

# MANDAN, HIDATSA, & ARIKARA NATION

*Three Affiliated Tribes • Fort Berthold Indian Reservation*

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

## REGULAR COUNCIL MEETING MINUTES

**AUGUST 12-13, 1997**

TRIBAL BUSINESS COUNCIL  
701-627-4781  
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**01. Call to Order, Prayer & Roll Call.**

The Regular Meeting for August was called to order by Chairman Russell D. Mason, Sr., at 10:35 a.m. in the Tribal Council Chambers. A moment of silent prayer was held for the families that are in mourning at this time, those who are in hospitals, and those people in need and less fortunate. Members present for roll call were: Chairman Russell D. Mason, Sr., Councilman Thomas Bird Bear, Councilman Austin Gillette, Councilman Edwin Hall, Councilman Daylon Spotted Bear. Councilmen Mark N. Fox and Tex G. Hall entered the meeting shortly thereafter.

**02. Approval of Minutes of July 21 Special Meeting.** Motion to approve the minutes of July 21, 1997, with corrections, if needed, was made by Austin Gillette. Second to motion was made by Mark Fox, who requested changes in items 46 and 50. Vote: 7 in favor. Minutes approved.

**03. Announcements.** The Community Development Block Grant application plans for a new community center in the North Segment and a senior/health center in the Northeast Segment have been submitted. The clinic and senior center being constructed in the South Segment is on schedule. Community meetings are continuing to be held on comments and suggestions for JTAC and on community health plans. The Western Segment Northwest Segment community buildings are still under way. Chairman Mason discussed the continuing alcohol problems on our reservation, which resulted in another tragic accident before the Little Shell Pow Wow.

**04. Approval of Agenda.** Motion to approve agenda, with additions, deletions, and changes, was made by Edwin Hall and seconded by Tex Hall. Vote: 7 in favor. Carried.

**05. Treasurer's Report on Elderly Payment.** Treasurer Mark Fox reported on his trip to Washington, D. C. where he attended the NCAI/NIGA Task Force Meeting and met with Senator Campbell's staff on gaming and funding issues. An inquiry was made on the Docket G Reserve Interest Monies, and the Assistant Solicitor General is in agreement these monies can be released to the Tribes, at which time our elders will be able to receive the rest of this assistance. This should be within the next month or so.

**06. Comprehensive Health Committee Executive Summary & Final Recommendations.** Final report was given by Susan Fredericks, Tribal

Health Planner, who will be returning to Indian Health Service, having completed her two-year detail with the Tribes. Recommendations of the committee include the building of a new medical facility and the entering into of a Joint Venture Demonstration Project with the Indian Health Service. Ms. Fredericks said this will require an intensive lobbying effort on the part of the Tribes in order to get the funds appropriated from congress. It will be only through this political process and advocating for the federal government to uphold their trust responsibility, that we have a hope of getting funding for this project. Another need is a reservation-wide transit system. Ms. Fredericks and the committee members were commended for the excellent work they have done.

07. **New Town Ambulance Service.** Mr. Edward Lone Fight said a check for \$15,000 and a statement from the chairman on the Tribes' position regarding ambulance services had been delivered to Duane Estvold. (Break taken at 12:55 p.m. for lunch. Reconvened at 1:15 p.m.)
08. **R#97-170-DSB. Adoption of Comprehensive Health Committee Recommendations.** Motion to approve was made by Austin Gillette and seconded by Mark Fox. Discussion was held by some councilmen on this plan being too preliminary. Chairman Mason called for the vote. Vote: 4 in favor, 3 opposed. Motion carried.
09. **Discussion on Twin Buttes Manufacturing Company (TBMC) Request for Special Guaranty.** On behalf of the manufacturing company, Attorney Thomas Fredericks requested a guaranty from the Tribe on the company's loan with Miller & Schroeder. Mr. Fredericks said they do not have the final feasibility study here today, but would like to move the project forward, and this would be based on the Tribe guaranteeing the amount of \$187,000, which will not come due until a year from now. Financial Advisor David Brendsel had been asked earlier to review this request and make a recommendation to the council. His major concern was solidifying the cash flow to the enterprise, because of the lack of commitment from housing authorities and the market--although the feasibility study, when received, should address this. He said to enter into the interim financing at this point from a business prospective may be premature; however, if the council chooses to guarantee the 187,000 at this time, the Tribe could not set this amount aside, but we could write an opinion and pledge future funding from the JTAC Fund. This guarantee will then become part of the plan. Other professionals speaking on behalf of the project were Vern Muzik and Gary Otterstad, with CAM Project Management Inc. The loan documents had not yet been reviewed by the Legal Department, so Staff Attorney Thomas M. Disselhorst was asked to review these during the recess. (The meeting was recessed at 2:00 p.m. for lunch, and was reconvened at 3:15 p.m.)
10. **R#97-171, Material Resources Community Services Block Grant Funding for FY 1998.** Motion to approve, Edwin Hall; second, Daylon Spotted Bear. Vote: 5 in favor, Mr. Fox and Mr. Bird Bear not present during vote. Carried. (End of Tape 1)

11. **R#97-172-DSB. TBMC Loan Guaranty.** Staff Attorney Tom Disselhorst said he had reviewed the loan documents and default could occur on the note if the company doesn't make the interest payments or isn't able to obtain the primary financing that it needs to complete the project. In the event the company is unable to obtain the financing, the loan would come due on August 15, 1998. The Tribe would have to have the funds available to be able to make the repayment of this loan at that time. The guaranty agreement is a passive guarantee, i.e., the tribe has no ability, as a guarantor, to interfere in the operation. He said he did not see anything that would obligate the TAT to go forward with the principal funding in the amount of 4.5 million or restrict the Tribe from trying to renegotiate the terms in the principal agreement that the tribe would be guaranteeing. Mr. Brendsel noted that this guaranty hinges on the recovery plan being approved by all entities, which will involve a time frame. Tom Fredericks said the company would agree to have the Tribe involved in draw down requests. Motion to approve, Tex Hall; second, Edwin Hall. Discussion by Mark Fox that we should have a guarantee from the federal government, rather than the Tribe. Motion and second were amended to indicate that this commitment of tribal funds may be utilized for matching funds from other sources. Vote: 6 in favor, 1 abstained. Motion carried.
12. **Discussion on TB CDBG Shortfall.** Marlien Gillette, CDBG Administrator for the Twin Buttes Memorial Hall expansion, informed the council that, because Tsa La Gi, Inc. of Bismarck had developed the initial blueprints for the construction of the memorial hall in 1988, the grant writer asked them to do a blueprint for the expansion, which was intended to be 25x100 and two stories high or 5000 square feet--2500 feet per story. Tsa La Gi was asked to scale down the blueprint to one page and when they did this, the building went from 5000 square ft to 1,690 square ft and was submitted as such in the grant document. So, rather than being funded for \$336,000 for a 2-story expansion, the grant was funded for \$110,000 for construction. \$118,000 is now needed to complete the project with revisions. Current estimate received is 2500 square ft x \$90 per square ft. Resolution and supporting documents are to be presented as soon as possible.
13. **Tribal Programs Analyst Reports.** (1) Walking Shield. The Tribe will handle it themselves and put in their own basements. No action needed today. (2) HOME Grant. This was approved last year, and the Tribe received an allocation of \$88,900 with a matching amount from the Tribe. The Tribe entered into an agreement for FBHA to run this project. To date, they have utilized \$19,270 for down payments for two families. There are 6 pending applications. Applicants must be low to moderate income, and must negotiate financing through a lending institution. When approved from the lending institution, FBHA will assist with buying the note down to meet your income.
14. **R#97-173-DSB. Mossett Bay Third-Party Concessionaire Request.** Marlien Gillette presented a resolution for the Mossett family to lease the taken area at Mossett Bay in order to develop a public park

and recreation area, and continue their livelihood. She gave an overview and history of the public access and easement issue. Motion to approve, Mark Fox; second, Daylon Spotted Bear. A short discussion was held on the road to Mossett Bay that was supposed to have been constructed by the Bureau of Indian Affairs, after which both Marlien and James Mossett reiterated that a lease needs to be executed to ensure the taken area is available for public use--right now there are 53 trailers on 7 acres of taken area, without a lease or proper authorization. Vote: 4 in favor, 3 abstained. Motion carried.

15. **BIA Road, Mossett Bay.** A motion was made by Austin Gillette for the TAT Legal Department to research the road construction for Mossett Bay, regarding separate funding beyond the normal annual funding that was to have been provided for this road construction; and, if so, for the Tribe to pursue whatever means we have to get that done. Second, Mark Fox. Vote: 6 in favor, 1 abstained. Motion carried.
16. **R#97-174-DSB. Fencing of Unfenced Right-of-way Easements Along State and County Roads w/in the Reservation Borders.** This resolution requests the State of ND and those counties that maintain paved roads within the boundaries of the reservation to install appropriate fence lines along their right-of-ways. Christopher D. Quale noted that he had been advised by BIA Superintendent Adeline Brunsell, that, since the Tribe had not specifically contracted the fencing program, the Bureau continues to have the responsibility of fencing the unfenced right-of-ways on Bureau/TAT roads. Motion to approve, Edwin Hall; second, Austin Gillette. Vote: 6 in favor, 1 not present. Carried.
17. **R#97-175-DSB. Native American Athletic Commission.** Motion to approve and recognize the Native American Athletic Commission and to appoint Mark N. Fox and Tex G. Hall as co-commissioners of said commission was made by Austin Gillette and seconded by Daylon Spotted Bear. Vote: 6 in favor, 1 opposed. Motion carried.
18. **R#97-176-DSB. Enrollment of 51 Applicants.** Motion to approve, Austin Gillette; second, Thomas Bird Bear. Vote: 7 in favor. Motion carried.
19. **R#97-177-DSB. Relinquishment of Murphy T. Bolman.** Motion to approve, Austin Gillette; second, Thomas Bird Bear. Vote: 5 in favor, 2 opposed. Carried.
20. **R#97-178-DSB. Relinquishment of Ethan N. Lohnes.** Motion to approve, Austin Gillette; second, Thomas Bird Bear. Vote: 5 in favor, 2 opposed. Carried.
21. **R#97-179-DSB. Relinquishment of Stuart J. Lohnes.** Motion to approve, Austin Gillette; second, Thomas Bird Bear. Vote: 5 in favor, 2 opposed. Carried.
22. **R#97-180-DSB. Relinquishment of Joseph Roulette.** Motion to approve, Austin Gillette; second, Thomas Bird Bear. Vote: 5 in favor, 2 opposed. Carried.

23. **R#97-181-DSB. Relinquishment of Willow Roulette.** Motion to approve, Austin Gillette; second, Thomas Bird Bear. Vote: 5 in favor, 2 opposed. Carried.
24. **R#97-182-DSB. Relinquishment of Claudette White Tail.** Motion to approve, Austin Gillette; second, Thomas Bird Bear. Vote: 5 in favor, 2 opposed. Carried.
25. **Welfare-to-Work Program.** A motion was made by Austin Gillette for Leo Cummings, TAT JTPA/477 Programs Director, to work on the planning and development proposal for the Welfare-to-Work Program on the reservation. Second by Mark Fox. Vote: 7 in favor. Motion carried.
26. **Reverend June Lockwood, Alpha & Omega Church of God Indian Mission.** Motion to approve grant of \$1,500 to Church of God Indian Mission for revival camp meeting was made by Edwin Hall; second, Thomas Bird Bear. Vote: 7 in favor. Motion carried. (Break at 5:45 p.m. Reconvened at 6:05 p.m.)
27. **Education Grant Discussion.** Motion by Thomas Bird Bear, second by Tex Hall, to request the Higher Education Department to release \$250 from award monies of an enrolled student, to allow him to get an apartment and get ready for school. Discussion was to defer this until Mr. Bird Bear can check with the JTPA Program for possible assistance. Motion and second withdrawn. Treasurer Fox indicated that supplemental tribal education grants will not be given out until after October 1.
28. **Proposed Resolution on Board/Commission Members Owing Debts to Tribe.** A motion to approve a proposed resolution on board and committee members not being eligible to serve on a TAT board or commission if they are delinquent on tribal accounts was made by Austin Gillette and seconded by Daylon Spotted Bear. Discussion was held on outstanding accounts vs. delinquent accounts, and that this needs to be readdressed and resolved. Motion and second were withdrawn and resolution was deferred.
29. **United Tribe Donation Request.** Motion to give Chairman and Treasurer authority to make a decision on a donation to the United Tribes' Pow Wow NTE \$4000, was made by Austin Gillette and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Motion carried.
30. **Personnel Selections.**
  - a. **Dialysis Nurse Manager.** Motion by Mark Fox; second, Edwin Hall, to select Mary Eaglestaff at \$40,200. Vote: 7 in favor. Motion carried. Discussion by Edward Lone Fight that she has already stated she would not accept this salary. Motion by Mark Fox; second, Austin Gillette, to offer her \$52,000. Vote: 4 in favor, 3 abstained. Carried. Motion to hire Nancy Cerda (phonetic), if negotiations fail with Mary Eaglestaff, was made by Thomas Bird Bear and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Motion carried.

- b. Dialysis Staff Nurse. Motion to hire Nancy Cerda was made by Thomas Bird Bear and seconded by Tex Hall. Vote: 3 in favor, 1 opposed, 1 abstained, 2 not voting. Discussion by Secretary Spotted Bear that he did not vote yet, because the vote had been called for too fast, and there was a letter of recommendation that had been submitted, but it was not included by Personnel in their packets. A copy of the letter of recommendation was provided to the council, and the rating sheet for this position was re-addressed. After reconsideration and discussion, Chairman Mason called for the vote again. Vote: 3 in favor, 4 opposed. Motion denied. Motion to hire Lynn Thorson was made by Austin Gillette and seconded by Mark Fox. Vote: 4 in favor, 1 opposed, 2 abstained. Motion carried.
  - c. Maintenance Helper. Motion to hire Arlie Knight was made by Edwin Hall; second, Thomas Bird Bear. Vote: 3 in favor, 4 opposed. Denied. Motion to hire Jerome Smith was made by Mark Fox; seconded by Tex Hall. Vote: 3 in favor, 3 opposed, 1 abstained. Denied. Motion to hire James Plenty Chief made by Mark Fox, seconded by Austin Gillette. Vote: 6 in favor, Mr. Edwin Hall not present during vote. Motion carried. Motion to hire Richard White Tail as Alternate Maintenance Helper was made by Austin Gillette and seconded by Thomas Bird Bear. Vote: 5 in favor, 2 abstained. Motion carried.
  - d. General Ledger Accountant. Motion by Tex Hall to hire Connie Fox. No second to motion. Denied. Motion by Mark Fox to hire Barlow Wells. Second by Thomas Bird Bear. Vote: 6 in favor, 1 abstained. Motion carried.
  - e. P&S Technician II. Motion to hire Shelley Everette was made by Austin Gillette; seconded, Mark Fox. Vote: 6 in favor, 1 abstained. Motion carried.
  - f. Mailroom Assistant. Motion to hire Jamie Galster on a temporary basis until the position is advertised was made by Mark Fox; second, Edwin Hall. Vote: 7 in favor. Motion carried.
31. **WIC Computer Consultant Agreement**. Motion to approve request to extend consultant contract with Larry White Eagle for one month was made by Edwin Hall; second, Mark Fox. Vote: 6 in favor, Chairman Mason not present during vote. Motion carried.
32. **Four Bears Casino Food Service Report by IHS Sanitarian**. IHS Sanitarian Sherry King addressed the council regarding food services at the casino. She advised that the General Manager has been notified, however, it appears that long-term corrective action is not being taken. Motion by Tex Hall; second, Edwin Hall, to direct Roy Galyean to address these concerns immediately and meet with Ms. King on all of these items and respond back in writing to the Tribal Business Council. Vote: 5 in favor, 1 opposed, 1 abstained. Motion carried.


33. **JTAC Consultant.** Motion to redesignate the constitutional revision funds previously budgeted for FY97 to be put together with a proposal to be negotiated with Ray Cross to work on the Tribes' constitutional revision and/or JTAC planning was made by Thomas Bird Bear and seconded by Mark Fox. Discussion. An amount was budgeted to do this. Vote: 2 in favor, 4 opposed, 1 abstained. Denied.
34. **R#97-183-DSB for Nuxbaaga Pow Wow Additional Grant Monies.** Motion to grant additional funding of \$2,000 to Nuxbaaga Pow Wow was made by Mark Fox and seconded by Austin Gillette. Vote: 7 in favor. Carried. (Meeting recessed at 8:00 p.m.)
35. **Reconvenement.** Meeting reconvened at 1:15 on Wednesday, August 13. Five members present. Quorum established. Councilmen Edwin Hall and Tex Hall joined the meeting at 1:18 p.m. All members present.
36. **R#97-184-DSB.** Motion to approve Joyce Slocum land purchase was made by Austin Gillette and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Carried.
37. **R#97-185-DSB.** Motion to approve Gary Sterud land purchase was made by Edwin Hall and seconded by Austin Gillette. Vote: 6 in favor, 1 abstained. Carried.
38. **R#97-186-DSB.** Motion to approve Robert Sterud land purchase was made by Austin Gillette and seconded by Edwin Hall. Vote: 6 in favor, 1 abstained. Carried.
39. **R#97-187-DSB.** Motion to approve Elizabeth Leach land purchase was made by Edwin Hall and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Carried.
40. **R#97-188-DSB.** Motion to approve Wilson Gillette land purchase was made by Edwin Hall and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Carried.
41. **R#97-189-DSB.** Motion to approve Mary Jo Packineau land purchase was made by Austin Gillette and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Carried.
42. **R#97-190-DSB.** Motion to approve Helen Shepherd land purchase was made by Austin Gillette and seconded by Tex Hall. Vote: 6 in favor, 1 abstained. Carried.
43. **R#97-191-DSB.** Motion to approve Mary Halvorson land purchase was made by Edwin Hall and seconded by Austin Gillette. Vote: 6 in favor, 1 abstained. Carried.
44. **R#97-192-DSB.** Motion to approve land exchange between James Mossett and the Tribe was made by Daylon Spotted Bear and seconded by Austin Gillette. Discussion that this trade involves approximately 2 miles of lake shore land, but this land trade meets the criteria for land

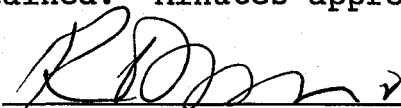
exchanges, and the exchange is being requested for land consolidation purposes. Tex Hall commented that he felt the council needed to be careful when making these decisions, not to jeopardize lake shore development and public access to these areas. Vote: 7 in favor. Carried.

45. **R#97-193-DSB.** Motion to approve land exchange between Wanda Mossett and the Tribe was made by Austin Gillette and seconded by Edwin Hall. Vote: 6 in favor, 1 abstained. Carried.
46. **Request to Bureau of Land Management to Expedite Special Land Appraisal.** Gainus Little Soldier is planning to build a meat processing plant in Parshall, but he needs a below-surface appraisal to be completed by the Bureau of Land Management, before he can proceed. Motion for the chairman to send a letter of urgency to BLM for them to expedite a gravel appraisal was made by Mark Fox and seconded by Edwin Hall. Vote: 7 in favor. Carried.
47. **Pernell DuBray.** Motion to approve a loan up to \$250 for Pernell DuBray for emergency transportation was made by Thomas Bird Bear and seconded by Mark Fox. Discussion. Mr. DuBray is to get the billing for the cost of his vehicle. Mr. Bird Bear requested to get this loan early, and stated this would be a payroll deduction from the casino. Vote: 6 in favor, Mr. Gillette not present during vote. Motion carried.
48. **Lou Ann Phelan.** Motion by Tex Hall, second by Edwin Hall, to approve the request of Lou Ann Phelan for an emergency loan of \$500, to be paid back from IIM account. Vote: 4 in favor, 1 opposed, 1 abstained, Mr. Gillette not present during vote. Motion carried.
49. **Selection for Mandaree CopsFast Police Officer.** Motion by Tex Hall, second by Mark Fox, to hire Nelson Heart II as CopsFast police officer in Mandaree. Vote: 6 in favor, 1 not present. Carried.
50. **WIC Program Termination Request.** Request to terminate WIC program secretary based on documentation in personnel file was made by the Program Director. All proper personnel procedures and steps have been followed. Motion to approve, Edwin Hall; second, Austin Gillette. Vote: 4 in favor, Mark Fox opposed, 2 abstained. Carried.
51. **Dialysis Nurse Manager Negotiations.** Tribal Programs Manager Edward Lone Fight advised that Mary Lynn Eaglestaff had refused the Tribes' offer of \$52,000. (See item 30.a above.) Motion by Mark Fox to match her request of \$56,000. Discussion. Vote: 4 in favor, 2 opposed, 1 abstained. Carried.
52. **Donation to Northwest North Dakota Girl Scout Council.** Motion by Austin Gillette, second by Edwin Hall, to approve request of Northwest North Dakota Girl Scouts of \$2,000. Discussion. Resolution is needed. Vote: 7 in favor. Carried.



53. **Leonard Hosie Education Assistance Request.** Motion by Austin Gillette, second by Tex Hall, for 477 program to assist Leonard Hosie and his wife, provided they meet the criteria. Vote: 4 in favor, 1 abstained, Mr. Bird Bear and Mr. Edwin Hall not present during vote. Carried.
54. **Motion to Add to Agenda.** Motion to add Hazel Blake and Ronnie Lone Bear to agenda was made by Tex Hall and seconded by Edwin Hall. Vote: 6 in favor, 1 abstained. Carried.
55. **Education Leave Amendment.** Motion to approve amending education leave for tribal employees from 4 hours per week to 8 hours per week was made by Mark Fox. No second. Denied. Discussion was to defer this to next meeting.
56. **Melissa Good Bird.** Motion by Tex Hall, second by Thomas Bird Bear, to approve an emergency housing loan of \$500 for Melissa Good Bird. Discussion. Tex Hall is going to check into the use of tribal equipment to move trailer. Vote: 3 in favor, 1 opposed, 1 abstained, Mr. Gillette not present during vote. Motion carried.
57. **Hazel Blake, Landowners Association.** Mrs. Blake submitted a petition which she said was signed by approximately 335 members, along with a resolution requesting that the oil and gas agreement with Alenco Oil be rescinded. The members of the landowners association feel this agreement is not in their best interests and feel that their civil rights and constitutional rights are being violated. Their concerns are that the royalty rate is too low, and should be 1/6 instead of 1/8. They feel the 15-year lease with the oil company is too long; and, in addition, they have not seen a copy of the amendments to the agreement. Chairman Mason advised Mrs. Blake and Jerry Nagel that there is no deal yet, recommended changes have been made, and the contract has to come back to the council for approval. Christopher D. Quale, TAT Attorney, advised that the contract is not final, the solicitor and the Bureau have both made recommended changes, the royalty percentage is under consideration also--the agreement is still under negotiation and is not final, and it may be premature for the Tribe to take any action at this point. Motion to approve the resolution to rescind the Alenco oil and gas agreement was made by Tex Hall and seconded by Thomas Bird Bear. Vote: 3 in favor, 3 opposed, 1 abstained. Denied.
58. **Next Meeting.** Tuesday, August 19, 1997, 10:00 a.m.
59. **Adjournment.** Motion to adjourn was made by Austin Gillette and seconded by Daylon Spotted Bear. Vote: 7 in favor. Meeting adjourned at 3:20 p.m.
60. **Approval of Minutes, 9/16/97.** Motion by Austin Gillette, second by Mark Fox to approve these minutes, with requested changes and corrections. Vote: 6 in favor, 1 abstained. Minutes approved.

  
Daylon Spotted Bear  
Executive Secretary/TAT

  
Russell D. Mason, Sr.  
Chairman/TAT