

MINUTES

IDAHO COUNCIL ON INDIAN AFFAIRS

MARCH 8, 2006

STATE CAPITOL BUILDING
SENATE MAJORITY CAUCUS ROOM
BOISE, IDAHO

(Approved by the Council)

Council members in attendance were Senator Michael Jorgenson, Council Chairman; Coeur d'Alene Tribal Council Chairman Chief Allan, Council Vice-Chairman, representing the Coeur d'Alene Tribe; Nez Perce Tribal Executive Committee Vice-Chair Samuel Penney, representing the Nez Perce Tribe; Fort Hall Business Council Member Lee Juan Tyler, representing the Shoshone-Bannock Tribes; Kootenai Tribal Council Member Velma Bahi, representing the Kootenai Tribe; Senator Bert Marley; Representative Joe Cannon; Representative George Saylor; and Lance Giles, representing Governor Dirk Kempthorne. Paige Alan Parker of the Legislative Services Offices was present as staff.

Also present were Northwestern Band of the Shoshone Nation Tribal Council Chairman Ivan Wongan and Tribal Council Treasurer Jason Walker, representing the Northwestern Band of the Shoshone Nation; Margaret A. SiJohn, Quanah Spencer, and Bill Roden, representing the Coeur d'Alene Tribe; Russell Westerberg and Billy Barquin, representing the Kootenai Tribe; Mark Echohawk and Gary Gould, representing the Shoshone-Bannock Tribes; Darren Williams and David Kerrick, representing the Nez Perce Tribe; Josephine Halfhide, a private consultant; Joe Hayhes, representing LHTAC; Mitch Silvers, representing United States Senator Mike Crapo; Representative Mike Mitchell, representing District 7; Pam Eaton, representing the Idaho Retailer's Association; and Meghann Coniff, representing the Spokesman-Review.

The meeting was called to order at 5:40 p.m. by Vice-Chairman Allan. After an opening prayer, Vice-Chairman Allan thanked the efforts of Senator Marley before the JFAC Committee in the consideration of an Indian Education Coordinator Office in the Education Department and the efforts of Joe Cannon before the House Energy and Defense Committee in the consideration of House Bill 661. Mr. Penney echoed these thanks.

A discussion of the minutes of the February 21, 2006, meeting was held and an error with regards to Mr. Penney's tribal affiliation was noted. **Representative Saylor moved that the minutes, as corrected, be adopted. Mr. Penney seconded the motion. The minutes, as corrected, were approved.**

Mr. Silvers then addressed the Council regarding Senator Crapo's efforts as a member of the Senate Indian Affairs Committee. Posted on Senator Crapo's website is a letter by Senator

Crapo opposing President Bush's budget on Indian issues. With regard to proficiency targets in the No Child Left Behind Act, Senator Crapo is seeking to change the order of remedies in the event that the targets are not met. Under Senator Crapo's proposal, if the proficiency targets are not met at the end of the second year, tutoring would be offered, and the bussing out of the district remedy would be available at the end of the third year. Senator Crapo is also proposing that an achievement or growth model, rather than the arbitrary standards which exist under the current Act, be used. Senator Crapo is seeking reauthorization and increased funding for an Indian Men's Health office. He is also supporting Senate Bill 1197 to create an undersecretary to deal with issues relating to violence against Indian women.

In response to Vice-Chairman Allan, Mr. Silvers noted that Senator Crapo is promoting the Collaborative Recovery of Endangered Species Act which would permit recovery of endangered species through community-based efforts without full blown listing of the species. This is being done with sage grouse recovery. Mr. Taylor commented that, in his opinion, certain species such as salmon and wolverines were not being protected. Mr. Silvers responded by noting that the United States and Canada were going to renegotiate the Open Oceans Act and invited Mr. Taylor to put his concerns in writing so that Mr. Silvers can forward these concerns to Senator Crapo's office in Washington, D.C.

Ms. Bahi gave a presentation on the history and culture of the Kootenai Tribe. She stated that the north Idaho Kootenais are the smallest of seven Kootenai nation tribes located in the United States and in Canada. These seven tribes share a common, unique language and are closely tied together with ceremonies. The Kootenai Tribe was without reservation lands until 1974 when it declared "war" and was granted 12.5 acres. Since then, the tribe has purchased approximately 2,000 acres and has 137 members. The Kootenai Tribe is self-governing. Its assets include a hatchery and a casino. It is seeking to establish a dental unit and to adopt a two percent sales tax.

Vice-Chairman Allan acknowledged the presence of Representative Mike Mitchell from Legislative District 7.

The Council discussed legislation pending before the Legislature which affect the Tribes. Vice-Chairman Allan commented that HB 656aa, which adds a city representative to the Basin Project Commission, was approved by the House. Vice-Chairman Allan also commented that House Bill 635, regarding slot machines, contained an exemption for Indian casinos.

The Council then discussed House Bill 661, which deals with taxation of motor fuel distributors. Vice-Chairman Allan expressed the concern that a "brother" bill to HB 661 may be introduced. Representative Cannon commented that he had just heard that leadership was considering a "kinder, gentler" version of HB 661 which would call for the tribes to collect the fuel tax and send the tax to the state with the moneys then being returned to the tribes upon the assurance that the tax proceeds would be used on reservation roads.

Chairman Jorgenson stated that he had some discussions with the HB 661 sponsors,

following the negative vote on HB 661 in the House Transportation and Defense Committee last week, who had expressed the hope that the tribes would be able to start negotiations on the fuel tax issue. Senate leadership has asked that the Council serve as the vehicle for those negotiations. Chairman Jorgenson has asked Bill Roden to collect information regarding what other states were doing on this issue. Chairman Jorgenson suggested that the Council attempt to work out a proposal. He proposed that the tribes first meet to negotiate a unanimous proposal among themselves and that the Council could then serve as a vehicle or conduit to present the proposal to the Legislature. Chairman Jorgenson cautioned that the victory before the House Transportation and Defense Committee last week was not dispositive; the issue will be back next year and, if an agreement is reached with fewer than all the tribes, the non-agreeing tribes will be left out.

Vice-Chairman Allan commented that the tribes are willing to negotiate but that the tribes need to know who has the authority to negotiate on the legislative and executive side. The Council may be a good place to start, but the Legislature needs to have the right people at the table. Chairman Jorgenson stated that the legislative members on the Council do not have the authority to negotiate, only to facilitate. He opined that the Council has a respected voice. Mr. Penney commented that it would be helpful if there was someone identified to negotiate with. Mr. Tyler stated that he agreed with Vice-Chairman Allan and Mr. Penney and that negotiations should start right away. Chairman Jorgenson stated that there is a justified reason for a fuel tax at the tribal level and that the justification needs a vehicle for expression. He suggested that the tribes review the agreements reached in the neighboring states so that they can negotiate from a position of strength and knowledge.

Vice-Chairman Allan stated that there needs to be a letter from the Governor or from Senate or House leadership to provide a starting point for negotiations. Mr. Giles commented that Governor Kempthorne wants to know the issues that people have and suggested that tribal experts, state experts and the private distributor and seller interests testify before the Council at its next meeting so that recommendations can be developed. The Governor's office should be willing to facilitate this process. Chairman Jorgenson stated that he understands that the state has three issues of concern: equity between Indian and non-Indian sellers, the collection of the International Fuel Tax Agreement (IFTA) tax, and the distribution and use of the tax revenues. The Council could request letters from the Governor and from the legislative leadership. Senator Jorgenson requested that the tribes get together and compile a joint list of issues from their side.

Representative Cannon commented that the defeat of HB 661 in the House Transportation and Defense Committee the previous week was significant and was the result of the Council's efforts. The fuel tax issue will come up next year. He stated that he cannot promise that the Council's recommendations will be followed and there will be no letters from the legislative leaders authorizing the legislative members on the Council to speak for the Legislature. He suggested that if the eastern Idaho Tribes can work out a way to charge the out-of-state truckers the IFTA tax and get the tax to the state, then the issue might be solved.

Chairman Jorgenson stated that the Council was not going to work out this issue at this

meeting. The tribes need to talk with each other and work things out. The Council needs time to develop facts and figures. Vice-Chairman Allan stated that he was looking for a commitment from the state. He is willing to negotiate with the state on a government-to-government basis, but not with private interest. Chairman Jorgenson stated that he concurred with those thoughts but commented that during the interim period, the tribes were not going to get someone to negotiate with unless it was the Governor. Representative Sayler thought that the tribes should first develop a proposal with the Council then serving as advocate of the agreed-upon proposal. Mr. Tyler commented that the Council needs to solve things, but noted that the tribal governments have turnover issues. Chairman Jorgenson commented the Council has been successful this year. Perhaps the summit discussed at the Council's last meeting would be a vehicle to discuss this issue. In response to a question from Chairman Jorgenson, Mr. Roden stated that it was going to take a couple of weeks to assemble the information on how other states had handled the fuel tax issue. Chairman Jorgenson noted that the Council's by-laws have the authority to create subcommittees and task forces. Mr. Penney opined that the research will show that other states have addressed the fuel tax issue with compacts with individual tribes and that the Governor has the authority to enter into compacts with the tribes.

Mr. Penney commented that there are various categories of roads under T-21 and that the state receives funds because of reservation roads. Mr. Giles commented that T-21 has been replaced by new legislation which could be discussed at the next Council meeting by a representative of the Idaho Transportation Department regarding the amount of funds received for reservation roads.

Chairman Jorgenson asked if it was possible for the tribes to set up a task force of their own to coordinate information and suggested that such a task force could streamline the consideration of a fuel tax proposal. Vice-Chairman Allan stated that the tribes can go over the agreements and compacts reached in other states, determine what is good or bad, and bring its proposal forward. Mr. Taylor stated that he thought the tribes could form a task force.

Representative Sayler moved that a task force be created to address the fuel tax issue composed of one member from each of the tribes represented on the Council, one Council member from the Senate, one Council member from the House and a representative from the Governor's office. Senator Marley seconded the motion. The motion passed unanimously. Representative Sayler suggested that the task force members hold a short meeting following adjournment of this meeting to discuss task force organizational matters.

Representative Cannon moved that the full Council hold its next meeting in early June 2006, in Coeur d'Alene at a location and on a specific date to be determined later. Senator Marley seconded the motion which passed unanimously.

Vice-Chairman Allan requested that if any new bill is introduced, the Council request that it be presented to the Council before it goes before the Legislature. Chairman Jorgenson stated that the request has been made.

The meeting adjourned at 7:05 p.m.