

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

Volume 21 Number 88
Zoom Meeting

Held: August 31, 2021
Approved: September 7, 2021

MEMBERS PRESENT: Shelly Fyant, Chairwoman; Anita Matt, Vice-Chairwoman; Ellie Bundy McLeod, Secretary; Martin Charlo, Treasurer; Carole Lankford; James “Bing” Matt; Charmel Gillin; Mike Dolson; and Len TwoTeeth.

MEMBERS ABSENT: St. Ignatius District (Vacant).

OTHERS PRESENT: Jennifer Trahan, Council Office Manager; and Abby Dupuis, Recording Secretary.

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

The meeting was opened with a **prayer** by Ellie Bundy McLeod.

The **Tribal Council Meeting Minutes** for August 26, 2021 were presented for approval.

MOTION by Anita Matt to approve the Tribal Council Meeting Minutes for August 26, 2021, with corrections. Seconded by Martin Charlo. Carried, 7 for; 2 abstentions (Shelly Fyant and Ellie Bundy McLeod).

The **agenda** was presented for approval.

MOTION by Mike Dolson to approve the agenda, with changes. Seconded by Ellie Bundy McLeod. Carried, unanimous (9 present).

Jeff McDonald requested to meet with council in **executive session** to discuss a personal matter. **Rhonda Swaney**, Legal Department; and **Jami Pluff**, Policy Analyst; were present for discussion.

Council reconvened into **regular session**.

Len TwoTeeth informed council that he has received phone calls from some of the Home Care Providers that as a condition of their employment they must sign an agreement to allow the Elders program to require them to put a GPS app on their personal cell phones. Many of them were troubled with that. We have had

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issues in the past regarding these issues, but this is a policy issue that needs to be discussed with council before it is implemented. Len wants the program to refrain from this doing this until we can get advice from Legal staff whether any rights are being violated. If we are going to do it to one program, then we need to do it to everyone; especially when these folks are providing services to our elders. The employees are reluctant to sign the agreement. This could affect the care to our elders. Len requested that implementation of this requirement be placed on hold until further discussion. **Carole Lankford** agreed with Len. If the department wants to do this, they need to purchase cell phones for the employees. **Martin Charlo** suggested that the department pay a portion of the employees' cell phone bill if they are going to require this tracking app. **Chairwoman Fyant** commented that Rick Eneas was following up on this after yesterday's discussion in the chair's meeting. Shelly will get an update from him by the end of the day.

Martin Charlo reported Lake County has 107 active COVID cases, and 32 breakthrough cases of fully vaccinated individuals. It is important for people to wash their hands, social distance, and wear a mask. Martin has some face masks if anyone needs one and there are some masks available in Administration. **Chairwoman Fyant** reminded everyone to wear a mask and to consider being vaccinated if not already vaccinated.

Arleen Adams informed council that the school gets new students every day and they are up to 100 now so things are going well. School starts at 8:00 a.m. Monday morning. The students will check into their classes and then will go outside. She invited council to welcome the students. Every Monday morning they do a prayer and every Thursday afternoon at 3:30 p.m. they do closing. Arleen's niece discovered a used needle syringe with stuff in it behind a trash can last week at the Arlee Community Center. She put it in a jar. When they were cleaning up the place before they left they found more needles. Arleen was going to clean up the forested area at Two Eagle River School, and it was the same thing. They were told not to touch the meth bags and needles. She spoke to MaryRose about cleaning it up. Mary Rose was also going to check it out in Arlee. Arleen also finds stuff like that in the Valley Creek camp area. **Chairwoman Fyant** wondered if the cameras at the Arlee Community Center would show anything. Shelly directed Jennifer Trahan to follow up with Rick Eneas and John Neiss.

Carole Lankford left the meeting for the remainder of the day to attend a funeral.

Jody Perez, Colleen Tenas and **Kyle Hendrickx**, Salish Kootenai Housing Authority, requested approval to submit the Indian Community Development Block Grant Imminent Threat Program American Rescue Plan Act grant application on behalf of the Tribes in the amount of \$1.75 million to build small homes at the Maggie Ashley Trailer Park to reduce homelessness and

overcrowding. **Len TwoTeeth** asked if there will be an opportunity to build homes in Elmo. Jody advised that SKHA does not have any land in Elmo; they could possibly build homes if they found land. The greatest needs are in Ronan, Pablo, and Polson. That helps determine where to build. It is not the only variable looked at, but when there is a need for 90 homes in one town and 5 in another town, they go with the one that has the greater need. The decision is based on the waiting list and available land. It can be tribal property. There are some sewer issues in Big Arm. The land was tested three years ago, but there should not be any more drain fields in Big Arm, which prevents any development there. There also needs to be water available for the homes. Len wants to start looking at constructing more houses in Elmo.

MOTION by Charmel Gillin to approve by resolution submission of the Indian Community Development Block Grant Imminent Threat Program American Rescue Plan Act grant application on behalf of the Tribes. Seconded by Anita Matt. Carried, 8 for; 0 opposed; 0 not voting.

RESOLUTION 21-115

RESOLUTION AUTHORIZING THE SALISH AND KOOTENAI HOUSING AUTHORITY TO SUBMIT INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT IMMINENT THREAT PROGRAM AMERICAN RESCUE PLAN ACT 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 its 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 its 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 the Indian Community Development Block Grant Imminent Threat Program American Rescue Plan Act grant prepared and submitted on behalf of the Tribes in support of constructing new single dwelling units for low-income Tribal Members in order to prevent, prepare for, and respond to COVID-19; and

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council of the Confederated Salish and Kootenai Tribes hereby delegates the Salish and Kootenai Housing Authority the authority to prepare and submit on behalf of the Confederated Salish and Kootenai Tribes an Indian Community Development Block Grant Imminent Threat Program American Rescue Plan Act grant application for constructing new single dwelling units for low income Tribal Members in order to prevent, prepare for, and respond to COVID-19; and

BE IT FURTHER RESOLVED, that the Tribal Council of the Confederated Salish and Kootenai Tribes hereby delegates the Salish and Kootenai Housing Authority the authority to administer and manage said Indian Community Development Block-ARP Grant.

Jody Perez informed council that SKHA will hold a public comment period and then return to council with a resolution after it is concluded.

Casey Ryan, Klondike Relay Team, requested approval of a free group-use permit to host the Big River Run, a community event and fundraiser run along the Flathead River, on October 16, 2021. The Kidney Keepers Klondike Relay Team consists of 10 local runners. The team will follow all CSKT COVID protocols at the time of the event.

MOTION by Ellie Bundy Mcleod to grant the Kidney Keepers Klondike Relay Team a free group-use permit to host the Big River Run along the Flathead River on October 16, 2021. Seconded by Martin Charlo. Carried, unanimous (8 present).

Greg Wilson, Natural Resources Department, requested approval to revise PMP #11 change order 2 via Agreement No. 16-141 to extend the completion date for a feasibility study at Mission Dam to March 31, 2022 to accommodate Reclamation's resources.

MOTION by Charmel Gillin to approve the revision of PMP #11 change order 2 via Agreement No. 16-141 to extend the completion date for a feasibility study at Mission Dam to March 31, 2022 to accommodate Reclamation's resources. Seconded by Anita Matt. Carried, unanimous (8 present).

Len TwoTeeth asked how much gravel was used for the Crow Dam project. **Greg Wilson** told Len that he could gather that information for the council. Len has been trying to get a few other tribal pits open so when we have projects we are using our own gravel sources. Len was curious to know how much gravel resources were purchased off the reservation. He has asked several times to have gravel pits ready since we are going to have some upcoming projects. This

is an opportunity for the Tribes to generate more revenue for our own resources. We do not have any established commercial gravel pits. The only pits we have right now is for tribal member use. **Chairwoman Fyant** directed Jennifer Trahan to follow up with Clayton Matt to get a report back to council.

Jace Smith, Natural Resources Department, requested approval of PMP 002 to Contract No. 20-037 for a not-to-exceed cost of \$100,000 for General Services related to the Flathead River Pumping Plant with an end date of 12/31/2022.

MOTION by Anita Matt to approve PMP 002 to Contract No. 20-037 for a not-to-exceed cost of \$100,000 for General Services related to the Flathead River Pumping Plant with an end date of 12/31/2022. Seconded by Martin Charlo. Carried, unanimous (8 present).

Tom McDonald, Natural Resources Department, requested approval of the 2021-2022 hunt season and regulations for the Yellowstone Bison Hunt. Only new hunters would be required to attend orientation before being issued a tag. Tom recommended following the protocols from last year's hunt.

MOTION by Ellie Bundy McLeod to approve the 2021-2022 hunt season and regulations for the Yellowstone Bison Hunt and require orientation for new hunters only. Seconded by Martin Charlo. Carried, unanimous (8 present).

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

Rhonda Swaney, Legal Department; and **Ryan Rusche**, Chief of Staff; gave an update on the water compact. Ryan has been working with the Department of Interior to complete the execution of the compact and the Montana Water Court set a status conference for final decree on September 21, 2021. One requirement of the water settlement contained a number of waivers that become effective upon execution of the compact. Ryan presented for approval a resolution authorizing the execution of waivers under the Montana Water Rights Protection Act.

MOTION by Martin Charlo to approve the resolution authorizing the execution of waivers under the Montana Water Rights Protection Act. Seconded by Anita Matt. Carried, 8 for; 0 opposed; 0 not voting.

RESOLUTION 21-116

RESOLUTION AUTHORIZING THE EXECUTION OF WAIVERS UNDER THE MONTANA WATER RIGHTS PROTECTION ACT

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

WHEREAS, the Confederated Salish and Kootenai Tribes (“CSKT” or “Tribes”) are a federally recognized, sovereign tribe residing on the Flathead Indian Reservation in western Montana, with a vast aboriginal territory stretching from Canada to Wyoming, and from Washington to Montana; and

WHEREAS, water is among the most sacred substances to the CSKT, and the Tribes utilized water in their aboriginal territory for religious, hunting and fishing, and sustenance purposes; and

WHEREAS, federally-reserved water rights sufficient for the Tribes’ perpetual existence on the Flathead Indian Reservation were secured at the signing of the Hellgate Treaty in 1855, and moreover the Tribes’ aboriginal rights were confirmed by the express rights of the CSKT to hunt, fish, and gather at all usual and accustomed places throughout their aboriginal territory; and

WHEREAS, the United States illegally opened up the Flathead Indian Reservation for non-Indian settlement, and created the Flathead Indian Irrigation Project that dramatically altered natural waterways and irreparably damaged fish and wildlife habitat of the Reservation by creating a network of over 1,300 miles of ditches and canals filled with irrigation structures that now serve over 1,800 irrigators, 90% of which are non-Indian, and would have made prior appropriation of water rights nearly impossible to implement; and

WHEREAS, the State of Montana has pursued a state-wide adjudication of water rights, including Indian water rights pursuant to the McCarren Amendment as found applicable to Indian water rights in *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976), and simultaneously pursued negotiations with Indian tribes in the State; and

WHEREAS, the Tribes negotiated with the State of Montana and the United States for more than two decades to quantify the Tribes’ reserved and aboriginal water rights, with the Tribes making many concessions and compromises in an effort to find an amicable resolution, which resulted in the Water Rights Compact Entered Into by the Confederated Salish and Kootenai Tribes, the State of Montana, and the United States of America (“Compact”); and

WHEREAS, the Compact benefits the Tribes by quantifying water for the CSKT people, as was promised by the U.S. upon the signing of the Hellgate Treaty, and benefits the State by protecting water rights for its citizens and its wildlife, thus creating a benefit for the whole region; and

WHEREAS, the Compact facilitates the completion of the statewide general

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adjudication and will make available new sources of water for commercial and irrigation use, implement irrigation project upgrades and protect historic irrigation use, allow for economic development under conditions of legal certainty on and off the Flathead Reservation, provide for in-stream flows and protect endangered species such as bull trout; and

WHEREAS, the Compact requires that it be approved by the Tribes, the State, and the U.S. to be implemented; and

WHEREAS, the Montana legislature approved the compact with bi-partisan support (85-20- 1901, MCA), and on April 24, 2015, Montana State Governor Steve Bullock signed the Compact into State law; and

WHEREAS, the Compact requires ratification by the U.S. Congress to be implemented; and

WHEREAS, the 116th U.S. Congress authorized, ratified and confirmed the CSKT Compact through the Montana Water Rights Protection Act, H.R. 133, Division DD, 116th Cong. 2nd, on December 21, 2020, which the President signed into law on December 27, 2020; and

WHEREAS, by Resolution No. 21-023, dated December 29, 2020, the Tribal Council approved and ratified the Montana Water Rights Protection Act and the Compact; and

WHEREAS, in exchange for the benefits conferred by the Montana Water Rights Protection Act, the Tribes must agree to the waivers contained in Section 10 of the Act; and

WHEREAS, Article VI, Section 1 (a), (c), (f), (n), and (u) of the Tribes' Constitution and Bylaws, said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended, authorizes the Tribal Council of the Confederated Salish and Kootenai Tribes to approve the execution of waivers set forth in Section 10 of the Montana Water Rights Protection Act, to be effective upon the Enforceability Date as defined by Section 10 of the Act; **NOW, THEREFORE**,

BE IT RESOLVED, the Tribal Council of the Confederated Salish and Kootenai Tribes approves the waivers set forth in Section 10 of the Montana Water Rights Protection Act, to be effective upon the Enforceability Date defined by that Section, provided that such waivers shall not be effective if any provisions of the Act are amended or repealed without the Tribes' consent as evidenced by a duly authorized Tribal Resolution; and

BE IT FURTHER RESOLVED, the Tribal Council authorizes the Chairwoman to execute such waivers.

Rhonda Swaney, Chelsea Colwyn, Dan Decker, Shane Morigeau, Brian Upton, John Harrison, and Michael Wheeler, Legal Department; and **Ryan Rusche**, Chief of Staff; requested to meet with council in **executive session** to discuss legal matters. **Greg Spahr**, Cash Flow & Investments; **Tom McDonald, Rusty Sydnor, Rich Janssen, and Lynn Ducharme**, Natural Resources Department; and **Jami Pluff**, Policy Analyst; were present for discussion.

Council reconvened into **regular session**.

MOTION by Ellie Bundy McLeod to approve the MOA between CSKT and BPA. Seconded by Anita Matt. Carried, unanimous (8 present).

MOTION by Charmel Gillin to approve the letter to Martha Williams, U.S. Fish & Wildlife Service, supporting the appointment of Will Meeks as the U.S. Fish & Wildlife Service Regional Director for Region 7. Seconded by Ellie Bundy McLeod. Carried, unanimous (8 present).

Steven Kloetzel and Amy Croover, The Nature Conservancy; **Rhonda Swaney and Brian Upton**, Legal Department; **Rob McDonald**, Communications; **Whisper Camel-Means and Rich Janssen**, Natural Resources Department; met with council in **executive session** to discuss a land issue. **Jami Pluff**, Policy Analyst, was present for discussion.

Council reconvened into **regular session**.

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

Bing Matt left the meeting for the remainder of the day.

Jill Mackin, Montana State University Buffalo Nations Food System Initiative Coordinator; **Dr. Leroy Littlebear, Major Robinson, Paulette Fox, and Jason Baldes**, Advisory Council Members; gave an update on the Buffalo Nations Food System Initiative at the Montana State University. Food sovereignty is defined as the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and ag systems. The Montana State University has an Indigenous-Led Education & Research program and proposed a program to the BNFSI to promote the priorities of Indigenous Nations through equitable Indigenous-led partnerships in research and education. Seed bundles were sent to 200 community and family gardens throughout the state. The Advisory Council is focusing on Article V and Article VI of its bylaws. Article V – Education. Recognizing and continuing to embody all the teaching we have received from buffalo. We, collectively, agree to develop programs revolving around buffalo as a means of transferring intergenerational knowledge to the

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younger and future generations and sharing knowledge amongst our respective nations. Article VI – Research. Realizing that learning is a life-long process. We, collectively, agree to perpetuate knowledge-gathering and knowledge-sharing according to our customs and inherent authorities revolving around buffalo that do not violate our traditional ethical standards as a means to expand our knowledgebase regarding the environment, wildlife, plant life, and the role buffalo played in the history, spiritual, economic, and social life of our nations. The Advisory Council grounds itself by following the values of resiliency, respect, reverence, relationships, resourcefulness, reasoning, and reciprocity. The American Indian Hall will be a home for Native students and native plant relatives. The Tribal Council was invited to the grand opening on October 16, 2021.

Rhonda Swaney, Dan Decker, Chelsea Colwyn, John Harrison, Shane Morigeau, Michael Wheeler, and Brian Upton, Legal Department, requested to meet with council in **executive session** to discuss legal matters. **Jean Matt**, Mission Valley Power, was present for discussion.

Council reconvened into **regular session**.

George Ducharme, Roberta Decker and Tara Irvine, Tribal Lands Department, requested to meet with council in **executive session** to discuss a land issue.

Council reconvened into **regular session**.

George Ducharme, Roberta Decker, Tara Irvine, and Rachel Bigsam, Tribal Lands Department, discussed the Marlene Nicholson property, containing 330 acres, to be purchased with water rights funding. The discussion continued in **executive session**.

Council reconvened into **regular session**.

MOTION by Charmel Gillin to approve the request of Ms. Neuman to gift deed her property to her granddaughter. Seconded by Anita Matt. Carried, unanimous (7 present).

MOTION by Martin Charlo to direct Lands to pursue the purchase of Whiskey Trail and get all the details therein. Seconded by Anita Matt. Carried, unanimous (7 present).

MOTION by Martin Charlo to approve option 1 on the former Smoke Shop in Ronan. Seconded by Len TwoTeeth. Carried, 6 for; 1 opposed (Mike Dolson).

MOTION by Len TwoTeeth to show interest in the 300 acres along Highway 200. Seconded by Anita Matt. Carried, unanimous (7 present).

MOTION by Martin Charlo to approve the Fall Bid. Seconded by Ellie Bundy McLeod. Carried, unanimous (7 present).

Leroy Black and **Matt Howard**, Department of Human Resources Development Security Office, gave an update on security issues. AlertUs needs policy and procedures, along with some training. They spoke to Craige Couture about Active Shooter training. They talked to Bill Koberg and the Safety Committee about fire alarm systems. The security team prepared a training schedule. **Ellie Bundy McLeod** suggested that they reach out to Greg Gould at SKC to get a copy of their protocols for training. **Martin Charlo** had concerns about just setting the training schedule without any input from the departments on their availability. Leroy will be requesting a change of duty for employees to participate in the trainings. Martin was unclear why a change of duty would be needed if the employees are at work that day. Leroy said some of the people that are helping them do not work for the department; they work for S&K Gaming. Employees do not want to use their own time to attend training. **Len TwoTeeth** supported the request. At least it gives employees an opportunity to participate in the training sessions. **Chairwoman Fyant** did not think the training was optional. Martin asked who would be providing coverage for the 14 days the security staff is doing this training. He wanted to know if S&K Gaming employees are getting paid or if they are volunteering their time. Leroy said there would be no coverage, because Leroy and Matt are the only staff members in the Security Department. The discussion continued in **executive session**.

Council reconvened into **regular session**.

MOTION by Len TwoTeeth to approve the security training schedule as presented, with the option to make the adjustments as necessary. Seconded by Charmel Gillin. Carried, 6 for; 1 opposed (Martin Charlo).

***Martin Charlo**, for the record, "I'm opposing because I don't have enough information and as presented."*

Council reviewed a request from Arlene Templer for disabled hunter assistance for her son to assist her while hunting big game, due to medical reasons. Arlene provided a copy of a statement from her physician.

MOTION by Charmel Gillin to approve the disabled hunter assistance to allow Arlene Templer's son to assist her while hunting big game, due to medical reasons. Seconded by Ellie Bundy McLeod. Carried, unanimous (7 present).

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MOTION by Charmel Gillin to adjourn the meeting.

Council **adjourned** at 4:08 p.m., and is scheduled to meet again on Thursday, September 2, 2021, at 9:00 a.m.

CONFEDERATED SALISH AND KOOTENAI TRIBES

/sgnd/

Ellie Bundy McLeod
Tribal Council Secretary