



Waganakising Odawak

Little Traverse Bay Bands of Odawa Indians

Office of the Tribal Chairperson

7500 Odawa Circle, Harbor Springs, MI, 49740

(P) 231-242-1418 (F) 231-242-1411

January 14th, 2022

Subject: Executive Veto Statement - Tribal Resolution# 121621-XX “United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) for Little Traverse Bay Bands of Odawa Indians (LTBB) Government Employees and Odawa Casino Resort Employees and to appropriate, not to exceed the amount of \$1,990,161.92 for FY 2022 LTBB Operating Budget to come from General Fund-Fund Balance.”

Based on the Executive Branch’s analysis, I do not feel the language of Tribal Resolution#121621-XX is sufficiently clear for immediate implementation and I am concerned that once again, the Tribal Council may be mortgaging the financial future of LTBB.

Below are the Executive’s concerns regarding the proposed Resolution:

Issue

1. “THEREFORE, BE IT RESOLVED that Cost of Living Allowance (COLA) be paid for FY 2022 to all Little Traverse Bay Bands of Odawa Indians government employees and Odawa Casino Resort employees within thirty (30) days of enactment of this Tribal Resolution at the rate established by the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) in the amount of 5.9%; and each year thereafter, on January 1st either at the CPI-W COLA or the Living Wage will be paid, whichever is higher, regardless of whether or not the employee has reached the cap for their pay level.”
 - a. As written, this statement requires the entirety of the increase to be paid thirty days from enactment and on January 1st in subsequent years. Council did not apply the COLA increase to the wage, as the Executive thinks they probably intended, and then the increase is paid throughout the year. This was the language they used in the prior resolution, TR # 102619-05.
2. “THEREFORE, BE IT RESOLVED that Cost of Living Allowance (COLA) be paid for FY 2022 to all Little Traverse Bay Bands of Odawa Indians government employees and Odawa Casino Resort employees within thirty (30) days of enactment of this Tribal Resolution at the rate established by the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) in the amount of 5.9%; and each year thereafter, on January 1st either at the CPI-W COLA or the Living Wage will be paid, whichever is higher, regardless of whether or not the employee has reached the cap for their pay level.”

- a. As written, this statement requires that employees receive either the CPI-W COLA pay or the Living Wage, WHICHEVER IS HIGHER.
 - i. Note that the resolution, as written, does not increase the employee wage incrementally to a living wage as has been done in past resolutions.
 - ii. As written, 40% of our employees will automatically be bumped up to the living wage.
 - iii. If, as proposed, there would be a drastic increase which would result in wage compression issues. As demonstrated before, it would will be expensive to address the wage compression.

3. "THEREFORE, BE IT RESOLVED that Cost of Living Allowance (COLA) be paid for FY 2022 to all Little Traverse Bay Bands of Odawa Indians government employees and Odawa Casino Resort employees within thirty (30) days of enactment of this Tribal Resolution at the rate established by the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) in the amount of 5.9%; and each year thereafter, on January 1st either at the CPI-W COLA or the Living Wage will be paid, whichever is higher, regardless of whether or not the employee has reached the cap for their pay level."
 - a. Employees capped in the wage grid were the primary reason for the Executive implementation of the 2019 wage grid. A wage grid that the Legislative Branch declined to adopt. All wage ranges had increases to their salary caps.
 - b. Employment with the tribe shouldn't be a guarantee for a lifetime job with endless increases to pay.
 - i. Without wage caps for particular jobs, you run the risk of a long-term employee, who is not motivated to increase his/her skills, eventually make as much, or more, than the manager or director. In the past, this has been an issue and there have been several long-term employees significantly overpaid. While some past Executives may have chosen to deal with this by releasing those employees from employment, this Administration would prefer to set reasonable and appropriate wage ranges and stay within those parameters.
 - ii. The Executive feels strongly that if an employee wishes to make more money they should be able to work with their manager and develop a plan to increase their skill level and move into a different job / classification.

4. The HR Director's financial analysis was overly conservative (\$1.14MM) in terms of the cost on the government side. The Executive analysis calculates the cost to general fund and grant funded programs to be about \$700,000; with the cost to the general fund programs about \$200,000 and the grant programs \$500,000.
 - a. Even though it is true that the granting agencies will probably allow this increase, the Executive questions at what cost to the tribe? The granting agencies will not increase the amount of our award simply because LTBB decided to give everyone a raise. What will more likely happen is that budget cuts will happen to program services and materials. The Health Department alone loses about \$300,000 in program spending. NRD will lose \$75,000.
 - b. Even if we say, LTBB can still accomplish all grant goals with the cut to program costs, this puts excessive pressure on our enterprises to make up the additional \$1,050,000

(\$200,000 for general fund only and \$850,000 for OCR increased costs) we just added. The enterprises will have to do this every year.

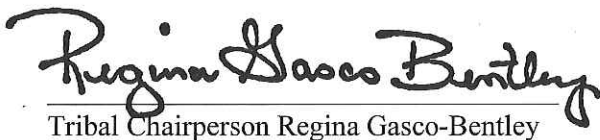
5. As the casino has demonstrated in an exhibit distributed to Tribal Council on June 25, 2021 from Roger Borton titled "Analysis of Decent Living Wage Statute", a decline in gaming revenues due to on-line gaming is expected.
 - a. While the exact value of the decline isn't known yet, we also don't know if our partnership with Stars Group / Fox Bet will be able to offset this decline. The Executive is concerned it won't and the new LTBB economic development ventures, that are just in their infancies, will have to make up this cost difference on an ongoing basis. It is tempting given the availability of the ARP funding to use those funds, but those are finite. The Executive cannot help but feel that we are mortgaging LTBB's future.

If Tribal Council would like to give the employees a monetary compensation to make up the difference between COLA and inflation, the Executive would like to suggest the following options:

- Require a wage grid analysis every 3-4 years and to ensure LTBB wages are competitive and the wage caps are not too restrictive, or;
- If there is concern that the 2022 1.5% COLA is not enough to cover the cost of inflation this year, Tribal Council could pass a resolution that gives all government and casino employees, as of a certain date, a one-time "loyalty" payment of 4.4%. This gives employees financial help during this time and doesn't over-commit LTBB to future wage increases it does not yet know if it can support.

In a perfect world and with unlimited funds, the Executive would happily sign this resolution once the language was tightened up. Unfortunately, despite receiving the CARES and ARPA funding, which has allowed us in Leadership to breathe a little easier, I still feel LTBB is still in a financially precarious position. There are just too many unknowns right now to commit to a long-term, costly financial arrangement.

Therefore, in consideration of all reasons listed above, I am vetoing Tribal Resolution# 121621-XX.


Tribal Chairperson Regina Gasco-Bentley

1/14/22
Date

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 Odawa Circle
Harbor Springs, MI 49740

TRIBAL RESOLUTION # 121621-_____

United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) for Little Traverse Bay Band of Odawa Indians (LTBB) Government Employees and Odawa Casino Resort Employees and to appropriate, not to exceed the amount of \$1,990,161.92 for FY 2022 LTBB Operating Budget to come from General Fund-Fund Balance

WHEREAS the Waganakising Odawak Nation, known as the Little Traverse Bay Bands of Odawa Indians (LTBB), and its citizens are vested with inherent sovereignty and right to self-governance;

WHEREAS the Little Traverse Bay Bands of Odawa Indians is a federally recognized Indian Tribe under Public Law 103-324, and is a party to numerous Treaties with the United States the most recent of which being the Treaty of Washington of March 28, 1836 (7 Stat. 491) and the Treaty of Detroit of 1855 (11 Stat. 621);

WHEREAS the Preamble of the Tribal Constitution, adopted February 2, 2005, states as follows: *We will work together in a constructive, cooperative spirit to preserve and protect our lands, resources and Treaty Rights, and the right to an education and a decent standard of living for all the people. (emphasis added);*

WHEREAS in 2019, the Tribe established a Living Wage, WOS 2019-012, and states: "In order to maintain a minimum standard of living necessary for health, efficiency and general well-being of all employees within its jurisdiction, the Little Traverse Bay Bands of Odawa Indians has set forth the following to establish a LTBB Living Wage."

WHEREAS the United States Bureau of Labor Statistics sets a cost of living percentage each year, known as the Consumer Price Index (inflation rate) based on an annual analysis of the cost of goods and items that people need to sustain their lives

which includes: housing, utilities, food, gas and other necessities and for 2022 the rate established by the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) is 5.9%;

WHEREAS the Executive Branch Personnel Policies Handbook effective January 1, 2021, includes the following provision; Section VIII. EMPLOYEE DEVELOPMENT & ENHANCEMENT, B.: *“Annual Cost of Living Increase. The amount of an annual cost of living increase, for employees who qualify, will be at the rate of 1.5% per year, or at a rate determined by the Executive by Executive Directive. Increases will be effective the work week following the anniversary date of hire. Salary caps may prevent these increases from being implemented.”* once an employee reaches the top of their level of pay, then they do not qualify for Cost of Living Allowance (COLA) and are not eligible for a COLA;

WHEREAS the Legislative Branch Operations Governmental Employee Personnel Policies that was updated by Resolution 012215-03 effective January 1, 2015, includes the following provision: Section IV. EMPLOYEE DEVELOPMENT & ENHANCEMENT, B.: *“Annual Monetary Compensation: The amount of annual monetary compensation increase will be at the rate of 1.5% per year.”* Once an employee reaches the top of their level of pay, then they do not qualify for Cost of Living Allowance (COLA) and are not eligible for a COLA;

WHEREAS the Odawa Casino Resort Employee (OCR) handbook provides for an annual increase of one (1) percent for employees earning more than the Living Wage;

WHEREAS the Cost of Living Allowance (COLA) for 2021, set by the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) was 1.3% and the COLA for 2022 is 5.9% based on the Consumer Price Index (inflation), the highest in 40 years.

WHEREAS the Little Traverse Bay Bands of Odawa Indians (LTBB) government employees and OCR employees whose wages are below the Living Wage receive a 3% annual increase, are earning 2.9 % less than the CPI-W COLA;

WHEREAS LTBB government employees, who make more than the Living Wage, receive 1.5% annual increase, and are earning 4.4% less than the CPI-W COLA;

WHEREAS LTBB government employees, who make more than the Living Wage, and have reached the “*Salary caps*”, are earning 5.9% less than the CPI-W COLA;

WHEREAS Odawa Casino Resort employee, who make more than the Living Wage, receive 1% annual increase, and are earning 4.9% less than the CPI-W COLA;

WHEREAS the wages for LTBB government and OCR employees are not meeting the increase cost for housing, utilities, food, gas and other living necessities in order to achieve *a decent standard of living for all the people*.

THEREFORE, BE IT RESOLVED that Cost of Living Allowance (COLA) be paid for FY 2022 to all Little Traverse Bay Bands of Odawa Indians government employees and Odawa Casino Resort employees within thirty (30) days of enactment of this Tribal Resolution at the rate established by the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) in the amount of 5.9%; and each year thereafter, on January 1st either the CPI-W COLA or the Living Wage will be paid, whichever is higher, regardless of whether or not the employee has reached the cap for their pay level.

FURTHER BE RESOLVED the Cost of Living (COLA) for the Little Traverse Bay Band of Odawa Indians (LTBB) Government Employees and Odawa Casino Resort Employees will be calculated annually, as follows: (1) Compute the percentage difference in the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) from the average third quarter of current year and previous year’s third quarter to determine the change (if any) to establish the COLA. Example: the difference between the 3rd Quarter 2019 and 3rd Quarter 2020 would be calculated for FY 2021. (2) If there is an increase, it must be rounded to the nearest tenth of one percent. If there is no increase, or if the rounded increase is zero, there is no COLA increase for the year.

FURTHER BE IT RESOLVED Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes and supplements funding to Fiscal Year 2022 LTBB Operating Budget, not to exceed the amount of \$1,140,161.92 to implement the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) starting in January 1, 2022, in the amount of 5.9% for LTBB governmental employees to come from normal operating budgets for 2022 when possible, with supplemental funding to come from General Fund-Fund Balance where needed.

FURTHER BE IT RESOLVED Little Traverse Bay Bands of Odawa Indians Tribal Council authorizes the Odawa Casino Resort to allocate funds to Fiscal Year 2022 Budget in the amount of \$850,000 to implement the United States Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) Cost of Living (COLA) starting in January 1, 2022, in the amount of 5.9% for OCR employees.

FURTHER BE IT RESOLVED that in accordance with the Constitution the Executive Branch shall administer such funds as appropriated by Tribal Council.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Tribal Resolution 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 December 16, 2021 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Kiogima	X			
Tamara Kiogima				X
William Ortiz	X			
Aaron Otto	X			
Melissa Pamp	X			
Marty Van De Car	X			
Leroy Shomin	X			
Marcella R. Reyes	X			
Emily Proctor	X			

Date: 12/17/2021 Emily Proctor
 Emily Proctor, Legislative Leader

Date: 12/17/2021 Marcella R. Reyes
 Marcella R. Reyes, Tribal Council Secretary

Received by the Executive Office on _____ 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.

Date: 1/14/22 Regina Gasco Bentley
 Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on _____ by _____