

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

Volume 21 Number 70
Zoom Meeting

Held: June 15, 2021
Approved: June 22, 2021

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

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 9:01 a.m. Quorum established.

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

The **Tribal Council Meeting Minutes** for June 10, 2021 were presented for approval.

MOTION by Charmel Gillin to approve the Tribal Council Meeting Minutes for June 10, 2021, with corrections. Seconded by Mike Dolson. Carried, 9 for; 1 abstention (Carole Lankford).

The **agenda** was presented for approval.

MOTION by Anita Matt to approve the agenda, with changes. Seconded by Martin Charlo. Carried, unanimous (10 present).

Mark Couture, Tribal Lands Department; and **Rick Eneas**, Tribal Executive Officer; requested to meet with council in **executive session** to discuss land issues. **Ryan Rusche**, Chief of Staff, was present for discussion.

Council reconvened into **regular session**.

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

Mike Kenmille and **Bev Michel**, Standing Arrow Pow Wow Committee, discussed a stick game tournament that two individuals want to hold in Elmo. They are not asking for any money from the CSKT. Brock Wilson was going to

host the tournament and he is a nontribal member. It is his way to give back to the community. **Chairwoman Fyant** clarified the process is if someone wants to use the pow wow grounds, they need to go to the Tribal Lands Department or the Tribal Council to get the necessary agreement in place. This takes place with both pow wow committees. These individuals did not follow the process so that is why the Tribes asked them to take down their poster. An agreement is required for an outside entity to hold an event on tribal lands, and they must have the required insurance. **Mike Kenmille** responded that the individuals are intimidated by the council and did not know the process to follow. That is why he came in for them. Mike requested reconsideration to allow the stick game tournament. **Chairwoman Fyant** commented that the Tribal Council would need to approve it today because the event is scheduled for this weekend and there is no council meeting on Thursday. They would need to meet with Rick Eneas and make sure all the details are worked out and insurance is provided. Mike responded that we do not have to have insurance for the pow wows, so why would they need insurance for this event. Shelly explained that inside entities such as the Pow Wow Committees are covered under the Tribes' insurance and outside entities are not covered under our policy. **Len TwoTeeth** would like the council to reconsider their request. This event is a start of gathering again, and the majority of Elmo are stick game players who are looking forward to it. **Ellie Bundy McLeod** commented that it had nothing to do with who was hosting the event; it was not following the process and having a memorandum of understanding in place. **Mark Couture** informed council that if the insurance requirement is waived, then it needs a motion by council to do that. They would have to put everything in order, like the security and garbage pick-up, and then Lands would get a contract in place identifying the terms. Mark wants every stick game player to sign a waiver to cover them since there would be no insurance. **Rick Eneas** advised that any use of the pow wow grounds requires some type of rental agreement, permit, or temporary use agreement in place. No outside groups are covered under our insurance policy. Liability insurance is required for events in case something was to happen to an individual. The Tribes' insurance covers the pow wows in case of property damage since they are a tribal entity. The memorandum of understanding requires liability insurance by the Pow Wow Committee. Groups that are not covered by our policy need to have their own insurance. If there was any damage to the property, the implication of waiving the insurance is that the responsibility would fall to the Tribes and our insurance policy. There would be out-of-pocket costs to the Tribes. **Mike Kenmille** stated that he spoke to Chief Couture, and he said Law & Order would be willing to provide security. Law & Order will monitor as much as possible, but it may be limited due to being a holiday weekend. Mike will ask Brock and the other individual to come to council so they can express their feelings toward the council at a later date. Safety guidelines will be in place. Brock said he would be cleaning up the area. **Carole Lankford** would rather personally pay for the insurance policy than waive the insurance requirement. She cannot support a waiver of the insurance. **Martin Charlo** suggested using the funding

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that was allocated to the pow wow to pay for the insurance policy since the Standing Arrow Pow Wow will not go forward this year. **Mike Kenmille** wants to retain that funding for the Pow Wow Committee to use for their future events. **Chairwoman Fyant** thought that funding was allocated for facility upgrades at the Pow Wow Grounds. **Mark Couture** stated that a land use permit would be needed. **Tara Irvine** informed council that there is an administrative fee and a \$25 per day use fee for nontribal members, unless the Tribal Council waives it. Insurance would be required in the agreement and the COVID plan would be attached to the permit.

Martin Charlo left the meeting.

MOTION by Len TwoTeeth to approve the request to allow the stick game event at the Standing Arrow Pow Wow grounds and have them work with the Tribal Lands Department for the land use permit. Seconded by Carole Lankford. Carried, 7 for; 2 opposed (Charmel Gillin and Shelly Fyant).

Charmel Gillin, for the record, "At this moment, I'm very unclear as to who the responsible party is for this event. I hear it may be Brock Wilson who put up \$1,000.00 of his own money to do this which indicates that he is taking responsibility for this event. To my knowledge, he is not a member of the CSKT. Whatever lease agreement, negotiations, and details that might be struck up with Mr. Wilson are unavailable to me. It's been clearly stated that it's not an event that is being sanctioned or taken on by the Standing Arrow Pow Wow Committee, so it does not fall into the memorandum of understanding that the committee has with the CSKT. I believe it is my responsibility in accordance with the Constitution of the Confederated Salish and Kootenai Tribes under Article VI, Section 1 (i). These are powers and duties of the Tribal Council, to promogulate and enforce ordinances subject to the review of the Secretary of the Interior, which would provide for assessments or license fees upon nonmembers doing business within the reservation or obtaining special rights or privileges, and the same may be applied to members of the CSKT, provided such ordinances have been approved by a referendum of the Confederated Tribes. So, I really feel like I'm bound by my oath and constitution to consider the process we have in place by our Tribal Land Ordinance. Recently I was contacted by a tribal member who was trying to work out his business lease in the Polson area and was required to buy insurance and had to place money down for a performance bond. There are all sorts of requirements on these small business owners. I was told his requirements for insurance and performance bond was posing a concern to him and his small business, so those are my concerns today. There is not enough information here, I don't know who the responsible parties are, and I'm not sure how this will work out for the betterment of the overall management of the people's land."

Chairwoman Fyant, for the record, "My opposition is because this was last minute. It wasn't a request; it showed up on Facebook Thursday and we

have been trying to track it down since then. I don't have clarification on why they were denied by their own tribe to have it in Browning. In the interest of protecting a tribal asset, there's too many unknowns for me at this point."

Bing Matt, for the record, *"I was over there last Monday, and they are still under a lot of COVID restrictions in Browning, so more than likely that is why they are not allowing them to do it over there. People are still required to wear a mask in Browning. I heard about the stick game event when I was in Browning. I thought they were holding it over there, so I was surprised to find out they are doing it here. It is not a business venture they are doing; it is a cultural activity."*

Carole Lankford, for the record, *"It is good that the community can come together for a cultural event. At least the event can go forward. I encourage everyone to stay safe and to wear a mask if you are not vaccinated. We haven't been able to have fun, so have fun, and thank you for putting this on."*

Martin Charlo, for the record, *"Last Tuesday to Thursday was a challenging time because we had an event that was being planned on our lands with no confirmation and vague information to a question, which I asked the previous week. On Monday, I asked the staff for information by noon. The staff said that couldn't happen. So I will take ownership for the event being basically canceled. That was done based on lack of information and lack of our staff getting us information within three hours. So I own that part. The part that really troubled me that day and why I left was over the weekend there was a lot of division that went on amongst the Tribes and the community itself, and I felt passionately about that, and I felt we could've put a stop to it on Thursday or Friday with two phone calls. So I addressed it again Tuesday in executive, and at that time all of a sudden information is available. The most frustrating part is we make decisions here and we need information to make those decisions. And, unfortunately, we didn't have all the information. And then all of a sudden on Tuesday morning we did and memories were jogged and we got the information. One thing I always remember when I'm up here is that I don't lose my tribal membership when I sit up here. I am also a tribal member. And I feel like we as a council have the duty to represent our people out there and hold each other accountable. We answer to each other as much as we answer to the membership. I will call people out on things I feel go against what we stand for as a people. Culturally, being sneaking is not something we do, working the system and manipulating the system and others to get what you want across. And so me being who I am, I will own what I did; otherwise, I will get owned out there. I appreciate Charmel's record statement that was very concise and accurate. It's what we're up here to do. We not only protect the people, but we protect the future generations, and I don't want to do things that go against our constitution that jeopardize our status as a tribe. So with that, I apologize to the community and to those I offended. I can do better and I will do better, and I expect the same of each and every one out there, the staff, and ourselves."*

Charmel Gillin commented that when it was brought up from Facebook, Len TwoTeeth had no information to share last week. It was brought to us as nontribal members planning an event on tribal land that nobody knew about. There was concern about how this happened. Tribal members cannot just go use nontribal land and do whatever they want. She is finding out today there is some local involvement and is glad to know that. The other thing that was said was maybe these youngsters are scared to talk to the Tribal Council, but Len has a lot of dialogue in the Elmo district. They should feel comfortable about going to the meetings and find out what they need to do. Waylon is in her district, and she hopes he feels comfortable to go to her meeting and ask what needs to be done to do something. Maybe we can talk about some of these things when we review the Tribal Land Ordinance.

Ryan Rusche, Chief of Staff, requested approval of a letter to the Committee on Appropriations requesting full funding of WIIN Act Section 3211 in fiscal year 2022.

MOTION by Anita Matt to approve the letter to the Committee on Appropriations requesting full funding of WIIN Act Section 3211 in fiscal year 2022. Seconded by Mike Dolson. Carried, unanimous (9 present).

Rob McDonald, Communications, discussed a letter to Cody Ferguson, Montana Department of Commerce, expressing support for the Lake County Fairgrounds CDBG Planning Grant for ADA accessible upgrades to the Ronan Fairgrounds.

MOTION by Carole Lankford to approve the letter to Cody Ferguson, Montana Department of Commerce, expressing support for the Lake County Fairgrounds CDBG Planning Grant for ADA accessible upgrades to the Ronan Fairgrounds. Seconded by Ellie Bundy McLeod. Carried, unanimous (9 present).

Council discussed going in with the Natural Resources Department to honor the 5 former Reservation Fish & Wildlife Board Members for their years of service and gift them each with a blanket.

MOTION by Ellie Bundy McLeod to approve the allocation of \$320 to gift the 5 former Reservation Fish & Wildlife Board Members with a blanket for their years of service. Seconded by Bing Matt. Carried, unanimous (9 present).

Joe Durglo, Tribal Health Department, requested approval of an amendment to the 2021-2015 Annual Funding Agreement with the Department of Health & Human Services to provide additional COVID response resources in the amount of \$3,336,015.00.

MOTION by Mike Dolson to approve an amendment to the 2021-2025 Annual Funding Agreement with the Department of Health & Human Services to provide additional COVID response resources in the amount of \$3,336,015.00. Seconded by Ellie Bundy McLeod. Carried, unanimous (9 present).

Rhonda Swaney, John Carter, and Stu Levit, Legal Department, requested to meet with council in **executive session** to discuss legal issues.

Council reconvened into **regular session**.

MOTION by Mike Dolson to approve by resolution a two-year attorney retainer contract with John Carter. Seconded by Anita Matt. Carried, 9 for; 0 opposed; 0 not voting.

RESOLUTION 21-079

A RESOLUTION TO ENTER INTO AN ATTORNEY RETAINER CONTRACT WITH JOHN CARTER

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

WHEREAS, the Tribal Council, as primary governing body of the Flathead Nation, is entrusted with the responsibility to operate the Tribes' governmental business and protect and preserve Tribal property, wildlife and natural resources, and to protect the health, security and general welfare of the Tribes;

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;

WHEREAS, the Tribal government maintains a Legal Department, employs contract attorneys to staff that department, and contracts with additional attorneys, with Legal Department coordination, when such outside assistance is needed;

WHEREAS, the Legal Department provides to the Tribal Council and Tribal government its civil legal services;

WHEREAS, John Carter is a licensed attorney in the State of Montana, and wishes to provide legal services to the Tribes through the Legal Department;

WHEREAS, John Carter, Attorney, has agreed to provide his legal services according to the terms and conditions of his Attorney Contract;

NOW THEREFORE BE IT RESOLVED, the Tribal Council approves said agreement and authorizes its execution by the Chairman and the Tribal Secretary.

Rhonda Swaney, Brian Upton, and Stu Levit, Legal Department; **Greg Spahr**, Cash Flow & Investments; **Les Evarts, Lynn Ducharme, and Rusty Sydnor**, Natural Resources Department; requested to meet with council in **executive session** to discuss legal matters. **Jami Pluff**, Policy Analyst, was present for discussion.

Rhonda Swaney and John Carter, Legal Department; and **Rick Eneas**, Tribal Executive Officer; requested to meet with council in **executive session** to discuss legal matters. **Brian Upton and Stu Levit**, Legal Department; and **Jami Pluff**, Policy Analyst; were present for discussion.

Council met in **executive session**. **Rick Eneas**, Tribal Executive Officer; and **Jami Pluff**, Policy Analyst; were present for discussion.

Council reconvened into **regular session**.

Carole Lankford informed council that Gail Fyant texted her and requested some gravel in the back of her house where she parks. Her request for gravel was denied, and she was told nothing could be done until the fall. She really needs the gravel. Carole asked if Jennifer could send the Elders program a message.

Carole Lankford informed council that she was contacted by Tony Adams, Jr. He works at the Fitness Center at the former KHJCC and said the HVAC system is going out, so it is very hot in the summer and cold in the winter. **Rick Eneas**, Tribal Executive Officer, will follow up.

Jennifer Trahan reported that Gordon said they needed to have the name before spring quarter started to begin working with the Elders program and SKC. Gail Fyant was not on the spring list.

Carole Lankford gave an update on Shawn Swaney. They think they found an engine for his vehicle. If the engine is compatible, then they should have the money to get the work done without requesting assistance from the Tribes.

Council met in **executive session**. **Rick Eneas**, Tribal Executive Officer; and **Jami Pluff**, Policy Analyst; were present for discussion.

Council reconvened into **regular session**.

MOTION by Len TwoTeeth to reappoint Carole Holyan and Suzi Schrock to the S&K Gaming, LLC Board of Directors for a three-year term. Seconded by Ellie Bundy McLeod. Carried, unanimous (9 present).

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

Martin Charlo returned to the meeting.

Ellie Bundy McLeod left the meeting on personal time off for the remainder of the day to attend a funeral.

Anita Matt left the meeting on personal time off for the remainder of the day to go to a medical appointment.

Martin Charlo requested that the council meet with Zack Camel on Thursday to discuss economic priorities. If we are going to do a payout, we should act on that soon. **Chairwoman Fyant** took the request under advisement.

Mark Couture and **Tara Irvine**, Tribal Lands Department, presented the firework bids. The bid packet was advertised and the Polson and Ronan sites each received one bid. Lands requested approval of the highest bidder for short-term commercial sales selling fireworks for the 2021 season. Options presented were: (1) approve a short-term permit to highest bidders for use of fireworks sales so long as all permitting requirements are met, including bid payment and the required license and insurance; (2) deny the request; and (3) hold further discussion.

MOTION by Martin Charlo to accept the high bids for fireworks sales at the Polson and Ronan sites. Seconded by Bing Matt. Carried, unanimous (8 present).

Mark Couture, Tribal Lands Department; **Michael Wheeler** and **Stu Levit**, Legal Department; requested to meet with council in **executive session** to review the Tribal Lands Ordinance revisions.

Council reconvened into **regular session**.

Loran Frazier, TD&H Engineering; **Trevor Iman**, GEUM; **Randy Boysen**; **Jacquelyn Smith**; **Dan Lozar**, Natural Resources Department; and **Chaney Bell**, Salish Pend d'Oreille Culture Committee; discussed the Conner-South Highway construction project. Loran requested the CSKT's input on the Medicine Tree site and design. **Martin Charlo** attended the onsite meeting to discuss the history of the site and what needs to be done. The Medicine Tree is deteriorating. It is a significant site and needs to be protected. Loran showed council the design concepts that were developed. There would be a privacy wall

there. **Chaney Bell** stated that Tony Incashola, Sr. thought it was going to be leveled off so it would be easier to walk to the tree. **Trevor Iman** explained that in order to maintain the integrity of the site they prefer to not remove the rock, so they want to fill it without removing it. Loran showed council a map of the design that was developed for a parking area, which includes a gate. Chaney would like more discussion on having a locked gate since families go to that site. Trevor stated it would depend on what the Tribes want that space used for. One issue was people parking their boats and campers there. **Chairwoman Fyant** thought that could be addressed through signage. Trevor advised that this project is unfunded within the five-year State Transportation program. It is anticipated that it would be in the five- to ten-year range for construction. At this point they are in the preliminary designs stage and getting thirty percent of the design completed, and then they will be moving to the right of way process. The cost would be dependent upon the number of retaining walls and properties being purchased, but it is estimated to be between \$20 million and \$30 million for those 7 miles of roadway. Loran informed council that the Governor appointed him as the chairman of the State Transportation Commission. **Len TwoTeeth** would like a meeting scheduled after Loran takes over the chairmanship so there can be discussions about the flaws on Highway 93 that were overlooked during its design.

Tom McDonald, Les Evarts, and Whisper Camel-Means, Natural Resources Department, requested approval of the SKQ Dam mitigation annual work plan and report submittals to meet the license deadline. The SKQ Dam license requires the fish and wildlife mitigation annual work plan/budget and previous year's activity report to be submitted to the Federal Energy Regulatory Commission and the Department of the Interior by June 25 of each year. There is no restoration funding available to restore wildlife habitat that was due to the Montana Rail Link fire. **Charmel Gillin** thanked the team for doing an outstanding job.

MOTION by Mike Dolson to approve the SKQ Dam mitigation annual work plan and report for submittal to the Federal Energy Regulatory Commission and the Department of the Interior. Seconded by Charmel Gillin. Carried, unanimous (8 present).

Tom McDonald, Natural Resources Department, gave an update on Bison Range issues. Leonard Gray was hired to fill the Bison Range Coordinator position. Isaiah Asencio was hired as the new Game Warden and will get into training this winter. The department hired Antone Paul to fill the Security Technology Specialist position, and Willie Stevens was hired to fill the Lead Maintenance Worker position. The Maintenance Foreman and Visitor Center positions will be filled in the near future. The Fish & Wildlife Service was going to remove the old shop that was condemned, but it could remain in place if we want to take it as is. Tom wants the concrete pad left in place. Many of the signs are done, so

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they will be coordinating with the Fish & Wildlife Service staff and sign contractor to get them installed as soon as possible. There was a contractor on board to fix the leaky roof at the Visitor Center, but that contractor backed out and it was awarded to a second bidder. That work has not begun yet. There is still some damage occurring, so the department is trying to get the roof work done as quickly as possible. Dave Rockwell will remain on board for a while to help train Antone in his new position. **Bing Matt** asked about the other maintenance work and fencing that needs to be done. Tom stated the current reports from the inventory they have from the consultant has that information. The department hired their own maintenance staff and will put together a project list. The fences that are used for moving wildlife from one area to another to do weed treatment is the main tool for interior fences. Some interior fences are to keep the wildlife out of the day-use area.

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

Rhonda Swaney, Shane Morigeau, Brian Upton, Michael Wheler, and Dan Decker, Legal Department, discussed whether the Tribes want to regulate hemp on the reservation and to look into the regulatory piece. It is a policy decision whether or not council wants to do it. **Chairwoman Fyant** would like to exert our sovereign immunity and pursue hemp. She thinks there is a lot of potential and individual tribal members could prosper. She is interested in the building materials. **Velda Shelby**, Economic Development Office, reported that people have offered to partner. Mark Couture is facilitating a lot of that, because people who want to invest on the reservation would be more comfortable with the Tribes doing it. It can be lucrative, but it comes down to processing so we would need to be strategic. There are no specific projects at this point because she needs to know if council is looking at regulations or opportunities. **Charmel Gillin** would like to move forward with regulatory mechanisms and what that would look like. It was the **consensus** of council to move forward with the regulatory aspect.

Len TwoTeeth asked about the ARP discussion for a payout. **Rick Eneas** stated the economic relief payout to the membership was not the highest priority identified by the majority of the council members. Rick asked Katie and Zack to work on options to see what it would look like. This funding is for three years. If there is some urgency to this, it can be done. All of the programs will take some time to put out. Rick has only received two out of ten forms from the council. Council members can stop by Zack's office to fill it out if they want to. Rick is looking at options for relief payments to individual households and what that would look like, and he will provide an update tomorrow. **Chairwoman Fyant** mentioned that the amount of the second tranche has not been determined yet and they are having difficulty getting tribes to respond to the employment data. We do not know what our total amount is going to be yet, so she is hesitant to move forward without that information.

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MOTION by Charmel Gillin to adjourn the meeting.

Council **adjourned** at 3:29 p.m., and is scheduled to meet again on Tuesday, June 22, 2021, at 9:00 a.m.

CONFEDERATED SALISH AND KOOTENAI TRIBES

/sgnd/

Ellie Bundy McLeod
Tribal Council Secretary