

**THREE AFFILIATED TRIBES
NATURAL RESOURCES COMMITTEE
NOVEMBER 16, 2004**

01. CALL TO ORDER:

Councilman Marcus D. Wells, Jr., called the meeting to order at

02. ROLL CALL

Councilman Marcus D. Wells, Jr., Councilman Nathan Hale, Councilman Frank White Calfe, Councilman Mervin Packineau.

03. APPROVAL OF AGENDA:

Councilman White Calfe moved for approval of the agenda as amended. Councilman Hale seconded the motion.

VOTE: Motion passed unanimously.

04. MYRTLE GOOD LEFT – REQUEST FOR A LOT [CHURCH:]

The lot Myrtle Good Left is requesting is located in White Shield. This issue will be deferred until she is present. Her request was originally denied and was to be revisited.

05. VIRGIL/JUDITH WILKINSON WATER LINE:

Tribal Member has been asking the Tribe for assistance in excavating a water line at his residence. There is a water line but he's been bypassed by a quarter of a mile. The Fort Berthold Rural Water staff has informed him four times that he couldn't get water until he obtained a signed agreement from his brother. Former Natural Resources Committee Chairman Councilman Austin Gillette said he conversed with Chairman Hall and drew him a map that showed the water line was one-half mile to the house. They both said and said the water line hook-up would be hooked-up, but so far nothing has developed. Virgil said he requested a response from FBRW in writing, but all he received was verbal. NRD, Paul Danks will discuss this issue with Texx Lone Bear and see why it can or can't be hooked up. According to Felicia Felix the elevation was too high. Paul Danks was directed to have Mr. Lone Bear respond to Virgil Wilkinson in writing for documentation purposes.

06. MEMORANDUM OF AGREEMENT-ALLOTMENT NO. 704A-B BETWEEN LESTER CROWS HEART AND JOHN MOSSETT LEASE: *[Can't hear her on the tape.]*

Councilman Hale motion to authorize Annette Young Bird, Realty Officer to issue the lease to Lester Crows Heart as there was no response from John Mossett, *[reference memorandum dated, September 9, 2004;]* and as procedures and policies dictate, that this action supersedes all motions previously passed. Councilman White Calfe seconded the motion.

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

Note: Councilman Mervin Packineau arrived at 10:30 a.m. to the meeting

07. ENVIRONMENTAL PROGRAM:

Councilman White Calfe moved for approval of the Environmental Manager and Natural Resources Administrator work on a draft regarding legislation in quantification of water rights, water code and water quality standards for tribes and bring back to the Committee to review and make a recommendation to the Tribal Business Council; and to submit a proposal from Richard Debay for hire as Legal Counsel. Councilman Hale seconded the motion.

Councilman Hale stated, "I feel very strongly that when issues are presented to the Committee for recommendation that the presenter come fully prepared with a complete package, and if possible to distribute it prior to each meeting so the committee can review it to make a good decision."

DISCUSSION: The Environmental Program will meet with the Richard Debay Law Firm and bring a proposal to the next meeting. Paul Danks stated, "A Tribal Code and Treatment as a State are to separate things. Treatment as a State has more enforcement. Enforce more of our waters as treatment, like a state if something is spilled the tribe can enforce fines. Need Legal Advice, legal here don't have a lot of information on environmental law and not familiar with it. Basically they came right out and told us that they're not familiar with this Environmental.

VOTE: 3 Ayes. Motion carried unanimously.

08. ENVIRONMENTAL PROGRAM – CONSULTANT AGREEMENTS (3)

Councilman Packineau moved for approval to forward three (3) separate consultant agreements with Matrix Consulting Group from Rapid City, South Dakota being; 1) Winter Monitoring for \$10,000 2) Air Emissions Inventory for \$26,000 3) Quality Assurance Project Plan and air Monitoring Network Review, subject to legal review with a recommendation to the full Council. Councilman Hale seconded the motion.

09. REPRESENTATIVE TRIBAL PESTICIDE COUNCIL:

Councilman Packineau moved for approval to support the nomination of Fred Poitra to as representative on the Tribal Pesticides Council. Councilman Hale seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

10. LANDFILL COMPLIANCE WAIVER:

Councilman Packineau moved for legal counsel to review the compliance waiver of the landfill paperwork; and to forward along with the rest of the issues of the Environmental Program to the full Council for review. Councilman Hale seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

11. LANDFILL EQUIPMENT UPDATE:

It will be going certified TFR Perry Baker Paul Danks will call Alice Harward.

12. ELIZABETH MORSETTE:

Deferred

13. MYRTLE GOOD LEFT REQUEST:

Ed Fox was directed to check if the land is reserved for future housing development and report to Councilman White Calfe. Tribal elder is requesting 2.5 acres for a home site lease to place a church. If the land is not reserved and is okay with Councilman White Calfe to bring it back to the Committee for action.

14. GRAZING LEASES-BUREAU OF INDIAN AFFAIRS, PERRY BAKER:

It was consensus of the Committee to have Ed Fox, Natural Resources Department, to accompany George Mandan from the Bureau of Indian Affairs staff to do an Animal Unit Month head count and to give a report either the second or fourth Tuesday after January 1, 2005. Appraisals should be done before leases are signed. There are new regulations in the Ag. Bill. The Federal Debt Collection Law can be helpful to collecting lease money. The 2.5 Million that is currently on the records that is currently owed to the Tribe and individual land owners will be paid out this year.

15. SANITATION FACILITIES TRANSFER:

Councilman White Calfe moved for approval of the request of the Natural Resources Administrator to transfer the functions of the SDS responsibilities to the Utilities Program with Lester Crows Heart as the Supervisor. Councilman Hale seconded the motion.

VOTE: 3 Ayes. Motion carried.

16. JUDITH/VIRGIL WILKINSON:

As soon as Virgil Wilkinson gets a signature for an actual right-of-way easement from Wilbur Wilkinson the water line will be excavated immediately.

16. FORT BERTHOLD RURAL WATER –TEXX LONE BEAR:

- Budget
- Rural Water Department Update
- CFR Public Law 86-121

17. TRIBAL HOME SITE LEASE – NEWLYN LITTLE SWALLOW:

Councilman Hale moved for approval of a Tribal Home Site Lease application from Newlyn Little Swallow, on the following described land Allot. No. T597AA, described as E1/2, SE ¼, NW ¼, SE ¼, S1/2, NE1/4, NW ¼, SW1/4, Sec. 18, Twp. 152, Rge. 94, Fifth Principal Meridian, North Dakota, containing 2.5 acres for 25 years @ \$25.00 per year; beginning January 20, 2005 and ending December 31, 2030. Councilman White Calfe seconded the motion.

Discussion: Natural Resources Department was directed to limit home sites to designated areas. This home site lease was previously approved for Mary Schoppert who declined the lease.

VOTE: 3 Ayes. Motion carried unanimously.

18. **TRIBAL HOME SITE LEASE- THOMAS MANCA:**

Councilman White Calfe moved for approval of a Home Site Lease for Thomas Mancha in the City of Parshall. Councilman Hale seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

19. **TRIBAL HOME SITE LEASE –VALENTINE FINLEY, SR:**

Councilman Hale moved for approval of a Tribal Home Site Lease application from Valentine Finley, Sr. on the following described land Allot. No. T694A, described as 1 Lot within SE1/4, SE ¼, SW ¼, N, ¼, Sec. 11, Twp. 149, Rge. 94, Fifth Principal Meridian, North Dakota, containing 75X acres for 25 years @ \$50.00 per year; beginning January, 2006 and ending December 31, 2029. Councilman White Calfe seconded the motion.

DISCUSSION: The Recording Secretary was directed to check prior minutes to see if Valentine Finley was given prior authority.

VOTE: 3 Ayes. Motion carried unanimously.

20. **ROBIN SMITH:**

Tribal Member is requesting a tribal home site. This action was placed on hold until future development is checked out.

21. **MARY JANE BAKER LAND SALE REQUEST:**

The Natural Resources Director, Paul Danks requested approval to send a letter of intent to have an appraisal on purchasing land from Mary Jane Baker He was instructed to halt on any land purchase requests until the Tribal Business Council meets with Dave Hilleran regarding an FMHA Loan. Dave will be asked to attend the NRC Meeting on November 30, 2004.

Councilman Hale moved for approval to continue to recognize the Resolution/Motion to continue the full Council's actions to suspend any land sales, until a reasonable plan is devised to take care of the land sale purchase transaction backlog some time in January, 2005. Councilman White Calfe seconded the motion.

DISCUSSION: The land sale issue was tabled until the January, 2005 meeting.

VOTE: 3 Ayes. Motion carried.

22. **FARM PASTURE FENCING REQUESTS; D. WOLF/D.JOHNSON**

The Natural Resource Director reminded the Committee that they gave him the authority to sign off on any posts or fencing materials requests if it was on a range unit boundary, Ed Fox would take the applications and verify that they had a range unit boundary. Once verified, they would be given materials to fence a mile; once it was completed they would be eligible for additional materials to fence another mile.

So any member that has a range unit is eligible for fencing materials a mile at a time. With this policy in place, the NRD could sign off without bringing it back to committee. The only time this policy is deviated from will be only at the direction from the NRC, because the funding is specifically allocated for "Range Unit Improvements." There was a recommendation to uphold the policy. As a result, no action was taken regarding these requests.

23. TRIBAL /PASTURE LEASE APPLICATION- DELVIN DETIENNE:

Councilman Hale moved for approval to recommend to the full Council a Farm/Pasture Lease, the following described tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2010; Allotment No. TF001, described as SW4, Section 29, Twp. 152, Rge.91 W., Fifth Principal Meridian, North Dakota, containing 126 cultivated acres for the cash rent of \$27.00 per acre. Councilman White Calfe seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

24. TRIBAL /PASTURE LEASE APPLICATION- WESTON SCHESSLER:

Councilman Hale moved for approval to recommend to the full Council the renewal of a Farm/Pasture Lease, to Weston Schessler, the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2010; Allotment No. TF213 A.C. described as W1/2 W1/2 SW1/4, Section 12, Twp. 148, Rge.90 W., Fifth Principal Meridian, North Dakota, containing 34 haircutting acres for the cash rent of \$8.00 per acre. Councilman White Calfe seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

25. TRIBAL /PASTURE LEASE APPLICATION- MERVIN PACKINEAU:

Councilman Hale moved for approval a preliminary renewal, and to recommend to the full Council the renewal of a farm/pasture lease to Mervin Packineau, the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009, Allotment No. T3135 described as NW1/4 SW1/4 Section 10, Twp. 149, Rge.90 W., Fifth Principal Meridian, North Dakota, containing 40.00 cultivated acres for the cash rent of \$3.50 per acre. Councilman White Calfe seconded the motion.

DISCUSSION: Mervin Packineau has allowed Elsie Foote to build a house within the 40 acres, so the lease will have to be adjusted.

VOTE: 3 Ayes. Motion carried unanimously.

26. TRIBAL /PASTURE LEASE APPLICATION- TOM BRUER [1]

Councilman Hale moved for recommendation to the full Council renewal of a Farm/Pasture Lease, to Tom Bruer, the following described Tribal land for a period of

five (5) years, beginning January 1, 2005 and ending December 31, 2009 **Allotment No. 238-A-A, Lot 3 described as Lot 3 N1/2, NW1/4, SE, NW1/4 Section 6-148, Twp. 148, Rge.89 W., Fifth Principal Meridian, North Dakota, containing 27 cultivated acres** for the cash rent of \$24.00 per acre and;

the recommendation to the full Council of a renewal Farm/Pasture Lease, to Tom Bruer, the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009; **Allotment No. T467A-A/D** described as crop land w/S25W4 Section 27, Twp. 148, Rge.88 W., Fifth Principal Meridian, North Dakota, containing 64.4 cultivated acres for the cash rent of \$27.00 per acre and;

the recommendation to the full Council of a Farm/Pasture Lease, to Tom Bruer, the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009; **Allotment No. T68A** described as SE4 Section 24, Twp. 148, Rge.88 W., Fifth Principal Meridian, North Dakota, containing 154.7 cultivated acres for the cash rent of \$24.00 per acre.

the recommendation to the full Council of a Farm/Pasture Lease, to Tom Bruer, the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009; **Allotment No. T2088**, described as N2NW4, Section 25, Twp. 148, Rge.88 W., Fifth Principal Meridian, North Dakota, containing 77.5 cultivated acres for the cash rent of \$24.00 per acre.

the recommendation to the full Council of a Farm/Pasture Lease, to Tom Bruer, the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009; Allotment No. T467A-A/A. described as crop land w/S25W4 Section 27, Twp. 148, Rge.88 W., Fifth Principal Meridian, North Dakota, containing 64.4 cultivated acres for the cash rent of \$27.00 per acre.

the recommendation to the full Council of a Farm/Pasture Lease, to Tom Bruer, the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009; **Allotment No. T1510-A16510-C., described as N2/SW4,SW,F2W2SW,SW,SWSE4, Section 13, Twp. 148, Rge.88 W., Fifth Principal Meridian, North Dakota, containing 64.4 cultivated acres for the cash rent of \$27.00 per acre.** Councilman White Calfe seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

27. EDWARD DANKS, JR: [1]

Councilman White Calf moved for approval of a recommendation to the full Council Farm/Pasture Lease, Edward Danks, Jr., the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009; Allotment No. 585A described as Section 19, Twp.152, Rge.94 W., Fifth Principal Meridian, North Dakota, containing 252 cultivated acres for the cash rent of \$17.00 per acre and;

approval of a recommendation to the full Council a renewal of a Farm/Pasture Lease, Edward Danks, Jr., the following described Tribal land for a period of five (5) years,

beginning January 1, 2005 and ending December 31, 2009; Allotment No. 808A described as N2, Section 8, Twp.151, Rge.94 W., Fifth Principal Meridian, North Dakota, containing 20 cultivated acres for the cash rent of \$17.00 per acre. Councilman Hale seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

28. EDWARD DANKS, JR: [3]

Councilman Hale moved for approval of a recommendation to the full Council a renewal of a Farm/Pasture Lease, Edward Danks, Jr., the following described Tribal land for a period of five (5) years, beginning January 1, 2005 and ending December 31, 2009; Allotment No. 550A described as SE 4 SW4, Section 32, 33, Twp.152, Rge.94 W., Fifth Principal Meridian, North Dakota, containing 132 cultivated acres for the cash rent of \$17.00 per acre; and 174 pasture acres for the cash rent of \$3.50 per acre. Councilman seconded the motion.

VOTE: 3 Ayes. Motion carried unanimously.

29. GRASS PASTURE LEASE, APPLICATION- TOM BREUER:

Councilman Hale moved for approval the recommendation to the full Council to add into Range Unit 37 as a actual grass pasture lease to Tom Breuer, the following described Tribal land for a period of five (5) years, beginning January 1,2005 and ending December 31, 2009; Allotment No. T.F, described as SW1/4 SW1/4, Section 5, Twp. 147, Rge.88 W., Fifth Principal Meridian, North Dakota, containing 40.0 pasture acres for the cash rent of \$3.50 per acre. Councilman White Calf seconded the motion.

VOTE: 3 Ayes. Motion carried.

30. TRIBE LAND TRACTS:

For those that the tribe has less than 50% interest in tracts it is recommended to have Realty Dept stipulate a rate and then have it signed off by someone from the NRC at least two members. This process will be put into practice to help the backlog of all of these leases getting held up when these people are waiting. If they meet regularly it won't be an issue anymore.

To expedite that to set up you know how we got our rates set in our Resolution. We could set up a procedure for that and that way if we run into a bind or something we would have a set rate or how where going to handle it. If we have a tribal member we give them the set rate if its not tribal member then we go at the highest amount available, negotiated through the Bureau—when it comes down to a time limit, this policy could be used. For the future you could write something up like that.

31. RITA OLSEN APPLICATION FEE TO TRUST:

Tribal Elder, Rita Olson applied for her lot in Parshall to be held in trust. The application is 28 years old. The family is asking for assistance from the Tribe to support their request. *Some one was talking from the back of the room could not pick up on the tape.}*

32. FORT BERTHOLD RURAL WATER TREATMENT PLANTS:

Lester Crows Heart presented a plan regarding the Fort Berthold Rural Water – Water Treatment Plants. The committee directed the Administrator, Director and supervisor to go through the proper channels.

33. RANGE INFORMATIONAL MEETING WITH BIA:

Consultant came in and surveyed all tribal range units and aums are going to change. We have actually all of the soils. They went through and grass clippings and there going to explain all in detail on how they came out and did this work. I'm going to have them at the December 8, 2004 meeting. We'll have maps of each range unit. There is a lot of detail to this work, and the equations that they use to come up with the AUMS. Actually seeing an increase because of the stewards that had them previously there's more grass the range units were set at a low rate and haven't been revised since 1983. Suggesting making a request to BIA rates be set for 2 years Animal unit months and revisit the study and recheck the range units again to see how they're doing to the stocking rate and could revise them on a one to one basis at that point. The price of some of the range units are going to be going down and we're finding prairie dog towns, lack of water and sub-leasing and over grazing. The NRD feels that it's the BIA Trust responsibility to be checking them at least twice to make sure these range units are taken care of. That's one of the reasons why the NRD brought this forward is they don't have a range con working for the agency office and there's a real need for that position there.

34. VICTOR BOCA UTILITIES REQUESTS:

Victor Boca who lives over in Makoti is requesting assistance for garbage and water. He is on a cistern over there come in several times, problem is Lives over here, but the tribe doesn't have garbage or water services that go that far. Requested twice, put it in writing and he will bring it to NRC. Victor has 12 people living in his house, and the water haulers are charging him \$50 a load. It is not feasible to having one family per dumpster But perhaps the Tribe could subsidize his utility requests. Currently there aren't any water haulers in White Shield or Parshall. The trucks the tribe has are the two white ones in New Town and Twin Buttes. The green trucks the tribe picked up, and staff tried to get reimbursement from Bureau of Reclamation but they said no. These trucks are assigned to the White Shield and Four Bears areas.

Paul Danks said that was one of the reasons he wants to put the water haulers under Utilities, is the requirements to chlorinate those tanks within a certain amount of time. The program needs someone to supervise the program that has certification in this area, which Lester Crows Heart has. A question was raised whether he would be in charge of maintenance repairs to the truck, and responsible for collections. Lester will bring in a proposal or plan to the next meeting.

34. TRIBAL HOUSING: (*Didn't use the mike – tape didn't pick up*)

- Installation purchase contract
- Blanket lease through Tribal Housing
- Trust and Fee would need separate blanket leases cannot mix them
- Mortgages Clauses should include default in the lease

- No action taken tabled until November 30, 2004.
- Rescind leases to individuals
- Campaign promises, individuals promised homes that will not receive them
- A directive was given to Tribal Housing to write letters of explanation why they will not receive them, that it is not a political ploy. The Tribal Housing staff determined what applicants qualified and determined who was unqualified.

- Clyde Smith removed from list – old home renovated

Councilman Hale moved for approval to accept the recommendation of Tribal Housing to approve the list submitted to award homes to Valentine Finley, Sr., Joe Black Hawk, Joni Bolman, and Ted Lone Fight III. Councilman White Calfe seconded the motion.

DISCUSSION: Any matters that could put the committee members in a predicament, a judgment from the committee is based on recommendations from the presenters in an honest effort.

VOTE: 3 Ayes. Motion carried.

35. APPROVAL OF MINUTES:

Councilman White Calfe moved for approval of the Minutes of August 10, 2004, as amended. Councilman Hale seconded the motion.

VOTE: 3 Ayes. Motion carried.

36. BLACK ROCK RESOURCES OIL EXPLORATION:

Councilman White Calfe moved for approval to allow Kyle Baker Paul Danks, and the Natural Resources Department to negotiate a contract with Black Rock Resources and bring to the next meeting for review and recommendations to the full council. Councilman Hale seconded the motion.

37. ADJOURNMENT:

Councilman Hale moved for approval to adjourn the meeting at 4:00 p.m. Councilman White Calfe seconded the motion.

VOTE: 3 Ayes. Motion carried.