

**LITTLE RIVER BAND OF OTTAWA INDIANS
TRIBAL COURT**

3031 Domres Road · Manistee, MI 49660
(231) 398-3406

WILLIAM WILLIS,
Plaintiff,

Case No. 22-010-GC

Hon. Angela Sherigan

v.

LRBOI TRIBAL COUNCIL,
Defendant.

William Willis
Plaintiff
622 Ramsdell Street
Manistee, MI 49660

LRBOI TRIBAL COUNCIL
Defendant
2608 Government Center Drive
Manistee, MI 49660

DECLARATORY JUDGMENT

This matter initially came before the court on a Request for Declaratory Judgment on January 13, 2022, on four issues:

1. Whether or not the Tribal Council violated the Constitution, Article IV, Section 6(d), on December 30, 2021, by holding an emergency closed meeting regarding approving the Amended Fiscal Year 2022 Budget as presented by the Ogema.
2. Whether or not the Tribal Council violated the Constitution, Article IV, Section 6(d), on January 7, 2022, by holding an emergency closed meeting regarding approving the Amended Fiscal Year 2022 Budget as presented by the Ogema.
3. Whether or not the Tribal Council violated the Constitution by repealing the Resolution #21-1230-317, approving amended budget, after it had been vetoed by the Ogema.
4. Whether or not the Tribal Council violated the Budget and Appropriations Act of 2013.

Defendants were properly served and failed to file an answer.

On February 23, 2022, Plaintiff filed a Notice of Default and properly served Defendant.

On March 9, 2022, the Court entered a Default in this matter against the Defendant.

On March 10, 2022, a final hearing was held in which Mr. Willis and the attorney for the Defendant appeared. The attorney for the Defendant objected to the Default stating that they had

appeared in Court previously. The objection was overruled as the Court Rules clearly require an answer to be filed. However, because of the importance of the issues contained in this matter, the Court allowed Defendant's attorney to participate in the hearing.

ISSUES 1 and 2

Plaintiff has asked for a declaratory ruling regarding Tribal Council's emergency closed meeting on December 30, 2021. Plaintiff argues that Defendant has violated the Constitution at Article IV, Section 6(d) as the purpose of the meeting, discussion and approval of the amended annual 2022 government budget is not something that can go into closed session. Defendant argues that it was proper as the casino budget was included.

Article IV, Section 6(d) of the Constitution states, very specifically, what Tribal Council may take into closed session, and reads as follows:

Section 6 – Meetings of the Tribal Council.

(d) *Open Meetings; Closed Sessions.* All meetings of the Tribal Council shall be open to the Tribal Membership. However, the Council may meet in closed session for the following purposes:

1. Personnel Matters, provided the employee in question did not request a public meeting, or
2. Business matters involving consideration of bids or contracts which are privileged or confidential, or
3. Claims by and against the Tribe.

In order to make a declaration on this issue, the Court must look to the Budget and Appropriations Act of 2013 and declare whether or not the casino budget is a budget that is approved by the Tribal Council, which is part of Issue 4.

The Budget and Appropriations Act of 2013, Ordinance #13-100-04, requires a balanced budget for the government operations, meaning that budgeted expenses must be equal to or less than budgeted revenues. Section 4.01. Article 5 is the Budget Formation and Submission, and Section 5.03 specifically addresses gaming revenue, and states:

Estimate of Projected Revenues - Tribal Enterprises . Each enterprise of the Tribe shall, through its Board or General Manager, submit an estimate of projected revenues for the next fiscal year by May 1st of each year to the Ogema, with a copy forwarded to the Tribal Council. The estimate of projected revenues shall include the following minimum information as identified in this section. The submission may include additional information which would be helpful in *allowing the Tribal Council and Ogema to interpret and apply the estimated projected revenues to the proposed Tribal budget....*

(Emphasis added.)

Additionally, Section 5.04 states:

Executive Summary Required. By May 31st of each year, the Ogema shall provide Tribal Council with an executive summary of *expected* revenues for the current and upcoming fiscal year from each revenue source including but not limited to net *gaming revenue*, grants, rental fees, utility fees, sales or other taxes, and distributions from gaming and non-gaming enterprises or other revenue sources.
(Emphasis added.)

No where in the Constitution, nor the Budget and Appropriations Act does it state that the Casino budget is approved by the Tribal Council. It is the Court's interpretation of the Constitution and the Budget and Appropriations Act, that the Casino budget is NOT subject to approval by the Tribal Council. The information is provided purely for the purpose of application of the expected projected revenue to the proposed government budget.

There was also testimony given that in previous years, the casino budget was discussed in closed session and the government budget was always in open.

THEREFORE, the Court declares that:

1. the Tribal Council violated Article IV, Section 4(d) by holding closed session meetings regarding the approval of the government budget, as it is not an item that can be taken into closed session pursuant to the Constitution.;

2. the Tribal Council violated the Budget and Appropriations Act of 2013, and that the Little River Casino Resort budget is not subject to approval by the Tribal Council.

ISSUES 3 and 4

Plaintiff has asked for a declaratory ruling on whether or not the Tribal Council violated the Constitution by repealing the Resolution #21-1230-317, approving the Amended Budget, after it had been vetoed by the Ogema, and whether or not the Tribal Council violated the Budget and Appropriations Act.

Plaintiff argues that Tribal Council cannot repeal a resolution that deals with the government budget after it was vetoed by the Ogema as the Constitution and Budget and Appropriations Act sets forth the procedure to be followed after a budget is vetoed by the Ogema. The Defendant argues that the veto was not proper as it stated "it violates the Constitution" instead of going line by line.

The Constitution at Article V, Section 5 (c) states:

Every action taken by the Tribal Council, whether by ordinance, resolution or appropriation, which modifies the Tribal Budget submitted for approval by the Tribal Ogema, shall be presented to the Tribal Ogema for his/her

approval and signature before it becomes effective. The Tribal Ogema shall approve or disapprove of the action taken by the Tribal Council within seven (7) days after the item is submitted to the Tribal Ogema by the Tribal Council. If he/she disapproves of the action taken by the Tribal Council, he shall return it to the Tribal Council within seven (7) days provided, specifying his/her objections. If after re-consideration, it again passes the Tribal Council by an affirmative vote of six (6) of the nine {9} Tribal Council members, it shall become law and he/she shall sign it notwithstanding his/her objections.

The Budget and Appropriations Act further clarifies how long Tribal Council has to re-consider after a veto/disapproval of the Ogema. Section 5.13 d states:

d. The Tribal Council shall then meet within *fourteen (14) calendar days* to reconsider the tribal budget and the Ogema's objections. If, after reconsideration, the Tribal Council again approves the tribal budget by an affirmative vote of six (6) of the nine (9) Tribal Council members, the approved tribal budget shall be returned to the Ogema, who shall sign it notwithstanding his/her objections.
(Emphasis added.)

The Ogema submitted a final budget to the Tribal Council on December 3, 2021¹. An Amended budget was passed on December 30, 2021, by Resolution #21-1230-317, which the Ogema vetoed in a timely manner. Then on January 7, 2022, Tribal Council rescinded Resolution #21-1230-317, via Resolution # 22-0107-02. This is a clear attempt to circumvent the Constitution and the law. When processes and procedures are specifically addressed in the Constitution and Ordinances, they must be followed. Defendants' argument that the veto wasn't proper because it did not go line by line, is a red-herring. Additionally, Defendants failed to file an answer, and any affirmative defenses.

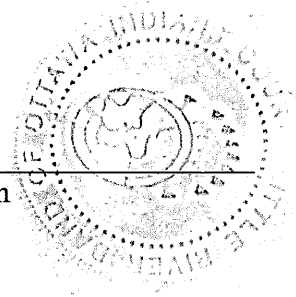
THEREFORE, the Court declares that:

3. the Tribal Council violated the Constitution and the Budget and Appropriations Act of 2013 by failing to properly act on a veto of the Ogema.

This resolves the last matter, and closes this case.

Date: 3/25/2022

DocuSigned by:
Angela Sherigan
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Hon. Angela Sherigan



¹ This budget was submitted with an agenda request to be put on Tribal Council's agenda for a vote. It was not placed on the agenda, yet another "amended" version was placed on the agenda for December 30, 2021, which was a modification/amendment made by Tribal Council without the input of the Ogema.