

DISCLAIMER: The following Tribal Business Council minutes are uncertified or un-approved and are only to be used for historical or archival purposes. The content within this document may contain errors and should be used with caution. All Closed Session content has been removed for publication. The Three Affiliated is not responsible for any action or inference made within this document.



THREE AFFILIATED TRIBES
TRIBAL BUSINESS COUNCIL
REGULAR MEETING #5
January 23, 2001

01. RECONVENUED MEETING:

Chairman Hall reconvened the meeting at 1:00 p.m.

02. ROLL CALL:

Members present: Chairman Hall, Councilman Phelan, Councilman Wells, Councilman Fox, Councilman Spotted Bear, Councilman Gillette, and Councilman Wolf. A quorum was established with seven members present.

03. APPROVAL OF THE AGENDA:

MOTION ONE: Councilman Fox motioned to approve the agenda as amended. Seconded by Councilman Phelan.

VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.

04. 4BEARS GAMING COMMISSION:

MOTION TWO: Councilman Phelan motioned to appoint the Gaming Commission Chairman as the immediate supervisor for the Director of Surveillance during the transition period. Seconded by Councilman Gillette.

DISCUSSION: The anticipated transfer of the Surveillance Department to the Tribe's Gaming Commission is February 08, 2001 and legal counsel is drafting policies. The surveillance staff will be paid by the 4Bears Casino but the division will be under the supervision of the Gaming Commission.

GAMING COMMISSION AND 4BEARS CASINO ISSUES:

- Work Schedule - accountability
- Licensing and monitoring
- Hiring of Internal Auditor w/accounting degree and casino management experience required.
- Auditors Report - Joseph Eve
- 300 employees
- Re-organizational chart
- Advertising all (9) positions in Accounting Dept.
- Operating budget during the summer months is approximately \$36,000 a month.
- 4Bears Expansion- Scott Eagle - Need written reports

**Three Affiliated Tribes
Tribal Business Council
Regular Meeting #5
January 23, 2001
Page 2**

- Grand Opening pressure
- Events Manager: Scott Wilson
- Marina costs from 3.5 to 3.9 Million
- Renovation Project completion date 07/01/01
- Bruce Lein - fast fix
- Phase 1 - Wooden false floors, electrical wires
- Moving machines to current Bingo Hall
- Replace current tracking system cost approximately 1.9 Million
- Apartments - design 20 units
- Gaming Manager Selection - Sent out RFP

05. 4BEARS CASINO GENERAL MANAGERS BONUSSES:

Brady Martz, CPA and Consultants recommended the payment of the Incentive Compensation for the Co-general Managers based on the accomplishments of these areas of responsibility:

- An expense Reduction Program initiated. The first step was to outline the responsibility of the purchasing agent.
- Secondly, they determined the central inventory system, and
- Thirdly, they have begun the review of major supplies.
- It is the goal of the expense reduction program to be fully operational and applied on a consistent basis through the Casino by March 31, 2001.
- They are also under the opinion that in the future, separate areas of responsibility should be assigned to each Co-Manager

MOTION THREE: Councilman Phelan motioned to approve of the Incentive Compensation of \$6,250 to Bernie Fox and \$6,250 to Spencer Wilkinson, Co-General Managers of the 4Bears Casino and Lodge. Seconded by Councilman Wells.

VOTE: 4 Ayes, 1 Nay, 0 Abstentions, 2 Not voting.
Motion carried.

Three Affiliated Tribes
Tribal Business Council
Regular Meeting #5
January 23, 2001
Page 3

06. PRE-CAST ROYAL CONCRETE PLANT RESOLUTION #01-07MWJR.

Royal Concrete of Stacy, Minnesota has approached the Tribe with a proposal for the construction of a pre-cast concrete plant in New Town, North Dakota to be owned by the Tribe.

MOTION FOUR: Councilman Wells motioned to authorize the Tribal Chairman to pursue financing for a concrete plant project, as described in Resolution #01-07MWJr, as amended. Seconded by Councilman Phelan.

DISCUSSION: The Tribal Business Council was in agreement with the concept of a concrete plant as long as the tribe seeks other bids from qualified contractors as opposed to solely Royal Concrete.

Amendment to Resolution: delete 4th Whereas, 5th Whereas, change "the," to a, and under Now, therefore be it resolved: Period, after "for the concrete plant project." Delete: proposed by Royal Concrete, and to etc.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 1 Not voting.
Motion carried.

07. TWIN BUTTES CUSTOM HOMES RESOLUTION #01-08MWJR.

The Minot Air Force Base is seeking to build 134 new family housing for those stationed at the Air Base at a cost of between \$10 Million and \$25 Million, and the U.S. Army Corps of Engineers, on behalf of the Air Force has sought proposals from qualified firms to build the required homes.

Twin Buttes Custom Homes, Inc. and Construction, Analysis & Management, Inc. (CAM) have entered into a joint venture to put in a proposal to build the required homes on the Minot Air Force Base and are proposing to put in a bid for the project totaling approximately \$23 Million. The bid requirements include the requirement that the "offeror," which is the Twin Buttes Custom Homes provide a "bid guarantee" of at least 20% of the "bid price," not to exceed \$3 Million.

**Three Affiliated Tribes
Tribal Business Council
Regular Meeting #5
January 23, 2001
Page 4**

Twin Buttes Custom Homes, Inc., is asking the Tribe to issue a certified check or its equivalent in the amount of \$3 Million for the purpose of providing the "bid guarantee" required of the "offeror" or obtain a bid bond from an approved surety. In order to show that Twin Buttes Custom Homes and CAM are serious about completing the project if it should be awarded to them.

MOTION FIVE: Councilman Gillette motioned to authorize the Chairman, or Vice-Chairman and the Treasurer to issue a certified check or its equivalent in the amount of \$3 Million to be used as a "bid guarantee" for the purpose of the proposal submitted by Twin Buttes Custom Homes and CAM or in the alternative, to obtain through an approved surety a bid bond of \$3Million, that the Chairman, or Vice-Chairman and Treasurer are authorized to sign such "bid guarantee forms as necessary, including any necessary bid bond form. Seconded by Councilman Phelan.

DISCUSSION: The risk to the Tribe of placing a certified check as bid bond is minimal, because regardless of whether Twin Buttes and CAM are awarded the project, the bid bond will be returned to the Tribe once the project is awarded. Resolution #01-08MWJR, will be amended to include the language: including FBDC, Mandaree Solid Surfacing and other Tribal entities.

VOTE: 5 Ayes, 0 Nays, 1 Abstention, 1 Not voting.
Motion carried.

A. TWIN BUTTES CUSTOM HOMES BID BOND RESOLUTION #01-09MWJR: MOTION SIX: Councilman Gillette motioned to approve on behalf of Twin Buttes Custom Homes, Inc., the Tribe is willing to issue a certified check, or its equivalent in the amount of \$3 Million for the purpose of providing the "bid guarantee" required of the "offeror" or obtain a bid bond from an approved surety, such funds to come from its line of credit with BNC Bank of Bismarck or such other sources as the Tribe determines are available to it,

**Three Affiliated Tribes
Tribal Business Council
Regular Meeting #5
January 23, 2001
Page 5**

that the Chairman or Vice-Chairman and Treasurer are hereby authorized to sign any documents necessary to obtain the \$3 Million from the Tribe's line of credit with BNC Bank of Bismarck or from other sources. Seconded by Councilman Phelan.

DISCUSSION: The risk to the Tribe of placing a certified check as bid bond is minimal, because regardless of whether Twin Buttes and CAM are awarded the project, the bid bond will be returned to the Tribe once the project is awarded. Resolution #01-09MWJR, will be amended to include the language: including FBDC, Mandaree Solid Surfacing and other Tribal entities.

VOTE: 5 Ayes, 0 Nays, 1 Abstention, 1 Not voting.
Motion carried

08. HOBBS, STRAUS, DEAN & WALKER CONTRACT:

MOTION SEVEN: Councilman Gillette motioned to approve of a \$5,000 contract with Hobbs, Straus, Dean and Walker regarding a potential Joinder in Amicus Brief to be filed in Tribal Tax Case before the US Supreme Court. Seconded by Councilman Fox.

VOTE: 6 Ayes, 1 Nay, 0 Abstention, 0 Not voting. Motion carried.

09. SWEETHEART BREAD AGREEMENT:

MOTION EIGHT: Councilman Fox motioned to agree to a \$5,000 settlement with Sweetheart Bread and the Three Affiliated Tribes Tribal Daycare Center. Seconded by Councilman Phelan.

DISCUSSION: A pencil was found baked in a loaf of Sweetheart bread. The children at the Daycare did not eat any of the bread.

VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 2 Not voting.
Motion carried.

**Three Affiliated Tribes
Tribal Business Council
Regular Meeting #5
January 23, 2001
Page 6**

10. TRIBAL BUILDING EXPANSION SUPPLEMENTAL BUDGET RESOLUTION #01-10MWJR.

The Tribal Business Council initially appropriated the amount of \$450,000 for the Tribal Administration Building Expansion Building Project. (Reference Resolution #00-282DSB) In order to complete the Expansion Project it is critical to the current infrastructure needs and necessary for the Tribal Business Council to appropriate an additional amount of \$167,376 for the completion of the project.

MOTION NINE: Councilman Phelan motioned that the Tribal Business Council appropriate the additional amount of \$167,376 for the balance of the total cost of the Tribal Administration Building expansion project. Seconded by Councilman Fox.

VOTE: 4 Ayes, 0 Nay, 1 Abstentions, 2 Not voting.
Motion carried.

11. SHP CONSTRUCTION COSTS:

MOTION TEN: Councilman Wolf motioned to approve a 6% construction costs for SHP Architectural Firm in the construction for assisted living centers for the elders. Seconded by Councilman Wells.

VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.

12. A&E ASSISTED LIVING CENTERS:

MOTION ELEVEN: Councilman Gillette motioned to direct Terry Red Fox, CEO, to have A&E completed for assisted living centers for every segment. Seconded by Councilman Phelan.

VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.

13. INCREASE COUNCIL MEMBERSHIP:

MOTION TWELVE: Councilman Phelan motioned to table the Increase Council membership to a nine member council until February 8, 2001. Seconded by Councilman Fox.

**Three Affiliated Tribes
Tribal Business Council
Regular Meeting #5
January 23, 2001
Page 7**

**VOTE: 4 Ayes, 2 Nays, 0 Abstentions, 1 Not voting.
Motion carried.**

14. SANTEE SIOUX TRIBE: RESOLUTION #01-11MWJR.

The Santee Sioux have utilized their trust land for economic development best suited for their needs and have constructed and are operating a small casino on their trust that employs many Tribal members and provides some limited income to the Tribe. The State of Nebraska has refused to enter into a Gaming Compact with them so they're pursuing Secretarial approval. They have a Casino that's being operated and they're being fined at \$5,000 per day, with a total of \$3.4 Million and their assets have been frozen.

MOTION THIRTEEN: Councilman Fox motioned to authorize a \$5,000 interest free loan to the Santee Sioux Tribe, to be paid back when revenues are made available to the Santee Sioux Nation. Seconded by Councilman Wolf.

DISCUSSION: The Three Affiliated Tribe's Tail Feather ceremony and songs originated from the Santee Sioux. In view of this, the Tribal Business Council felt it necessary to give some financial help to this tribe.

**VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.**

15. HOUSING WAGE GARNISHMENT ACT RESOLUTION #01-12MWJR:

MOTION FOURTEEN:

Councilman Gillette motioned to approve the Housing Wage Garnishment Wage Act, subject to legal counsel review of this document by February 8, 2001. Seconded by Councilman Fox.

DISCUSSION: This will be a requirement of a condition of employment, not telling the Court to have a garnishment provision, that legal dept. is currently working on that provision. It is agreed by the Vance Gillette, who wrote the Wage act that the Tribe would not have the authority to impose on a federal agency a requirement to have employees deduct and sign a wage deduction form.

**Three Affiliated Tribes
Tribal Business Council
Regular Meeting #5
January 23, 2001
Page 8**

Legal Counsel will draft something in the Act to include employees of IHS and BIA.

VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 2 Not voting.
Motion carried.

16. JOSEPH CHASE:

Councilman Wells motioned to approve a loan of \$2,000 to Joe Chase, subject to all Small Loan requirements.

VOTE: 5 Ayes, 0 Nays, 0 Abstentions, 2 Not voting.
Motion carried.

17. SHERYL FOX:

Councilman Phelan motioned to approve a \$2,500 loan, depending on eligibility of Small Loan requirements and availability of funds. Seconded by Councilman Fox.

DISCUSSION: Tribal member owes \$250 for a funeral loan, but will pay the loan in full on Friday, January 26, 2001 prior to receiving the loan.

VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 1 Not voting.
Motion carried.

18. SHARON WHITMAN PORTLEY REVOLVING HOME LOAN PROGRAM:

Councilman Fox motioned to approve of a \$7,400 Revolving Home Loan Program approval for Sharon Whitman Portley, subject to all the requirements of the program and submittal of a resolution. Seconded by Councilman Gillette.

DISCUSSION: Terry Red Fox was directed to get an update on the repayment of revolving Home Loan Program.

VOTE: 6 Ayes, 0 Nays, 1 Abstentions, 0 Not voting.

19. MIKE DRIVER: RESOLUTION #01-13MWJR.

Councilman Wells motioned to approve a \$2,900 loan, subject to Small Loan requirements and availability of funds. Seconded by Councilman Fox.

**Three Affiliated Tribes
Tribal Business Council
Special Meeting No.
January 23, 2001
Page 9**

VOTE: 6 Ayes, 0 Nays, 1 Abstentions, 0 Not voting.
Motion carried.

20. SMALL LOAN GUIDELINES:

Councilman Gillette motioned to direct the Small Loan Program to forward any threats of lawsuits to the Legal Dept. Seconded by Councilman Wells.

DISCUSSION: The Small Loan Program staff will suspend work with tribal members who verbally threaten them, also they are to inform the Tribal Business Council of any harassment situations.

VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.

21. FORT BERTHOLD HOUSING AUTHORITY JTAC FUNDS:

MOTION FIFTEEN: Councilman Phelan motioned to disperse the remaining \$150,000 to the Fort Berthold Housing Authority for renovation of four rental units in ND 05-01 Project. Seconded by Councilman Gillette.

DISCUSSION: The units renovated are located in the following areas: Two units are located in the Mandaree area, and two units are located in the White Shield area. The Housing Authority Director guaranteed that by October 31, 2001 they'll be no boarded up Fort Berthold Housing Authority units.

VOTE: 4 Ayes, 1 Nay, 0 Abstentions, 2, Not voting.
Motion carried.

22. PUBLIC WORKS DEPARTMENT RESOLUTION #01-14MWJR:

The Tribal Business Council has determined that it is in the best interest of the Tribe and the enrolled members that a Tribal Department of Public Works be developed in order to efficiently manage certain programs and services within the Tribe.

**Three Affiliated Tribes
Tribal Business Council
Special Meeting No.
January 23, 2001
Page 10**

MOTION SIXTEEN: Councilman Phelan motioned to authorize and direct the establishment of a Tribal Department of Public Works to manage certain Tribal programs more efficiently for the benefit and the enrolled members. Seconded by Councilman Wolf.

DISCUSSION: A Director for the Department will be dealt with at a later date.

VOTE: 6 Ayes, 0 Nay, 1 Abstention, 0 Not voting. Motion carried.

23. FOUR BEARS BRIDGE PROJECT/ EDWARD HALL II-CONSULTANT AGREEMENT:

By Resolution #00-25MWJR, on December 14, 2000, the Tribal Business Council authorized the creation of a Tribal Four Bears Bridge Authority which will receive title on the Reservation to all materials, equipment, and services necessary to dispose of and/or move the existing bridge, and then plan and replace it with a modern structure.

Ed Hall, owner and principal of Transportation Associates, Inc., has been suggested for acceptance as Chairman of said Authority. It is the intent of the Council that Mr. Hall's duties and responsibilities as Authority Chairman be included within the scope of work of his extended Consultant Agreement.

MOTION SEVENTEEN: Councilman Phelan motioned that the Tribal Business Council hereby authorizes the Tribal Chairman to execute an amendment of Consultant Agreement #TF-00-04 providing for the extension of the duration of the Agreement, to December 31, 2001 (with the rate of pay and benefits provided in the Agreement to remain the same) and providing for the addition of duties and responsibilities of the Chairman of the Tribal Four Bears Bridge Authority within the scope of the extended agreement. Seconded by Councilman Wells.

DISCUSSION: Tribal employee as opposed to a consultant agreement was discussed in great length.

**Three Affiliated Tribes
Tribal Business Council
Special Meeting No.
January 23, 2001
Page 11**

**VOTE: 3 Ayes, 1 Nay. 2 Abstentions, 1 Not voting.
Motion carried.**

24. TWIN BUTTES ELECTION CONSULTANT AGREEMENT:

MOTION EIGHTEEN: Councilman Spotted Bear motioned to approve a Consultant Agreement for Diana Tomlin, for the period of January 23, 2001-February 28, 2001 at \$10.00 per hour, to be applied to line item Twin Buttes Community funds. Seconded by Councilman Gillette.

DISCUSSION: Ms. Tomlin will coordinate the Twin Buttes Election for one month.

**VOTE: 6 Ayes, 0 Nays, 0 Abstentions, 1 Not voting.
Motion carried.**

25. ROADS TRAINING POSITIONS:

MOTION NINETEEN: Councilman Wells motioned to approve hiring Marty Grady and George Good Bear as trainees at \$10.00 per hour to cost share with the 477 Program for 90 days. Seconded by Councilman Gillette.

**VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.**

26. NORTH SEGMENT BOARD APPOINTMENTS: RESOLUTION #01-16 MWJR.

MOTION TWENTY: Councilman Wolf motioned to appoint Carol Good Bear to the Fort Berthold Housing Authority Board of Commissioners and to appoint Bernadine Young Bird to the Fort Berthold Community College Board of Directors. Seconded by Councilman Phelan.

DISCUSSION: The North Segment Councilman will be given authorization to fill TERO Commission and the Fort Berthold Development Corporation appointees and to use the same Resolution number.

**VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.**

**Three Affiliated Tribes
Tribal Business Council
Special Meeting No.
January 23, 2001
Page 12**

27. MEDICAL MATCH: REDAYA RED FOX

MOTION TWENTY-ONE: Councilman Phelan motioned to approve a medical assistance of \$500 for Redaya Red Fox to match ½ of the funds raised by the community for her mother Casey Mossett. Seconded by Councilman Gillette.

DISCUSSION: The grant will be disbursed from the Emergency Medical Funds.

VOTE: 7 Ayes, 0 Nays, 0 Abstentions, 0 Not voting.
Motion carried.

28. IRS RESOLUTION RESOLUTION #01-17MWJR.

MOTION TWENTY-TWO: Councilman Gillette motioned to authorize Tribal Finance to take measures to ensure that payments made by the Finance Dept. are made in a timely manner to the appropriate entity and further directs the Chief Financial Office to assist in ensuring that these steps are taken by the Finance Department. Seconded by Councilman Wolf.

DISCUSSION: The Resolution #01-17MWJR was amended to include the language: "installation of new software, and verification..fifth sentence: "made by" the Finance Dept.

VOTE: 6 Ayes, 0 Nays, 0 Abstention 1 Not voting. Motion carried.

29. BRIDGE 638 RESOLUTION #01-18MWJR.

Federal Law provides, in Title 23 of the United States Code, Section 204, that funds appropriated for highway projects located entirely within an Indian Reservation that are part of the Indian Reservation Roads program may be allocated to the Secretary of Interior for use within the IRR Program and that such projects within the IRR program may be contracted under the Self Determination and Education Assistance Act.

MOTION TWENTY-THREE Councilman Gillette motioned authorize the Chairman or his designees to negotiate a cooperative agreement with the State of North Dakota for the design, planning, and construction of a new bridge across the Missouri River to replace the existing Four Bears Bridge,

**Three Affiliated Tribes
Tribal Business Council
Special Meeting No.
January 23, 2001
Page 13**

subject to the approval of the Tribal Business Council, which agreement shall, if the Tribe becomes the contractor for the new Bridge, become a part of the Federal contract under the ISDEAA. Seconded by Councilman Phelan.

VOTE: 6 Ayes, 0 Nays, 0 Abstention, 1 Not voting.
Motion carried.

30. TRUST FUNDS RESOLUTION #01-19MWJR.

It is well documented that the U.S. Department of Interior has grossly mismanaged the administration of trust funds and trust resources belonging to Indian Tribes and individual Indians, including the Three Affiliated Tribes, as also indicated by the ongoing case Cobell, et al., v. babbitt, now pending in Federal District Court for the District of Columbia on behalf of individuals holding funds in IIM accounts.

This mismanagement has severely undermined the sovereignty of the TAT and its ability to protect and promote the interests of its members because it denied the Tribe a significant portion of the revenue it should have received for its trust land and trust funds over the years.

DISCUSSION: The law firm of Colon, Frantz, Phelen and Pires of Washington, D. C. has submitted an offer to assist the Three Affiliated Tribes in such litigation at a cost for expenses only of \$25,000 per year for a maximum of 2 years, provided that 7 additional Tribes also agree to be represented by the Colon firm, which approach seems reasonable under the circumstances.

MOTION TWENTY FOUR: Councilman Phelan motioned to approve authorization of litigation to be commenced on its behalf by above mentioned Law firm, provided that the litigation only commence and the Tribe only submit the funds necessary for commencement of the lawsuit, upon the satisfaction of the condition that at least 7 other Tribes are also willing to commence the litigation with the Pires law form on the same terms of the Three Affiliated Tribes. Seconded by Councilman Gillette.

**Three Affiliated Tribes
Tribal Business Council
Special Meeting No.
January 23, 2001
Page 14**

VOTE: 5 Ayes, 0 Nay, 0 Abstentions, 2 Not voting. Motion Carried.

31. TRIBAL LOBBYIST:

Mr. Disslehorst would like to present written testimony on behalf of the Tribe on the Human Rights Commission Hearings.


MOTION TWENTY FIVE: Councilman Gillette motioned to give Mr. Disslehorst the authority to register as a lobbyist on behalf of the Three Affiliated Tribes to present written testimony on the Human Rights Hearings. Seconded by Councilman Phelan.

DISCUSSION: There is a \$20 fee to register as a lobbyist and this motion will include Tiffany Martin, who was recently hired as a Legislative Aide.

32. ADJOURNMENT:

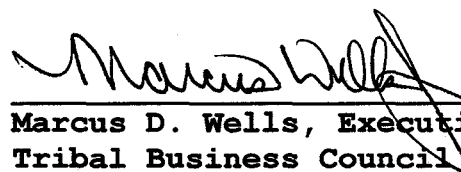
MOTION TWENTY-SIX : Councilman Phelan motioned to adjourn the meeting at 6:00 p.m. Seconded by Councilman Wolf.

Respectfully submitted,



Ardel Jean Baker, Recording Secretary
Office of the Executive Secretary
THREE AFFILIATED TRIBES

4-3-01
Date



Marcus D. Wells, Executive Secretary
Tribal Business Council
THREE AFFILIATED TRIBES

4-3-01
Date

**Three Affiliated Tribes
Tribal Business Council
Special Meeting No.
January 23, 2001
Page 15**

ATTEST:

**Tex G. Hall, Tribal Chairman
Tribal Business Council
THREE AFFILIATED TRIBES**

Date