



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

HC3 Box 2 • New Town, North Dakota 58763-9402

SPECIAL COUNCIL MEETING MINUTES

JANUARY 27, 1997

JANUARY 30, 1997

JANUARY 31, 1997

TRIBAL BUSINESS COUNCIL
701-627-4781
Fax 701-627-3805

- 01. CALL TO ORDER AND OPENING PRAYER.** A Special Meeting of the Three Affiliated Tribes' Tribal Business Council was held on Monday, January 27, 1997, in the Tribal Council Chambers, for the purpose of reviewing the Miller & Schroeder financing agreements for the casino buy out. The meeting was called to order by Chairman Russell D. Mason, Sr., at 11:10 a.m. A moment of silent prayer and meditation was held.
- 02. ROLL CALL.** A motion was made by Tex G. Hall to appoint Edwin Hall as acting secretary in the absence of Secretary Daylon Spotted Bear. Motion was seconded by Mark N. Fox. Vote: 5 in favor. Austin Gillette and Daylon Spotted Bear absent. Motion carried. Roll call was taken by Edwin Hall, as follows: Chairman Russell D. Mason, Sr., present; Vice Chairman Austin Gillette, absent; Treasurer Thomas Bird Bear, present; Secretary Daylon Spotted Bear, absent; Councilman Mark N. Fox, present; Councilman Tex G. Hall, present; Councilman Edwin Hall, present. 5 members present. Quorum established. Note: Austin Gillette entered the meeting at 11:30 a.m.
- 03. ANNOUNCEMENTS.** There will be a housing meeting in Bismarck on 01/28-29/97, directed mainly toward housing developers. During the week of February 3, a meeting on the 184 housing project is scheduled. Thomas Bird Bear will have the information on this. A special council meeting will be held on January 30 at 10:00 a.m. on welfare reform. On February 3, a Garrison Diversion Project hearing will be held in Washington, D. C., and an attempt to attach the bridge into the Garrison Diversion Project is being planned. The National Congress of American Indians (NCAI) meeting attended by Chairman Mason in Washington, D. C. primarily focused on the 105th Congress and the Administration. An issue paper on some of the legislative issues that are going to be addressed by the 105th, as well as NCAI has been prepared. Some of these issues are the welfare reform amendments, child welfare amendments, tribal gaming, means testing, taxation, waiver of sovereign immunity, housing legislation, plus many others. TBC members--please let your constituents know that you have a responsibility to become involved in trying to deter some of the initiatives going on that would not be very beneficial to us as a Tribe. An effort is being made to acquire tribal shares at Central Office. They eliminated themselves from this. The transfer of judicial services to the Justice Department needs to be thought out carefully. As for 1997, the BIA appropriations for judicial services show no big increase. IHS reorganization has not or cannot be translated into improved health services nor can it be translated into additional resources. \$250,000 in bonuses was given to 7 physicians

in administrative positions in Albuquerque. The congressional delegation has been notified of this. Mark N. Fox reported on a North Dakota Indian Gaming Association meeting he had attended.

04. **APPROVAL OF AGENDA.** A motion was made by Mark N. Fox to add cross-deputization for North Dakota State Highway Patrol on the agenda. Motion was seconded by Tex G. Hall. Vote: 6 in favor, 1 absent. Carried.

05. **SPECIAL BUSINESS.**

A. Cross Deputization of ND State Highway Patrol. Captain Tex Fox, BIA law enforcement, addressed the council concerning approving cross-deputization with the ND State Highway Patrol Department. Request is from the bureau police officers, since the highway patrol assists them in many ways, including serious injury traffic accidents. The BIA would like the highway patrol to have jurisdiction on any public road on the reservation to enhance the safety of the people. Captain Fox stated the Tribe presently has cross-deputization agreements with the City of New Town and Parshall. After discussion, Captain Fox was requested to work with the TAT Legal Department in developing two plans to bring back to the council on cross-deputization with the highway patrol.

A motion was made by Mark N. Fox for the Legal Department to work with the various entities to come up with a draft proposal and to set up a special meeting to address this. Second to motion provided by Thomas Bird Bear. Discussion by Thomas Disselhorst, Staff Attorney, that he is working on updating the tribal motor vehicle codes so that they are consistent with state law. Vote: 5 in favor, Mr. Gillette not present during vote, 1 absent. Carried.

NOTE: Lunch break taken at 12:50 p.m. Reconvened at 2:10 p.m.

B. Resolution No. 97-014-EH, to support Senate Bill No. 2154. This bill has been introduced in the 55th legislative assembly of ND. This bill would entitle those tribes located in the State of ND to one delegate each in the North Dakota House and North Dakota Senate. A motion to approve the resolution was made by Edwin Hall and seconded by Tex G. Hall. Vote: 5 in favor, 1 opposed, 1 absent. Carried.

C. Treasurer's Report. A line item code for the Business Development Fund has been established. Motion by Austin Gillette to supplement the docket funds with \$61,000 from federal grant program, so as to total \$150,000. Second by Tex G. Hall. Discussion: Purpose is to make the federal loan program \$150,000 total, \$89,000 from docket funds and \$61,000 from federal grant, with the balance going to technical assistance. Note: Mr. Gillette was requested by Chairman Mason to contact Doug Norell regarding additional monies for feed and loan. Mark N. Fox stated, for the record, that he is concerned that

other tribal members who will want to start a business won't be able to access those funds. Chairman Mason called for the vote: 4 in favor, 1 opposed, 1 abstained, 1 absent. Carried.

NOTE: A closed session was held to address transfer of funds from the general fund to the small loan program account. David J. Brendsel and Frank Henry have the authority to do this. Treasurer has since put these funds on hold in the small loans program.

NOTE: Break was taken at 3:35 p.m. Meeting reconvened at 3:53 p.m.

D. Miller & Schroeder Financing Progress Report. David J. Brendsel and Casino General Manager Roy Galyean gave a complete, concise presentation on the financing arrangements with Miller & Schroeder. Mr. Galyean also disclosed some of his ideas on how he planned to project the casino enterprise into the future. He stated he planned to spend the first 5 months or so getting everyone up to speed to move the casino to a higher level. He is going to start by implementing changes that won't cost anything, and make each department operate better without spending a lot of money. He plans to change the FY for the casino to coincide with the FY of the Tribe. He plans to make changes that can be implemented readily and without a lot of cost. The total buy-out pursuant to the settlement agreement will cost the tribe approximately \$8,650,000. The Tribe will have 51 months to repay the loan of 9.5 million, which will be obtained at 9.75 interest, which is a good rate and is 2.5 points above the prime rate. The first three months of the payback will be interest only, and the remaining 48 months will be monthly payments, principal and interest, in the amount of \$239,806. In addition to the 8.65, \$477,500 will be sought as working capital for the casino, \$110,000 for legal fees, and \$262,500 in transaction fees.

E. Resolution #97-015-EH, Miller Schroeder Financing Agreement. Motion to approve the resolution was made by Austin Gillette and seconded by Mark N. Fox. Vote on motion: 4 in favor, 2 opposed, 1 absent. Carried.

F. Proposed Resolution 97-016, Selection of Interim TAT Gaming Enterprise Board. Motion to approve the resolution for an interim board subject to final tribal council decision, which is to be made within six-months, was made by Austin Gillette. Second by Edwin Hall. Vote: 3 in favor, 2 opposed, 1 abstained, 1 absent. Carried.

G. Proposed Resolution 97-017, Director & Officer Insurance Coverage for Casino Manager. Motion to approve for discussion purposes was made by Edwin Hall. Second by Mark N. Fox. After discussion concerning waiver of sovereign immunity for amount not covered by insurance, Mark N. Fox withdrew his second and Edwin Hall withdrew his motion. Council requested Thomas A. Disselhorst to conduct additional research on sovereignty issue, and to give a more definitive

interpretation of the constitution as it relates to appointment of officers. At this time, a motion was made by Mark N. Fox to rescind Resolution #97-016-EH, since the resolution contained the same language on the sovereignty issue. Motion was seconded by Edwin Hall. Vote: 6 in favor, 1 absent. Carried.

H. Approval of R#97-016-EH, with Changes. After continued discussion, Austin Gillette made a motion to approve the appointment of the interim casino board, with the language on sovereignty issue being stricken and other indemnification beyond normal insurance. Second to motion made by Thomas Bird Bear. Vote: 3 in favor, 1 opposed, 2 abstained, 1 absent. Carried.

I. Approval of R#97-017-EH, with Changes. Motion was made by Austin Gillette and seconded by Thomas Bird Bear to approve proposed resolution 97-017, with the language on sovereignty issue being stricken and other indemnification beyond normal insurance. During discussion above, Austin Gillette requested Thomas A. Disselhorst to have a resolution on Thursday, January 30, that would specifically identify 97-016 and 017 and will specifically say tribal court. Chairman called for vote on motion: 3 in favor, 1 opposed, 2 abstained, 1 absent. Carried.

J. Proposed Resolution 97-018, Selection of Depository Bank and Authorized Signators on Account. Motion was made by Austin Gillette, seconded by Mark N. Fox, to approve the resolution with selection down to three banks and three signees on account. Discussion by Thomas Bird Bear that the treasurer was not listed as a signator. Vote on motion: 3 in favor, 3 opposed, 1 absent. Denied. After further discussion, a motion was made by Tex G. Hall, seconded by Austin Gillette, to accept the resolution with the three banks listed and to include the treasurer as a signator. Vote on motion: 6 in favor, 1 absent. Carried.

K. Motion on Proposed Resolution for Operational Changes to be Made at Casino. A motion was made by Austin Gillette and seconded by Tex G. Hall to table a proposed resolution on the operational changes to be made at the casino. Vote on motion: 4 in favor, 2 abstained, 1 absent. Carried.

L. Motion on Background Investigations of Interim Casino Board Members. A motion was made by Mark N. Fox and seconded by Edwin Hall to hold off on the background investigations of members of the interim casino board until a permanent board is installed. Vote on motion: 4 in favor, 2 opposed, 1 absent. Carried.

06. **MOTION TO RECESS.** Motion was made by Austin Gillette, seconded by Thomas Bird Bear, to recess until 1:00 p.m. on Thursday, January 30, 1997. Vote: 4 in favor, 1 opposed, 1 abstained, 1 absent. Carried. Meeting recessed at 8:30 p.m.

07. **JANUARY 30 RECONVENEMENT.** The Special Council Meeting of January 27 was reconvened at 1:40 p.m. on January 30, 1997, in the Tribal Council Chambers, with six members present. Daylon Spotted Bear entered the meeting at 1:45 p.m. All members present.
08. **NEW ANNOUNCEMENTS.** Ass't Secretary of Agriculture will be in Bismarck tomorrow for only 1 hour and some TAT staff members will be going down there. Chairman Mason met with Dominic Nessi from the National Office of Native American Programs for HUD concerning additional emergency funds for fuel assistance for the most impoverished families on our reservation. North Dakota Indian Gaming Association meetings have been scheduled for this Saturday and next Saturday. A Gaming Committee Meeting is scheduled tomorrow at 10:30 a.m. An Education Committee Meeting is scheduled for Thursday, February 6. FBHA has been funded \$350,000 for emergency snow removal. Chairman Mason commended tribal staff, the Tribal Business Councilmembers, and especially the North Dakota State congressional delegation for their exceptional response and assistance in the emergency weather situation.
09. **ADDITIONS TO AGENDA.** Tex G. Hall requested to add three resolutions to the agenda, as follows: Amend board of directors for casino, nominations for TERO Commission and Mandaree representative for Housing Board. Mr. Fox requested to add compensation for leave for Pete Coffey Jr. Mr. Gillette requested to add a resolution for a charter and business license, and Mr. Hall requested to add a resolution.
10. **OIL & GAS UPDATE.** Thomas A. Disselhorst, Staff Attorney, advised the business council of the current status and progress of the oil and gas agreement with Alenco. Mr. Bird Bear stated, for the record, the Bureau of Indian Affairs has the responsibility for ensuring the best interests of the allottees, and the tribal business council has the responsibility over the tribal land--the bureau, right now, is making a requirement for the bond on behalf of the allottees.
11. **R#97-019-DSB FOR WAIVERS TO THE INDIAN ACUTE DISTRESS DONATION PROGRAM.** Motion to approve was made by Edwin Hall, seconded by Tex G. Hall. Discussion was to send a copy with whomever is going to meet with the Ass't Secretary of Agriculture tomorrow in Bismarck, and to send copies to the congressional delegation, and Secretary Glickman w/a cover letter. Vote on motion: 7 in favor. Carried.
12. **HARVARD GRADUATE PROGRAM ASSISTANCE RESOLUTIONS (2).** Mr. John Danks said funds had been provided in the FY97 Tribal Budget to deal with the constitutional revision and development of policy and procedure for JTAC funds. Another line item provided for Harvard students to assist in developing policies, drafts, organizational charts, etcetera, and to participate w/the graduate program. He stated two Harvard students would work with developing suggested policy and

procedure for uses of JTAC funds, and two Harvard students would work with us in suggesting organizational structure and operating procedures as it deals with separation of powers. One of these resolutions would involve Harvard students in JTAC policy and procedures, and the other resolution would involve Harvard students in the development of an amendment to the TAT constitution and by-laws. Mr. Bird Bear said he would feel more comfortable if we had some of our enrolled members participating more in this process, plus there is a possibility we could utilize law students at UND. In addition, there are other members of this tribe who have expertise in this area and have a background with JTAC, and Mr. Bird Bear recommended that we address those people first. Mr. Fox said he would like to see a referendum before the people in August where the people can choose an amended constitution and how we are going to spend JTAC. After further discussion, a motion was made by Tex G. Hall and seconded by Mark N. Fox, to table these resolutions to a later date. Vote: 6 in favor, 1 abstained. Carried.

13. DIRECTIVE FOR LEGAL DEPARTMENT TO RESEARCH POSSIBLE REFERENDUM VOTE.

A motion was made by Mark N. Fox, seconded by Tex G. Hall, to direct the Legal Department and/or other staff to begin to research and prepare for a possible referendum vote by the people next summer or next fall. Vote: 7 in favor. Carried.

14. PERSONNEL ACTIONS.

Deputy Clerk of Court. Personnel Director presented a memorandum from the Acting Administrator of Tribal Court concerning this position. Motion by Tex G. Hall to rescind the previous action and move that Catherine Smith be hired as the deputy clerk of court per letter of record from tribal court judge and acting court administrator. Seconded by Thomas Bird Bear. Discussion: An organization chart and salaries of all court staff is requested. Motion and second withdrawn. Defer any action on this until the 13th of February. Catherine Smith stays in until then.

Temporary Appointment, Twin Buttes Community Building Maintenance. Motion by Daylon Spotted Bear to appoint Ricky Gillette temporarily as building maintenance for community building. Second by Mark N. Fox. Vote: 7 in favor. Carried.

Treasurer Extra Assistant Position. Motion by Mark N. Fox that position remain as it was determined originally at \$11.00 per hour paid from indirect cost. Second by Austin Gillette. Discussion that the person in this position shall have nothing to do with discussing management of any finances and that it shall remain a clerical position only. Vote: 5 in favor, 2 opposed. Carried.

Gordon Ward, Cattle Relending, 60 day temporary appointment. Motion to approve was made by Edwin Hall and seconded by Austin Gillette. Vote: 7 in favor. Carried.

NOTE: Break taken at 4:25 p.m. Reconvened at 4:50 p.m.

15. **R#97-020-DSB, PURCHASE OF SECURITY VEHICLE.** Motion to approve resolution to purchase a vehicle for security use was made by Tex G. Hall and seconded by Mark N. Fox. Resolution language--add "be it further resolved that staff or the tribe will make sure that it is put under IDC provisional rate. Discussion: Any financial negotiations should include treasurer on it, along with chairman. In the future, before any proposals such as this are put forward and finalized, they are to come before council. Vote: 5 in favor, 1 opposed, 1 abstained. Carried.
16. **APPROVAL OF PURCHASE OF COMMUNITY VEHICLE FOR MANDAREE.** Motion was made by Austin Gillette to approve the purchase of a community vehicle for the Mandaree community, since Councilman Tex G. Hall has declined one of his own (staff car). Seconded by Tex G. Hall. Discussion on \$20,000 originally allocated to each community for the purchase of a community vehicle. Mandaree used their \$20,000 for something else, and Twin Buttes used it to pave the parking lot of their community building. Vote: 7 in favor. Carried.
17. **PARSHALL COMMUNITY BUILDING FURNACES.** Motion by Austin Gillette, seconded by Mark N. Fox, to find out what it costs to replace them or get them fixed under IDC. Mr. Fox is to follow up on the warranty information on the furnaces. Vote: 7 in favor. Carried.
18. **R#97-021-DSB FOR APPROVAL OF ASSISTANCE TO SILVER GLOVES BOXERS.** Mr. Fox said Pat Morsette and Milton Garcia of Parshall have qualified for the boxing nationals, and he would like to request funds of \$1010.37 for two boxers, two chaperones, and 1 coach to travel to the nationals. Motion to approve, Mark N. Fox. Second, Tex G. Hall. Vote: 7 in favor. Carried.
19. **MARILYN YELLOW BIRD BAKER EDUCATIONAL ASSISTANCE.** Motion to approve \$500 for Mrs. Baker was made by Mark N. Fox. Second by Austin Gillette. Vote: 7 in favor. Carried.
20. **MOTION TO SUPPORT NDIGA AND NIGA ENDORSEMENT FOR VACANT POSITION ON NIGC.** A motion was made by Mark N. Fox and seconded by Edwin Hall for the tribal business council to support whomever the North Dakota Indian Gaming Association and National Indian Gaming Association endorses for the vacant position on the National Indian Gaming Commission. Vote: 7 in favor. Carried.
21. **SNOW REMOVAL FOR PARSHALL. HIRING OF TEMPS.** Ted Danks was instructed that he had been authorized to get something for Parshall for snow removal and that he should do so. Motion was made by Daylon Spotted Bear to authorize Ted Danks to select temporaries, as needed, until the snow, etcetera, is all cleared out and to consult with the district councilman on selections. All have to have drivers licenses. Second by Mark N. Fox. Vote: 7 in favor. Carried.

22. **MOTION TO RESCIND R#97-016-EH APPOINTING INITIAL BOARD OF DIRECTORS FOR TAT GAMING ENTERPRISE BOARD.** Tex G. Hall proposed a gaming board that is representative of all the segments. He proposed to rescind R#97-016-EH and create a board similar to the tribal business council, i.e., 1 member from each community and 1 at large. Mr. Hall then made a motion to pass a resolution to rescind R#97-015 and 97-016. Motion was seconded by Daylon Spotted Bear. After discussion, a second motion was made by Tex G. Hall to rescind Resolution 97-016. First motion still on table. Mr. Spotted Bear withdrew his second, and Mr. Hall withdrew his first motion. Tex Hall then repeated his motion to rescind 97-016. Motion seconded by Mark N. Fox. Discussion by Mr. Disselhorst that the reason for establishing a board was in accordance with the request of Miller Schroeder, the financing agency, because they want to ensure that there is a competent board in place to manage the gaming enterprise and want to make sure the revenues pledged are going to be there. Vote on motion to rescind R#97-016: 5 in favor, 2 opposed. Carried.
23. **MOTION TO TABLE ANY AMENDMENT OF R#97-015-EH, MILLER & SCHROEDER FINANCING AGREEMENT TO 01/31/97.** Motion was made by Tex G. Hall to table any amendment to R#97-015 until tomorrow. Second, Edwin Hall. Vote: 7 in favor. Carried.
24. **R#97-022-DSB, APPOINTMENT TO HOUSING BOARD.** Motion by Tex Hall to appoint Ron Smith as the Mandaree representative to the Housing Board. Motion was seconded by Edwin Hall. Vote: 6 in favor, 1 opposed. Carried.
25. **PAYMENT OF LEAVE HOURS FOR PETE COFFEY JR.** Motion by Mark N. Fox to direct that monies be provided to the radio station to cover 160 hours of leave owed to Mr. Coffey. Second by Edwin Hall. Discussion that documentation is in place on this. Vote: 7 in favor. Carried.
26. **R#97-023-DSB, WHITE SHIELD SCHOOL WAIVER OF IPP FOR IMPACT AID APPLICATION.** Motion to approve made by Austin Gillette and seconded by Tex G. Hall. Vote: 7 in favor. Carried.
27. **R#97-024-DSB, WHITE SHIELD SCHOOL NPS HISTORIC PRESERVATION GRANT APPLICATION.** Motion to approve made by Austin Gillette and seconded by Mark N. Fox. Vote: 7 in favor. Carried.
28. **R#97-025-DSB, APPROVAL OF BUSINESS LICENSE AND CHARTER FOR NELSON HEART.** Motion to approve business license and charter for Nelson L. Heart Legal Investigative Services, Inc. was made by Austin Gillette and seconded by Tex G. Hall. Vote: 5 in favor, 2 abstained. Carried.
29. **R#97-026-DSB, INDIAN FINANCING ACT.** This resolution pursues a request to the Secretary of Interior to transfer 3 million dollars from the BIA Guaranteed Loan Program to the Indian Business Development Grant Program in the Aberdeen Area and requests 1 million dollars be made

available as technical assistance grant funds for the area Tribes. Motion to approve was made by Edwin Hall and seconded by Austin Gillette. Vote: 7 in favor. Carried.

30. **FOUR BEARS SEGMENT EMPLOYMENT PROGRAM.** Motion to approve Edwin Hall's request for permission to hire a temporary worker under his SEP was made by Thomas Bird Bear and seconded by Austin Gillette. Vote: 6 in favor, 1 abstained. Carried.
31. **MOTION TO RECESS.** Made by Daylon Spotted Bear, seconded by Thomas Bird Bear. Vote: 7 in favor. Meeting recessed at 8:30 p.m.
32. **JANUARY 31 RECONVENEMENT.** Meeting reconvened at 1:45 p.m., Friday, January 31, 1997, with all members present.
33. **R#97-027-DSB TO REPLACE R#97-015-EH.** Motion was made by Austin Gillette and seconded by Edwin Hall to approve a new, amended version of R#015. Discussion: Mr. Bird Bear commented that this point has been reached with some difficulty, and what had at first seemed to be impossible (according to the Legal Department yesterday) now is doable. Mr. Tex G. Hall that he was and is concerned about our tribe's sovereignty, and that he feels a lot more comfortable with the new language in the resolution. Vote on motion: 6 in favor, 1 opposed. Carried. A roll call vote was requested for the record by Austin Gillette. It shall be noted that the one opposition vote was cast by Thomas Bird Bear.
34. **R#97-028-DSB, APPOINTMENT TO TERO BOARD.** A motion was made by Thomas Bird Bear, seconded by Mark N. Fox, to appoint Tex G. Hall to the TERO Board retroactive to December 2, 1996. Vote: 7 in favor. Carried.
35. **MOTION TO ADD TO AGENDA.** Motion was made by Mark N. Fox, seconded by Edwin Hall to add another item to the agenda. Vote: 7 in favor.
36. **MOTION TO PROVIDE FEED TO WILDLIFE.** Mr. Fox spoke about the antelope and deer and other wildlife that are having a hard time this winter. He made a motion, seconded by Tex G. Hall, to direct the Game & Fish, NRD, to come up with the revenue for a quick method of providing some feed to the wildlife--birds and game. Vote: 6 in favor, 1 opposed.
37. **MOTION TO ADJOURN.** Made by Austin Gillette and seconded by Edwin Hall. Vote: 7 in favor. Carried. Meeting adjourned at 2:45 p.m.

CERTIFICATION: I hereby certify that the foregoing minutes were reviewed and approved by the Tribal Business Council at a Regular Meeting held on the 13th day of February 1997.

ATTEST:

for Marian Spotted Bear, Recorder
Daylon Spotted Bear, Executive Secretary
Three Affiliated Tribes' Tribal Council

Russell D. Mason, Sr., Chairman
Tribal Business Council