THE PAIUTE INDIAN TRIBE OF UTAH
440 North Paiute Drive • Cedar City, Utah 84721 • (435) 586-1112

RESOLUTION NO. 2019-47

PAIUTE INDIAN TRIBE OF UTAH TRIBAL COUNCIL RESOLUTION ON FINAL DETERMINATION OF HEARING FOR LORA TOM

WHEREAS, the Paiute Indian Tribe of Utah ("Tribe") is a federally recognized Indian tribe under 25 U.S.C. § 761, et seq., organized under the Tribe's Constitution, as ratified by the Tribe on June 11, 1991, and approved by the Secretary of the Interior on July 15, 1991, and amended by the Tribe on August 12, 1997, and approved by the Secretary of the Interior on September 30, 1997, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and

WHEREAS, pursuant to Article IV and Article V of the Constitution of the Paiute Indian Tribe of Utah, the Tribal Council is the official governing body of the Tribe; and

WHEREAS, pursuant to Article V, Section 1 of the Constitution of the Paiute Indian Tribe of Utah, the Tribal Council is vested with all executive and legislative powers of the Tribe; and

WHEREAS, pursuant to its inherent sovereignty as an Indian Tribe and Article V, Section 1 of the Constitution of the Paiute Indian Tribe of Utah, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

WHEREAS, Paiute Indian Tribe of Utah Ordinance 2009-1 entitled "Tribal Council Standards of Conduct" provides for standards of conduct to which the Tribal Council must conform in representing and acting on behalf of the Tribe and the tribal membership; and

WHEREAS, pursuant to Article XII, Section 2(a) of the Constitution of the Paiute Indian Tribe of Utah, the Tribal Council may by a majority vote of its members remove any Tribal Council member for neglect or willful misconduct; and

WHEREAS, pursuant to Article XII, Section 2(b)(1) of the Constitution of the Paiute Indian Tribe of Utah, no Tribal Council member shall be removed from office except after notice of the charges and a hearing before the Tribal Council; and

WHEREAS, pursuant to Article XII, Section 2(b)(3) of the Constitution of the Paiute Indian Tribe of Utah, at the removal hearing at which charges will be heard, the Tribal Council member shall have the right to examine all witnesses against him or her, shall be

entitled to call witnesses in his or her own behalf and shall have the right to be represented, at his or her own expense, by an individual of his or her choice; and

WHEREAS, pursuant to Article XII, Section 2(b)(4) of the Constitution of the Paiute Indian Tribe of Utah, the factual determinations of the Tribal Council and removal decisions of the Tribal Council shall be final, except that issues of constitutionality of the Tribal Council member's removal may be reviewed by the tribal appellate court; and

WHEREAS, the Tribal Council met in executive session on April 16, 2019 and reviewed a complaint, which is attached to this Resolution as Exhibit A, against Tribal Council Member Lora Tom, and determined that the allegations within the complaint fell within the scope of the Tribal Council Standards of Conduct, and that, if the alleged facts were true, would support a determination of unethical and/or improper conduct; and

WHEREAS, the Tribal Council held a hearing on June 11, 2019 for Tribal Council Member Lora Tom relating to the allegations within the compliant in accordance with the standard and procedure outlined in Article XII, Section 2 of the Constitution of the Paiute Indian Tribe of Utah and other applicable rules; and

WHEREAS, the Tribal Council established a quorum of 4 members of the Tribal Council at the June 11, 2019 hearing; and

WHEREAS, The Tribal Council determined that adequate notice of the charges against her in the complaint and of the June 11 hearing date were provided to Tribal Council Member Lora Tom, yet did not to attend the hearing on June 11, 2019, and failed to present any evidence to rebut the allegations within the complaint; and

WHEREAS, at the hearing, there was evidence presented in support of the complaint against Tribal Council Member Lora Tom consisting of testimony, resolutions, emails, and other documents; and

WHEREAS, the Tribal Council has fully considered and deliberated over the evidence presented and desires to enter a decision regarding the allegations (causes of action) in the complaint against Lora Tom.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council by this Resolution enters this judgment against Tribal Council Member Lora Tom; and

BE IT FURTHER RESOLVED that the Tribal Council has determined by a vote of 2 in favor, 0 opposed, 1 abstained, and 1 absent that there is sufficient evidence to support the first cause of action in the complaint, which provides that Tribal Council Member Lora Tom violated the Council Standards of Conduct when she voted to approved a motion to supersede the Election Ordinance; and

BE IT FURTHER RESOLVED that the Tribal Council has determined by a vote of 2 in favor, 0 opposed, 1 abstained, and 1 absent that there is sufficient evidence to support the second cause of action in the complaint, which provides that Tribal Council Member Lora Tom violated the Council Standards of Conduct when she voted to approve a resolution entitled "Background Checks for Tribal Members" that violated Tribal law; and

BE IT FURTHER RESOLVED that the Tribal Council has determined by a vote of 0 in favor, 1 opposed, 2 abstained, and 1 absent that there is sufficient evidence to support the third cause of action in the complaint, which provides that Tribal Council Member Lora Tom violated the Tribal Council Standards of Conduct when she voted to approve a resolution entitled "Amendment of Legal Counsel Engagement and Directive" that violated Tribal law; and

BE IT FURTHER RESOLVED that the Tribal Council has determined by a vote of 1 in favor, 0 opposed, 2 abstained, and 1 absent that there is sufficient evidence to support the fourth cause of action in the complaint, which provides that Tribal Council Member Lora Tom violated the Tribal Council Standards of Conduct when she voted to approve a resolution entitled "Recognition of Complaint and Investigation of Tribal Chairperson" that violated Tribal law; and

BE IT FURTHER RESOLVED that the Tribal Council has determined by a vote of 1 in favor, 0 opposed, 2 abstained, and 1 absent that there is sufficient evidence to support the fifth cause of action in the complaint, which provides that Tribal Council Member Lora Tom violated the Tribal Council Standards of Conduct when she voted to approve a resolution entitled "5. Approval of Written Notice of Removal and Setting of Removal Hearing" that violated Tribal law; and

BE IT FURTHER RESOLVED that the Tribal Council has determined by a vote of 1 in favor, 0 opposed, 2 abstained, and 1 absent that there is sufficient evidence to support the sixth cause of action in the complaint, which provides that Tribal Council Member Lora Tom violated Tribal Council Standards of Conduct Section 2 when, in the process related to the disputed elections and investigation of the PITU Chairperson, acted in the interests of the Bands, and not the Tribe by passing resolutions containing statements and requiring actions contrary to tribal law and suspending the Chairperson without due process and without any authority to do so; and

BE IT FURTHER RESOLVED that the Tribal Council has determined by a vote of 2 in favor, 0 opposed, 1 abstained, and 1 absent that there is sufficient evidence to support the seventh cause of action in the complaint, which provides that Tribal Council Member Lora Tom violated the Tribal Council Standards of Conduct Section 4 (B) prohibiting conflicts of interest and 4(H) prohibiting harassment by participating in the Cedar Band nomination meeting that conflicted with the Tribe's laws; and

NOW BE IT FINALLY RESOLVED that, as reflected in the above provisions, the Tribal Council has determined that there is sufficient evidence under Article XII of the Tribe's Constitution to remove Lora Tom from the PITU Tribal Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was fully considered by the Tribal Council at a duly called meeting in Cedar City, Utah, at which a quorum was present and that the same was passed by a vote of 2 in favor, 0 opposed, 1 abstained, and 1 absent this 11th day of June, 2019.

Tamra Borchardt-Slayton, Chairperson

ATTEST:

Caroline Garcia, Tribal Council Secretary