

**MINUTES
KEWEENAW BAY INDIAN COMMUNITY
SPECIAL TRIBAL COUNCIL MEETING
TRIBAL CENTER CONFERENCE ROOM
THURSDAY – MAY 15, 2014 – 9:00 A.M.**

A. Date: May 15, 2014

B. Call to Order: Ogimaa Shalifoe called the meeting to order at 9:05 a.m.

C. Invocation: Ogimaa Shalifoe

D. Roll Call: Present: Donald T. Shalifoe, Sr., Ogimaa
Jean Jokinen, Secretary
Gary F. Loonsfoot, Sr., Assistant Secretary (left at 10:38 a.m.)
Eddy Edwards, Treasurer
Robert R.D. Curtis, Jr.
Michael F. LaFernier, Sr.
Susan J. LaFernier
Elizabeth “Chiz” Matthews (arrived @ 9:16 a.m.)
Don Messer, Jr.
Jennifer Misegan
Warren C. Swartz, Jr. (arrived @ 9:20 a.m.)

Absent: Carole L. LaPointe, Vice Chairwoman

E. Declaration of Quorum: Ogimaa Shalifoe declared a quorum present and proceeded with the order of business.

F. Approval of Agenda: May 15, 2014

MOTION MADE BY ROBERT R.D. CURTIS, JR. TO APPROVE THE AGENDA. SUPPORTED BY MICHAEL F. LAFERNIER, SR. NINE IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Don Messer, Jr., Jennifer Misegan), OPPOSED – 0, ABSTAINING - 0, ABSENT – 3 (Carole L. LaPointe, Elizabeth “Chiz” Matthews, Warren C. Swartz, Jr.) MOTION CARRIED.

G. For Your Information:

1. Thank You from Sharon Brunk Family

H. Approval of Minutes:

1. January 10, 2013 through January 31, 2013

MOTION MADE BY GARY F. LOONSFOOT, SR. TO TABLE MINUTES UNTIL THE NEXT MEETING SO THAT THE BOARD MEMBERS CAN HAVE HARD COPIES OF THE MINUTES. SUPPORTED BY DON MESSER, JR. EIGHT IN FAVOR (Donald Shalifoe, Sr., Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Don Messer, Jr., Jennifer Misegan), OPPOSED – 1 (Jean Jokinen), ABSTAINING - 0, ABSENT – 3 (Carole L. LaPointe, Elizabeth “Chiz” Matthews, Warren C. Swartz, Jr.) MOTION CARRIED.

2. January 2, 2014 through March 27, 2014 (January 23 & 30, 2014 have already been approved)

MOTION MADE BY EDDY EDWARDS TO TABLE MINUTES UNTIL THE NEXT MEETING SO THAT THE BOARD MEMBERS CAN HAVE HARD COPIES OF THE MINUTES. SUPPORTED BY ROBERT R.D. CURTIS, JR. EIGHT IN FAVOR (Donald Shalifoe, Sr., Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Don Messer, Jr., Jennifer Misegan), OPPOSED – 1 (Jean Jokinen), ABSTAINING - 0, ABSENT – 3 (Carole L. LaPointe, Elizabeth “Chiz” Matthews, Warren C. Swartz, Jr.) MOTION CARRIED.

I. Old Business

1. Robert R.D. Curtis, Jr. – Title X Update–

Elizabeth “Chiz” Matthews arrived at 9:16 a.m.

2. Evelyn Ravindran, Natural Resources – Resolution KB-022-2014 KBIC People’s Garden

Warren C. Swartz, Jr. arrived at 9:20 a.m.

MOTION MADE BY EDDY EDWARDS TO APPROVE RESOLUTION KB-022-2014 KBIC PEOPLE’S GARDEN. SUPPORTED BY ROBERT R.D. CURTIS, JR.

ELEVEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen , Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFERNIER, Sr., Susan J. LaFERNIER, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING - 0, ABSENT – 1 (Carole L. LaPointe) MOTION CARRIED.

J. New Business

1. Jason Ayres, Real Estate Officer –

a) Resolution KB-023-2014 Diana Chaudier Modification of Lease

MOTION MADE BY JEAN JOKINEN TO TABLE UNTIL OUR ATTORNEY CAN LOOK THIS OVER BEFORE THE NEXT MEETING. SUPPORTED BY ROBERT R.D. CURTIS, JR. TWO IN FAVOR (Jean Jokinen, Robert R.D. Curtis, Jr.) OPPOSED – 8 (Donald Shalifoe, Sr., Gary F. Loonsfoot, Sr., Michael F. LaFERNIER, Sr., Susan J. LaFERNIER, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), ABSTAINING – 1 (Eddy Edwards), ABSENT – 1 (Carole L. LaPointe) MOTION DEFEATED.

MOTION MADE BY WARREN C. SWARTZ, JR. TO APPROVE RESOLUTION KB-023-2014 DIANA CHAUDIER MODIFICATION OF LEASE. SUPPORTED BY MICHAEL F. LAFERNIER, SR. NINE IN FAVOR (Donald Shalifoe, Sr., Gary F. Loonsfoot, Sr., Robert R.D. Curtis, Jr., Michael F. LaFERNIER, Sr., Susan J. LaFERNIER, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 1 (Jean Jokinen), ABSTAINING – 1 (Eddy Edwards), ABSENT – 1 (Carole L. LaPointe) MOTION CARRIED.

b) Solar Mark Pathways Grant Concept Paper, Dept. of Energy

MOTION MADE BY JENNIFER MISEGAN TO SUBMIT A LETTER OF COMMITMENT TO THE APPLICATION CONCEPT PAPER AS PART OF A COLLABORATIVE EFFORT TO FIND MARKET SOLUTIONS. SUPPORTED BY SUSAN J. LAFERNIER. ELEVEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFERNIER, Sr., Susan J. LaFERNIER, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING – 0, ABSENT – 1 (Carole L. LaPointe) MOTION CARRIED.

2. Donald T. Shalifoe, Sr., Ogimaa – Northern Michigan K-9 Inc.

3. Dan MacNeil, Tribal Attorney Office Administrator –

a) Michelle Maki Business License

MOTION MADE BY DON MESSER, JR. TO APPROVE THE BUSINESS LICENSE FOR MICHELLE MAKI. SUPPORTED BY ROBERT R.D. CURTIS, JR. ELEVEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING – 0, ABSENT – 1 (Carole L. LaPointe) MOTION CARRIED.

b) John Gervais Business and Food License Renewal

Elizabeth “Chiz” Matthews is out of the room.

MOTION MADE BY EDDY EDWARDS TO TABLE THESE RENEWALS UNTIL THE COUNCIL RECEIVES THE MOST RECENT HEALTH SURVEY FROM THEM. SUPPORTED BY JENNIFER MISEGAN. TEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING – 0, ABSENT – 2 (Carole L. LaPointe, Elizabeth “Chiz” Matthews) MOTION CARRIED.

Elizabeth “Chiz” Matthews is back in the room.

4. Charles Miller, SORNA – 1st Reading Amended Ordinance 2014-05

Ogimaa Shalifoe introduced the Proposed Ordinance.

Ogimaa Shalifoe	Susan LaFernier	Robin Roe
Jean Jokinen	Chiz Matthews	Brandon Chosa
Gary Loonsfoot Sr.	Don Messer Jr.	Jeff Loman
Eddy Edwards	Jennifer Misegan	
R.D. Curtis	Chris Swartz Jr.	
Mike LaFernier	Chuck Miller	

Charles Miller, SORNA Coordinator, presented Ordinance 2014-05 and started to discuss what the changes are and why. Eddy asked a few questions. With the measuring of the distance of 1000 feet from where someone resides between a college, daycare or a

preschool facility, the distance should not be measured from property line to property line when the person's house could be 1000 feet from their property line that was farthest away from the school. Eddy is going to present something at the 2nd reading in regards to this situation. Chuck did explain that you can go to building to building and there is several different ways to do this and he has read about a lot of these situations and he has asked questions in regards to this. Example was a person could live in this part of the building but not this part and then they are not following the property line to property line. It varies with each situation. Eddy's second question was about past convictions that wasn't classified as a sex offender back then but they get picked up on a drunk driving or some other offense and when the courts go back and check their background, it is now considered a sex offender, who is making these determinations, the prosecutor or the police? Not the judge or the courts? Can we make put that determination into our code? Chuck says that it is not in our code as of now but there is one requirement called recapture and what this is is when you have someone who goes through the court system and gets arrested and they go through the county jail, we are to go through their background and see if there is a sex offense in their background. Chris asked if they are worried about sex offenders getting their due process. Eddy knows of instances and won't mention any names that people had offenses and that weren't considered and not part of the registry and then all of a sudden they get a drunk driving charge and then they look back at their charge and say well that offense should have been a sexual crime, you have to register now. Chris stated that due process is important. Eddy has heard and seen the letter from the Prosecutor and Tribal Police made that determination so now that person had to move off of the reservation in that particular incident and in another situation, another guy had to move and his offense happened 25 years ago and he was never on the list and now he has to be and that is what his concern is where was the due process there and it didn't seem like there was any. R.D. asked if they made up their own decision on that individual was a sex offender. Eddy says that is correct and Jennifer commented that they didn't make it up. They probably looked at the case. What Eddy knows is that this case didn't go to court and the judge did make the determination and this certain person did not have the opportunity to have an attorney to represent them to dispute this determination. Chris stated that someone does make it up because that is what "due process" is all about. Eddy says personally these two were "poor people" who this happened to and they couldn't hire an attorney to defend themselves and Eddy felt that this was personally bullying side. Chuck would like to discuss this more with the Council in Closed Session. Eddy would like him to come back with the whole council since he has seen the letters personally so that the Council knows about this also. Jennifer says that we need to decide on the safety of the children and of the community as well. Eddy just wants to make sure there is due process. Chuck explains to Council that when somebody comes into his office and when they are dealing with these types of issues, he explains to them that he is the SORNA Coordinator and he is the one who

interprets what and how the registry operates and make them well away of what they need to do take this information and do what they need to do with it, if need be by Council or whoever they need to contact, if need be the court or whatever, he is not an enforcer. He doesn't even have the legal right to tell them what they need to do or to move, he just lets them know what their situations is and what SORNA works and tells them what they need to do and how to go about the situation. Jeff Loman asked the question and gave an example so that the Council can have a better understanding on the previous discussion: a person is arrested for indecent exposure for urinating behind George's Bar in L'Anse back in 1972, the only people that were back there were the L'Anse Village Police Officer and the individual. This person pleads out for indecent exposure conviction and now it sits there on the books for years. This same person gets arrested now for reckless driving, 40 years later, they see the indecent exposure conviction and they put them on the sex offenders list. This happens to a person and is that fair and is that a person that you have to worry about, your children being around and stuff like that. You need to decide. That happens under the system that the State of Michigan on how it operates today. Chuck replies that he is not aware of anything like that that extreme happening here. Although, since he has been here, this has happened to a couple of situations where somebody has been arrested and they have had a sex offense conviction in their background, that would require registration today on the sex registry and they have been required to register as an offender for the duration of time that they would have left on their sentence if it was a Tier 2 sex offense. That is a 25 year registration and he knows that this has happened here. Eddy says that is the process that he has been talking about earlier because each case is an individual case but that's an example that concerns him because that can just happen to anybody. Chuck replied that it is a SORNA requirement that the recaptured laws are retroactive so what that means is that if you are convicted before SORNA was enacted, in some cases, there may have been more limited amount of times that you would be on the registry and some cases you would not have been on the list and some cases, you wouldn't even be on the registry list at all. And in some cases, the registry did not even exist. When this was established, the federal government said that this is going to be retroactive so that if you had someone who had committed a serious sex offense, 5-10 even 20 years ago before. Eddy asked if there are any instances like this that has happened on our reservation years ago that people who have convicted of sexual crimes and nobody can find their files. Chuck replies he is not sure of. He does have two people who are on our registry but they are not on the state's registry. Eddy has people coming up to him and telling him that there are people who are living in housing and they are old offenders but they are not on the list and if they are on the list, housing policies is they will have to be removed from housing then. RD stated that all of the council is concerned with the safety of all the children on the reservation. Everyone agreed. Chris made a motion to waive the first reading of this ordinance and it was seconded by Eddy.

Gary F. Loonsfoot, Sr. left at 10:38 a.m.

MOTION MADE BY WARREN C. SWARTZ, JR. TO WAIVE THE 1ST READING OF AMENDED ORDINANCE 2014-05. SUPPORTED BY EDDY EDWARDS. TEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING - 0, ABSENT – 2 (Carole L. LaPointe, Gary F. Loonsfoot, Sr.) MOTION CARRIED.

MOTION MADE BY EDDY EDWARDS TO GO INTO CLOSED SESSION WITH TRIBAL MEMBERS ONLY. SUPPORTED BY EDDY EDWARDS. ELEVEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Gary F. Loonsfoot, Sr., Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING - 0, ABSENT – 1 (Carole L. LaPointe) MOTION CARRIED.

Robert R.D. Curtis, Jr. left the room at 10:30 a.m.; back at 10:35 a.m.

BREAK 10:48 a.m. – 10:57 a.m.

K. Closed Session:

1. Dan MacNeil, Tribal Attorney Office Administrator –
 - a) Eagle Mine Lawsuit
 - b) Canal Land Claim

MOTION MADE BY JENNIFER MISEGAN TO GO INTO OPEN SESSION. SUPPORTED BY MICHAEL F. LAFERNIER, SR. TEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING - 0, ABSENT – 2 (Carole L. LaPointe, Gary F. Loonsfoot, Sr.) MOTION CARRIED.

L. Adjournment:

MOTION MADE BY EDDY EDWARDS TO ADJOURN AT 11:25 A.M. SUPPORTED BY DON MESSER, JR. TEN IN FAVOR (Donald Shalifoe, Sr., Jean Jokinen, Eddy Edwards, Robert R.D. Curtis, Jr., Michael F. LaFernier, Sr., Susan J. LaFernier, Elizabeth “Chiz” Matthews, Don Messer, Jr., Jennifer Misegan, Warren C. Swartz, Jr.), OPPOSED – 0, ABSTAINING - 0, ABSENT – 2 (Carole L. LaPointe, Gary F. Loonsfoot, Sr.) MOTION CARRIED.

Next meeting scheduled is Thursday, May 22, 2014 at 9:00 a.m.

Respectfully submitted,

Robin Roe
Administrative Specialist