



LONG PLAIN FIRST NATION TRIBAL COUNCIL

Long Plain Band No. 287(35)
 P.O. Box 430 Portage la Prairie, MB R1N 3B7
 Telephone: (204) 252-2731 or 1-888-268-6438

Chronological No – No consecutif

2022 - 05 - 13 - 04

File Reference – No de reference du dossier

**BAND COUNCIL RESOLUTION
 RESOLUTION DE CONSEIL DE BANDE**

NOTE: The words "From our Band Funds" "Capital" or "Revenue" whichever is the case, must appear in all resolutions requesting expenditures from Band Funds
NOTA: Les Mots "des fonds de notre bande" "capital" ou "Revenu" selon les cas doivent dans toutes les resolutions portant sur des depenses a meme les fonds des bandes

The council of the: Le conseil de la bande indienne:	LONG PLAIN FIRST NATION	Current Capital Balance Solde de capital	\$ _____
Agency: District:	REGIONAL OFFICE	Committed Engaged	\$ _____
Province:	MANITOBA	Current Revenue Balance Solde de revenue	\$ _____
Place: Nom de l'endroit	LONG PLAIN RESERVE	Committed Engage	\$ _____
Date <u>16</u> <u>May</u> <u>2022</u> Day – Jour Month – Mois Year – Annee			\$ _____

WHEREAS:

- A. Long Plain First Nation Chief and Council were elected on April 16, 2022 in an election process conducted in accordance with the Long Plain First Nation Custom Election Act.
- B. There were appeals of the election, and the Election Appeals Committee decided that all election appeals were dismissed.
- C. The current Chief and Council formally took office on May 5, 2022 when they were sworn in.
- D. Pursuant to the Long Plain First Nation Governance Code, Article 4.2(o), the Chief has the responsibility to ensure that all governing documents are enforced, which includes the Long Plain First Nation Custom Election Act;
- E. Pursuant to the Long Plain First Nation Governance Code, article 4.2(p), the Council also has the responsibility to ensure that all governing documents are enforced, which includes the Long Plain First Nation Custom Election Act;
- F. Pursuant to the Long Plain First Nation Custom Election Act, Articles 6.4-6.7:
 - a. The body identified as the Electoral Ethics Commission is to be comprised of:
 - i. 3 persons who were to be selected by the Interview Committee in March, 2022, being the year of the most recent election.
 - ii. 3 alternate persons who were to be selected in March, 2022, being the year of the most recent election.

- b. The persons selected by the Interview committee to sit on the Electoral Ethics Commission, or to be alternates for that office, must, in accordance with the Act, Articles 16.1 and 16.2, be from different family groupings.

- G. The three persons selected by the interview committee as comprising the Electoral Ethics Commission were:
 - i. Noel Myran;
 - ii. Elvis Pelletier; and
 - iii. Donna Prince.

- H. Donna Prince, originally selected to be on the Electoral Ethics Commission, has since resigned.

- I. Only one person, Velma Whitford was identified and chosen by the interview committee as an alternate for the Electoral Ethics Commission. Velma Whitford has also since resigned. There are therefore no alternates to fill any vacant seat on the Electoral Ethics Commission.

- J. Pursuant to the Act, any formal complaint to the Electoral Ethics Commission against an elected official can only be brought during his or her elected term of office, as set out in Article 16.14 of the Act.

- K. Chief and Council were only sworn into office on May 5, 2022. No formal complaint to the Electoral Ethics Commission could have been filed against any member of the current Chief and Council until at least after that date, and it is noted that the complaints that were lodged, pre-date the taking of office by the members of Chief and Council, and were not made in relation to any of the members of Chief and Council .

- L. In any event, the Chief and Council:
 - a. Have not been notified of any formal complaint or grievances made under the Act to the Electoral Ethics Commission;
 - b. Are unaware of any formal complaint(s) or grievance(s) under the Act made to the Electoral Ethics Commission.

- M. The Chief and Council have been informed that two of the members of Electoral Ethics Commission, Noel Myran and Elvis Pelletier are from the same family grouping, that they cannot both be on the Commission at the same time, and that there are no alternates chosen by the Interview committee to fill any vacant seat on that Commission.

- N. Information has come to the attention of Chief and Council such that it appears as though Noel Myran and Elvis Pelletier, have, contrary to the Act:
 - a. Purported to meet and make decisions without a duly appointed and qualified quorum for the conduct of business of the Electoral Ethics commission first being in place;

- b. Purported to appoint Yvette Prince, Doris Roulette and Delphine Peters as alternate members of the Electoral Ethics Commission, even though Article 16 of the LPFN Custom Election Act does not grant the Electoral Ethics Commission authority to appoint alternate members, which is a job for the interview Committee.
 - c. Entertained complaints made against non-elected officials, which complaints are beyond their responsibility or authority under the Act;
 - d. Entertained complaints in respect of the election process and election results itself, which complaints are beyond their responsibility or authority under the Act;
 - e. Entertained complaints and made decisions in a manner inconsistent with Article 16.15 of the Act. That article requires the Electoral Ethics Commission to immediately notify, in writing, the Tribal Government and any party named as a Respondent in any complaint or grievance process. In the result, the persons purporting to act as the Electoral Ethics Commission even if they had any authority to entertain any complaints involving the election process or election results, appear to have proceeded without due process;
 - f. Have served notice that the Electoral Ethics Commission intends to hold a meeting of band members at the Spirit Lodge on May 19, 2022 asking for a vote to take place as to whether “the polls [in respect of the election already concluded] should be reopened”, even though no such authority or responsibility to make such a decision or convene such a meeting or hold such a vote exists under the Act.
- O. By virtue of the foregoing, and without deciding that they have done so, there is an appearance that Noel Myran and Elvis Pelletier are engaging in partisan political activities contrary to Article 16.10.
- P. The election has already been completed, and Chief and Council have been informed that the purported decision seeking to conduct a vote of members as to whether to reopen the polls, involves the election process and election results, and such a decision is outside of the responsibility and authority of a duly constituted Electoral Ethics Commission.
- Q. In the result, Chief and Council have been advised and have determined that:
- a. no valid meeting of the Electoral Ethics Committee has taken place, and
 - b. no actual decision of a duly constituted and qualified Electoral Ethics Commission has been made, and
 - c. the purported decisions that have been made are beyond the authority of a duly constituted Electoral Ethics Commission; and
 - d. In particular, the purported decision calling a meeting for a vote is a nullity, is not binding, and no court challenge to any such decision need be made to a court of law.
- R. The Chief and Council observe that seeking to call a vote to reopen the polls even though the election process came to an end is contrary to the Act.
- S. The Chief and Council, mindful of the importance of the rule of law, observe that the persons purporting to claim the extraordinary authority to cause a vote to be taken for the purposes of reopening the polls long after the election process has been completed, have refused to first seek the direction and guidance of a court of competent jurisdiction.

- T. Under the circumstances, the purported decision to hold a meeting to conduct a vote without seeing the Court to first:
- a. Rule on whether they have authority to call for a vote to take place to reopen the polls;
 - b. Rule on whether a vote by some of the members to reopen the polls well after the election has been completed is a process that is in accordance with the Custom Election Act; and
 - c. Rule as to the consequences of the results of such a vote on the election process and the election results,

has the potential to create confusion among the membership as well as to third parties and other governments who interact with the First Nation from time to time and has the potential to negatively affect the efficient governance of the Nation and is contrary to the best interests of the LPFN.

THEREFORE IT BE RESOLVED:

1. The recitals to this Band Council Resolution form an integral part of this resolution.
2. This Band Council Resolution records a decision made by the duly elected Chief and Council of the First Nation held at a meeting at which all band council members were given the opportunity to participate.
3. The Chief and Council, on behalf of the First Nation, hereby retains the law firm of Duboff Edwards Schachter to provide the First Nation with legal representation in respect of the governance issues facing the First Nation, including representing the First Nation in any court proceedings, as well as for and such other matters as the Chief and Council may decide from time to time.
4. All tribal members, all First Nation agents, employees, band officers, election officials and persons doing business with the First Nation as well as other governments, are hereby advised that unless a court of competent jurisdiction first provides a ruling on the issues set forth in preamble "T" above prior to any vote being held, the First Nation is empowered and authorized to, and shall ignore the calling of the vote, shall ignore any reported results of any such vote, and shall treat the calling of the vote, as well as any vote that does take place, as a nullity.
5. A copy of this Band Council Resolution is to be posted online on the First Nation's webpage as well as on the First Nation's Facebook account and is to be posted at the band office and in other conspicuous places on Reserve so that it may easier come to the attention of the tribal membership at large.
6. The posting will also include a notice from the First Nation setting forth that:
 - a. The meeting scheduled by the persons claiming to have the authority as the Electoral Ethics Commission to call a vote to reopen the polls is confirmed as being cancelled, and will not take place until a court decides that such a vote is to take place;

- b. Any tribal member is encouraged to bring any concerns over the election process and band governance directly to the Chief and Council at any time, as Chief and Council maintain an "open door" policy.
7. A letter shall be prepared, and signed by the Chief on behalf of the Chief and Council and on behalf of the First Nation, and sent to Noel Myran and Elvis Pelletier and others purporting to be making decisions as the Electoral Ethics Commission:
- a. Enclosing a copy of this Band Council Resolution;
 - b. Inviting them to meet with Chief and Council to:
 - i. Explain their actions;
 - ii. Consider who among them, if any, should be resigning in view of the fact that they are not all from separate family groupings;
 - iii. Clarify who the members of the Electoral Ethics Commission are.
 - c. Reminding them that in the view of Chief and Council, responsible and orderly democratic government cannot be achieved by trying to overturn or interfere in election results in a manner inconsistent with the law, and that if they are of the opinion that the law permits them to call a binding vote as to whether the polls are to be reopened, they must first ask the Court to:
 - i. Rule on whether they have authority to call for a vote to take place to reopen the polls;
 - ii. Rule on whether a vote by some of the members to reopen the polls well after the election has been completed is a process that is in accordance with the Election Code; and
 - iii. Rule as to the consequences of the results of such a vote on the election process and the election results.


Chief Kyra Wilson


Councillor Marvin Daniels


Councillor Keely Assiniboine


Councillor Allen Dennis Myran


Councillor Garnet Meeches

A quorum for this Band Consists of : 3 Council Members: 5

FOR DEPARTMENTAL USE ONLY – RÉSERVÉ AU MINISTÈRE

1. Band Fund Code Code du comote de bande:	2. Computer Balances - soldes d'ordinateur		3. Expenditure – dépenses \$	4. Authority (Indian Act Section) Aulorite (Article de le loi sur les Indiens)	5. Source of Funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue
	A. Capital \$	B. Revenue \$			
6. Recommended – Recommedable _____ Date _____ Recommending Officer – Recommendé par			Approved – Approuvable _____ Date _____ Approving Officer – Approuvé par		