

**WAGANAKISING ODAWAK STATUTE 2009-012**  
**Gaming Delegation and Authority Statute**

**SECTION I. REPEALS AND REPLACES**

This Statute repeals and replaces any previous Gaming Board of Directors Statute including Waganakising Odawak Statute 2004-08, WOS 2001-12, as amended by WOS 2000-02.

**SECTION II. PURPOSE**

This Statute creates the Enterprises for the Little Traverse Bay Bands of Odawa Indians and a Gaming Board of Directors as an Executive Committee in accordance with Article VII D (24), delegation of management responsibilities.

**SECTION III. DEFINITIONS**

- A.** “*Board*” or “*Gaming Board*” means the LTBB Gaming Board of Directors.
- B.** “*Board Member*” means a person appointed to the Gaming Board of Directors.
- C.** “*Business Plan*” means a plan written for the operations of the Casino for a designated timeframe that includes goals, measurable objectives, strategies, tactics, person assigned to the task and timelines.
- D.** “*Chief Financial Officer*” or “*CFO*” means the person employed as the Chief Financial Officer of the LTBB Government.
- E.** “*Director of Finance*” means the person employed by the Enterprises who reports to the General Manager to oversee all financial affairs of the Enterprises.

- F.** “*Enterprises*” means the Odawa Casino Resort and ancillary enterprises and activities and other tribally owned enterprises or businesses related to gaming.
- G.** “*Executive Branch*” means the Executive Branch of the Little Traverse Bay Bands of Odawa Indians.
- H.** “*Gaming*” means any game classified as "Class II" or "Class III" under the Indian Gaming Regulatory Act of October 17, 1988 and or future amendments.
- I.** “*Gaming Operations*” or “*Operations*” means all business operations directly related to the conduct of the Enterprises.
- J.** “*General Manager*” means the person hired to manage and oversee the day-to-day operations of the Enterprises.
- K.** “*Independent Auditor*” is the person or entity required under the LTBB Gaming Regulatory Statute, as amended.
- L.** “*LTBB*” or “*Tribe*” means Little Traverse Bay Bands of Odawa Indians.
- M.** “*Tribal Council*” means the Legislative Branch of the Little Traverse Bay Bands of Odawa Indians.

#### **SECTION IV. CREATING GAMING ENTERPRISES**

The Enterprises, including the Odawa Casino Resort is hereby created.

#### **SECTION V. CREATING THE GAMING BOARD**

The Gaming Board of Directors is hereby created and the Tribal Council delegates and authorizes its duties and authorities as set forth in this Statute.

## **SECTION VI. TRIBAL COUNCIL DELEGATION**

In accordance with the Tribal Constitution, Tribal Council delegates the management of the Enterprises to the Executive Branch and the Executive Branch shall carry out such responsibility through the actions of the Board.

## **SECTION VII. COMPOSITION, ELIGIBILITY AND APPOINTMENT**

### **A. Composition**

1. The Board shall consist of five (5) persons appointed by the Tribal Council who meet the eligibility requirements set out in subsection (B) of this section.
2. The Board members shall have a Chairperson, Vice-Chairperson, Secretary and Treasurer elected by the Board members, annually.

### **B. Eligibility**

To serve on the Board a person must meet all of the following criteria:

1. A person must be an enrolled member of the Tribe at least eighteen years of age;
2. The appointee must be a person, who would qualify for licensing under the Tribe's Gaming Regulatory Ordinance;
3. No person can serve on the Board who is employed by the Enterprises or any other facility or enterprise conducting Gaming, or any other Federally Recognized Indian Tribe;
4. No person can serve on the Board who is employed by the LTBB Tribal Government or is an elected official of LTBB;

5. No person can serve on the Board within seven (7) years of completion of a sentence or probation upon being convicted of a felony in tribal, state or federal court, unless such conviction has been vacated or overturned.

6. To be considered for a nomination to the board, a person should meet one of the following desired criteria:

- i. Three (3) years of business or financial management experience.
- ii. Three (3) years of gaming or hospitality management experience.

### **C. Appointments**

1. The Board is appointed by a majority vote of Tribal Council.

2. Board members currently serving shall remain serving until they are either removed or resign.

3. Any Board Member may resign at any time by delivering a written notice of resignation to the Chairperson of the Board.

### **D. Removal**

1. Board members may be removed by a majority vote of Tribal Council.

2. Board members may recommend removal for cause by a super-majority vote of the Board excluding the Board Member in question. Reasons for removal are misconduct, neglect of duties, violations of Tribal law or Board policy including failure to attend three (3) consecutive unexcused Board meetings.

## **SECTION VIII. DUTIES AND AUTHORITY**

**A. Duties**

The Board shall have the following duties in connection with the Enterprises:

1. To employ a General Manager.
2. To employ such necessary staff to carry out Board functions.
3. To approve policies, procedures, plans and budgets for an orderly and efficient running of the operations, which may include the following:
  - i. Human Resources policies
  - ii. Annual Enterprises Business plan
  - iii. Annual operating budget
  - iv. Distribution of annual services payments to the Tribal Government

**B. Authority**

1. The Board shall hire, review, evaluate and may terminate the General Manager.
2. The Board shall monitor compliance of the approved policy and procedures through the General Manager.
3. The Board shall adopt meeting policies and other such policies for Board business and office staff, provided that such policies are in accordance with this statute and approved by the Board.
4. The Board shall adhere to the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government that are approved by Tribal Council and any other subsequent Rules, as may apply.
5. The Board shall adhere to the Tribal Minimal Internal Control Standards

(TMICS) and all other applicable Statutes and laws.

6. The Board shall adhere to all Policies or Procedures approved by the Board.
7. The Board shall not be involved in the day-to-day management of the operations.

## **SECTION IX. REPORTING REQUIREMENTS**

- A.** The Executive shall provide to Tribal Council, a monthly report that contains all financials of the Enterprises including discussion and analysis. The Executive shall provide this report to the Tribal Council by the second Tribal Council meeting of each month.
- B.** The Executive shall provide to Tribal Council, a quarterly report that contains an updated on the Business Plan, projected net revenues, profit and loss revenues and Earnings before Interest Taxes, Depreciation and Amortization (EBITDA) for not less than three (3) months in advance based on the Business Plan. This report shall also include, the number of employees, employee turn-over rate, number of Tribal Citizens, Other Natives and non-Natives employed, number of Tribal Citizens, Other Natives and non-Natives employed in management, requests for new development and/or capital projects and any other relevant information.
- C.** The Tribal Council shall appoint an independent auditor to conduct the annual financial statement audit and minimum internal control testing as required by 25 C.F.R. §§ 522.4 and 571.12 and any other applicable or successor Federal regulations. The Board shall have a right to receive a copy of the annual audit.
- D.** On a quarterly basis or upon request of Tribal Council, the Board and General Manager shall meet with the Tribal Council and provide an update on operations.
- E.** Board records shall be open to Tribal Citizens except in matters of confidentiality as defined by Tribal statute.

**SECTION X. FINANCING, BANK ACCOUNTS AND BUDGETS**

- A.** Each year the Board shall present an annual budget of the Board, which shall include all projected expenses of the Board to Tribal Council for approval.
- B.** The Board is not authorized to incur any financial obligation or liability, other than what is within the Boards approved budget, without prior approval by the Tribal Council.
- C.** The Board shall have the authority to establish and maintain bank accounts as may be necessary for the operations of the Enterprises.
- D.** The Director of Finance shall oversee and manage the accounting, finance, cage, count, credit, and cash management of the Enterprises and other directors and managers as appropriate. The Director of Finance shall report directly to the General Manager and shall make all Enterprises financial records available to the Tribe's Chief Financial Officer (CFO) and Tribal Council

**SECTION XI. MEETINGS**

- A.** The Board shall hold a meeting or work-session at least once a month.
- B.** The Board shall develop meeting and work-session policies and procedures.
- C.** Board meetings shall be open to Tribal Citizens. Closed session may be held only for the purposes of personnel, litigation, confidential business or legal matters, or other matters that raise significant privacy or confidentiality concerns.
- D.** Notice of meetings or work-session shall be posted forty-eight (48) hours in advance.

**E.** Board business that requires immediate attention may be conducted by a telephone conference call. Any action taken on such call shall be recorded in the minutes of the next regularly scheduled meeting. The Board Secretary or designee shall attempt to notify each of the Board members of the conference call by any practical means including telephone, fax, e-mail or in person and must certify that an attempt was made to contact each Board member. No compensation will be paid for telephone conference calls.

**F.** Emergency meetings may only be called when immediate action is necessary for the preservation or promotion of essential interests of the Tribe or the Enterprises. The emergency action taken must be ratified at the next regular meeting of the Board, and the minutes must state the reason such emergency action was necessary.

**G.** A quorum for a Board meeting shall consist of a majority of the sitting Board members. A meeting may not be called to order without a quorum present and no official business shall be conducted without a quorum.

**H.** A work-session does not require a quorum. No official action shall be taken at a work-session. Work-session shall remain open and shall not include a closed session.

## **SECTION XII. COMPENSATION**

The Board members shall be compensated, subject to the availability of funds, for the following:

**A.** One-hundred and fifty dollars (\$150.00) per day stipend for attendance at meetings or work sessions that are approved by Board motion.

**B.** One-hundred dollars (\$100.00) per day stipend for attendance at training, conferences or other functions approved by Board motion.

**C.** Board members shall only receive one stipend per day for activities performed under both subsection (A) and (B) within the same day. The stipend shall not be combined.



**D.** The Board shall adhere to the Tribal travel policies for reimbursement of travel expenses.

**SECTION XIII. EMPLOYMENT WITH TRIBAL ENTERPRISES**

A member of the Board shall not be employed in any capacity with the Enterprises for a period of forty-five (45) days, after leaving the Board.

**SECTION XIV. NEPOTISM**

**A.** For Purposes of this Statute, two (2) or more members of the same immediate family shall not serve on the Board at the same time. Further, a person shall not serve on the Board if the General Manager, Director of Finance, Internal Auditor, Tribal Chairperson or Vice-Chairperson is an immediate family member. For purposes of this section immediate family means husband, wife, son, daughter, step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child or a person whose relationship with the Board member is similar to that of persons who are related by blood or marriage.

**B.** No Board member may participate in making any decision that involves a personal or financial interest of the Board member or a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

**SECTION XV. SAVINGS 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 or ordinances 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 XVI. EFFECTIVE DATE**

Effective upon signature of the Executive or 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.

**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 May 3, 2009 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Melvin L. Kiogima	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Dexter McNamara	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Marvin Mulholland	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Rita Shananaquet	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Alice Yellowbank	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Gerald V. Chingwa	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Regina Gasco Bentley	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Beatrice A. Law	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>

Date: May 3, 3009

Beatrice Law, Legislative Leader

Date: May 3, 2009

Regina Gasco Bentley, Secretary

Received by the Executive Office on May 6, 2009 by Lisa Flynn

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.

Date:                           

Frank Ettawageshik, Tribal Chairperson