

AMENDED
PASSED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

APR 06 2017

DATE

RESOLUTION NO. 546 (2017)

WHEREAS, the Eastern Band of Cherokee Indians (EBCI) Tribal Council possesses the sole authority to impeach any EBCI officer who violates his oath of office, or is guilty of any offenses making him ineligible to hold said office by a two-thirds vote of Tribal Council. Charter and Governing Document of the Eastern Band of Cherokee Indians, sect. 22 (Oct. 8, 1986), *see also* sect. 1 (outlining EBCI officers).

WHEREAS, EBCI Tribal Council passed Resolution No. 502 (2017) which directed Articles of Impeachment for Patrick H. Lambert be prepared and submitted for approval.

WHEREAS, Articles of Impeachment are prepared, attached and submitted for approval.

NOW THEREFORE BE IT RESOLVED by the Eastern Band of Cherokee Indians, in Council assembled, at which a quorum is present, the EBCI Tribal Council approves the attached Articles of Impeachment.

BE IT FURTHER RESOLVED the Articles of Impeachment may be amended by Tribal Council at any time until the hearing has convened.

BE IT FURTHER RESOLVED the Articles of Impeachment can be amended by Tribal Council to conform to the evidence.

BE IT FURTHER RESOLVED the Articles of Impeachment be published in the Cherokee One Feather.

BE IT STILL FURTHER RESOLVED an Impeachment hearing shall be held on _____

BE IT FINALLY RESOLVED Tribal Council shall carry out the intent of this resolution and the Vice-Chief is authorized to ratify this resolution because of the conflict of interest by Patrick H. Lambert.

Submitted by: Tribal Council

AMENDMENT TO RESOLUTION NO. 546 (2017): Insert April 20, 2017
into the blank.

RESOLVED, That Patrick H. Lambert, Principal Chief of the Eastern Band of Cherokee Indians, is impeached for violation of his oath of office and violations of the Cherokee Code, and that the following articles of impeachment are to be exhibited to the Tribal Council:

ARTICLES OF IMPEACHMENT EXHIBITED BY THE TRIBAL COUNCIL OF THE EASTERN BAND OF CHEROKEE INDIANS IN THE NAME OF ITSELF AND OF ALL OF THE PEOPLE OF THE EASTERN BAND OF CHEROKEE INDIANS, AGAINST PATRICK H. LAMBERT, PRINCIPAL CHIEF, IN MAINTENANCE AND SUPPORT OF ITS IMPEACHMENT AGAINST HIM FOR VIOLATIONS OF HIS OATH OF OFFICE AND VIOLATION OF THE CHEROKEE CODE.

ARTICLE I

In his conduct while Principal Chief of the Eastern Band of Cherokee Indians, Patrick H. Lambert violated his duty and oath of office to preserve, protect and defend the laws confirmed and ratified by the enrolled members of the Eastern Band of Cherokee Indians, particularly Cherokee Code §117-45(d) states “No elected official, program director or any member of their immediate family, shall enter into any contract for services or goods with any Tribal entity, enterprise or program for the purpose of either receiving or providing services or goods.” Further, Patrick H. Lambert violated his duty and oath of office in that he failed to conduct himself in a manner most conducive to the interest and prosperity of the Eastern Band of Cherokee Indians.

On or about September 17, 2015, Patrick H. Lambert signed a contract for Cherokee Hotel Properties, LLC d/b/a Cherokee Grand Hotel with Tribal Casino Gaming Enterprise d/b/a Harrah’s Cherokee Casino Resort, a Tribal enterprise. *See* C.C. §16A-1(a). Cherokee Hotel Properties, LLC is organized under the State of North Carolina and managed by Cynthia Lambert and Patrick Lambert. While Mr. Lambert signed the contract prior to taking his oath of office, the contract began after he took his oath of office on January 1, 2016. Mr. Lambert and his wife made three thousand eight hundred twenty-five dollars (\$3,825) a night before the Tribal Casino Gaming Enterprise terminated his contract in approximately November 2016. A total payments to Cherokee Grand Hotel for January 1, 2016 to October 31, 2016 is one million one hundred sixty-two thousand eight hundred dollars (\$1,162,800). However, after termination Mr. Lambert and his wife continue to receive payments from the contract at a reduced rate.

ARTICLE II

In his conduct while Principal Chief of the Eastern Band of Cherokee Indians, Patrick H. Lambert violated his duty and oath of office to preserve, protect, and defend the Charter and Governing Document of the Eastern Band of Cherokee Indians, particularly Charter and Governing Document, sect. 18 states “The Principal Chief, Vice-Chief and members of Council before entering on the duties of office shall take the following oath...”

1. On October 31, 2015, Cloninger, Barbour, Searson Jones, PLLC invoiced the Eastern Band of Cherokee Indians c/o Principal Chief Patrick Lambert for twenty-six thousand one hundred ninety-five dollars and ninety-six cents (\$26,195.96) for Legal Services. However, twenty-five and eight tenths hours were billed for legal services performed from September 13, 2015 through October 3, 2015, prior to Patrick H. Lambert being sworn-in as Principal Chief. The total cost for the legal services during this period was nine thousand one hundred twelve dollars and fifty cents (\$9,112.50). Sage Dunston authorized payment on December 18, 2015.
2. On Monday, October 5, 2015, Patrick H. Lambert took his oath of office. However, the expansion and renovation of tribal executive office contract contains a start date of October 1, 2015.

ARTICLE III

In his conduct while Principal Chief of the Eastern Band of Cherokee Indians, Patrick H. Lambert violated his duty and oath of office to preserve, protect, and defend the laws confirmed and ratified by the enrolled members of the Eastern Band of Cherokee Indians, particularly Cherokee Code §117-19(a)(2) states “(a) Before a Contract with the Eastern Band of Cherokee Indians shall be valid and binding the following shall occur:...(2) A contract in an amount of \$50,000 or more which complies with all budget, financial, and legal requirements for that program and the Tribe, and is within the fiscal parameters of the Annual Budget approved by the Tribal Council, shall have the approval of Business Committee before being executed by the Principal Chief.”

1. On or about October 1, 2015, Patrick H. Lambert executed a contract regarding the expansion and renovation of the tribal executive offices in the amount of sixty-two thousand dollars (\$62,000). The original contract did not have Business Committee approval as required by Cherokee Code.
2. On or about November 11, 2015, Patrick H. Lambert executed an amended contract regarding the forensic audit in the amount of sixty-five thousand dollars (\$65,000). The amended contract did not have Business Committee approval as required by Cherokee Code. Mr. Lambert’s action not only violates the Cherokee Code but also violates the Eastern Band of Cherokee Indians Fiscal Management Policies and Procedures which states “If a contract amendment price increase puts the total contract price over \$50,000, obtain Business Committee’s approval & signature...” EASTERN BAND OF CHEROKEE INDIANS FISCAL MANAGEMENT POLICIES AND PROCEDURES §2213 (2015). As of September 30, 2016, the actual expenditures for this contract were three hundred fifteen thousand four hundred seven dollars (\$315,407). This amount far exceeds the amended contract price which was executed by Patrick H. Lambert without Business Committee approval. Again, the Fiscal Management Policies and Procedures states “Changes (Amendments) to a contract must be in writing and signed by both parties prior to work being done. A contractor cannot commence extra work unless a written and signed Amendment has been approved through the process. The Tribe will not pay more than

agreed to in the original contract unless a written and signed Amendment is provided.”
Id.

3. On or about December 28, 2015, Patrick H. Lambert executed a contract regarding a consulting agreement in the amount of one hundred fifty thousand dollars (\$150,000). The original contract did not have Business Committee approval as required by Cherokee Code.
4. On or about March 21, 2016, Patrick H. Lambert executed a contract regarding timeclocks in the amount of eighteen thousand four hundred twelve dollars (\$18,412). However as of September 30, 2016, the actual expenditures for this contract were one hundred eighty-one thousand eight hundred sixty-one dollars (\$181,861). This amount far exceeds the contract price executed by Patrick H. Lambert. The contract violates Cherokee Code because it requires Business Committee approval. C.C. §117-(a)(2). Additionally, the contract violates the Fiscal Management Policies and Procedures because the “Tribe will not pay more than agreed it in the original contract unless a written and signed Amendment is provided.” *Id.*

ARTICLE IV

In his conduct while Principal Chief of the Eastern Band of Cherokee Indians, Patrick H. Lambert violated his duty and oath of office to preserve, protect, and defend the laws confirmed and ratified by the enrolled members of the Eastern Band of Cherokee Indians, particularly Cherokee Code §96-4.33 states “Organizational structure and levels of authority are established by order of the Principal Chief who shall approve, maintain and revise as necessary, an organizational chart for the Tribe and for each of its programs and divisions, subject to Tribal Council approval.”

On or about December 9, 2015, the Eastern Band of Cherokee Indians approved the organizational chart that Patrick H. Lambert submitted with the Fiscal Year 2016 annual budget. Thereafter, Patrick H. Lambert made significant changes to the tribal organizational structure and levels of authority without approval by the Tribal Council, in direct violation of C.C. §96-4.33.

ARTICLE V

In his conduct while Principal Chief of the Eastern Band of Cherokee Indians, Patrick H. Lambert violated his duty and oath of office to preserve, protect, and defend the laws confirmed and ratified by the enrolled members of the Eastern Band of Cherokee Indians, particularly Cherokee Code §92-7.B states that the Tribal Employment Rights Office (TERO) shall be supported by the Eastern Band of Cherokee Indians payroll, procurement, hiring assistance, drug testing and other administrative processes.

On or about December 16, 2016, Patrick H. Lambert ratified Ordinance No. 406 (2016). However, Mr. Lambert wrote a “Signing Statement” stating he was not allowing TERO to use tribal resources regardless of the Ordinance.

ARTICLE VI

In his conduct while Principal Chief of the Eastern Band of Cherokee Indians, Patrick H. Lambert violated his duty and oath of office to preserve, protect, and defend the Charter and Governing Document of the Eastern Band of Cherokee Indians, particularly Charter and Governing Document, sect. 4 states "There shall be an Executive Committee, which shall consist of the Principal Chief and the Vice-Chief. The Committee shall execute and carry out tribal laws and administer the daily operations of the Tribe."

1. On or about June 3, 2016, Patrick H. Lambert issued an executive memorandum, without the Vice-Chief's knowledge or input, assigning an interim manager although the manager position was filled. The program manager was not notified, still classified as manager, and compensated at the manager's pay rate until December 12, 2016. The assigned interim manager was compensated at his lower level position while performing the duties of manager until December 12, 2016. Additionally, the investigation found Patrick H. Lambert violated C.C. §96-5.08(A) by not having "written concurrence" of the Executive Committee.
2. On or about August 3, 2016, Patrick H. Lambert named a political appointment and authorized a salary prior to a budget being approved for the position. A budget amendment "creating" the position and salary level was not executed until August 15, 2016. Further, Patrick H. Lambert failed to carry out Eastern Band of Cherokee Indians Tribal Council Resolution No. 16 (2009) that modified the Eastern Band of Cherokee Indians Budget Policy. Specifically, Patrick H. Lambert failed to obtain Executive Committee approval on unbudgeted salary increases. *See* EASTERN BAND OF CHEROKEE INDIANS BUDGET POLICY §4.A. (2009). Further, Patrick H. Lambert failed to obtain Budget Council approval on "positions that increase the approved number of positions for the current Fiscal Year." *Id.*
3. During Fiscal Year 2016, Patrick H. Lambert authorized five employee pay adjustments without any supporting documentation to the Executive Committee. Mr. Lambert's failure to provide the Executive Committee supporting documentation violates C.C. §96-6.04(C)(1) as well.

ARTICLE VII

In his conduct while Principal Chief of the Eastern Band of Cherokee Indians, Patrick H. Lambert violated his duty and oath of office to preserve, protect, and defend the Charter and Governing Document of the Eastern Band of Cherokee Indians, particularly Cherokee Code section 14-70.44 states "It shall be unlawful, being a public servant, and with the intent to materially benefit himself or another or to harm another, to knowingly commit an unauthorized act which purports to be act of his office, or knowingly refrain from performing a non-discretionary duty imposed on him by law."

Attorney-Client Privilege

On October 31, 2015, Cloninger, Barbour, Searson Jones, PLLC invoiced the Eastern Band of Cherokee Indians c/o Principal Chief Patrick Lambert for twenty-six thousand one hundred ninety-five dollars and ninety-six cents (\$26,195.96) for Legal Services. However, twenty-five and eight tenths hours were billed for legal services performed from September 13, 2015 through October 3, 2015, prior to Patrick H. Lambert being sworn-in as Principal Chief. The total cost for the legal services during this period was nine thousand one hundred twelve dollars and fifty cents (\$9,112.50). Sage Dunston authorized payment on December 18, 2015.

WHEREAS, Patrick H. Lambert, by such conduct, warrants impeachment, hearing, and removal from the Office of Principal Chief.

The attached Resolution/Ordinance No. 546 dated APRIL 6, 2017 was:

PASSED (X)

KILLED ()

and ratified in open Council on APRIL 6, 2017 by 80 voting for the act
and 20 members voting against it as follows:

VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Teresa McCoy		X		
Richard French		X		
Travis Smith	X			
B Ensley	X			
Anita Lossiah	X			
Brandon Jones	X			
Bill Taylor	X			
Bo Crowe	X			
Adam Wachacha	X			
Albert Rose	X			
Marie Junaluska	X			
Tommye Saunooke		X		
	80	20	0	0



TRIBAL COUNCIL CHAIRMAN



ENGLISH CLERK



PRINCIPAL CHIEF

APPROVED (✓) VETOED ()

VETO UPHELD () VETO DENIED ()

DATE: 6 April 17

I hereby certify that the foregoing act of the Council was duly:

PASSED ()

KILLED ()

and ratified in open Council after the same has been interpreted by the Official Interpreter and
has been fully and freely discussed.

INTERPRETED ()

OMITTED ()