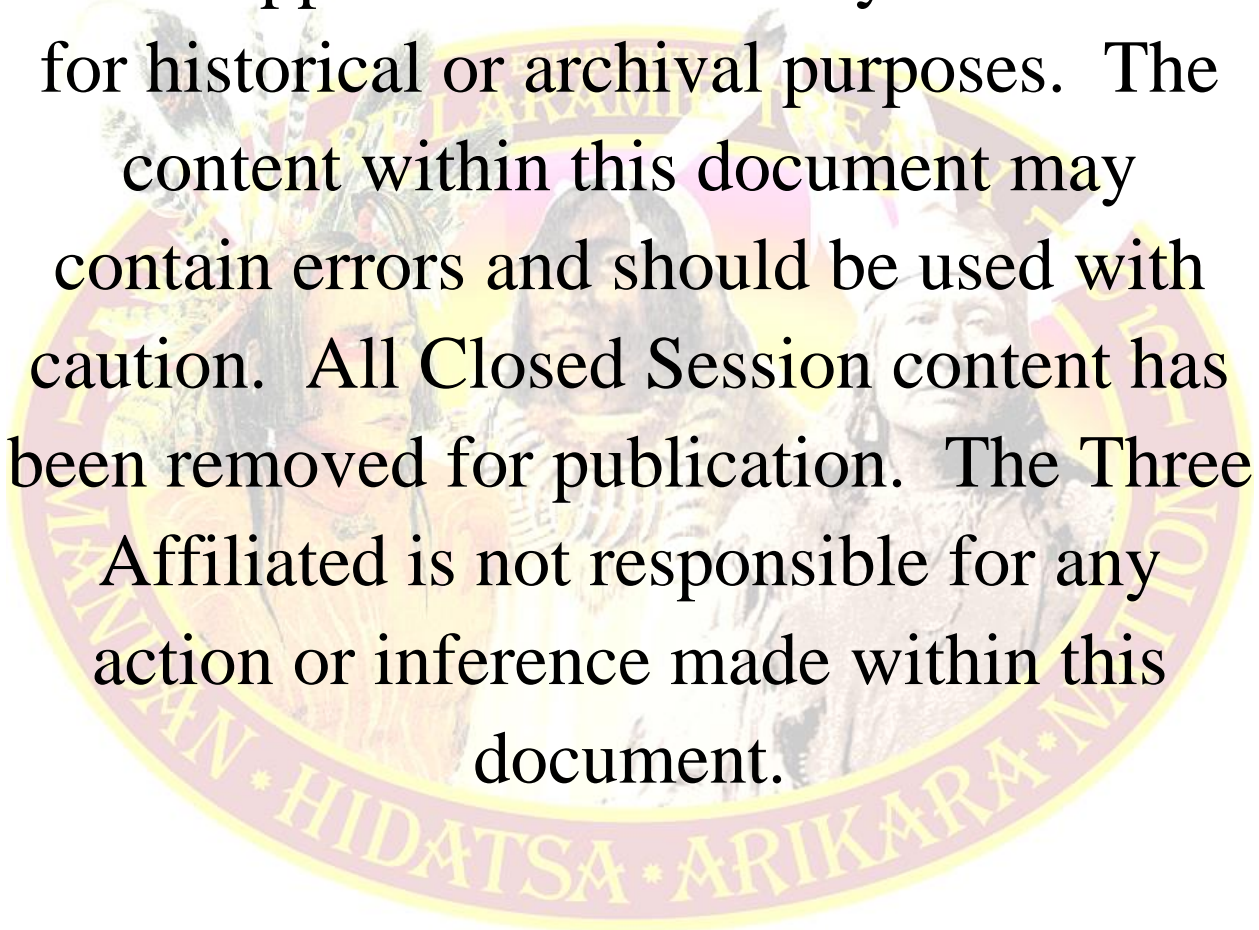


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# TRIBAL BUSINESS COUNCIL MEETING NO. 11

## REGULAR MEETING

DATE: JUNE 18, 1998 TIME: 10:00 AM

### 01. Call to Order, Prayer & Roll Call.

The Regular meeting of June 18, 1998 was called to order by Chairman Russell D. Mason, Sr. at 10:00 am in the Tribal Council Chambers. A moment of silent prayer was held.

Members present for roll call were Chairman Russell D. Mason, Sr., Vice Chairman Austin Gillette, Treasurer Mark N. Fox, Secretary Daylon Spotted Bear, Councilman Edwin Hall, and Councilman Tex G. Hall.

Member absent was Councilman Thomas Bird Bear attending another meeting.

### 02. Approval of Minutes of Previous Meetings.

Approval of minutes of the previous meeting was deferred.

### 03. Announcements.

Councilman Tex Hall reported to the Council that he had attended a meeting at United Tribes in Bismarck for the National Injury Prevention Coalition. Larry Geeshey from Transportation in the Central Office was in attendance. Safety issues were emphasized due to the new highway transportation bill. The dangers of the Four Bears Bridge and issues on unfenced right-of-ways was discussed. The Natural Resource Committee had the Legal Department do some research on unfenced right-of-ways. The Legal Department found that over 100 miles right-of-ways was not fenced which creates a liability for livestock producers and motorists. That is a safety issue. We have flexibility within the new transportation laws relating to safety issues that may increase BIA Roads funding up to 23% for Indian Reservation Roads. The Tribe has the opportunity to identify safety issues and utilize this funding to improve safety on our roads.

Councilman Daylon Spotted Bear informed the Council that the Twin Buttes Celebration will be held this weekend and all Council members, family members and relatives are invited to participate in the events.

Councilman Mark Fox announced that he attended the North Dakota and Upper Midwest Gaming Conference and Trade Show in Fargo, ND. Many Tribal Chairmen and Tribal representatives were in attendance and there was very positive feedback from the participants. A Joint Federal-Tribal meeting was held in Las Vegas with the Inter Tribal

**PAGE 2: TRIBAL BUSINESS COUNCIL REGULAR MEETING NO. 11  
JUNE 18, 1998**

Monitoring Association regarding the Secretary of Interior's proposal on the Trust Funds Settlement of \$68 million to compensate for the \$2.4 Billion in trust funds the government cannot account for. Fifteen tribes were involved in joint discussions on a possible law suite rather than the settlement. A one-hour meeting is scheduled for tomorrow with Secretary of Interior Babbot, NIGA Chairman Rick Hill, NCIA Chairman Ron Allen, and myself to discuss proposed gaming regulations that are not favorable to Tribes. On Monday, a joint Tribal meeting will be held with NCIA, NIGA, National Government Attorney Representatives, and Attorney General representatives from the States to discuss the proposed gaming amendments. The proposed amendments limit the Secretary of Interior's authority to negotiate with the Tribes if State/Tribal gaming compact negotiations ever come to impasse. Councilman Fox invited Council members to attend Parshall Days this weekend. Fox announced that the New Town/Parshall Boxing Team participated in the National Indian Boxing Finals and took first place team trophy. He showed the trophy to Council members.

Chairman Mason announced that the Three Affiliated Tribes has been active in efforts to develop other options rather than settle for \$68 million for the \$2.4 billion in Tribal trust funds the government mismanaged. The Three Affiliated Tribes took the lead in scheduling a meeting in the White House on June 11, 1998 to address the trust fund issues and the proposed gaming amendments. A follow up meeting is scheduled for July 2, 1998.

**04. Approval of Agenda**

The Tribal Business Council approved the agenda with additions and changes in order of business.

**05. Temporary Segment Employee**

**Motion** by Mark Fox to temporarily appoint Susie Crows Breast as Parshall Segment Employee.

**Second** by Ed Hall.

**Vote:** 5 in favor, one absent.

**Motion Carried.**

**06. Amy Mossett – Americorp Program FBCC**

**Motion** by Daylon Spotted Bear to approve the resolution authorizing the Fort Berthold Community College to apply for the AmeriCorps Grant funds and submit an application on behalf the Youth Build Fort Berthold Program, the Fort Berthold Family Independence Program and the Three Affiliated Tribes; and that the match requirements to cover at least 15% of the living allowance and benefits in non-federal cash will be met by using the Tribes General Fund in the amount of \$15,000 per fiscal year for three years;

and that a 33% share of the program costs will be met by in-kind match using other federal funds in goods and services from the Tribal College, the Youth Build Program, and the Fort Berthold Family Independence Program.

**Second** by Mark Fox.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**Resolution No. 98-78-DSB**

**07. Phyllis Cross – Constitutional Revision Committee**

**Motion** by Tex Hall to approve Ray Cross's Contract increase in standard rates from \$2,000 to \$8,000 and to increase expenses from \$3,000 to \$6,000 to cover the extension of time Mr. Cross will be providing legal services to the Three Affiliated Tribes in connection with revising the Tribal Constitution and Bylaws.

**Second** by Ed Hall.

**Discussion:** Phyllis Cross, Chairman of the Constitution Revision Committee, informed the Council that the Committee budget \$45,000 from which the legal fees will be paid.

**Vote:** 5 in favor, 1 opposed.

**Motion Carried.**

**Resolution No. 98-79-DSB**

**Constitutional Amendments**

**a. Recall Provision**

**Motion** by Tex Hall to pass the recall resolution authorizing a revision of the Constitution of the Three Affiliated Tribes, subject to amendment of the percentage of voters from 20% to 40% of the qualified voters of the Three Affiliated Tribes who voted in the last election, and allow one recall per term.

**Second** by Ed Hall.

**Vote:** 3 in favor, 2 opposed, 1 absent.

**Motion Carried.** (Revote after Discussion)

**Resolution No. 98-80-DSB**

**Discussion:** The Tribal Legal Department stated an opinion that Article 10 of the Constitution of the Three Affiliated Tribes provides that the Constitution and Bylaws may be amended by two thirds vote of the Tribal Council. The Constitution does not state that the two thirds vote be by a full seven-member Council. If a quorum consists of five Council members, a quorum is established and the Council is conducting official Council business. If the quorum consists of six Council members, as is the case today, two thirds of six Council members is four. Thus, the Council needs four votes in favor of the motion to pass the recall resolution.

**PAGE 4: TRIBAL BUSINESS COUNCIL REGULAR MEETING NO. 11  
JUNE 18, 1998**

**Motion** by Mark Fox to pass the recall resolution, subject to amendment of the percentage of voters from 20% to 66 and 2/3rds% of the qualified voters of the Three Affiliated Tribes that voted in the last election.

**Second** by Ed Hall.

**Discussion:** Councilman Fox explained that the Tribe has no recall provision and this will establish a recall provision. Fox stated that he selected the percentage of 66 and 2/3rds vote because it enhances stability and proper decision making and it gives the opportunity to recall the Council members who are not performing appropriately. The percentage is also the super majority required in Congress. Given that, it does not matter if a recall is called one or more times during a term.

**Vote:** 2 in favor, 3 opposed, 1 abstained.

**Motion Failed.**

**Motion** by Austin Gillette to pass the recall resolution, subject to amendment of the percentage of voters from 20% to 51% of the qualified voters of the Three Affiliated Tribes that voted in the last election.

**Second** by Mark Fox.

**Discussion:** Councilman Austin Gillette explained that the one-time recall per term does not apply to the motion. Councilman Gillette explained that if a Council member does something wrong and is recalled, then wins the election again, he is given a second chance to do wrong again. This would not be fair to those he represents because he is given the second chance to misrepresent them. The cause for removal by 2/3<sup>rd</sup> of the Council is an existing provision that the Council can still consider rather than a recall provision.

**Vote:** 4 in favor, 1 opposed, 1 abstained.

**Motion Carried.**

**Resolution No. 98-80-DSB**

**b. Referendum Provision**

**Motion** by Tex Hall to pass the resolution authorizing amendment to the Constitution of the Three Affiliated Tribes which strikes the existing Article VIII, Referendum, and replaces it with a new Article VIII, Referendum as sets forth in the proposed referendum amendment as stated in the resolution.

**Second** by Daylon Spotted Bear.

**Discussion:** Councilman Gillette raised concern regarding the 2/3rds vote by the Council. He stated that if only five members constitute a quorum, it would only take three members to call a referendum or a secretarial election and so forth. The BIA issued an opinion in the late seventies or early eighties as to what was required of an eleven-member Council at the time. All of the current Council members should be present today before making decisions on constitutional changes. Councilman Gillette asked the Legal Department to research the Solicitor's opinion and bring it to the Council for further review.

**Vote:** 4 in favor, 2 opposed.

**Motion Carried.**

**Resolution No. 98-81-DSB**

**c. Civil Service Commission**

**Motion** by Daylon Spotted Bear to pass the resolution acting pursuant to Article X, Amendments, of the tribal constitution to approve, as set forth in the resolution, a tribal civil service amendment that would add a new Article VII, Tribal Civil Service Commission, to the Tribal Constitution.

**Second** by Mark Fox.

**Discussion:** Chairman Mason stated that he believes the establishment of a Civil Service Commission would move the Tribal Business Council toward becoming a stronger legislative and governing body while the commission would deal with employees along with the Personnel Department to improve job stability and employee performance.

**Vote:** 4 in favor, 2 opposed.

**Motion Carried.**

**Resolution No. 98-82-DSB**

**Addition to Agenda:**

**Motion** by Tex Hall to add Rosie White Owl to the agenda.

**Second** by Ed Hall.

**Vote:** 6 in favor.

**Motion Carried.**

**08. John Charging – Enrollment**

**Motion** by Tex Hall to pass the resolution in which the Three Affiliated Tribes approves the enrollment of 45 applicants as members of the Three Affiliated Tribes.

**Second** by Mark Fox.

**Vote:** 6 in favor.

**Motion Carried.**

**Resolution No. 98-83-DSB**

**Motion** by to Austin Gillette to pass the resolution authorizing relinquishment of enrollment of Kendall Wrye Little Owl from membership of the Three Affiliated Tribes and that the Winnebago Tribe be advised of this action by a copy of this approved resolution.

**Second** by Daylon Spotted Bear.

**Vote:** 4 in favor, 2 opposed.

**Motion Carried.**

**Resolution No. 98-84-DSB**

**09. Martina McKinney, Environmental Division - Development of the Tribal Office of Emergency Management**

**Motion** by Ed Hall to pass the resolution to develop the Tribal Office of Emergency Management to coordinate planning and training for hazardous materials reservation wide and assist the segment emergency managers and all emergency response needs within the exterior boundaries of Fort Berthold; and the Tribe authorized \$2,800 to conduct an assessment and a proposal for costs to initiate an emergency response system as recommended.

**Second** by Tex Hall.

**Vote:** 6 in favor.

**Motion Carried.**

**Resolution No. 98-85-DSB**

**Addition to Agenda:**

**Motion** by Ed Hall to add Martha Bird Bear to the agenda.

**Second** by Tex Hall.

**Vote:** 6 in favor.

**Motion Carried.**

**Motion** by Austin Gillette to add George Lewis to the agenda.

**Second** by Mark Fox.

**Vote:** 6 in favor.

**Motion Carried.**

**10. Legal Department**

**a. RTC Litigation – CTC Settlement**

**Motion** by Austin Gillette to pass the resolution in which the Tribe authorized its legal counsel to prepare the settlement documents for acceptance by Consolidated Telephone Coperative; and the Tribe further authorizes the terms of the settlement agreement shall reflect the same terms that were offered to all three telephone cooperatives; and that the Tribe finally authorizes the Chairman of the Tribe to execute the settlement agreement of behalf of the Tribe.

**Second** by Daylon Spotted Bear.

**Vote:** 4 in favor, 1 opposed.

**Motion Carried.**

**Resolution No. 98-88-DSB**

**b. Cross-Deputization Agreement with City of New Town  
Memorandum of Understanding: Clarification of Intent**

**Introduction:** Kip Quale, Tribal Legal Department Attorney explained to the Tribal Business Council that the Tribal Courts Public Defender is representing 2-3 enrolled members who were arrested by a New Town city officer, but the officer was not responding to a specific request made by a Tribal or Bureau Law Enforcement. The Public Defender's position is that the only situation in which the city officer can act as a Special Deputy is only upon specific request by tribal or bureau law enforcement. In further reviewing the cross-deputization agreement, the Legal Department takes the position that it is not the intent of the parties to limit the authority of the Special Deputy to act only in those instances in which he or she is responding to a specific request made by Tribal or Bureau Law Enforcement. The Public Defender indicated that he would hold off on filing a motion to dismiss if we can resolve this issue. The City Attorney, Wade Enget, was working with the city of New Town when the cross-deputization agreement was draft 1993, and he confirmed that it is not the intent of the parties of the cross-deputization agreement to limit the authority of an officer to specific situations. The Special Deputy would also have authority, while he or she is on patrol, to respond to an alleged violation to Tribal law, for example, without having been requested. Rather than changing the cross-deputization agreement, clarification of the agreement is in order, thus the Memorandum of Understanding has been drafted.

**Motion** by Ed Hall to approve and accept the Memorandum of Understanding between the BIA, Three Affiliated Tribes and the City of New Town clarifying the Cross-Deputization Agreement.

**Second** by Tex Hall.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**c. Consultant Agreement: Tom Gunderson-TAT Child Welfare Program**

**Introduction:** Kip Quale explained that Tom Gunderson's current Consultant Agreement to represent the Child Welfare Program on behalf of the Tribe and the Legal Department expired June 3, 1998.

**Motion** by Tex Hall to approve the renewal of Tom Gunderson's Consultant Agreement to represent the Three Affiliated Tribes Child Welfare Program for six months.

**Second** by Ed Hall.

**Vote:** 4 in favor, 1 opposed, 1 absent.

**Motion Carried.**

**d. Proposed Tribal Code – Underage Consumption of Alcoholic Beverages**



**Introduction:** Kip Quale, Legal Department Attorney, introduced the proposed Tribal Code for Underage Consumption of Alcoholic Beverages in which individuals between the ages of 18 and 20 would be prohibited from possessing or consuming alcohol. First offence would be a class three misdemeanor resulting in incarceration for 30 days or a \$100 fine. Second offence would be a class two misdemeanor or a \$200 fine or incarceration for 90 days. The Court may also order alcohol evaluation not to exceed 30 days. The Court under appropriate circumstances may order probation.

**Motion** by Ed Hall to approve the proposed Tribal Code Underage Consumption of Alcoholic Beverages.

**Second** by Tex Hall.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**Resolution No. 98-86-DSB**

**e. Renewal of TNT Fireworks License on Reservation**

**Introduction:** Kip Quale, introduced an application from TNT Fireworks to renew a license to sell fireworks on the Reservation from June 27 to July 5, 1998.

**Motion** by Austin Gillette to approve the application for renewal of the license for TNT Fireworks to sell fireworks on the Fort Berthold Reservation from June 27 to July 5, 1998.

**Second** by Daylon Spotted Bear.

**Vote:** 4 in favor, 1 opposed, 1 absent.

**Motion Carried.**

**f. Proposed Tribal Business License (Fort Berthold, Inc.)**

**Introduction:** Kip Quale, introduced a business license application for Lord Deegan to establish a commercial laundry in the city of New Town.

**Motion** by Austin Gillette to approve the business license application made by Lord Deegan to set up a commercial laundry in New Town.

**Second** by Tex Hall.

**Vote:** 4 in favor, 1 opposed, 1 absent.

**Motion Carried.**

**11. Resolution – Modified TERO Requirements for Construction Contracts for Twin Buttes and Four Bears Water Treatment Plants**

**Motion** by Austin Gillette to pass the resolution waiving the 2.5% TERO prime contractor fees under which the Twin Buttes and Four Bears water treatment plants will be constructed; and in lieu of imposing the TERO fee directly against the respective

construction contracts for the Twin Buttes and Four Bears water treatment plant projects, the MR&I Water project shall direct to the TERO Office a separate initial payment in the amount of \$5,000 on each of the two projects and pay the balance of the respective TERO fee when funding becomes available under the Dakota Water Resources Act of 1997 through the Bureau of Reclamation.

**Second** by Daylon Spotted Bear.

**Vote:** 4 in favor, 1 opposed, 1 absent.

**Motion Carried.**

**Resolution No. 98-87-DSB**

### **12. Construction Contracts - Twin Buttes MR&I**

**Motion** by Mark Fox to approve the affirmation of the construction contract to complete the Twin Buttes Water Treatment Plant.

**Second** by Daylon Spotted Bear.

**Vote:** 5 in favor, 1 opposed.

**Motion Carried.**

### **13. Law Enforcement Center**

**Motion** by Mark Fox to appropriate \$5 million and finance the balance of the amount for the Law Enforcement Center.

**Second** by Daylon Spotted Bear.

**Vote:** 2 in favor, 3 opposed, 1 abstained.

**Motion Dies.**

**Motion** by Ed Hall to involve the Programs Managers and Programs Analyst in future MR&I Projects with Four Bears and to assign them to follow up on the reason Four Bears did not secure their construction contract today.

**Second** by Tex Hall.

**Vote:** 2 in favor, 3 oppose, 1 abstained.

**Motion Dies.**

### **14. Maggie Halvorson – Financial Request**

**Motion** by Tex Hall to approve a \$500 financial request for Maggie Halvorson.

**Second** by Ed Hall.

**Vote:** 3 in favor, 1 abstained, 1 opposed.

**Motion Carried.**

### **15. Lori Alberts- Financial Request**

**PAGE 10: TRIBAL BUSINESS COUNCIL REGULAR MEETING NO. 11  
JUNE 18, 1998**

**Motion** by Austin Gillette to approve Lori Alberts' financial request in the amount of \$500.00 to participate in the American Indian Science, Engineering and Math Program in New York.

**Second** by Ed Hall.

**Vote:** 5 favor, 1 absent.

**Motion Carried.**

**Addition to Agenda:**

**16. Bonnie Jo Wells – Financial Request**

**Motion** by Ed Hall to approve Bonnie Jo Alberts' financial request in the amount of \$500.00 to attend the IMB Program in New York.

**Second** by Tex Hall.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**17. Tracy Lewis – Financial Request (in place of Rosie Johnson)**

**Motion** by Tex Hall to approve a financial request in the amount of \$150.00 for Tracy Lewis to return to Green Bay, Wisconsin to begin work at a new job he has recently secured and to be with his family.

**Second** by Ed Hall.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**18. Kathleen Delerosa – Financial Request**

**Motion** by Ed Hall to approve a financial request in the amount of \$200.00 for Kathleen Delerosa.

**Second** by Tex Hall.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**19. Mike Smith – Financial Request**

**Motion** by Ed Hall to add Mike Smith to the agenda.

**Second** by Tex Hall.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**Motion** by Austin Gillette to approve a small loan in the amount of \$500.00 for Mike Smith to defray expenses incurred due to medical reasons, contingent upon submission of a status sheet.

**Second** by Tex Hall.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**20. Meals for Elementary Education Students at FBCC**

**Motion** by Ed Hall to pay one meal per day for 22 students while attending the Elementary Education Program at Fort Berthold Community College or until July 10, 1998.

**Second** by Austin Gillette.

**Vote:** 5 in favor, 1 absent.

**Motion Carried.**

**21. Recess – June 24, 1998**

**CERTIFICATION OF MINUTES**

I, the undersigned, as Executive 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 (5) members constitute a quorum. \_\_\_\_\_ members were present at a \_\_\_\_\_ Meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_, 1999 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 \_\_\_\_\_ members, and have not been amended in any way, except as noted by council when approved.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Daylon Spotted Bear, Executive Secretary  
Tribal Business Council, Three Affiliated Tribes

**ATTEST:**

\_\_\_\_\_  
Tex Hall, Chairman  
Tribal Business Council, Three Affiliated Tribes