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L A W O F F I C E S

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MEMORANDUM

DATE: September 12, 2005

TO: Delaware Nation

FROM: Steven D. Sandven, Esq.

RE: **ARTICLE XIV - DUTIES OF OFFICERS**

Purpose

The purpose of this section is to specify the responsibilities and authority of the officers of the Nation. By carefully crafting a constitution, the framers can balance the power of governing between the legislative and the executive branch. By explicitly enumerating the powers of the officers, the constitution can make the executive relatively stronger or weaker than the council.

Currently Reads

Section 1. The President shall preside at all meetings of the general council and of the executive committee. He shall have general supervision of the affairs of the general council and of the executive committee and shall perform all duties associated with the office of the president.

Section 2. The Vice-President in the absence of the president shall perform the duties of that office. He shall serve as ex-officio member of all committees created by the executive committee and shall represent the president at other occasions when called upon to do so.

Section 3. The Secretary shall keep an accurate account of all proceedings and official records of the council and of the executive committee, and shall file copies in the tribal office. He shall be responsible for the prompt and efficient handling of all correspondence pertaining to the business of the council and executive committee. All official records of the secretary shall be open at reasonable times to the inspection of council citizens in the presence of the secretary. The secretary shall keep an accurate list of all general council citizens, and in the absence of the president and vice-president, shall preside at meetings of the general council or executive committee.

Section 4. The Treasurer shall keep account of all funds in possession of the tribe from any source. He shall keep an accurate record of all funds and shall make disbursements in accordance with a properly executed resolution of the executive committee. The treasurer shall keep all tribal monies entrusted to his care in special bank accounts and/or in “Individual Indian Money” accounts. At any time that such an account shall amount to fifty dollars (\$50) or more, he shall file a bond satisfactory to the executive committee and the Bureau of Indian Affairs. The cost of such bond shall be paid out of tribal money. The accounts and records of the treasurer shall be open at a reasonable time for inspection by council citizens in the presence of the treasurer. The books of the treasurer shall be kept in the tribal office and be subject to audit or inspection at the discretion of the executive committee or the Bureau of Indian Affairs.

Section 5. The Committeemen shall perform those specific duties which shall be set forth in a resolution of the executive committee.

Section 6. Transfer of Records. At the expiration of their term of office, all officers shall turn over all tribal records and funds in their possession to their successors.

Other Tribes

Sisseton-Wahpeton Oyate of the Lake Traverse Reservation

Bylaws. Article I

Section 1. Chairman. (a) He shall preside at all regular and special meetings of the General Council, Council, and Executive Committee. The Chairman shall be an ex-officio member of all subordinate committees. (b) He shall have general and active management of the business activities of the Tribe except that he shall not act on matters binding the Tribe until either the General Council, the Council, or the Executive Committee has deliberated and enacted appropriate resolutions or motions. (c) He shall see that all ordinances and resolutions of both the General Council and the Council are carried into effect. (d) He shall sign on behalf of the Tribe all official papers when authorized to do so. (e) He shall give supervision to all other officers and employees of the Tribe and see that they carry out their duties. (f) He shall prepare a report of the activities of the Council and shall make this report at each regular meeting of the General Council. He shall include in this report all matters within his knowledge which the interest of the Tribe may require to be brought to its attention. (g) He shall not vote in either the General Council or Council except in the case of a tie.

Section 2. Secretary. (a) He shall keep minutes at the principal place of business of the Tribe of all meetings of the General Council, Council and the Executive Committee. (b) He shall give and serve all notices of the General Council and the Council as required by this Revised Constitution and By-Laws. (c) He shall keep the membership roll of the Tribe, showing all changes as required by this Revised Constitution. In addition, he shall keep a current voting list. (d) He shall attend to all such correspondence assigned to him by the Chairman or Vice-Chairman in the absence of the Chairman.

Section 3. Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall preside and shall have all powers, privileges, and duties of the Chairman, and may cast a vote in the case of a tie. (a) in the absence of the Chairman, the Vice-Chairman shall preside over the Council and may cast a vote in the case of a tie. (b) if the Chairman is incapacitated, the Vice-Chairman shall assume the duties of the Chairman until such time as he is able to resume his duties. (c) If the Chairman is removed from office, the Vice-Chairman shall assume the duties of the Chairman until the Tribal Council appoints a person to fill the vacancy pursuant to Article VI, Section 1. (d) The Vice-Chairman shall serve as ambassador when the Chairman is unavailable. (e) The Vice-Chairman shall see that all ordinances and resolutions pertaining to financial matters of the Tribal Council are carried into effect. (f) The Vice-Chairman shall oversee all financial and business matters of the Tribe. (g) the Vice-Chairman shall sign on behalf of the Tribe all official papers when authorized to do so by the Tribal Council. (h) He shall prepare and make a report of all financial and business activities of the Tribe at each regular meeting of the Tribal Council and shall make an annual report at the General Council.

Ho-Chunk Nation

Constitution. Article VI

Section 2. Powers of the President. The President shall have the power: To execute and administer the laws of the Ho-Chunk Nation; To make recommendations to the Legislature on matters of interest or benefit to the Nation; To propose legislation and an annual budget to the Legislature; To administer all Departments, boards, and committees created by the Legislature; To nominate the Executive Directors of each Department subject to confirmation by the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed; To remove an Executive Director of a Department or to reassign an Executive Director to another position; To select and hire personnel in accordance with applicable law; To preside over meetings of the Legislature; To cast the deciding vote in the case of a tie; To call Annual and Special Meetings of the General Council; To represent the Ho-Chunk Nation on all matters that concern its interests and welfare; To execute, administer, and enforce the laws of the Ho-Chunk Nation necessary to exercise all powers delegated by the General Council and the Legislature, including but not limited to the foregoing list of powers.

Cherokee Nation of Oklahoma

Constitution. Article VII

Section 9. At every session of the Council, and immediately upon its organization, the Principal Chief shall communicate by message, delivered to the Council upon the condition of the Cherokee Nation; and shall recommend such matters to the Council as he shall judge expedient.

Section 10. The Principal Chief shall cause the laws of the Cherokee Nation to be faithfully executed, and shall conduct in person and in such manner as shall be prescribed by law, all communications and business of the Cherokee Nation. The Principal Chief may cause to be formed and operated, trusts, the beneficiary of which shall be the Cherokee Nation and these trusts shall be granted such powers as provided by law for public trusts. Authorization for these trusts, however, must be approved by a majority vote of the Council.

Section 11. The Deputy Principal Chief shall, by virtue of his office, aid and advise the Principal Chief in the administration of the government and shall be President of the Council but shall vote only for the purpose of breaking a tie vote.

Section 12. Nothing in this Constitution shall be construed as preventing the Principal Chief from appointing such administrative assistants as he deems proper.

Cheyenne-Arapaho Tribes of Oklahoma

Constitution. Article XIV

Section 1. The chairman of the business committee shall preside over all meetings of the committee, shall perform all the duties of a chairman, and exercise any authority delegated to him by the business committee. He shall have the privilege of voting in case of a tie. He shall further preside at all meetings of the tribal council, unless a different presiding officer is selected by the tribal council at the outset or at any time during the course of the meeting.

Section 2. The vice-chairman of the business committee shall call the roll at the opening of each meeting. He shall then read the minutes of the previous meeting. The minutes shall be corrected as necessary and approved by the business committee.

Section 3. The secretary shall call to the attention of the business committee any unfinished business from the previous meeting. The secretary shall read to the committee all communications which have been received by said committee. It shall be the duty of the secretary to answer all correspondence after it has been discussed and a decision made by the business committee. The secretary shall certify to the accuracy of all actions taken by the council and the committee.

Section 4. The treasurer of the business committee shall be custodian of all monies which come under the jurisdiction or control of the Cheyenne-Arapaho Business Committee. He shall conserve, invest, and pay out money in accordance with the provisions of his constitution and by-laws and pursuant to the orders and resolutions of the business committee provided, however, that as to any account or other deposit maintained by the tribes with a bank or other depository or institution all checks, drafts, or other withdrawals on or against

said account or deposit shall require two (2) signatures, which signatures shall include that of the treasurer and that of such other officers or members of the business committee as the committee may designate by resolution. The treasurer shall keep account of all receipts and disbursements and shall report the same to the business committee at each regular meeting. He shall be bonded in such an amount as the business committee by resolution shall provide such bond to be satisfactory to the Commissioner of Indian Affairs. The treasurer shall cooperate and coordinate with the business manager, who shall keep a double-entry set of books which shall be subject to audit or inspection at any time at the discretion of the business committee. Said books shall be maintained at the tribal headquarters. At the conclusion of each calendar year, said books and records for said year shall be promptly delivered to the Superintendent of the Concho Agency of the Bureau of Indian Affairs, who shall cause an audit of said books and records to be made by appropriate officials of the Bureau of Indian Affairs. A written report regarding the results of each such audit shall be submitted to the business committee by the Bureau of Indian Affairs as promptly as possible.

Section 5. The sergeant-at-arms shall maintain order and decorum at all meetings and such similar duties as may be directed by the presiding officer.

Section 6. The business manager shall: a. Manage the tribal office and maintain the order of tribal records and make them available to members of the tribal council and business committee as appropriate and to insure their security. b. Take care of those duties which may be assigned by the business committee. c. Assist the election board. d. Maintain a double-entry set of books and records reflecting all receipts and disbursements of tribal funds and generally perform the function of bookkeeper in coordination with the treasurer. e. Maintain the registration list of eligible voters by districts and tribe and keep a record of all ballots mailed out and those returned. f. Publish a monthly tribal newsletter subject to the availability of budgeted funds and in a form suitable to the business committee, but to include a copy of the proposed and approved budget, notice of meetings and elections, a list of candidates and election results, and a brief report of tribal council and business committee meetings and trip reports. Provide for the minutes of all tribal council and all business committee meetings and prepare same for the secretary to certify as to accuracy. Minutes shall indicate the vote of each member of the business committee on each resolution.

Cheyenne River Sioux Tribe

Bylaws. Article I

Section 1. It shall be the duty of the chairman to preside at all meetings of the council. He shall have a vote only when a tie occurs.

Section 2. In the absence of the regular chairman the assistant chairman shall preside and he shall have all powers, privileges, and duties of the regular chairman, and may cast a vote in the case of a tie.

Section 3. It shall be the duty of the tribal secretary to keep a true and accurate record of all matters affecting the tribal records and accounts, and to render a proper accounting of such records and statistics as are required by the tribal council. He shall be present at all meetings of the council and shall keep an accurate record of all council proceedings, including the minutes of each special and regular meetings. (a) Minutes of all special or regular meetings shall be in triplicate, the original copy to be filed at the Cheyenne Agency Tribal Office, one copy to be presented to the superintendent, and one copy to be transmitted to the Commissioner of Indian Affairs. (b) The secretary shall have voice in the deliberations of the council but shall not vote.

Section 4. The duties of the treasurer of the tribal council shall be as follows: He shall accept, receive, receipt for, preserve, and safeguard all funds in the custody of the council, whether same be tribal funds or special funds for which the council is acting as trustee or custodian. He shall deposit all such funds in such bank or elsewhere, as directed by the council, and he shall keep an accurate record, filing same in the tribal council's office, and he shall report all receipts and expenditures and accounts and the nature of all funds in his possession or custody, once every six months to the tribal council in writing, or at any time he is requested to do so by the tribal council. (a) He shall not disburse any funds in his custody belonging to the council except when authorized by a motion duly passed and properly recorded by the council. (b) He shall be present at all special or regular meetings of the council, but will have no voice or vote in the deliberations of the council, only when making reports or to furnish the necessary information required by the council. (c) The treasurer shall be required to furnish a bond satisfactory to the council. (d) The books and records of the treasurer shall be audited at least once each year by a competent auditor employed by the tribal council or under the direction of the Commissioner of Indian Affairs.

Section 5. There shall be a sergeant-at-arms and he will be appointed by the tribal council. (a) It shall be his duty to be present at all meetings of the tribal council, and to maintain order and decorum within the council chamber; he shall serve all summonses emanating from the council, and shall perform such other duties as may be designated by the council. He shall have no voice or vote in the deliberations of the council, except when making reports or furnishing information requested by the council.

Confederated Tribes of the Umatilla Reservation in Oregon

Constitution. Article V

Section 3. The officers of the General Council shall be a Chairman, a Vice-Chairman, a Secretary, and Interpreter, and such other officers as the General Council may from time to time create and fill. Their duties shall be as follows: (a) The Chairman shall preside at the meetings of the General Council, shall

attest the minutes thereof, shall appoint temporary officers in the absence of the duly elected officers, and shall perform such other duties as are placed upon him by this Constitution and Bylaws. He shall vote only in case of a tie. (b) The Vice-Chairman shall act in place of the Chairman in the event of his absence or disability, or at his request. (c) The Secretary shall keep, prepare, and sign the official minutes of the meetings of the General Council and, subject to the direction of the Chairman, prepare an order of business in advance of each meeting of the General Council. (d) The Interpreter shall interpret what is said at meetings of the General Council from the English language to the commonly understood Indian language, and vice versa, whenever necessary to full understanding by all members.

Coquille Indian Tribe

Constitution. Article VI

Section 3(6). The duties of the Chairperson shall include presiding over all Tribal Council and General Council meetings. The Chairperson shall also perform all duties of the chair and exercise any authority delegated to him/her by the Tribal Council. The Vice Chairperson shall assist the Chairperson when called upon to do so by the Chairperson. In the absence of the Chairperson, s/he will preside at Tribal Council and General Council meetings and when so presiding, s/he will have all the rights, duties, privileges and responsibilities of the Chairperson including the duty to vote only in the event of a tie. The Chief shall be the primary cultural and spiritual representative of the Tribe. Additionally in the absence of both the Chairperson and Vice Chairperson, the Chief shall preside at all meetings of the Tribal Council and General Council.

Hopi Tribe

Constitution. Article IV

Section 4.

(a). Legislative power shall be vested in the Council. The Council shall have the power to make laws.

(b). The Council shall enact an annual budget by law which shall include an appropriation for the Judicial Branch and the Executive Branch. Every funding item in the annual budget must have been previously authorized by law. No moneys shall be drawn from the Treasury except by a warrant signed by the President and except upon authorization and appropriation by law.

(c). The Council shall adopt a public legislative process. Legislative proposals shall be formally introduced as written Bills, read into the legislative Record, published in a Legislative Calendar for at least thirty days prior to a vote by the

Council, and made the subject of a legislative hearing during such period. A Bill shall remain on the Legislative Calendar for no more than one hundred eighty days. All votes of the Council shall be cast in public and shall be published in a tally with the name and vote of each Representative recorded. All Bills passed by the Council shall be presented to the President for signature or veto. Any action by the Council which does not follow the legislative process shall be deemed void. All Bills shall include a statement identifying the specific law, if any, to be superseded, repealed, or amended. All laws shall be compiled into a Code which shall be published annually.

(d). The Council shall have the power to override a veto by the President by an affirmative vote of at least two-thirds of the entire Council.

(e). The Council shall have the power to confirm or deny nominees selected by the President as Directors within the Executive Branch. Representatives shall not be permitted to serve as Directors within the Executive Branch.

(f). The Council shall have the power to create Regulatory Commissions by law. Any Commission created by the Council shall be in the Executive Branch of government. No Member of the Council may also be a member of any Commission created by the Council. All Commissions shall be subject to the laws of the Tribe. Any Commission created by the Council shall have the authority to promulgate written regulations pursuant to law and due process. Members of all Commissions shall be selected by nomination by the President, subject to confirmation by the Council.

(g). The Council shall have the power to create Executive Boards by law. Any Board created by the Council shall be in the Executive Branch of government and shall be subject to the powers of the Executive Branch. No Member of the Council may also be a member of any Board created by the Council. All Boards shall be subject to the laws of the Tribe. Members of all Boards shall be selected by election as required by law or by nomination by the President, subject to confirmation of the Council.

(h). The Council shall have the power to establish policies and procedures, and appoint officials, for the Council including the power to establish legislative committees comprised exclusively of Representatives.

Article V- Hopi Tribe continued

Section 4. Powers.

(a). Executive power shall be vested in the President. The President shall have the power to execute, administer, and enforce the laws.

(b). The President shall have the power to veto a Bill passed by the Council with a written explanation of any objections, and if the President takes no action within twelve calendar days from the date the Bill is presented to the President, then the Bill shall become law.

(c). The President may authorize the transfer and expenditure of monies which are included in the budget approved by the Council. No moneys shall be drawn from the Treasury except by a warrant signed by the President.

(d). The President shall have the power to nominate an Executive Director for each Department subject to confirmation by the Council. Any nominee that is neither confirmed nor denied within sixty days of nomination shall be considered confirmed. The President shall have the power to remove an Executive Director of a Department.

(e). The President shall have the power to represent the Tribe in all matters with any other government, entity, or individual. The President shall not negotiate any treaty, compact, or contract which has not been generally authorized by law. Any treaty or compact negotiated by the President shall be subject to ratification of the Council.

Turtle Mountain Band of Chippewa

Constitution. Article VI

Section 1. There shall be the following Tribal Officers: A Chairman, Vice-Chairman, and a Secretary-Treasurer. The Chairman shall be elected on a reservation wide or at large basis for a term of two (2) years or until a successor shall have been elected and qualified. The Vice-Chairman shall be elected from within the Tribal Council and his only duty shall be to serve as presiding officer of the Council in the absence of the Chairman. The Secretary-Treasurer shall be selected by vote of the Tribal Council and the Chairman shall vote on same also if his vote is necessary to break a tie.

Section 2. Chairman. He shall preside at all regular and special meetings. He shall vote only in the case of a tie. He may veto any resolution and ordinance that is passed by the Tribal Council members; however, he must provide a written rationale for the veto. Such vetoed resolution or ordinance must then be presented for a reconsideration vote of the Tribal Council at the next regularly scheduled meeting, but no later than thirty (30) days after the veto. Should the resolution or ordinance fail to pass with at least five (5) affirmative votes or in the event the Tribal Council fails to reconsider the vote within the required thirty (30) daytime period, such resolution or ordinance shall be deemed vetoed and may not be reconsidered for ninety (90) days. The Chairman shall see that all resolutions and ordinances of the Tribal Council are carried into effect. He shall exercise general supervision of all other officers and employees and see that their respective duties are performed. He shall be the Chief Executive Officer of the Tribe.

Section 3. Secretary-Treasurer. He shall keep the minutes at the principal office of the Tribal Council of all meetings of the Tribal Council. He shall keep the tribal roll, showing all changes therein as required by this Constitution or ordinance duly approved by the Tribal Council. He shall attend to all

correspondence, distribution of tribal information or other duties incidental to his office including the reproduction of minutes, resolutions and ordinances and see to their distribution within the deadlines, if there be deadlines. He shall keep and maintain adequate and correct accounts of the properties and business transactions of the Tribal Council. He shall have care and custody of the funds and valuables of the Tribal Council and deposit same in the name of and to the credit of the Band with such depositors as the Tribal Council may direct and which are acceptable to the Area Director. Disburse funds of the Tribal Council as may be ordered by the Tribal Council, taking proper signed invoices, vouchers or other recordable data. Render to the Tribal Council a monthly statement and report of all his transactions as Treasurer and render also an annual financial statement in the form and with the detail required by the Tribal Council.

Please contact me if there are any questions.