



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

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

TRIBAL BUSINESS COUNCIL

Office (701) 627-4781

Fax (701) 627-3805

REGULAR MEETING MINUTES

NOVEMBER 09, 1995

- 1. CALL TO ORDER AND OPENING PRAYER.** The Regular Meeting of the Three Affiliated Tribes Tribal Business Council was called to order by Chairman Russell D. Mason, Sr., at 1:32 p.m. in the Tribal Council Chambers. A moment of silent prayer was held for the families of the three children in Mandaree.
- 2. ROLL CALL.** Motion was made by Councilman Edwin Hall for Councilman Austin Gillette to serve as Acting Secretary, seconded by Councilman Mark N. Fox. Vote: 5 in favor. Carried. Acting Secretary Gillette took roll call: Chairman Mason, present; Councilman Hall, present; Councilman Fox, present; Councilman Johnson, present; Councilman Spotted Bear, absent; Councilman Fast Dog, absent. Five members present, two members absent, quorum was declared.
- 3. ANNOUNCEMENTS AND REPORTS.** Three visiting students (Ryan Eagle, Joelle Demaray and Marie Ceynar) from the New Town High School Journalism Class were welcomed and acknowledged by the Tribal Council. Chairman Mason mentioned that he was concerned that some councilmen are not attending the meetings and not living up to their responsibilities as elected officials. He asked the council to take a look at taking some action on how they could at least get people to be here when they are supposed to.
- 4. NEXT MEETING.** A Special Tribal Business Council Meeting was scheduled for Wednesday, November 22, at 10:00 a.m. to deal with some items that may not be addressed at the meeting today.
- 5. OTHER COMMENTS.** Chairman Mason asked the council to think about tightening up security in the tribal building due to the firearm incident, during a recent hearing at the Federal Courthouse in Minot, and to also take a look at revising tribal codes for stiffer penalties for threats and assaults on elected officials and board members; and extradition of people for criminal offenses.

Councilman Gillette reported on the meeting with the Tribal Council from Turtle Mountain and the Uniband Board of Directors, who have agreed to establish a branch at White Shield for 40 positions. The tribe would have to secure financing for this. Councilman Gillette also reported on the Mahto Bay Access Meeting with Mercer County.

Councilmen Fox and Hall reported on meetings in Washington, D. C. on budget appropriations, gaming matters, and housing; plus meetings with State officials on trust land.

6. APPROVAL OF MINUTES.

a. October 12, 1995 (Regular Meeting)

Discussion of wake fund increase, which Mr. Fox said was meant to be \$2,400; however, minutes reflect \$2,500. Council decided to leave increase at \$2,500 and have resolution reflect this. Mr. Gillette said on page 11 of the minutes, some of the comments he had made on workmens compensation was "for the last quarter of '93 and most of '94--the last quarter of workmens compensation. We owe \$200,000 plus to workmens compensation, but we authorized the treasurer to make a partial payment. This is part of the mismanagement of funds of the Wilkinson Administration that we are still dealing with."

Mr. Fox made a motion to approve the minutes, as amended, seconded by Mr. Gillette. Vote: 5 in favor. Carried.

7. APPROVAL OF AGENDA.

Motion to approve agenda, as amended, made by Mr. Hall, second by Mr. Fox. Vote: 5 in favor. Carried.

8. NEW BUSINESS.

a. Twin Buttes Community Cemetery Fencing Request.

Ken Fredericks, Jr., requested monetary support for fencing of four cemeteries in the Twin Buttes Community, and submitted cost estimates for the project. Discussion was held on budget constraints, cost sharing and equitable revenue sharing with all communities. Chairman Mason suggested this project be looked at in the future as one of the council's initiatives. No action at this time.

b. Request for Revision of Twin Buttes Community Charter.

Paul Fredericks expressed his concern to the council on the lack of law enforcement in the Twin Buttes Community, before requesting council to amend the community charter and approve an increase in their lending limit to 1.5 million. Chairman Mason asked for motion and second for purposes of discussion. Mr. Johnson made the motion, there was no second. Mr. Gillette said all communities should be addressed if the council is going to change this limit, and that he would be in favor of amending to 1 million. Mr. Johnson withdrew his motion. Mr. Gillette made a motion to have the Legal Department prepare an amendment to all community charters to raise their limit of indebtedness to 1 million dollars. Second by Mr. Fox.

Discussion by Mr. Johnson if this would come back to the Tribe if it fails. Mr. Paul Fredericks said docket funds would be used for repayment, along with their presumed allotted share of JTAC funds. Mr. Fox asked that it be reflected in the minutes that approving the lending limit does not mean the Tribe has an assumption of liability for any debt that is incurred by any community.

Mr. Gillette stated this action would be in the form of a resolution from the Legal Department.

Chairman Mason then called for the vote. Vote: 4 in favor, 1 abstention. Carried.

c. Security Policy for Tribal Administration Building.

Mr. Fox made a motion that the Chairman be authorized to formulate and conduct a security procedure in regards to the hours of operation of the Tribal Administration Building, personnel that would be allowed in the building after hours, and necessary authorities to conduct business inside the building. Second by Edwin Hall.

Discussion: Mr. Fox said people should have free access to the tribal building during normal working hours, but was concerned about unauthorized individuals in the building after working hours. Unauthorized individuals will constitute criminal trespass and the council will recognize this. Entry into the building will require authorization rather than just signing in. Vote: 5 in favor. Carried.

d. Extradition.

Mr. Fox spoke on the extradition procedures present under the Tribes' Criminal Code. Chairman Mason asked the council to consider giving the Chairman of the Judicial Committee the authority to work out a formal agreement with the law enforcement agencies off the reservation for extradition and be allowed to use his judgement on extraditing or reciprocating of people wanted by tribal courts and wanted by non-Indian law enforcement agencies off the reservation.

Mr. Gillette made motion for the Chairman of the Judiciary Committee to carry out his responsibilities and to negotiate with the counties for a reciprocating agreement. Second by Mr. Hall.

Discussion by Mr. Gillette that this is already in the Tribes' Criminal Code. Mr. Fox said he would be reluctant to do this until he knows there is a reciprocating agreement in place. Vote: 3 in favor, 2 abstentions. Carried.

NOTE: Members recessed at 3:25 p.m. and reconvened at 3:58 p.m.

9. OTHER BUSINESS.

a. Material Resources Administrator Position.

Mr. Fox said Norma Staples had requested clarification of her position and job, since Material Resources had been moved under the supervision of Social Services. He said it was his understanding that Ms. Staples would conduct material resource business, as usual, and the only change was she now had an immediate supervisor. Chairman Mason said he, Mr. Danks and Mrs. Brady had assured Ms. Staples that this move

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would not change her responsibilities. He said this move was made, because it was felt they were putting water utilities and fuel assistance under the appropriate operations, i.e., the Water Program and Social Services--yet their functions or responsibilities would not be changed. Mr. Hall said it was his understanding also that this was done for the advantage of the tribal members for a "one-stop shop" situation, where social services and fuel assistance are under the same roof. Chairman Mason said he would follow up on this.

b. Wake Fund.

Mr. Fox made a motion to amend Resolution Number 95-214-EH to increase the wake fund to \$2500, rather than \$2400, effective the day the resolution was passed (10/12/95). Second by Mr. Hall. Vote: 5 in favor. Carried.

c. Northeast Segment Employment Fund.

Mr. Fox made a motion to approve the temporary appointment of Laurie Kraft as Community Development Specialist for the week of October 30 - November 3, 1995. Second by Mr. Gillette. Vote: 5 in favor. Carried.

d. Tax Department Monthly Update.

Thomas Birdbear gave an update on the Tax Department and submitted a monthly report, copy attached.

e. Dialysis Contract for Social Worker.

Motion by Mr. Gillette to amend contract to include mileage in the consultant agreement for Dialysis Social Worker, second by Mr. Fox. Vote: 5 in favor. Carried.

f. Enrollment Relinquishments.

Motion by Mr. Johnson to approve seven (7) resolutions for relinquishment requests for: Andrew W. Sears, Bernard P. Jackson, Salina Lynn Howard Brandon, Emanuel Lance Plenty Chief, Maurena Maude Plenty Chief, Minnie Ann Plenty Chief, and Trudy A. Chase. Second by Edwin Hall. Vote: 4 in favor, 1 abstained. Carried. R#218, 219, 220, 221, 222, 223, and 224-AG.

g. Docket Fund Expenditures.

Mr. Hall expressed concern about docket expenditures in the Four Bears District. Mr. Fox indicated expenditures should be a full-board decision, on behalf of the community, for community development. Mr. Gillette said the Tribal Business Council can put down regulations as to how docket funds are to be spent, if necessary. Mr. Hall was advised he could require the board to have accounting records, and to submit monthly reports of expenditures and revenues; if these couldn't be produced, the council could take action to withdraw these funds.

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It was noted by Mr. Fox that any unauthorized expenditures and/or misplacement of funds are subject to criminal prosecution under the Tribes' Criminal Code. Mr. Hall said he would revisit this.

h. Casino Liaison Officer Request.

Carol Good Bear addressed the council regarding her position as Casino Liaison Officer, and moving it away from the management agreement. She submitted a copy of a revised position description, and requested fringe benefits be included. Chairman Mason advised Ms. Good Bear that the council would review the documents submitted, and readdress this at the next meeting.

i. Temporary Appointment of RN Supervisor Consultant.

Motion by Mr. Hall to approve the temporary appointment of Carla Lopez to serve as Dialysis Director for two days at \$25.00 per hour. Second by Mr. Gillette. Discussion: This would be paid from the Dialysis Budget. Vote: 5 in favor. Carried.

j. Temporary Appointment of Game Warden.

Motion by Mr. Gillette to approve Lloyd Johnson as temporary game warden until the position is advertised. Second by Mr. Fox. Vote: 4 in favor, 1 abstained. Carried.

10. LEGAL DEPARTMENT.

a. Resolution to Purchase Lease Portion of Dialysis Building.

Mr. Tom Disselhorst reported on some issues of the LCM bankruptcy regarding the liquidation process recommended by the Tribes' bankruptcy attorney, Max Rosenberg. Mr. Disselhorst and Mr. David Brendsel explained that the portion of the lease agreement between LCM and the Tribes' Dialysis Project must be offered for sale in the bankruptcy proceedings, and it would be in the Tribes' best interest to purchase this portion of the lease.

NOTE: Mr. Fast Dog entered the meeting at 5:18 p.m. Mr. Johnson excused himself from the meeting at 5:25 p.m.

After lengthy discussion, questions and answers, Mr. Disselhorst presented the resolution for approval of the Tribes' purchase of the post-petition portion of the lease agreement between LCM and the Tribes' Dialysis Project, whereupon Mr. Gillette moved to approve the resolution, with the addition of "the Chairman, Vice Chairman, and the Treasurer" to be inserted in the last "Therefore be it further resolved". Mr. Fox inquired of Mr. Gillette if he would be willing to amend his motion to include "have been advised by assigned staff" in the first sentence of the first "whereas" on page two. Mr. Gillette amended his motion to include this. Second by Mr. Hall. Vote: 5 in favor. Carried. R#95-225-AG.

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- b. Resolution to Amend R#95-180-DSB for Tribe to Assume Role of Prime Contractor for MR&I Project.

Motion to approve by Mr. Gillette. Second by Mr. Fast Dog. Discussion by Mr. Fox as to having LCM as sub-contractor, to which Mr. Disselhorst stated it would no longer be LCM, as such, but the new entity. Discussion by Mr. Fox to include Treasurer in last "Therefore be it further resolved". Mr. Disselhorst advised any future action on this would come back to the full council. Chairman Mason called for the vote. Vote: 5 in favor. Carried. R#95-226-AG.

- c. Resolution to Affirm Correct Name of LCM, which is "Lumber Construction Manufacturing Corporation" and not "Three Affiliated Tribes Lumber Construction Manufacturing Corporation".

Mr. Disselhorst explained this clarification was necessary because of the Secretary of State's position on the Tribes' liquor license renewal for the Four Bears Casino and Lodge, which is held by LCM. Motion to approve by Mr. Fast Dog. Second by Mr. Fox. Discussion on why the Tribe, as a government, is not allowed to issue its own liquor license. Chairman Mason called for the vote. Vote: 5 in favor. Carried. R#95-227-AG.


11. **ADJOURNMENT.** Motion to adjourn by Mr. Hall. Second by Mr. Gillette. Regular Council Meeting of November 09, 1995, adjourned at 5:48 p.m.

CERTIFICATION OF MINUTES

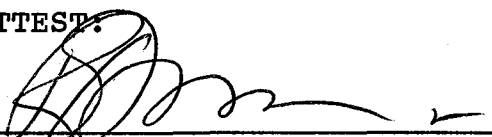
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of seven (7) members, of whom five members constitute a quorum. Six members were present at a Regular Meeting held on the 21st day of December 1995, whereupon the foregoing minutes were presented for approval by the Three Affiliated Tribes Recording Secretary.

Said Minutes were duly approved by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 member absent and not voting; and that these Minutes have not been rescinded or amended in any way, except as noted by council when approved.

Dated this 21st day of December, 1995.


Austin Gillette, Acting Secretary
Tribal Business Council

ATTEST:


Russell D. Mason, Sr. Chairman
Tribal Business Council

TAX COMMISSION
Three Affiliated Tribes

Tribal Administration Building
P.O. Box 1058
New Town, North Dakota 58763
(701) 627-3226

NOVEMBER 9, 1995

MONTHLY REPORT
TO THE
TRIBAL BUSINESS COUNCIL
THREE AFFILIATED TRIBES

SUBMITTED BY:
TAX DEPARTMENT
THREE AFFILIATED TRIBES
THOMAS BIRD BEAR, ESQ.
EXECUTIVE DIRECTOR

INTRODUCTION:

This monthly report of the Tax Department of the Three Affiliated Tribes is presented pursuant to the requested Tribal Business Council action of September 14, 1995 that a monthly report be presented by the Tax Department to the Tribal Business Council. See minutes of Regular Tribal Business Council Meeting, September 14, 1995.

In conformity with this request, the following report in follow-up to last month's report of 10-12-95 is submitted for discussion and other review. The contents of this report have been prepared for Tribal Business Council update and other purposes.

PROJECTS:

Conduct of the following listed projects have either been completed or are yet ongoing:

1. Discussion with BIA Energy and Minerals staff in Golden, CO regarding updating and developing a permanent notice system for Oil and Gas Producer/Taxpayers. Receipt of and refinement of active producers list on Fort Berthold ongoing.

2. Tribal Oil and Gas Gross Production Tax receipts and monitoring. Ongoing basis.

3. Coordination with Natural Resources Department Director regarding tribal oil & gas exploration planning with respect to tribal taxability issues. Attendance at meeting of 11-7-95 with tribal and Gulf representatives.

4. Coordination with Personnel Department on Assistant position with Department ongoing. Advertisement closed 9-29-95; applications on file; applicant rating conducted by Personnel Department - completed 11-7-95; selection process 11-9-95 (today).

5. Preparation and completion of FY/96 Tax Department Budget with Line-item breakdown and Revenue Projections submitted 10-12-95.

6. Receipt and deposit of Balcron Escrow Tax Funds relative to Duncan Energy lawsuit, 10-17-95. Release of funds authority communicated to escrow agent Lakeside State Bank from Balcron. Receipt of funds pursuant to Tax Department action and follow-up with producer Balcron. Equitable Resources Energy Company - Balcron Oil Division, Billings, MT. Note: Balcron transferred its on reservation properties to Collins & Ware, Inc. 8/95.

7. Draft letter requesting ND Attorney General opinion regarding ND Motor Vehicle Fuels Taxes applicability ongoing. Attorney General's office has not given any indications on length of time it would take to consider and complete such a request.

8. Attendance of Tribal Tax Administrators meeting in Albuquerque, NM Oct. 25-27, 1995. Positive information received that will serve to strengthen tribal tax administration capabilities. The following listed issues require attention to approach meaningful and fair tribal tax administration:

- Meeting needed with tribal auditors to discuss audit requirements of the Department and proposed solutions. Meeting pending tribal selection of tribal auditors.

- Discussions with Tribal Financial Consultant regarding department administration funding alternatives and approaches. Authorization from Program Analyst to conduct discussions regarding issue with tribal indirect proposal analyst - initial concepts discussed.

- Preparation and conduct of Tribal Tax Study to determine extent of tribal jurisdiction wealth and taxability questions needed, i.e. "can the activity bear the tax?, ability to pay a regressive tax, etc.

- Identification of enhanced fund accounting systems suitable for department fund aspects. Micro Information Products and Fundware.

- Correlation between tribal funding needs and tax assessment levels needed. Tribal Finance, Tax Commission and Tribal Tax Study area.

- Identification and strengthening of tax department refund fund necessary. Tax Commission and Tribal Financial Consultant topic.

- Development of tribal tax administrative rules and regulations necessary. Tax Department.

- Administration of Tax issues:

- 1) Accounting - fund expertise required; Use of cash basis system makes revenue forecasting and other Department requirements difficult and possibly dangerous to administer.

- 2) Administrative - Tax Department use of spreadsheets;
and

- 3) Compliance - Audits, reconciliation of records, etc.

The Tax Department needs to devote equal amounts of time and resources to each area. In terms of department communications

requirements, the system developed must interface with overall tribal fund accounting system.

CONCLUSION:

1. Recent training has been beneficial to overall development of tax administration. Multitude of issues remain with Department/Commission to address on order of importance basis.

2. Initial discussions with ND Tax Department regarding tribal-state tax agreements completed. Follow-up meeting in Bismarck with ND officials regarding tax agreements to be scheduled. Tobacco taxation discussion planned.

Telephone (701) 627-3226 for any questions or comments.



Thomas P. Bird Bear, Esq.
Executive Director
Tax Department
Three Affiliated Tribes