

**BOARD OF DIRECTORS REGULAR MEETING  
KEWADIN CASINO AND CONVENTION CENTER  
SAULT STE. MARIE, MICHIGAN  
MINUTES  
August 18, 2020**

The meeting was opened at 5:05 p.m. by Chairperson Payment.

Present: Kim Gravelle, DJ Hoffman, Betty Freiheit, Michael McKerchie, Austin Lowes, Catherine Hollowell, Bridgett Sorenson, Keith Massaway, Denise Chase, Darcy Morrow, Charles Matson, and Aaron Payment.  
Absent: Lana Causley.

**Moved by Director Sorenson, supported by Director Hollowell, to excuse Director Causley from the meeting.**

**Motion carried unanimously.**

**Moved by Director Sorenson, supported by Director Gravelle, to approve the agenda as read.**

**Motion carried unanimously.**

**Moved by Director Morrow, supported by Director Chase, to approve Res. 2020-185, Elderly Division –Elder Outreach Worker Program Establishment of FY 2021 Budget.**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby approves the establishment of a FY 2021 for Elder Outreach Worker Program with Tribal Support monies of \$268,913.24.

**Roll Call Vote: Motion carried unanimously.**

**Moved by Director Massaway, supported by Director Gravelle, to approve Res. 2020-186, Natural Resources – Nunn’s Creek Fisheries FY 2020 Budget Modification.**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby approves the FY 2020 budget modification to Nunn’s Creek Fisheries for an increase in Federal BIA Revenue monies of \$55,000.00 and Other Revenue – Proceeds from Sales monies of \$126,536.59. No effect on Tribal Support.

**Roll Call Vote: Motion carried unanimously.**

**Moved by Director Morrow, supported by Director Gravelle, to approve Res. 2020-187, Health Center – Soo Dental FY 2020 Budget Modification.**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby approves the FY 2020 budget modification to the Health Center – Soo Dental to change the personnel sheet and reallocate expenses. No effect on Tribal Support.

**Roll Call Vote: Motion carried unanimously.**

**Moved by Director Gravelle, supported by Director Freiheit, to approve Res. 2020-188, Health Center – Soo Medical Nursing FY 2020 Budget Modification.**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby approves the FY 2020 budget modification to the Health Center – Soo Medical Nursing to change the personnel sheet and reallocate expenses. No effect on Tribal Support.

**Roll Call Vote: Motion carried unanimously.**

**Moved by Director Sorenson, supported by Director Hoffman, to approve Res. 2020-189, Governmental – Economic Director FY 2020 Budget Modification.**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby approves the FY 2020 budget modification to Economic Director to reduce the personnel page and reallocate expenses. No effect on Tribal Support.

**Roll Call Vote: Motion carried unanimously.**

**Moved by Director Chase, supported by Director Massaway, to approve Res. 2020-190, FY 2020 Governmental Capital Purchases Budget.**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby appropriates a total of \$1,704,000 for the FY 2020 Governmental Capital Purchases Budget, of which \$1,578,000 will come from Other Revenue/Fund Balance and \$126,000 from Tribal Support.

**Roll Call Vote: Motion carried with Directors McKerchie, Morrow, Matson, Chase, Massaway, Freiheit, Sorenson, Lowes, Hollowell, Gravelle approving; Director Hoffman opposing.**

**Moved by Director Morrow, supported by Director Gravelle, to approve Res. 2020-191, Continuing Funding Authority for Fiscal Year 2021 September to August.**

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors approves continuing funding for the following cost centers for fiscal year 2021, at their 2020 spending levels, for a period not to exceed 45 days:

CC#2230 – Early Head Start	CC#2233 – Early Head Start BIA
CC#3070 – Head Start HHS	CC#3071 – Head Start BIA
CC#2257 – COPS TRGP	CC#12091 – Sault Tribe Thrive

**Roll Call Vote: Motion carried unanimously.**

**Moved by Director Hoffman, supported by Director Morrow, to approve Res. 2020-192, Amending Team Member Manual Vacation Policy.**

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians does hereby amend the vacation policy for 2020 and 2021, as part of each of the Governmental, Enterprise and Casino team member manuals.

**Motion carried unanimously.**

**Moved by Director Sorenson, supported by Director Hollowell, to approve Res. 2020-193, Approving Program for Allocation of Cares Act Tribal Government Relief Funds.**

NOW, THEREFORE, BE IT RESOLVED, that the Tribe should and does hereby approve the attached Program for Allocation of CARES Act Tribal Government Relief Funds.

BE IT FURTHER RESOLVED, that the Program shall be administered in cooperation by the COVID-19 Taskforce Grants Subcommittee and Fiscal and Human Resources Subcommittee as set forth in the attached policies.

BE IF FINALLY RESOLVED, that the Board of Directors reserves the right to amend the Program on an ongoing and as needed basis as additional guidance, funds, and needs arise.

**Motion carried with Director Hoffman abstaining.**

**Moved by Director Hollowell, supported by Director Massaway, to approve Res. 2020-194, Visa Commercial Card Account and Limited Waiver of Sovereign Immunity PNC Bank National Association.**

BE IT RESOLVED, by the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby ratifies and approves the limited waiver of sovereign immunity approved by the Gaming Authority of the Tribe (the "Authority"), as follows:

A. Bankcard Agreement, the Program, and Bankcard Documents.

<u>Aaron Payment, Chairperson</u>	<u>x</u>
<u>DJ Hoffman, Vice Chair</u>	<u>x</u>
<u>Bridgett Sorenson, Secretary</u>	<u>x</u>
<u>Robert Schulte , CFO</u>	<u>x</u>
<u>Dana Schlehuber, Comptroller</u>	<u>x</u>

are hereby authorized: (i) to obtain credit and other financial services and products from PNC Bank, National Association (the "Bank") by establishing a Visa commercial card account for the Authority with the Bank (collectively, the "Program"); (ii) to execute, accept, authorize and/or deliver to or in favor of the Bank the present or subsequently Amended and Restated Visa Commercial Express Card Program Authorization and Agreement (the "Bankcard Agreement") and such other agreements, documents and instruments required or requested by the Bank in connection with the foregoing products and services, and any supporting documents required by the terms of the Bankcard Agreement and any of the foregoing agreements, documents or instruments; related to the Program (Bankcard Agreement and such other agreements being collectively referred herein as the " Bankcard Documents") all in such form as may be requested by the Bank; (iii) to execute and deliver to or in favor of the Bank any amendments, modifications, renewals or supplements of or to the Bankcard Agreement or any other Bankcard Documents; (iv) to supply operational and procedural information to the Bank, as the Bank may deem necessary or admissible in connection with the Bankcard Agreement and the other Bankcard Documents, any such person's execution thereof or other acts in connection therewith shall be conclusive evidence of his or her approval and the approval of the governing body; and (v) to take any other action requested, required or deemed advisable by the Bank in order to effectuate the foregoing resolution, all such other actions being hereby approved, ratified and confirmed.

B. General. That a certified copy of these Resolutions be delivered to the Bank and that they and the authority vested in the persons specified herein will remain in full force and effect until a certified copy of a resolution of the Authority revoking or modifying these resolutions and such authority has been delivered to the Bank, and the Bank has a reasonable time to act on it. These resolutions supersede any prior resolution of the Authority provided to the Bank with respect to the Bankcard Agreement, the Program or the other Bankcard Documents.

C. Incumbency. Each of the above-named persons holds the office, title, or status with the Authority specified in Section A above and that following each person's name, his or her actual signature appears.

D. Facsimile. That a facsimile signature of any or all of the above-named signers, regardless of by whom or by what means the facsimile signature is affixed, is to be relied on by Bank without any duty on the part of Bank to determine the genuineness of or authorization for said facsimile signature.

E. Authority. That the Bank are authorized, in their sole discretion, to take any action authorized hereunder based upon: (i) the telephone request of any person purporting to be a person authorized to act hereunder, (ii) the signature of any person authorized to act hereunder that is delivered to the Bank by facsimile transmission, (iii) electronic mail that Bank reasonably believes is from any person authorized to act hereunder, or (iv) the telex which the Bank reasonably believes is originated by any of such persons, tested in accordance with such testing procedures as may be established between the Program and the Bank from time to time.

F. Reliance. That the authority of the aforesaid individuals shall not impinge upon or expand the authority previously, concurrently, or hereafter granted to certain employees of the Authority for the transaction of business in connection with the Bankcard Agreement, the Program, and the other Bankcard Documents with Bank, and that Bank's personnel may rely exclusively on the authority herein granted without reference to any such resolution of this governing body;

G. Ratification. That all agreements and other writings heretofore executed and delivered to the Bank by the Authority and other acts taken in connection therewith on behalf of the Authority are hereby ratified, confirmed, and approved by the Authority.

BE IT FURTHER RESOLVED that with respect to the foregoing Resolutions (collectively, the "Resolution"), the Board of Directors of the Tribe ratifies the Authority actions set forth below and certifies to the Bank as follows:

Section 1. Authority Representations and Warranties.

- (a) The Authority is a wholly owned governmental authority of the Tribe, organized under the laws of the Tribe, with powers to, among other things, direct, control, and oversee the development, financing, construction, operation, maintenance, and management of the Tribe's gaming operations for and on behalf of the Tribe and its members; and that the Authority by adopting this Resolution and entering into the Bankcard Agreement and the other Bankcard Documents, will advance such purposes.
- (b) The Authority's Charter authorizes the Authority to adopt the Resolutions and to enter into the Bankcard Agreement, the Program, and the other Bankcard Documents, and such agreements, documents and instruments required or requested by the Bank in connection with the Bankcard Agreement, the Program, and the other Bankcard Documents and any amendments, modifications, renewals, or supplements of or to the Bankcard Agreement, the Program, and the other Bankcard Documents.
- (c) The Authority warrants to the Bank that the Resolutions have been duly authorized and executed and are binding on them.
- (d) The Authority has complied with all laws, all laws of the Tribe, laws of the State of Michigan (the "State"), and the United States applicable to the Tribe and the Authority and the execution and delivery of the Bankcard Agreement and the other Bankcard Documents.
- (e) Except as expressly set forth herein, the Bankcard Agreement and the other Bankcard Documents are in no other way altered, amended, or modified, and the same are hereby approved and ratified.
- (f) The Authority acknowledges that none of the commercial card services as described in the Bankcard Agreement and the other Bankcard Documents are being provided or performed by the Bank on (a) the Tribe's "Indian Lands" as defined in the Indian Gaming Regulatory Act (25 U.S.C. §2703(4)) and or National Indian Gaming Commission Regulations (25 C.F.R. §502.12), or (b) the current, aboriginal or historical reservation lands of the Tribe.
- (g) The Authority shall not invoke or assert, and hereby waives any right that it might otherwise have to invoke or assert, in any arbitration proceeding, any claim that the Tribe's law governs these Resolutions or the Bankcard Agreement, the Program, and any of the other Bankcard Documents.
- (h) Upon execution of any Bankcard Agreement and the other Bankcard Documents, they shall become a valid and binding obligations of the Authority, enforceable in accordance with their terms for purposes of tribal law and the laws of all other applicable jurisdictions.

Section 2. Waiver of Sovereign Immunity and Consent to Jurisdiction.

The Board of Directors of the Tribe ratifies and affirms that the Authority expressly waived its sovereign immunity from suit should an action be commenced under or relating to the Bankcard Agreement, the Program, and the other Bankcard Documents (as the same has been or may be amended, modified, or restated from time to time) or any documents required by the Bank relating to the Bankcard Agreement, the Program, and the other Bankcard Documents.

This waiver:

- (a) shall survive termination of the Bankcard Agreement and the other Bankcard Documents
- (b) is granted solely to the Bank, its successors and assigns;
- (c) shall extend to *inter alia*, any judicial or non-judicial action, including, but not limited to: any lawsuit, arbitration, judicial or non-judicial foreclosure proceeding and judicial or non-judicial action to enforce the rights of the Bank under or relating to the Bankcard Agreement, the Program and the other Bankcard Documents, and the assertion of any Claim in a court of competent jurisdiction or with any arbitrator or arbitration panel, if applicable, to enforce the obligations of the Authority under or relating to the Bankcard Agreement, the Program, and the other Bankcard Documents;
- (d) shall be enforceable against the assets of the Authority to the extent necessary to satisfy the Authority's obligations under or relating to the Bankcard Agreement, the Program and the other Bankcard Documents, together with any of the Authority's property or assets held under or relating to the Bankcard Agreement, the Program, and the other Bankcard Documents, which shall be considered first to satisfy any obligations of the Authority under or relating to the Bankcard Agreement, the Program, and the other Bankcard Documents.
- (e) shall be enforceable only in a court of competent jurisdiction, including the courts of the State and any court to which an appeal therefrom may be made, and the federal courts in the State and any court to which an appeal therefrom may be made, or any arbitrator or arbitration panel, if applicable;
- (f) The Bankcard Agreement and the other Bankcard Documents shall be construed in accordance with, and governed by, the internal laws of the jurisdiction set forth in each such document; and
- (g) the Authority consents to the jurisdiction of the courts of the State, including any court to which decisions may be appealed, and the federal courts in the State, including any courts to which decisions may be appealed,

with respect to any Claim under, arising out of, or relating to, the Bankcard Agreement, the Program, and the other Bankcard Documents. "Claim" means any dispute, claim or controversy under, arising out of or relating in any way to the Bankcard Agreement, the Program, and the other Bankcard Documents or any document or agreement related thereto or any actions contemplated to be taken in accordance therewith.

If the Bank shall so elect, in lieu of judicial resolution of any Claim, the Claim shall be resolved by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"), as modified by the following:

(i) Commencement of Proceeding/Selection of Arbitrators. The Bank, at its option, may commence an arbitration proceeding by the filing of a Statement of Claim (within the meaning of the AAA rules) with the AAA and serving a copy thereof on the other party. The parties shall have 20 days after such copy is served on them in which to agree upon a single mutually-acceptable arbitrator. If the parties are unable to agree on a single arbitrator within that time, the AAA shall thereafter appoint the arbitrator in accordance with its rules. Notwithstanding the foregoing, if the Claim involves a monetary amount in dispute of more than \$100,000, the parties shall appoint three arbitrators under the applicable Procedures for Large, Complex Commercial Disputes of the AAA.

(ii) Arbitrator Qualifications. No person shall be eligible to serve as an arbitrator if the person is related to, affiliated with or has represented in a legal capacity any party to the arbitration proceeding, the Bank, the Tribe, or the Authority. The arbitrators shall be attorneys at law admitted to practice and in good standing before the highest court of the State, who are experienced in advising clients in connection with agreements for commercial bankcard accounts and services.

(iii) Discovery. Any party shall be permitted to engage in any discovery permitted under the rules of the AAA. However, all discovery shall be completed within 90 days following the initial filing of the Statement of Claim.

(iv) Hearing. The hearing on the arbitration shall commence and be completed no more than 30 days after the close of discovery, and the arbitration panel shall render an award in writing within 30 days of the completion of the hearing, which shall contain findings of fact and conclusions of law. If the arbitrators are not available to meet these deadlines then the parties shall select a mutually agreeable alternative date, such date to be as soon as possible after such applicable deadline. The arbitrator(s) appointed hereunder may award interim injunctive relief before the final arbitration award. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrator(s)

(v) Enforcement. Proceedings to obtain injunctive relief while arbitration is pending or to enter judgment upon, enforce, modify or vacate any award or seek interim injunctive relief shall be commenced in (i) any court of the State and any court to which an appeal therefrom may be made, or (ii) any federal courts in the State and any court to which an appeal therefrom may be made, and (iii) only with the consent of the Bank all tribal courts of the Tribe, only if none of the foregoing courts shall have or will accept jurisdiction, or only to permit the compelling of arbitration as prescribed herein, or the enforcement of any judgment, decree or award of any foregoing court or any arbitration permitted herein. The Authority hereby expressly and irrevocably waive any application of the exhaustion of tribal remedies or abstention doctrine and any other law, rule, regulation or interpretation that might otherwise require, as a matter of law or comity, that resolution of a Claim be heard first in a tribal court of the Tribe.

(vi) Prohibition on Punitive Damages. The Bank, and the Authority have equal bargaining power and have freely entered into the Bankcard Agreement, the Program, and the other Bankcard Documents after such consultation with their attorneys as they have deemed advisable, and therefore notwithstanding any other provision herein, the arbitrator shall have no power to award punitive damages and any such award shall be null and void and of no effect.

(vii) Validity of Provision. The Bank and the Authority agree that this arbitration provision is valid, binding and enforceable, and to the extent permitted by law waive any defense or claim to the contrary.

(viii) No Limitations on Other Remedies/Self-Help. The provisions of these Resolutions shall not limit the ability of the Bank to exercise any self-help remedies available under applicable law.

Further, the Authority shall not invoke or assert, and hereby waive any right that it might otherwise have to invoke or assert, in any arbitration proceeding, any claim that the Tribe's law governs these Resolutions, or the Bankcard Agreement, the Program, and the other Bankcard Documents.

**Section 3. Determination as to Conflicting Actions.** The Management Board of the Authority hereby determines that there are no rules, regulations, decisions, orders, resolutions or other action of the Tribe or the Authority that: prohibit the Management Board of the Authority from approving the matters herein approved or the execution, delivery or performance of the Bankcard Agreement and the other Bankcard Documents and the consummation of the transaction therein contemplated.

**Section 4. Repealer.** Any provisions of any resolutions or other action of the Management Board of the Authority that in whole or in part are in conflict or inconsistent with the terms of this Resolution, the transactions contemplated herein or any

provision set forth in the Bankcard Agreement and the other Bankcard Documents are to such extent (and only such extent) hereby repealed and annulled.

Section 5. Miscellaneous. If any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of the Resolution shall not be affected. This Resolution shall become effective as of the date and time of its passage and approval by the tribal council.

BE IT FURTHER RESOLVED, that the CFO of the Gaming Authority is hereby authorized to execute any and all agreements, documents, or certifications in order to establish the accounts with the Bank, and to take such other actions as are necessary to carry into effect the intent of this Resolution.

BE IT FINALLY RESOLVE, that set forth below is the name, title, if any, and specimen signature of each person authorized above to act on behalf of the Authority and that, where a title appears, such person is a duly elected and/or acting officer of the Authority with the title indicated.

Name/Title	Specimen Signature
<u>Aaron Payment, Chairperson</u>	<u>x</u>
<u>DJ Hoffman, Vice Chair</u>	<u>x</u>
<u>Bridgett Sorenson, Secretary</u>	<u>x</u>
<u>Robert Schulte , CFO</u>	<u>x</u>
<u>Dana Schlehuber, Comptroller</u>	<u>x</u>

**Motion carried unanimously.**

**Moved by Director Hoffman, supported by Director Massaway, to adjourn the meeting.**

**Motion carried unanimously.**

Meeting adjourned: 5:23 p.m.

Date: 11-3-2020 Secretary: Bridgett Sorenson

Others present: Christine McPherson, Robert Schulte, Allen Kerridge, Joel Schultz, Jeremy Patterson, Linda Grossett, Jared Lucas, Joanne Carr.