ogema the Tribal Summit only takes one person per Tribe and if he would be attending.

Ogema Romanelli responded yes.

Councilor Crampton said okay.

## **B. Legislative Affairs Update**

Speaker Johnson asked if they have anything.

Councilor Burger said no she doesn't have anything.

Speaker Johnson said he does know that the.....himself, Councilor Medacco, the Ogema and Tom St. Dennis will joining with the meeting with the Governor's Chief of Staff tomorrow to discuss some issues and spend some time up there. Johnson said that is all he has for Legislative Affairs Updates.

## **C. Public Comment Period**

Speaker Johnson noted Tribal members are invited to come forward with their name, Tribal I.D. and their public comments.

Recorder Riley said he didn't know where to jump in and say this and he just wanted to apologize for his absence earlier. Riley said he had an urgent family matter that demanded his attention that couldn't be avoided that had to be taken care of.

Speaker Johnson thanked Recorder Riley and asked if there were any other public comments.

**MOVE TO END FIRST OPEN;** by Burger; supported by Lewis.

### **Roll Call #14**

J. Riley -	Yes	J. Burger-	Yes	F. Medacco-	Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -	Yes
R. Wittenberg-	Absent	V. Johnson -	Yes	S. Lewis -	Yes

Motion carried (7-0-0-2)

The meeting was adjourned at 1:22 p.m.

## **VIII. Open Session**

The Council reconvened in Open Session at 3:48 p.m.

**MOVE TO GO BACK INTO OPEN SESSION;** by Burger; supported by Lewis.

**Roll Call #15**

J. Riley -	Yes	J. Burger-	Yes	F. Medacco- Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -Yes
R. Wittenberg-Yes		V. Johnson -	Yes	S. Lewis - Yes

Motion carried (8-0-0-1)

**A. Items moved from Closed to Open Session**

**MOVE TO MOVE TO OPEN SESSION THE MOTION AND ROLL CALL FROM CLOSED C.1, C.3 AND C4 AND C.2 THE RESOLUTION, ROLL CALL AND VOTE;** by Riley; supported by Burger.

Speaker Johnson asked if anybody was going to abstain and that it was open for discussion.

Recorder Riley said let him look at the agenda real quick because he just has to double check that the only one that he is moving the whole thing into open is the.....oh he needed to amend that and add C.5 and C.6 to the motion and roll call release and then.....alright two is the one that he is moving the whole thing into open because they keep the Indian Village and Language Camp Contracts, well not the Contract but the resolution out into open.

Speaker Johnson said right.

Recorder Riley said okay so.....

Councilor Burger said she still supports.....supports the amendment.

**MOVE TO MOVE TO OPEN SESSION THE MOTION AND ROLL CALL FROM CLOSED C.1, C.3, C4 AND C.5; AND C.2, THE RESOLUTION, ROLL CALL AND VOTE;** by Riley; supported by Burger.

Speaker Johnson asked Councilor Burger if she still supports. Johnson asked if anybody was going to abstain and that it was open for discussion.

**Roll Call #16**

J. Riley -	Yes	J. Burger-	Yes	F. Medacco- Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -Yes
R. Wittenberg-Yes		V. Johnson -	Yes	S. Lewis - Yes

Motion carried (8-0-0-1)

*The following motions and roll call votes were moved and resolution, motion and roll call from Closed C.2 was moved to Open Session.*

**MOTION TO APPROVE RESOLUTION # 16-0810-229,  
AUTHORIZATION TO CONTRACT WITH HARTFORD TRUST  
TO PROVIDE CERTAIN MEDICAL BENEFITS TO ELIGIBLE  
TRIBAL ELDERS;** by Burger; supported by Riley.

Speaker Johnson asked if anyone was going to abstain from the vote.

**Roll Call #C-3**

R. Wittenberg - Yes	S. Crampton - Yes	G. DiPiazza - Yes
V. Johnson - Yes	F. Medacco – Absent	J. Riley – Yes
J. Burger - Yes	M. Wabindato– Yes	S. Lewis - Yes

Motion carried (8-0-0-1)

**MOTION TO APPROVE RESOLUTION # 16-0810-230,  
RATIFICATION OF SUNFLOWER WILSON PRESENTER  
CONTRACT;** by Burger; supported by Lewis

Speaker Johnson asked if anyone was going to abstain from the vote.

**Roll Call #C-4**

R. Wittenberg - Yes	S. Crampton - Yes	G. DiPiazza - Yes
V. Johnson - Yes	F. Medacco – Absent	J. Riley – Yes
J. Burger - Yes	M. Wabindato– Yes	S. Lewis - Yes

Motion carried (8-0-0-1)

**MOTION TO APPROVE RESOLUTION # 16-0810-231,  
AUTHORIZING THE OGEMA’S EXECUTION OF THE  
AGREEMENT FOR PROFESSIONAL SERVICES WITH  
SCHULTZ EXCAVATING;** by Riley; supported by Burger.

Speaker Johnson asked if anyone was going to abstain from the vote.

**Roll Call #C-5**

R. Wittenberg - Yes	S. Crampton - Yes	G. DiPiazza - Yes
V. Johnson - Yes	F. Medacco – Absent	J. Riley – Yes
J. Burger - Yes	M. Wabindato– Yes	S. Lewis - Yes

Motion carried (8-0-0-1)

**MOTION TO APPROVE RESOLUTION # 16-0810-232,  
APPROVING TRIBAL OGEMA’S EXECUTION OF RETAINER**

**AGREEMENT WITH DYKEMA GOSSEETT PLLC; by Riley;  
supported by Burger.**

Speaker Johnson asked if anyone was going to abstain from the vote.

**Roll Call #C-6**

R. Wittenberg - Yes	S. Crampton - Yes	G. DiPiazza - No
V. Johnson - Yes	F. Medacco – Absent	J. Riley – Yes
J. Burger - Yes	M. Wabindato– Yes	S. Lewis - Yes

Motion carried (7-1-0-1)

**MOTION TO APPROVE RESOLUTION # 16-0810-233,  
AUTHORIZING THE OGEMA TO COMPLETE THE 80 ACRE  
CUSTER PROPERTY PURCHASE ON BEHALF OF THE LITTLE  
RIVER BAND OF OTTAWA INDIANS; by Burger; supported by  
Wabindato.**

Speaker Johnson asked if anyone was going to abstain from the vote.

**Roll Call #C-7**

R. Wittenberg - Yes	S. Crampton - Yes	G. DiPiazza - No
V. Johnson - Yes	F. Medacco – Absent	J. Riley – Yes
J. Burger - Yes	M. Wabindato– Yes	S. Lewis - Yes

Motion carried (7-1-0-1)

**MOTION TO APPROVE RESOLUTION # 16-0810-234,  
RATIFICATION OF FIFTH CONTRACT ADDENDUM WITH  
RCA, LLC FOR MISCELLANEOUS SERVICES NECESSARY  
FOR THE BIA ROADS PROGRAM; by Burger; supported by Lewis.**

Speaker Johnson asked if anyone was going to abstain from the vote.

**Roll Call #C-8**

R. Wittenberg - Yes	S. Crampton - Yes	G. DiPiazza – Yes
V. Johnson - Yes	F. Medacco – Absent	J. Riley – Yes
J. Burger - Yes	M. Wabindato– Yes	S. Lewis - Yes

Motion carried (8-0-0-1)

*This concludes the items moved from Closed Session to Open Session.*

Speaker Johnson asked if they have anything else to discuss under open and if not he will entertain a motion to end open at 3:50 p.m.

## IX. Adjourn

**MOVE TO ADJOURN SECOND OPEN AT 3:50;** by Burger;  
supported by Riley.

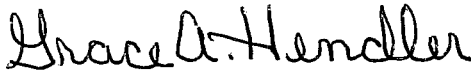
### Roll Call #17

J. Riley -	Yes	J. Burger-	Yes	F. Medacco- Absent
S. Crampton -	Yes	G. DiPiazza-	Yes	M. Wabindato -Yes
R. Wittenberg-	Yes	V. Johnson -	Yes	S. Lewis - Yes

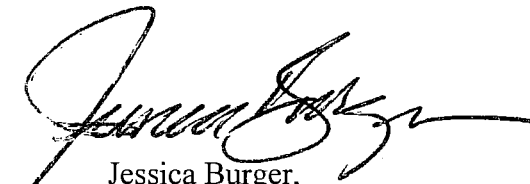
Motion carried (8-0-0-1)

The meeting was adjourned at 3:50 p.m.

Respectfully Submitted,



Grace A. Hendler  
Transcribing Assistant



Jessica Burger,  
Acting Council Recorder

## Grace Hendler

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**From:** Jason Cross  
**Sent:** Wednesday, August 10, 2016 12:23 PM  
**To:** Grace Hendler  
**Subject:** Manistee stats

Grace,  
Virgil wanted me to send you some statistics to include in today's minutes for the Child & Family Development Center. According to the Enrollment department the LRBOI has:

- 52 children living in Manistee County aged 0-14. These children will be eligible for services at the Center.
- 125 Tribal members living in Manistee County aged 18-39. These individuals represent the age group of typical parents who will benefit from services at the center.

Thanks,  
Jason Cross