

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, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS, The Fort Berthold District Court, through a memorandum opinion issued by Judge Peter I. Gregory and dated November 30, 1986, has rendered its decision regarding the validity of certain tribal primary elections held on the Fort Berthold Indian Reservation on September 16, 1986;
- WHEREAS, The Fort Berthold District Court, Judge Peter I Gregory presiding, held extensive public hearings on November 19, 20, and 22, 1986 wherein many tribal members testified regarding the conduct of those primaries;
- WHEREAS, The Tribal Business Council on December 3, 1986, adopted in toto the findings of fact and conclusions of law contained in the above referenced memorandum opinion of Judge Peter I. Gregory;
- WHEREAS, Judge Peter I. Gregory found, after a thorough analysis of the controlling facts and governing law in the case, that two tribal candidates, a Mr. Jerry Nagel and a Mr. Robert "Bobby" Bell, were in fact ineligible to participate in the above-referenced tribal elections;
- WHEREAS, Judge Peter I. Gregory ordered that, because of the tainted election results, that the primaries for the tribal chairmanship and the councilman from Four Bears Segment be held again;
- WHEREAS, Judge Peter I. Gregory further ordered that such elections shall be held with "full view toward implementing the notice provisions, due process safeguards, and ensuring fair elections and voter participation [and shall] schedule the elections as set out herebefore."

- WHEREAS,** The Tribal Business Council shares Judge Gregory's concern that the rights of prospective tribal voters, including non-residents who may wish to exercise their right to vote by returning to the reservation, must be adequately protected in the conduct of the future elections;
- WHEREAS,** The Tribal Business Council in its enforcement of Judge Peter I. Gregory's order must therefore take into account the notice provisions and other due process requirements protecting tribal voters, that appear at Article IV, Sections 1-6, of the Constitution of the Three Affiliated Tribes;
- WHEREAS,** The Tribal Business Council also takes notice that the present members of the Election Board have been charged with civil contempt by Judge Peter I. Gregory for refusing to testify, after being offered complete immunity from future criminal prosecution in tribal court, regarding their activities on the Election Board;
- WHEREAS,** The Tribal Business Council recognizes that it is inappropriate for the Legal Department, because of the potential conflicts of interest that may arise, to advise the new Election Board regarding their responsibilities under the Election Code;
- WHEREAS,** The Tribal Business Council recognizes that the Legal Department may assist the Election Board in its initial startup, including the identification of appropriate board members, but that the Legal Department may not thereafter advise the Election Board;
- WHEREAS,** Judge Peter I. Gregory will be available to answer questions of law, or of mixed law and fact, that may arise in the course of the Election Board's conduct of the future elections;
- WHEREAS,** The Tribal Business Council intends to delegate to the Election Board, once it is duly constituted, the full authority and responsibility for the conduct of the future tribal elections consistent with the Election Code and the Constitution of the Three Affiliated Tribes;
- WHEREAS,** The Tribal Business Council intends to continue the jurisdiction of the Fort Berthold District Court over any further preelection or post-election disputes that may arise with respect to the conduct of these tribal elections;

**NOW THEREFORE BE IT RESOLVED, THAT:**

1. The Tribal Business Council hereby reaffirms its adoption in toto of the findings of fact and conclusions of law contained in the memorandum opinion issued by Judge Peter I. Gregory on November 30, 1986;
2. The Tribal Business Council hereby directs the Tribal Election Board, once it is duly constituted, to exercise the full authority and responsibility to conduct the tribal primary and general elections ordered by Judge Peter I. Gregory consistent with the governing law;
3. The Tribal Business Council hereby directs the Election Board to hold new primaries for the position of tribal chairman and council member from the Four Bears Segment;
4. The Tribal Business Council hereby continues the jurisdiction of the Fort Berthold District Court over any further preelection or post-election disputes that may arise with respect to the conduct of these tribal elections;
5. The Tribal Business Council hereby retains Judge Peter I. Gregory to serve as special judge to resolve any such disputes that may arise with respect to these elections and hereby extends his contract to March 15, 1987;
6. The Tribal Business Council hereby authorizes Judge Peter I. Gregory to hear questions of law, or of mixed law and fact, that may be posed to him by the Election Board in regard to their duties and responsibilities;
7. The Tribal Business Council hereby directs the Legal Department that it shall not advise, or otherwise assist, the Election Board after it is duly constituted under the law;
8. The Tribal Business Council hereby authorizes the appointment of an independent counsel, upon the recommendation of the Legal Department, who shall advise the Election Board as to their duties and responsibilities;
9. The Tribal Business Council hereby approves a reasonable budget that shall be under the control of the Election Board to ensure the performance of its duties;

10. The Tribal Business Council hereby directs Madam Chairman to select, consistent with the Election Code, the members of the newly constituted Election Board;
11. The Tribal Business Council hereby directs the Election Board, once it is duly constituted, to hold: (a) new primary elections consistent with Judge Gregory's order and the governing notice and due process requirements of the Constitution of the Three Affiliated Tribes, for the position of tribal Chairman and councilman for the Four Bears Segment; and (b) the General Tribal Election consistent with Judge Gregory's order and the governing provisions of the Constitution of the Three Affiliated Tribes;
12. The Tribal Business Council hereby directs the Election Board to hold these above referenced elections according to the following schedule:
  - a. The new tribal primaries for chairman and council member for the Four Bears Segment no later than January 27, 1987;
  - b. The Tribal General Election no later than February 28, 1987.
13. The Tribal Business Council hereby further directs that the Election Board may not be relieved of this schedule except by order of Judge Peter I. Gregory upon a showing of good cause therefore.

C E R T I F I C A T I O N

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 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 11<sup>th</sup> day of December, 1986; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 2 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated the 11<sup>th</sup> day of December, 1986.

Lillian Walker  
Secretary, Tribal Business Council

ATTEST:

Alyce Good  
Chairman, Tribal Business Council