

THREE AFFILIATED TRIBES
TRIBAL BUSINESS COUNCIL
TRIBAL CHAMBERS

Regular Council Meeting
May 13, 1993

PRESENT: Wilbur D. Wilkinson, Chairman; Ivan Johnson, Vice Chairman; Roger Bird Bear, Treasurer; John J. Rabbithead, Jr., Secretary; Austin Gillette, Council Member; Jim Mossett, Council Member; George Fast Dog, Council Member; and Leigh Foote-Wolf, Recording Secretary.

ABSENT: None

OTHERS: Paul Danks, GIS; Bernadine Young Bird, Education Administrator; Perry Brady and Ty Hall, Security Guards; Marian Spotted Bear; Administrative Officer; Abigail Country, Administrative Aide; Marcus Wells, Jr., TERO; Urban Bear Don't Walk, Tribal Attorney; Don Morgan, Natural Resources Administrator; Elgin Crows Breast, Cultural Preservation Officer; Iris Jackson, Credit Clerk; John Fox, Tim Jarski, Lonnie Burr, Kim Baker, and Ken Stevenson, all of LCM, and Inez Baker, Enrolled Member.

ITEM 01: CALL TO ORDER
Meeting was called to order at 1:17 PM.

ITEM 02: ROLL CALL
Roll called by Secretary Rabbithead. Quorum established. Opening prayer given by Perry Brady.

ITEM 03: RESOLUTION/TRIBAL DECLARATION OF MOTHER EARTH DAY
#93-60-JJR
Resolution read by Secretary Rabbithead.
This resolution pertains to the Three Affiliated Tribes declaring the first week of May as "Respect for Mother Earth Week" to encourage activities to make every part of the Fort Berthold Reservation a clean and safe environment for all residents. However, this year, the week of May 17-23 will be the "Respect for Mother Earth Week".

Paul Danks explained the communities need to start

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MOTHER EARTH RESO. (CON'T)
participating in the clean up of our communities and the promotion of Mother Earth. The Natural Resource Department and the Education Department have agreed to coordinate these happenings.

Chairman Wilkinson entertained a motion to approve.

Vice Chairman Johnson motioned to approve, seconded by Councilman Mossett.

Vote: 5 for, 0 opposed, 1 not voting. Motion carried.

ITEM 04: RESOLUTION/REGIONAL GOVERNING BOARD #93-61-JJR
Resolution read by Secretary Rabbithead.
This resolution pertains to the development of a Comprehensive Statewide System of Transition Planning and Service Delivery for youth, ages 14 through school exit who have disabilities, and that Bernadine Young Bird or her designee serve on the Regional Governing Board for the first year.

Bernadine explained this area is very weakened in the whole state of North Dakota, and this will enhance the services on the reservation. This will pertain to all disabilities. All the Tribe does will be to supplement the state. We will be using our own resources.

Chairman Wilkinson entertained a motion to approve.

Councilman Mossett motioned to approve, seconded by Vice Chairman Johnson.

Vote: 6 for, 0 opposed. Motion carried.

ITEM 05: LUMBER, CONSTRUCTION AND MANUFACTURING CORPORATION
Mr. John Fox, of LCM, explained the reasons for presenting resolutions dealing with payments from the Tribe and Housing. Mr. Fox stated LCM's vendors want to be paid and LCM does not have the cash flow right now to pay them, or for the employees of

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LCM (CON'T)

LCM. This is the reason for requesting the draw down on the eighth. People have been laid off because of the lack of money to pay their salaries.

Vice Chairman Johnson questioned exactly what monies LCM is requesting. Mr. Fox replied they are requesting the M,R&I money that was put into the Tribal account. He was not sure of the exact amount. Mr. Fox stated this was paid to LCM in two payments, but they have not yet received the final third payment.

Chairman Wilkinson stated the initial draw down request from LCM was \$1,895,900.00. HKM & Associates, who oversee the contract on behalf of the Three Affiliated Tribes, said that was too much money, it couldn't be justified. They then recommended \$523,124.00, which is the amount LCM will be receiving.

Chairman Wilkinson questioned why the officer in charge would lay himself off during a situation as serious as this, and also while he is gone, he is in a leave with pay status. Chairman Wilkinson read these issues from LCM Board Meeting minutes. Chairman Wilkinson further stated the advance payment of \$523,124.00 has been processed.

Discussion on progress of construction being done by LCM and the financial status of LCM. Mr. Fox requested to wait for further discussion until Lonnie Burr is available.

Councilman Mossett stated the LCM Board should be more aware of money matters, as they have failed and overrun many previous projects. Councilman Mossett mentioned the board cannot listen to just one person, they need to be aware of what is going on.

Mr. Fox explained that the 522 and Northrup are both still in operation. Lonnie Burr has still been there, even though he is laid off, according

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LCM (CON'T)

to the minutes. Mr. Fox stated LCM has not made any money since he has been there, because of the prior under-estimates in the bids that were put out. At first, they did not want to take the M,R&I and 522, but they received orders from the Tribe to take it.

Chairman Wilkinson stated LCM identified how much they were to make. Chairman Wilkinson requested for LCM to bring the proposals in that show all the actual figures.

ITEM 06: FBCC-TERO WAIVER

Chairman Wilkinson stated the Council was notified on May 12, 1993, that the FBCC Phase II project is again in jeopardy. The letter received stated that the Three Affiliated Tribes TERO Indian Preference Policy and Procedures must be waived. This project is in the excess of two million dollars. Chairman Wilkinson further stated he has asked the TERO commissioners and the TERO Executive Director to negotiate this issue with FmHA, but this has not been successful, now it is brought before the Tribal Council.

Marcus Wells, Jr., stated he has conversed with Steve Babcock, who is on the General Council that reviews TERO Ordinances in Washington, D.C. His only recommendation was they couldn't go along with the contractor preference and the employee preference. The fee issue did not come up, for the licenses or the two percent.

Odell Ottmar, the person who submitted the aforementioned letter, had claimed the TERO fee was \$140,000.00, but it was \$40,000.00 in actuality. Odell had admitted this mistake.

Mr. Wells stated a waiver would be alright for the employment and the contractors because the administrator would still be "us".

Chairman Wilkinson entertained a motion to approve.

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FBCC-TERO WAIVER (CON'T)
Further discussion on this issue.

Chairman Wilkinson explained that if this is not taken care of, this two million dollar project will be moved to Fargo. So, rather than lose this expansion of the college, the preference requirements could be waived and the tax kept. Other Councilmen expressed their concern about "opening the door" for others on this same issue.

Discussion on enrollment and size of the college.

Tribal Attorney, Urban Bear Don't Walk, discussed the legality of the requirement waiver.

Chairman Wilkinson suggested that Mr. Wells and Mr. Bear Don't Walk work together to try and litigate, or get this resolved.

Mr. Wells mentioned that FmHA has never recognized TERO on the reservation, they have not paid any fees for projects.

ITEM 07: STANDISH CASE/LEGAL DEPARTMENT

Legal Attorney, Urban Bear Don't Walk, explained that Neil Standish is a tribal member who was convicted of murder and some other crimes. He has appealed this today. His attorney, Lynn Boughey, initiated this appeal. Mr. Standish is now in Leavenworth, with a thirteen year term.

Neil Standish has put at risk the Tribe's jurisdiction of the Northeast Quadrant. The Northeast Quadrant composes 350,000 surface acres of the reservation. Mr. Bear Don't Walk questioned if a tribal member, with impunity, can go out and raise these issues and put in jeopardy tribal government. This jurisdiction issue is to be decided upon in three months by the courts.

Mr. Bear Don't Walk suggested someone go to Leavenworth to speak with Mr. Standish. Treasurer Bird Bear reminded Mr. Bear Don't Walk of his request to

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STANDISH (CON'T)

develop an Alien and Sedition Act. Treasurer Bird Bear stated that we need to address this ourselves. This is why he had requested the development of this Act.

If Mr. Standish pushes this issue, we could lose the Northeast Quadrant.

Discussion on banishment.

Councilman Gillette motioned to have Vice Chairman Johnson and Councilman Fast Dog make arrangements with a tribal elder to go speak with Neil Standish. Motion seconded by Secretary Rabbithead.

Chairman Wilkinson acknowledged motion and second.

Vote: 7 for, 0 opposed. Motion carried.

ITEM 08: DALE FILKOWSKI vs. THREE AFFILIATED TRIBES
Resolution #93-62-JJR

This resolution pertains to the law firm of Hobbs, Straus, Dean & Wilder to handle the litigation on behalf of the Tribe in the case of Filkowski vs. Three Affiliated Tribes.

Mr. Bear Don't Walk explained that Dale Filkowski is suing the TERO and Marcus Wells, Jr., individually. Mr. Filkowski was attempting to achieve Indian status under the TERO Ordinance, but was not able to do so. It was not Indian owned or Indian operated.

Mr. Bear Don't Walk discussed this case. Marcus Wells, Jr. further explained the circumstances of this case.

Chairman Wilkinson entertained a motion to approve the resolution.

Councilman Gillette motioned to approve, seconded by Councilman Fast Dog.

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FILKOWSKI (CON'T)

Vote: 5 for, 0 opposed. Motion carried.

ITEM 09: LCM ISSUE CONTINUED

Mr. John Fox stated the M,R&I Project, or 523 project requested report won't be done until later. These reports will be given to the councilmen when it is put together.

Lonnie Burr explained this report was given to HKM. Everything was in order to get the draw down. They are waiting on this.

Chairman Wilkinson stated the 523 is being processed now. Chairman Wilkinson further stated that the Fort Berthold Housing Authority advanced to LCM of the 522 project money, \$1,140,279.26. The project completion reports show that none of the projects have been completed.

Lonnie Burr stated some of the houses have been completed, and others will be done within two weeks. Many more are to be started soon.

LCM workers explained that 522 is a conventional construction contract. They have one year, ending August 18, to construct thirty (30) homes. On these contracts, they are paid on percentages. They get paid for what is in place, not on the completed unit.

Discussion on Housing threats and the LCM lay-offs.

Discussion on the M,R&I money.

Vice Chairman Johnson requested a copy of the M,R&I financial statement from Don Morgan.

ITEM 10: DISCUSSION ON BUDGET

Chairman Wilkinson discussed the Tribal Budget. Chairman Wilkinson explained that we are entitled to the money, it just needs to be collected. This is where the problem lies, in the collecting of this money.

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BUDGET (CON'T)

Chairman Wilkinson has asked finance to track this money and find out what programs it was used to fund so they may be billed to refund it. The finance staff is to provide the '91, '92, and '93 contracts. The T-2, or general account, absorbed all the expenses of the other programs while they were waiting for their funding to come in.

Councilman Fast Dog mentioned that he was told of these problems about three months ago. Councilman Fast Dog further stated the Comptroller should have foreseen this before now.

Further discussion followed on the collecting of these monies. Chairman Wilkinson explained how the program money is drawn down for the programs.

ITEM 11: RESOLUTION/CODE OF ETHICS #93-63-JJR

Resolution read by Secretary Rabbithead.

This resolution pertains to Dickinson attorney, Christopher D. Quale, to draft an ordinance setting forth what constitutes cause for removal under title V, and establish a Code of Ethics, and that Councilman Fast Dog shall be an agent for the Tribal Council for the purpose of negotiating a contract with Mr. Quale. Mr. Quale will be hired upon the availability of funds.

Chairman Wilkinson inquired why the in-house attorney isn't doing this. Response was given that he was asked two months ago, but hasn't drafted anything yet.

Vice Chairman Johnson motioned to approve, subject to the availability of funds. Councilman Gillette seconded the motion.

Vote: 3 for, 2 opposed, 2 not voting. Motion carried.

ITEM 12: RESOLUTION/FINANCIAL INTEGRITY OF THREE AFFILIATED TRIBES

Resolution read by Secretary Rabbithead.

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RESO/FINANCIAL INTEGRITY (CON'T)

This resolution pertains to the termination of any employees hired after March 11, 1993, without full council approval; and any employees not on an approved budget are laid off; and no loans will be processed except Wake Subsidy and funeral loans to immediate family until the financial position of the Tribe is no longer in jeopardy; and that the Tribal Council shall investigate the salary of Key Employees, and if necessary, establish salary guidelines.

Chairman Wilkinson stated he felt this resolution was inappropriate and unnecessary.

Councilman Mossett mentioned he would agree with the section pertaining to the loans, but he did not agree with the section about the termination of employees.

Councilman Fast Dog stated that he received a statement from finance showing that there are too many employees not an approved budget.

Treasurer Bird Bear stated that one of the reasons the budget is not showing accurate figures is because costs are being allocated to the general account, not in the proper programs. There are seven contracts that haven't been touched. He has not been able to attain a deferred revenue amount from finance. Until the balances are reconciled, he cannot give a definite report on the financial status.

Discussion on the chairman's powers of appointment.

Secretary Rabbithead stated that the Treasurer's statement will rectify this resolution, once approved.

Councilman Gillette suggested to hold off on this resolution until next Thursday, when the Treasurer gets his financial statement.

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RESO/FINANCIAL INTEGRITY (CON'T)
Treasurer Bird Bear motioned to table this resolution until Thursday, seconded by Secretary Rabbithead.

Vote: 4 for, 2 opposed, 1 not voting. Motion carried.

ITEM 13: RESOLUTION/HOUSING BOARD OF COMMISSIONERS
#93-64-JJR

Resolution read by Secretary Rabbithead.
This resolution pertains to the reduction of nine members to six members on the Housing Board, with each council representative selecting a board member.

Chairman Wilkinson stated this resolution is inappropriate.

Councilman Fast Dog stated the Council wants this resolution.

Discussion on appointment of members to a board, subject to the approval of the Council.

Chairman Wilkinson entertained a motion to approve the resolution as presented.

Councilman Fast Dog motioned to approve, seconded by vice Chairman Johnson.

Vote: 3 for, 2 opposed, 2 not voting. Motion carried.

Discussion on board members. Vice Chairman Johnson stated the chairman should have a representative.

Chairman Wilkinson entertained a motion for the chairman to have representation on the board.

Vice Chairman Johnson motioned to approve, seconded by Secretary Rabbithead.

Vote: 4 for, 2 opposed, 1 not voting. Motion

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RESO/HOUSING BOARD (CON'T)
carried. Resolution amended to include representation for the chairman, changing the membership to seven.

The Housing Board of Commissioners shall be as follows: Jim Mossett, Twin Buttes; George Fast Dog, New Town/Little Shell; Pliga Bordeaux, White Shield; Roy Bird Bear, Four Bears; Karen Stevens, Parshall/Lucky Mound; Dreke Irwin, Mandaree; and Virgil Wilkinson, representing the Chairman.

ITEM 14: ADJOURNMENT
Meeting was adjourned at 4:32 PM.

Approved

Disapproved

John J. Rabbithead Jr.
Secretary, John J. Rabbithead, Jr.

6-3-93
Date

ATTEST:

Wilbur D. Wilkinson
Chairman, Wilbur D. Wilkinson

6-3-93
Date



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

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A G E N D A

TRIBAL BUSINESS COUNCIL
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Regular Council Meeting
May 13, 1993

CHAIRMAN
Wilbur D. Wilkinson

VICE CHAIRMAN
Ivan Johnson
Mandaree
(701) 759-3377

SECRETARY
John "Jack" Rabbithead, Jr.
Parshall/Lucky Mound
(701) 862-3841

TREASURER
Roger Bird Bear
Four Bears

COUNCIL MEMBER
Austin Gillette
White Shield
(701) 743-4244

COUNCIL MEMBERS
Jim Mossett
Twin Buttes
(701) 938-4403

COUNCIL MEMBER
George Fast Dog
New Town / Little Shell
(701) 627-3484

01. Call to Order
02. Roll Call
03. Resolution/Tribal Declaration of Mother Earth Day
#93-60-JJR
04. Resolution/Regional Governing Board, #93-61-JJR
05. LCM Issue
06. FBCC-TERO Waiver
07. Standish Case/Legal Department
08. Dale Filkowski vs. Three Affiliated Tribes
#93-62-JJR
09. LCM Issue Continued
10. Discussion on Budget
11. Resolution/Code of Ethics #93-63-JJR
12. Resolution/Financial Integrity of the Three
Affiliated Tribes
13. Resolution/Housing Board of Commissioners
#93-64-JJR
14. Adjournment