Waganakising Odawak

Little Traverse Bay Bands of Odawa Indians
7500 Odawa Circle, Harbor Springs, Michigan 49740
Phone 231-242-1401 • Fax 231-242-1412

July 22, 2014

Re: Veto of Amendment to Waganakising Statute #2011-009; Administrative Procedures for the Accounting Department.

This memo explains the decision of the Executive Branch to veto the Amendment to Waganakising Odawak Statute #2011-009

On June 22, 2014, the Tribal Council passed a statute that would amend the current Waganakising Odawak Statute governing the Tribal Accounting Department. The proposed Amendment would add a section to the current statute; the new section would require the Accounting Department to develop new Administrative Procedures and submit these to the Tribal Council. The Executive Branch does not agree with this Amendment, and does not believe the Statute is necessary or appropriate, for the following reasons:

1. Separation of Powers

The Constitution of the Little Traverse Bay Bands of Odawa Indians, adopted on February 2, 2005, clearly states in Article VI., Section D that:

"No branch of the government shall exercise the powers, duties or functions delegated to another branch."

The Constitution also vests the Executive power of LTBB in the Tribal Chairperson and Vice-Chairperson, and in Article VIII., Section C.5., gives the Executive Branch the authority:

"To oversee all Tribal Executive departments, boards, commissions and committees created by the Tribal Council"

The Accounting Department is one of the LTBB departments placed under the oversight of the Executive Branch. Therefore, it's for the Executive to decide whether policies, procedures or some other operating protocol is most useful for the Accounting Department. The Constitution prohibits the Tribal Council from exercising this function.

2. Tribal Treasury Department

The Tribal Council recently established its own Treasury Department (separate from the Accounting Department) and placed the new department under the authority and control of the Legislative Branch. Much of the justification for the establishment of this new department (which was staffed in March of 2012, at a cost of more than $400,000 annually) was to ensure that the Tribal Council had sufficient access to financial records.

The job description of the Tribal Council's Treasury Director is specific and detailed, and includes the following functions:

- "Appraises the organization's financial position and issues periodic reports on organization's financial stability, liquidity and growth"
- "Directs and coordinates the establishment of budget programs"
- "Receive and analyze quarterly reports, LTBB's annual report, and the annual audited financial statements of the Tribe including all of its enterprises"
- Reviews and analyzes gaming financial records and reviews and analyzes financial reports of Tribally Chartered Corporations"

As a result of establishing their own financial department, the Tribal Council already has ample means to obtain financial reports, records and information in any manner they see fit. If, after incurring the expense of adding the new Treasury Department under the Legislative Branch in 2012, the Tribal Council is still not satisfied with the financial information and reports that are available to the Council, the appropriate place to fix the problem is their own Treasury Department.

Since the Tribal Council already has access to all financial records and reports, it is not necessary or appropriate for the Tribal Council to attempt to micro-manage the Accounting Department, and the Amendment is an example of overreach by the Legislative branch, in violation of the Separation of Powers established by the LTBB Constitution. If the Legislative Branch wants different financial reporting, or wants to establish specific procedures for financial functions, the proper place for the Legislative Branch to address their concerns is the Treasury Department.

In summary, we encourage the Tribal Council to focus on the effectiveness of the Tribal Treasury Department, and to make whatever changes in that department are necessary. The Executive Branch is charged with oversight of the general government Accounting Department, per the Constitution, and it is for the Executive Branch to decide whether additional Accounting Department policies and procedures are needed.

Respectfully submitted,

Fred Kiogima
Tribal Chairman

WAGANAKISING ODAWAK STATUTE 2014-___
AMENDMENT TO WAGANAKISING ODAWAK STATUTE # 2011-009
ACCOUNTING DEPARTMENT

INSERT:

SECTION VIII. ADMINISTRATIVE PROCEDURES REQUIRED

Administrative Procedures shall be developed within One hundred and Twenty days (120) days by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act 2008-001, or as amended, in order to clarify the implementation of Waganakising Odawak Statute 2011-009 Accounting Department by defining how the Department will administer funds and services.

REPLACE:

SECTION IX. SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION X. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on June 22, 2014 at which a quorum was present, by a vote of 4 in favor, 1 opposed, 0 abstentions, and 4 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Bill A. Denemy				X
John W. Keshick III				X
Beatrice A. Law	X			
Michael Naganashe				X
Aaron Otto		X		
Winnay Wemigwase				X
Julie Shananaquet	X			
Marcella Reyes	X			
Regina Gasco Bentley	X			

Date: 6-22-14 Regina Gasco Bentley

Regina Gasco Bentley, Legislative Leader

Date: 6-22-14 Julie Shananaquet

Julie Shananaquet, Tribal Secretary

Received by the Executive Office on 6-23-14 by

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

VETO

Date:

Fred Kiogima, Tribal Chairperson