

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

Volume 22 Number 86
Council Chambers, Pablo, MT

Held: September 29, 2022
Approved: October 4, 2022

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

MEMBERS ABSENT: Dixon District (Vacant).

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 9:00 a.m. Quorum established.

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

The **Tribal Council Meeting Minutes** for September 22, 2022 were presented for approval.

MOTION by Ellie Bundy to approve the Tribal Council Meeting Minutes for September 22, 2022, with corrections. Seconded by Bing Matt. Carried, unanimous (9 present).

The **agenda** was presented for approval.

MOTION by Martin Charlo to approve the agenda, with changes. Seconded by Mike Dolson. Carried, unanimous (9 present).

Ron Matt, Quannel Matt and Wendy Sue Matt, Arlee Pow Wow Committee, requested to meet with council in **executive session**. **Rick Eneas**, Tribal Executive Officer; and **Greg Spahr**, Financial Management; were present for discussion.

Rick Eneas, Tribal Executive Officer, requested to meet with council in **executive session**.

Council reconvened into **regular session**.

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

Julie Cajune, WILD Foundation Trustee; and **Frank Tyro**; showed council the “For the Next Generation” film on CSKT conservation produced with Off The Fence and Water Bear and requested approval to do public screenings of the film. Julie previously received council approval to make the film and CSKT staff participated. Prototypes of the film were shown at Marseille, France and COP 26 in Glasgow, Scotland. Julie was contacted by the Yellowstone to Yukon Conservation Initiative to allow screening of the film at events they will be hosting.

MOTION by Jennifer Finley to allow public screenings of the “For the Next Generation” film. Seconded by Carole Lankford. Carried, unanimous (9 present).

Director Chris Dorrington and **Dan Walsh**, Montana Department of Environmental Quality; and **MaryRose Morigeau**, Natural Resources Department; discussed Marvin Rehbein’s application to permit a 157-acre opening mining pit/asphalt plant to MDEQ for a proposed 1,000,000 cubic yards of gravel to be removed over a 20-year span and to be returned to cropland by 2047. The community and CSKT are concerned about water quality, wildlife impacts, air pollution, and HB599 concerns of enforcement by MDEQ. There was discussion about the landowners not being notified. DEQ has a list of individuals identified but he did not have a response for the difference in the list and those saying they were not notified. The community is allowed to submit public comments on any proposed permits. The DEQ is not intending to hold a public meeting but are welcoming written comments. **Council** opened the floor for public comments. **Shelly Fyant**, Friends of the Jocko, lives outside the half-mile radius that was required to submit comments for a public hearing. From the beginning that process was not followed. They had two neighbors within the half-mile radius who received letters from Mr. Rehbein and submitted comments, and when they filled out their FOIA request those comments were not included. The form that was sent out was an old form. She thought an EA would be triggered; CSKT asked for an EIS regarding the proposed project. Arlee is designed as a cultural property. They are requesting a public hearing for the community of Arlee. There are other problems with the permit. The operator is required to post signage and there is no signage posted to date. Chris advised the DEQ will look into the concern about the form that was sent out. The form may be a timing issue based on when the new law went into effect. They will look into the concern that the two comments were not included. All public comments will be taken seriously and may be instructive how they do NEPA. As the law was written a certification by the operator that they complied with that, so they are working thru the implementation of the law. The applicant certified they posted that signage. There is a conflict whether Riverside did the signage. DEQ recommends the contractor taking photos of the signage and the location of the

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signage to verify it was posted. There is a list of the neighbors that were notified. **Jim Cofield**, Community Member, discussed public notification. There was concerns in deficiency how Rehbein notified people. The Tribe was notified; not each individual, which is unfair. He was notified but his neighbor submitted comments for a public hearing which was not included in the record. He thinks it is a violation of his constitutional rights to participate and he thinks his rights have been violated so the group has engaged with an attorney to take legal action. There are a host of issues that were not addressed. Jim asked DEQ to hold off on any executive actions until they hear from the Friends of the Jocko. He wants the state to go back and look at the EA that was conducted by CSKT and BIA. Jim wondered why it was not analyzed during the highway rebuild without a full EA. Director Dorrington responded the DEQ will look into the potential errors of notifications. If they are not in the FOIA request, it will need to be reviewed. Any public comments can/may influence the permit. Jarrod moved to Arlee and had heard a lot about law and whether the law is being followed. The environmental impact is zero. That's why he moved here. He found the Buddha Garden and it was home to him. Jarrod talked about water flows. If we want environmental justice now is the time.

Jennifer Knoetgen talked about signage. It would have helped the community to realize the seriousness of the project if there was signage. They brought it to DEQ's attention; they signed an affidavit and took photos and sent it to DEQ but nothing was done. As a member of the community, she will live next door to the project. She has concerns about how future violations will be handled if the applicant does not take the signage seriously. Keegan has concerns about the community being ruined for his family and future generations. Elizabeth Rhinehart asked if DEQ thinks it is appropriate to place a polluting non-tribally owned industry inside the Flathead Reservation. Director Dorrington responded no to the notion of anything polluting. Michelle McLain moved to Arlee recently and has been educating herself on this project and getting acclimated to her neighborhood. She will become a member of The Friends of the Jocko. She asked why they would put something like this seemingly destructive already been studied a hundred times with so many negatives for this type of business in such a pristine and protected place. The Friends of the Jocko are trying to protect our legacy. She does not see the benefit of having this gravel pit at the proposed location. Director Dorrington commented that the DEQ is not an advocate for the operation and does not dictate where the resources are. When applicants meet the requirements of the law the DEQ must issue permits. Doug Olson commented DEQ telling us you're considering these comments but it seems like the comments have been expressed in written form and he does not understand why they say these comments are new and they'll check into them, but they were already submitted. It is confusing to him. He does not feel the integrity is there for the comments.

Lorie Childs lives near the site and has not had a say in the permitting process. She found the application to be an insult to this whole process. She wrote an email pointing out the deficiencies. It does not mention the noxious weeds to the Buddha Garden. **Rich Janssen**, Natural Resources Department, had assigned MaryRose Morigeau to spearhead this issue. The current law got passed, and it reduced lots of the things we are seeing coming to fruition today and we need to get it changed in the next legislative session. He was not sure if the Tribal Lands Department was notified. Our people are living in close proximity to this plant and that concerns him. The Tribes need to look at HB599 and how and why it was written. He knows Gunderson didn't even read the bill. NRD is looking at the proposed open pit mine and its impacts to our resources. We need to do everything we can to prevent our resources from being impacted. NRD is submitting a \$62,000,000 grant to the federal government to reconstruct the highway from Post Creek to Ronan. It will concern him if this gravel comes from this pit and Rehbein will take the opportunity to capitalize. CSKT needs to look at the impacts of this pit. Ronnie Spillgate does not support the pit; people of color are affected by it. Graceland Kenmille does not support the gravel pit and the pollution will affect all of us. Jim Koefield commented that if you look at the Riverside website, they say they allow their workers to set up camp on their gravel pits. He does not think anyone wants to see a man camp at that location. Joel Riehl showed council photographs of the property near the gravel pit. Leslie Millar has lived in Arlee off and on for 50 years. It's beauty and layout is attractive to her. She is appalled that it is even being considered. It needs to be outright rejected. The people that own land in that area will have their property values be drastically devalued. It will alter the character of Arlee. Michelle Sunni Bradshaw is concerned about the health and safety. She has lived in the Jocko since the late 80s. She came here because she has a number of health problems. Now that there will be chemicals spewing the air is of concern to her and her health. **Martin Charlo** lived in Arlee for a number of years. These projects are put in areas that are disproportionately unrepresented. He appreciates the comments today. We have important elections coming up this fall and we need to elect people who are conscious of our environment. **Director Dorrington** will consider the comments and look into the processes.

Mark Couture and **Zanen Pitts**, Tribal Lands Department, requested to meet with council in **executive session** for a Land Committee meeting. **Michael Wheeler**, Legal Department, was present for discussion.

Council reconvened into **regular session**.

MOTION by Martin Charlo to approve the amendments to Leon Weider's ten-year improvement lease with an amendment to sever the equipment from the property to get his financial security. Seconded by Carole Lankford. Carried, 7 for; 2 opposed (Tom McDonald and Mike Dolson).

MOTION by Len TwoTeeth to split the 2.5-acre homesite at North Crow into two homesites, with a contingency of well and septic performance. Seconded by Ellie Bundy. Carried, unanimous (9 present).

MOTION by Bing Matt to send out a second notice for a bid. Seconded by Ellie Bundy. Carried, unanimous (9 present).

Rick Eneas, Tribal Executive Officer, requested to meet with council in **executive session**.

Council met in **executive session**.

Council reconvened into **regular session**.

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

Brad Pluff, Tribal Court, conducted the swearing-in of James Park Taylor as Associate Attorney Justice of the Appellate Court for a three-year term.

Council met in **executive session** to conduct interviews for the Dixon District Tribal Council seat. **Melanie Piedalue**, Personnel Department, was present for interviews.

Council reconvened into **regular session**.

MOTION by Len TwoTeeth to accept the results of the ballot and appoint Terry Pitts to fill the remaining term of the Dixon District Tribal Council seat. Seconded by Mike Dolson. Carried, unanimous (8 present – Jennifer Finley out of the room).

Martin Charlo is helping with the Bear Tracks Bridge dedication event on October 10, which is also Indigenous Peoples Day. Last year the council reached consensus to give that day off to tribal employees. **Melanie Piedalue**, Personnel Office, informed council that they just need to indicate in the minutes that they want it added to the ordinance, and the Personnel Department will amend it.

MOTION by Martin Charlo to designate Indigenous Peoples Day as a paid tribal holiday. Seconded by Len TwoTeeth. Carried, unanimous (9 present).

Dan Decker, **Michael Wheeler**, **Brian Upton**, **Melissa Schlichting**, **John Harrison**, and **Katie Jones**, Legal Department, requested to meet with council in **executive session** to discuss legal matters. **Shane Morigeau**, Tribal Executive Office, was present for discussion.

Council reconvened into **regular session**.

MOTION by Len TwoTeeth to approve the amendment to the memorandum of agreement the Confederated Salish and Kootenai Tribes and the Flathead Reservation Water Management Board regarding interim processing for domestic allowances to extend it to December 31, 2022. Seconded by Ellie Bundy. Carried, unanimous (9 present).

MOTION by Martin Charlo to approve the resolution authorizing the Tribal Chairman to sign the “Fourth Amended Memorandum of Understanding between the Confederated Salish and Kootenai Tribes and the Bonneville Power Administration for Resident Fish Mitigation (Hungry Horse Dam and Reservoir)”. Seconded by Bing Matt. Carried, 9 for; 0 opposed; 0 not voting.

RESOLUTION 22-161

A RESOLUTION AUTHORIZING THE TRIBAL CHAIRMAN TO SIGN THE “FOURTH AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFEDERATED SALISH AND KOOTENAI TRIBES AND THE BONNEVILLE POWER ADMINISTRATION FOR RESIDENT FISH MITIGATION (HUNGRY HORSE DAM AND RESERVOIR)”

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES (“TRIBES”):

WHEREAS, the construction of Hungry Horse Dam in the Tribes’ treaty-ceded territory has resulted in numerous impacts to resident fish, and

WHEREAS, the Bonneville Power Administration (BPA) has obligations, pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (a.k.a. the “Northwest Power Act”), 16 U.S.C. §§ 839-839h, to protect, mitigate, and enhance fish and wildlife affected by the development of federal hydroelectric projects of the Columbia River and its tributaries, and

WHEREAS, the Tribal Council has entered into several agreements with the Bonneville Power Administration for mitigation of the Hungry Horse Dam’s construction and inundation impacts on resident fish, and

WHEREAS, the Tribes acquire real properties under those agreements which are used for resident fish mitigation and habitat protection projects, and

WHEREAS, the Tribes have negotiated a successor Memorandum of Understanding (MOU) for the above-referenced activities and such MOU would be for the term of fiscal years 2023 through 2025.

NOW, THEREFORE BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES, that the Tribal Chairman is authorized to sign the “Fourth Amended Memorandum of Understanding between the Confederated Salish and Kootenai Tribes and the Bonneville Power Administration for Resident Fish Mitigation (Hungry Horse Dam and Reservoir)”.

MOTION by Ellie Bundy to approve the letter to the Indian Health Service regarding the contract support cost claims for 2016. Seconded by Jim Malatare. Carried, unanimous (9 present).

Mark Couture, Tribal Lands Department, discussed a letter for the Valley View purchase.

MOTION by Len TwoTeeth to approve the letter regarding the Valley View purchase. Seconded by Ellie Bundy. Carried, unanimous (9 present).

Mary Antiste, Tribal Member, met with council to get answers for the questions she had previously submitted regarding her concerns. The discussion continued in **executive session**.

Council met in **executive session**.

Council reconvened into **regular session**.

Council **adjourned** at 5:50 p.m., and is scheduled to meet again on Tuesday, October 4, 2022, at 9:00 a.m.

CONFEDERATED SALISH AND KOOTENAI TRIBES

/sgnd/

Martin A. Charlo
Tribal Council Secretary