



THREE AFFILIATED TRIBES  
TRIBAL BUSINESS COUNCIL  
REGULAR MEETING NO. 02-03  
DECEMBER 12, 2002

01. CALL TO ORDER:

Chairman Hall called the meeting to order at 11:30 a.m. with the invocation said by Councilman Phelan.

02. ROLL CALL:

Members present: Councilman Spotted Bear, Councilman Gillette, Councilman Packineau, Chairman Hall, and Councilman Phelan. A quorum was established with five members present. Councilman Wells entered the meeting at 11:40 a.m.

Members absent: Councilman Wolf is attending a funeral for a relative in Rocky Boy, Montana.

03. CHAIRMAN'S HIGHLIGHTS:

WHITE HOUSE MEETINGS

Department of Homeland Security: The National Indian Health Board has developed and submitted recommended language changes to both bills to properly include tribal governments in the Department of Homeland Security legislation. The current language of HR 5005/S 2452 and the two amendments mentioned above include Tribal governments, but treats them as local governments under the Stafford Act. The Stafford Act established the Federal Emergency Management Agency (FEMA) disaster assistance program but requires Tribal governments to apply for assistance through the Governor of the State in which the tribe is located. Tribal governments have previously expressed their disagreement with the classification as a local government under the Stafford Act as it is contrary to the basic notions of Tribal sovereignty, as well as being a very impractical and difficult process. This issue was referred to the Health and Human Committee to develop a Tribal plan for homeland security and to look at direct funding under Bill S.4564

- Healthcare: Special Diabetes Program update
- Health Human Services
- National Indian Health Board
- Native American Bank update
- TAT BIA 638 Contracts
- I.H.S. Indirect Costs and other Federal programs meetings with the Bureau of Indian Affairs in Aberdeen, South Dakota on December 13, 2002 11:00 a.m. and 2:00 p.m.
- Lewis & Clark Signature Event, Monticello, Va.
- Housing Bond
- Tribal State Address: January 9, 2002 - Bismarck, North Dakota
- A non-member approached the State of North Dakota with a request to change the name of the Four Bears Bridge to the Veterans Bridge in commemoration with the 911 attacks.

- TANF Program: The TANF participants who are entering their fifth year have not been able to find jobs. The State committee also did not enter the Johnson O'Malley Program in their budget.
- Proposed Bills
- Trust Reform Issues
- Alexander Pires.
- Tribal Court Decisions:
- Default Judgment on Tribes.
- Fort Berthold Housing: Rule 5, under a Civil Code. Sovereign immunity
- The Judiciary Committee was asked to research the Hold Harmless Agreement and David Moran, Assistant Solicitor who put a hold on the JTAC draw last August 2002.

**04. REQUEST TO REMOVE SOLICITOR OF BUREAU OF INDIAN AFFAIRS, DAVID MORAN MOTION ONE:**

Councilman Wells moved to request the removal of David Moran, Assistant Solicitor for the Bureau of Indian Affairs and the Office of Trust Management; due to reasons of untruthfulness in business dealings, causing unnecessary delays, and his failure to act as an advocate for the Tribe. Councilman Phelan seconded the motion.

DISCUSSION: Richard Mayer, CEO was directed to draft either the resolution or the letter for review.

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

**05. TIME MAGAZINE:**

The TIME Magazine ran several articles on Indian Gaming, slandering Indian Gaming regulations. The Chairman wants to go on record with a written response from the Tribe, on the right to gain with emphasis that the Tribes Indian Gaming is triple regulated. Glenda will work with Mervin Packineau, Chairman Judiciary Committee, to draft a response. NIGA should take initiative to take legal action regarding the slandering of Indian Gaming.

*NOTE:*

- *Sovereignty Protection Initiative:*
- *Traditional court practices need to be included.*
- *The Judiciary Committee will review Section Seven of the Sovereignty Protection Initiative:*

**06. TAT RIGHT-OF-WAY APPROVED AGREEMENTS:**

Councilman Phelan moved to direct Annette Young Bird, Realty Officer from the Natural Resources Department, to give the Tribal Business Council a review of approved and signed right of way agreements from RTC, Roads, Electrical Entities, railroads within 30 days, and to make sure that the environmental assessments were done prior to beginning construction. Councilman Packineau seconded the motion.

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

**07. CONTRIBUTION TO INDIAN CHILD WELFARE, MOTION THREE:**

Councilman Wells moved to authorize a contribution of \$1,700.00 to the Indian Child Welfare Act Conference for sponsorship of a luncheon. Councilman Phelan seconded the motion.

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

**08. COUNCIL REPORTS:**

**A. WHITE SHIELD**

Councilman Gillette informed the newly seated members that the "Us Guys" are honoring them on December 21, 2002 at the White Shield complex.

**09. INTERTRIBAL MONITORING ASSOCIATION, MOTION FOUR:**

Councilman Gillette moved to appoint Councilman Packineau on the Intertribal Monitoring association, with the alternate being Councilman Wells. Councilman Wells seconded the motion.

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

**10. TIME MAGAZINE, MOTION FIVE:**

Councilman Gillette moved to request Kurt Lugar as Chairman of the Indian Gaming Association refute the article that ran in the TIMES Magazine regarding Indian Gaming and its regulations. Councilman Packineau seconded the motion.

Amended Motion: Councilman Gillette amended his motion to add language: *possible litigation for defamation and slander.*

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

**11. TRAFFIC SAFETY PROGRAM:**

The North Dakota State Department of Transportation bestowed an award on Darryl Hall, Tribal Safety Officer for safety belt mobilization efforts.

**12. MID-WINTER POW-WOW, RESOLUTION NO. 02-033-RP MOTION SIX:**

Councilman Phelan moved to award the Antelope Society \$7,000 as sponsorship of their Mid-winter Pow-wow. Councilman Wells seconded the motion.

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

**13. APPROVAL OF EXPENDITURES FROM EARNINGS OF JTAC EQUITABLE COMPENSATION ACT, RESOLUTION NO. 02-034-RP MOTION SEVEN:**

Councilman Wells moved to authorize the Chairman and the Treasurer of the Tribe to submit the attached proposal expenditures of portion of the interest funds derived from the Act, in the amount of \$884,000, for approval by the U.S. Secretary of Interior or his duly authorized representative. Councilman Phelan seconded the motion.

VOTE: 3 Ayes, 1 Nay, 0 Abstentions, 1 Not voting. Motion carried.

**14. NORTH DAKOTA WATER RESOURCES ACT, RESOLUTION NO. 02-036-RP MOTION EIGHT:**

Councilman Phelan moved that all ND Tribes adopt Option One, and that it be presented at the Great Plains Tribal Chairman Council Meeting on December 21, 2002. Councilman Wells seconded the motion.

DISCUSSION: Harley Lone Bear was directed to draft the resolution for review and approval.

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

**15. LITIGATION AGAINST BUREAU OF RECLAMATION, MOTION NINE:**

Councilman Wells moved to pursue a lawsuit against the Bureau of Reclamation for certified distribution operators. No second, motion dies.

**16. MEGA CONTRACT, MOTION TEN:**

Councilman Gillette moved to amend the MEGA Contract to include salaries for the water hauler employees plus fringe benefits in the amount of \$80,000. Councilman Wells seconded the motion.

DISCUSSION: Harley Lone Bear was directed to amend the budget to include the salaries for the water hauler employees.

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

**17. MANDAREE ELDERS, MOTION ELEVEN:**

Councilman Phelan moved to authorize the Tribe to grant \$800.00 to the Mandaree Community to purchase turkeys for the elders. Councilman Gillette seconded the motion.

DISCUSSION: Treasurer Wells informed the members that the Mandaree Community has funds from FY-02 that was never allocated to their account, which could be done by his staff that would cover the cost of the turkeys. Councilman Phelan will negotiate with the Mandaree Community Board regarding the cost.

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

**18. ELDERLY ASSISTANCE GRANT, RESOLUTION NO. 02-037-RP MOTION TWELVE:**

Councilman Wells moved to approve an elderly assistance grant of \$500.00 to each tribal elder, defined as an enrolled tribal member who is 60 years and older as of October 1, 2002, with substantial medical or other needs which are not being met through existing programs of assistance, such funds to come from available Tribal funds in the Fiscal Year 2003 Budget. Councilman Phelan seconded the motion.

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

**19. PROJECT CRISTAL, RESOLUTION NO. 02-038-RP MOTION THIRTEEN:**

Brian Bercier, MA Project Coordinator did a presentation on Project CRISTAL. Project CRISTAL stands for Collaborative Rural Interdisciplinary Service Training and Learning. The purpose of Project CRISTAL is to provide interdisciplinary training for students in clinical laboratory science, occupational therapy, physical therapy, nursing, medicine, and social worktop improve health care services to populations residing in rural/underserved areas of North Dakota.

Councilman Phelan moved to allow eligible students enrolled in one of the six academic programs and is in good academic standing with Project CRISTAL to work in the clinic this summer with Dr. Simpson as their supervisor. Councilman Packineau seconded the motion.

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

**20. APPROVAL OF THE AGENDA, MOTION FOURTEEN:**

Councilman Phelan moved to accept the agenda as amended. Councilman Packineau seconded the motion.

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

**21. MANDAREE SEGMENT FUNDS, MOTION FIFTEEN:**

Councilman Gillette moved to approve transfer of \$5,000.00 to the Mandaree Segment FY-02 budget that wasn't transferred to their account for that FY. Councilman Wells seconded the motion.

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

**22. TRIBAL ELECTION ORDINANCE/BOARD MOTION SIXTEEN:**

Councilman Phelan moved to continue to employ the current Tribal Election Board members for an additional 60 days to work on finalizing the draft with the inclusion of amendments approved today, December 12, 2002, and the budget not to exceed \$20,000.00. Councilman Packineau seconded the motion.

DISCUSSION: The motion will include hiring 1 member each from the Mandaree Area and the Parshall Area. Councilman Phelan suggested Melvina Fredericks for the Mandaree area, and Councilman Packineau said he would submit a name for the Parshall area.

VOTE: 5 Ayes, 1 Nay, 0 abstention, 0 Not voting. Motion carried.

**23. APPROVAL OF NOVEMBER 21, 2002 MINUTES, MOTION SEVENTEEN:**

Councilman Wells moved to approve the minutes of November 21, 2002, as amended. Councilman Phelan seconded the motion.

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

**24. LEGAL DEPARTMENT VEHICLE, MOTION EIGHTEEN:**

Councilman Phelan moved to direct the CEO to obtain the 2002 tribal pick-up truck from Gary Beaudry and to charge him for the months that he used the pick-up. Councilman Packineau seconded the motion.

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

**25. ENROLLMENT OF SEVEN APPLICANTS, MOTION NINETEEN:**

Councilman Wells moved to accept the attached seven applicants for enrollment with the Three Affiliated Tribes. Councilman Gillette seconded the motion.

VOTE: 4 Ayes, 0 Nays, 0 Abstentions, 3 Not voting. Motion carried.

**26. RELINQUISHMENTS, MOTION TWENTY:**

Councilman Gillette moved to table the relinquishments until the documents are notarized. Councilman Phelan seconded the motion.

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

**27. JEROME MORSETTE 301-U2176 LAND SALE, MOTION TWENTY-ONE:**

Councilman Phelan moved to purchase 173.76 acres of land, with a cash consideration of \$28,693.00, subject to all documents signed. Councilman Wells seconded the motion.

DISCUSSION: Jerome Morsette will receive \$10,000.00 as an initial payment, due to extenuating circumstances.

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

**28. MOTION TWENTY-TWO:**

Councilman Gillette moved to authorize the Chairman and the Treasurer to set up an advance payment working with Jerome work on the payment when the draw comes in. Councilman Phelan seconded the motion.

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

**29. LAND SALES OF ROBERTA SPOTTED BEAR DAHLON, SANDRA SPOTTED BEAR, KAREN LYNCH, MOTION TWENTY-THREE:**

Councilman Wells moved to purchase Allot #0304A from Roberts Dahlen, Sandra Spotted Bear, and Karen Lynch each containing 53.33 acres; for a total of 159.99 valued at \$30,663.00 for a grand total of \$91,989.00, subject to review of appraisal values. Councilman Spotted Bear seconded the motion.

DISCUSSION: The motion and the second were withdrawn until an additional appraisal is done and brought back to the December 18, 2002 meeting.

30. JOYCE GABEL: Tabled

31. GARY STERUD: Tabled

32. CORRINE CROW FLIES HIGH YAZZIE MEMORIAL, MOTION TWENTY-FOUR:

Roseanne Johnson is requesting \$2,500.00 for a memorial for her sister, Corrine Yazzie. She based her request because on another family receiving \$2,500.00 in June 2001 for a memorial.

33. MOTION TWENTY-FIVE:

Councilman Phelan moved to grant \$2,500.00 Corrine Yazzie Memorial. Motion failed due to no second.

34. RESOLUTION NO. 02-051-RP MOTION TWENTY-SIX:

Councilman Wells moved to grant \$1,000.00 for the Corrine Yazzie memorial. Councilman Phelan seconded the motion.

DISCUSSION: This action was granted due to the extenuating circumstances. This action is an exception to the standing resolution.

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

35. REAPPOINTMENT OF MAGISTRATE JUDGE, RESOLUTION NO, 02-042-RP MOTION TWENTY-SEVEN:

Councilman Gillette moved to re-appoint Millie Berry Hill as the Magistrate of the District Court. Councilman Packineau seconded the motion.

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

DISCUSSION: The need for a law-trained judge to serve as the Magistrate was discussed. Also, a discussion came up regarding the need for the Magistrate to work closely with the Domestic Violence clientele. The magistrate shall be a Tribal member, with experience and possess an advocate certificate. The Judiciary Committee Chairman will meet with Court staff.

36. ASSOCIATE JUDGES, FORT BERTHOLD DISTRICT COURT, RESOLUTION NO. 02-043-RP MOTION TWENTY-EIGHT:

Councilman Packineau moved to appoint P. Diane Johnson, B.J. Jones, Mike Swallow, Terry Pechota, and Peter Furuseth to serve as Associate Judges in the Fort Berthold District Court. Councilman Phelan seconded the motion.

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

**37. RDO LEASING INC. PURCHASE ROAD EQUIPMENT, 1995 JOHN DEERE MOTOR GRADER, RESOLUTION NO. 02-044-RP MOTION TWENTY-NINE:**

Councilman Gillette moved to approve A 1995 John Deere 772BH, Motor grader w/wing, subject to legal review. Councilman Wells seconded the motion.

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

**38. HAMILTON ENTERPRISES, LLC, RESOLUTION NO. 02-045-RP MOTION THIRTY:**

Councilman Wells moved to approve a lease purchase of the Post Office Building, rental cost of \$950 per month, with a purchase option on the building of \$370,000, subject to the Chief Financial Officer's review. Councilman Phelan seconded the motion.

DISCUSSION: The Tribe could purchase a building from Twin Buttes Custom Homes that would be paid from the Indirect Cost Budget. The next objective would be to locate a lot to place the building on in the New Town area.

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

**39. FOUR BEARS /SANISH WATER, MOTION THIRTY-ONE:**

Councilman Wells moved to authorize Texx Lone Bear do a feasibility study on the Four Bears/Sanish Water line, to include the cost in the Barlett and West Engineers contract. Councilman Phelan seconded the motion.

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

**40. JERRY NAGEL CONSULTANT AGREEMENT, MOTION THIRTY-TWO:**

Councilman Wells moved to pay Jerry Nagel in the amount of \$748.00 which includes the 32 hours owed to him, and incurred expenses, subject to documentation, and to put him on board as Project Superintendent of the Four Bears Lagoon Project, to be paid by the USDA, and to have the CEO coordinate between Gary Beaudry and Jerry Nagel. Councilman Spotted Bear seconded the motion.

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

**41. FORT BERTHOLD HEADSTART:** defer to December 18, 2002

**42. ELDERS CHRISTMAS DINNER, RESOLUTION NO. 02-046-RP MOTION THIRTY-THREE:**

Councilman Wells moved to grant \$1,897.00 for the Elders Christmas Dinner to be held in the Events Center at the Four Bears Casino and Lodge. Councilman Phelan seconded the motion.



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

**43. ESTABLISHMENT OF A YEARLY BUDGET FOR UNITY RIDERS, RESOLUTION NO.02-047-RP MOTION THIRTY-FOUR:**

Councilman Phelan moved to grant \$5,000.00 for the Unity Riders, to use as start up costs, and to process a check in the amount of \$750.00 immediately. Councilman Packineau seconded the motion.

DISCUSSION: The Legal Department will assist in the application of a 501© 3 certification.

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

**44. NORTHERN LIGHTS STATUS REPORT:**

Dale McGrady, Dennis Deutsch and Bill Wells gave an update on the status of Northern Lights. Part of the discussion was the need to recoup some of the dollars spent on water and sewer. There was no action taken regarding this issue.

**45. TRANSFER OF ELDERLY HOMES TO THE TRIBAL HOME PROGRAM, RESOLUTION NO. 02-048-RP MOTION THIRTY-FIVE:**

Councilman Wells moved to assign the administering of the Tribal Elder Home Program to the Tribal Housing Program. Councilman Spotted Bear seconded the motion.

DISCUSSION: The language that needs to be added to the resolution is, "subject to the availability of funds."

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

**46. FISBA POW-WOW REQUEST:**

Councilman Phelan informed the members that the Fort Berthold Indian School Board Association asked that this agenda item be removed.

**47. WORK FORCE DEVELOPMENT BOARD RESOLUTION 02-049-RP MOTION THIRTY-SIX:**

Councilman Phelan moved to approve the Work Force Development Resolution as presented. Councilman Wells seconded the motion.

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

**48. WHITE SHIELD SEGMENT STAFF SALARY INCREASE, MOTION THIRTY-SEVEN:**

Personnel Matter

49. **AMENDMENTS TO THE FREDERICKS LAW FIRM, MOTION THIRTY-EIGHT:**

Councilman Phelan moved to renew the Legal contract with the Fredericks Law Firm.  
Councilman Wells seconded the motion.

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

50. **MINERALS ASSESSMENT GRANT, RESOLUTION NO. 02-050-RP MOTION THIRTY-NINE:**

Councilman Gillette moved to approve the submission of the Minerals Assessment Grant as presented. Councilman Phelan seconded the motion.

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

51. **PERSONNEL MATTERS:** Closed Session

52. **DAVID CHARGING REQUEST:**

This issue was referred to Programs Manager to take care of Mr. Charging's request.

53. **ROSIE JOHNSON-SMALL LOAN, MOTION THIRTY-NINE:**

Councilman Phelan moved to approve a small loan of \$3,500.00 to Rosie Johnson Mishal with a car title used as collateral. Councilman Packineau seconded the motion.

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

54. **DUSTY OLSON SMALL LOAN, MOTION FORTY:**

Councilman Packineau moved to approve an educational loan of \$2,000.00, with a repayment of 2%. Councilman Phelan seconded the motion.

DISCUSSION: Mr. Olson has attached a car title to be used as collateral.

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

55. **CHRISTMAS HOLIDAYS, MOTION FORTY-ONE:**

Councilman Phelan moved to release payroll on December 23, 2002, and to grant administrative leave December 24-26, 2002. Councilman Wells seconded the motion.

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

56. **MHA SYSTEMS, MOTION FORTY-TWO:**

Councilman Wells moved to authorize a Business license to the MHA Systems, subject to paying the \$100.00 fee. Councilman Packineau seconded the motion.

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