

TRIBAL EDUCATION DEPARTMENT
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April 23, 2007

Myra Pearson, Chairperson
Spirit Lake Tribe
Fort Totten, ND 58335

Dear Madam Chair:

Since you have assigned me the special task of reviewing all issues regarding the Tribal Constitution and Bylaws I hereby respectfully submit my review and recommendation of the recent alleged Constitution amendment election.

FACTS

1. The Tribal Council has sole right and authority to represent the Tribe and to make decisions not contrary to the Tribes Constitution and Bylaws (Article VI, Section I). This means the Tribal Council can pass resolutions and ordinances which define a clear method of using the Constitutional powers which the Tribe has as a sovereign government.
 - (a) The Tribal Council clearly defined qualified voter, relating to recall petitions (Article IX, Section 4) as the number of voters who voted at the last general election, upon the enactment of a resolution passed in October of 2004 for that purpose.
 - (b) The Tribal Council clearly defined qualified resident voters, relating to the election ordinance elections (page 13), upon their enactment of the Election Ordinance dated 04/07/93.
 - (c) The Tribal Council clearly defines how ballots are to have clear and concise language on what is to be amended and to what it is to be amended to; at elections held to amend the Constitution, upon passage of resolution #A05-97-275, dated 03/09/99.
2. Article X, Section 2(a) states "This Constitution and Bylaws may be amended by a majority of the qualified voters of the Spirit Lake Tribe at an election called for that purpose: PROVIDED that at least 20 percent of the qualified resident voters of the tribe shall vote in such election" etc.....
3. In the Spirit Lake Tribal Court ruling, dismissing a recall petition, case #02-01-019, dated 02/18/02, it was the courts opinion that there were 2,720 tribal members over the age of 18 and 1,725 of those members resided on the reservation. This breaks down to 63 percent of our enrolled members over the age of 18, reside on the reservation.

4. Presently our Tribal Enrollment Office has a count of 3,646 tribal members who are over the age of 18 and 63 percent of the 3,646 is 2,297.
5. There were a total of 941 voters at the last general election on 05/17/05.

CONCLUSION

To be in compliance with Article X- Adoption and Amendment; of the Spirit Lake Tribes Constitution and Bylaws all of the following critical criteria must be met before any proposed amendment is submitted to the Secretary of Interior for finalization:

1. There should have been 459 signatures on each proposed amendment petition submitted.
 - Failed Criteria. All of the 3 petitions had less than 210 valid signatures.
2. There should have been clear and concise language on the ballots used at the Constitution Amendment election held.
 - Failed Criteria. Language on the ballots was vague, to say the least.
3. There should have been 471 votes in favor of the proposed amendment(s).
 - Failed Criteria. There were less than 310 total votes.
4. There should have been at least 459 qualified resident voters voting at this election.
 - Failed Criteria. Less than 310 votes were cast.

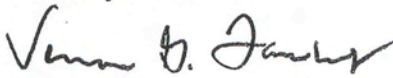
Not even one of the four (4) critical criteria needed was achieved in order to amend the Tribes Constitution and Bylaws. The whole process was invalid.

RECOMMENDATION

I am recommending to the Tribal Chairperson and the Tribal Council that they declare this whole attempted amendment to our Constitution and Bylaws **INVALID** because it is unconstitutional.

Please contact me if there are any questions regarding this review and recommendation.

Mitakuya Owas


Vernon G. Lambert, Director