

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.





MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes, Fort Berthold Indian Reservation
404 Frontage Road, New Town, North Dakota 58763-9402

TRIBAL BUSINESS COUNCIL
SPECIAL BUDGET
MEETING NO. 03-03-RP
JANUARY 30, 2003
11:35 a. m.

01. CALL TO ORDER:

In the absence of Chairman Tex G. Hall, Vice-Chairman Packineau called the meeting to order at 11:35 a.m.

02. MEMBERS PRESENT:

Councilman Austin Gillette, Councilman Marcus Wells, Jr. Councilman Malcolm Wolf, Vice-Chairman Mervin Packineau, Councilman Randy Phelan. A quorum was established with 5 members present. Chairman Hall arrived at 11:59 a.m. Councilman Daylon Spotted Bear arrived at 1:20 p.m.

OTHERS PRESENT:

Perry Baker, Bureau of Indian Affairs Superintendent; Sonny Holladay from Office of Trust Financial Management; Neil Austin, Project Engineer from, Indian Health Services; Jerry Nagel, Supt. Four Bears Lagoon; Steve Salveson, Chief Financial Officer; Richard Mayer, Chief Executive Officer; Lawrin Hugh Baker, Federal Programs Administrator; Pat Wilkinson, Assistant Programs Manager; Georgia Fox, Employee Specialist; Joni Halsey, Committee Recording Secretary; and Jean Baker, Recording Secretary.

03. AGENDA:

Executive Secretary Phelan presented the agenda orally to the members;

1) Approval of the FY-03 Three Affiliated Tribes Budget.

Councilman Wells added two items to the agenda: 1) Four Bears Lagoon, and 2) Tribal Election Board.

**04. FOUR BEARS LAGOON- AMENDMENT #2-MEMORANDUM OF AGREEMENT
PROJECT AB-99-556**

MOTION ONE: Councilman Wells moved to approve an Amendment # 2 to the Memorandum of Agreement for Project AB-99-556, which is described: "To construct community wastewater collection and treatment facilities for the Four Bears Area on the Fort Berthold Reservation." Councilman Gillette seconded the motion.

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

**05. HEALTH INSURANCE PORTABILITY ACCOUNTABILITY ACT, (HIPAA)-EIDE
BAILEY CONSULTANT AGREEMENT; MOTION TWO:**

Councilman Wells moved to approve an amended consultant agreement in the amount of \$16,200 between the Kidney Dialysis Unit and EideBailly LLP to audit the program for HIPAA compliance. Councilman Phelan seconded the motion.

DISCUSSION: The Health Insurance Portability Accountability Act (HIPAA) dictates the accountability for collection of all health insurance purposes; i.e., Private, Medicaid and Medicare program, which is requirement of the unit.

The amendments are: *Provide Hipaa training to the Internal Auditor;* and Page six; If Fort Berthold hires any of the consultants working on these projects, that they agree to pay Eide Bailly LLP a one-time fee of 50% of the consultants annual compensation to cover recruitment and training costs; *to put a limit of one year*

NOTE: Chairman Hall entered the meeting at 11:59 a.m. and assumed the duties of presiding officer.

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

06. THREE AFFILIATED TRIBES PORTFOLIO REVIEW; MOTION THREE:

Councilman Wells moved to request a written response within 10 days from Doug Lord, Director of Office of Trust Financial Management a status update on various issues including: 1) Treatment of income from Equitable Compensation Act as Capital Gains; 2) to provide internet access to investment accounts; and 3) payment of lease checks to tribal Councilman Phelan seconded the motion.

DISCUSSION: A timeframe of 10 days is included to the written response.

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

07. JTAC INVESTMENT GAINS-RESOLUTION NO. 03-078-RP; MOTION FOUR:

Councilman Phelan moved to direct staff to draft a letter to Doug Lord, Director of Office of Trust Financial Management regarding the long-standing request for a written response to Senator Conrad's letter concerning the posting of investment gains to the principal account instead of the income account on our Economic Recovery Fund Investments created by Equitable Compensation Act; with the \$2.3 Million returned to the Tribe. Councilman Wells seconded the motion.

DISCUSSION: A copy of the letter will be sent to Senator Kent Conrad; Senator Byron Dorgan, and Representative Earl Pomeroy. The Tribal Business Council requests a written response, with a timeframe of 10 days.

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

NOTE: Councilman Gillette entered the meeting at 12:50 p.m.

08. COMPLIANCE OF INVESTMENT OF EQUITABLE COMPENSATION INTEREST INVESTMENTS-RESOLUTION NO. 00-301-DSB:

The Tribal Business Council approved by Resolution No. 00-366-DSB, on October 12, 2000, to authorize the Chairman, Vice-Chairman and the Treasurer of the Tribe to execute any and all documents and to take any and all actions as may be necessary to obtain approval from any necessary agencies of the Federal government to withdraw an amount up to the amount stated above for the purpose of placing such funds in a long-term investment endowment fund for the benefit of the Tribe and its members.

The Tribe approved the formation of two private accounts of up to for \$15,000,000 to be invested by Daine Rauscher Investments, and 2)\$15,000,000 invested by Community First Bank. Because they both said they could give a rate of return of at 9% investing the funds; the Tribe took their option based on these figures with no timeframe approved to invest these funds. Now, because of the economy, there is no way the Tribe will receive at or around 9% from Daine Rauscher and Community First. Chairman Hall said that he couldn't see any private placement at this point in time and; there is the fiduciary obligation of the Tribe to invest funds to generate the best interest rates to increase the dollars. Another option would be to request the percentage of annual rate of return from Daine Rauscher and Community First could offer the Tribe today, on the two investments of \$15,000,000 each.

NOTE: Daylon Spotted Bear entered the meeting at 1:04 p.m.

REINVESTMENT OF EQUITABLE RESOLUTION NO. 03-078-RP; MOTION FIVE:

Councilman Wells moved to have the Legal Department draft a resolution to be in compliance with Resolution 00-366-DSB requesting Office of Trust Financial Management to reinvest the \$30,000,000 Million at a minimum of 5 years, to gain approximately 4%; and to receive an opinion regarding penalty withdrawal by February 13, 2003 from the Office Trust Financial Management and the Bureau of Indian Affairs. Councilman Wolf seconded the motion.

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

09. TRIBAL CONSOLIDATED INVESTMENT PLAN: MOTION SIX:

Councilman Gillette moved to direct the Legal Department to prepare the formation of a Consolidated Investment Plan of all Judgment Award Funds and the Equitable Compensation Funds that have been awarded to the Tribe in the past 30 years, which combined is \$2,000,000, this plan once completed will be submitted to the membership for their approval then forwarded to Congress for approval of this plan which is to be completed in 60 days. Councilman Wells seconded the motion.

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

NOTE: *Councilman Packineau left the meeting at 2:30 p.m.*

10. TRIBAL ELECTION BOARD BUDGET; MOTION SEVEN:

Councilman Phelan moved to pay the Tribal Election Board, based on the recommendation of the Chairman and Treasurer, through January 24, 2003, as the cost exceeded the approved budget, and to direct Ervin Lee to give a report to the full Council on February 13, 2003. Councilman Wells seconded the motion.

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

11. RECONVENING OF SPECIAL MEETING:

The Special Budget Meeting will be reconvened on Wednesday, February 5, 2003, at 1:00 p.m.

12. TRIBAL LAND LEASES WITH BUREAU OF INDIAN AFFAIRS; MOTION EIGHT:

Perry Baker, Superintendent of the Bureau of Indian Affairs, informed the members that Tribal tract leases have not been filed with the Bureau for the past four years.

Councilman Gillette moved to direct Federal Programs Manager, Lawrin Hugh Baker, to ensure all tribal tract lease updates are submitted to the Bureau of Indian Affairs within two weeks. Councilman Wolf seconded the motion.

DISCUSSION: *Annette Young Bird informed the Bureau that the Realty Department is current with Tribal grazing leases, and are not responsible for Farm leases. She will meet with Tom Wells and give an update to Mr. Baker.*

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

13. CONSOLIDATION OF BUREAU OF INDIAN AFFAIRS/TRIBAL REALTY DEPARTMENTS:

Councilman Phelan moved to authorize Chairman Hall to write a letter To Supt. Baker regarding the feasibility of consolidating the BIA Realty Dept. with the Tribal Realty Department structure of the Natural Resources Department. Councilman Wells seconded the motion.

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

NOTE: Chairman Hall departed from the meeting at 2:45 p.m.

14. FY-2003 THREE AFFILIATED TRIBES BUDGET BALANCING:

Councilman Wells moved to give authority to the Programs Manager, the CEO, and the CEO to make recommendations on balancing the Tribal Budget and to bring them on Wednesday, February 05, 2003. Councilman Gillette seconded the motion.

DISCUSSION: *A discussion was held between the Chief Executive Officer, Federal Programs Administrator and the Members regarding authorizing them to deliver a Tribal balanced budget.*

*The consensus was to accept **recommendations** for the deliverance of a balanced budget until such time all members are present to decide whether to give the management staff authority to balance the budget.*

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

15. TWIN BUTTES CUSTOM HOMES:

This agenda item was deferred until the next meeting.

16. PROPERTY & SUPPLY FIXED ASSETS:

Councilman Wells moved to cancel the contract of RCI and change vendors to Maxmus to complete the inventory with Property & Supply. Councilman Phelan seconded the motion.

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

17. BY-LAWS OF THE TWIN BUTTES COMMUNITY-RESOLUTION NO. 03-079-RP

Councilman Spotted Bear moved to approve the amendments to the By-laws of the Twin Buttes Community Association to go by ballot rather than show of hands. Councilman Gillette seconded the motion.

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

18. REQUEST FOR TRANSFER OF 2.258 ACRES IN TRACT G3045-G TO TRIBES AND RESCINDING OF RESOLUTION NO. 02-199-MWJR TO RESOLUTION NO.03-080-RP:

Councilman Spotted Bear moved to approve the request for transfer of 2.258 acres in Tract G3045-G, described as being within the Northwest Quarter of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 26, Township 147 North, Range 91 West, Fifth Principal Meridian, Dunn County, State of North Dakota to Tribally owned status, which rescinds Resolution No.02-199-MWJR. Councilman Gillette seconded the motion.

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

19. TWIN BUTTES SEGMENT STAFF HIRE:

The members consented to give Councilman Spotted Bear hiring authority to find a temporary replacement for Joe Benson who is on sick leave.

20. RECESS:

The meeting was recessed until Wednesday, February 5, 2003 at 1:00 p.m.

**Three Affiliated Tribes
Special Budget Meeting
January 30, 2003**

Submitted by,

Ardel Jean Baker, Recording Secretary
Tribal Business Council, Three Affiliated Tribes

Date

CERTIFICATION OF MINUTES

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 REGULAR Meeting thereof duly called, noticed, convened, and held on the ___ day of _____ whereupon the Three Affiliated Tribes Recording Secretary presented the foregoing minutes for approval.

Said minutes were duly approved as amended by the affirmative vote of ___ Members, ___ Members opposed, ___ Members abstained, ___ Members not voting. Motion carried

Chairman (X) Voting () Not voting

Submitted by,

Randy Phelan, Executive Secretary
Tribal Business Council, Three Affiliated Tribes

Date

ATTEST:

Tex G. Hall, Tribal Chairman
Tribal Business Council, Three Affiliated Tribes

Date