

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

Volume 19 Number 36
Council Chambers, Pablo, MT

Held: February 28, 2019
Approved: March 12, 2019

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

MEMBERS ABSENT: Ronald Trahan, Chairman (Personal Time Off); and Carole Lankford (Housing Meeting).

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

The meeting was called to **order** at 9:12 a.m. Quorum established.

The meeting was opened with a **prayer** by Len TwoTeeth.

The **Tribal Council Meeting Minutes** for February 19, 2019 were presented for approval. **Shelly Fyant** asked where the 26 complaints go that Charmel submitted into the record since they are against a department head that the chairman supervises. **Len TwoTeeth** said when we developed the complaint form, the membership would turn them into the front desk and then they would be given to the chairman, and he would assign it to the appropriate department. The chairman would follow up on the issue and report back to council. It is important to take a look at those forms to see if there are time frames. The administrative director was not given any time lines to respond to them. Shelly reported that Clayton told her there is no written process in place yet and that Stu was following up still. **Leonard Gray** explained that the complaint form was developed for the membership, not employees. **Jennifer Trahan** informed council that only 6 complaints have been received and we have not received those 26 complaints yet. The six complaints received were sent to Mel, and then the responses are turned back in and forwarded to council. **Council** will discuss further at the end of the day and they want Stu Levit present for the discussion this afternoon to talk about developing an employee complaint form.

MOTION by Anita Matt to approve the Tribal Council Meeting Minutes for February 19, 2019, with corrections. Seconded by Fred Matt. Carried, unanimous (8 present).

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

MOTION by Charmel Gillin to approve the agenda, with changes. Seconded by Shelly Fyant. Carried, unanimous (8 present).

Dana Liberty and **Yvonne Dennis** discussed a land sale that Rio Liberty has met with council about. There was an agreement that the Tribes would buy the land in Dixon. **Carolee Wenderoth**, Tribal Lands Department, reported that the total purchase would be for 756 acres. The Land Committee accepted an agreement to make a balloon payment and carry the balance on a contract for deed. All the details have not been determined. There was also a request to lease back the property for two or three years. The payment terms, length of the contract for deed, the lease back request, and who is responsible for the taxes during the lease back terms still need to be figured out. This has not been presented to council due to the government shutdown. Lands was directed to hold off on any land acquisitions due to the potential of another shutdown on February 15. The February land committee meeting was canceled. Carolee asked if the Lands Department has access to the acquisition budget again and if the department can bring in properties for acquisition. They have questions on interest accrued and the terms to be negotiated. The contract for deed needs to be completed, needs to be placed in escrow until it is paid off, and issuing a check today would have to come from council direction to see if a check could be issued. Terms of the contract need to be finalized. The Lands Departments wants a legal review of the paperwork.

MOTION by Anita Matt to show interest in purchasing the McCollum Estate and negotiate the terms according to the Land Committee recommendations. Seconded by Myrna Dumontier. Carried, unanimous (8 present).

Carolee Wenderoth wants the land acquisition budget to obligate the amounts needed for the contract for the two or three years it will take to pay it off. **Leonard Gray** advised that Rick Eneas is aware of that.

Nick White requested to meet with council in **executive session** to discuss a personal matter.

Council reconvened into **regular session**.

Jean Matt, Mission Valley Power General Manager; and **Cindy Benson**, Mission Valley Power Utility Board; requested approval of an education and employment agreement with Zach Felsman. The Utility Board feels like it is a good investment

for the company and is in favor of the agreement. Zach will be required to work at MVP for a period of six months upon graduation.

MOTION by Fred Matt to approve the education and employment agreement with Zach Felsman. Seconded by Anita Matt. Carried, unanimous (8 present).

Charmel Gillin questioned if the Utility Board is looking at contract opportunities for females. **Jean Matt** had a descendant that is a sophomore at Duke University who is studying Engineering that wanted to intern at MVP. He is the only other person who has reached out looking for this. Jean had three females receive the scholarships. **Cindy Benson** reported that there will be some vacancies in the Engineering Department and they are looking at hiring trainees to take over those positions.

Jean Matt let council know that Mission Valley Power is aware of the February 28 date. KHJCC pays \$115,000 for power (85 homes equivalent power usage) and the facility has over 300 area lights there. He asked where the invoices need to be transferred to. **Leonard Gray** said there would be people out at the center beyond the February 28 date, so the power cannot be disconnected.

Jean Matt informed council that he wants to schedule time at a chairman's meeting. **Council** told him to schedule it with Jennifer.

Greg Wilson, Natural Resources Department, requested approval of a modification to Contractor Agreement 17-090 with Stantec Consulting Services for an increase of the not-to-exceed amount by \$211,000 for the Crow Dam Spillway Modification Project. The project is about 75 percent completed and more time is needed than originally projected.

MOTION by Charmel Gillin to approve a modification to Contractor Agreement 17-090 with Stantec Consulting Services for an increase of the not-to-exceed amount by \$211,000 for the Crow Dam Spillway Modification Project. Seconded by Myrna DuMontier. Carried, unanimous (8 present).

Les Bigcrane, Natural Resources Department, requested approval to proceed with the Blue Bay water system project and transfer funds to the Salish Kootenai Housing Authority to contract, construct, install, inspect, provide oversight, and approve the project.

MOTION by Fred Matt to approve the project and transfer of funds. Seconded by Anita Matt. Carried, unanimous (8 present).

Tom McDonald, Natural Resources Department, handed out a copy of Montana Outdoors. The magazine contains an article on Recovering America's Wildlife

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Act and an article about the Pablo/Allard buffalo herd that was the recipient of a conservation award. Tom discussed tribal inclusion in future federal fish and wildlife funding in any new or reauthorized federal acts. New revenue streams are currently being looked at for funding additional wildlife management needs with state governments and tribal and NGO entities are proposing to include tribes as equal to states into proposed federal legislation named Reinvesting in American Wildlife Act.

MOTION by Fred Matt to show support to add tribal inclusion in new federal laws particularly the RAWA Act. Seconded by Dennis Clairmont. Carried, unanimous (7 present – Anita Matt out of the room).

Gabe Johnson, Natural Resources Department, requested approval of the entrance and exit sign designs on Highway 200 (Perma) and Highway 28 (Dog Lake) to be forwarded to the Montana Department of Transportation for review. The designs were presented to both Culture Committees. **Sam Buffalo** commented that his advisor was mindful to inform the younger people that some of us are Bitterroot Salish descendants and he wants those roots included in the designs. **No action taken.** **Leonard Gray** asked Mr. Buffalo to meet with Gabe about this to see if this is doable. **Gabe Johnson** will obtain feedback from the Culture Committees before coming back to council on the final designs.

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

Jeanne Christopher, Early Childhood Services, requested approval to increase Mary Callahan's contract by \$25,000 to provide speech and language services through the end of the contract period. **Shelly Fyant** questioned whether this service was advertised through Indian Preference. Jeanne advised that it was advertised and she went through the Indian Preference Office. Shanna Stack did not apply.

MOTION by Len TwoTeeth to increase Mary Callahan's contract by \$25,000 to provide speech and language services through the end of the contract period. Seconded by Fred Matt. Carried, unanimous (8 present).

Jeanne Christopher, Early Childhood Services, requested approval to apply for Head Start funding. ECS is in year 1 of a 5-year grant and needs to apply for year 2 funding.

MOTION by Anita Matt to apply for year 2 of the Head Start funding. Seconded by Myrna DuMontier. Carried, unanimous (8 present).

Jeanne Christopher, Early Childhood Services, requested approval to purchase capital equipment consisting of a copy/printer/fax machine with add-ons from Office Solutions. ECS consulted with Property & Supply and three bids were

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obtained. Office Solutions was the best bid. The cost is \$7,655.00 and will be purchased with Childcare funds. **Charmel Gillin** would like to have support from Information Technologies. Jeanne will follow up with IT.

MOTION by Anita Matt to approve the purchase of capital equipment consisting of a copy/printer/fax machine and add-ons from Office Solutions in the amount of \$7,655.00. Seconded by Dennis Clairmont. Carried, unanimous (8 present).

Jeanne Christopher, Early Childhood Services, requested approval to purchase a SPOT vision screener through a sole source provider in the amount of \$7,676.00. ECS will have the old machine recalibrated. No bids were obtained.

MOTION by Charmel Gillin to approve the purchase of capital equipment consisting of a SPOT vision screener through a noncompetitive provider in the amount of \$7,676.00. Seconded by Fred Matt. Carried, unanimous (8 present).

Teresa Wall-McDonald and **Joe Durglo**, Tribal Health Department; and **Rodney Bird**, Two Eagle River School; requested approval of a memorandum of agreement for Tribal Health to provide an onsite school counselor at Two Eagle River School from March 1, 2019 through August 30, 2019, to be funded by the Reason to Live Native Circle of Trust grant.

MOTION by Len TwoTeeth to approve a memorandum of agreement for Tribal Health to provide an onsite school counselor at Two Eagle River School from March 1, 2019 through August 30, 2019, to be funded by the Reason to Live Native Circle of Trust grant. Seconded by Myrna DuMontier. Carried, 7 for; 1 abstention (Charmel Gillin).

Teresa Wall-McDonald, **Joe Durglo** and **Brian Crawford**, Tribal Health Department, provided an activity report for the Safety/Sanitarian program. Brian gave a report on the arsenic levels in the water at Charlo. There are grant funds that can pay for water sampling costs. **Anita Matt** said there are seven Indian families that live in the Moiese area and there is an arsenic deposit in the Flathead River. She would like Brian to follow up on this. **Shelly Fyant** discussed the problem with dogs. She requested that Brian attend a meeting with the Mission Valley Animal Shelter on March 7, at 2:00 p.m., at the Lake County Health Department Conference Room. **Joe Durglo** informed council that there will be a hearing on March 16 on Medicaid expansion and he wants there to be a tribal presence there. **Shelly Fyant** talked about food vendors at the tribal buildings. Brian said the Tribes could adopt a Public Health Code and policy for food vendors that would be specific to our needs. **Art Caye** told Brian that he does fundraiser meals. Brian said that Art would be considered a

commercial vendor and Food Handler Trainings would be a good idea. Brian has conducted surveys and received two requests for food handling training.

Teresa Wall-McDonald, Tribal Health Department, discussed the possibility of offering equine therapy. THD issued an RFP in the amount of \$40,000. The RFP was circulated through the Indian Preference Office as a condition of the procurement. The RFP was structured to serve identified high-risk youth. This was a directive from the council when there was a proposal for a horse camp. The provider must have appropriate liability insurance coverage. Shaunda Albert and Nicole Roberts, Willow Canyon Counseling Services, submitted two proposals (A and B). Teresa requested authority to accept the bid. The details of the contract have not been worked out yet. If approved, we would serve 12 youth in each section ages 7 and up; priority for inclusion of therapy is survivors of suicide, siblings and close relatives of those who completed, those with sexual abuse allegations, and those who have attempted but not completed. There would be two licensed credentialed counselors. It would be funded through a grant and scholarships would be awarded for the participants.

MOTION by Myrna DuMontier to accept the bid from Willow Canyon Counseling Services (Budgets A and B) and move forward with a contract. Seconded by Anita Matt. Carried, unanimous (8 present).

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

Allen Sloan, Francine Dupuis and **Pete White**, S&K Gaming Board of Directors, requested approval of a resolution approving modification 4 to the S&K Gaming Operating Agreement. **Charmel Gillin** asked if there is a policy requiring the LLC members to attend board meetings. Allen responded that there is no policy and it has not been a problem getting a quorum established at board meetings. Charmel said whomever the shareholder selects to serve on boards should be attending the meetings. If it is not included in the operating agreement, she wants there to be a board policy. Allen advised that the board would discuss this at the next board meeting.

MOTION by Charmel Gillin to approve by resolution modification 4 to the S&K Gaming Operating Agreement. Seconded by Shelly Fyant. Carried, 8 for; 0 opposed; 0 not voting.

RESOLUTION 19-089

RESOLUTION TO AUTHORIZE AND APPROVE THE FOURTH AMENDMENT TO THE OPERATING AGREEMENT FOR S&K GAMING, LLC AMENDING SECTION V (A) OFFICERS SECTION IN ORDER TO DESIGNATE A TIME FOR SELECTION OF OFFICERS FOR THE LLC

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

WHEREAS, The Confederated Salish and Kootenai Tribes of the Flathead Reservation (hereinafter “Tribes”) are a federally recognized Indian Tribe governed under a constitution form of government organized pursuant to Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, as amended, and possessing all the inherent sovereign powers of self-government; and

WHEREAS, the Tribal Council is the governing body of the Tribes with responsibilities to establish a more responsible organization, promote general welfare and engage in activity on behalf of and in the interest of the Tribes and enrolled members; and

WHEREAS, the Tribes formed the S&K Gaming, LLC to provide general gaming management oversight to the Tribes for the KwaTaqNuk Resort & Casino and the Gray Wolf Peak Casino on the Flathead Indian Reservation and any other entity as designated by the Tribes; and

WHEREAS, the S&K Gaming, LLC actively promotes the operation of Indian gaming on the Flathead Reservation as a means of promoting tribal economic development, self-sufficiency and strong tribal governments; and

WHEREAS, the S&K Gaming, LLC’s original Operating Agreement was adopted by its Members with an effective date of August 3, 2006 with the First Amendment to the Operating Agreement approved by a majority vote of the S&K Gaming, LLC members on November 29, 2012, and Second Amendment was adopted June 16, 2016, by Resolution 16-175, a Third Amendment approved on May 3, 2016 by CSKT resolution No. 16-148; and

WHEREAS, the S&K Gaming, LLC’s desire is to effectuate a Fourth Amendment to the S&K Operating Agreement, amending Article V – A. Officers. To add the following: During a duly called meeting at least once each year, and no later than September 30 of each year, the LLC may designate one or more officers, such as Chairman, Vice Chairman Secretary and Treasurer. Such positions may be compensated or non-compensated according to the nature and extent of the services rendered for the LLC as part of the duties of each office. Any officer may be reimbursed by the LLC for out-of-pocket expenses paid by the officer in carrying out the duties of his or her office; and

NOW THEREFORE, BE IT RESOLVED, that the Confederated Salish and Kootenai Tribal Council authorizes and approves the Fourth Amendment to the Operating Agreement for the S&K Gaming, LLC, as approved by a majority vote of the S&K Gaming, LLC members, to include: 1) additional language in Article V, Section A – Officers. During a duly called meeting at least once each year, and no

later than September 30 of each year, the LLC may designate one or more officers, such as Chairman, Vice Chairman, Secretary and Treasurer. Such positions may be compensated or non-compensated according to the nature and extent of the services rendered for the LLC as part of the duties of each office. Any officer may be reimbursed by the LLC for out-of-pocket expenses paid by the officer in carrying out the duties of his or her office.

Allen Sloan, Francine Dupuis and Pete White, S&K Gaming Board of Directors, handed out a letter in response to some personnel issues that were brought up at the last shareholder meeting. The board will continue to follow up on these matters.

Council met in executive session.

Council reconvened into **regular session.**

Rhonda Swaney and Brian Upton, Legal Department, discussed the In The Spirit of Ataticce film screenings that are scheduled. The International Wildlife Film Festival will play the film the week of April 15; the Flathead Human Rights indicated interest in showing it at the church (on top of Post Creek Hill) on April 23; and the Western Organization of Research Council will show it at the KwaTaqNuk Resort. There will be a screening in Helena on April 4. The screening would take place at the Helena Middle School Auditorium and a reception at the Cafeteria. Brian requested approval of the venue agreement.

MOTION by Fred Matt to approve the venue agreement with the Helena School District. Seconded by Dennis Clairmont. Carried, unanimous (8 present).

Rhonda Swaney and Brian Upton, Legal Department, requested approval of the \$30,000 budget and approval of a rental agreement to use the Smithsonian's National Museum of the American Indian to book the Rasmuson Theater for a screening of the Bison Range film and a reception at the Potomac Atrium on May 22. The total cost of the venue and reception is \$29,950.00. He requested approval for the chairman to sign the contract with the event planner. The Legal Department has \$15,000 in the budget to pay towards the expenses, so the other \$15,000 funding source would need to be identified. There is an opportunity to seek external funding from various sources.

MOTION by Charmel Gillin to approve the budget up to \$30,000, as requested, for the DC venue at the Smithsonian's National Museum of the American Indian for the screening of the In The Spirit of Ataticce; approval of the rental agreement; and authority for the chairman to sign the contract with the event planner. Seconded by Shelly Fyant. Carried, 7 for; 1 abstention (Len TwoTeeth).

Rhonda Swaney and **Mary Price**, Legal Department, requested approval of a letter addressed to Tom Udall, U.S. Senate; and Raul Grijalva, U.S. House of Representatives; regarding the Bill to make reclamation fund permanent available for Indian water settlements.

MOTION by Shelly Fyant to approve the letter to Tom Udall, U.S. Senate; and Raul Grijalva, U.S. House of Representatives; regarding the Bill to make reclamation fund permanent available for Indian water settlements. Seconded by Anita Matt. Carried, unanimous (8 present).

Rhonda Swaney and **Dan Decker**, Legal Department, requested to meet with council in **executive session**. **Ryan Rusche**, Legal Department; **Renee Joachim** and **Cory Clairmont**, Personnel Department; and **Vern Clairmont**, Financial Management; were present for discussion.

Council reconvened into **regular session**.

MOTION by Fred Matt to move forward with the agreement with MINACT Corporation. Seconded by Shelly Fyant. Carried, unanimous (8 present).

Council discussed compensating the employees that were laid off from Kicking Horse Job Corps Center. It was suggested that they be compensated for 30 days from last week's written notice.

MOTION by Anita Matt to go with the recommendation to pay the KHJCC employees the 30 days' wages from February 22 to March 24. Seconded by Shelly Fyant. Carried, unanimous (8 present).

MOTION by Myrna DuMontier to recommend an addendum to the closeout process be added as a severance package for employees. Seconded by Charmel Gillin. Carried, unanimous (8 present).

Charmel Gillin wants to initiate cancellation of the lease with the Department of Labor. **Rhonda Swaney** advised that the Department of Labor has exercised their one-year renewal option to lease the KHJCC facility. If the Tribes cannot reach agreement for a mutual lease termination with the DOL, we need to provide DOL with a 180-day cancellation notice. The DOL will have a certain amount of time to remove their improvements and equipment from the lease premises. The Tribes will be responsible for all costs of the facility after the lease is cancelled. **Shelly Fyant** commented on the lack of communication and misinformation.

MOTION by Charmel Gillin to initiate the lease cancellation process on the KHJCC property, as stipulated in the lease. Seconded by Myrna

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DuMontier. Carried, 5 for (Charmel Gillin, Myrna DuMontier, Dennis Clairmont, Shelly Fyant, and Anita Matt); 2 opposed (Leonard Gray and Fred Matt); 1 abstention (Len TwoTeeth).

Charmel Gillin requested that the Legal Department draft a letter regarding our negotiation standpoint. **Rhonda Swaney** will follow up.

Vern Clairmont does not know if we have authority to obligate any funds beyond today. Tomorrow is not covered under our operational contract. The question was whether or not we could complete the project by today and the answer is no. We do not want to get caught up in a situation where we spend a bunch of money and the Department of Labor says we had no authority after February 28 and will not reimburse the costs. **Shelly Fyant** asked if we should involve our congressional delegation about this. **Leonard Gray** was not sure that would be a good idea since the reason the DOL terminated the contract was due to the poor management by the staff at KHJCC. **Myrna DuMontier** wants the Tribes to take the lead on this instead of the DOL taking the lead and telling us what to do.

Council met in **executive session**.

Council reconvened into **regular session**.

MOTION by Anita Matt to direct Renee Joachim from Personnel to create a job description for an EEO by March 12. Seconded by Myrna DuMontier. Carried, unanimous (8 present).

Shelly Fyant informed council that she gave the complaints to Jennifer Trahan, and Jennifer told her that the complaints will get scanned, put on a spreadsheet, given to who is responsible for investigating the complaint, and then report back after it is investigated. Shelly said we need action to investigate these complaints.

MOTION by Shelly Fyant to direct our Internal Auditor to address the recent 26 or 27 complaints we got while we wait for the EEO position to be drafted, advertised and filled. Seconded by Myrna DuMontier. Carried, 5 for (Shelly Fyant, Myrna DuMontier, Fred Matt, Charmel Gillin, and Anita Matt); 3 opposed (Leonard Gray, Len TwoTeeth and Dennis Clairmont).

MOTION by Myrna DuMontier to adjourn the meeting. Seconded by Anita Matt. Carried, unanimous (8 present).

Council **adjourned** at 4:38 p.m., and is scheduled to meet again on Tuesday, March 5, 2019, at 9:00 a.m.

CONFEDERATED SALISH AND KOOTENAI TRIBES

/sgnd/

Shelly R. Fyant
Tribal Secretary