



THE PAIUTE INDIAN TRIBE OF UTAH

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

RESOLUTION 2015-14

RESOLUTION OF THE TRIBAL COUNCIL OF THE PAIUTE INDIAN TRIBE OF UTAH TO REMOVE ITS TRIBAL CHAIRWOMAN, GARI PIKYAVIT LAFFERTY, FOR NEGLECT OF DUTY OR WILLFUL MISCONDUCT PURSUANT TO ARTICLE XII, SECTION 2, OF THE CONSTITUTION OF THE PAIUTE INDIAN TRIBE OF UTAH

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, Article XII, Section 2, of the Tribe’s Constitution vests the Tribal Council with the authority to remove any member of the Tribal Council, including the Chairperson, for neglect of duty or willful misconduct; 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 Tribal Council Members; 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 presented its Chairwoman, Gari Pikyavit Lafferty, with 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, on March 2, 2015;
and

WHEREAS, the Tribal Council subsequently 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 it served Gary Pikyavit Lafferty with the Amended Notice of Charges of Neglect of Duty and/or Willful Misconduct (“Amended Notice of Charges”) attached as Exhibit A to Tribal Council Resolution No. 2015-13, on March 26, 2015; and

WHEREAS, a hearing was held on March 31, 2015, pursuant to Article XII, Section 2, of the Tribe’s Constitution, during which Gari Pikyavit Lafferty was provided with an opportunity to be heard and to respond to the evidence of willful misconduct or neglect of duty, to be represented by counsel, and to call and examine witnesses;
and

WHEREAS, based upon the record and the evidence presented at the hearing, the Tribal Council has concluded that its Tribal Chairwoman has engaged in neglect of duty or willful misconduct, and has acted contrary to the high standards placed upon Tribal Council Members;

THEREFORE BE IT RESOLVED THAT the Tribal Council finds that the record and evidence support a finding of neglect of duty or willful misconduct on each and every charge contained in the Amended Notice of Charges; and

BE IT FURTHER RESOLVED THAT the Tribal Chairwoman’s conduct underlying the charges violates, at a minimum, Article IX, Section 1(g) and Article VIII, Section 2, of the Tribe’s Constitution; Section 3 of the Tribe’s Ethics Ordinance, Approved 05-18-84, and amended 04-07-04; and Sections 2 and 5 of Paiute Indian Tribe of Utah Tribal Council Standards of Conduct, Ordinance 2009-01;
and

BE IT FURTHER RESOLVED THAT the Tribal Council finds that the violations of these Tribal laws constitute neglect of duty or willful misconduct as those terms are used in Article XII, Section 2, of the Tribe’s Constitution; and

BE IT FURTHER RESOLVED THAT the Tribal Council hereby removes its Chairperson from office by a majority vote of the members of the Tribal Council for neglect of duty or willful misconduct pursuant to Article XII, Section 2, of the Tribe’s Constitution; and

BE IT FURTHER RESOLVED THAT pursuant to Article XII, Section 5, the Tribal Chairperson’s seat shall be deemed to be vacant as of the date of this Resolution;
and

BE IT FURTHER RESOLVED THAT the Tribal Council will draft specific and particular findings in support of this removal decision, to be provided no later than April 10, 2015; and

BE IT FURTHER RESOLVED that a special election shall be held of the eligible voters of the tribe to elect a Chairperson from among the five (5) Tribal Council members, pursuant to Article XII, Section 2(b)(5) of the Tribe's Constitution; and

BE IT FURTHER RESOLVED that the special election shall be held by absentee ballot on April 30, 2015, in accordance with the Tribe's Election Ordinance; and

BE IT FURTHER RESOLVED that eligible voters of the Tribe may return their absentee ballots by mail or by hand-delivery to the Election Board up to 7:00 p.m. on the day of the election; and

BE IT FINALLY RESOLVED that the Tribal Council shall announce the results of the special election by midnight on May 1, 2015.

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 5 in favor, 0 opposed, and 0 abstained this 13th day of April, 2015.


Jeanine Borchardt, Tribal Vice-Chair

ATTEST:


Gayle Rollo, Tribal Administrator