Ordinance Governing Sitka Tribal Enterprises
(02.07)

Preamble, Findings and Declarations

WHEREAS, pursuant to Article VII, Section 1 (b) and (1) of the Constitution of the Sitka Tribe of Alaska, it is the obligation and responsibility of the Sitka Tribal Council to promote and protect the health, education, economic and general welfare of the Tribal citizens and their children, through the administration of charity and Tribal economic development enterprises as may contribute to the social, traditional, cultural and economic development of the Tribe; and

WHEREAS, the rate of unemployment and poverty for Tribal citizens in Sitka historically has been and remains disproportionately high when compared to the non-Native population; and

WHEREAS, the level of education and employment skills for Tribal citizens in Sitka historically has been and remains disproportionately low when compared to the non-Native population; and

WHEREAS, the amount of funding for governmental programs operated by Sitka Tribe, including those programs for employment, education and adult vocational training, is insufficient to meet the needs of Sitka Tribal citizens.

THEREFORE BE IT RESOLVED, the Sitka Tribal Council for the Sitka Tribe of Alaska hereby adopts this Ordinance to meet its constitutional obligation and responsibility and hereby establishes Sitka Tribal Enterprises as a Department within the governmental structure of the Tribe; and

THEREFORE BE IT FINALLY RESOLVED, the unique mission of Sitka Tribal Enterprises and its Board of Directors shall be, to the maximum extent possible, to provide direct support for funding of essential governmental programs and services and the creation of employment, educational, and adult vocational training opportunities for the Native community.

Chapter I—Purpose, Rules of Construction and Definitions

Section 1.01 Purpose

The purpose of this ordinance is to establish Sitka Tribal Enterprises as a Department within the governmental structure of the Sitka Tribe of Alaska. This ordinance is meant to provide the structure, guidelines, and respective responsibilities for management and decision making authority for Sitka Tribal Enterprises. This ordinance recognizes the unique nature of Sitka Tribal Enterprises as a Department as it operates within the Tribe through its dual mission of direct support and funding of essential and adult vocational training opportunities for the Native community including, but not limited to, through the use funds associated with the Tribe's Annual Funding Agreement and Self Governance Compact with the United States. Finally, this ordinance defines the special role the Sheet'ka Kwaan Naa Kahidi Community House has in relation to both Sitka Tribal Enterprises and the Tribe as a whole.

Section 1.02 Rules of Construction

(a) This ordinance shall not be construed or implemented in violation of the Indian Civil Rights Act, or the Sitka Tribe of Alaska's Constitution and by-laws as determined by the Sitka Tribal Court.

(b) When the computation of any period of time procedurally required by this code would result in a day falling on a weekend or holiday, the following working day shall apply.

(c) This code is to be interpreted in a manner consistent with the Code Governing Tribal Court Rules and Civil Procedure. The Judges of the Sitka Tribal Court shall have broad discretion in interpreting this code, and where tribal custom provides, may issue verbal orders or otherwise take necessary action consistent with the spirit of tribal law.

Section 1.03 Delegation of Authority

Under the terms of this Ordinance, the Tribal Council delegates certain decision-making authority to the Board of Directors for Sitka Tribal Enterprises. Where any power or decision-making authority has not been expressly delegated to the Board, that authority shall remain with the Tribal Council. The special role the Sheet'ka Kwaan Naa Kahidi Community House has in relation to the Board of Directors for Sitka Tribal Enterprises, the Department, and the Tribe as a whole is described in Chapter V of this Ordinance.

Section 1.04 Definitions

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them:

(a) "Board" means the Board of Directors for Sitka Tribal Enterprises with the responsibilities and authority delegated by the Tribal Council and established by this ordinance.

(b) "Chairperson" refers to the Chairperson of the Board of Directors, unless otherwise specified in this ordinance.

(c) "Department" means the staff and personnel that provide for the day to day operation of Sitka Tribal Enterprises,

(d) "Tribal Council" means the governing body of the Sitka Tribe of Alaska as established by the Constitution of the Sitka Tribe of Alaska.

(e) "Tribe" means the Sitka Tribe of Alaska, a federally recognized tribal government established under sovereign tribal law and the Indian Reorganization Act of 1934 as amended.

(f) "Unexcused Absence" means an absence, without sufficient excuse or justification (as determined by an affirmative vote of the Board on the record), from a regularly scheduled Board meeting where required notice has been provided.

Section 1.05 Severability

The provisions of this ordinance are severable, and should any provision of this ordinance be determined by a court of competent jurisdiction to be invalid, that determination does not affect the validity of any other provision of this ordinance.

Chapter II—Board of Directors

Section 2.01 Board Membership

The Board shall be comprised of seven (7) individuals appointed by the Tribal Council consisting of the following seats:

(a) Two members of the Tribal Council, one of which shall be the Treasurer of the Tribal Council;

(b) The General Manager of the Tribe, a voting member who shall not serve as an officer of the Board; The Finance Director of the Tribe, a voting member who shall not serve as an officer of the Board.

(c) One enrolled tribal citizen with knowledge, interest, skill or experience in business operations and/or knowledge of Tlingit tradition and culture;

(d) One at large members, who are not enrolled citizens, with knowledge, interest, skill or experience in business operations; and

(e) One other person who may be either (1) a tribal citizen with knowledge, interest, skill or experience in business operations and/or knowledge of Tlingit tradition or culture or (2) a person who is not an enrolled citizen with knowledge, interest, skill, or experience in business operations.

With the exception of the General Manager and the Finance Director, none of the Board members shall be employees of the Tribe.

Section 2.02 Term of Office

(a) The term of office for Board members shall be two (2) years.

(b) So that the makeup of the Board does not change completely and there is some retention of institutional knowledge upon expiration of the terms, the terms shall be staggered as follows:

(1) The Tribal Council seat designated for the Treasurer shall be a perpetual term, the term of the other Tribal Council seat shall expire on odd numbered years.

(2) The terms of two of the seats for enrolled citizens shall expire on odd numbered years, the term for the other enrolled citizen seat shall expire on even numbered years.

(3) The terms of two of the seats for at large members shall expire on even numbered years, the term for the other at large member shall expire on odd numbered years.

(4) The seats designated for the General Manager and Finance Director shall be perpetual terms.

Section 2.03 Board Vacancies and Appointment

(a) Upon the expiration of terms under Section 2.02 the Tribal Council shall reappoint or appoint new Board members at the regularly scheduled Tribal Council meeting in January of each year.

(b) Should any Board member resign, be removed, fail to meet qualifications of the Board membership or otherwise leave a Board position vacant for a reason other than expiration of a term, the Tribal Council shall, within thirty (30) days of notice of the vacancy, appoint an individual who meets the qualifications of Board membership under Section 2.01.

(c) With the exception noted in subsection (d), for each vacancy arising under either subsection (a) or (b), the Board shall supply the Tribal Council with a list of nominees who are qualified, eligible and willing to serve as Board members. The Tribal Council shall consider the nominees provided by the Board and may select a nominee or any other individual who is qualified, eligible and willing to serve as a Board member. Upon appointment, the Tribal Council shall designate the seat and term of the new Board member in compliance with Sections 2.01 and 2.02.

(d) With regard to any Board vacancy for a designated Tribal Council seat, the Tribal Council shall have the sole authority to fill that vacancy.

Section 2.04 Removal from the Board

(a) A Board member may be removed for good cause, including, but not limited to, the following reasons:

(1) Misconduct in office;

(2) Unavoidable legal, ethical or economic conflict of interest with the Tribe, Tribal Council or Board; or

(3) Unexcused absences from three (3) consecutive, regularly scheduled meetings of the Board.

(b) Upon a finding of good cause under subsection (a) a Board member may be removed by a majority vote o the Board at a regularly scheduled meeting where required notice has been provided to all Board members.

(c) Within three (3) days after a Board member has been removed, the General Manager shall provide written notice of the action to all Tribal Council members.

(d) A Board member who has been removed may appeal the action to the full Tribal Council by filing a written appeal with the Chair of the Tribal Council within seven (7) days after the action of removal. The Tribal Council may handle the appeal in any manner it determines is appropriate. If the Tribal Council takes no action within thirty (30) days after any appeal has been filed, the appeal will be considered denied and the Board action of removal shall stand.

Section 2.05 Officers of the Board

(a) The Board shall have the following officers: Chairperson, Vice-Chairperson, Secretary and Treasurer.

(b) The Board shall select officers from its members with elections held annually by the Board with a one (1) year term for each officer.

(c) If a vacancy of office occurs, the Board, within thirty (30) days will elect a new member to serve the remainder of that office.

Section 2.06 Duties of Officers

The officers of the Board shall have the following duties, which shall not be interpreted to exceed the scope of authority for management and decision-making delegated by the Tribal Council in Chapter III of this ordinance.

(a) The Chairperson shall preside at all meetings, appoint all committees and committee members, and report to the Council as required.

(b) In the absence of the Chairperson, the Vice-Chairperson will preside and will perform such duties as prescribed for the Chairperson and Vice-Chairperson.

(c) The Secretary with the appropriate staff shall ensure that minutes of the Board meetings are kept, see that all notices are duly given in accordance with the provisions of these Bylaws or as required, and be custodian of the records of the Board and the Department.

(d) The Treasurer with the appropriate staff shall ensure that the financial records of the Department are kept, see that all financial matters pertaining to the normal operation of the Board and Department are in order and make available for review by the Board, individual Directors and the Tribal Council, upon reasonable request, all financial records of the department. The Treasurer shall also be responsible for providing and presenting the reports required under Section 3.04 to the Tribal Council.

Section 2.07 Meetings

(a) The Board will meet at the call of the Chairperson as often as necessary at the call of the Chairperson to oversee the business of the Department, but no less than quarterly, at a regularly scheduled time, at a place announced by the Chairperson.

(b) The Secretary or assigned staff shall provide notice of regular meetings by mail or electronic message, phone or fax to Board members at least seven (7) days prior to meeting date.

(c) A quorum will be least four (4) voting members of the Board. Unless otherwise provided in this ordinance, all action of the Board shall be valid if approved by a majority of the Board present at a duly called meeting. The Chairperson shall have the right to vote on all matters as member of the Board.

(d) In the event that the Board is unable to achieve a quorum, the Chairperson shall provide the Chairman of the Tribal Council with written notice and schedule a meeting no later than the next regularly scheduled monthly meeting.

(e) All meetings will be conducted in accordance with Robert's Rules of Order.

(f) All meetings will be open to the public with exception of Executive Sessions, which may be called by the Board members.

(g) The agenda for each meeting will include the following:

(1) Call to order by Chairperson;
(2) Roll Call, including a record of those present, absent, and excused;
(3) Approval of previous minutes,
(4) Financial reports;
(5) Committee reports;
(6) Old Business;
(7) New Business;
(8) Correspondence;
(9) Announcements;
(10) Date of next meeting; and
(11) Adjournment by simple majority vote.

(h) Special meetings may be called by the Chairperson or at the request of a majority of the Board. Notice shall be provided forty-eight (48) hours in advance and shall otherwise comply with the requirements of subsection (b).

(i) Compensation for members of the Board may be limited to payment of a per diem and/or stipend, if funds are available, payable to defray expenses for service, or such lesser amount as is deemed appropriate by a majority of the Board, in the interest of maximizing the fiscal fitness of the Department.

(j) The Chairperson of the Board may authorize, when necessary, a poll of members of the Board by telephone, and if a majority are in favor thereof, take action based on said polling, provided that a final approval of such action shall be required at the next regularly called Board meeting. All action taken pursuant such polling shall be valid and binding, even if countermanded at a later meeting, but if countermanded, said formal action shall control from that point forward.

Chapter III—Scope of Authority for Management and Decision Making

3.01 Contracts

(a) As to contracts containing the following types of provisions or terms, the Board's authority shall be strictly limited to a recommendation to the Tribal Council:

(1) Any contract that makes reference to a waiver of sovereign immunity or defenses, or includes any statement regarding jurisdiction (other than a statement providing for exclusive jurisdiction by the Sitka Tribal Court) arbitration or forum for resolution of dispute; and

(2) Any contract that exceeds $10,000 in cost, expenditure of tribal funds, or commitment of tribal resources.

(b) As to contracts that do not exceed $10,000 in cost, expenditure of tribal funds, or commitment of tribal resources, the Board shall have the authority to approve, disapprove or negotiate, without consultation or approval by Tribal Council. Any contract so approved shall be signed by the Chairperson of the Board.

(c) Contracts that do not exceed $5,000 in cost, expenditure of tribal funds, or commitment of tribal resources, may be approved and entered into without the approval of the Board. Any contract so approved shall be signed by the Director of Sitka Tribal Enterprises.

(d) The Chairperson, or Board member or staff so designated by the Chairperson, shall have authority to sign contracts approved under subsection (b).

(e) Any contract recommended for approval under subsection (a) or approved under subsection (b) shall include a statement that the contract has been entered into by the "Sitka Tribe of Alaska, a federally recognized Indian tribe, d/b/a Sitka Tribal Enterprises".

Section 3.02 Business Operations, Commitment of Resources and Expenditure of Funds

The Board shall have the authority to establish policy, goals and direction necessary to ensure the economic viability and growth of the various enterprises conducted by the Department, subject to the limitations stated in Sections 3.01 and 3.03.

Section 3.03 Management of Department Staff

The Board shall have no management authority over the staff of the Department. The Department staff are employees of the Sitka Tribe of Alaska, under the supervision of the General Manager and subject to the terms of the Employee Handbook, including the grievance procedure.

Section 3.04 Reports to Tribal Council

The Board shall provide quarterly reports to the Tribal Council, comprehensive in nature, that include detailed financial information and the statement required under Section 3.05. The Treasurer of the Board shall be responsible for ensuring preparation and presentation of the report to the Tribal Council for the Tribal Council's regularly scheduled meetings in February, May, August and November.

Section 3.05 Funding and Support of Essential Governmental Services

As a part of the quarterly reports required under Section 3.04, the Board shall make a determination as to the amount of Department funds, if any, that may be used to support essential governmental services. This amount shall be those funds determined to exceed the cost of operations and growth, maintenance or any new and approved business ventures or commitment of resources. The allocation of any funds available to support essential governmental services shall be within the sole discretion of the Tribal Council.

Section 3.06 Sovereign Immunity

In no event shall the Board or any member of the Board have authority to enter an agreement or contract that waives the Tribe's sovereign immunity. Any such action shall be grounds for immediate removal of the appropriate Board member or members as misconduct in office.

Chapter IV—Administration, Fund Management, Contracts and Property

Section 4.01 Administration

(a) The General Manager shall supervise the Director of Sitka Tribal Enterprises. The Director of Sitka Tribal Enterprises shall supervise the Tours Operation Manager. In the absence of a Director of Sitka Tribal Enterprises, the General Manager shall assume all responsibilities of the Director of Sitka Tribal Enterprises. The Tour Operations Manager shall supervise all other Tour staff.

(b) By detailing the titles and line of authority for the above-mentioned positions, Tribal Council is not mandating that these positions exist. It is solely within the discretion of the Director of Sitka Tribal Enterprises, the General Manager, and Tribal Council (as appropriate) positions may or may not exist within the Department.

Section 4.02 Fund Management

(a) All accounting and fund management for Sitka Tribal Enterprises shall be handled by the Finance Department of the Sitka Tribe of Alaska.

(b) There shall be an accounting fee paid to the Sitka Tribe of Alaska for the reasonable and necessary costs of handling the funds associated with Sitka Tribal Enterprises.

(c) The Finance Director shall maintain the funds for Sitka Tribal Enterprises associated with Tribal Tours in checking accounts separate and distinct from other governmental funds. Any new and additional enterprises shall include an amendment to this ordinance concerning fund management.

(d) The Finance Director shall be responsible for providing monthly reports to the Tribal Council and quarterly reports to the Board as a part of the duties under the Sitka Tribe of Alaska Budget Ordinance subsection 2.03(b).

(e) Sitka Tribal Enterprises and all spending by the Board, unless otherwise provided for in this ordinance, shall be bound by the policies and procedures of the Finance Department. Unless otherwise provided by the Tribal Council, a freeze on raises or travel expenses declared by the Tribal Council shall also be binding on the staff of Sitka Tribal Enterprises and the Board.

Section 4.03 Contracts

The appropriate staff for Sitka Tribal Enterprises shall provide the Director of Sitka Tribal Enterprises and the In-House Attorney with a copy of each contract proposed for consideration pursuant to Section 3.02. The Director of Sitka Tribal Enterprises shall forward copies of contracts approved pursuant to Section 3.02 to the Finance Department for record keeping purposes.

Section 4.04 Grants

Sitka Tribal Enterprises shall be bound by the Sitka Tribe of Alaska grants policy and procedure. The only variance to that policy and procedure is as follows:

(a) Prior to requesting approval from the Tribal Council to write a grant pursuant to Section II B, a presentation shall be made available to the STE Board for their approval to write the grant. A recommendation from the STE Board shall be forwarded on to the Tribal Council.

(b) Prior to requesting a Resolution form the Tribal Council in support of the grant application pursuant to Section II C, a presentation shall be made to the STE Board to obtain their support of the grant application. A recommendation from the STE Board shall be forwarded to the Tribal Council.

(c) Prior to being put on the agenda of a Finance Committee meeting pursuant to Section V Indirect Rates for Grants, a presentation shall be made to the STE Board to obtain their approval to apply for a grant with less than 20% indirect. A recommendation from the STE Board shall be forwarded to the Finance Committee. The Finance Committee shall forward a recommendation to the Tribal Council.

Section 4.05 Tribal Ownership of Property

All property and funds held by the Department or used in the course of business of the Department shall remain in the ownership of the Sitka Tribe of Alaska. Neither the Department nor the Board has any ownership interest in any property or funds.

Section 4.06 Prohibition Against Dividends and Profit Sharing

Nothing in this Ordinance shall be construed to allow for dividends or profit sharing to any individual, group or organization, except for those funds exceeding the cost of operations and growth used to support essential governmental services as described in Section 3.06.

Chapter V—Sheet'ka Kwaan Naa Kahidi Community House

Section 5.01 Shared Authority with Cultural Committee

The Community House has a unique status as a cultural treasure and provides services to the Tribe as a whole for religious, spiritual, social and governmental functions. For this reason, the Board shall share its delegated authority, so that it may incorporate the wisdom of Tribal Elders to the greatest extent possible, through a cooperative and advisory relationship with the Cultural Committee, or any Subcommittee recommended by the Cultural Committee and approved by the Tribal Council.

Section 5.02 Contracts and Grants

With the exception of the requirement of Section 3.01(e), the Community House Department shall be bound by the procedures established for contracts under Sections 3.01 and 4.03 and grants under Section 4.04 of this Ordinance. Contracts related to the Community House shall be entered into as "Sitka Tribe of Alaska" without reference to "Sitka Tribal Enterprises". The General Manager shall have the responsibilities and duties of the Director of Sitka Tribal Enterprises described therein.

Section 5.03 Business Operations, Commitment of Resources and Expenditure of Funds

The Board shall have the authority to establish policy, goals and direction necessary to ensure that development and fundraising efforts, including a comprehensive plan to address debt

service, will maintain the viability of the Community House, subject to the limitations stated in Section 3.01 and 3.03 and in harmony with the cooperative relationship with the Cultural Committee described in Section 5.01.

Section 5.04 Management of Department and Staff

The Board shall have no management authority over the staff of the Community House Department. The staff of the Community House Department are employees of the Sitka Tribe, under the supervision of the General Manager and subject to the terms of the Employee Handbook, including the grievance procedure.

Section 5.05 Administration

(a) The Sheet'ka Kwaan Naa Kahidi Community House is established as a Department within the governmental structure of the Sitka Tribe separate from Sitka Tribal Enterprises.

(b) The General Manager shall supervise the Community House Manager. The Community House Manager will supervise all other Community House staff.

(c) By detailing the titles and line of authority for the above-mentioned positions, Tribal Council is not mandating that these positions exist. It is solely within the discretion of the Community House Manager, General Manager, and Tribal Council (as appropriate), which positions may or may not exist within the Department.

Section 5.06 Fund Management

(a) All accounting and fund management for the Community House Department shall be handled by the Finance Department of the Sitka Tribe of Alaska.

(b) The Finance Department shall be responsible for providing monthly reports concerning the Community House to the Tribal Council and quarterly reports to the Board as a part of the duties under the Sitka Tribe's Budget Ordinance subsection 2.03(b).

(c) The Community House Department and all spending by the Board, unless otherwise provided for in this ordinance, shall be bound by the policies and procedures of the Finance Department. Unless otherwise provided by the Tribal Council, a freeze on raises or travel expenses declared by the Tribal Council shall also be binding on the staff of the Community House Department and the Board.