

Waganakising Odawak

Little Traverse Bay Bands of Odawa Indians

Regina Gasco- Bentley, Tribal Chair

7500 Odawa Circle, Harbor Springs, Michigan 49740

Phone 231-242-1401 • Fax 231-242-1411

07.05.17

VETO of *WOS Constitutionally Mandated Qualifications of Tribal Chair, Vice Chair, and Tribal Council Member Statute*;

I am vetoing this Statute because it creates a situation where a Tribal Citizen employed by the Tribal Government is unable to qualify as a candidate for a position on Tribal Council, Tribal Chairperson, or Tribal Vice Chair. See Section IV. A.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Regina Gasco-Bentley".

Regina Gasco- Bentley

WAGANAKISING ODAWAK STATUTE 2017-__
**Constitutionally Mandated Qualifications of Tribal Chair, Vice-Chair and Tribal
Council Members Statute**

SECTION I. PURPOSE

The Little Traverse Bay Bands of Odawa Indians Constitution sets forth that it is the supreme law over all territory and persons subject to the jurisdiction of the Little Traverse Bay Bands of Odawa Indians. To ensure the integrity of the Tribe's elected officials, the Constitution sets forth qualifications for an elected office who are sworn into office. This Statute provides the civil power and authority to the Tribal Prosecutor to pursue cases of violations of the Constitutionally Mandated Qualifications of Tribal Chair, Vice-Chair and Tribal Council Members Statute.

SECTION II. DEFINITIONS

A. "Felony" means a crime defined by the Tribe's criminal code as a felony or; Rape or; Sexual assault against an individual who has not attained the age of 16 years or; any other crime that is listed by the Major Crimes Act, Title 18, United States Code, Section 1153 paragraph A. "(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States."

B. "Reservation of the Little Traverse Bay Bands of Odawa Indians" means all lands within the boundaries of the reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty of 1855,

11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse Bay Bands of Odawa Indians reservation by the U.S. Department of the Interior.

C. "Tribal government" or "Tribal Governmental Administration" means Executive Branch Departments, offices, programs, Commissions, Committees and Boards; Legislative Branch offices; Judicial Branch offices and court; Prosecutor and Prosecutor's offices; and Election Board and Election Board offices.

D. "Tribal enterprises" means Tribally Chartered Corporations, Non-gaming and gaming Enterprises, Limited Liability Corporations, and other business or economic development entities.

SECTION III. POWER AND AUTHORITY

Tribal Prosecutor shall have the power and authority, on behalf of the Tribal membership as a whole, to prosecute violations of this Constitutionally Mandated Qualifications of Tribal Chair, Vice-Chair and Tribal Council Members Statute, and to sign, file and present any and all complaints, subpoenas, affidavits, motions, process and papers of any kind and to appear before the Tribal Court.

SECTION IV. CONSTITUTIONALLY MANDATED QUALIFICATIONS

A. In order to qualify as a candidate and remain qualified to hold the office of a Tribal Council member, a person must meet the following constitutionally mandated qualifications:

1. Members of the Tribal Council shall be a Little Traverse Bands of Odawa Indians member, and be at least eighteen (18) years of age.

2. Shall not be employed by the Little Traverse Bay Bands of Odawa Indians Tribal government or the Tribal Governmental Administration, but may work in other Tribal enterprises but shall not have a vote on any issue.

3. Shall not be a paid consultant for the Little Traverse Bay Bands of Odawa Indians or the consultant for another party in that party's business dealings with the Tribe, while serving as a Tribal Council member, or as Chairperson or Vice-Chairperson, or within one (1) year of serving in office.

4. Shall not serve as a Tribal Council member within seven (7) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.

5. Tribal Council members may not hold more than one full time paid position even if they decline pay for one of the positions.

B. In order to qualify as a candidate and remain qualified to hold the office of Tribal Chair or Vice Chair, the person must meet the following constitutionally mandated qualifications:

1. The Chairperson and Vice-Chairperson shall be Tribal members and at least eighteen (18) years of age.

2. Shall not serve as Chairperson or Vice-Chairperson within seven (7) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.

3. The Chairperson and Vice-Chairperson will reside within the Reservation of the Little Traverse Bay Bands of Odawa Indians no later than ninety (90) days after the general election for the term of their office.

4. Shall not be employed by the Little Traverse Bay Bands of Odawa Indians Tribal government or the Tribal Governmental Administration, but may work in

other Tribal enterprises but shall not have a vote on any issue.

5. Shall not be a paid consultant for the Little Traverse Bay Bands of Odawa Indians or the consultant for another party in that party's business dealings with the Tribe, while serving as Chairperson or Vice-Chairperson, or within one (1) year of serving in office.

6. May not hold more than one full time paid position even if they decline pay for one of the positions.

SECTION V. CIVIL VIOLATIONS

A. The Tribal Prosecutor shall be the Chief Law Enforcement Officer of the Tribe and shall represent the Tribe in all violations of Constitutionally Mandate Qualifications investigations and prosecutions in Tribal Court, including, but not limited to:

1. Reviewing all complaints of violations of Constitutionally Mandate Qualifications.
2. Having the discretion to prosecute violations of the of Constitutionally Mandate Qualifications by determining whom to charge and what charges to bring.
3. Reviewing all requests for warrants to determine if all Constitutional and legal requirements are satisfied prior to approval or authorization.
4. Having the authority to issue subpoenas for compelling or producing documentation in investigations.
5. Having the authority to grant immunity to a witness.

B. If a former the Tribal Chair, Vice-Chair or a Tribal Council member becomes a paid consultant for the Little Traverse Bay Bands of Odawa Indians or the consultant for

another party in that party's business dealings with the Tribe within one year of serving, the Prosecutor may take action to address the matter, including suing for damages to the Tribe.

SECTION VI. SAVING CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.

SECTION VII. EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

SECTION VIII. IMPLEMENTATION DATE

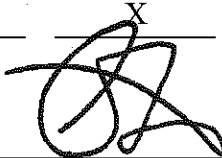
This Statute, if enacted, shall be implemented upon the date the Election Board certifies the results of the election currently in progress.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on June 8, 2017 at which a quorum was present, by a vote of 7 in favor, 2 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

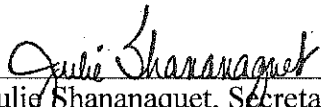
	In Favor	Opposed	Abstained	Absent
Frank Bernard	X			
David Harrington	X			
Beatrice A. Law	X			
Dexter McNamara	X			
Michael Naganashe	X			
Emily Proctor		X		
Marcella R. Reyes	X			
Julia Shananaquet	X			
Aaron Otto		X		

Date: 6-9-2017



 Aaron Otto, Legislative Leader

Date: 6-9-17



 Julie Shananaquet, Secretary

Received by the Executive Office on 6-9-17 by JLJ/K

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 with this action of the Tribal Council.

Date: 9/20/17

VETO

 Regina Gasco Bentley, Tribal Chairperson