



# Waganakising Odawak

Little Traverse Bay Bands of Odawa Indians

## Office of Tribal Chairman

7500 Odawa Circle, Harbor Springs, Michigan 49740

Phone 231-242-1401 • Fax 231-242-1411

January 19, 2015

Re: Explanation of Veto of Planning Department Transfer

This memo is to explain my decision to veto **LTBB Tribal Council Statute - Amendment to WOS 2009-007** a statute that would transfer the LTBB Planning Department from its current location in the Executive Branch of the Tribal Government to a new location in the Legislative Branch.

### A. Existing Law

Currently, WOS 2009-007 (Section 10.605 of the LTBB Tribal Code) describes the duties and functions of the Planning, Zoning and Building Department, which was established within the Executive Branch. The amendment would move this department to the Legislative Branch; however the amendment does not change the fact that most of the work of the Planning Department is done in cooperation with other Executive Branch departments.

The Planning, Zoning and Building Department serves other Executive Branch departments by monitoring and maintaining the large number of buildings owned by LTBB, and by monitoring the various land holdings of the Tribe. These include not only the Tribal Government complex in Harbor Springs and the Health Clinic and other buildings in Petoskey, but also property as far away as Mackinaw City.

When situations arise, it's much better to have the Planning Department under the Executive Branch, because the Tribal Chair is in the office every day, and therefore able to coordinate with the Planning Department as needed to address urgent situations and repairs more quickly. On the other hand, if the department were under the Legislative Branch, there would be a delay while Tribal Council members were contacted. There could very well be further delays in reaching a consensus or taking a vote of the Council.

### B. Separation of Powers

The Statute is contrary to the division of powers clearly spelled out in our Constitution. Each branch of the Tribal Government is prohibited from doing the work of any other branch, as

described in Article VI. **LTBB Constitution, Article VI. D – “No branch of the government shall exercise the powers, duties or functions delegated to another branch.”** The powers, duties and functions delegated to the Legislative Branch are to legislate – to create and pass laws.

On the other hand, the powers of the Executive Branch include oversight of the day-to-day, routine work of the Tribal Government, as stated in **Article VIII, Sec. C. 5 – “To oversee all Tribal Executive departments, boards, commissions and committees created by the Tribal Council.** By moving the Planning Department under the Legislative Branch, the Resolution ignores the separation of powers that is built in to the LTBB Constitution.

As Tribal Chairperson, I agree that the work of the Planning Department is an important part of a properly functioning Tribal Government, and important to maintaining the buildings and land owned by the Tribe. However, I believe it is best for the Planning Department is to remain within the Executive Branch because this gives us the most efficient way of carrying out the work of the department, especially because the work requires a large degree of cooperation with other departments.

Respectfully submitted,



Regina Gasco-Bentley  
Tribal Chairperson

**WAGANAKISING ODAWAK STATUTE #**  
**AMENDMENT TO WAGANAKISING ODAWAK STATUTE 2009-007**  
**LAND USE, BUILDING REGULATION, AND ZONING STATUTE**

**SECTION I. REPEAL:**

**SECTION V CREATION OF THE PLANNING, ZONING AND BUILDING  
DEPARTMENT**

The Planning, Zoning and Building Department is hereby created within the Executive Branch to carry out the purposes stated in Section II, and each annual budget submitted by the Executive shall include funding for the Department's operation subject to funding availability.

**SECTION I. REPLACE:**

**SECTION V CREATION OF THE PLANNING, ZONING AND BUILDING  
DEPARTMENT**

The Planning, Zoning and Building Department is hereby created within the Legislative Branch to carry out the purposes stated in Section II, and each annual budget submitted by the Legislative shall include funding for the Department's operation subject to funding availability.

**SECTION III. EFFECTIVE DATE**

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

**CERTIFICATION**

As the Tribal Council Treasurer 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 December 18, 2014 at which a quorum was present, by a vote of 5 in favor, 2 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	<u>In Favor</u>	<u>Opposed</u>	<u>Abstained</u>	<u>Absent</u>
Bill A. Denemy	X			
John W. Keshick III	X			
Beatrice A. Law	X			
Michael J. Naganashe				X
Aaron Otto		X		
Winnay J. Wemigwase	X			
Julie A. Shananaquet		X		
Marcella R. Reyes	X			

Date: 12-23-2014 Marcella R. Reyes  
 Marcella R. Reyes, Treasurer

Date: 12-22-14 Julie Shananaquet  
 Julie A. Shananaquet, Secretary

Received by the Executive Office on 12/23/14 by PT

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 Council in this action of the Tribal Council.

Date: 1-19-15 Regina Gasco Bentley  
 Regina Gasco Bentley, Tribal Chairperson

**VETO**

Secretary Shananaquet JL