

THE MINNESOTA CHIPPEWA TRIBE
TRIBAL EXECUTIVE COMMITTEE

Special Meeting
June 11, 2018

A Special Tribal Executive Committee meeting was called to order at 9:05 a.m. by President Kevin Dupuis at Grand Casino-Mille Lacs, Onamia, Minnesota.

Roll Call: Kevin Dupuis, Chairman, Fond du Lac; Ferdinand Martineau, Secretary-Treasurer, Fond du Lac; Melanie Benjamin, Chief Executive, Mille Lacs; Carolyn Beaulieu, Secretary-Treasurer; Faron Jackson, Chairman, Leech Lake; Norman Deschampe, Chairman, Grand Portage; Marie Spry sitting in for Dennis Morrison, Secretary-Treasurer, Grand Portage; Cathy Chaver, Chairwoman, Bois Forte; Dave Morrison, Secretary-Treasurer, Bois Forte; Terrance Tibbetts, Chairman, White Earth;

Absent: Dennis Morrison, Secretary-Treasurer, Grand Portage, Arthur LaRose, Secretary-Treasurer, Leech Lake; Tara Mason, Secretary-Treasurer, White Earth.

Quorum present.

Invocation: Lee Staples

Others: Gary Frazer, Executive Director, Minnesota Chippewa Tribe, Phil Brodeen, Legal, Minnesota Chippewa Tribe; Joel Smith, Director of Administration, Minnesota Chippewa Tribe; Syngen Kanassatega, Legal and Policy Counsel, Mille Lacs; Emily Johnson, Strategic Initiatives Coordinator, Mille Lacs; Susan Klapel, Deputy Assistant, Mille Lacs; Shannon Porter, Executive Administrative Assistant, Mille Lacs; Brad Harrington, Commissioner of Natural Resources, Mille Lacs; Shelly Diaz, Commissioner of Administration, Mille Lacs; Shelly Day, Legislative Office Manager, Mille Lacs; Caryn Day, Legislative Communication Liaison, Mille Lacs; Tadd Johnson, UMD, Eugene Tibbetts, Rep., White Earth; Roger Smith, Rep., Fond du Lac; Steve White, Rep., Leech Lake; Laurie Harper, Government Relations Specialist, Leech Lake; Diane Osceola, Executive Assistant, Leech Lake, Dale Green, Legal, Leech Lake.

Motion by Secretary/Treasurer Beaulieu to approve the agenda. Seconded by Chairperson Chavers. 8 For, 0 Against, 0 Silent. Motion carried.

Phil Brodeen read the following charges:

On Tuesday April 24, 2018 the Mille Lacs Band of Ojibwe Band Assembly approved Resolution 18-01-139-18 supporting the Censure Hearing Request of Chief Executive Melanie Benjamin for violations of the Oath of Office, the Minnesota Chippewa Tribe Constitution and Mille Lacs Band Statutes, specifically Title 6 Chapter 5, Ethic Code. It is with regret that the Band Assembly was unable to get the matters described in this requests resolved through regular communication and correspondence to the Executive Branch. Although, there will be change in

the structure of the Band Assembly come July 2018, the current Band Assembly agreed that we must address any potential unethical behavior or unlawful activity to layout the framework of a competent and cohesive government administration. The Band Assembly urges the Tribal Executive Committee to consider the following matters for the basis of the request for censure.

1) 09CR01 UNRESOLVED THEFT CHARGES

- a. Failure to disclose unresolved Tribal Court Case 09CR01 during the 2016 certification process. The charges in that case were the cause for her removal from office in 2008 and reason for her denial of certification to run in the special election also in 2008.
- b. After being allowed to run for office under false pretenses, and being reelected in 2012, Melanie misled constituents by writing an article in the Band's newspaper, stating how relieved she is to have her theft charges "behind her". She also used this same article in her December 19, 2017 court hearing to persuade the judge that the case was resolved. It appears, that no one in leadership at that time, corrected this mistruth. In fact, the court case remained undisclosed until July 10, 2017 when a Mille Lacs Band member obtained a copy of the court case and revealed it at a MCT TEC meeting.
- c. A meeting with the Joint Session of Band Assembly was held on July 20, 2017. At that time we asked for an explanation from Solicitor General Todd Matha, who basically blamed the delay of the case on the previous Band Assembly for not approving a special prosecutor contract. Matha also claimed that it became a conflict of interest once the Chief Executive (CE) was reelected in 2012. The Chief Executive stated at this meeting that her theft charges were resolved in Mille Lacs County Court.
- d. On August 11, 2017 I wrote a letter on behalf of the Band Assembly to update Mille Lacs Band members of 09CR01 not being resolved and that Band Assembly needed to hire a special prosecutor to handle the case. Melanie, in response to our letter, also wrote a letter to Band members claiming that I had no basis for reviving court case 09CR01 other than I wanted to start trouble. Again, using her position and band resources to mislead constituents and interfere with the Legislative Branch's duty to revive the case and allow the proper branch of government, the Judicial Branch/Tribal Court to handle it.
- e. On August 16, 2017 an attorney for Melanie submitted a brief asking for the case to be dismissed for two reasons: 1) it was the parties intentions that the issues associated with the case be resolved through the MN State judicial system and they were, and (2) because the charges are stale, continuing the prosecution would be inequitable and exceedingly difficult to litigate. This brief initiated the reactivation of the pending court case. A hearing was scheduled for December 19, 2017.
- f. August 24, 2017 Band Assembly approved a contract with a special prosecutor to ensure the case is resolved through the Mille Lacs Band's Central Court of Jurisdiction.
- g. On October 20, 2017 the Solicitor General provided a timeline of events on 09CR01. My intention was to provide an update the MCT and Mille Lacs Band members about the case at the next TEC meeting.

- h. On October 25, 2017, Melanie sent me an email, asking if she could attend the next day's Band Assembly meeting to provide an update on the law enforcement matter and a CMD meeting. I stated that although those topics are important, we could not add her to the agenda as we were significantly backed up. The next day during our lunch at Band Assembly, Melanie showed up anyway, unannounced and proceeded to tell us about the law enforcement agreement. At the end of her discussion, she then asked me what's going on with her court case. Melanie's subsequent actions are those of interference. She wrote letters to both the MCT and Band Assembly stating the court case was resolved.
- i. On October 30, I emailed the Solicitor General, forwarded Melanie's correspondence and informed him that Band Assembly will not be discussing or accepting anything further from Melanie regarding her pending court case and her attempting to do this unethical and perhaps unlawful.
- j. On December 24, 2017, Judge Plummer issued an order denying the motion to dismiss the case and added on Page 6 of that ruling "Any prejudice to the Defendant as a result of the delay in the prosecution will go to the weight of evidence against her, not to the admissibility of such evidence".
- k. At the February 21, 2018 hearing, a scheduling order was issued and the judge scheduled the next hearing for June 29, 2018.
- l. I cannot faithfully and confidently do my job as the Secretary Treasurer to protect our financial assets, knowing the current Chief Executive has this unresolved court case pending all these years. Now that the case is being delayed more than desired, the Mille Lacs Band Assembly supports the censure hearing request of Melanie Benjamin.

2) FAILURE TO ADDRESS FRAUDULENT ACTIVITY IN THE DOL 477/TANF FEDERAL PROGRAMS

- a. On January 13, 2017, the earliest of concerns surfaced regarding the Department of Labor (DOL) and 477/TANF Programs with the resignation for the Executive Director (NK).
- b. On January 19, 2017 we received an update from the then, Commissioner of Administration (CoA). The Executive Director of the DOL reports to the CoA. During this report to the Band Assembly, the CoA admitted that there were a number of issues with current program operations and there were a number of activities that don't meet federal grant requirements. The CoA stated in the document she provided to the Band Assembly that Ken LeMieux, our regional BIA representative for the 477/TANF Programs, recommended that we pursue restitution from any individuals who may have received funds improperly. Mr. LeMieux also stated that a process for collecting restitution should be developed if we didn't have one. It was at this time, Band Assembly was somewhat reassured that corrective action was being taken.

- c. April 2016, Band Assembly and the Office of Management and Budget received reports of individuals receiving federal supportive service funds who were not eligible by meeting federal grant eligibility requirements. The Commissioner of Finance (CoF) promptly contacted the Assistant Commissioner of Administration to request clarification about the potential misappropriation of Federal Funds.
- d. By May 24, Band Assembly had still not received an update to the issues in the DOL so I asked the CoF to reach out and ask Solicitor General Todd Matha to provide an opinion on whether there was concern of violation of federal rules and regulations. The CoF emailed Todd Matha on May 25, 2016 with the request.
- e. By June 8, 2017, the CoF still hadn't received a response from Solicitor General Matha. The CoF then sent another email reminding Mr. Matha of the importance of his opinion.
- f. Finally, on June 13, 2017, we received the memo from Solicitor General Matha. As you can read in the documents, there was nothing in the memo that indicated there was cause for concern for the Band Assembly. This confusing and unhelpful opinion from our Solicitor General was the final event that led Band Assembly to believe that more monitoring and inquiry was required in the Department of Labor and its 477/TANF programs.
- g. In early September 2017 and after not hearing of any follow up by the Executive Branch on holding people accountable for the potential misappropriation of funds, the Secretary Treasurer emailed the CE and let her know that a Joint Session will be scheduled to hear the matter. It was scheduled for September 21, 2017.
- h. On September 17, I received an email from the CD stating that she was notified of the concerns in the DOL and on that same day, requested Todd Matha initiate an investigation into the matters. She also attached the memo dated September 7, 2017 that asked Matha to conduct an investigation.
- i. Todd Matha was going to initiate the investigation on behalf of the Chief Executive without informing the Band Assembly, who already tried getting his assistance in the matter. This appeared to be a potential "cover up" to Band Assembly.
- j. On September 21, 2017 we met in Joint Session and discussed the concerns with the DOL. At that time, Band Assembly voted to hire a firm to conduct a forensic audit on the programs.
- k. On October 6, 2017, Eide Baily was selected to conduct the forensic audit on the DOL and its federal programs.
- l. On December 28, 2017, Eide Baily issued their forensic audit report. The audit report confirmed perceived misappropriation of federal funds, and accusations of fraudulent contracting. To this day, there have been no attempts by Executive Branch or any of its officials to hold anyone accountable and no efforts to recover the funds that were issued to ineligible clients.

- m. On January 9, 2018, two federal agents from the Office of Inspector General showed up unannounced at the Mille Lacs Band Offices. They wanted to speak to Joni in OMB about a complaint they received about mismanagement of federal funds. The Federal Agents were asked to come back with formal notification on the matter they were referring to.
- n. On this same day, January 9, I called an executive session with the Chief Executive, DoF, the rest of Band Assembly and the Parliamentarian to express concerns about the Federal Agents arriving and asking questions about the DOL. It was at the meeting that the CoF informed us that the Band had to pay back over \$43K of funds that were misappropriated and that there are other areas of concern. I stated at that meeting to the Chief Executive and Band Assembly officials that although we paid the money back, the people responsible for the wrongdoings should be held accountable.
- o. Current Day: The Band Assembly continues to have concerns about the unaddressed matters and a potential investigation going on by the Federal Government. We have not been able to get the Executive Branch, via the Chief Executive or Solicitor General's office to rectify the wrongdoings and hold the employees accountable for their perceived fraudulent and misappropriating activities. It is at this time, we feel it appropriate to include this reason for the Censure of Melanie Benjamin, based on the refusal to address fraud and misappropriation of federal funds in the federal 477/TANF programs. These funds and programs are aimed to serve our most vulnerable of Band Members and it is a disservice not to make necessary corrections and hold people accountable.

3) USING MILLE LACS BAND FUNDS TO PAY FOR SERVICES THAT THE SECRETARY OF THE MINNESOTA CHIPPEWA TRIBE'S (MCT) TRIBAL EXECUTIVE COMMITTEE (TEC) IS ALREADY COMPENSATED FOR

- a. On September 22, 2016 officers were elected for the President, Vice President, Secretary and Treasurer for the TEC. Current officers were determined to remain in those positions. Many had served in those roles for several terms. These are voluntary and no one forced these duties on the individuals elected.
- b. On November 3, 2016 at the TEC meeting at Shooting Star, stipends and honorarium discussions began. Many MCT members had never heard of stipends or honorariums. It was confirmed that the officers are paid a salary for their duties on the TEC.
- c. On November 10, 2016 at a special meeting at Black Bear casino, the topic of stipends and honorariums came up again. It was at this time, Dave M. defended the stipends and said was to compensate the officers for their extra work. It was mentioned at that time that any officer can choose not to accept the salaries.
- d. On December 20, 2016 at a special meeting at Eddy's resort, a Band member requested we revote on the stipends that the TEC receives and that members of the Tribal Executive Committee are elected and already get a salary for same. That did not happen.
- e. On March 1, 2018 during a regular budget review at a Band Assembly Legislative session, it was noted that Melanie was contracting with an individual from Arizona to

transcribe and compile meeting minutes. We were informed that the contract was for the transcribing and compiling the meeting minutes for the MCT TEC. I stated my disagreement and so did the District I Representative.

- f. On March 16, 2018 Melanie wrote a memo defending the use of Mille Lacs Band funds to pay for her secretarial responsibilities for the TEC. She stated that the MCT is underfunded. This does not justify her using Band funds to pay for her secretarial duties that she is already clearly compensated for. Also, Melanie should have sought some sort of consensus from the MCT TEC prior to hiring a stranger to listen to our most intimate discussions about MCT matters and then transcribe as she determines the context of all the discussion.

4) UNRESOLVED MATTERS RELATED TO THE RESIGNATION OF SOLICITOR GENREAL TODD MATHA PRIOR TO HIS ETHICS VIOLATION HEARING SCHEDULED ON APRIL 24, 2018

- a. Beginning in late 2015 Band Assembly began to experience a lack of support from Solicitor General Todd Matha. After two years of trying to get Solicitor Matha to improve his support to Band Assembly and even including the Chief Executive in communicating the many of the areas of dissatisfaction, Band Assembly had enough and decided to directly address the behavior and lack of response.
- b. On October 20, 2016, Band Assembly provided wrote a letter to Mr. Matha expressing our dissatisfaction.
- c. Band Assembly saw no improvement from Mr. Matha so it was decided to hold him accountable for his actions and inactions.
- d. On April 19, 2018 Band Assembly (4 members of the Joint Session) signed a petition ordering an ethics violation hearing for Todd Matha to answer for the several unresolved matters, many that remained unresolved since his October 20, 2016 write up.
- e. On Sunday, April 22, Band Assembly received an email and memo from Melanie pleading that Band Assembly withdraw the petition and that this was just a political maneuver on the part of Band Assembly. Melanie included our Federal Attorney in the email who is fighting with us on our Law Enforcement Matter. Band Assembly feels that was inappropriate for her to include him with a personal matter with our Solicitor General. Band Assembly had kept this matter confidential up until the petition was sent Melanie and Todd on April 19, 2017.
- f. On Monday April 23, Band Assembly members were served with a civil suit from Mr. Matha. He asked for a temporary restraining order against Band Assembly and a declaratory injunction to stop Band Assembly from conducting the ethics violation hearing. The request was denied.
- g. On Tuesday April 24, we were prepared to convene the Joint Session at 1 p.m. for the ethics violation hearing. At about 12:30 p.m. Melanie provided a copy of a resignation letter from Mr. Matha. Matha indicated in his resignation letter that he didn't agree with

the court's decision. Melanie informed the rest of the Joint Session that she accepted Mr. Matha's resignation.

- h. Mr. Matha failed to attend his hearing nor answer to any of the matters in the petition. At this time, Band Assembly is still contemplating how to hold Mr. Matha accountable for the perceived ethical violations. We were informed by the Chief Executive that she accepted his resignation. The remaining Joint Assembly members didn't want to accept the resignation as a determination for the ethics violation hearing. We voted not to accept the resignation 4/5, but only for the purposes of seeking other options in holding Mr. Matha accountable. The hearing was tabled.
- i. The next day, April 25, 2017. Mr. Matha was seen in his office. The Joint Assembly was not notified that Mr. Matha's employment was reinstated. I immediately called for a joint session follow up to the tabled ethics violations hearing and reminded the rest of the joint session members why we voted against accepting Mr. Matha's resignation in lieu of him answering to his ethics violation charges. We met, confirmed Mr. Matha was done and voted to accept his resignation. He never answered to the petition or its listed violations.
- j. One very concerning matters in Mr. Matha's petition was his ignoring a request to look into a complaint on the Tribal Police Department. The CE and Mr. Matha were sent an email in February 2016 that included an anonymous note reporting that there was unethical behavior and lack of leadership in the TPD. Neither one followed up as requested.

It is because of these matters that the Band Assembly is seeking this censure hearing. No matter the outcome, we want the constituents of the Minnesota Chippewa Tribe and Mille Lacs Band of Ojibwe to know that we adhered to our oath of office to uphold and follow the law that we tried to hold people accountable for unethical and unlawful behavior. That concludes our request.

Accused has chance to respond.

Chief Executive Benjamin asks the TEC to take time to read the condensed version of her full response before she begins (Tab #1 Brief summary).

Break at 9:43 a.m. for TEC to read summary
Reconvene at 10:02 a.m.

Chief Executive Benjamin reads begins reading her response and letter.

Break at 11:15 a.m. to make additional copies
Reconvene 11:35 a.m.

Chief Executive Benjamin continues with Section E. and completes her full response.

Recommend Tribal Executive Committee vote on Secretary-Treasurer Beaulieu's allegations.

President Dupuis asked for any comments or questions from the Tribal Executive Committee.

Motion made by Secretary/Treasurer Beaulieu to Censure Chief Executive Benjamin. Seconded by Secretary-Treasurer Mason at the April 27, 2018 meeting.

President Dupuis requests vote on motion:

1 For (Carolyn Beaulieu), 7 Against (Ferdinand Martineau, Melanie Benjamin, Faron Jackson, Norman Deschampe, Cathy Chaver, Dave Morrison, Terrance Tibbetts). 0 Silent. Motion carried.

Hearing concluded at 11:47 a.m.

Al Hemming

Chief Executive Benjamin introduces Mr. Hemming. He stated that the Alliance of Concerned Tribal (ACT) members would like to present a censure motion against Secretary-Treasurer Beaulieu. They were concerned about additional damage to the band government.

Phil Brodeen informed the Committee that the motion for censure needs to be made by a Tribal Executive Committee member. This should be put on the agenda.

Chief Executive Benjamin stated this was her closing statement to include Al Hemming.

Motion by Chairman Tibbetts to include Chief Executive Benjamin's closing statement as an amendment to the agenda. Seconded by Chief Executive Benjamin. 7 For, (Ferdinand Martineau, Melanie Benjamin, Faron Jackson, Norman Deschampe, Cathy Chaver, Dave Morrison, Terrance Tibbetts), 1 Against (Carolyn Beaulieu), 0 Silent. Motion carried.

Phil Brodeen reads motion for censure information.

Motion by Chairman Tibbetts to censure Secretary-Treasurer Beaulieu

President Dupuis informed the Committee that the censure was not on the agenda.

Motion by Secretary-Treasurer Martineau to adjourn at 12:00 a.m. Seconded by Secretary-Treasurer Beaulieu. 8 For, 0 Against, 0 Silent. Motion carried.