



LUMMI INDIAN BUSINESS COUNCIL

2665 KWINA ROAD • BELLINGHAM, WASHINGTON 98226 • (360) 312-2000

RESOLUTION #2021-032 OF THE LUMMI INDIAN BUSINESS COUNCIL

TITLE: Banishment of Wade Hardenbrook, DOB 6/16/1971

WHEREAS, the Lummi Indian Business Council (LIBC) is the duly constituted governing body of the Lummi Nation by the authority of the Constitution and Bylaws, as amended, of the Lummi Tribe of the Lummi Reservation, Washington; and

WHEREAS, the Lummi Indian Business Council is responsible for advancing the health, safety, well-being, and education goals of the people of the Lummi Nation; and

WHEREAS, it is the mission of the LIBC *"To Preserve, Promote and Protect our Sche Lang en"* (LIBC Resolution #2012-025); and

WHEREAS, the Lummi Nation, before the 1792 contact with non-Indian society, was governed by tradition, ceremony, culture, and strong tribal social values, ethics, and altruism essential to our survival as a tribal society, and our society was strict in the control of behavior and respect for oneself, for family, for extended family, and for tribalism; and

WHEREAS, the Lummi Nation, together with the Duwamish, Suquamish, and Allied Tribes, is a party to the Treaty of Point Elliot, 12 Stat. 927, which was ratified by the Senate of the United States of America on March 8, 1859, and proclaimed on April 11, 1859; and

WHEREAS, in accordance with respective articles of the Constitution of the United States of America, Article Two of the Treaty of Point Elliot provides:

"All which tracts shall be set apart, and so far as necessary surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the said tribes or bands"; and

WHEREAS, the Preamble to the 1970 Lummi Constitution states it is the intent of the People to make the tribal government "responsive to the tribe, to develop our community resources, administer justice, protect our tribal interests, and promote the economic and social welfare of ourselves and our descendants, and to preserve our land base, culture, and identity, ...Which is definitive of the demand of our tribal constituency for said government to protect the tribal public from all such activities and actions that are injurious to the best interests of the tribal community and values"; and

WHEREAS, the Lummi Nation has enacted Title 12- Exclusion Code. Title 12 acknowledges the historical practice of banishment by the Lummi people, stating that "individuals that posed a threat to the community were sometimes banished and excluded from Lummi Territory." LCL 12.01.020.

Title 12 also acknowledges and respects "the authority of the LIBC to exercise its inherent sovereign right to banish an individual from the Lummi Reservation." LCL 12.01.030(b); and

WHEREAS, the power to declare "banishment" predates the Treaty of Point Elliot, as a matter of traditional and cultural law, and inclusion of such concepts and powers in the treaty, Lummi Constitution, or otherwise is only a manifestation of some of the powers delegated, but are in fact only a part of those rights reserved to the LIBC, under the Lummi Constitution (Article VI, Sections 1, 2, and 3). Such reserved powers were and have been recognized in *United States v. Winans*, 198 U.S. 371, 381 (1905), in that a treaty "was not a grant of rights to the Indians, but a grant of rights from them- a reservation of those not granted"; and

WHEREAS, WADE HARDENBROOK, DOB 6/16/1971, was found residing on the Reservation without the permission of the Lummi Nation in violation of the provisions of the Treaty of Point Elliot

WHEREAS, WADE HARDENBROOK, DOB 6/16/1971 has been convicted of the following felony criminal offenses in Washington state courts: **12-1-00359-1-BURGLARY SECOND DEGREE; 06-1-01687-7 CONTROLLED SUBSTANCE VIOLATION AND VEHICLE PROWLING 1ST DEGREE; 06-1-01739-POSSESSION OF A SCHEDULE I OR II CONTROLLED SUBSTANCE (TWO COUNTS); 06-1-00676-6 CONT SUBSTANCE-POSSESSION WITH NO PRESCRIPTION; 05-1-00240—1 THEFT-2; 04-1-01741-9 POSSESSION OF STOLEN PROPERTY 2ND; 94-1-00987-0 CONTROLLED SUBSTANCE VIOLATION: MANUFACTURING/DELIVERY/POSSESSION;** and

WHEREAS, based on the foregoing and on the recommendation of the Trespasser's Working Group, the LIBC finds that **WADE HARDENBROOK, DOB 6/16/1971**, is an immediate and imminent threat to the health, safety, and welfare of the Lummi Nation.

NOW, THEREFORE BE IT RESOLVED, that in accordance with the inherent sovereign right of the Lummi Nation, the person **WADE HARDENBROOK, DOB 6/16/1971**, is hereby **BANISHED AND TRESPASSED** from the Lummi Reservation and its Trust Lands by the Lummi Indian Business Council; and

BE IT FURTHER RESOLVED that the Lummi Nation Police Department are to serve copies of this resolution to the name individuals and instruct them they must leave the boundaries of the Lummi Reservation and its Trust Lands immediately of receipt of this Resolution. The Lummi Nation Police Chief shall report directly to the Lummi Indian Business Council once service has been completed; and

BE IT FURTHER RESOLVED, that if any individuals are found within the boundaries of the Lummi Reservation or its Trust lands, they shall be charged with Trespass under RCW 9A.52.070 and their property be subject to impoundment and forfeiture; and

BE IT FURTHER RESOLVED, that the individual **WADE HARDENBROOK, DOB 6/16/1971**, may petition the Lummi Indian Business Council to lift this banishment order. The individuals must appear in front of the Lummi Indian Business Council to explain why they should

be allowed within the boundaries of the Lummi Reservation or Trust Lands. The LIBC may lift this Banishment Resolution upon 2/3rd vote in support of lifting this Resolution; and

BE IT FINALLY RESOLVED, that the Chairman (or Vice Chair in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

LUMMI NATION



Lawrence Solomon, Chairman
Lummi Indian Business Council

CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #**2021-032** was adopted at a **Regular/Special** Meeting of the Council held on the **9th** day of **February**, at which time a quorum of **10** was present by a vote of **9** for, **0** against, and **0** abstention(s).


William Jones Jr., Secretary
Lummi Indian Business Council

OFFICE OF THE
CLERK OF THE
COURT

RECEIVED



Council Operations Action Form

Please turn in with resolution & attachments or with your agenda item, to Council Operations, the Wednesday prior to the Council meeting by 4:30 PM. **Late documents will not be accepted.** If you have questions contact TeresaB@lummi-nsn.gov or ext 2142

To be completed by Originator:

Clearances	Initial	Date	Comments	Resolution # 2021-032	Agenda Date: 2/8/2021
Originator	<i>KV</i>	<i>2/8/21</i>		Title: Banishment of Wade Hardenbrook, DOB 6/16/1971	
ORA C. Cartwright	<i>CC</i>	<i>2/8/21</i>		Name of Presenter: Kirk Vinish(Trespasser's Working Group)	
Department Director				Financial impact (if yes please attach Executive Summary):	Budgeted item: Y N
Cultural Department				Distribution (departments or individuals who will need a copy of the certified resolution Circle all that apply):	
CBC Chairperson				Planning	Economic Development
General Manager				Human Resources	Natural Resources
Treasurer <small>Only if a Financial Impact</small>				General Manager	CFO
Chair or Vice Chair	<i>LS</i>	<i>2/8/21</i>		Council Officers	
				Other:	
				Contact Information of Person Dropping Off at C.O.	

Please give a brief narrative of your agenda item: Trespassing Wade Hardenbrook via banishment as recommended by the Trespassers Working Group

By signing below, I have completed the Action form assuring that there is approval from all listed parties before submitting it to Council Operations also; "Sign here" tabs have also been placed in all areas in need of signature.

Signature of Department:

Cartwright

Date & Time

2/8/2021

Signature Received by:

Teresa B.

Date & Time

2/8/21

Resolution # 2021-032