

**SPIRIT LAKE TRIBE
RESOLUTION NO. A05-09-099**

WHEREAS, the Spirit Lake Tribe, formerly known as the Devils Lake Sioux Tribe of Indians is a federally recognized American Indian tribe governed by a revised *Constitution* dated May 5, 1950, approved by the Acting Commissioner, Bureau of Indian Affairs, July 14, 1961, and subsequently amended July 17, 1969; May 3, 1974; April 16, 1976; May 4, 1981 and August 19, 1996; and

WHEREAS, the Constitution of the Spirit Lake Tribe generally authorizes and empowers the Spirit Lake Tribal Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribe and of the enrolled members thereof; and

WHEREAS the Spirit Lake Tribal Council is further empowered, as the elected governing body, to conduct business and manage affairs of the tribe in a manner that is consistent with the best interests of the tribe and of the enrolled members thereof; and

WHEREAS, the Spirit Lake Tribal Council are considered to be non-benefited public employees and as such do not enjoy unemployment benefits; and

WHEREAS, the Spirit Lake Tribal Council representatives require financial support at the conclusion of their terms of office to support themselves and their families while they seek alternate employment.

NOW THEREFORE BE IT RESOLVED, that the Spirit Lake Tribal Council approves the attached Severance Pay Plan for Tribal Council members seated as of May 14, 2009 and for those Council representatives who shall be elected to office thereafter.

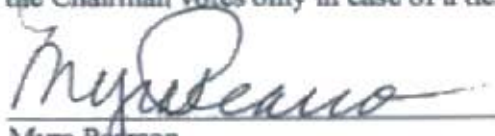
BE IT FURTHER RESOLVED that the Severance Pay Plan may only be modified or amended by future resolution or by other Constitutionally based procedures.

C E R T I F I C A T I O N

I, the undersigned, as Secretary-Treasurer of the Spirit Lake Tribal Council, do hereby certify that the Tribal Council is composed of six (6) members, of whom five (5) were present constituting a quorum for a Special Meeting, which was duly called and convened **this 13th day of MAY, 2009**, and approved this resolution by affirmative vote of (3) in favor, none (0) opposed, none (0) abstaining and one (1) absent. (The Secretary-Treasurer does not vote and the Chairman votes only in case of a tie.)



Susie Fox
Recording-Secretary



Myra Pearson
Tribal Chairwoman

SPIRIT LAKE TRIBE

SEVERANCE PAY PLAN

Walter R. Hollifield, CFO

6/2/09

Tribal Council Severance Pay Plan

Policy:

It is the policy of the Spirit Lake Tribal Council to establish a severance pay plan for Tribal Council members.

Purpose:

The Spirit Lake Tribal Council recognizes that elected officials often leave existing jobs when they take office as elected representatives of the Spirit Lake Tribe. Additionally elected officials often have periods of unemployment following the end of their term (s) of office and while they search for new employment opportunities. The North Dakota Job Service does not require that unemployment benefits be provided to political positions through unemployment insurance, therefore the Tribal Council members are not entitle to collect unemployment insurance upon the expiration of their term(s) of office.

It is the intent of the severance pay plan to provide some financial support to outgoing Tribal Council representatives during this period of transition and upon the expiration of their elected office. The Tribal Council Severance Pay Plan would set aside funds to allow the council members after their elected office has expired to have adequate funds to meet their needs while employment is sought.

Procedures

Severance pay shall only be paid out to Tribal Council members upon the expiration of their elected term(s) of office. Funds shall be placed into an interest bearing account upon the swearing in of a newly elected Tribal Council representative and shall remain in said account until the Council member leaves their elected office either by expiration, recall, removal or resignation, provided that the Tribal Council member has met all eligibility criteria and has submitted all necessary document in support of the severance pay as set forth herein.

Any interest accrued shall be the property of the Tribal Council member and shall be paid out as part of the severance plan.

1. Authorization to Set-Up Account

- The Secretary-Treasurer will provide instructions, in resolution, to set-up new tribal council members for the Chief Financial Officer to make all the necessary arrangement for the establishment of the severance pay plan.

- Effective Date

- The effective date will be determined by the date the Severance Pay Plan was approved and authorized in resolution [insert resolution number here].

- Eligibility

- The Tribal Council members officially seated as of May 14, 2009 and those Council members sworn into office on or after May 14, 2009 shall be eligible for the severance plan pay upon the conclusion of their elected office.
- Should a Tribal Council member serve two or more consecutive term(s) of office the Council Member would receive his or her severance pay when they formally leave their elected office either through resignation or expiration.
- This plan shall have absolutely no retroactive application.

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1.1 Amount Severance

- For each year the Council member serves as an elected official, and on a designated date during the 1st week of each fiscal year, a sum of \$5,000.00, less applicable local, state and federal taxes, will vest in each Tribal Council members severance pay plan and said amount shall be deposited in separate interest bearing savings account at a local Bank for each for each Spirit Lake Tribal Council member.
- Severance pay is considered taxable income for purposes of federal income, social security and unemployment taxes.
- These funds will be budget annually in the General Fund and deposited into a local bank on the 1st week of each fiscal year.

1.2 Savings Account

- These separate savings accounts will be in the name of the designated Tribal Council member and the Spirit Lake Tribe and can only be release at the end on the respective Tribal Council member's term of Office or premature death. The Term of Office implies one four year term or more than one year term. The local bank will be instructed not to release these severance savings accounts without proper authorization (resolution).
- All accrued interest on the individual savings account will be included in the severance final payment to each Tribal Council member.
- Annually, each Tribal Council member will receive an Internal Revenue Service 1099-Interest Income from the local bank for accrued interest on the severance pay. Each Tribal Council member will need to be reported this interest on their Internal Revenue Service Form 1040 for each year.

1.3 Payroll Accountability to Support Severance Pay

- Each Tribal Council member, including Chairperson and Secretary-Treasurer must adhere to the following provisions to obtain the severance pay:
 - 1.3.1 Report their weekly personnel activities by filling out a personnel activity form and by daily punching. Such documentation is necessary as a means of accounting for any time and attendance for any and all personnel costs supported from the general fund and indirect cost pool.
 - 1.3.2 Without proper weekly payroll documentation the Chairperson or designate may not authorized payroll and ,
 - 1.3.3 Without providing weekly payroll information, the specific Tribal Council Members may lose their severance pay for this specific term in office.

1.4 Recall of election

If a Tribal Council member is recalled or removed from office prior to the expiration of the elected term, he or she would still be eligible to obtain the severance pay accrued during their term unless the recall or removal is a direct result of criminal activity directly relating to the Council members elected duties or office in accordance with section 1.5 herein. The Chairperson would provide

the local bank with a written authorization to releasing the severance funds and prorate the balance of the last year by the amount of funds by actual time served.

1.5 Lose of Severance Pay

- If a specific Tribal Council member is convicted of a felony during his/her term of office all accrued severance pay will be forfeited and returned to the general fund.
- If a specific Tribal Council member does not adhere to section, "1.3, Payroll accountability to support severance pay," shall forfeit their severance pay.
- If a specific Tribal Council member neglect his or her elected duties by failing to attend three (3) or more official Tribal Council meetings, without good cause, all accrued severance pay will be forfeited and returned to the general fund.

1.6 Early Withdraw of Severance Pay

- The Tribal Council may authorize the early withdrawal of the severance pay under this plan only for that portion of the severance pay that has been vested or unless specific Council member dies or becomes incapacitated during their term of office.
- Should a Council member opt for early withdrawal they may only receive that portion which has formally vested.
- If a Tribal Council member would were to die or become incapacitated during their term of Office the severance play would go to the executor of the estate.
- Any amount requested for early withdrawal shall be deducted from the Tribal Council member's final severance payout.
- Only one early withdrawal request per annum shall be authorized (for purposes of this plan. The Annual term shall begin on the date that the severance pay vests each year).
- The final severance payout shall only be authorized at the conclusion of their term of office.

ARTICLE VIII - MANNER OF REVIEW

- Section 1. Any resolution or ordinance which by terms of this Constitution is subject to review by the Secretary of the Interior shall within ten days of its enactment be presented to the Superintendent of the Fort Totten Agency or other authorized official who shall within ten days after its receipt by him, approve or disapprove it. (As amended by Amendment VI, effective April 16, 1976.)
- Section 2. If the Superintendent approves any resolution or ordinance, it shall thereupon become effective, but the Superintendent shall transmit the enactment bearing his endorsement to the Secretary of the Interior who may, within 90 days of the date of its enactment, rescind the resolution or ordinance for any cause by notifying the Spirit Lake Tribal Council of his veto.
- Section 3. If the Superintendent disapproves any resolution or ordinance, he shall, within ten days after its receipt by him, advise the Tribal Council of his reasons therefor, and if these reasons appear to the Council insufficient it may, by vote of the majority of all members, refer the resolution or ordinance to the Secretary of the Interior, and if approved by him in writing, it shall become effective.

ARTICLE IX - REFERENDUM, REMOVAL AND RECALL

- Section 1. Upon receipt of a petition by 20 percent of the resident voters, or by an affirmative vote of four members of the Tribal Council, any enacted or proposed resolution or ordinance of the Tribal Council shall be submitted to a referendum of the eligible voters of the Spirit Lake Tribe. The majority of the votes cast in such referendum shall be conclusive and binding on the Tribal Council. The Tribal Council shall call such referendum and prescribe the manner of conducting the vote.

Richard M. Yankton

7/7/2009

To:
Spirit Lake Tribal Council;

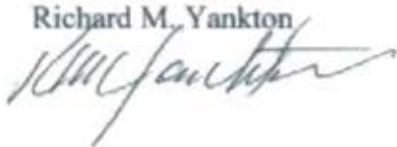
In the interests of the members of the Spirit Lake Tribe I with deep concern do take this action to intercede for the people concerning Tribal Resolution A05-09-099, Severance Pay.. In accordance with the Tribal Constitution and Bylaws Article IX, Section 1, 'any enacted or proposed resolution or ordinance of the Tribal Council shall be submitted to a referendum vote of the tribe.' In Article VIII - Manner of Review, was this resolution submitted through proper channels and a reply from the Agency Superintendent or the Secretary of the Interior?

I previously wrote a paper titled "Comments; Questions; Opinions;" referring to severance pay. In it I had several question and an opinion. I expected some sort of a reply or explanation with none forth coming as to this date.

The options that are before me to recall this issue are to file an injunction through the Tribal Court or circulate a petition to properly assess and formulate a conclusion as to the Ethical assumptions of the issue.

I formally submit this concern to the Tribal Council prior to the aforementioned options.

Richard M. Yankton



6/5/2009

Where does one begin to comment on an issue, (of which there are many), that have so many questions attached, (of which some would never get an appropriate answer), that would lead to an opinion, (shared or not shared by many individuals)..

Comments; Questions; Opinions;

Here is an issue that perhaps deserves all three: SEVERANCE PAY
In the minutes of a special meeting of June 06, 2006, pages 10 and 11, are as follows;

Mark requested for Tribal Council to receive annual Severance Pay with Memorandum of Understanding that was signed on June 30, 2004 in the SLT Chairman's Office, it was documented in the minutes that:

- 1 Tribal Council severance pay would be issued annually.
- 2 The annual rate would be \$2500.00
- 3 That the Tribal Council members will not be eligible for "Employee Loan" on the 3rd year of their term.
- 4 Severance Pay would be considered miscellaneous income (1099).
- 5 Annual payments would be issued no later than the end of May.
- 6 No Loans will be allowed on Severance Pay.

Chairman- Valintino White Sr, Crow Hill District Representative-Carl Walking Eagle, St. Michael District Representative-Vincent Greyhorn Sr., Fort Totten District Representative-Delvin Greywater, Wood Lake District Representative-Mark Lufkins Sr., and Secretary-Treasurer-Lonna Morsette all signed and agreed on M.O.U.

Chairperson Pearson recommended Tribal Council table this issue until Secretary-Treasurer can check into with Tribal Finance and former Finance Manager to see how this was set up initially.

Mark stated that agreement was agreed upon at the time so that the Tribe didn't have to get CD's for Tribal Council, is how it was formally set up.

Mark motions to adopt RESOLUTION A05-06-169 approving Annual Severance Pay for FY-2006 to Tribal Council Representatives in the amount of \$2500.00, Carl seconded the motion, four(4) in favor, none(0) opposed, none (0) absent, motion carried.. Resolution A05-06-169

In the minutes of Special Meeting of May 13,2009. Chairpersons Chambers

Carl motions, to adopt RESOLUTION A05-09-099 due to the economy, current Tribal Council severance pay will increase to \$5000.00, increase will be effective May 13, 2009, Seconded by Lois, three (3) in favor, none (0) opposed, one (1) absent, motion carried..

QUESTIONS:

1. Is there a severance pay package that was formally/legally drafted with proper policy and procedures?? (Aside a meer resolution?)
2. Was this practice, severance pay, ever negotiated with the Tribal Membership??
3. Where in the tribal budget formulation was this attached?? Or even listed??
4. Were Tribal Council members actually given CD's in the past??
5. Annual disbursements,? were Council members give annual severance????
6. More,? I'am sure, but am I the least informed? Certainly concerned!!!

7. Oh, I forgot to mention the economy, you know, the one we are all affected by...??
8. And the M.O.U., with whom? Aside from the Council themselves, what other entity??
9. Why was the CHAIRS recommendation to table the issue given less than a full written explanation??

OPINIONS:

My understanding of SEVERANCE go's something like this; it's a reference to being separated from, divorced, laid off, resigned, retire and forbid the conclusion, fired.!! Generally, severance pay is a negotiated contract stipulated by the employer, codified through some sort of documented policy and procedures, employee hand book or ordinance..

ANNUAL disbursements to Council Representatives who have accepted such payments have in fact severed them selves, in my way of understanding, from their elected offices.. They accepted severance pay and continue to stay in office, recieving wages.. These activities should be viewed as unethical..

This procedure of severance opens the opportunity for all former Tribal Council members to apply for severance pay..I assume that can be, because I havent read a policy in place which stipulates a time sequence of eligibility.

In any case, if these people did in fact recieve severance pay and severed themselves, are all the decisions they rendered as a council member in jeopardy?? Interesting is'nt it??? And if so, should they be required to repay to the Tribe the wages they recieved or the severance pay?? Or if any??? Perhaps a full disclosure of all monitary payments from all sources should be a requirement for Council members and C.E.O.'s of Tribal entities..benefits, perks from outside establishments, and all other sources..

In the Tribal Costitution and Bylaws Article VI, Governmental Authorities, Sections 6,7,8 and 13 is the procedures of banking, budgeting,managing and disclosure of Federal and Tribal funds.

Is it any wonder that a Code of Ethics be drafted??

We the people, who have placed you all in office truely believe that you will act in the best interests of the Tribe.

MY COMMENT, QUESTION, AND OPINION.

Richard Yankton

