

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

Volume 19 Number 43
Council Chambers, Pablo, MT

Held: March 28, 2019
Approved: April 16, 2019

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

MEMBERS ABSENT: Anita Matt, Treasurer (Ninth Annual Tribal Land Staff Meeting); and Myrna DuMontier (Travel Status).

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 9:09 a.m. Quorum established.

The meeting was opened with a **prayer** by Carole Lankford.

The **agenda** was presented for approval. No conflicts of interest were identified. Changes were made to the agenda.

MOTION by Leonard Gray to approve the agenda, with changes. Seconded by Dennis Clairmont. Carried, unanimous (8 present).

Dino Thomas requested to meet with council in **executive session** to discuss a personal matter. Dino's family members and Leonard Michel were present for discussion.

Council reconvened into **regular session**.

Teresa Wall-McDonald, Tribal Member, expressed concern regarding the Code of Conduct for Tribal Elected Officials that was approved by Resolution 06-048 on January 7, 1994. After examining the resolution, Teresa filed a Code of Conduct violation against Charmel Gillin. She believes Charmel violated this resolution pursuant to Article III Section II Prohibited Activities. (6) practicing or supporting unfair employment or business practices, such as nepotism and vindictiveness. Teresa believes that Charmel practiced unfair employment practices to the level of vindictiveness when she collected over 30 complaints about her and the Tribal Health Department. **John Carter**, Legal Department,

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advised that this is the proper format for Teresa to file her official complaint, but no names could be used. The subject matter needs to refer only to the basis for filing the complaint. This is a separate challenge than a grievance, in accordance with Article V of the Constitution and the Code of Conduct. Teresa stated that she understood the legal instructions. She provided examples that go to the level she is alleging was used in terms of vindictiveness. She will use complaint number 012, which is the same letter of attachment to complaint numbers 9,10,11,12, and 13. That is an effort to increase the number of complaints against her and the Tribal Health Department, and that indicates a level of vindictiveness. Complaint number 20, Charmel met with an employee and took notes on July 19, 2019. She held them and introduced notes into the minutes as part of the 26 complaints against her on February 19, 2019. Charmel began gathering information in July and that's unfair employment practice. Complaint number 22 was the same thing; she met with an employee and held the complaint and used them as part of the 26 complaints to grandstand in an effort to extend her probationary status. With complaint number 27, Charmel met with an employee on November 2, 2018 and held the interview notes until it was used to impact Teresa's employment status on February 19, 2019. That is an indication of vindictiveness. The most vindictive is complaint number 34. That complaint states that, "I know all this happened prior to TWM and you." Charmel collected a complaint from someone dating back to 2017 and used them against her, and that is an unfair employment practice that violates the Code of Conduct. According to the Code of Conduct, once a report is made the tribal council is required to hold a hearing. Teresa requested that the tribal council hold that hearing, examine the complaints, and take appropriate action outlined in the Code of Conduct. Teresa requested that she be informed of the outcome when the hearing is held. **Council** took the request under advisement and will report back to Teresa.

Kathy Ross, Tribal Member, requested to meet with council in **executive session** to discuss a personal matter.

Council reconvened into **regular session**.

Tony Incashola, Jr., Tribal Forestry; **Ron Swaney** and **Art Trahan**, Division of Fire; gave an update on projects and the Perma-Knowles RTRL burn changes and updates.

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

Len TwoTeeth left the meeting for the remainder of the day to attend the Kootenai Elders meeting.

Carolee Wenderoth, Tribal Lands Department, requested approval of a resolution authorizing the purchase of the McCollum Estate, containing 741.80 acres located south of Dixon.

MOTION by Carole Lankford to approve by resolution the purchased of the McCollum Estate, containing 741.80 acres located south of Dixon. Seconded by Dennis Clairmont. Carried, 7 for; 0 opposed; 0 not voting.

RESOLUTION 19-106

RESOLUTION AUTHORIZING THE PURCHASE OF FEE LAND LOCATED IN SANDERS COUNTY, MONTANA

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES:

WHEREAS, the Tribal Land Acquisition Program was approved by the Act of June 18, 1934 (48 Stat. 984); and the Act of July 18, 1968 (PL90-402);

WHEREAS, Yvonne Dennis, Personal Representative for the Estate of Rodney McCollum, Sr., has offered to sell, their All Right, Title and Interest in Parcel A: Metes and Bounds description of a parcel of land located in a portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$, of Section 19, Township 18 North, Range 21 West, P.M.M., Sanders County, Montana and described as follows: Beginning at the SW corner of said Section 20, said point being the true point of beginning; thence along the South boundary of said Section 20, N. 89°50'10"E., a distance of 1322.94 feet; thence leaving said South boundary of Section 20; N.00°02'37"W., 433.46 feet; thence S. 89°24'38"W., 1065.34 feet; thence N. 00°35'22"W., 894.85 feet; thence N. 88°44'01"W., 248.27 feet; thence S. 89°45'29"W., 1315.17 feet; thence S. 00°03'47"E., 1325.59 feet to a point which lies on the South boundary of said Section 19; thence along the South boundary of said Section 19; N. 89°48'02"E., 1313.81 feet to the point of beginning, containing 58.25 acres, more or less. Parcel B: Metes and Bounds description of a parcel of land located in the E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 19, Township 18 North, Range 21 West, P.M.M., Sanders County, Montana and described as follows: Beginning at the S $\frac{1}{4}$ corner of said Section 19 said point being the point of beginning; thence along the South boundary of said Section 19, S. 89°49'54"W., a distance of 1323.22 feet; thence leaving said South boundary N. 00°07'36"W., 2646.54 feet to a point which lies on the East/West mid-section line of said Section 19; thence along said East/West mid-section line N. 89°42'56"E., a distance of 1323.45 feet to a point which lies on the North-South mid-section line said Section 19; thence leaving said East/West mid-section line and along said North/South mid-section line S. 00°07'18"E., a distance of 2649.22 feet to the point of beginning, containing 80.44 acres, more or less. Parcel C: The W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 29, Township 18 North, Range

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21 West, P.M.M., Sanders County, Montana, containing 201.70 acres, more or less. Parcel D: The E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30, Township 18 North, Range 21 West, P.M.M. Sanders County, Montana, containing 401.41 acres, more or less. Totaling 741.80 acres, more or less.

WHEREAS, Yvonne Dennis, Personal Representative for the Estate of Rodney McCullum, Sr., and the Confederated Salish and Kootenai Tribes have accepted the negotiated value; and

NOW THEREFORE, BE IT RESOLVED, That the above-described property be purchased from Yvonne Dennis, Personal Representative for the Estate of Rodney McCullum, Sr., and that the Bureau of Indian Affairs, pursuant to the Act of June 18, 1934 (48 Stat. 984), transfer title to the property to the U.S.A. in trust for the Confederated Salish and Kootenai Tribes.

BE IT FURTHER RESOLVED, that the Chairman of the Tribal Council, or his delegated representative is authorized to execute the transactional documents necessary to complete the land conveyance for Real Property situated in Sanders County, Montana.

Thompson Smith, Salish Pend d'Oreille Culture Committee, requested approval and support of a \$5,000 grant that was awarded from Humanities Montana for the Ethnogeography project.

MOTION by Leonard Gray to approve by resolution the approval and support of a \$5,000 grant that was awarded from Humanities Montana for the Ethnogeography project. Seconded by Fred Matt. Carried, 7 for; 0 opposed; 0 not voting.

RESOLUTION 19-107

BE IT RESOLVED BY THE COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES THAT:

WHEREAS, the Séliš-Qłispé Culture Committee was established to preserve, protect, and perpetuate the culture, history, and language of the Séliš and Qłispé people; and

WHEREAS, the Séliš-Qłispé Culture Committee is engaged in a number of projects in tribal history and ethnogeography, including books, articles, pamphlets, web-based content, interpretive signage, CDs, and presentations; and

WHEREAS, Humanities Montana has long supported the work of the Séliš-Qłispé Culture Committee in these areas; and

WHEREAS, Humanities Montana invited the Séliš-Qłispé Culture Committee to submit a proposal under its Tribal Partnerships Initiative for a \$5,000 grant; and

WHEREAS, the Séliš-Qłispé Culture Committee has proposed to use this funding to continue work on the Séliš-Qłispé Ethnogeography Project;

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council of the Confederated Salish and Kootenai Tribes hereby approves and supports the application of the Séliš-Qłispé Culture Committee for a Humanities Montana Tribal Partnerships Initiative Grant in the amount of \$5,000 to support the Séliš-Qłispé Ethnogeography Project.

Thompson Smith informed council that there are no reporting requirements for this grant. He was unaware of what the IDC would be and requested a waiver. **Rick Eneas**, Financial Management, reported that the IDC would be 15%.

It was the **consensus** of council to waive the IDC for the Humanities Montana grant.

Rick Eneas, Financial Management, discussed the IDC rate. When the IDC is waived the Tribes still incur the cost, so every time the tribal council takes action to waive or reduce IDC that cost is picked up exclusively from the Tribal General Fund.

Rick Eneas and **Ruth Swaney**, Financial Management, requested approval of modification 8 to the fiscal year 2019 Bureau of Indian Affairs Self-Governance Compact Budget.

MOTION by Shelly Fyant to approve by resolution modification 8 to the fiscal year 2019 Bureau of Indian Affairs Self-Governance Compact Budget. Seconded by Leonard Gray. Carried, 7 for; 0 opposed; 0 not voting.

RESOLUTION 19-108

RESOLUTION APPROVING MODIFICATION 8 TO THE FY 2019 BIA SELF-GOVERNANCE COMPACT BUDGET

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES:

WHEREAS, earmarked FY 2018 for cadastral survey and earmarked FY 2019 funding for the 2nd quarter of Temporary Assistance for Needy Families (TANF) has been awarded and needs to be allocated to the budget; and

WHEREAS, budgets will be allocated as follows:

Account Number	Description	Current Budget Authority	Increase/ (Decrease)	Revised Budget Authority
13-502-4770	DHRD 477 Program	2,269,918.88	543,338	2,813,256.88
13-503-4560	BLM Fee to Trust	63,120.37	50,000	113,120.37
	TOTAL INCREASE/(DECREASE)		593,338	

BE IT RESOLVED by the Tribal Council of the Confederated Salish and Kootenai Tribes to modify the FY 2019 BIA Self-Governance Compact Budget as reflected above; and

BE IT FURTHER RESOLVED that prior year unexpended BIA funds shall be made available to provide for the expenditure of the FY 2019 BIA Self-Governance Compact Budget pending final Congressional appropriations and subsequent obligations of funds; and

BE IT FURTHER RESOLVED that the FY 2019 BIA Self-Governance Compact Budget is increased from \$32,371,245.00 to \$32,964,583.00.

Rick Eneas and **Ruth Swaney**, Financial Management, requested approval of modification 7 to the fiscal year 2019 Indian Health Service Self-Governance Compact Budget.

MOTION by Dennis Clairmont to approve by resolution modification 7 to the fiscal year 2019 Indian Health Service Self-Governance Compact Budget. Seconded by Charmel Gillin. Carried, 7 for; 0 opposed; 0 not voting.

RESOLUTION 19-109

RESOLUTION APPROVING MODIFICATION 7 TO THE FY 2019 IHS SELF-GOVERNANCE COMPACT BUDGET

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES:

WHEREAS, pursuant to Resolution 19-098 approved on March 19, 2019, the Tribal Council established priorities for certain health care services; and

WHEREAS, prior year unexpended Purchased and Referred Care funding awarded from the Indian Health Service is available to appropriate for these services; and

WHEREAS, the budget will be allocated as follows:

Account Number	Description	Current Budget Authority	Increase/ (Decrease)	Revised Budget Authority
11-502-41xx	Priority Services	0	1,600,000	1,600,000
	TOTAL INCREASE/(DECREASE)		1,600,000	

BE IT RESOLVED by the Tribal Council of the Confederated Salish and Kootenai Tribes to modify the FY 2019 IHS Self-Governance Compact Budget as reflected above; and

BE IT FURTHER RESOLVED that prior year unexpended funds shall be made available to provide for the expenditure of the FY 2019 IHS Self-Governance Compact Budget pending final Congressional appropriations and subsequent obligations of funds; and

BE IT FURTHER RESOLVED that the FY 2019 IHS Self-Governance Compact Budget is increased from \$27,965,506.99 to \$29,565,506.99.

Rick Eneas and **Ruth Swaney**, Financial Management, provided an overview of the fiscal year 2020 budget process. Information on the budget committee meetings will be sent to the council.

Pete White, Kicking Horse Job Corps Center, gave an update on KHJCC issues. MINACT assisted with the inventory, student records, and financials. Pete discussed the lease agreements with the residents living at the center and maintenance issues at the facility. **Rick Eneas**, Financial Management, informed council that the Department of Labor made a FOIA request for the contract. We have 7 days to respond. The Department of Labor needs to respond to status of our contract and budget.

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

Carole Lankford left the meeting.

Chelsea Colwyn, Fellowship; and **Thompson Smith**, Salish Pend d'Oreille Culture Committee; gave an update on the draft Cultural Waterways Ordinance.

***** **Lunch** *****

Carole Lankford returned to the meeting.

Brad Pluff, Tribal Court, gave an update on court matters that have occurred since he was appointed as the Acting Chief Judge fifteen months ago. The money handling process has improved and the money is deposited on a daily basis. The Full Court Management System has been implemented. The goal is to have a paperless court. An Attorney Law Clerk was hired, and that position is an asset to the Court. A Bailiff was hired. Judge Pluff is working on a Homeland Security proposal. It may or may not be implemented before the new Chief Judge is hired. When the new Chief Judge is hired, the Court will have four judges. Pursuant to the Law & Order Code the judges are appointed on October 1, unless they are being appointed to fill an unexpired term. He wanted council to be aware that the new Chief Judge position is not advertised that way. Brad went over the National Judicial College schedule and what minimum courses a new judge needs to take to serve on the bench. The minimum required training amounts to \$13,000 for just tuition. That cost does not include travel and per diem. Tribal Court's training budget is only \$6,000 per year. The fourth judge is a new position and is not included in the budget. The judicial training that is required to be a judge is different from an attorney having courtroom experience. It is an expensive investment. By having an additional Judge position and the training requirements, the Tribal Court budget would need to be increased. **David Morigeau**, Tribal Court, discussed the requirements for attorneys to attend judicial training courses at the National Judicial College. Every state requires an attorney to go through that judicial training prior to serving on the bench. Judge Pluff contacted the other tribal courts throughout the state and compared salaries. The CSKT judges' salaries are not comparable to other courts. Brad recommended that the Chief Judge be a working judge with a caseload instead of just doing administrative tasks. If the Chief Judge replaced the Associate Judge position that was recently vacated it would be a cost savings. The Tribal Court could get by with having two Associate Judges and a working Chief Judge. A Wellness Court works similar to a Drug Court. DHRD received a Tribal Court Improvement Project grant. Judge Pluff was not aware of the grant until recently. It is unusual for the Tribal Court Improvement Project grant to not be placed within the judicial branch. Brad informed council that a law-trained judge does not necessarily require that position to have a law degree. There is a tribe that has implemented Violence Against Women Act and the Tribal Law and Order Act and do not have an attorney judge. Attorneys do things differently than lay judges do, and the Tribal Court has operated well for many years without having an attorney judge. Tribal Courts are unique in how they deal with tribal members. **James Steele, Sr.**, Sergeant at Arms, informed council of his background establishing court systems. Tribal members have an invested interest in the tribe. Attorneys do not necessarily have the same vested interest that the tribal member Lay Judges have. Judge Pluff requested that David Morigeau be paid at the rate of pay that he deserves with twelve years' judicial

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experience. Mr. Morigeau's current salary is significantly lower than what it should be.

MOTION by Carole Lankford to take the recommendation of the Chief Judge and increase the Associate Judge to pay level 22 step 4, pending verification of the budget. Seconded by Fred Matt. Carried, unanimous (7 present).

Council took the recommendation under advisement to discuss with legal counsel why it was recommended that the Tribal Court have an Attorney Chief Judge. **Judge Pluff** explained that the caseload cannot justify having a full-time attorney judge for VAWA and TLOA cases. It would save on the budget by hiring an attorney on contract to handle the estimated five to six cases a year that would be filed.

Shelly Fyant informed council that Myrna DuMontier is in Bozeman today at the Montana Advisory Council on Indian Education (MACIE) meeting. Myrna is requesting authorization for her sister to pick up a tribal flag today and deliver it in time for the blessing tomorrow. It was the **consensus** of council to authorize a tribal flag for the blessing.

Shelly Fyant informed council that she wants to send a support letter to the Montana High School Association on behalf of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation. At the Class B Basketball Tournament, the Montana High School Association did not allow the team from Poplar to present the flag of the Assiniboine and Sioux Tribes alongside the United States and Montana State flags. The Chippewa Cree Tribe submitted a letter of support and Shelly had requested that Jami draft a letter supporting this as well. Jami Pluff presented the letter for approval.

MOTION by Shelly Fyant to get legal review on the letter of support for the Assiniboine and Sioux Tribes prior to sending it. Seconded by Leonard Gray. Carried, unanimous (7 present).

Shelly Fyant received a collection permit from Dale Becker requesting that she sign it. Shelly thought it needed to go through council prior to signing it. **Council** will send the collection permit back to the Natural Resources Department and inform them that the request needs to be presented for approval.

Shelly Fyant asked if the council received legal review about the Two Eagle River School Board issue that was brought up earlier this week. **Chairman Trahan** will follow up.

Chairman Trahan discussed a change of duty for the Mission Valley Honor Guard to attend funerals, with supervisor approval. He is going to send a letter to the department head notifying them that this service is needed.

Chairman Trahan discussed the draft council minutes. The original draft minutes need to go to the tribal council and any changes must be approved by the council at the time the draft minutes are presented for approval. Abby Dupuis is the only person that can change the minutes. **Charmel Gillin** apologized if that was out of order. She thought Abby would distribute those edits to council for review.

Dennis Clairmont informed council that Lorma Sloan has been serving as the Acting Tribal Credit Manager since August and is interested in moving into that position. Dennis suggested that Lorma be moved into that position and advertise Lorma's position. **Chairman Trahan** will follow up with Rick Eneas.

Leonard Gray had circulated a resolution for council consideration. It is nothing that doesn't already apply to the council, but he is doing it to reassure the tribal members that we are getting our act together. It is obvious the council is divided. This will let the membership know we will police ourselves and reassure the membership that we are aware. Hopefully it is a step in bringing us together.

MOTION by Leonard Gray to approve the resolution. Seconded by Dennis Clairmont. Carried, 5 for; 1 opposed (Charmel Gillin); 1 abstention (Shelly Fyant).

Charmel Gillin, for the record, "My reaction to the resolution is the intention stated or the resolution is to provide an opportunity for council to begin working better together. I fully agree with the intention, but I believe we can do that by having the meetings and discussions we talked about having, especially referencing the complaint processes, roles, and responsibilities. I would appreciate it if council would schedule time for all of us to meet, whether it's a retreat format or a day at the office. I am interested in repairing fractures, and I appreciate everyone's good intentions."

RESOLUTION 19-110

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES THAT:

WHEREAS, the Tribal Council enacted Tribal Ordinance 69C to govern the employment relationship between the Tribal government and its employees; and

WHEREAS, from time to time the Tribal Council approves resolutions and organizational charts, and enacts ordinances, for the designation of a chain of command for the supervision of employees; and

WHEREAS, pursuant to such resolutions, organizational charts, and ordinances certain employees are supervised directly by the Tribal Council acting in accordance with the By-laws of the Tribal Council; NOW, THEREFORE,

BE IT RESOLVED by the Tribal Council of the Confederated Salish and Kootenai Tribes, that it is hereby reaffirmed that individual council representatives are to refrain from involvement or interference of the workflow of Tribal Programs outside of actions taken within officially convened Tribal Council meetings; and

BE IT FURTHER RESOLVED that the Tribal Council, hereby reaffirms that unless specifically designated by resolution, organizational chart, or ordinance, individual Tribal Council members are not authorized to supervise or direct the work of employees; and

Shelly Fyant requested that a copy of the resolution be sent to all departments so the staff knows council cannot interfere in programs.

MOTION by Fred Matt to adjourn the meeting. Seconded by Leonard Gray. Carried, unanimous (7 present).

Council **adjourned** at 2:37 p.m., and is scheduled to meet again on Tuesday, April 2, 2019, at 9:00 a.m.

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/sgnd/

Shelly R. Fyant
Tribal Secretary