



# MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

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

## SPECIAL COUNCIL MEETING MINUTES

APRIL 25, 1997, 10:30 A.M.

TRIBAL BUSINESS COUNCIL  
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01. **CALL TO ORDER, PRAYER, ROLL CALL.** A Special Meeting of the Three Affiliated Tribes' Tribal Business Council was held on Friday, April 25, 1997, in the Tribal Council Chambers, for the purpose of tending to previously-deferred business and taking care of new business. The meeting was called to order by Chairman Russell D. Mason, Sr., at 10:30 a.m. A moment of silent prayer was held for those people less fortunate than us, and also those people who are in the flood areas who have lost their homes and businesses, and are suffering economic losses. Secretary Daylon Spotted Bear called roll. Chairman Mason, present; Vice Chairman Austin Gillette, present; Treasurer Mark Fox, present; Four Bears Representative Edwin Hall, present; Mandaree Representative Tex G. Hall, present. New Town/Little Shell Representative Thomas Bird Bear not present for roll call, but arrived at meeting at 10:45 a.m.
02. **MOTIONS 01, 02 & 03 to APPROVE MINUTES OF PREVIOUS MEETINGS.** April 03, 1997, Special Meeting Minutes. Motion 01 to approve, with corrections if needed, was made by Austin Gillette. Motion seconded by Edwin Hall. Vote: 6 in favor, 1 not present. April 03 Minutes approved. April 08-09, 1997, Regular Meeting Minutes. Motion 02 to approve, with corrections and amendments, was made by Austin Gillette. Motion seconded by Daylon Spotted Bear. Vote: 6 in favor, 1 absent. April 08-09 Minutes approved. April 21, 1997, Special Meeting Minutes. Motion 03 to approve was made by Mark Fox. Motion seconded by Edwin Hall. Vote: 6 in favor, 1 absent. April 21 Minutes approved.
03. **MR&I PROJECT.**
  - a. **MOTION 04 TO MOVE MR&I TO TOP OF AGENDA.** Motion 04 to move MR&I to the top of the agenda was made by Edwin Hall and seconded by Daylon Spotted Bear. Vote: 6 in favor, Mr. Fox not present during vote. Carried.
  - b. **MOTION 05 TO DRAW UP A PLAN FOR ROADS EQUIPMENT & MR&I/UTILITIES STORAGE.** Motion was made by Edwin Hall and seconded by Tex Hall to move the roads equipment storage from the roping arena to the commodity building storage area. Discussion. Tex Lone Bear said supplies for the treatment plants in White Shield, Mandaree and Four Bears are stored in the commodity area, and this is currently the MR&I and Utilities storage location. He said he would be willing to exchange storage locations with the Roads Department. Chairman Mason requested a written plan be submitted by all parties involved, so the

council can have something to act on. Motion and second were withdrawn and a new motion was made by Edwin Hall, seconded by Tex Hall, for Roads and MR&I to come back to the Tribal Business Council with a plan for setting up a facility to store roads equipment and MR&I/Utilities supplies. Vote: 7 in favor.

c. **DISCUSSION TO RESEED LAWN IN FRONT OF COMMODITY BUILDING.** It was noted that efforts are to be made to reseed the area in front of the commodity building. Joe Henry said this was difficult to do without good soil. Texx Lone Bear said he would get some black dirt to put in there so the area could be reseeded.

d. **MOTION 06 TO CHANGE THE LOCATION OF THE PROPOSED FOUR BEARS TREATMENT PLANT.** A summary report from David Brendsel on the MR&I financial situation as it relates to tribal finances was provided. The total cost of Phase I development was estimated at 4.6 million dollars. BOR has contributed 3.9 million, leaving a remaining balance of 334,917 available in that budget. The Tribes have contributed 1.829 to date, and are expected to contribute an additional 329,000. The project is expected to cost another 2.5 million, of which 65% will be needed this construction season (1.6 million). Mr. Brendsel said it is important for MR&I and Finance to get this project reconciled. The Tribe needs to know where they are at before a proposal can be brought back to the Tribal Business Council for additional funding. At this time, nothing has been arranged for additional funding, which is not something that can be done in a couple of weeks. Discussion was held on the proposed water treatment facility which is to be located directly south of the casino and lodge. An A-frame structure is proposed to be built to house the treatment facility with a 29' peak on it--directly east would be two raw water lagoons. Current casino expansion plans are to expand south and east. A pipeline from the pump station to extend over to the treatment plant would cut through the parking area. This site was originally approved in 1988 and again in 1993. Mr. Fox said he felt development of the peninsula area for recreational use was very important. Mr. Brendsel said he felt the proposed water treatment facility would be a detriment to the recreational peninsula planning. After discussion, a motion was made by Austin Gillette for the council to consider an alternate plan and location for the proposed treatment plant. Motion was seconded by Tex Hall for purposes of discussion. Discussion that even though it may cost 50-60,000 to correct and change plans, it would be more cost effective in the long run. Further discussion that on May 2nd, MR&I would have to make some adjustments to the contract that was negotiated with Capital City. Mr. Gillette requested Texx Lone Bear to call them up and have them come up and visit with them. Mr. Fox requested John Danks to coordinate with Capital City at the same time regarding some work they did for the Tribe at the day care. Motion was amended to include a request for extension for Capital City. Vote: 7 in favor. Carried.

e. **DISCUSSION ON LEASING THE PENINSULA PROPERTY TO THE CASINO.** Mr. Brendsel requested a motion allowing the casino board to enter into a lease with the Tribal Business Council to develop the remaining peninsula property. He was instructed to draw up a letter and coordinate a plan to present to the Natural Resource Committee; in the meantime, the casino would start maintaining the property.

04. **ANNOUNCEMENTS.** Mark Fox said his segment is working with an office out of Minot on fundraising and a flood donation drive to help with the flood situation in eastern North Dakota. If anyone wants to contribute, they can contact his office in Parshall. Chairman Mason said a tribal delegation will be meeting with the congressional delegation and Interior Department members to get specific guidelines on JTAC. They will also be meeting with the minority and majority counsel of the senate committee on the recommended amendments to the ISTEA legislation. Edwin Hall said work has resumed on the Four Bears community building. Representatives from FEMA are here today and will be added to the agenda. Councilman E. Hall asked Chairman Mason to issue a directive to Roads, MR&I, and FBDC to do an assessment of their equipment and some of the supplies they have laying around, in order to clean up these areas. Chairman Mason said the City of New Town has organized a clean-up day, and he suggested the Councilmen organize a community clean up in their segments, as there are many abandoned cars in communities with broken glass and other hazardous debris and materials that should be attended to. Edwin Hall said the BIA feed grain program has been extended to June 30, and an outreach meeting by the Intertribal Agriculture Council, USDA, will be held on May 5, 1997 at the casino. Tex Hall read a letter to the council from the Landowners Committee (Hazel Blake, President) that he had been asked to read. Councilman Gillette noted that \$800,000 is available for this year from the Community Development Block Grant program funds.
05. **MOTION 07 TO APPROVE AGENDA.** The following additions were made to the agenda: ITMA resolution, Transportation Planning, BI on Gaming Enterprise Board members, Albert Irwin land sale, NIGA vacancy, WS Roads Department, Treasurer's extra clerk position verification, housing board resolution appointment, dead carcass removal, discussion on elderly meals options. Motion to approve agenda, with additions, was made by Tex Hall and seconded by Edwin Hall. Vote: 7 in favor. Carried.
06. **MOTION 08 TO ADD FEMA REPRESENTATIVES TO AGENDA.** Motion was made by Edwin Hall and seconded by Mark Fox to add two representatives from the Federal Emergency Management Agency to the agenda. Vote on motion: 6 in favor, 1 not present. Carried.
07. **MOTION 09 TO REAFFIRM RESOLUTION 93-033-JJR.** Councilman Tex Hall gave a brief summary on the Judicial Committee Meeting regarding the Tribal Court personnel issues, along with the recommendation of the committee. Supervisory Attorney Christopher Quale gave an interpretation of certain tribal documents, i.e., R#93-033-JJR; a June 21, 1993,

memorandum pertaining to supervisory authority of the Tribal Court Judge; and position descriptions of the Tribal District Court Judge and Tribal Prosecutor. After discussion, Mark Fox moved that, "Based upon information and discussion in committee and before us now, we, as a council, understand that 93-33-JJR is still in effect--it is understood that the power to hire and fire is retained solely by this council until changes are made, and the Judge does not have that authority." Motion seconded by Tex Hall. Vote: 7 in favor. Carried.

08. **MOTION 10 TO APPROVE TRANSFER OF PHYLLIS WELLS FROM TRIBAL COURT TO DIALYSIS.** A motion to approve the requested transfer of Phyllis Wells to the dialysis position was made by Mark Fox and seconded by Tex Hall. Discussion. Personnel Director advised the dialysis position is a part-time position, three days a week, \$7.00 per hour, and the Dialysis Administrator would like to be consulted regarding the filling of this position. Mr. Fox said he thought this position could be changed to a 40-hour per week position. Motion and second were amended by Mr. Fox and Tex Hall to examine other positions that are available, with the understanding that this transfer may be done by the Executive Committee. Vote: 6 in favor, 1 opposed. Carried.

Thereafter, a motion was made by Austin Gillette, for clarification, that the Judge has supervisory authority over all staff at the court, and can issue warning letters and suspensions. Motion was amended to "up until the time that the judiciary comes forth with a restructuring of the tribal court administrator position to define it clearly." No second to motion. Motion denied.

09. **MOTION 11 TO CLARIFY JUDICIAL AUTHORITY.** A new motion was made by Mark Fox to recognize that "the Judge does have administrative supervisory authority over staff at the court, but that supervision does not include what we commonly refer to as prosecutorial discretion." ("Cases taken and all other duties recognized outside the law system, court system--those need to be identified exactly what they are, Kip will do that for us, but it does not include the other administrative--employee doesn't show up, and absenteeism and all that, those non-judiciary related situations.") The motion was seconded by Tex Hall. Discussion. S/A Quale provided two examples of supervisory direction which should not be exerted by the Tribal Judge: (1) give direction to the prosecutor as to whether to file a criminal complaint based upon a certain set of facts; or (2) give direction as to how to handle the prosecution of a certain pending case. Clarification of prosecutorial discretion will be addressed further by the Judicial Committee. El Marie Conklin stated she would advise the Tribal Business Council at their next meeting as to whether or not she would be willing to accept a transfer to the Tax Department. Vote on motion: 7 in favor. Carried.

10. **MOTION 12 TO APPROVE ADMINISTRATIVE LEAVE FOR EL MARIE CONKLIN & THE EXECUTIVE COMMITTEE APPOINTMENT OF A TEMPORARY PROSECUTOR.** A motion was made by Austin Gillette, seconded by Tex Hall, to approve administrative leave for El Marie Conklin until her position is resolved, and

to approve the continued employment of Lisa Redford as the appointed temporary prosecutor. Vote: 5 in favor, 2 opposed. Motion passed.

(Note: Break taken at 1:15 p.m. Reconvened at 1:40 p.m.)

11. **VISIT FROM FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) REPRESENTATIVES ON DISASTER ASSISTANCE.** Ken Hausch and Maynard T. Rost, FEMA representatives, visited with the council on disaster assistance, etcetera. They left pamphlets and literature regarding disaster phone numbers and other contacts. John Danks has been designated as FEMA contact for Three Affiliated Tribes.
12. **MOTION 13 FOR TAT LEGAL DEPARTMENT TO PREPARE AN FSA LOAN ASSUMPTION POLICY FOR THE TRIBE.** Pete Fredericks, with assistance from Staff Attorney Thomas M. Disselhorst, visited with the council on FSA foreclosures. Austin Gillette made a motion for the Legal Department to do a loan assumption policy provision for the Tribe that is in compliance with the new Farm Bill. Motion seconded by Tex Hall. Vote: 7 in favor. Carried.
13. **MOTION 14 TO HIRE TWO FULL-TIME/PERMANENT SECURITY GUARDS.** Motion by Mark Fox, seconded by Daylon Spotted Bear, to hire Jeff Baker and Jimmy Rogers, as the two full-time permanent TAT security guards and to keep Terry Lyson on in the temporary position until such time as Paul Driver works out his disability retirement, and then move Terry Lyson in as permanent. Discussion. Vote: 5 in favor, 2 opposed. Carried.
14. **MOTION 15 TO HIRE BIA CUSTODIAN.** This position was vacated by Leroy Standish. Motion was made by Mark Fox and seconded by Daylon Spotted Bear to hire Thomas Bird for this position. Discussion. Vote: 4 in favor, 2 opposed, 1 abstained. Carried.
15. **MOTION 16 TO APPROVE CURRENT SALARY OF NOREEN TWO CROW.** This pay classification was not previously resolved. Motion was made by Austin Gillette and seconded by Mark Fox to recommend current pay of \$15.07, which includes COLA. Vote: 5 in favor, 1 opposed, 1 abstained. Carried.
16. **MOTION 17 TO HIRE FIRE MANAGEMENT SUPERVISOR.** Motion by Mark Fox, seconded by Daylon Spotted Bear, to hire Faron Krueger. Discussion. Faron Krueger has 9 years experience and was rated the highest, plus he has met all the requirements. Lyda Foote is in a temporary position and did not apply for this position. Everette Hosie is the other fire technician. Laurie Wells is the O&M Secretary. Vote: 4 in favor, 2 opposed, 1 abstained. Carried.
17. **MOTION 18 TO APPOINT A NEW DIRECTOR FOR THE BUSINESS DEVELOPMENT CENTER.** Motion to hire Martin Hall for this position was made by Daylon Spotted Bear and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Carried.

18. **MOTION 19 TO DEFER ACTION ON CHILD INVESTIGATOR POSITION.** Motion to defer action on child investigator position to May 12 meeting was made by Mark Fox and seconded by Edwin Hall. Vote: 7 in favor. Carried.
19. **MOTION 20 TO MAKE EUGENE WHITE III ELIGIBLE FOR MEDICAL BENEFITS.** Eugene White III works as an extra roads worker paid for by the Tribe in the Roads Department at White Shield. He was recruited as temporary/full-time and has been unable to get benefits. Motion made by Mark Fox and seconded by Edwin Hall to allow Eugene White III to be eligible for medical benefits, retroactive to his 90-day probationary period. Discussion. If it is decided to make this a full-time position, the position will have to be advertised. In the meantime, this motion will allow him to be eligible to receive permanent benefits. Vote: 6 in favor, 1 not present during vote. Carried.
20. **MOTION 21 TO AUTHORIZE TREASURER TO HIRE EXTRA CLERICAL ASSISTANCE.** Motion by Edwin Hall and seconded by Tex Hall to authorize the Treasurer to hire an extra clerk at \$11 per hour, to be paid from indirect costs. Vote: 6 in favor, 1 not present during vote. Passed.
21. **MOTION 22 TO APPROVE R97-095-DSB.** This resolution authorizes \$1000 tribal funds to be spent this summer and each summer thereafter for the purpose of sending 6 Fort Berthold children to environmental camp. Motion to approve was made by Daylon Spotted Bear and seconded by Tex Hall. Discussion. Vote: 6 in favor, 1 not present during vote. Carried.
22. **MOTION 23 TO APPROVE R97-096-DSB.** This resolution provides for the Tribe to donate an amount NTE \$5000 and NTE more than the highest amount contributed by any other ND Tribe, to the flood disaster victims in Fargo and Grand Forks. Motion to approve was made by Mark Fox and seconded by Edwin Hall. Discussion by Tex Hall that some elders are opposed to this idea, since there was no assistance forthcoming from any source when they were flooded out of the bottomlands, and he would have to support their feelings. Mr. Fox said he understood the feelings expressed by some--we don't have a lot of money over here, but we should understand what it's like, since we did get flooded out, and we're doing a small, insignificant part to help alleviate the situation. We will be helping our own members who were affected by the flood with approximately \$20,000. Vote: 4 in favor, 2 opposed, 1 abstained.
23. **MOTION 24 TO APPROVE R97-097-DSB.** This resolution advances \$5000 tribal funds to the Injury Prevention Program's "Safety City". Darryl Hall stated the Tribe would be reimbursed by mid-June with grant funds from IHS. He was directed to verify this by getting a letter from IHS that this money is coming. Motion to approve was made by Edwin Hall and seconded by Austin Gillette. Discussion that this is approved **contingent** upon receipt of letter from IHS. Vote: 6 in favor, Tex Hall not present during vote. Carried.

24. **MOTION 25 TO APPROVE LOW BID FOR GRAVEL CRUSHING & STOCKPILING.** Two bids were received to crush and stockpile approximately 57,829 tons of gravel in Twin Buttes (Old Ree Road Aggregate Stockpile Project No. 20-10,20,30[2]). Advertisement for bids was in the MHA Times, the New Town News, and via TERO. Monies for project are from highway trust funds. Austin Gillette moved to approve and accept the low bid of RoadMakers, Inc., with the understanding that TERO fees will be applied. Motion was seconded by Edwin Hall. Discussion that this gravel is being crushed in Twin Buttes, because Twin Buttes is too far to haul gravel. Edwin Hall requested the gravel by the Little Shell pow wow grounds be reserved for the access roads in Four Bears. Austin Gillette said this could be addressed in the Natural Resources Committee, which was agreed to by Mr. Hall. Vote: 5 in favor, Tex Hall and Mark Fox not present during vote. Carried.
25. **MOTION 26 TO APPROVE R97-098-DSB.** Gaming Escrow Account signatures. Motion to approve made by Mark Fox, and seconded by Edwin Hall. Vote: 5 in favor, 1 opposed, Tex Hall not present during vote. Carried.
26. **MOTION 27 TO READDRESS R97-098-DSB ABOVE.** Motion made by Edwin Hall and seconded by Austin Gillette to readdress this resolution, since a question arose as to whether or not the Gaming Enterprise Board had assumed responsibility for this. Vote: 5 in favor, 2 members not present during vote. Carried. Discussion on assumption of responsibility of liaison by the chairman of the gaming enterprise board. It was unclear as to whether or not this had been done, so council decided to leave the resolution as is, for the time being. No action. Note: New motion was made by Mark Fox to approve R97-098-DSB and seconded by Edwin Hall and voted on. 6 in favor. However, after discussion it was decided resolution was never rescinded and original vote still stands.
27. **MOTION 28 TO ADD TO AGENDA.** Motion was made by Edwin Hall and seconded by Austin Gillette to add Carey Dreher, BIA, to agenda. Vote: 5 in favor, 1 abstained, 1 not present. Carried.
28. **MOTION 29 TO APPROVE LIVESTOCK TURN-OUT DATES.** Motion was made by Austin Gillette and seconded by Edwin Hall to approve the turn-out dates recommended by Carey Dreher as follows; May 1st for Indian-owned livestock. June 1st for non-Indian owned livestock. Discussion by Mr. Dreher that he recommended June 1st, because of the harsh winter, and the grass hasn't had a chance to grow yet. The compliance will be done by the Tribe and the Bureau. An extra compliance officer (Titus Hall) was hired for this purpose. Mr. Gillette recommended Mr. Dreher serve as supervisor of the extra compliance officer, and said this can be discussed further at a Natural Resources Committee meeting. Vote: 6 in favor, 1 not present. Carried.

29. **MOTION 30 TO APPROVE R97-099-DSB.** Motion to approve resolution to make Mark Fox official tribal representative to the Inter-Tribal Monitoring Association and Native American Finance Officers Association was made by Austin Gillette and seconded by Edwin Hall. Vote: 6 in favor, 1 abstained. Carried.

(Note: Transportation was deleted from the agenda at Mark Fox's request, who had originally placed it on the agenda.)

30. **MOTION 31 TO RECEIVE CLARIFICATION FROM NIGC ON EXTENT OF BACKGROUND INVESTIGATIONS FOR TAT GAMING ENTERPRISE BOARD.** Mark Fox said the Gaming Commission is proposing to do the same type of BI on the Gaming Enterprise Board Members as was done for the General Manager, Roy Galyean. Harold Monteau, past chairman of NIGC, had previously advised that the extent of the BI for gaming boards is a decision for the tribes to make. Mr. Fox made a motion to stay the background investigation for the board members until the Tribe can meet with NIGC and other federal officials to see exactly what is required. Motion seconded by Edwin Hall. Discussion as to whether or not there is anything in writing on this. Mr. Fox said there is a CFR cite regarding primary management officials and key employees, but he would like to meet with NIGC to receive clarification. It was noted the Gaming Commission could also be required to undergo a BI. Vote: 6 in favor, Chairman Mason not present during vote. Carried.
31. **MOTION 32 TO APPROVE R97-100-DSB.** Albert Irwin Land Purchase. Motion by Mark Fox and seconded by Edwin Hall to approve purchase of an undivided 1/9 interest within N1/2 Section 15, T147N, R94W, valued at \$2,666.67. Vote: 6 in favor, Chairman Mason not present during vote. Carried.
32. **MOTION 33 TO REQUEST NIGA TO FILL VACANCY ON EXECUTIVE COMMITTEE WITH A REPRESENTATIVE FROM THE ABERDEEN AREA.** Mark Fox said the National Indian Gaming Association Executive Committee has a vacancy at large and the NDIGA would like to ask NIGA to fill that vacancy at large with a representative from the Aberdeen Area. Motion by Mark Fox and seconded by Edwin Hall for approval to request NIGA to endorse someone from the Aberdeen Area to fill the vacant position on the executive committee. Discussion that NDIGA is considering recommending Milo Yellow Hair. Vote: 6 in favor, 1 not present for vote. Carried.
33. **MOTION 34 TO APPROVE R97-101-DSB TO REAPPOINT JOHN DANKS TO FORT BERTHOLD HOUSING AUTHORITY BOARD.** Motion by Edwin Hall and seconded by Mark Fox for the reappointment of John Danks to the Fort Berthold Housing Authority Board of Directors from Four Bears. Vote: 6 in favor, Chairman Mason out. Carried.
34. **MOTION 35 TO APPROVE SITES FOR LIVESTOCK CARCASS DISPOSITION.** Motion made by Tex Hall and seconded by Daylon Spotted Bear to approve a designated site in Mandaree on tribal land and also one of two designated sites in Twin Buttes (to be determined by the Twin Buttes representative) for disposal of carcasses. As part of the motion, the



