

**TRIBAL COUNCIL MEETING MINUTES
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD INDIAN NATION, MONTANA**

Volume 19 Number 71
Council Chambers, Pablo, MT

Held: July 23, 2019
Approved: July 30, 2019

MEMBERS PRESENT: Ronald Trahan, Chairman; Leonard Gray, Vice-Chairman; Shelly Fyant, Secretary; Anita Matt, Treasurer; Myrna DuMontier; Fred Matt; Dennis Clairmont; Charmel Gillin; and Leonard TwoTeeth.

MEMBERS ABSENT: Carole Lankford (Amerind Meeting).

OTHERS PRESENT: Jennifer Trahan, Council Office Manager; James Steele, Sr., Sergeant at Arms; and Abby Dupuis, Recording Secretary.

The meeting was called to **order** at 9:06 a.m. Quorum established.

The meeting was opened with a **prayer** by Dennis Clairmont.

The **Tribal Council Meeting Minutes** for July 9, 2019 were presented for approval. **Len TwoTeeth** discussed an ongoing issue of getting the council minutes out to the membership in a timely manner. Abby provides the minutes to council as soon as the meeting adjourns, so he does not understand why it is taking so long to get them published in the Char-Koosta News. **Abby Dupuis** reported that the approved council minutes are issued to Char-Koosta News the same the day they are approved by the council. Draft minutes are presented for approval one week after the meeting date to allow time for council to review them. **Council** took the matter under advisement for further discussion.

MOTION by Len TwoTeeth to approve the Tribal Council Meeting Minutes for July 9, 2019, with corrections. Seconded by Dennis Clairmont. Carried, unanimous (9 present).

The **agenda** was presented for approval.

MOTION by Anita Matt to approve the agenda, with changes. Seconded by Fred Matt. Carried, unanimous (9 present).

John Carter, Legal Department, thanked the council for approving his employment contract. He has enjoyed working for the Tribes for the past 36 years. **Fred Matt** thanked John for everything he has done for the Tribes and

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for helping us be successful in many different arenas. **James Steele, Sr.** provided comments on the years of service John has provided to the Tribes. **Council** expressed their appreciation for John's hard work and dedication to the Tribes, especially with water rights. John told council that all of the successes have been a team effort.

Anita Matt publicly thanked John Neiss for him and his crew mowing the Dixon Agency. Anita wants to start working on the Land Ordinance. There is a list of things that have not been done, including the Probate Code. Anita met with Rural Development last week. There is a 501 and 504 grant and loan program which might help us if SKHA does not have HIP available for Elders. Training on the applications would need to happen. A modular was moved on an allotment in Dixon across from the football field, and then it was stripped and abandoned. The modular is not on a foundation and is a liability. Anita spoke to the Tribal Lands Department about removing it, but Lands did not have a title for it and did not know who the owner is. The bank repossessed it. She knows of an individual that is willing to move it for free. The owners would be responsible for the cleanup costs. There are other homes that have been abandoned, and the Tribes become responsible for the cleanup costs. **Myrna DuMontier** asked if the Tribal Lands Department could advertise it for sixty days and if nobody claims it then it could be deemed abandoned. No land committee meetings have been scheduled. **Leonard Gray** suggested that Anita and Dennis head up a committee that is separate from the Land Committee to work on the Lands Ordinance.

***** **Break** *****

Tony Incashola, Jr. and **Ron Swaney**, Tribal Forestry, discussed pay rates and a balance of pay issue. Due to the holidays, this request could not be discussed in the chairman's meeting. The Engine Operators (ENOPs) are above the Seniors. The Seniors are hired at a rate that does not allow much movement once they gain some skills. The department wants to align the Engine Bosses with Level 16 Step 5 to allow for growth in the Senior position. An entry-level rate would be established. This would even out the rates of pay. Those employees were hired before Ron Swaney became the FMO and he is trying to even out their rates of pay. There are two nontribal members and four tribal members. Since they are contract employees, they are not affected by the pay freeze. There are sufficient funds in the budget to cover the pay increases. **Charmel Gillin** hopes the council will look at options for the pay freeze so departments do not continue to find ways to subvert the pay freeze that is in effect.

MOTION by Fred Matt to approve the request to align all the ENOPs at the same step at Pay Level 16 Step 5. Seconded by Anita Matt. Carried, 8 for; 1 opposed (Len TwoTeeth).

Ron Swaney informed council that there are three fires in Jette that have been staffed. Lightning is forecasted for this evening and high winds are expected tomorrow.

Tony Incashola, Jr., Tribal Forestry, informed council that a TUPS meeting with the Tribal Council, Tribal Forestry and the small loggers needs to be scheduled. **Charmel Gillin** requested that the announcement of the meeting be published in the Char-Koosta News so the membership will be notified. The meeting was scheduled for Thursday, August 8, 2019, at 6:00 p.m., in the council chambers. Tony will submit the meeting announcement to the Char-Koosta News for next week's edition. July 30 is the next Dixon district meeting. Anita asked if that meeting date works for Dan. **Dan DePoe** responded that date works for him.

Tony Incashola, Jr. and **Ron Swaney**, Tribal Forestry, informed council that the Fuels program is in the process of hiring the RTRL crew. The positions were advertised twice and interviews were held last Thursday. All tribal member applicants that showed up for interviews were hired. They want to hire four nonmembers to the crew and upgrade two that were able to apply for a higher-level position. The list of individuals they requested approval to hire on a two-year contract are Nick Olson, Ashley Grandchamp, Deandre Moses, Israel Umphrey, Sam Peel, and Jonas Red Star. The tribal hiring policy was followed and a pack test and pre-hire drug test are required. **Charmel Gillin** asked questions about the ratio of nontribal member versus tribal member employees, and if there is a waiver of the TUPS or Forest Management Plan. **Tony Incashola, Jr.** clarified that the purpose of the meeting is to review the resolution for changes in the TUPS policy. **Ron Swaney** reported that there are 90 employees and about 19% of them are nontribal members. The program hires all qualified tribal member applicants. **Anita Matt** commented that something needs to be done with this situation. The council is faced with comments from the membership regarding their concerns of the Tribes continually hiring nontribal members. She wondered if the Career Fair would help. There are tribal members that say they need jobs. **Fred Matt** discussed the difficulty in hiring people on at-will contracts because they can be let go at any time. It is usually people hired in professional service areas that are hired on at-will contracts. **Melanie Piedalue**, Personnel Department, informed council that all of the temporary employment agreements and employment contracts have a termination clause within a certain number of days for any reason, so those contracts can be terminated without cause. Mr. Swaney told council that the department tries to recruit tribal members, and the staff goes to the Job Fair and local schools. The department understands the council's concerns about hiring nonmembers, but they do make every effort to hire tribal members and the work needs to get done.

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MOTION by Shelly Fyant to approve the hire of Nick Olson on a two-year contract to fill the RTRL Crew position. Seconded by Fred Matt. Carried, unanimous (9 present).

MOTION by Fred Matt to approve the hire of Ashley Grandchamp on a two-year contract to fill the Aide 1 RTRL Crew position. Seconded by Shelly Fyant. Carried, unanimous (9 present).

MOTION by Anita Matt to approve the hire of Deandre Moses on a two-year contract to fill the Aide 1 RTRL Crew position. Seconded by Leonard Gray. Carried, unanimous (9 present).

MOTION by Leonard Gray to approve the hire of Israel Umphrey on a two-year contract to fill the Tech Fuels position. Seconded by Anita Matt. Carried, unanimous (9 present).

MOTION by Fred Matt to approve the hire of Sam Peel on a two-year contract to fill the Tech Fuels position. Seconded by Dennis Clairmont. Carried, unanimous (9 present).

MOTION by Anita Matt to approve the hire of Jonas Red Star on a two-year contract to fill the Fuels Tech position. Seconded by Dennis Clairmont. Carried, unanimous (9 present).

John Harrison, Legal Department; **Tom McDonald** and **Stephanie Gillin**, Natural Resources Department, gave an update on Yellowstone bison issues and the upcoming Interagency Bison Management Partnership (IBMP) meeting scheduled for next Wednesday. The Bear Creek Council is a nonprofit group in Gardiner and they hosted a meeting for the IBMP partners, tribal hunters and Gardiner residents on April 24. The BCC developed some proposed solutions on six issues that were brought forward at the last IBMP meeting and fieldtrip. Tom discussed the possibility of the council removing marijuana from the drug testing policy. If it were removed, it would still be illegal for employees to use marijuana on the job, the same as alcohol use is. There have been no ramifications for the surrounding states that have legalized marijuana. **Chairman Trahan** explained that the main concern is that marijuana is illegal according to federal law, and that is our funding source. The Tribes' share is \$10,000 to pay for the sole source contract with Scott Bischke to facilitate the IBMP meetings. This contractor is the only facilitator that provides this service in the history of the IBMP meetings. Tom recommended that council support continuing that contract. The Bear Creek Council recommended 6 solutions to improve the hunt: (1) require carcass removal in Beattie Gulch; (2) expand the clean zone deeper into Beattie Gulch; (3) create clean zones along portions of Jardine Road and Travertine Road; (4) increase residents' awareness of the danger of certain areas during bison hunting season; (5) increase hunter awareness about residents' use

of Jardine Road, Eagle Creek Road, and Old Yellowstone Trail and educate hunters in safe practices; and (6) reduce parking congestion and trash along Old Yellowstone Trail. **Len TwoTeeth** wants to consider issuing some kind of sticker or badge acknowledging we are from CSKT when we are hunting. It could even be a plastic vest with our emblem on it. **Shelly Fyant** commented that in the name of cultural revitalization and food sovereignty it is time we establish our own bison herds. Shelly was told that someone went to Lost Sheep and there is an outfitter or something going on there; there is heavy horse traffic. **Tom McDonald** will have a Game Warden follow up. **Anita Matt** commented on a Facebook chain that was talking about the river, Ordinance 44-D, and how we can control the use of alcohol when people are floating and recreating. It is dangerous, and she wants to know if we could do something to control what they are doing since it is a liability. **Tom McDonald** commented that this is not a unique concern to our area and is an issue everywhere. It has to be a motorized boat to be issued a citation for that. The wardens do monitor the waterbodies. The State is following up on the possibility of the Tribes entering in a cooperative agreement with all the states for 44-D violations so when people lose their hunting rights in Tribal Court that court order would be recognized by the states.

Brian Upton, Legal Department; **Amy Coffman**, National Bison Range; and **Benjamin Gillis**, Refuge Manager; gave an update on the National Bison Range. A public comment period was held and the Tribes submitted comments. There will be an additional comment period once it goes to the head of Refuges. If there are any major changes it will be put out for public comment again. Hopefully, the final document will be done in November. They requested approval of a letter addressed to Noreen Walsh, Regional Director, Mountain-Prairie Region, U.S. Fish & Wildlife Service, regarding the U.S. Fish & Wildlife Service entering into preliminary planning stages for the replacement of the National Bison Range's existing office headquarters and visitor center and the CSKT's interest in having a consultation with the Service.

MOTION by Fred Matt to approve the letter to Noreen Walsh, Regional Director, Mountain-Prairie Region, U.S. Fish & Wildlife Service. Seconded by Dennis Clairmont. Carried, unanimous (8 present – Len TwoTeeth out of the room).

Anita Matt wants the Economic Development Office to look at the store located at the Bison Range. That store has been closed for about three years. There is a large number of people going through the Bison Range. It could serve as a gas station. The residents have to drive to Charlo or St. Ignatius to get gasoline. The store could help us with the Bison Range and could be economically simulating.

***** **Break** *****

Rhonda Swaney, Legal Department, requested approval of a letter addressed to the Honorable John A. Barrasso, Chairman, Committee on Environment and Public Works; and Honorable Thomas R. Carper, Ranking Member, Committee on Environment and Public Works, to support of the nomination of Aurelia Skipwith to be the Director of the U.S. Fish & Wildlife Service.

MOTION by Anita Matt to send the letter to John A. Barrasso and Thomas R. Carper to support of the nomination of Aurelia Skipwith to be the Director of the U.S. Fish & Wildlife Service. Seconded by Charmel Gillin. Carried, unanimous (9 present).

Rhonda Swaney and **Mary Price**, Legal Department; and **Kyle Felsman**, Preservation Office; discussed cultural sites that have been discovered in Anaconda. Legal is working in coordination with the Preservation Office and Culture Committees. The Environmental Protection Agency initiated consultation on cultural resource mitigation for the Anaconda smelter site.

Rhonda Swaney, **Daniel Decker**, **John Harrison**, and **Shane Morigeau**, Legal Department, requested to meet with council in **executive session** to provide a legal update.

Council reconvened into **regular session**.

Mike Durglo and **Kyle Felsman**, Preservation Office, discussed concerns about the issues going on in Anaconda that are separate from the smelter site. During the power line rebuild in Anaconda, they plowed through a cultural site. There is no NAGPRA Coordinator so there is nobody for Mike to call concerning these issues. Mike requested that Kyle be appointed as the NAGPRA Coordinator until the position is filled. The NAGPRA Coordinator position is placed under the supervision of the Kootenai Culture Committee, and Mike thinks it is a good idea to have that position moved to the Preservation Office so that position can work on issues for the north end and the south end. Mike was interested in seeing if Rosemary Caye would be interested in contracting for this position. Rosemary said she would be interested in the position if it was moved to the Preservation Office. If the position were moved to a different department, it would need to be advertised. **Shelly Fyant** had asked about this in the past and was told that Tony Incashola, Sr. is the NAGPRA Coordinator for the south end. Mike went to Personnel to look at the position description for the south end, and there isn't such a position that exists. **Chairman Trahan** thinks the Culture Committees should be involved in these discussions. Mike will meet with council to discuss the Burial Board.

MOTION by Len TwoTeeth to appoint Kyle Felsman as the Acting NAGPRA Coordinator. Seconded by Anita Matt. Carried, 8 for; 1 abstention (Charmel Gillin).

Fred Matt discussed the action that tribal council took last week to move an employee into the Tribal Education Department. Fred misunderstood the information that was presented and he thought the action was taken because there was difficulty in getting the position filled. He wants council to rethink that action since other people are interested in applying for it. **Chairman Trahan** commented that the council made that decision for good reasons. She has a degree, has worked in the department for 17 years, and has done a good job being the Acting Director in the past. **Leonard Gray** commented that rescinding this action is not a good decision to make. If it is rescinded, he suggested legal review before moving forward with taking that job away from her. **Len TwoTeeth** advised that people have asked him why council took that action. He initially supported the promotion, but he has since been contacted by other tribal members that are interested in that position and they should be given the opportunity. **Myrna DuMontier** commented that in fairness, it needs to be advertised. She is in favor of rescinding that action and advertising the vacancy. **Shelly Fyant** commented that this vacancy was not advertised and it is her understanding that there was no discussion and this action just came out of left field and was not scheduled on the agenda. **Rhonda Swaney**, Legal Department, joined the discussion and offered legal advice. To rescind last week's action would need a motion to reconsider and would require seven affirmative votes. The paperwork that was signed and submitted would need to be reversed. The discussion continued in **executive session**. **Rhonda Swaney** was present for discussion.

Rhonda Swaney left the meeting.

Council met in **executive session**.

Council reconvened into **regular session**.

Council requested legal review of how many votes are needed to rescind an action; a majority of council members present or 7 out of 10. **Daniel Decker**, Legal Department, joined the discussion. Specific numbers are required for different types of actions that are taken. **Rhonda Swaney** returned to the meeting and explained that it depends on the form of the motion. A motion to reconsider is a motion that is taken on the same day the motion is made and it must be made by the prevailing side. It would need to be a motion to rescind if it is not taken on the same day. If it is on the agenda then it takes the majority of the council members present. That did not happen in this case so it requires 7 affirmative votes. Rhonda has a copy of the Robert's Rules of Order if council wants to use that reference. If there is any disagreement amongst the tribal

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council, then it is up to the chairman to make the call. Council must agree by majority. If the council makes a motion to rescind a prior action, it requires 7 affirmative votes to do that. It would require a majority of those present if this matter is scheduled on the agenda.

MOTION by Fred Matt to reconsider the action to offer the Tribal Education Department Head position to Miranda Burland. Seconded by Myrna DuMontier. **MOTION AND SECOND WITHDRAWN.** This issue will be on the agenda for Thursday.

Len TwoTeeth asked about getting Vern Clairmont's company on board to provide consulting services for the upcoming tribal council election. **Council** will discuss at next Monday's chairman's meeting.

MOTION by Len TwoTeeth to adjourn the meeting.

Council **adjourned** at 12:54 p.m., and is scheduled to meet again on Thursday, July 25, 2019, at 9:00 a.m.

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/sgnd/

Shelly R. Fyant
Tribal Secretary