



Little River Band of Ottawa Indians
2608 Government Center Drive
Manistee, MI 49660
(231) 723-8288

Resolution #15-1209-373

*Approving Final Proposed Amendments to Tribal Constitution and
Request for Secretarial Election*

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and treaty-making power is confirmed in numerous treaties, from agreements with initial colonial powers to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed in 1994 by federal law P.L. 103-324; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership, on May 27, 1998, which Constitution became effective upon approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Tribe and its members; and

WHEREAS, the Tribal Council previously adopted Resolutions which approved presentation of amendments to the Constitution of the Little River Band of Ottawa Indians, in accordance with Article XIV; and

WHEREAS, the proposed amendments were forwarded to the Secretary of the Interior for the purpose of requesting a Secretarial Election; and

WHEREAS, the Tribal Council has received a technical review letter from the Secretary of the Interior which suggested changes and clarifications in the proposed amendments; and

WHEREAS, the Tribal Council has reviewed the suggestions made in the technical review letter and has determined that the final proposed Constitutional Amendments are now in an appropriate format and that a request for a Secretarial Election should be made;

NOW THEREFORE IT IS RESOLVED, that the Tribal Council hereby requests the Secretary of the Interior to call a Secretarial Election to present the proposed amendments to the Constitution of the Little River Band of Ottawa Indians in accordance with Article XIV of the Constitution and 25 C.F.R. Part 81, and in the form of the ballot proposal set forth the below.

PROPOSAL #1 – Should Article I Section 1 be amended as follows:

ARTICLE I. TERRITORY

Section 1 – Territorial Jurisdiction. The territorial jurisdiction of the Little River Band of Ottawa Indians shall encompass all lands which are now or hereinafter owned by or reserved for the Tribe or for the benefit of its Tribal Members, including, but not limited to, the Manistee Reservation in Manistee County (Michigan), and Custer and Eden Townships in Mason County (Michigan) and all lands held in trust for the Tribe or any Member of the Tribe by the United States of America. The Tribe's territorial jurisdiction shall be exercised to the fullest extent consistent with this Constitution, the sovereign powers of the Tribe, and federal law and shall extend to below and above ground.

PROPOSAL #2 – Should Article II be amended as follows:

ARTICLE II – MEMBERSHIP

Add a new Section 1 as follows:

Section 1 – Closing of Enrollment. Adult enrollment in the Little River Band of Ottawa Indians shall be closed to new applicants on the date this amended Constitution is approved by the majority vote of eligible voters as described in Article XIV. Enrollment shall remain open for two groups of individuals: (1) to an individual age 18 years and younger who meets the requirements set forth in this Article; and (2) to an individual adopted while under the age of 18 years old, who thereafter learns that he or she meets the requirements set forth in this Article.

Re-number the remaining sections, and add a new Section 7 as follows:

Section 7 – Closing or Opening Enrollment. The closing or opening of enrollment shall occur only by an Initiative of the Membership according to Article VII, Section 2 of this Constitution.

PROPOSAL #3 – Should Article IV Section 2 be amended as follows:

Section 2 – *Composition of the Tribal Council; Districts.*

- (a) The Tribal Council shall consist of nine (9) persons, elected by popular vote of the registered voters of the Tribe in the manner described in this Section and Article IX.
- (b) Tribal Council positions shall be elected by the membership by the following districts:
 1. Four (4) of the nine (9) members of the Tribal Council shall be elected by the registered voters of the Tribe who reside in the following Counties in the State of Michigan: Kent, Lake, Manistee, Mason, Muskegon, Newago, Oceana, Ottawa and Wexford;
 2. Four (4) of the nine (9) members of the Tribal Council shall be elected by all of the registered voters of the Tribe residing outside of the nine (9) county district defined in subsection 2(b)(1) of this Section; and
 3. One (1) of the nine (9) members of the Tribal Council shall be elected by all of the registered voters of the Tribe regardless of residency..
- (c) The Council shall select two (2) Council members, by majority vote of the Council, to serve as Council Officers: Speaker and Recorder. Officers' terms shall be two years. A single Council member may not hold both Officer positions.

In addition, Article IX would be amended as follows, to implement the transition to 4-4-1:

ARTICLE IX – ELECTION

Section 1 - *First Election.* The first election under this amended Constitution of the nine (9) members of the Tribal Council and the Tribal Ogema shall be conducted in accordance with Article IV, Section 2, Article V, Section 6 and this Article.

- (a) *Current Tribal Ogema; Tribal Council Members.* The current Tribal Ogema and Tribal Council members as of the adoption of these amendments shall continue in office until the expiration of his or her current term. Thereafter, all candidates for office shall be required to meet the qualifications described in Articles IV and V, respectively.
- (b) *Declaration of Candidacy.* Candidate shall declare their intention to run for a seat on Tribal Council, or for the office of Ogema, or for a seat on the judiciary. Provided, that, the Election Board shall identify positions requiring specific qualifications as identified in Articles IV, V and VI. Where no candidate, at the conclusion of any deadlines set by the Election Board, declares for a position on the Tribal Council requiring specific qualifications, the Tribal Ogema shall nominate for Tribal Council's approval a qualified Tribal Member for this vacancy.

(d) The Election Board shall issue such rules and regulations, consistent with this Constitution, as it deems necessary to properly conduct the first election under these amendments. Such rules and regulations shall include procedures for conducting necessary background investigations of candidates for elected office to verify such person's qualifications for office and providing confirmation of a candidate's qualifications for office to registered voters in advance of voting.

Section 2 - Election Methods.

(a) *Regular Elections.* Members of the Tribal Council and the Tribal Ogema shall be elected in the month of April, the date to be set by the Election Board. The conduct for all tribal elections, including registration requirements, shall be prescribed and provided for by the Election Board.

(b) *Special Elections.* Special elections shall be called by the Election Board, when appropriate or when required under this Constitution, to remove, recall, and fill vacancies of elected officials, and to submit initiatives and referenda to the Tribal membership.

In addition, with the change to 4-4-1 Districts, Article IV Section 6 Subsection (f) would be amended as follows:

(f) *Quorum required to conduct business.*

1. A quorum of the Tribal Council shall consist of six (6) members.

PROPOSAL #4– Should Article V Section 2 be amended as follows:

Section 2 – Qualifications. A Tribal Member must meet the following qualifications to be a candidate or nominee for Ogema, or to retain his or her seat as Ogema:

(a) He or she must be at least twenty-five (25) years of age or older and a resident of the State of Michigan for at least six (6) months prior to the date of the next scheduled election.

(b) He or she must disclose to the Membership if any of the following apply:

1. He or she has any current prosecution pending or has any conviction for a crime involving fraud or misrepresentation; and/or
2. He or she has any current prosecution pending or has any conviction within the past ten (10) years for any crime listed in the Major Crimes Act (U.S. Stat. Vol.23, Chapter 341) (murder, manslaughter, rape, assault with intent to murder, arson, burglary or larceny); and/or
3. He or she has any current prosecution pending or has any conviction within the past ten (10) years for any felony in any jurisdiction, or for any other offense, the victim of which offense was the Tribe, or any Tribal business, enterprise, department or program; and/or

4. He or she has any current prosecution pending or has any conviction for any offense related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed, and/or is registered in any jurisdiction's list or sexual offenders.

(c) Upon election, he or she must establish a permanent physical residence that allows the Ogema to be available within the nine-county district described in subsection 2(b)(1) of Article IV within 60 days of his or her swearing-in ceremony.

PROPOSAL #5– Should Article IV Section 3 be amended as follows:

Section 2 – Qualifications. A Tribal Member must meet the following qualifications to be a candidate or nominee for Tribal Council, or to retain his or her seat as Tribal Council:

(a) He or she must be at least twenty-one (21) years of age or older and a resident of the State of Michigan for at least six (6) months prior to the date of the next scheduled election.

(b) He or she must disclose to the Membership if any of the following apply:

1. He or she has any current prosecution pending or has any conviction for a crime involving fraud or misrepresentation; and/or

2. He or she has any current prosecution pending or has any conviction within the past ten (10) years for any crime listed in the Major Crimes Act (U.S. Stat. Vol.23, Chapter 341) (murder, manslaughter, rape, assault with intent to murder, arson, burglary or larceny); and/or

3. He or she has any current prosecution pending or has any conviction within the past ten (10) years for any felony in any jurisdiction, or for any other offense, the victim of which offense was the Tribe, or any Tribal business, enterprise, department or program; and/or

4. He or she has any current prosecution pending or has any conviction for any offense related to sexual crimes or criminal sexual conduct where the perpetrator was convicted as an adult at the time the crime was committed, and/or is registered in any jurisdiction's list or sexual offenders.

PROPOSAL #6– Should Article VI Section 2 be amended as follows:

ARTICLE VI – TRIBAL COURT

Section 2 - Qualifications.

(a) *Member of the Tribe.* Any member of Tribe may serve as a Tribal Judge provided he/she is twenty-five (25) years of age or older, is not a member of the Tribal Council or the Ogema or running for a seat on the Tribal Council or for the office of the Ogema, and has not been convicted of any crime of dishonesty, or moral turpitude, nor been convicted of a felony under Tribal, or State law within the ten (10) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.

(b) *Non-Member Qualifications.* A non-member of the Tribe may be appointed to or elected to serve as a Tribal judge if such individual possesses a Law degree and has practiced in Federal Indian law or as a tribal judge, and has not been convicted of any crime involving dishonesty, moral turpitude, nor been convicted of a felony under Federal, Tribal or State law within the ten(10) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.

PROPOSAL #7– Should Article VI Section 8 be amended 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,

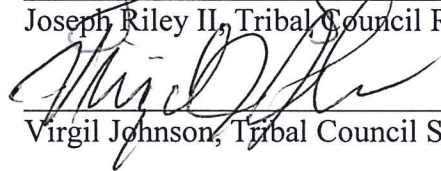
- (a) To adjudicate all civil and criminal matters arising within the territorial or membership-based jurisdiction of the Tribe.
- (b) To review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with this Constitution and rule void those ordinances 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.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on December 9, 2015, at the Little River Band's Government Center in Manistee, Michigan, with a quorum being present for such vote.



Joseph Riley II, Tribal Council Recorder



Virgil Johnson, Tribal Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Courts