

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

Volume 22 Number 78  
Council Chambers, Pablo, MT

Held: August 18, 2022  
Approved: August 30, 2022

**MEMBERS PRESENT:** Tom McDonald, Chairman; Len TwoTeeth, Vice-Chairman; Martin Charlo, Secretary; Ellie Bundy, Treasurer; Carole Lankford; James “Bing” Matt; Jim Malatare; Jennifer Finley; and Mike Dolson.

**MEMBERS ABSENT:** Anita Matt (Personal Time Off).

**OTHERS PRESENT:** Jennifer Trahan, Council Office Manager; and James Steele, Sr., Sergeant at Arms.

The meeting was called to **order** at 9:00 a.m. Quorum established.

The meeting was opened with a **prayer** by Jim Malatare.

The **agenda** was presented for approval.

**MOTION** by Mike Dolson to approve the agenda, with additions. Seconded by Len TwoTeeth. Carried, unanimous (9 present).

**Chairman McDonald** informed council he had received a complaint about the Yellowstone filming crew not notifying a homeowner in Arlee. People are not denied access to their homes during filming. The State Highways and County Commissioners are the agencies that approved the road closure. The crew went to the residence of the complainant three times to notify her they would be filming, but she was not home during those visits.

**Mike Dolson** discussed the difficulty with trying to get a quorum for Tribal Education Committee meetings. This creates a problem because it interrupts student appeals regarding Higher Education funding. Mike would like to have a small group of council members that approve the Higher Education scholarships. The Tribal Education Department will be meeting with the council next week to discuss student appeals.

**Mike Dolson** discussed the Columbia River Treaty negotiations. He does not know if CSKT has a strong statement on what our position is. Flathead Lake

and Hungry Horse are part of this treaty and we are not included as well as we should be. Mike wants a team to solidify that position.

**Martin Charlo** informed council that he had received a case of rapid COVID tests. He suggested council hand out the tests to the membership in their districts. Kids need to stay out of school when they are sick and we need to protect our vulnerable populations. Most of the tests have been given away already, and people can pick up some COVID tests at the Tribal Health Department.

**Carole Lankford** discussed a letter to Secretary Haaland and asked if that is something the council wants her to do. Carole was the one who brought it up, and she thought it was a good idea but she never got the okay whether it is something she should be doing. Carole thought it would help our people on the reservation. **Chairman McDonald** thought it would be good for us to have some representation at the Lost Trail dedication event. Carole wants direction for Shane to get the letter completed and put on letterhead to be signed by the chairman.

**Martin Charlo** informed council of the Bear Tracks Bridge dedication on October 12, 2022. There was talk about inviting Deb Haaland, and Martin wanted to know if it would be okay if Carole or Mike asked her. It is being spearheaded by the County and they gave the Tribes the opportunity to put on this event. Higgins Bridge will be closed that day and there will be a pow wow at Caras Park.

**Iris Caye** and **Jon Denton** requested to meet with council in **executive session** to discuss a personnel matter.

Council reconvened into **regular session**.

**Lynn Ducharme** and **Les Evarts**, Natural Resources Department, requested approval of two resolutions authorizing the purchase of the Tapia fee and trust parcels.

**MOTION** by Len TwoTeeth to approve by resolution the purchase of trust land. Seconded by Jennifer Finley. Carried, 9 for; 0 opposed; 0 not voting.

## **RESOLUTION 22-131**

### **RESOLUTION AUTHORIZING THE PURCHASE OF TRUST LAND**

**BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES ("TRIBES") THAT:**

**WHEREAS**, the Tribal Council is entrusted with the responsibility to protect and preserve Tribal property, wildlife and natural resources, and to protect the health, security and general welfare of the Tribes;

**WHEREAS**, the Tribal Council is authorized to purchase and exchange Tribal land or any interest therein;

**WHEREAS**, the Tribal Land Acquisition Program was approved by the Act of July 18, 1968 (PL 90-402);

**WHEREAS**, the Tribal Council is entrusted with the responsibility to protect and preserve Tribal property, fish and wildlife resources and natural resources, and to protect the health and general welfare of the Tribes; and

**WHEREAS**, the Tribes have developed an extensive network of conservation areas throughout the Flathead Indian Reservation that includes a wilderness area, bighorn sheep and elk management areas, a bison preserve, primitive areas, roadless areas, wetlands protection areas and other conservation lands; and

**WHEREAS**, the Jocko River Watershed was selected by the Tribes as a target area for replacement and/or acquisition of natural resources;

**WHEREAS**, the Tapia family is the beneficial owner of federally-held trust land and appurtenant natural resources containing resident fish habitat in and around the Jocko River as real property more particularly described as:

**ALL RIGHT TITLE AND INTEREST** in Tract 588-A located in the SW1/4NE1/4, Section 27, Township 18 North, Range 21 West, P.M.M., Sanders County, Montana, containing 29.42 acres, more or less and recorded as Document No.203-48820 on file with the Confederated Salish and Kootenai Tribes Land, Titles and Records Office.

**WHEREAS**, the Tapia family has offered to sell all of their right, title, and interest in the above- described real property to the Tribes;

**WHEREAS**, the Tribes wish to conserve water resources, enhance fish and wildlife habitat, especially habitat of threatened and endangered species;

**WHEREAS**, the Tribes wish to mitigate impacts associated with the Flathead Indian Irrigation Project; and

**WHEREAS**, any management activities conducted on the Property will be for the purpose of protecting and where appropriate improving fish, wildlife and their

habitat, and prevent any and all uses of the property that are inconsistent with natural resource management; and

**BE IT FURTHER RESOLVED** that the Tribes hereby dedicate the Property, once acquired, as a natural area for use for cultural, natural resource conservation, and fish and wildlife purposes, and that the Tribes will perpetually manage and use the acquired Property exclusively for those purposes; and

**BE IT FINALLY 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 the Real Property situated in Sanders County, Montana.

**MOTION** by Len TwoTeeth to approve by resolution the purchase of fee land located in Sanders County. Seconded by Jennifer Finley. Carried, 9 for; 0 opposed; 0 not voting.

**RESOLUTION 22-132**

**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 (“TRIBES”) THAT:**

**WHEREAS**, the Tribal Council is authorized to purchase and exchange Tribal land or any interest therein;

**WHEREAS**, the Tribal Land Acquisition Program was authorized by the Act of July 18, 1968 (PL 90-402);

**WHEREAS**, the Tribal Council is entrusted with the responsibility to protect and preserve Tribal property, fish and wildlife resources and natural resources, and to protect the health and general welfare of the Tribes; and

**WHEREAS**, the Tribes have developed an extensive network of conservation areas throughout the Flathead Indian Reservation that includes a wilderness area, bighorn sheep and elk management areas, a bison preserve, primitive areas, roadless areas, wetlands protection areas and other conservation lands; and

**WHEREAS**, the Jocko River Watershed was selected by the Tribes as a target area for replacement and/or acquisition of natural resources;

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**WHEREAS**, Connie J. Tapia has offered to sell all of her right, title, and interest in her property situated in Sanders County, MT, more particularly describes as follows:

Lot 2A of Certificate of Survey No 2620CO, located in the SE1/4NW1/4 of Section 27, Township 18 North, Range 21 West, PMM, Sanders County, Montana.

**WHEREAS**, Connie J. Tapia, and the Confederated Salish and Kootenai Tribes have accepted the negotiated value; and

**WHEREAS**, the Tribes wish to conserve water resources, enhance fish and wildlife habitat, especially habitat of threatened and endangered species; and

**WHEREAS**, the Tribes wish to mitigate impacts associated with the Flathead Indian Irrigation Project; and

**WHEREAS**, any management activities conducted on the Property will be for the purpose of protecting and where appropriate improving fish, wildlife and their habitat, and prevent any and all uses of the property that are inconsistent with natural resource management;

**THEREFORE, BE IT RESOLVED**, that the above-described real property be purchased from Connie Tapia and that the Tribal Lands Department is authorized to submit to the Bureau of Indian Affairs an application for the Interior Secretary to take title to the above-described real property in the name of the United States in trust for the Confederated Salish and Kootenai Tribes, pursuant to the Act of July 18, 1968, Public Law 90-402 (82 Stat. 356); and

**BE IT FURTHER RESOLVED** that the Tribes hereby dedicate the Property, once acquired, as a natural area for use for cultural, natural resource conservation, and fish and wildlife purposes, and that the Tribes will perpetually manage and use the acquired Property exclusively for those purposes; and

**BE IT FINALLY 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 the Real Property situated in Sanders County, Montana.

**Jody Perez, Patricia Hibbeler, Colleen Tenas, Mark Couture, and Velda Shelby**, Homelessness Task Force, requested approval of a resolution authorizing the Salish Kootenai Housing Authority to apply for the Fiscal Year 2022 Indian Housing Block Grant competitive grant on behalf of the Tribes for a transitional supportive housing center; and a verbal commitment of \$1.875 million for the required grant leverage.

**MOTION** by Martin Charlo to approve the resolution authorizing SKHA to apply for FY22 Indian Housing Block Grant competitive grant on behalf of the Tribes. Seconded by Jim Malatare. Carried, 9 for; 0 opposed; 0 not voting.

**RESOLUTION 22-133**

**RESOLUTION AUTHORIZING THE SALISH AND KOOTENAI HOUSING AUTHORITY TO SUBMIT A FISCAL YEAR 2022 COMPETITIVE INDIAN HOUSING BLOCK GRANT APPLICATION ON BEHALF OF THE TRIBES**

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

**WHEREAS**, the Tribal Council of the Confederated Salish and Kootenai Tribes is the duly recognized governing body of the Flathead Nation with the responsibility to ensure safe, decent, and affordable housing for the tribal members within the exterior boundaries of the Flathead Nation; and

**WHEREAS**, the Confederated Salish and Kootenai Tribes have designated the Salish and Kootenai Housing Authority as their Tribally-Designated Housing Entity, with the authority to administer and participate in housing programs for the benefit of the Confederated Salish and Kootenai Tribes and their members, pursuant to the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101); and

**WHEREAS**, the Confederated Salish and Kootenai Tribes desire to have an application for a fiscal year 2022 Competitive Indian Housing Block Grant prepared and submitted on behalf of the Tribes in support of the construction of new affordable housing.

**NOW THEREFORE BE IT RESOLVED**, by the Tribal Council of the Confederated Salish and Kootenai Tribes that it hereby delegates the Salish and Kootenai Housing Authority the authority to prepare and submit on behalf of the Confederated Salish and Kootenai Tribes a Competitive Indian Housing Block Grant application for fiscal year 2022; and

**BE IT FURTHER RESOLVED**, by the Tribal Council of the Confederated Salish and Kootenai Tribes that it hereby states and acknowledges that the Tribes will not be applying for fiscal year 2022 Competitive Indian Housing Block Grant funds as their own entity.

The **Homelessness Task Force** gave an update. They are looking at property that has infrastructure on it already so a home can be placed there. They are having conversations with Tiny Homes and are looking into the possibility of having tiny homes and modular homes placed on properties. There are 1,350

homesites and 110-120 of those are vacant. Those homesites are not necessarily move-in ready. There are service issues so some of them are on hold. There are about 50 pending probates. Since the Tribes have interest in the tribal properties, the Lands Department would like to move forward with starting those probates. **Len TwoTeeth** mentioned the council is still interested in the nursing home located in St. Ignatius. **Patricia Hibbeler** was contacted by the owner that the property is being relisted for sale. Council was provided an update on this morning's meeting. Data was collected, which will be helpful. A housing needs assessment survey was part of phase one. The task force wants to have a CSKT-based homelessness survey initiated to try to find out how many individuals are living in homes with more than one family.

**James Taylor** and **Maylinn Smith**, Tribal Prosecutors Office; and **Ann Miller**, Tribal Defenders Office; requested approval of a resolution authorizing amendments to Ordinance 103-A to include proposed changes to the Mental Health Code and various statutes within the criminal offenses, procedures, and probation section of the Code. They recommended there be a person on staff in the Legal Department to continually update the ordinances. **Mr. Taylor** informed council that the Tribes have a grant for special domestic violence criminal jurisdiction over nontribal members. There is some funding left from that grant and Jim could request an extension. The funding could be used for setting up a mechanism to make these statutes more available online. Mr. Taylor will pursue an extension and include that in the purpose if council agrees. It was the **consensus** of council to authorize the Prosecutors Office to pursue an extension. **Len TwoTeeth** wants to have a thorough understanding of the implications of approving these amendments. **No action taken. Council** took the proposed changes to the Mental Health Code under advisement for one week to allow an opportunity for further consideration.

**James Taylor** and **Maylinn Smith**, Tribal Prosecutors Office; and **Ann Miller**, Tribal Defenders Office; reviewed proposed changes to the Law & Order Code and requested approval of a resolution authorizing amendments to Title II, Chapter 1 – Tribal Offenses in Tribal Ordinance 103-A. The Prosecutors Office would like to extend the statute of limitations on felony offenses from 2 years to 5 years, to be consistent with State law. If the State transfers a case to the Tribes after the two-year period, the statute of limitations has expired according to Tribal law so the charges cannot be pursued and then there is no justice for the victim. The State statute of limitations has been set at five years since the 1970s and it is unknown why the Tribes changed their statute of limitations to two years. The Tribes previously changed the statute of limitations for homicide cases. The Defenders Office is opposed to giving the State more time to make a decision about whether or not to prosecute a tribal member with a felony offense. **Mike Dolson** commented that if the statute of limitations according to Tribal law have expired the State could take the case back for prosecution. **Chairman McDonald** thinks it should be adaptive in nature. **Ann Miller** commented that

at some point the entire Law & Order Code needs to be reviewed and revised. It was the **consensus** of council to leave the statute of limitations at 2 years for felony offenses.

**MOTION** by Mike Dolson to approve by resolution the recommended amendments to Title II, Chapter 1 – Tribal Offenses in Tribal Ordinance 103-A, with the correction of the statute of limitations for felony offenses. Seconded by Martin Charlo. Carried, 8 for; 0 opposed; 1 not voting (Len TwoTeeth out of the room).

## **RESOLUTION 22-134**

### **A RESOLUTION TO AMEND TRIBAL ORDINANCE 103-A**

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

**WHEREAS**, the Confederated Salish and Kootenai Tribes' (CSKT) Tribal Council has the power and duty to protect the health, economy, security, and general welfare of the Tribes and thereby all the residents of the Flathead Reservation in accordance with Article VI, Section of 1 of the CSKT Constitution;

**WHEREAS**, protection and preservation of property, wildlife, natural resources, health, security, and general welfare of the Tribes is among the highest priorities of the Tribes; and

**WHEREAS**, it is the policy of the CSKT to promote and protect the health, safety, culture, and general welfare of the Tribal Community by regulating and preventing the commission of offenses;

**WHEREAS**, it is the policy of the CSKT to ensure due process requirements are met by adequately defining and identifying conduct which may constitute an offense;

**WHEREAS**, it is the policy of the CSKT, to promote fundamental fairness and insure due process requirements are met in any court action affecting the liberty of a person accused or convicted of a criminal offense: and

**WHEREAS**, the Tribal Council seeks to clarify and appropriately address issues relating to tribal offenses by Amending Tribal Ordinance 103-A, Title II, Chapter 1, in accordance with its recognized authority;

**NOW, THEREFORE BE IT RESOLVED** that the Tribal Council hereby authorizes the following amendment to Tribal Ordinance 103-A, Title II, Chapter 1, which



shall become effective on October 1, 2022 when certified and shall remain in effect until revoked:

**TRIBAL ORDINANCE 103-A IS HEREBY AMENDED BY ADOPTING THE FOLLOWING CHANGES IDENTIFIED IN RED:**

TITLE II

CHAPTER 1-TRIBAL OFFENSES

**Value- 2-1-114. Definitions (47)(b)**

(47) (a) "Value" means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value must be determined as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied.

(ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(iii) The value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition of the item.

(b) When it cannot be determined if the value of the property is more or less than **\$1,500** by the standards set forth in subsection (a), its value is considered to be an amount less than **\$1,500**.

(c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(48) "Vehicle" means any device for transportation by land, water, or air or mobile equipment with provisions for transport of an operator.

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(49) "Weapon" means any instrument, firearm, article, or substance which, regardless of its primary function, is readily capable of being used to produce death or serious bodily harm.

(50) "Witness" means any person whose testimony is desired in any official proceeding or in any investigation.

(Rev. 1-27-00) (Rev. 4-15-03) *(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law)*

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**2-1-803. Criminal mischief.** (1) A person commits the offense of criminal mischief by knowingly or purposely:

(a) injuring, damaging, or destroying any property of another without his or her consent;

(b) tampering with the property of another or Tribal property without consent, so as to endanger or interfere with the use of the property; or

(c) damaging or destroying property in an attempt to defraud an insurer;

(2) If the verified damage amount does not exceed **\$1,500**, criminal mischief is a Class C offense over which the Tribes have exclusive jurisdiction.

(3) If the verified damage amount is greater than **\$1,500**, criminal mischief is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law)*

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**2-1-806. Theft.** (1) A person commits the offense of theft by purposely **or** knowingly obtaining or exerting unauthorized control, including by threat or deception, over the property of the owner or by obtaining control over stolen property knowing the property to have been stolen by another, and the person

(a) has the purpose of depriving the owner of the property,

(b) uses, conceals, or abandons the property in such a manner as to deprive the owner of the property, or

(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.

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(2) A pawnbroker or dealer who buys and sells secondhand merchandise and allows stolen property to be sold, bartered or otherwise disposed of after a Tribal police officer has requested him to hold the property for 30 days commits the offense of theft.

(3) If the verified value of the property does not exceed **\$1,500**, theft is a Class C offense over which the Tribes have exclusive jurisdiction.

(4) If the verified value of the property is greater than **\$1,500**, theft is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law, also corrected a drafting error so that only one mental state was required and not two)*

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**2-1-808. Theft of labor or services or use of property.** (1) A person commits the offense of theft when he or she obtains use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor, or services.

(2) If the verified value of the labor or services or use of property does not exceed **\$1,500**, its theft under this Section is a Class C offense over which the Tribes have exclusive jurisdiction.

(3) If the verified value of the labor or services or use of property is greater than **\$1,500**, its theft is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law)*

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**2-1-809. Failure to return rented or leased property.** (1) A person commits the offense of failure to return rented or leased property if, without notice to and permission of the lessor, the person knowingly **or** purposely fails to return such property after the time provided for such return in the rental agreement, provided that the date and time when return of the property is required and the penalty prescribed in this section is clearly stated, in bold print, in the written agreement.

(2) Obtaining rental or leased property through the use of false identification constitutes prima facie evidence of the commission of this offense.

(3) Failure to return the rental property within 72 hours after written demand by the lessor, sent by certified mail to the renter or lessee at the address given at the time the rental agreement was entered into or personally served on the renter or lessee, constitutes prima facie evidence of the commission of this offense.

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(4) If the verified value of the rented or leased property does not exceed **\$1,500**, failure to return rental property is a Class C offense over which the Tribes have exclusive jurisdiction.

(5) If the verified value of the rented or leased property is greater than **\$1,500**, failure to return rental property is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law, and corrected the scrivener's error that had required two mental states, contrary to §2-1-111)*

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**2-1-811. Unauthorized acquisition or transfer of food stamps.**

(1) A person commits the offense of unauthorized acquisition or transfer of food stamps if he or she knowingly

(a) acquires, purchases, possesses, or uses any food stamp or coupon that he or she is not entitled to; or

(b) transfers, sells, trades, gives, or otherwise disposes of any food stamp or coupon to another person not entitled to receive or use it.

(2) The unauthorized acquisition or transfer of food stamps with a value of less than **\$1,500** is Class C offense over which the Tribes have exclusive jurisdiction.

(3) The unauthorized acquisition or transfer of food stamps with a value of greater than **\$1,500** is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law)*

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**2-1-814. Unlawful use of a computer.** (1) A person commits the offense of unlawful use of a computer by knowingly or purposely

(a) obtaining the use of a computer, computer system, or computer network without consent of the owner;

(b) altering or destroying or causing another to alter or destroy a computer program or computer software without consent of the owner; or

(c) obtaining the use of, or altering or destroying a computer, computer system, computer network, or any part thereof, for the purpose of obtaining money, property, or computer services from the owner of the computer, computer system, computer network, or from any other person.

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(2) If the verified value of the property used, altered, destroyed, or obtained does not exceed **\$1,500**, unlawful use of a computer is a Class C offense over which the Tribes have exclusive jurisdiction.

(3) If the verified value of the property used, altered, destroyed, or obtained is greater than **\$1,500**, unlawful use of a computer is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law)*

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**2-1-815. Issuing a bad check.** (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing it will not be honored by the depository.

(2) If the person issuing the check or other order has an account with the depository, failure to make good the check or other order within 15 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the person knew it would not be paid by the depository.

(3) Issuing a bad check for services, labor, or property obtained not exceeding **\$1,500** is a Class C offense over which the Tribes have exclusive jurisdiction.

(4) Issuing a bad check for services, labor, or property obtained or attempted to be obtained exceeding **\$1,500** is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law)*

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**2-1-819. Forgery.** (1) A person commits the offense of forgery when, with purpose to defraud, the person knowingly falsely signs, makes, executes, or alters any written instrument.

(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.

(3) Except as provided in subsection (4), forgery is a Class C offense over which the Tribes have exclusive jurisdiction.

(4) If the forgery is part of a common scheme, or if the value of the property, labor, or services obtained or attempted to be obtained exceeds **\$1,500**, the offense is a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

*(Rev. 8-18-22, amended amount from \$1000 to \$1500 to match present state law)*

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**2-1-1001. Disorderly conduct.** (1) A person commits the offense of disorderly conduct by knowingly disturbing the peace of another by:

- (a) knowingly uttering fighting words with a direct tendency to violence, challenging to fight, or fighting;
- (b) making loud or unusual noises;
- (c) discharging firearms, except at a shooting range during established hours of operation;
- (d) obstructing vehicular or pedestrian traffic on a public way without good cause;
- (e) rendering the free entrance or exit to public or private places impassable without good cause;  
or
- (f) disturbing or disrupting any lawful assembly or public meeting after having been asked to cease such disturbance or disruption or leave the premises by one in authority at the assembly or meeting.

(2) Disorderly conduct is a Class B offense over which the Tribes have exclusive jurisdiction.

*(Rev. 8-18-22, deleted prior section 1(c), which read “using physically threatening, profane, or abusive language;” as it was ruled unconstitutional in 2011 by the CSKT Appellate Court in CSKT v. Oldperson, Cause No. AP-09-1549-CR)*

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**a. Changing the definition of Consent in the statutes relating to Sexual Assault**

**2-1-601. Sexual assault.** (1) A person commits the offense of sexual assault by knowingly making sexual contact with another without consent.

(2) "Without consent", as used in this section and in section 2-1-602, means:

- (a) the victim is compelled to submit by force against himself, herself, or another;
- (b) the victim **has expressed a lack of consent through words or conduct;**
- (c) the victim is incapable of consent because **the victim** is:

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(i) mentally defective or incapacitated. **The term incapacitated includes a lack of consciousness, whatever its cause, including sleep or intoxication brought on by drugs or alcohol;**

(ii) physically helpless; or

(iii) less than 16 years old.

(d) As used in subsection (2)(a), the term "force" means:

(i) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or

(ii) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

**(3) Even if consent has been given it may be withdrawn, either through words or conduct.**

(4) Except as provided in subsection (4), sexual assault is a Class D offense over which the Tribes have exclusive jurisdiction.

(5) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender commits a Class E offense over which the Tribes have concurrent jurisdiction with the State of Montana.

(6) An act "in the course of committing sexual assault" shall include an attempt to commit the offense or flight after the attempt or commission.

*(Rev. 8-18-22. Made a change to indicate that a lack of consent alone, without the use of force, was sufficient, 2(b). Made one change to make the language more gender neutral (victim instead of he or she in 2(c), provided a definition of incapacitated, 2(c)(i), and made it clear that even after consent has been given it may be withdrawn, (3) )*

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**b. Other issues**

**2-1-506. Mistreating prisoners.** (1) A person commits the offense of mistreating prisoners, if, being responsible for the care or custody of a prisoner, he purposely or knowingly,

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- (a) assaults or otherwise injures a prisoner; or
  - (b) intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner; or
  - (c) violates any civil right of a prisoner.
- (2) Mistreating prisoners is a Class **E** offense over which the Tribes have **concurrent** jurisdiction.

*(Rev. 8-18-22, amended from a Class D offense to a Class E offense, and changed the jurisdiction of the offense from exclusive to concurrent. State law classifies this as a felony offense, and the classification of the Tribal offense as a Class D offense creates potential legal issues if we choose to transfer a case of this nature to the State)*

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**2-1-911. Tampering with Witnesses.**

2–1–911. Tampering with witnesses, informants, or physical evidence. (1) A person commits the offense of tampering if, believing that an official **Tribal** proceeding or investigation is pending or about to be instituted, the person knowingly or purposely attempts to or does

- (a) induce or otherwise cause a witness or informant to testify or inform falsely,
  - (b) withhold any testimony, information, document or other material evidence,
  - (c) cause a witness to elude legal process summoning the witness to testify or supply evidence, or
  - (d) alter, destroy, conceal, or remove any record, document, or other physical object in order to impair its availability or reliability in such proceeding or investigation.
- (2) Tampering is a Class D offense over which the Tribes have exclusive jurisdiction.

*(Rev. 8-18-22, added the word Tribal in (1) to clarify that this statute applies to Tribal matters)*

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*The following statutes had a drafting issue, and include a requirement for two mental states instead of only one.*

- c. **Correction to Mental state provisions.** A number of offenses mistakenly require two mental states. They should only require one mental state and it should be worded in the disjunctive, “purposely or knowingly.”

**2-1-912. Impersonating a Tribal public servant.** (1) A person commits the offense of impersonating a Tribal public servant by purposely **or** knowingly pretending to hold a position as a public servant of the Tribes as a means of inducing another to submit to the person's authority or otherwise act in reliance upon such representation.

(2) Impersonating a Tribal public servant is a Class B offense over which the Tribes have exclusive jurisdiction.

*(Rev. 8-18-22, clarified a drafting error to ensure that only one mental state was required per §2-1-111)*

**2-1-913. False claims to Tribal agencies.** (1) A person commits an offense under this section if he or she purposely **or** knowingly presents for allowance or for payment a claim already paid by another or a false or fraudulent claim, bill, account, voucher, or writing to a Tribal agency, Tribal public servant, or to a contractor authorized to allow of pay claims presented to a Tribal agency, if genuine.

(2) A false claim is a Class D offense over which the Tribes have exclusive jurisdiction, except as may be provided otherwise by federal law.

**James Taylor** and **Maylinn Smith**, Tribal Prosecutors Office; and **Ann Miller**, Tribal Defenders Office; reviewed proposed changes to the Law & Order Code 103-A and requested approval of a resolution authorizing amendments to the Criminal Offenses. **No action taken.** The handouts were not included in the council packet. The issue will be rescheduled for a later date when council has the necessary information.

\*\*\*\*\* **Lunch** \*\*\*\*\*

**Ruth Swaney**, Financial Management, presented a request from the Natural Resources Department to purchase capital equipment consisting of a 2016 F550 Crew Cab (residual from Lease #2016-L6) and a 2018 Kenworth T880 Dump Truck and 2018 Trail-Eze T501 Dump Trailer (residual from Lease #2016-L9). The NRD Division of Engineering and Water Resources – Safety of Dams and Roads had two operating leases with Sovereign Leasing & Financing which have expired with an option to purchase.

**MOTION** by Len TwoTeeth to authorize the Natural Resources Department to purchase capital equipment consisting of a 2016 F550 Crew Cab (residual from Lease #2016-L6) and a 2018 Kenworth T880 Dump Truck and 2018 Trail-Eze T501 Dump Trailer (residual from Lease #2016-L9). Seconded by Mike Dolson. Carried, unanimous (8 present – Bing Matt out of the room).

**Ruth Swaney**, Financial Management, presented a request from the Natural Resources Department Fish & Wildlife Division to purchase capital equipment consisting of a 40' storage container for the Bison Range Visitor Center at a cost of \$13,000.00.

**MOTION** by Martin Charlo to authorize the Natural Resources Department Fish & Wildlife Division to purchase capital equipment consisting of a 40' storage container for the Bison Range Visitor Center. Seconded by Mike Dolson. Carried, unanimous (9 present).

**Ruth Swaney**, Financial Management, requested approval of the fiscal year 2023 total allocations for General Fund, Dedicated Trust, Third Party, Indian Health and Indian Affairs Compacts, Water Compact, Settlement, and Proprietary Funds.

**MOTION** by Carole Lankford to approve by resolution the fiscal year 2023 total allocations for General Fund, Dedicated Trust, Third Party, Indian Health and Indian Affairs Compacts, Water Compact, Settlement, and Proprietary Funds. Seconded by Martin Charlo. Carried, 9 for, 0 opposed, 0 not voting.

## **RESOLUTION 22-135**

### **RESOLUTION APPROVING FISCAL YEAR 2023 TOTAL BUDGET ALLOCATIONS FOR GENERAL FUND, DEDICATED TRUST, THIRD PARTY, SELF-GOVERNANCE COMPACTS, WATER COMPACT, SETTLEMENT, AND PROPRIETARY FUNDS**

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

**WHEREAS**, projected FY 2023 General Fund revenues, negotiated funding for the Self-Governance Compacts, and Third Party, Water Compact, Settlement, and Proprietary Funds are available to appropriate in FY 2023 to the programs, services, functions, and activities approved by the Tribal Council; and

**WHEREAS**, in addition to projected revenues and awarded funding in FY 2023, there are prior period Indian Health Service and Indian Affairs self-governance

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funds and unrestricted General Fund revenues that are available for appropriation; and

**WHEREAS**, the total allocations by Fund and by Function are stated in Attachment 1, FY 2023 Total Appropriations by Fund and Function; and

**WHEREAS**, it is proposed to classify appropriations by Permanent, Mandatory, and Discretionary as recommended by Financial Management; **NOW, THEREFORE**,

**BE IT RESOLVED** by the Tribal Council of the Confederated Salish and Kootenai Tribes to approve FY 2023 Total Allocation of projected General Fund revenue, negotiated funding awarded through the self-governance compacts, available Third Party, Water Compact, Settlement, and Proprietary Funds, prior period Indian Health Service and Indian Affairs self-governance funds, and unrestricted General Fund revenues in the total amount of \$187,484,542; and

**BE IT FURTHER RESOLVED** to approve the classification of appropriations by Permanent, Mandatory and Discretionary as recommended by Financial Management; and

**BE IT FURTHER RESOLVED** that Tribal funds on deposit in the United States Treasury be made available to finance the operations of programs and activities in the aforementioned budget; and

**BE IT FURTHER RESOLVED** that such funds be appropriated to and extend from the Confederated Salish and Kootenai Tribes' Flathead Agency I.S.S.D. Account (advance status), in addition to cash reserves from the Tribal Credit Program as may be approved by the Tribal Council, as designated for each program; and

**BE IT FURTHER RESOLVED** that the Office of Financial Management is delegated authority to revise and reallocate the amounts for programs, services, functions, and activities within the Total Allocation authorized and available in the aforementioned Funds.

**Tara Irvine** and **George Ducharme**, Tribal Lands Department, gave an update on the Yellowstone Productions request to use the Arlee area and behind the Gray Wolf Peak Casino. They received confirmation to move ahead. Yellowstone Productions will pay \$350.00 per day to use the area behind the Gray Wolf Peak Casino gravel pit area for 10 days; \$2,500.00 to use the helicopter area at the Arlee Pow Wow Grounds; and \$2,000.00 per day for the Division of Fire rentals. Yellowstone Productions also wants to donate \$10,000.00 on top of the fees, and the Tribal Lands Department needs the Tribal Council's okay for that. Kevin Costner's cowboy hat with his autograph will be provided to CSKT. There may

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be a poster or tee-shirt with the autographs by all the cast members provided, as well. **Chairman McDonald** would like them to provide some additional autographed posters, if possible. Council was invited to watch the filming tomorrow afternoon. Tara will send the detailed information to council. **Len TwoTeeth** talked about getting some commercial time during the airing of the Yellowstone series about the Tribes wanting to bring back Big Medicine. Paramount is the production company, and Tara can follow up to see if they can help us with that advertisement request. **Chairman McDonald** received a complaint from a homeowner in Arlee that was not notified about the filming and she was very upset about the road closure. The crew member told Tom they had knocked on her door three times to notify her, but nobody was home. **Tara Irvine** let Dustin know to be sure to contact that homeowner. **Len TwoTeeth** mentioned Nkwusm wants a fence around their property, and he suggested having Yellowstone Productions pay for it.

**Martin Charlo** informed council he was contacted by Audrey Walleser, the State Emergency Services Field Officer, and she is pushing for a declaration of emergency. Dale Nelson usually does that, but he has not come in to meet with the council yet. Audrey is willing to meet with the Tribal Council this afternoon to discuss why an emergency declaration is needed.

\*\*\*\*\* **Break** \*\*\*\*\*

**Patricia Hibbeler**, Director of Tribal Member Services, requested approval of a limited waiver of sovereign immunity for the grant agreement for the Montana Historical Preservation Grant project that was awarded to CSKT on May 18, 2021 in the amount of \$50,600.00. The funding was originally going to be used to support renovations at The People's Center, but there was a fire. The building was severely burned in that fire so it will be demolished, and there will be a new structure built for the Three Chiefs Center. On June 22, 2021, CSKT requested a change in the scope of work for the project based upon the fire. The request was granted by the Montana Department of Commerce on September 2, 2021. The project entails new construction and is limited to ADA compliance, a water well, and a security system, to be completed by September 30, 2026. The waiver of sovereign immunity is limited to this specific project.

**MOTION** by Len TwoTeeth to approve a limited waiver of sovereign immunity for the grant agreement for the Montana Historical Preservation Grant project for the Three Chiefs Center. Seconded by Ellie Bundy. Carried, unanimous (9 present).

**Patricia Hibbeler**, Director of Tribal Member Services, informed council that she and Dr. Fox have been involved with the Montana Health Care Foundation regarding a treatment center. They received and rated 6 proposals. No single proposal had everything requested in the RFP, but the top two companies were

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Clause Law, PLLC, and One Fire Associates, LLC. They were asked to provide a best and final proposal. Patti went to Billings on Monday and those companies met with the group for in-depth conversations. Clause Law would be the managing partner in that partnership. The Montana Health Care Foundation will negotiate the terms and get the contract in place. The final architectural designs should be done within the next 18 months. The treatment center would not be up and running for another 3 to 4 years.

**Ellie Bundy** left the meeting for the remainder of the day.

**Patricia Hibbeler**, Director of Tribal Member Services, informed council that she is still trying to get a fieldtrip scheduled to tour the Blackfeet Nursing Home.

**Audrey Walleser**, Montana Disaster Emergency Services Western District Field Officer, talked about State FEMA funding for the local fires. Audrey suggested a declaration of emergency by the CSKT due to those fires. The declaration is more about recovery efforts and making sure the CSKT and their people are getting the support services they need and any recovery they need such as fencing, livestock losses, and hay. She has tried working with the local coordinators but has been unsuccessful. **Chairman McDonald** advised the fencing and other things are covered under the BAER program. When we have community displacement such as what occurred due to the Elmo fire and there is no emergency shelter readily available but there is hotel space, he asked if there was any funding available for reimbursement of those costs. Audrey advised yes, there is, but the declaration is the first step in order to obtain those funds. Assistance can be provided for the loss of power, the loss of food, and the loss of storage of food products. We can look at those avenues for reimbursement of those costs that are not covered in the BAER program. She looks at the human aspect of it, such as the costs that are not directly associated with the fire or fire restoration. Audrey's job is to protect public life and safety.

**Jim Malatara** left the meeting for the remainder of the day.

**Erica Woodahl** and **Jack Staples**, University of Montana, gave an update on the Vitamin D research project between the University of Montana and the CSKT Health Department. The research partnership started in 2007 and focused on a field of research called pharmacogenetics, which studies how a person's genetic make-up affects how they respond to medications. The research was then expanded to include how a person's diet and environment may affect a person's health. The goal of the research project is to help the Tribal Health doctors tailor medical treatments to the needs of each patient. Vitamin D is an essential hormone for maintaining bone health and is associated with numerous diseases and health outcomes but with little to no casual evidence. 55% of the CSKT research participants had Vitamin D levels below sufficiency. The findings will

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be used to develop an interventional strategy to address the Vitamin D insufficiency observed.

Council **adjourned**, and is scheduled to meet again on Thursday, August 25, 2022, at 9:00 a.m.

**CONFEDERATED SALISH AND KOOTENAI TRIBES**

/sgnd/

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Martin A. Charlo  
Tribal Council Secretary