



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

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

SPECIAL COUNCIL MEETING

December 13, 1994

TRIBAL BUSINESS COUNCIL

Office (701) 627-4781

Fax (701) 627-3805

- PRESENT:** Russell Mason Sr., Tribal Chairman, Marcus Wells Jr., Secretary, Four Bears Representative, Mark Fox, Treasurer, Parshall/Lucky Mound Representative, Austin Gillette, White Shield Representative, Ivan Johnson, Mandaree Representative and George Fast Dog, New Town/Little Shell Representative.
- ABSENT:** Daylon Spotted Bear, Vice Chairman, Twin Buttes Representative,
- OTHERS:** Carl Meyer, Amoco Pipeline Representative; Ahmed Karoos, CERT Representative; Texx Lone Bear, Natural Resources Department Acting Administrator; Myrna Bear, Realty Specialist; Ken Fredericks, Enrolled Member; Terrance Fredericks, Vice Chairman's Assistant; Clorine J. Charging, Councilman Fast Dog's Assistant; Marian Spotted Bear, Vice Chairman's Aide; Edwin Hall, Enrolled Member; John Fox, Jr., Enrolled Member; Paul Fredericks, Enrolled Member; Alanna Baker, Dialysis Project Social Worker; Perry Brady, Sargeant at Arms and LaVerne Brady, Recording Secretary.
- ITEM #1: CALL TO ORDER:**
- Meeting Called to Order at 2:20 P.M.
- ITEM #2: ROLL CALL:**
- Roll Called.
Quorum Established.
- ITEM #3: APPROVAL OF AGENDA:**
- Russell Mason Sr., Chairman; requested the agenda with only two issues being acted on today, the Amoco Pipeline Resolution and Gaming Ordinance Resolution.

ITEM #4: AMOCO PIPELINE RESOLUTION #94-37-MW. by Ahmed Kooros, CERT:

Mr. Ivan Johnson, Introduced Ahmed Kooros of CERT.

Ahmed Karoos: I'd like to introduce Mr. Carl Meyer from Amoco who's here to consummate the right of way. Let me brief you and bring you up to speed as to what has transpired within the year or so when we discussed the right of way. You see the map behind you. That's the reservation. The red line, that you see, is the pipeline which is crossing the reservation. It is crossing the reservation from the south up north and all the way across. This is according to one map, regional map, which was filed with the BIA was 16.8 miles but actually this is 14.95 miles. As far as the 14.95 miles, on tribal and allotted lands. This is a discrepancy that I noticed and I brought it to Mr. Carl Meyer's attention and he looked at the documents and I'm certifying, actually his finding that there were a number of fee lands so the actual miles on the reservation from the allotted and tribal lands is about 14.95 miles. Now the new map that Amoco has filed with BIA does have the accurate.... This comes to about 4,716 to 2.20 rods of which 797 rods are tribal and the rest are allotted .4762 X 20 rods on tribal and allotted lands. Of that, 797 rods are tribal and the rest are all allotted lands.

Chairman Mason: That has to be corrected under resolution.

Mr. Kooros: Yes, I do appreciate it if you would change those 805 change to 797 and the last whereas. Also that amount of money, \$8,058.00 has to be changed to \$7,970.00. This pipeline is a 12 inch pipeline and then the easement of this is 50 feet, the right of way which was granted to Amoco back in June of 1953. It was renewed in 1973. Before the expiration of the right of way on June 18, 1973, the company filed it's renewal application to be in compliance with the code. Then we had a discussion here about a few months ago and I indicated to Mr. Carl Meyer that according to the regs, they can only have one renewal. File an application for a right of way, then you can have one renewal, then we agreed that he would file a corrected map for 4762 rods and also a new right of way application. I would appreciate it gentlemen, members of the council, if you would correct the word, renewal, delete the word, renewal in the fourth whereas, one, two third line should read the proposed 20 year right of way (just delete renewal of a) and also the last whereas, delete the word renewal. Also the second page the word renewal on the first line. The first word. On the basis of the decision that the tribe made, I was authorized to negotiate with Mr. Meyer on this case. We did and don't want to make it too long. We have been discussing over the phone, in person and so forth. We finally came up with the numbers that you have there. I am requesting that you approve the resolution as it is. They've already paid you \$7,970.00 for the sum of \$10.00 a rod to BIA. Now he is willing to prepare to pay the tribe a check for \$86,500.00 which would be (the two together) would be the amount that you are receiving for a 20 year right of way for the 12 inch pipeline for 14.95 miles. In a way for the tribe because of the special status that he has, it gets a I must mention this and of course, Mr. Meyers is here, I would like him to give his point of view. There is a definite decision on the part of BIA to assess the land at \$10.00 a rod and it is in records in fact. I did not bid for that.

Chairman Mason: Excuse me a second. Mr. Johnson, please.

Mr. Johnson: The bureau, it was at \$10.00 a rod.

Mr. Kooros: Yes.

Mr. Johnson: What did you negotiate with for the tribe for it.

Mr. Kooros: It comes to \$7,097 plus \$86,500.00

Mr. Johnson: How much is that a rod, then?

Mr. Kooros: That would be about \$118.00 or so.

Chairman Mason: Ten times as much.

Mr. Kooros: But you see the problem is. Let me make it very clear. That is exactly like the Cenex issue. The thing is BIA negotiates for the allottees, but you should pass a resolution like this in order for him to have the land. So that special condition makes you special so for that Amoco is willing to pay an extra \$86,500. Of course, we had a tug of war, one day, in Denver. I only hope Anyway, I must mention this that there's a BIA appraisal right in here and I would like to submit this to the records. I have reviewed their report dated as of February 9, 1993 for the renewal update, Amoco pipeline. I have approved their report and I think that the appraiser has enough comparable and context to arrive at his conclusion of \$10.00 a rod. Next time, you may want to ask others (this is it, this is the BIA) that's binding as far as the allottees are concerned because BIA negotiates on behalf of the allottees and for the allottees and I was not in the (resolution, decision,) authorization that I got from you was that I would be speaking for you for the tribe alone, not the allottees because I don't want to get you into trouble. This is the conclusion and I would recommend very strongly the adoption of this. Which is...which brings you up to the level that others have had.

Mr. Johnson: So the Bureau negotiates on my behalf?

Mr. Kooros: That's what the regs are. You could have rescinded the power of Attorney but that's the way it goes.

Mr. Johnson: They (BIA) sure are not looking out for the best interests of the tribe or for the allottees.

Mr. Kooros: 25 CFR...169 3B and 3C of the regs deal with the allottees. 169 3A deals with the tribal lands "which says no tribal lands shall be incumbent without the written consent of the tribe which is what you are doing right now."

Mr. Fox: The tribal lands involved is 797 rods at 14.95 miles all tribal lands.

Mr. Kooros: No, no 14.95 is all.

Mr. Meyer: As far as allottees lands and the appraisals, we've had two different appraisals outside those appointed by the BIA. Those appraisals came up at \$10.00 per rod. Other comparables that they had, actually came up to \$5.00 per rod and Amoco disputed the \$10.00 per rod but agreed to the \$10.00 per rod. The \$10.00 per rod, if you take it for fee value, is way more than fee value of the property, but we agreed to it. Now as far as the additional consideration, we agreed with Mr. Kooros as a payment for administrative cost. So all property owners are getting \$10.00 per rod. The tribal land is getting an administrative cost. That's an additional consideration that we put to the tribe. That's how we agreed to the settlement. It's not actually that we're treating two separate properties here, it's all the same.

Mr. Fox: Ahmed, This \$86,000.00 plus \$7,000.00 dollars, this is a one shot fee for 20 years?

Mr. Kooros: Yes, for the 797 rods.

Mr. Fox: So on the fact, we are signing the contract for the next 20 years.

Mr. Kooros: When was, we had two, we basically done this twice before, once in June of 1973, once in June of 1953, What money did we receive at those times?

Mr. Fox: \$5.00 per rod for a 20 year period.

Mr. Kooros: In 1973, they paid \$23,919.50 minus \$4,783.

Mr. Johnson: I'm going to move for approval on the pipeline transaction.

Chairman Mason: Motion's been made by Mr. Johnson to approve the proposed resolution. Do we have a second?

Mr. Fox: (Requested more discussion.)

Mr. Fox: What would happen in your estimation, if we at this time couldn't negotiate that figure and weren't set on that figure and we decided not to do it. What would happen? What would be the relationship between the Tribe, Amoco and everything else that's going on right now?

Mr. Kooros: Yeah, because again since the company filed it's application before the expiration date that actually, it's not in trespass.

Mr. Gillette: Members of the Council, Mr. Meyers and Mr. Kooros, you know, we have to realize that this is a fluke in the law. For once the law is in the favor of the Indians. Because, the outside on the State, they get a one-time payment and that's forever. Like Mr. Meyers mentioned, there's some fee land in there, they've only been dealt with one time. That's all the payment they've ever received. Granted, that's a fluke in our favor and so we should take advantage of it. That's my position. Here in 1982, Ahmed, when we negotiated with Cenex on behalf of the allottees, we got them \$50.00 a rod.

Mr. Kooros: But now the allottees, most of my understanding, is that they've already signed off.

Mr. Gillette: But the BIA has approved it. No, what I'm getting at is OK, we have two jobs here. To look out for tribal land and to look out for enrolled members, best we can, OK and the Bureau says that they have adequate information regarding the values of right of ways, easements and etc., apparently they can't remember 12 years ago over there because this is on file at the agency and this guy's out of Mobridge SD and if we do approve our part, which we should, it's a good deal for the tribe, we should also put a disclaimer in there that we had no part for the allottees. That was done strictly by the BIA known full well that in the past years, allottees had received \$50.00 per rod from other companies.

Mr. Meyers: You are correct and the last time we met with the Council, that was brought up but also twelve years ago at that \$50.00 per rod, that particular company was in violation of their easement and also it was only like 20 rods. A very short distance and that's how that came up so we really are comparing two different properties, two different apples and oranges but that \$50.00 per rod is correct for that particular case.

Mr. Kooros: If I may have your permission, going through that Cenex negotiations, what I was delegated was the authority to discuss the matter with the Amoco representative. The first time they came here, BIA was also here and actually debating the matter among ourselves, so I decided perhaps, the best thing for me, from CERT Position to be representing actually the tribe and BIA.

Mr. Fox: Mr. Kooros, this question is directed at you, if we pass this \$94,000.00, what is your fees and administration for dealing and negotiating with this, is CERT going to cover that.

Mr. Kooros: I would request you consider the resolution right now for yourself and then let me discuss my problems with you later on. My cost, so far, total cost has been no more than \$5,000.00.

Chairman Mason: Ivan brought up the concern and I think that Austin might have answered it or at least addressed it to Ivan while you weren't around and that's the concern about the allottees, the amount they're getting versus what the tribe gets and Mr. Gillette brought up the disclaimer.

Mr. Fox: But I guess what Councilman Gillette was simply indicating is that in this resolution, make sure that in the near future here, our portion is not messed up. We put in another be it resolved, that we disclaimed any approval over the BIA negotiations for those allottees.

Mr. Gillette: Yes, that'll do it and (see Chairman) if the allottees are not satisfied, even if they take the money, they can do a tort claim against the BIA for failure to negotiate properly. The BIA, not you guys.

Mr. Kooros: We can just write a paragraph at The fourth whereas, at the end of the fourth whereas we say "that the Three Affiliated Tribes of the Fort Berthold Reservation have not been involved with the allottee negotiations as the BIA has done so."

Mr. Fox: "have not been involved nor do they approve"

Mr. Kooros: OK, and approve...so the amendment is as follows, let me read it. "That the Three Affiliated Tribes of Fort Berthold Indian Reservation has not been involved with nor approved the allottee negotiations, as BIA has done so."

Mr. Fox: Has not been involved nor approved. Basically how we want on that is to say that we have not participated in the negotiations on behalf of allottees nor have we approved the actions of the BIA in setting the per rod rate.

Mr. Kooros: That's exactly what you should write down.

Mr. Fox: That's exactly how we mean it.

Mr. Kooros: OK, just write it down.

Mr. Fox: I'll get the language to that effect, just so all Council know it will be reflected in minutes and are in agreement to that amendment. In addition on now therefore be it resolved, that number one, the last two words of that first paragraph "beneficial to the tribes for lands owned by the Three Affiliated Tribes, rather than for tribal lands." It be satisfactory and beneficial to the tribes for (cross out tribal) lands owned by the Three Affiliated Tribes, add that to lands.

Chairman Mason: All we'd include will be the disclaimer. So motion's being made by Mr. Johnson with the amendment for the disclaimer, do we have a second.

Second by Mr. Fast Dog. Any more further discussion? All those in favor of the motion, signify by raising your right hand.

Vote 5 For 0 Opposed 1 Abstain
Motion Passed. Chairman Voting.

Mr. Kooros: I do appreciate the trust that you had in me. I know I didn't satisfy one person. It's just wonderful and I consider that an honor. I will be richer for a while and wherever I go, I continue to consider Fort Berthold in my heart, I remember back in 1981, when one of these windows was broken, and they told me, if you cross us, then your jaw is going to be like that window.

Mr. Fox: It still stands now.

ITEM #5: GAMING ORDINANCE RESOLUTION #94-38-MW. by Mark Fox:

Mr. Fox: (Read the Resolution and went through the amendments that were needed to be made.)

Mr. Johnson: I move for approval.

Mr. Fast Dog: I'll second it.

Chairman Mason: Moved by Mr. Johnson, second by Mr. Fast Dog. Any further discussion.

Discussion:

Mr. Fox: Well, There is some discussion here, if you notice the resolution down at the bottom there, I wanted Urban here to be present on this but he had to run to court and he left it blank though for where, normally, the Secretary would sign off. The reason I did that is because this is another federal

agency and based upon the condition or action taken by a local federal agency, perhaps we should designate either the Vice Chairman or Treasurer to do that certification which is just ministerial on the bottom. There's no doubt that the resolution is going to be passed by majority vote and beyond challengeable but as far as for certification purposes are concerned, should we include me other than the Secretary while we have this condition on there? But I wanted to make sure that we were in compliance with our Constitution and Code of Bylaws, and Urban should have been here to answer that but he left. I would sign off in lieu of the Secretary so that the certification could be official here and done. That would be the amendment and the understanding on this resolution.

Chairman Mason:

**Vote: 5 for 0 opposed 1 abstention Motion Passed.
Chairman Voting.**

ITEM #6: FINANCIAL ASSISTANCE REQUEST FOR LIMA DANKS; BY IVAN JOHNSON

Mr. Johnson: Mr. Chairman I have a financial emergency request in the amount of \$500.00 for a Lima Danks. Her husband just passed away. I don't think there'll be any wake fund or anything like that. It'll be just a \$500.00 loan.

Mr. Fox: So, the deceased is a non-tribal but the requestor for the loan is a tribal. I don't have any problem.

Chairman Mason: We'll go ahead and just make it out. It's a loan, right?

Mr. Fox: Yes, it's a loan. Just like everybody else.

Mr. Johnson: Are they loans now, no more grants?

Mr. Fox: They're only supposed to be loans.

ITEM #7: FINANCIAL REQUEST FOR DIALYSIS PATIENT BY ALANNA BAKER:

Mr. Fox: She has the same instance here. She was in to see me earlier. We have a very nominal amount here but medical emergency for somebody on dialysis would like to make a loan to cover the expenses of this needed part. They are returning home from the hospital today?

Mrs. Alanna Baker: Yes.

Mr. Fox: And it's only \$87.00 and that in effect will be a loan and they will pay it back.

Chairman Mason: I guess the problem I have with that, isn't that supposed to be the responsibility of our home health care people, and also the CHR's, to go out and make a visit?

Mrs. Baker: It's a special machine that she needs. Would they be able to purchase it for her to use it daily?

Chairman Mason: OK, it's a loan.

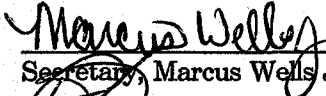
Mr. Fox: It's only \$87.00. Have Jackie prepare it.

Chairman Mason: Requested a recess until 10:00 A.M. tomorrow morning.

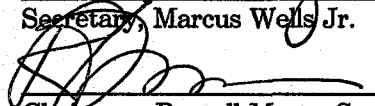
ITEM #8: Tribal Council Recessed at 3:16 PM.

Approved

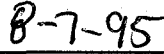
Disapproved



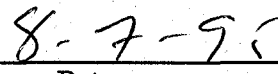
Secretary, Marcus Wells Jr.



Chairman, Russell Mason Sr.



Date



Date