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TRIBAL BUSINESS COUNCIL MEETING NO. 7

REGULAR MEETING

DATE: MAY 18, 1999 TIME: 11:20 AM

01. Call Meeting to Order and Opening Prayer

The Regular meeting of May 18, 1999 was called to order by Chairman Tex Hall, at 11:20 AM in the Tribal Council Chambers. A moment of silent prayer was held.

02. Roll Call

Members present for roll call were Chairman Tex Hall, Vice-Chairman Mark Fox, Treasurer Marcus Wells, Jr., Secretary Daylon Spotted Bear, Councilman Austin Gillette, Councilman Thomas Bird Bear, and Councilman Pete Hale.

03. Announcements

a. Chairman's Report

Chairman Tex Hall reported that he attended the Elderly Conference last week held in Bismarck, ND. The meeting was well attended by members of the Three Affiliated Tribes and other tribal members throughout the state. Chairman Hall thanked Councilmen Mark Fox and Austin Gillette for their representation at the conference and tribal employees of the Three Affiliated Tribes who coordinated transportation enrolled members.

Chairman Hall discussed the importance focusing on follow up to the Presidential meeting which includes working closely with members of Senator Dorgan's staff to focus on the major issues of housing, health care, and education.

In the area of health care, a Joint Venture Agreement had been presented to and acted upon by the Tribal Business Council to develop a new health care facility in New Town. A funding search needs to be initiated to secure funding to develop the facility. In the area of education, needs assessments on facilities must be developed in order to secure additional funding that may be available to schools in the Aberdeen Area. In the area of housing, FBHA has drafted documentation to show unmet need to substantiate an increase in funding. The Tribe needs to develop additional need assessments identifying the unmet need in the area of home improvement in an effort to increase the level of funding.

The 29% cut in BIA funding and the 12.5% proposed cut in IHS funding must be addressed by the Tribe.

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Chairman Hall reminded the Council of the June 4, 1999 ceremony sponsored by Senator Dorgan's office at On-A-Slant Village in Mandan to honor Sakakawea and to provide funding to rebuild the village and to support development of other cultural sites and tourism.

In reference the Four Bear Bridge, Delores White and Delvin Rabbithead prepared a videos of the Four Bears Bridge, interviews of elderly members, and a summary of the Dakota Water Resources Act that is to be presented to Senator Conrad on Thursday. The Bureau of Reclamation does not want the Four Bears Bridge project in the Dakota Water Resources Act, so the Tribe needs to secure an assignment for the project with either the BIA, Army Corp of Engineers, and transportation.

Chairman Hall reported that he has an upcoming meeting in Washington, DC with the Army Corp of Engineers regarding the return of excess lands. He will be attending a National BIA Budget meeting on June 14-18, 1999 in Tampa, Florida to address the 29% cut in BIA funding and to address the 12.5% proposed cut in IHA funding. These cuts, if approved, would be disastrous to the Tribe's program services that are already inadequate and grossly under funded. On May 25, 1999 a consultation hearing will be held in St. Paul, MN on Social Services. Marcus Wells, Jr. will present testimony that Hugh Baker is preparing. On May 27, 1999 another consultation hearing will be held on the proposed Land Into Trust regulations and Chairman Hall will be providing testimony.

On May 17, 1999 the Tribal Business Council met with the JTAC committee. The committee wants to present the plan as it is while the Tribal Business Council wants to provide amendments to include more items in the plan. Another working session with the Tribal Business Council and the JTAC committee will be held June 2, 1999 at the Four Bears A Frame.

Members of the Council agreed on the suggestion of a working time frame not to exceed 60 days to work with amendment to the existing plan rather than having a referendum on two separate plans.

JTAC committee members agreed on the suggestion of a 60-day period to allow people to comment on the plan then have a finalized plan go out for referendum vote.

b. Treasurer's Report

TBC Treasurer Marcus Wells, Jr. reported to the Tribal Business Council that the balance of the JTAC Principal is \$149,936.250.32 and the Interest is \$38,071.811.72 as of May 18, 1999. Treasurer Wells also presented the Three Affiliated Tribes bank balances and discussed the Donation Grants accounts and requested a motion to place a freeze on the account.

Motion by Austin Gillette to place a freeze on the Donation Grants account until a line of credit is approved and funding is secured by the Tribe, with the exception of Emergency

Medical Grants to be limited to \$250.00 and Educational Incentive Grants to be limited to \$250.00 for the remainder of the regular academic year and up to \$1,000.00 for Graduate/ Summer School.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

Treasurer Wells continued to report that Mr. Schwindt from Community First Bank requested follow up on the letter of credit. Frank Henry, Tribal Finance, is preparing a status report on the payment of \$47,000 to FBDC to pay Minot Builders, then Community First will complete the Tribe's line of credit.

Motion by Austin Gillette to accept the Treasurer's Report.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

Councilman Tom Bird Bear reported that he attended a meeting along with Councilman Fox and Councilman Wells with Native American Finance Officers. One of the issues Council Bird Bear spoke about at the meeting involved Tribal Taxation capabilities which Tribes are developing on a national level. Councilman Bird Bear stated that he believes the Tribal Business Council should become the tax commissioners to become more involved in tax agreements so the Tribe can eventually realize dollars from taxing motor fuels, tobacco and alcohol. The Tribe needs to take a more active roll regarding taxation issues.

Motion by Mark Fox that with the assistance of the Tribe's Departments, the Tax Commission, Councilman Bird Bear, and other interested Council members will develop potential draft agreements to tax motor fuels, alcohol, and tobacco for review by the Tribal Business Council, and an initial report will be presented to the Council by June 2, 1999.

Second by Tom Bird Bear.

Vote: 6 in favor, 1 absent.

Motion Carried.

Councilman Mark Fox commented that he was honored to be a Council representative at the Elderly Conference held in Bismarck. Councilman Fox announced that he will be attending a meeting on May 19, 1999 in New Rockford to tour and discuss the Buffalo Meat Packing Plant then he will be attending a Small Business Administration meeting with Mandaree Enterprises, Inc. in Fargo, ND. On May 24, 1999, Councilman Fox will be attending the Upper Midwest Gaming meeting in Sioux Falls, SD and on May 29, 1999 he will be attending the Land Into Trust Consultation Hearings in St. Paul, MN. Councilman Fox invited everyone to attend the Parshall Spring Fling and buffalo feed on May 28, 1999.

04. Approval of Agenda

Motion by Mark Fox to approve the agenda with deferrals, additions, and changes in order of business.

Second by Tom Bird Bear.

Vote: 7 in favor.

Motion Carried.

05. Approval of Minutes

Motion by Mark Fox to approve the minutes of the Tribal Business Council Special meeting of April 2, 1999.

Second by Austin Gillette.

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

Motion Carried.

Motion by Mark Fox to approve the minutes of the Tribal Business Council Special meeting of February 19, 1999 with corrections.

Second by Daylon Spotted Bear.

Vote: 6 in favor, 1 absent.

Motion Carried.

06. Legal Department

a. Consultant Agreement for Legal Services to TAT

Motion by Mark Fox to accept Diane Johnson's letter of resignation dated May 14, 1999.

Second by Pete Hale.

Vote: 6 in favor, 1 absent.

Motion Carried.

Motion by Tom Bird Bear to renew the consultant agreement for legal services to the Three Affiliated Tribes to retain Tom Gunderson for a period of three months to provide legal services to the Child Protection Program.

Second by Austin Gillette.

Vote: 6 in favor, 1 abstained.

Motion Carried.

b. Resolution – Proposed Tribal Code Supplementation Early Childhood Services.

Motion by Mark Fox to pass the resolution that the Tribal Business Council adopts the proposed statutory provisions, titled "Early Childhood Services," which provisions shall be incorporated as Chapter 8 of Title V of the Fort Berthold Tribal Code, subject to

review and technical changes as necessary by the Legal Department, JTPA, and other programs affected by the code, and strike 4g of page 1 of the code.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

Resolution No. 99-74-DSB

c. RDO Lease Agreement – Roads

Kip Quale, Legal Department, introduced a resolution to the Tribal Business Council in which on December 21, 1998, the Executive Committee of the Tribal Business Council approved the purchase by the Roads Department of a used 1994 John Deere, Motor Grader from RDO Equipment Company. RDO Equipment obtained financing for the Tribe and provided pertinent documents to the Legal Department for legal review. The proposed lease agreement provided that in the event the Lessee TAT defaults, the Lessor Deere Credit, Inc. could sue for the recovery of all rents due and payable or accrued. The proposed lease agreement provided that the terms and conditions of the proposed agreement would be governed by North Dakota law. The lessor and lessee have now agreed to change provisions of the agreement to provide that the Code of Laws of the Tribe shall govern the interpretation and enforcement of the terms and conditions of the Lease Purchase Agreement and shall be subject to the jurisdiction of the Fort Berthold District Court.

The proposed resolution would ratify prior action taken by the Council's Executive Committee to approve entry into the Lease Purchase Agreement with Deere Credit, Inc and approve an attached Payment/Amortization Schedule. The resolution also grants limited waiver of immunity from suit in the event the Tribe defaults on the Lease Purchase Agreement and remedies shall be governed by the Code of Laws of the Tribe, providing recovery of property in dispute in conformity with the Tribal repossession law. Any disputes over the terms and conditions of the Lease Purchase Agreement shall be resolved in the Fort Berthold District Court.

Motion by Austin Gillette to pass the resolution to ratify a prior resolution passed by the Executive Committee on December 21, 1998 to approve the purchase of equipment for the Roads Department, and to accept new provisions and language as stated in the revised Lease Purchase Agreement, subject to seeking further funding through the Roads Department 638 contract and FEMA.

Second by Pete Hale.

Vote: 6 in favor, 1 abstained.

Motion Carried.

Resolution No. 99-75-DSB

d. RDO Lease Agreement – MR&I

Mr. Israel agreed to revise the resolution to propose entering into a cooperative agreement with other tribes to address Cultural Resource Protection only and will fax it to the Tribal Business Council for further review.

f. New Town Ambulance

Tom Disselhorst, Legal Department, recapped the New Town Ambulance agreement that was entered into in 1996 in which the Tribe contributed \$15,000 to the New Town Ambulance Service. The agreement was not renewed beyond 1996, but the Tribe continued to contribute funds to offset the lag time in IHS payments and third party reimbursements. The New Town Ambulance has indicated by memo that the Tribe should start its own ambulance service.

Motion by Mark Fox to authorize the Legal Department to prepare a statement that health care is in a dire situation as IHS is not fulfilling ambulatory services to enrolled members and Chairman Hall will present the statement at the meeting in Washington, DC.

Second by Marcus Wells, Jr..

Vote: 6 in favor, 1 absent.

Motion Carried.

g. FSA Loans

Tom Disselhorst discussed the status of FSA Loans that are adversely affecting 33 Tribal members. A FOIA (Freedom of Information Act) letter has been issued to release the 33 names and to request an extension to allow time for the 33 responses. Sarah Vogal is developing a new proposal outlining costs and litigation funds.

The Council agreed to revisit this issue at the next Council meeting scheduled for June 3, 1999.

Motion by Tom Bird Bear for the Tribal Business Council to contact the IAC (Intertribal Ag Council) Outreach worker and have the Legal Department draft a letter to invite the 33 people to a meeting with IAC.

Second by Pete Hale.

Vote: 3 in favor, 4 abstained.

Motion Carried.

h. Federal and Tribal Lawsuits (Closed Session)

07. Joe Henry – Commodity Program Warehouse

Joe Henry, Commodity Program Director, presented a request for a new 5,000 square feet commodity warehouse to meet criteria required to secure and provide fresh produce.

Motion by Tom Bird Bear that the Tribe will support Mr. Henry's request for a Commodity Program Warehouse and Mr. Henry will develop a proposal to be presented to the Tribal Business Council.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

Motion by Mark Fox to approve payment from the miscellaneous line item in the amount of \$2,655.00 in program support to allow five Commodity Program staff to travel to training as justified by Joe Henry.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

08. RFP for FY 1998, 1999, 2000 Audits and Tribal Audit

Tribal Finance – Consultant Agreement with Leslie Morsette

Leslie Morsette introduced to the Tribal Business Council a proposed consultant agreement for herself to conduct 1050 hours of work on Indirect Cost Recovery.

Motion by Mark Fox to approve Leslie Morsette's consultant agreement to work on indirect cost recovery 30 hours a week for 35 weeks at \$15.00 per hour or \$15,750.00, to be reimbursed under indirect cost.

Second by Marcus Wells, Jr..

Vote: 7 in favor.

Motion Carried.

Marcus Wells, Jr. presented the 1998, 1999, 2000 Audit Bid Summaries to the Council. The Council asked that Marcus contact each of the companies and request an addendum to each bid to include costs for general and entity audits and bring back to the Council for further review.

09. Four Bears Casino Management Update

Associate Managers Spencer Wilkinson, Scott Eagle, and Scott Wilson presented the projected cash required to operate the Four Bears Casino from May 1999 to September 1999, the current financial status reflecting repayment of principal payments and service fees that had been deferred for three winter months in addition to regular loan payments, and capital improvement costs.

The Managers summarized proposed refinancing strategies with the Council. The Council agreed to support refinancing of the Casino loan.

Motion by Austin Gillette to authorize the Tribal Chairman and Tribal Treasurer to initiate refinancing strategies of the Four Bears Casino, not to exceed a period of 12 years at an interest rate of 8%, and the refinancing strategy will include expansion of the casino.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

10. Natural Resources Department – Myrna Bear: Proposed Purchase of Uran and Hendrickson Lots.

Motion by Austin Gillette to approve purchase of the Hendrickson lot and building located on main street in New Town in the amount of \$50,000.00, subject to be used for commercial purposes only and subject to availability of funds.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

Resolution No. 99-77-DSB

11. Bruce Hoffman – AmeriChem USA, Inc.

Bruce Hoffman of AmeriChem USA, Inc. presented to the Tribal Business Council a proposed business development to build plastic pallets. After the presentation Mr. Hoffman introduced a proposed resolution to pay him \$35,000.00 as an advancement of the joint venture which he will initiate on behalf of the Tribe.

Motion by Austin Gillette that Mr. Hoffman bring more information for further consideration by the Council and that the Council does support the basic concept of the joint venture.

Second by Pete Hale.

Vote: 5 in favor, 2 abstained.

Motion Carried.

12. Fort Berthold Community College Bylaws

Liz Demary, FBCC President, presented to the Tribal Business Council FBCC Bylaws under which each Council member would appoint a FBCC Board member from their district for a term of three years. Paul Teamanson, FBCC Legal Counsel, has not reviewed this proposed change.

The Council decided that after legal review, the Council will readdress the FBCC Bylaws by the end of June 1999.

13. Bernadine Young Bird – Vocational Education Resolution

Motion by Austin Gillette to pass the resolution to establish rehabilitation services to Native Americans with disabilities with 10% in-kind contribution.

Second by Mark Fox.

Vote: 6 in favor, 1 absent.

Motion Carried.

Resolution No. 99-77-DSB

14. Bobbie Young Bird - Addition to Agenda:

Motion by Pete Hale to add Bobbie Young Bird to the agenda.

Second by Austin Gillette.

Vote: 6 in favor, 1 abstained.

Motion Carried.

Motion by Pete Hale to amend the resolution in which the Tribal Business Council authorizes Robert Young Bird a loan in the amount of \$1,500.00 to be repaid within 90 days.

Second by Austin Gillette.

Vote: 7 in favor.

Motion Carried.

Resolution No. 99-79-DSB

15. Sylvia Spotted Wolf

Motion by Austin Gillette to hire Sylvia Spotted Wolf as White Shield Segment Custodian.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

16. Resolution – Elbowoods Woodworks Project

Motion by Mark Fox to pass a resolution in which the Tribe will set aside \$25,000.00 from FY 2000 350-G Capital Development Funds or other Tribal funds as available, for the purpose of working capital for the proposed ANA Elbowoods Woodworks Cooperative.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

Resolution No. 99-80-DSB

17. Scholarships

Motion by Austin Gillette to authorize the Chairman and Treasurer to review graduate students Educational Requests and approve up to \$1,000.00 from Docket funds (limited to area of study in medicine, law, and engineering), and/or JTAC funds limited to \$250.00 for undergraduate students, and up to \$1,000 for summer students, depending upon the discretion of the Chairman and Treasurer based upon the student's status, and/or whatever 477 can supplement.

Second by Mark Fox.

Vote: 7 in favor.

Motion Carried.

18. Ernestine Mountain

Motion by Tom Bird Bear to approve an emergency loan in the amount of \$500.00 for car repairs related to medical expenses.

Second by Mark Fox.

Vote: 7 in favor.

Motion Carried.

19. Sue Romero

Motion by Pete Hale to approve a loan in the amount of \$1,000 to Sue Romero to defray educational expenses.

Second by Marcus Wells, Jr.

Vote: 7 in favor.

Motion Carried.

20. Keith Smith

Motion by Mark Fox to approve Keith Smith's loan request in the amount of \$2,000 from the Small Loan Program, subject to securing the loan with the title to Mr. Smith's vehicle.

Second by Austin Gillette.

Vote: 7 in favor.

Motion Carried.

21. I-Ki-Pi Youth Services

Motion by Marcus Wells, Jr. to support the I-Ki-Pi- Youth Services request to hire college youth interns and the Tribe will contribute \$12,460.

Second by Mark Fox.

Vote: 7 in favor.

Motion Carried.

22. Corrine Brunsell

Motion by Daylon Spotted Bear to approve a secured loan in the amount of \$2,000 for Corrine Brunsell to be paid back at \$150.00 per month.

Second by Pete Hale.

Vote: 6 in favor, 1 opposed.

Motion Carried.

Resolution No. 99-81-DSB

23. Ratify Resolutions No. 99-82, 83, and 84-DSB

Motion by Austin Gillette to approve ratification of Resolution No. 99-82-DSB for Pat Urdahl's request; Resolution No. 99-83-DSB for Germaine Fox's loan request; and Resolution No. 99-84-DSB for the Commodity Cookbook.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

24. Emergency Medical Grant Policy

Motion by Austin Gillette to approve the Emergency Medical Grant Policy as presented by Marcus Wells, Jr. and to be capped at an amount of \$250.00.

Second by Pete Hale.

Vote: 7 in favor.

Motion Carried.

25. Adjournment

Motion by Tom Bird Bear to adjourn.

Second by Austin Gillette.

Vote: 7 in favor.

Motion Carried.

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