

RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, Article IV, Section 5 of the Constitution and Bylaws of the Three Affiliated Tribes provides, in part, that the Tribal Business Council, or the Election Board appointed thereby, shall make rules and regulations governing all elections; and

WHEREAS, Article IV, Section 2(b) of the Constitution and Bylaws of the Three Affiliated Tribes provides as follows:

"Absentee ballots will be furnished to any enrolled non-resident member of the tribes upon request to the tribal secretary made ten (10) days before the election. The ballot must be returned to and reach the tribal secretary on or before the date of the election in order that it may be counted;"

and whereas, further, said Constitutional provision only mandates that the request for an absentee ballot be made to the Secretary of the Tribal Business Council and that the absentee ballot be returned to and reach said Secretary on or before the date of the election in order that it may be counted, and does not expressly mandate that the requested absentee ballot be furnished to the absentee voter by the Secretary of the Tribal Business Council herself; and

WHEREAS, On the other hand, Part VII, Section 1(b) of the Election Ordinance of the Three Affiliated Tribes authorizes and mandates that the Secretary of the Tribal Business Council shall perform certain of the procedural duties inherent in the furnishing of absentee ballots to those non-resident eligible voters who have made proper requests therefor; and

WHEREAS, In view and as a consequence of the fact that the incumbent Secretary of the Tribal Business Council is currently a duly certified candidate for Tribal Office in the 1982 Regular Election of the Three Affiliated Tribes, numerous protests have been recently made known to the Tribal Business Council by a number of duly certified candidates for Tribal Office, said protests having been generally based upon the assertion of an alleged conflict of interest and a potential for impropriety inherent in the situation wherein the incumbent Secretary of the Tribal Business Council is running for reelection to Tribal Office, while, at the same time, is authorized and mandated by the Tribal Election Ordinance to perform certain of the procedural duties inherent in the furnishing of absentee ballots to non-resident eligible voters; and

WHEREAS, Upon having taken such protests into consideration, it is the judgment of the Tribal Business Council that such protests are ethically warranted, and that, therefore, in the interest of ensuring that the 1982 Regular Election be conducted in a fair, proper, and ethical manner, the Tribal Business Council should exercise its Constitutional authority and power to take whatever action is deemed necessary and appropriate to relieve the incumbent Secretary of the Tribal Business Council of her current authority and obligation to perform those certain procedural duties inherent in the furnishing of absentee ballots to non-resident eligible voters; and

WHEREAS, It is the informed position of the Tribal Business Council that such proposed Council action, although necessitating the supersession of certain provisions currently set forth in the Election Ordinance of the Three Affiliated Tribes, can be taken so as to remain within the confines of the Constitution and Bylaws;

NOW, THEREFORE, BE IT RESOLVED, That, in the conduct and for the purpose exclusively of the 1982 Regular Election of the Three Affiliated Tribes, the following procedural duties shall be performed as specified and shall supersede any and all conflicting procedural duties currently set forth in the Election Ordinance of the Three Affiliated Tribes:

1. The Tribal Election Board shall assist the Secretary of the Tribal Business Council in her Constitutionally-mandated duty to give notice of the extended 1982 Regular Election to all eligible voters of the Three affiliated Tribes, which duty includes, as prescribed by the Tribal Election Ordinance, the mailing of a Notice of Election, an Affidavit for Voter Registration, and a Request for an Absentee Ballot to each non-resident eligible voter of the Three Affiliated Tribes.

2. The Tribal Election Board shall inform in writing each of the non-resident eligible voters that any and all election documents, which must be returned to and reach the Secretary of the Tribal Business Council on a specified date, must be addressed to the following:

Secretary
Tribal Business Council
Three Affiliated Tribes
Attn: Election Board, Box 818
New Town, N.D. 58763

3. The Tribal Election Board shall exclusively maintain Box 818, at the United States Post Office, in New Town, North Dakota, and no keys to said post office box shall be issued to anyone.

4. In those instances wherein certain absentee ballot materials must "reach" the Secretary of the Tribal Business Council on or before a specified date, as prescribed by the Tribal Election Ordinance, said absentee ballot materials shall be deemed to have "reached" the Secretary of the Tribal Business Council on those dates on which said absentee ballot materials have been received by the Postmaster at the United States Post Office, in New Town, North Dakota.

5. The Tribal Election Board shall have the exclusive authority and obligation to perform each of the procedural duties inherent in the preparation of the official absentee ballots and in the furnishing of said ballots and related election materials to each of the non-resident eligible voters who have properly made a request therefor, as prescribed by the Tribal Election Ordinance.

6. All absentee ballots themselves, together with the accompanying related absentee ballot materials, returned by the respective non-resident eligible voters shall continuously remain in Box 818 at the United States Post Office, in New Town, North Dakota, until such time as they are secured therefrom for the purpose of canvassing, as provided herein-after.

7. The Secretary of the Tribal Business Council shall continue to have the authority and obligation to perform each of the procedural duties inherent in the surrendering of the unopened absentee ballot materials to the Tribal Election Board for canvassing on the date of the election [as prescribed by Part VII, Section 1(d) of the Tribal Election Ordinance] and inherent in the presentation of the report of the Secretary relative to the absentee ballots at the location of the canvassing; provided however, as follows:

a. That the Secretary of the Tribal Business Council shall be accompanied by two (2) police officers and one (1) member of the Tribal Election Board from the time she initially reaches the United States Post Office, in New Town, North Dakota, for the purpose of securing therefrom the unopened absentee ballot materials, until such time as she has surrendered said absentee ballot materials to the Tribal Election Board at the location of the canvassing.

b. That the Secretary of the Tribal Business Council, in the process of preparing her requisite report relative to the absentee ballots, shall count the unopened absentee ballot materials in public at the location of the canvassing.

CERTIFICATION

I, the undersigned, as 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 11 members of whom 7 constitutes a quorum, 8 were present at Special Meeting, thereof duly called, noticed, convened and held on the 6th day of October, 1982; that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 8 members, 1 members opposed, 0 members abstained, 0 members not voting and that said resolution has not been rescinded or amended in any way.

Chairman (Voting) (~~Not Voting~~).

DATED THIS 6th DAY OF OCTOBER, 1982.


SECRETARY, TRIBAL BUSINESS COUNCIL

ATTEST:


CHAIRMAN, TRIBAL BUSINESS COUNCIL