



THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112

RESOLUTION 2015-13

APPROVING THE AMENDED NOTICE OF CHARGES OF NEGLECT OF DUTY AND/OR WILLFUL MISCONDUCT AGAINST THE TRIBAL CHAIRWOMAN, GARI LAFFERTY

WHEREAS, the Paiute Indian Tribe of Utah (“Tribe”) is a federally recognized Indian tribe under 25 U.S.C. § 761, et seq., organized under the Tribe’s Constitution, as ratified by the Tribe on June 11, 1991, and approved by the Secretary of the Interior on July 15, 1991, and amended by the Tribe on August 12, 1997, and approved by the Secretary of the Interior on September 30, 1997, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and

WHEREAS, pursuant to Article V, Section 1, of the Tribe’s Constitution, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

WHEREAS, the Tribal Council has been invested with the sacred trust of the Tribal membership, and has a solemn obligation to maintain and protect this trust by upholding the highest standards of conduct for Council Members; and

WHEREAS, the Tribal Council has the authority to sanction any of its members, including removal from office, for neglect of duty or willful misconduct; and

WHEREAS, the Paiute Indian Tribe of Utah Tribal Council Standards of Conduct, Ordinance 2009-01, requires that “Council Members shall maintain the highest standards of honesty, integrity, fairness and impartiality in their conduct as Council Members, and shall avoid any actions which would adversely reflect on the Tribal Council or the Tribe” and “shall carry out their duties and responsibilities in the highest ethical manner”; and

WHEREAS, the Tribal Council has reason to believe that the Tribal Chairwoman has engaged in neglect of duty and/or willful misconduct, and has acted contrary to the high standards placed upon Council Members; and

WHEREAS, the Tribal Council previously approved specific charges of neglect of duty and/or willful misconduct in the Notice of Charges of Neglect of Duty and/or Willful Misconduct and Notice of Hearing attached as Exhibit A to Tribal Council Resolution 2015-10; and

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WHEREAS, the Tribal Council has amended the Notice of Charges to include additional details based upon its investigation and review of documents associated with the allegations in the Notice of Charges, and has attached the Amended Notice of Charges of Neglect of Duty and/or Willful Misconduct ("Amended Notice of Charges") hereto as Exhibit A; and

WHEREAS, the Tribal Council has determined that it is in the best interests of the Tribe and its members that the hearing on the Amended Notice of Charges be held at the Iron County Justice Court at 82 N 100 E, in Cedar City, in order to ensure that the hearing is conducted in a safe and orderly manner; and

WHEREAS, the Tribal Council has posted a Notice of Hearing Date, Time, Location and Procedures at the Tribal building and on the Tribe's website;

THEREFORE BE IT RESOLVED THAT the Tribal Council hereby approves the Amended Notice of Charges; and

BE IT FURTHER RESOLVED THAT the Amended Notice of Charges shall be served upon the Tribal Chairperson through her attorney, and shall supersede and replace the previous Notice of Charges; and

BE IT FURTHER RESOLVED THAT the Tribal Council finds that the charges and allegations set forth in the attached Amended Notice of Charges fall within the scope of the Tribe's Ethics Ordinance and Tribal Council Standards of Conduct, and, if the facts alleged are true, would support a determination of neglect of duty or willful misconduct, or other unethical or improper conduct; and

BE IT FURTHER RESOLVED THAT the Tribal Council therefore has set a hearing on these charges in order to provide the Tribal Chairwoman with an opportunity to respond to these charges and be heard, to be held on **Tuesday, March 31, 2015, at 3:00 p.m.** in the Iron County Justice Court at 82 N 100 E, in Cedar City; and

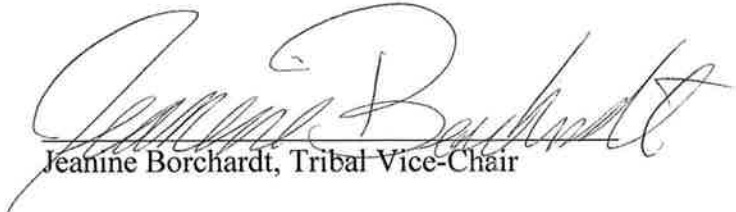
BE IT FURTHER RESOLVED THAT the Tribal Council shall post a notice to Tribal members of the Amended Notice of Charges at the Tribal building and on the Tribal website; and

BE IT FINALLY RESOLVED THAT if, after a hearing providing the Chairwoman with an opportunity to respond to the Amended Notice of Charges and be heard, the Tribal Council determines that its Chairwoman has neglected her duties and/or engaged in willful misconduct, the Tribal Council shall determine what sanctions, if any, should be imposed, up to and including removal in accordance with Article XII, Section 2 of the Constitution of the Paiute Indian Tribe of Utah.

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CERTIFICATION

I hereby certify that the foregoing Resolution was fully considered by the Tribal Council at a duly called meeting in Cedar City, Utah, at which a quorum was present and that the same was passed by a vote of 4 in favor, 0 opposed, and 0 abstained this 26th day of March, 2015.


Jeanine Borchardt, Tribal Vice-Chair

ATTEST:



Carol Garcia, Tribal Council Secretary



THE PAIUTE INDIAN TRIBE OF UTAH

440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112

AMENDED NOTICE OF CHARGES OF
NEGLECT OF DUTY AND/OR WILLFUL MISCONDUCT
AND
NOTICE OF HEARING

The Tribal Council of the Paiute Indian Tribe of Utah hereby notifies you, Gari Lafferty, Chairperson of the Paiute Indian Tribe of Utah, of the following charges of possible neglect of duty and/or willful misconduct. You are hereby ordered to show cause why you should not be sanctioned by the Tribal Council for these charges, up to and including removal from office pursuant to Article XII, Section 2, of the Constitution of the Paiute Indian Tribe of Utah (“Constitution”).

FIRST CHARGE
Violation of the Tribe’s Ethics Ordinance

Charges: Soliciting and/or receiving an item or items in excess of minimal value for personal benefit where it could reasonably be inferred that solicitation and/or receipt of such item(s) could influence your official vote, action, and/or judgment. *See* Section 3 of the Tribe’s Ethics Ordinance, approved 05-18-84, as amended on 04-07-04 (“Ethics Ordinance”). Promoting personal gain over the best interests of the Tribe in violation of the public trust. *See* Ethics Ordinance, Section 1.

Specifications: You told the Tribal Council during the Tribal Council meeting on May 22, 2014, that Gary Edwards, Chief Executive Officer of the Washington Redskins Original Americans Foundation (“WROAF”), sent you an autographed football signed by Redskins quarterback “RG3”. You admitted to the Council that you solicited this gift from Mr. Edwards. It is believed that this autographed football is valued at well over the \$50.00 threshold stated in the Ethics Ordinance.

The Tribal Council has reason to believe that the Washington Redskins, or the WROAF, arranged for you to fly to Washington, D.C., on or about September 24-27, 2014, to attend a Redskins football game on September 25, 2014. The Tribal Council has reason to believe that the Redskins or WROAF covered the cost of your airfare, hotel, and/or your “VIP” attendance at the September 25, 2014, game. The estimated value of this trip is at least \$1,500.00. The Tribal Council has reason to believe that the Redskins or the WROAF also provided some or all of these benefits to a member or members of your family.

Solicitation and/or acceptance of these gifts could reasonably be inferred to influence your official actions and/or judgment in the debate over the continued use of the name “Redskins” by a National Football League (“NFL”) team. *See e.g.*, David Treuer, *The Price of a Shur*, New

York Times, April 3, 2014, available at <http://www.nytimes.com/2014/04/03/opinion/the-price-of-a-slur.html?emc=eta1>; Jim Newell, *Redskins Propaganda Takes Vile Turn: How Team Seeks to Buy Off Opposition*, *Salon*, August 13, 2014, available at http://www.salon.com/2014/08/13/redskins_propaganda_takes_vile_turn_how_team_seeks_to_buy_off_opposition/; Mike Florio, *Tribe Refuses Bribe Money from Washington Foundation*, *NBC Sports*, July 20, 2014, available at <http://profootballtalk.nbcsports.com/2014/07/20/tribe-refuses-bribe-money-from-washington-foundation/>.

By soliciting and/or accepting these gifts, it gives the appearance that you, as the Tribal Chairperson and spokesperson of the Tribe, are allowing the WROAF to influence your position on a matter of public debate and controversy regarding the use of the name Redskins. Your solicitation and/or acceptance of gifts from the Redskins or its Foundation for your own personal gain violate the trust placed in you by the Tribal membership by virtue of your elected office. See Ethics Ordinance, Section 1.

Moreover, you accepted the event tickets and travel to the Redskins game approximately one week after participating in a Conflict of Interest presentation for the Tribal Council on September 16, 2014. That presentation emphasized that “[t]aking any gift given in exchange for your official action or because of your official position could be considered bribery”; and specifically included “meals”, “event tickets” and “travel/accommodation expenses” as examples of gifts Tribal Council members should not accept.

Any allegation that an elected Tribal official has violated the provisions of the Tribe’s Ethics Ordinance “shall constitute a charge of ‘willful misconduct’ as set forth in Article XII, Section 2 of the Constitution and said official may be removed pursuant to its provisions.” See Ethics Ordinance, Section 10.

SECOND CHARGE
Violation of Article IX, Section 1(f) of the Tribe’s Constitution

Charge: Obligating the Tribe without the prior written authorization of the Tribal Council.

Specifications: Solicitation and/or acceptance of the gift(s) by the Paiute Indian Tribe of Utah Chairperson from the Washington Redskins or WROAF, as described in the First Charge above, could reasonably be understood to obligate the Tribe to a particular position (i.e., in support of the Redskins and/or WROAF). Upon information and belief, you attended a round table discussion with another tribe regarding the Redskins mascot issue in your official capacity as Tribal Chairwoman. You were photographed on the football field with the Redskins President, Bruce Allen. You have also made statements on Facebook and/or other social media outlets in support of the Redskins. Your solicitation and/or acceptance of these gifts and associated actions in support of the Redskins were all done without the prior written authorization of the Tribal Council, in violation of Article IX, Section 1(f) of the Constitution.

THIRD CHARGE
Violation of the Tribal Council Standards of Conduct

Charges: Promoting your own personal, private interests, rather than the best interests of the Tribe. See Section 2 of the Paiute Indian Tribe of Utah Tribal Council Standards of Conduct, Ordinance 2009-01 (“Tribal Council Standards of Conduct”). Developing a personal interest that is separate from or adverse to the Tribe. See Tribal Council Standards of Conduct, Section 3.

Specification: The Redskins debate has unique and particular significance for the Paiute Indian Tribe of Utah and its members because a member of the Tribe, Phillip Gover, is a named litigant in the patent and trademark suit regarding the name and logo of the NFL team. Notwithstanding the participation of a PITU Tribal member in the litigation, you solicited and/or accepted gifts from the Redskins and its Foundation, as described in the First and Second Charges, for your personal benefit. Your actions in soliciting and accepting gifts from the Redskins for yourself and your family could reasonably be considered to be separate from or adverse to the best interests of the Tribe, particularly given the participation of a PITU Tribal member in the litigation *against* the continued use of the name “Redskins” (and associated logo) by an NFL team.

Any violation of the Tribal Council Standards of Conduct may constitute “neglect of duty” or “willful misconduct” as those terms are used in Article XII, Section 2 of the Tribe’s Constitution. See Tribal Council Standards of Conduct, Section 2.

FOURTH CHARGE
Ignoring the Express Directive(s) of the Tribal Council

Charge: Ignoring the express directive(s) of the Tribal Council.

Specifications: During the August 1, 2014, Tribal Council Meeting, the Tribal Council passed a motion requiring you to apologize publicly, with a written or verbal apology, to the Indian Peaks Band for comments you made about the 33rd Restoration Gathering Pageant being an “embarrassment.” The Tribal Council reminded you that you needed to apologize during its next meeting, on August 20, 2014, and again during the Tribal Council meeting on September 4, 2014. You were told on September 4, 2014, that if you did not provide an apology you would face reprimand. To date, you have continued to ignore this directive and have failed to apologize to the Indian Peaks Band.

Your refusal to apologize after being told by the Tribal Council to do so is a pattern. On or around June 20, 2013, the Tribal Council was presented with a letter from the family of the late Geneal Anderson. The letter stated that, in your welcome letter for the brochure for the 33rd Annual Restoration Gathering and Pow-Wow, you “plagiarized” the letter written by a previous Tribal Chair, Geneal Anderson, and presented it as your own. The family of the late Geneal Anderson requested that you issue a written apology. During the June 20, 2013, Tribal Council meeting, the Tribal Council directed you to apologize to the family. You agreed to do so. To date, you have not issued an apology, verbally or in writing.

Pursuant to Article IX, Section 1(g) of the Tribe's Constitution, the Chairperson "[s]hall have such other duties, powers and restrictions as designated by the tribal council." Your refusal(s) to comply with the Tribal Council directive(s) to apologize to a Band and/or Tribal member violates Article IX, Section 1(g).

FIFTH CHARGE
Interfering With Internal Band Matters

Charges: Ignoring an express directive of the Tribal Council to refrain from getting involved in Band issues. *See* Article IX, Section 1(g) of the Tribe's Constitution. Infringing on the powers reserved to the Bands under the Tribe's Constitution. *See* Constitution, Article VIII, Section 2.

Specification: During the October 1, 2014, Tribal Council meeting, the Tribal Council discussed matters involving the Cedar Band and expressly directed you, as the Tribal Chairwoman, not to get involved in Band issues. You continued to involve yourself in Cedar Band matters, including by sending an email to Cedar Band's attorney on January 7, 2015, telling him how you wanted the Cedar Band matter handled. The statements in your email to the Cedar Band attorney were directly contrary to the action taken by, and decision of, the Tribal Council. You repeatedly ignored the express directive of the Tribal Council to not interfere with the Cedar Band matter. Your conduct infringed on the powers reserved to the Band under the Tribe's Constitution, including the power to establish by the adoption of by-laws its own rules of procedure and organizational structure, and to elect and recall its own representative to the Tribal Council.

SIXTH CHARGE
Misuse of Your Official Title and/or Position

Charges: Misusing your official title and/or position to disparage and harass a Tribal member by interfering with her professional reputation, and/or using your official title in tribal government to conduct personal business. *See* Tribal Council Standards of Conduct, Section 5(A). Promoting your own personal interests, rather than the best interests of the Tribe as a whole. *Id.* at Section 2.

Specifications: On February 18, 2015, you contacted Francine M. Jaramillo, Staff Attorney at the American Indian Law Center ("AILC"), by telephone to discuss the role of A. Nikki Borchardt Campbell, a PITU Tribal member, as a moderator in a webinar scheduled for later that day. The webinar was part of a series developed and presented by AILC in partnership with the National Indian Court Judges Association ("NAICJA"). Ms. Borchardt Campbell is the Associate Director (formerly Program Administrator) at NAICJA. Ms. Jaramillo has indicated in an Affidavit that during the telephone call you identified yourself as the Chairwoman of the Paiute Tribe, you questioned the ability of Ms. Borchardt Campbell to serve as a neutral moderator, and you questioned her professional qualifications, implying that Ms. Borchardt Campbell was not qualified to lead the webinar. The motivation of this call was apparently your personal animosity toward this individual Tribal member, rather than to serve any legitimate Tribal purpose.

You previously made disparaging comments against the same Tribal member. During a planning meeting for the Utah Governor's Native American Summit in June 2013, you told key state and tribal representatives, including employees of the Utah Division of Indian Affairs, that Ms. Borhardt Campbell would not be a good representative of the Paiute people and that the Paiute Tribe did not want her as a speaker. Your comments resulted in the cancellation of her keynote address at the Summit and potentially damaged her reputation. The Tribal member submitted a letter to the Tribal Council regarding this incident when it occurred in June of 2013, and the Tribal Council made clear to the Utah Division of Indian Affairs that 1) it did not direct you to make that statement and 2) it is not the policy of the Tribal Council to interfere with an individual Tribal member's activities when that Tribal member is not directly representing the Tribe.

In both of these instances you used your official position as the Chairwoman to disparage and harass a PITU Tribal member and to interfere with her professional reputation and opportunities. You did so in order to promote your own personal interests, rather than the best interests of the Tribe as a whole. You also did so without the authorization or approval of the Tribal Council.

Any violation of the Tribal Council Standards of Conduct may constitute "neglect of duty" or "willful misconduct" as those terms are used in Article XII, Section 2 of the Tribe's Constitution. *See* Tribal Council Standards of Conduct, Section 2.

NOTICE OF HEARING

You are hereby notified that a hearing will be held on **Tuesday, March 31, 2015, at 3:00 p.m.** in the **Iron County Justice Court at 82 N 100 E, Cedar City, UT 84721.**

You will have an opportunity during the hearing to show cause why you should not be sanctioned by the Tribal Council for these charges, up to and including removal from office pursuant to Article XII, Section 2, of the Tribe's Constitution.

You have the right under the Tribe's Constitution to elect to have the hearing open or closed to the tribal membership. *See* Article XII, Section 2(b)(1). You have notified that you would like the hearing to be open to the Tribal membership.

You shall have the right to examine all witnesses against you, and shall have the right to call witnesses on your own behalf. You also have the right to be represented, at your own expense, by an individual of your choice. *See* Article XII, Section 2(b)(3).

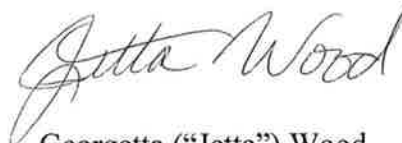
If you do not show up at the hearing, the Tribal Council may proceed in your absence.

DATED this 26th day of March, 2015.

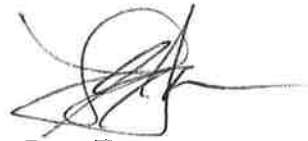
By,



Jeanine Borchardt
Paiute Indian Tribe of Utah Vice-Chairperson

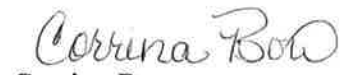


Georgetta ("Jetta") Wood
Paiute Indian Tribe of Utah Council Member



Lora Tom
Paiute Indian Tribe of Utah Council Member

Toni Pikyavit
Paiute Indian Tribe of Utah Council Member



Corrina Bow
Paiute Indian Tribe of Utah Council Member