

# THE CAROLINA INDIAN VOICE

Published each Thursday by First American Publications, Pembroke, NC

VOLUME 26 NUMBER 2

THURSDAY, JANUARY 14, 1999

TWENTY-FIVE CENTS

## Court Rules Neither LRDA nor Tribal Council is Government but Gives LRDA "Limited Authority" to Act on Behalf of Tribe

by Connee Brayboy

Quoting extensively from the Lumbee Petition for Federal Acknowledgment (1987), Judge Howard Manning decided the case of the Lumbee Tribe of Cheraw Indians vs Lumbee Regional Development Association on Monday. In a 96-page opinion, Judge Manning decided that neither the LRDA nor the Tribal Council was the government of the Lumbee people.

With a great deal of detail, historical information, quoting of minutes and other documents, Manning ruled that the Constitutional Assembly which drafted the Lumbee Constitution was indeed a project of LRDA, formed to expedite the Lumbee Bill before Congress at that time. He further stated that the delegation violated their own procedures and did not have the right to put the document up for a vote of the people without the express permission of LRDA.

On the other hand, he clarified the 1984 tribal referendum that gave limited authority to LRDA to serve as the government of Lumbee people for the purposes of federal recognition. His order prohibited LRDA from holding itself out as the tribal government and placed the same restriction on the tribal council but did acknowledge that the tribal council was a viable organization within the Lumbee community. While they maintain status as a "body politic," he said, they are not the government. Part of the suit, according to Manning's procedural history of the case included in his order, was for the court to recognize the tribal council as the governing body of the tribe.

"The issue," the order said, "is which, if either entity, the Tribe or LRDA, is the governing body of the Lumbee Tribe of North Carolina."

The order continued by stating: "Courts have the authority to hear cases involving disputes within Indian Tribes, in the area of elections and form of tribal government when there is no tribal remedy in which to grant the relief. *Goodface v. Grassope*, 7008 F.2d 235, 339 (8th Cir. 1983). Counsel for the parties have advised the Court that this dispute is the first of its kind that they are aware of in the United States."

Manning's order prohibits LRDA from naming itself as interim government in any future Congressional efforts toward federal recognition of the tribe.

A portion of Manning's summary follows:

"The Court has determined as a matter of law, the following:

"1. The Lumbee Tribe of Cheraw Indians is not the governing body of the Lumbee Tribe, although the Lumbee Tribe of Cheraw Indians is a recognized organization and body politic within the Lumbee Community.

"2. The LRDA is not the governing body of the Lumbee Tribe, although the LRDA possesses the limited authority to act as the 'governing body' for purposes of obtaining and administering federal programs and funding to the Lumbee people as a state recognized tribe, and for purposes of federal recognition.

"3. The Lumbee People, by virtue of their participation in the 1994 referendum on the purported Lumbee Constitution, have expressed a de-

sire for their own form of government, a right which belongs to the Lumbee People and a right which is guaranteed to them by their status as a sovereign Indian Tribe.

"4. Neither the Lumbee Tribe of Cheraw Indians, nor the LRDA, despite the limited authority to act on behalf of the Lumbee People, has the right to interfere with or enjoin, the Lumbee People from exercising, by referendum, or election, their right to choose and select the form of tribal government they desire, or to interfere with or enjoin the formation of such a government by the Lumbee People.

"5. Since there is a dispute (unsolved dispute) over which body, if either, the Lumbee People wish to have as their government, the Lumbee People should be provided with the opportunity to hold, as soon as practicable, a referendum to voice their opinion on what type of government they desire, and then, go forward to form it. Both the LRDA and the Lumbee Tribe of Cheraw Indians are entitled to participate in such a process so long as the Lumbee People are also included in the decision making.

"6. The Court does not have the authority to tell the Lumbee People what type of government they should select, nor does the Court have the authority to make the State of North Carolina, or the N.C. Commission on Indian Affairs, as non-parties, fund the governmental process or any referendum. Such funding must be found by the Lumbee People and its governmental representatives."

In conclusion, the order states in

part: "In the face of disagreement as to what the government should be, history shows us one solution. In 1951 the Lumbee Brotherhood lobbied the General Assembly to change the name of the recognized tribe to the Lumbee Indian Tribe. The N.C. General Assembly, in its wisdom and respecting the sovereignty of the Lumbee People, resolved that the Lumbee People should provide the answer to the dispute by means of a referendum. A referendum was held and the majority voted a change of name to the Lumbee Tribe.

"This same form of self-determination remains available to the Lumbee People as a result of the Court's decision this day. The Court recommends that the parties in this case, the tribal elders and other Lumbee Indians interested in resolving the question of government, go forward in a spirit of doing the best for the Lumbee People and put the appropriate question, or questions to the Lumbee People as to what form of government it wishes to create at this time.

"The Court would respectfully request, as it certainly cannot order, the N.C. Commission on Indian Affairs, to assist the Lumbee People in this effort and would respectfully request the General Assembly to provide funding to support the Lumbee People in conducting and carrying out any referendum it would select with regards to its own right of self-determination and government. Having said that, IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED:

"1 The plaintiffs' and defendant's

motions for directed verdict are denied.

"2. That the Plaintiffs, and more particularly, the Lumbee Tribe of Cheraw Indians, are not the governing body of the Lumbee People, or of the Lumbee Tribe. Notwithstanding this, the Court does find and declare that the Lumbee Tribe of Cheraw Indian is an organized, recognized body politic within the Lumbee Community.

"3. That the defendant, Lumbee Regional Development Association (LRDA) is not the governing body of the Lumbee People, or of the Lumbee Tribe.

"4. That the Lumbee Tribe and its enrolled members possess the inherent and sovereign right of self-determination to select the form and type of government, they wish to be governed by. Further, the Lumbee Tribe is entitled to determine, by referendum, or election, as soon as practicable, the question of what type of government, if any, it desires pending federal recognition.

"5. That neither the plaintiffs, nor the defendant, have the right to prohibit the Lumbee Tribe and its enrolled members from democratically forming and voting for a constitutional, or other form of, government which the Lumbee People desire to form. This does not mean, however, that the LRDA or the organized group known as the Lumbee Tribe of Cheraw Indians, is precluded from participating in any process of the Lumbee Tribe in which the Lumbee Tribe seeks to exercise its own sovereign right of self-determination or tribal government.

"6. That the Lumbee People and the Lumbee Tribe may not be prohibited from selecting a tribal government of their choice prior to, and without having to wait for federal recognition, if it ever comes.

"7. That the LRDA, although not the lawfully constituted governing body of the Lumbee Tribe or the Lumbee People, has been and may continue to act on behalf of the Lumbee Tribe with limited authority as follows:

"(a) The LRDA may continue to act on behalf of the Lumbee Tribe as a limited authority 'governing body' as that term is defined for purposes of (1) application for, receiving and administering federal grants to the Lumbee Tribe, as a state recognized tribe, such as LIHEAP, CSBG, among others, through HUD, HHS, and other federal agencies (2) federal recognition (with the limitation that LRDA cannot declare itself the interim governing body of the Lumbee Tribe) and (3) representing the Lumbee Tribe on the N.C. Commission of Indian Affairs, and on the various Indian Groups to which LRDA has applied for and received recognition for the Lumbee Tribe to date.

"This limited authority granted to the LRDA shall continue until such time as the Lumbee Tribe and its enrolled members, by a vote of at least 30% of the enrolled adults 18 years of age and older, select a tribal council, or other form of tribal government, by means of a democratically and lawfully conducted tribal referendum, without regard to federal recognition."

## Authority NAHASDA Update

By John Tallbird Marshall

During the month of December 1998, nine community meetings were conducted by the North Carolina Indian Housing Authority (NCIHA) introducing the Native American Housing Assistance Self-Determination Act (NAHASDA) Grant programs to the area Native American Tribal Members living in the service areas of Robeson, Harnett, Hoke, Sampson, Scotland, Bladen, Cumberland and Columbus Counties. These meetings were conducted by NCIHA Dave McGirt, Executive Director, Spencer Carter, NCIHA Housing Coordinator, John Tallbird Marshall, NCIHA Director of Operations and Sabrina Jacobs, NCIHA Housing Coordinator.

On December 14th, the NCIHA began processing NAHASDA applications.

We are very excited about our accomplishments at North Carolina Indian Housing Authority! We are pleased to say that we have processed approximately 1600 applications during a three week period!

During that time-frame, we have also responded to all 1600 applications via mail informing each individual of the status of their own application.

Upon the applicants receipt of the NCIHA notice/check list, we are encouraging immediate action in providing the additional information found checked on your checklist. A window of thirty days from the date

found on your checklist has been allocated for verification of completeness. The NCIHA will honor all applicant responses that are postmarked within thirty-days of that date. Applicants must respond timely to participate for housing assistance. Assistance will only be provided to completed applications.

The NCIHA is allowing a sixty-day window for applications. The time frame for the Lumbee Tribe began December 1, 1998 and will conclude January 29, 1999.

The Waccamaw Siouan Tribe sixty-day window began December 15, 1998 and concludes on February 12, 1999.

During this sixty-day period, anyone completing an application will be given the same application status. At the end of each tribes sixty-day window, the NCIHA will develop a waiting list from completed applications.

During the month of January we are conducting weekly sessions to reiterate NAHASDA, and the individual plan of each respective tribe. At these sessions we are also accepting and reviewing applications. If you need assistance in preparing your application, we will be there to help you.

We are also currently advertising statewide for architectural/engineering services. This is an important factor in the design and layout of structures, and sites, imperative to contractual administration and build-

ing construction.

The following are the locations, times and dates of community meetings to assist and accept applications from all tribal members.

(Waccamaw Siouan Tribe)  
Waccamaw Siouan Development Association  
Bolton, NC 28423  
Mondays 8:30 am - 10:30 am - 2:00pm - 5:00 pm

Thursdays 8:30 am - 10:00 am - 2:00 pm - 6:00 pm  
Fridays 8:30 am - 5:00 pm  
St. James Community Center  
Lake Waccamaw, NC 28450  
Mondays 11:00 am - 1:00 pm  
Thursdays 10:30 am - 1:00 pm.

(Coharie Tribe)  
Coharie Tribal Office  
Clinton, NC  
Tuesdays 10:00 am - 1:00 pm  
Wednesdays 10:30 am - 12:30 pm

Harnett County Coharie Indian Association  
1934 Arrowhead  
Dunn, NC  
Tuesdays 3:00 pm - 4:00 pm  
Wednesdays 2:00 pm - 4:00 pm.

(Lumbee Tribe)  
North Carolina Indian Housing Authority  
Sapona Road, Fayetteville, NC  
Mondays 9:00 am - 11:00 am  
Wednesdays 9:00 am - 11:00 am

pm.

am



Ida Willis of Sunrise HealthCare and Rehabilitation Center formerly (Pemberton Place Nursing Center) in Pembroke, N.C. Celebrated her 102nd Birthday on December 27th 1998. She was honored with a party by staff, family and residents. She is from Red Springs, N.C. Ida has always been a very religious lady, who was active in her church, family and community. She is the center's oldest resident. Ida we wish you many more.

## Notice of Public Hearing

The Title IX Indian Education Parent Committee of the Public Schools of Robeson County will hold a Public Hearing on Tuesday, January 19, 1999 at the Indian Education Center in Pembroke, N.C. The purpose of the Hearing is to provide full discussion on the 1999-2000 Indian Education Project Application.

## WE GIVE YOU THANKS

Sunrise HealthCare and Rehabilitation for Pembroke formerly (Pemberton Place Nursing Center) would like to take this time and thank all churches, day care centers, boy scouts, schools, families, volunteers, individuals, organizations and disabled American Veterans for their many gifts, food, music and prayers that were donated to the residents in 1998. You are welcome to visit the facility between 9am - 9pm daily. Again thank you and God bless you  
Sunrise HealthCare

## Arrow Publishing launches new CD Phonics Reading Program

Arrow Publishing, a leader in educational computer software has officially launched its new phonics computer reading program to help solve the problem of poor reading abilities of students. PHONICS VOYAGE was recently released to the public and school market. This program will help parents and teachers teach students to read by intensive phonics instruction.

Teachers and students are tired of the age old method of teaching phonic skills such as flash cards, charts, drill and repetition? PHONICS VOYAGE may be the answer to their prayers! They can dramatically increase their students reading scores.

We want students to become high tech citizens. Why use "horse and buggy" methods of instruction to teach reading skills? Phonics Voyage is a new full motion computer phonics reading program. It will help students become super readers in only a short time.

To make it easy for teachers and parents to teach reading to students, Arrow Publishing has designed PHONICS VOYAGE. It has phonics, games, songs, stories, pictures, lots of full motion video and fun things to keep the interest of students. It is so much fun that students may forget that it is an educational tool to

teach reading. Students will enjoy taking a PHONICS VOYAGE on the pirate ship with the captain and his cartoon crew as they sail into reading.

For many years Dr. Oxendine of Pembroke, NC has witnessed the struggle of children trying to read. Many teachers who have entered the educational field over the past ten years have not been taught to teach reading by phonics instruction. Many of these teachers may not feel prepared to teach phonic reading instruction.

The ability to read is very crucial to a child's progress in school and later life. Teachers and parents must stop blaming each other for their students lack of reading abilities. They must work jointly to teach all children to read.

PHONICS VOYAGE encourages youngsters to use their visual, auditory and kinesthetic skills by combining sound, color, graphics, animation, interaction and positive reinforcement. It is an excellent tool to help students break the symbol of the sound to sound barrier.

PHONICS VOYAGE teaches basic reading skills. It gives the child an immediate feeling of success because the child (usually kindergarten

through 4th grade) is in charge. The computer is the tutor and the child is at the controls.

PHONICS VOYAGE was developed to be a "quick and easy" and complete basic reading program. It begins with phonic sounds and phonograms. It is an integrated approach to teaching reading which was authored by educators and parents.

PHONICS VOYAGE was designed for school or home use. The program is a self directed reading program. Teachers or parents do not have to be experts in reading in order to give support to their children learning to read. They just need to help the child get started. Then the child can take control and have fun while he or she builds reading skills.

PHONICS VOYAGE is available on CD-ROM (Windows & Mac Versions) The program has been adopted by a number of schools already.

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## Pembroke Kiwanis

by Dr. Ken Johnson

Parole Commissioner William Lowry was the Tuesday evening speaker at the weekly meeting of Kiwanis. Program Chairman Clayton Maynor presented Mr. Lowry: The youngest of Rev. Welton Lowry and a 1981 graduate of the University of North Carolina at Pembroke and a very out-standing golfer, and the father of three children. This is the third year on Gov. Hunt's Parole Commission, appointed in 1996. The mission of the Commission is to protect the citizens of North Carolina. It has been necessary to parole more prisoners to relieve over crowding conditions. In 1987, 12,000 were paroled, in 1991 23,000 were paroled. In 1994, 36,000 were paroled as many paroled as came in. This approximately 1,000 per week. Most are on Supervision. So now there are about 30,000 in prison. The parole commission has several tasks. One being the victim has to be notified when his violator is to be released. The Com-

mission must have two commissioners to approve release. Each release has to have his individual record approved before releasing him. The merit criteria of behavior, the extent of the crime and victims are consulted. The Parole Commission also can decide to bring a person back in. The cost is \$63.27 per day per prisoner. 2,235 are working on highways, plus many other jobs. The State is also going into the idea of Private prisons. The prisoner can also be in a swapping program, that is allowing him to be kept near his home. 25030 are in this program. Medical costs are extremely high since their is no insurance. Commissioner Lowry's speech was very informative.

House Representative Ronnie Sutton announced that incoming House Speaker, Jim Black will be in Pembroke on Wednesday. The reception will be 7:30 P.M. in Old Main. All are invited. Refreshments will be served.

Invocation: Clay Maynor. Reporter Ken Johnson.

## Sunrise Disabled American Veterans Recognized

The Disabled American Veterans Chapel "47" of Pembroke in December, recognized the disabled veterans at Sunrise HealthCare and Rehabilitation Center.

The veteran residents are:  
Leonard Locklear  
Wilford Brayboy  
Arnold Baker  
Wiley Jones  
Wesley Waltman  
Luther Caple  
Jordan Maynor  
Richard Little  
Harvey Nicholson  
Elijah Locklear  
Lacy Hammonds  
Special Thanks goes out to Archie Oxendine, Marvin Lowry, Rev. Smith P. Locklear and Rudy Locklear for presenting the veteran residents with plaques.