

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

Volume 19 Number 65
Council Chambers, Pablo, MT

Held: July 2, 2019
Approved: July 16, 2019

MEMBERS PRESENT: Ronald Trahan, Chairman; Leonard Gray, Vice-Chairman; Shelly Fyant, Secretary; Anita Matt, Treasurer; Myrna DuMontier; Carole Lankford; Fred Matt; and Dennis Clairmont.

MEMBERS ABSENT: Leonard TwoTeeth; and Charmel Gillin.

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 9:05 a.m. Quorum established.

The meeting was opened with a **prayer** by Shelly Fyant.

The **Tribal Council Meeting Minutes** for June 18, 2019 were presented for approval. **Anita Matt** asked if Financial Management received the Arlee Pow Wow Committee reports. **Rick Eneas** advised that he did receive the reports.

Len TwoTeeth joined the meeting.

MOTION by Anita Matt to approve the Tribal Council Meeting Minutes for June 18, 2019, with corrections. Seconded by Dennis Clairmont. Carried, unanimous (9 present).

The **agenda** was presented for approval.

MOTION by Dennis Clairmont to approve the agenda, with changes. Seconded by Anita Matt. Carried, unanimous (9 present).

Mignon Harris gave an update from what has happened. She has a change of duty list and a donation request. Mignon was verbally told there was a \$250.00 is the cleanup fee for using the gym and she received a \$750.00 invoice. She contacted Rodney Bird and is waiting for the TERS Board response. She needs to know the number of participants and sizes to get t-shirts for the youth. She contacted Lands about the water. The list of change of duty is Kevin Askan, Mignon Harris, Howard Walker, Carlin Matt, and Eneas Hammer.

MOTION by Len TwoTeeth to grant a change of duty for Kevin Askan, Mignon Harris, Howard Walker, Carlin Matt, and Eneas Hammer. Seconded by Fred Matt. Carried, unanimous (9 present).

Calvin Bourdon requested to meet with council in **executive session** to discuss a personal matter.

Council reconvened into **regular session**.

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

Stephen McDonald, James Lozeau, and Duane Plant, Tribal Forestry Department, requested approval of modification 1 to the Revais East Logging Unit contract number F203C19005 with Kendall Dupuis Logging to change the cutting schedule to cut and/or pay date without penalty. The purchaser must pay upfront for timber not cut. These type of requests have always been accommodated without penalty for continuity reasons, due to circumstances that hinder operations. Bad weather is the reason for this partial extension. The end cut and pay date remains in effect. **Len TwoTeeth** does not want contractors monopolizing sales and he wants Tribal Forestry to look at adding penalty clauses in future contracts for loggers that cannot fulfill the obligations.

MOTION by Fred Matt to approve by resolution modification 1 to the Revais East Logging Unit contract number F203C19005 with Kendall Dupuis Logging, based on the circumstances and dialogue. Seconded by Dennis Clairmont. Carried, 6 for; 2 opposed (Myrna DuMontier and Shelly Fyant); and 1 abstention (Anita Matt).

***Shelly Fyant**, for the record, "I think there's other options that could have been presented yesterday, like a penalty clause or readvertising for smaller sales. As it is, none of the options that were presented to us yesterday are going to allow us to realize that revenue in fiscal 2019."*

RESOLUTION 19-152

RESOLUTION APPROVING MODIFICATION #1 REVAIS EAST LOGGING UNIT CONTRACT NO. F203C19005

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

WHEREAS, we are changing A13. Cutting Schedule to 16,000 tons cut and/or pay on or before August 1, 2019, and cut and pay all remaining timber on or before August 1, 2020, without penalty, and

BE IT THEREFORE RESOLVED, that the Tribal Council of the Confederated Salish and Kootenai Tribes hereby approves Contract Modification #1 on the Revais East Logging Unit.

Stephen McDonald, James Lozeau, and Duane Plant, Tribal Forestry Department, requested a temporary employment agreement with Warren Tuffy for the TEA thinning crew. The crew members come in twos for safety reasons. Pascal Hammer is a tribal member and he wants Warren to join him on the crew.

MOTION by Carole Lankford to approve the hire of Warren Tuffy on a temporary employment agreement for the TEA thinning crew. Seconded by Fred Matt. Carried, 6 for; 2 opposed (Leonard TwoTeeth and Shelly Fyant); 1 abstention (Myrna DuMontier).

Shelly Fyant, for the record, *“The reason I am opposed is because I think the forest plan addresses tribal members working in the forest.”*

Dennis Clairmont, for the record, *the way I understand it, there are still some available spots for tribal members to apply.”*

Dan Durglo, Traci McDonald and Kelly Caldbeck, Salish Kootenai College, requested approval of a resolution approving a mutual limited waiver of sovereign immunity for SKC contract #20-07-5-15-011-0 with the Montana Department of Public Health and Human Services. SKC’s legal counsel is comfortable with the limited waiver. This is the first year the agency is requesting a waiver for this grant. **John Carter**, Legal Department, joined the discussion and was unaware whether this document has been to sent to Legal for review. He suggested having it reviewed by the tribal attorneys prior to taking any action on it.

MOTION by Myrna DuMontier to approve the limited waiver of sovereign immunity for SKC contract #20-07-5-15-011-0 with the Montana Department of Public Health and Human Services. Seconded by Fred Matt. **MOTION AND SECOND WITHDRAWN**. Council requested legal review.

Jean Matt, Mission Valley Power, informed council that he is cancelling his council time this morning.

Karissa Trahan, Tribal Education Department, requested approval of a consultant contract with Dr. George Price in the amount of \$1,500 to do 4 homesite visits for the summer youth program and provide presentations on food sovereignty and gardening education.

MOTION by Shelly Fyant to approve a consultant contract with Dr. George Price for the amount of \$1,500. Seconded by Anita Matt. Carried, unanimous (9 present).

Renee Joachim, Personnel Department; and **John Carter**, Legal Department; discussed the results of the employee survey regarding Ordinance 69C. It was the **consensus** of council to approve an additional month for the letter to go out to all the departments.

Dan Decker and **Brian Upton**, Legal Department; and **Lloyd Miller**, Sonosky, Chambers, Sachse, Endreson, & Perry; requested to meet with council in **executive session** to discuss litigation. **Joe Durglo**, Tribal Health Department, was present for discussion.

Dan Decker and **Stu Levit**, Legal Department, requested to meet with council in **executive session** to discuss legal matters.

Dan Decker and **Ryan Rusche**, Legal Department, requested to meet with council in **executive session** to provide a legal update.

Dan Decker and **Shane Morigeau**, Legal Department, requested to meet with council in **executive session** to provide a legal update.

Council reconvened into **regular session**.

MOTION by Myrna DuMontier to approve by resolution a mutual limited waiver of sovereign immunity for SKC contract #20-07-5-15-011-0 with the Montana Department of Public Health and Human Services. Seconded by Fred Matt. Carried, 8 for; 0 opposed; 1 not voting (Len TwoTeeth out of the room).

RESOLUTION 19-153

RESOLUTION APPROVING MUTUAL LIMITED WAIVER OF SOVEREIGN IMMUNITY FOR SKC CONTRACT #20-07-5-15-011-0 WITH THE MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

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

WHEREAS, Salish Kootenai College (SKC) is a tribally controlled college accredited as a four- year institution of higher education by the Northwest Commission on Colleges and Universities; and

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WHEREAS, the Tribal Council of the Confederated Salish and Kootenai Tribes (CS&KT) established SKC in part to provide education programs for its membership; and

WHEREAS, the College has an established Sexual Violence Prevention and Victims Services Program to provide education and services for students and staff; and

WHEREAS, Salish Kootenai College has received a contract to receive funding to continue to provide education and services; **NOW, THEREFORE**,

BE IT RESOLVED that the Tribal Council agrees to a mutual limited waiver of sovereign immunity for the sole purpose of enforcing provisions of Contract No. #20-07-5-15-011-0 between Salish Kootenai College and the Montana Department of Public Health and Human Services.

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

Mike Kenmille, Bev Michel and Levi Hewankorn, Standing Arrow Celebration Committee, presented the annual report for the 2018 Celebration. They requested a change of duty for July 15-19, 2019 for Kevin Askan, Kyle Felsman, AJ McDonald, Janelle Michel, Bev Michel, and Louie Pierre. **Shelly Fyant** asked if any of these people are getting paid for services; if so, that would be double dipping. Bev advised that they would also be working on the weekend. Mike commented that it is not double dipping because they are working for their people. Shelly clarified that they would be getting paid from their job while being on a change of duty in addition to getting paid from the committee for the same hours worked. W-9s are required for all payouts, as well. **Chairman Trahan** asked them to meet with Rick Eneas to explain what double dipping is and the W-9 requirements.

MOTION by Len TwoTeeth to approve a change of duty for July 15-19, 2019 for the following, with supervisor approval: Kevin Askan, Kyle Felsman, AJ McDonald, Janelle Michel, Bev Michel, and Louie Pierre. Seconded by Anita Matt. Carried, unanimous (9 present).

Mike Kenmille asked council how to add people to this change of duty list that was approved. **Carole Lankford** told him to just call the chairman for approval. **Bev Michel** read a letter from Wendell and Andrea Dunn commending the committee that was received. The committee was in the red when they took over last year. Mike hopes to keep the committee in the green this year after all the bills are paid. **Rick Eneas** stated that council action is needed to approve the MOU.

MOTION by Carole Lankford to approve the MOU with the Standing Arrow Celebration Committee. Seconded by Len TwoTeeth. Carried, unanimous (9 present).

Mike Kenmille informed council of an accident at the stick game pavilion. It cost money to get it fixed and he wanted to know who has to pay that bill. **Rick Eneas** advised that the pow wow grounds are covered under the Tribes' insurance claim. There was a claim that Mission Valley Power had due to a transformer involved in the accident. MVP will send the invoice to the individual that did the damage and give him an opportunity to enter into a payback agreement with the utility. **Carole Lankford** wants a report back to council on who is paying for these damages.

Charmel Gillin joined the meeting.

Rick Eneas informed council that action is required for the contribution to the celebration. Energy Keepers, Inc. also needs to know if they should move forward with the donation request from the pow wow committee. **Carole Lankford** thought all the net income from EKI was to be returned to the Tribes. Rick said that is correct, so this donation would be taken out of EKI's operating budget and reduce any dividend that would come to the Tribes. **Council** advised that approval of the MOU approves the annual \$40,000 contribution so no additional action is necessary. **Len TwoTeeth** wants Arlee to be given the same donation as Elmo, if an additional donation is approved. No action taken on the donation request from EKI. Council wants to have further discussion and the implications of approving it. **Shelly Fyant** previously requested a copy of the Donation Policy and she still has not received it yet.

Bev Michel discussed the permanent vendor stands needing bigger water heaters. The hot water does not last very long. They would like it fixed for next year since this is the third year it was brought up. The women's bathroom by the stick game has one stall that is always out of order and never gets fixed. The pipes are too small and it is always plugged up. John Neiss was notified of these requests last year, but nothing has been done. **Council** will follow up with Facilities Maintenance.

MOTION by Anita Matt to accept the annual report. Seconded by Len TwoTeeth. Carried, unanimous (10 present).

Carolee Wenderoth and **Mark Couture**, Tribal Lands Department, requested to assist with the purchase of a stock tank for agriculture lease #4503.

MOTION by Leonard Gray to approve the purchase of a stock tank for Agriculture lease #4503. Seconded by Dennis Clairmont. Carried, 9 for; 1 abstention (Ron Trahan).

Carolee Wenderoth and **Mark Couture**, Tribal Lands Department, requested approval of a negotiated bid by Zim Lytle for \$310.50 for the remainder of 2019. Lease #1550 is the former Jackson property. It was not bid on during the 2018 fall bid and has a viable alfalfa crop that needs managed. It was on the 2019 spring bid. No tribal members bid on the property. A similar occurrence happened in 2018 for the crops to be managed.

MOTION by Anita Matt to approve the negotiated bid by Zim Lytle for \$310.50 for the remainder of 2019. Seconded by Myrna DuMontier. Carried, unanimous (10 present).

Carolee Wenderoth and **Mark Couture**, Tribal Lands Department, requested permission for Val Roberts to add Malcolm McDonald and Justin Knudson to her agriculture lease #2271. (Both individuals are CSKT 1st generation). Val was awarded lease 2271 from the spring bid but has not signed contract yet. At this time, she is not in a position to afford the entire lease payment alone but adding Malcolm and Justin to her lease, they could easily carry it out. Justin lives in Hot Springs and Malcolm lives on the property that borders this lease, so the proximity of both men would allow feeding in the winter months and a short time of arrival in the case of emergencies.

MOTION by Dennis Clairmont to approve the next higher bid for agriculture lease #2271. Seconded by Leonard Gray. Carried, unanimous (10 present).

Carolee Wenderoth and **Mark Couture**, Tribal Lands Department, discussed the parking lot and Post Office building.

Len TwoTeeth discussed the Elmo baseball fields and two porta potties will be available until mid-August 2019.

Rich Janssen and **Chauncey Means**, Natural Resources Department, requested approval of changes to the organizational chart for the Water Quality Environmental Specialist. Two Water Quality positions are currently vacant and one position was updated to a Water Quality Environmental Scientist position with a required qualification of a Graduate level college degree in Environmental Science. The scientist position cannot be classified by Personnel until approved by Tribal Council. If grant funding increases a Water Quality Scientist will be hired. A Water Quality Scientist position description was developed to enable the program to complete their data analysis reports in-house and not contract the work out.

MOTION by Charmel Gillin to approve the title of Water Quality Specialist position be changed to Water Quality Scientist position under the

direct supervision of Willie Keenan. Seconded by Anita Matt. Carried, unanimous (10 present).

Chauncey Means, Natural Resources Department, requested approval to contract \$55,000 with Geum Environmental Consulting Inc. for grant funded environmental restoration planning. Geum has worked with the NPS program on the Jocko-Spring Creek stream restoration project (2010-2015) and the Mission Creek stream restoration project (2015-2019). The Mission and Jocko-Spring Creek projects had similar tasks to the current NPS projects. Geum also has worked with CSKT Fisheries on multiple restoration projects.

MOTION by Carole Lankford to approve the contract with Geum Environmental Consulting Inc. to complete stream restoration design work on the Non Point Source grant funded projects located on the Valley, Dayton, and Cottonwood creeks. Seconded by Dennis Clairmont. Carried, unanimous (10 present).

Lester Bigcrane, Natural Resources Department, requested a free group use permit for a wedding at the River Honoring site on July 6, 2019. Lyman Trahan requested a free group use permit to cover family and friends that may not have a recreation and camping permit for his wedding to take place July 6th and 7th at the River Honoring site in Moiese.

MOTION by Len TwoTeeth to approve a free group use permit for the Lyman Trahan wedding at the River Honoring site for one day only of July 6, 2019, with conditions they provide trash receptacles, porta potties and all non-members will need to purchase recreation/camping permits for additional days other than approved July 6, 2019 free group use permit. Seconded by Anita Matt. Carried; 8 for; 2 abstentions (Charmel Gillin and Ronald Trahan).

Dan Lozar, NRD-Safety of Dams, requested approval to modify Contract #19-095 with Dick Anderson Construction to include GMP #2 for WP#4 Pavement Preservation. WP#4 Pavement Preservation is part of the CMGC Bundled Projects currently being designed and constructed. Pavement preservation will occur at 16 homesites and/or BIA roads from Dayton to Arlee. Pavement preservation activities includes: crack sealing, asphalt mill-and-fill, full depth patching, concrete curb-and-gutter replacement, and chip sealing.

MOTION by Charmel Gillin to approve to modify contract #19-095 with Dick Anderson Construction to include GMP #2 for WP#4 Pavement Preservation. Seconded by Shelly Fyant. Carried; unanimous (10 present).

Dan Lozar, NRD-Safety of Dams, requested council to support the acceptance of \$1.36M in WIIN Act Irrigation funds for use in improving the Jocko Lower J Canal diversion and the Jocko K Canal diversion and liner. BIA irrigation Central

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office approached CSKT staff inquiring if there was CSKT interest to receive \$1.36M of WIIN Act (irrigation) funds to use in improving the Jocko Lower J and Jocko K diversions as well as a lined section of the Jocko K canal. Its anticipated that the funds will support design and construction of the Jocko Lower J diversion improvements and the remainder be used to design the Jocko K diversion and canal improvements.

MOTION by Anita Matt to support the acceptance of \$1.36M in WIIN Act Irrigation funds for use in improving the Jocko Lower J Canal diversion and the Jocko K Canal diversion and liner. Seconded by Fred Matt. Carried, unanimous (10 present).

Dan Lozar, NRD-Safety of Dams, requested to enter into a non-competitive negotiation agreement with the Reclamation Technical Service Center to conduct the Flathead Pumping Plant design. BIA Irrigation Central Office approached CSKT staff inquiring if there was interest in CSKT managing the rehab design of the Flathead Pumping Plant (FPP). BIA has \$7M in Irrigation Appropriations for the FPP. Appropriations will be used to make immediate safety improvements at the FPP and conduct design efforts for its rehab. Preliminary discussions with the Reclamation Technical Service Center (TSC) in Denver has resulted in a strong interest to conduct the design services for the CSKT. The TSC is the current designer on multiple SOD projects on the Flathead. They have experienced staff and a large portfolio of pumping plant projects similar in scope to the FPP. This depth of experience will mitigate CSKT risk on the design and future construction of extremely complex structure.

MOTION by Fred Matt to enter into a non-competitive negotiation agreement with the Reclamation Technical Service Center to conduct the Flathead Pumping Plant design. Seconded by Dennis Clairmont. Carried, unanimous (10 present).

Rich Janssen, Natural Resources Department, requested to meet with council in **executive session** to discuss a personnel issue.

Ron Trahan left the meeting.

Fred Matt left the meeting.

Council reconvened into **regular session**.

MOTION by Anita Matt to approve due to a personnel classification error that the employee in the current position of back pay to receive the correct pay for the position. Seconded by Dennis Clairmont. Carried, 7 for; 1 opposed (Len TwoTeeth).

Joe Durglo, Teri Burke, and Gloria Quiver, Tribal Health Department; **Rick Eneas**, Office of Financial Management; **Dan Decker**, Tribal Legal Department; and **Kurt Burland**, Tribal Employee; requested to meet with council in **executive session** to discuss a personnel matter.

Council reconvened into **regular session**.

Anita Matt gave an update on her Dixon meeting last Thursday and the agency. There was a cleanup and barbecue in Dixon and there were 30 people that attended. As the landowner there are several issues the Tribes' need to take care of, such as the unmoved grass in vacant lease lots. An individual resident is willing to keep it cut if the Tribes are willing to enter into a contract with that person. Mission Valley Power could look at the trees that are overgrown. The residents are taking care of their lots, and it is the Tribal vacant lots that need to be cut down. **Jim Steele, Sr.** offered comments and encouraged council to support Anita's request. **Leonard Gray** requested that Anita provide her request in writing so the council can follow up.

Chastity Haynes, Enrollment Office, presented a request for increase in blood quantum for enrollment number 7269.

MOTION by Myrna DuMontier to take the recommendation of the Enrollment Office and approve by resolution the increase in blood quantum for enrollment number 7269. Seconded by Dennis Clairmont. Carried, 7 for; 0 opposed; 0 not voting.

RESOLUTION 19-154

RESOLUTION ESTABLISHING THE APPROVAL OF DNA RESULTS FOR #203-U007269 TO INCREASE BLOOD QUANTUM USING THE BIOLOGICAL FATHER'S BLOOD QUANTUM

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

WHEREAS, The tribal council has the sole authority in determining eligibility for enrollment in the Confederated Salish and Kootenai Tribes; and

WHEREAS, in those cases where the natural parent at the time of birth of applicant or the natural father's name is not on the certificate of live birth, Genetic DNA testing determining paternity is required; and

WHEREAS, that the original birth certificate submitted for application at the time of birth included said individual who was not the biological parent of said applicant; now

BE IT RESOLVED, by the tribal council and the chairman and executive secretary are hereby giving authorization to accept documentation from DNA as proof of paternity for blood degree correction from 59/128 to 35/64 for #203-UO07269 and her descendants, using the biological fathers #203-UO06076 blood quantum; now

BE IT FURTHER RESOLVED, by the Tribal council that no longer will the Tribes pay for such DNA testing, and that it will be responsibility of the parents to provide proof of enrollment, and upon actual enrollment one-half of DNA expense will be reimbursed.

Dennis Clairmont discussed the Tribal Education Department Head vacancy and recommended that Miranda Burland be promoted into that position through an in-house promotion. She has served as the Acting Department Head in the past and has done a good job.

MOTION by Myrna DuMontier to adjourn the meeting.

Council **adjourned** at 4:23 p.m., and scheduled to meet again on Friday, July 5, 2019, at 9:00 a.m., for the quarterly council meeting.

CONFEDERATED SALISH AND KOOTENAI TRIBES

/sgnd/

Shelly R. Fyant
Tribal Secretary