

MINUTES

IDAHO COUNCIL ON INDIAN AFFAIRS

October 22, 2007
Capitol Annex, Room 240
514 West Jefferson Street, Boise, Idaho

(Subject to approval by the Council)

Council members in attendance were Chairman Senator Michael Jorgenson; Representative George Saylor; Coeur d'Alene Tribal Council Vice-Chairman, Ernie Stensgar, representing the Coeur d'Alene Tribe; Nez Perce Tribe Executive Committee Chairman, Samuel Penney, representing the Nez Perce Tribe; Billy Barquin, representing the Kootenai Tribe; Shoshone-Paiute Tribal Council Chairman, Kyle Prior, representing the Shoshone-Paiute Tribes; and Fort Hall Business Council Vice-Chairman, Lee Juan Tyler, representing the Shoshone-Bannock Tribes. Bob Wells, representing Governor Butch Otter was available for part of the meeting by telephone. Absent and excused were Senator Edgar Malepeai and Representative Bob Nonini. Paige Alan Parker of the Legislative Services Office was present as staff.

Also in attendance were Josephine Halfhide, present as an observer; Darren Williams, Julie Kane and Rebecca Miles, representing the Nez Perce Tribe; Delbert Farmer, Gary Gould and Bill Bacon, representing the Shoshone-Bannock Tribes; Lisa Jim, representing the Shoshone-Paiute Tribes; Bill Roden and Quannah Spencer, representing the Coeur d'Alene Tribe; Betsy Russell, representing the Spokesman-Review; Mitch Silvers, representing Senator Mike Crapo; Idaho Indian Education Coordinator, Mary Jane Oatman-Wak Wak, representing the Idaho State Board of Education; and Executive Director, Janet L. Gallimore, representing the Idaho State Historical Society.

Chairman Jorgenson called the meeting to order at 1:37 p.m. **Fort Hall Business Council Vice-Chairman Tyler** offered the opening prayer which is a tradition of the Council.

Janet Gallimore, the Executive Director of the Idaho Historical Society, addressed the Council regarding the current status of the murals that are present on the walls of the Capitol Annex, the old Ada County Courthouse. After providing a summary of her background with the Confluence Project, **Ms. Gallimore** provided an update on the murals.

Ms. Gallimore explained, as background, that the murals were part of a Works Progress Administration (WPA) project of the 1930's that provided jobs for artists during the Great Depression. The Idaho Historical Society has been asked by the Legislative Council to provide an interpretation of the murals and to cooperate with the Idaho Council on Indian Affairs with regard to the interpretation of two disturbing murals that adversely represent Indians. A draft interpretation was provided to the Council regarding the murals in general and the history of the courthouse. In response to a letter sent to the Idaho tribes, tribal representatives have been

appointed to a committee that will assist the Historical Society in drafting an interpretation of these two murals. The tribal representatives are: **Quanah Matheson**, representing the Coeur d'Alene Tribe; **Ted Howard**, representing the Shoshone-Paiute Tribes; **Carolyn Boyer Smith**, representing the Shoshone-Bannock Tribes; **Josie Shattanana**, representing the Kootenai Tribe; and **Rebecca Miles**, representing the Nez Perce Tribe. The Legislative Council has agreed to provide funding for committee expenses, including travel. The goal is to have this committee meet in November. **Ms. Gallimore** will report back to the Council regarding the results of that meeting. Hopefully, the interpretations will be displayed prior to the start of the 2008 Legislative Session.

In response to **Chairman Jorgenson**, **Ms. Gallimore** said that an exact date of the November meeting of the advisory committee has not been set. **Representative Saylor** commented that the draft interpretation on the murals in general states that only a few of the murals related to Idaho. He wondered why the two disturbing murals were chosen and what their relevance was to Idaho. He complimented **Ms. Gallimore** on the "Concluding Comments" in her handout and suggested that these comments might be included in the interpretation. However, the current draft of the interpretation, in **Representative Saylor's** opinion, is too long.

Nez Perce Tribe Executive Committee Chairman Penney wondered whether the Indians depicted as being lynched in the murals were actually lynched. He expressed his disappointment that these murals were not found offensive. He commented that the Nez Perce War started over an incident when the fathers of Nez Perce warriors were murdered and the murderers were not brought to justice. He related that even recently there have been hate crimes occurring in the state. **Mr. Penney** expressed the opinion that the apparent lynchings in the murals were not related to the economic development of Idaho. **Chairman Jorgenson** emphasized the importance and sensitivity of the issue.

Fort Hall Business Council Vice-Chairman Tyler related that the 1863 Bear River massacre near what is now Preston, Idaho, has never been properly recognized and agreed with **Mr. Penney** that hate crimes continue. He stressed that the healing between the people needs to progress. **Mr. Tyler** would like to see the old Ada County Courthouse turned into an Indian interpretative center once the restoration of the Capitol is completed.

Nez Perce Tribe Executive Committee Vice-Chairwoman Rebecca Miles commented that the murals are not good art and are offensive. However, when the murals were reviewed by the Council last winter, a number of tribal representatives were adamant that what had happened in the Boise Valley not be hidden and that discussion was necessary if views were going to be changed. **Chairman Jorgenson** remarked that the Council took the issue seriously and its views need to be factored into the interpretation. **Shoshone-Paiute Tribal Council Chairman Prior** added that **Ted Howard**, the Shoshone-Paiute Tribal representative on the advisory committee, will lend an active voice to that committee's deliberations.

Representative Saylor presented the report of the Indian Geographical Names Committee. Although the committee has not been able to meet, Ms. Gallimore of the Idaho Historical Society

has been contacted and has agreed to help. **Fort Hall Business Council Vice-Chairman Tyler** said that he had met with knowledgeable people in Washington, D.C. who also had advised that the Idaho State Historical Society be contacted. **Mr. Tyler** noted that the Coeur d'Alene Tribe has been providing the committee with assistance and that additional assistance was expected from the Shoshone-Bannock historical preservation representatives.

No report was available from the Tribal Commercial Development Committee or from the Summit Meeting Committee.

Chairman Jorgenson requested that the Tribal representatives provide updates on the status of the fuels tax negotiations with the **Governor's** office. **Coeur d'Alene Tribal Council Vice-Chairman Stensgar** commented that the Coeur d'Alene Tribe has signed a Fuels Tax Compact with the **Governor** that recognizes the sovereignty of the Coeur d'Alene Tribe and acknowledges the infrastructure needs on the reservation.

Fort Hall Business Council Vice-Chairman Tyler recognized **Shoshone-Bannock Tribal attorney Bill Bacon** to provide an update. **Mr. Bacon** stated that the tribe and the **Governor** expect to sign an agreement on Wednesday. **Mr. Bacon** stated that the negotiations with the **Governor** represented a learning curve on both sides, with the **Governor** coming to recognize that the state of Idaho does not maintain all the roads on the Fort Hall Reservation, including many important farm-to-market roads. For its part, the tribe recognized the state's concern that fuel tax revenues not go into a general fund but be used for transportation-related items. He commented that the Council was instrumental in getting the fuel tax negotiations underway, particularly with the June 2006 meeting in Coeur d'Alene with then-**Governor Risch**.

In response to **Chairman Jorgenson's** question as to the outcome of the IFTA issue, **Mr. Bacon** stated that the anticipated agreement contemplates an 85/15 percent state/tribal split of the diesel fuel tax to be collected by the tribe. This split represents a good-faith compromise regarding how much diesel is sold for use on the reservation. The tribe recognized the state's concern that long-haul truckers were applying for fuel tax refunds when no such tax was being charged.

On behalf of the Nez Perce Tribe, **Tribal Executive Council Chairman Penney** stated that the tribe is still in negotiations with the **Governor**. An initial meeting has been held and the tribe is preparing its response to a proposal made by the **Governor's** legal counsel, **David Hensley**. **Nez Perce Tribal Attorney Darren Williams** stated that the tribe will respond to that offer.

Kootenai tribal representative **Billy Barquin** stated that the Kootenai Tribe is not currently selling fuels and, therefore, has held back in negotiations with the **Governor** while the other fuel-selling tribes conducted their negotiations. **Mr. Barquin** stated that the Kootenai Tribe will be sending a proposed agreement to the **Governor**.

Shoshone-Paiute Tribal Council Chairman Prior stated that his tribe has an agreement

with Nevada, but does not have any Idaho fuel outlets.

Chairman Jorgenson commented that the Council's September 20th meeting addressed a number of substantive topics, including the important meth issue which should be a continuing topic. With the upcoming legislative session, the Council should focus its next meeting on what it feels to be important legislative issues. He suggested that the Council's next meeting be held in early December and include a report from the Idaho State Historical Society on the murals.

Kootenai Tribal Representative Barquin stated that the meth issue had been discussed by the Tribal Representatives at a meeting earlier in the day with those representatives agreeing to share information on meth traffickers and other related issues. The tribes are seeking to obtain a sample intertribal agreement to guide them in this cooperative effort. **Coeur d'Alene Tribal Attorney Quanah Spencer** stated that there needs to be a formal declaration of war by the affected jurisdictions against meth. A sample agreement will be circulated among the tribes and then will be brought to the Council to see what involvement may be secured from the state. **Mr. Spencer** opined that we need to get ahead on this issue.

Senator Crapo's representative **Mitch Silvers** informed the Council that last Tuesday, the Anti-Meth Funding for Native Americans legislation passed the Congress unanimously. This legislation makes Indian tribes eligible for grants, including the Cop Hot Shot Program and the Endangered Children Program. **Mr. Silvers** offered the resources of **Senator Crapo's** office to assist the tribes in preparing grant applications.

Mr. Silvers also informed the Council that Senate Bill 1200, the Indian Health Care Improvement Act, is scheduled for vote in the U.S. Senate on October 23, 2007, and that the tribes should contact **Senator Craig** and **Senator Crapo's** offices to encourage an affirmative vote. **Coeur d'Alene Tribal Attorney Quanah Spencer** noted that this bill is up for a 10-year reauthorization. **Mr. Silvers** added that the bill includes a provision for the creation of an Office of Indian Men's Health that would address the issue of prostate cancer.

Governor Otter's representative **Bob Wells** addressed the Council by phone. **Mr. Wells** stated that the Governor is pleased with the tribes' willingness to work with the state on the suppression of the wildfires this past summer and on the fuel tax issues. **Chairman Jorgenson** stated that the Council is eager to work with the Governor in the upcoming legislative session and is looking forward to the quarterly summit meetings with him.

Shoshone-Paiute Tribal Council Chairman Prior moved that the minutes of the Council's March 20, 2007, meeting be approved. Representative Saylor seconded. The minutes were approved without objection. Representative Saylor moved that the minutes of the Council's September 20, 2007, meeting be approved, and Mr. Prior seconded. The minutes were approved without objection.

Chairman Jorgenson asked the Council members to identify the issues that the tribes would like to see addressed in the future. **Nez Perce Tribe Executive Committee Chairman**

Penney identified legislation seeking to amend section 39-269, Idaho Code, to allow a tribal Judge and a designated tribal official to solemnize marriages. A proposed draft of the legislation was distributed to the Council. This draft legislation will be addressed at future Council meetings. **Mr. Penney** suggested that the **Governor** might issue a proclamation declaring November to be Idaho Native American Month, similar to the National Native American Month as proclaimed by the **President**. **Mr. Penney** also related that there may be an effort in the upcoming legislative session to amend section 67-7409, Idaho Code, to change the way Class III gaming activities are licensed, which is of concern to the tribe.

Kootenai Tribe Representative Billy Barquin stated that Tribal compliance with the federal Adam Walsh Act requires discussions with the **Governor's** Office and signing a memorandum with the city and county jurisdictions. The cost issue of complying with the federal Real Identification Act is also an issue. The tribe is seeking to have the tribal citizenship card serve as qualifying to establish proof of citizenship under that Act. There is worry that enforcement of the Real Identification Act will negatively affect Canadian tourism and commerce in north Idaho. More Canadians are coming across the border due to the favorable exchange rate. Between sixty and sixty-five percent of the visitors to the tribe's casino and spa are Canadians. Finally, the Kootenai Tribe would like to delay the start of the water adjudication that is scheduled to begin in North Idaho in 2012.

Fort Hall Business Council Vice-Chairman Tyler stated that implementation of the roadless area proposals discussed at the Council's last meeting is a concern of the Shoshone-Bannock Tribes, due to the impact on tribal lands. **Mr. Tyler** also expressed concern regarding the continued viability of the Mining Act of 1872.

Shoshone-Paiute Tribal Council Chairman Prior stated that his tribe is concerned with reauthorization of the Indian Health Care Improvement Act and continuing the war against meth. He is also concerned with reauthorization of the Juvenile Justice Act. He related that the Shoshone-Paiute Tribes had completed construction on a 28-bed youth center facility to be operated by the Bureau of Indian Affairs as a juvenile detention facility. The facility now sits empty. The tribe is now seeking support to operate the facility to assist youths-in-need. **Mr. Prior** stated that he has met with state officials who are sympathetic, but the Legislature mandates the system. **Chairman Jorgenson** noted that he serves on the Senate Education Committee which sees as important the investment in youth, and expressed disappointment that the tribes are not receiving the benefit of this facility. **Mr. Prior** responded that the problem lies with the federal government and that federal processing of juvenile offenders may harm those youthful offenders.

Chairman Jorgenson wondered whether this was a federal issue or if there could be a role for the State. **Coeur d'Alene Tribe Attorney Spencer** stated that the tribe and the state have been able to enter into agreements as to which entity would prosecute crimes where there was concurrent jurisdiction. He suggested that the tribes and the state could work with the U.S. Attorney to work out similar protocols which may be persuasive despite being nonbinding. **Mr. Spencer** noted that the federal sentencing guidelines are fixed, while state sentencing guidelines

allow extenuating factors to be considered. Tribal courts are limited to imposing a maximum one-year sentence. Meth dealers know the exact amount of meth that qualifies for federal prosecution and limit the meth they carry to that amount. **Fort Hall Business Council Vice-Chairman Tyler** related that sentencing does not always reflect justice. When two tribal members are involved in an altercation, for example, the sentence may be viewed as too short, while an altercation between a tribe member and a nonmember may result in a harsh sentence.

Idaho Indian Education Coordinator Mary Jane Oatman-Wak Wak stated that she had been appointed to the Idaho Juvenile Justice Commission and was concerned about the lack of tribal representation on that Commission. **Chairman Jorgenson** suggested that **Mr. Prior** become involved with the Juvenile Justice Commission. **Mr. Prior** stated that he would like to talk to **Judge Varin** to obtain more information before seeking to be appointed to that Commission.

Ms. Wak Wak addressed the Council regarding the Idaho Indian Education Report Card. The PowerPoint presentation given by **Ms. Wak Wak** is available at the Legislative Services Office. The goal of her office is to close the achievement gap between Indian children and the general population.

On the National Assessment of Education Progress, Indian children in the fourth grade rank 2.3 years behind the white child population. Over 93% of American Indian children attend public schools with less than 10% attending BIA schools. Idaho has two tribally operated but BIA funded schools: the Shoshone-Bannock Junior and Senior High School and the Coeur d'Alene Tribal School (grades first through eighth). American Indian children comprise 1.6% of Idaho's school children but are 11% of the children enrolled in special education programs. On the other hand, American Indian children only equal one-half of one percent of the children enrolled in gifted and talented programs. **Ms. Wak Wak** suggested that Indian leaders readdress the gifted and talented protocols to identify more American Indian children who may qualify.

Currently, there is only one Idaho school superintendent and only one school principal who is Native American. Only 38 Indian Americans are teachers in Idaho schools and only three are counselors. **Ms. Wak Wak** noted that Lewis-Clark State College has an Indian Teacher Program, but the salary paid to teachers on reservations is so low, many qualified individuals take higher paying positions outside of education.

Ms. Wak Wak noted that after rising between 2002 and 2006, the ISAT Reading Proficiency and Math Proficiency scores for American Indian students declined in the 2006 - 2007 period. However, between 2001 and 2007, the percentage of American Indian children in Idaho schools reading at grade level has improved, up from 40% to 72% for kindergarteners and up from 32% to 43% for third graders.

American Indian high school graduation rates in Idaho declined from 88.65% in 2005 to 80.65% in 2006. The 2007 graduation data is not yet available. Nationally, only 54% of American Indian children graduate from high school. Between 2005 and 2006, the drop-out rate

for American Indian children dropped from 7.46% to 4.8%. According to **Ms. Wak Wak**, 9 of the 91 Idaho school districts (out of a total of 126 districts) not making Annual Yearly Progress missed proficiency in reading and/or math for American Indian students.

Ms. Wak Wak stated that the goal of the State Board of Education is to ensure that the Idaho Department of Education assists school staff and parents/guardians so that collaboration efforts occur for the optimum benefit of all students. Since assuming her position in June, there has been only one meeting of the Indian Education Committee, composed of representatives from each tribe and of representatives from each of the state's institutions of higher education. The Indian Education Committee sets goals. **Ms. Wak Wak** noted that due to the recommendations of the Indian Education Committee, specific American Indian objectives, specific to Idaho tribes, have been added to the social studies content standards at all grade levels.

Ms. Wak Wak is working with school districts to ensure that federal funds targeting American Indian children are properly spent. If not so spent, the school districts risk losing those funds. **Fort Hall Business Council Vice-Chairman Tyler** asked whether anyone was advocating for incarcerated juveniles. **Ms. Wak Wak** stated that she attended the Juvenile Justice Tribal Council which identifies juveniles in need.

Ms. Wak Wak listed among the recommended policy changes and actions the following:

1. Reduce the number of standards to 5 or 6;
2. Review the standards and make appropriate adjustments to eliminate gaps and create clear progression from grade level to grade level;
3. Write item specifications for a State assessment;
4. Create a test blueprint based on revised standards with a bias and sensitivity review;
5. Develop grade-level vocabulary;
6. Develop performance-level descriptors; and
7. Build State Board of Education resources for lending library of American Indian/Idaho Tribal curriculum.

Ms. Wak Wak stated that the achievement gap is being closed. She related that **Superintendent of Public Instruction Tom Luna** has earmarked \$5 million for remediation to help the roughly 20,000 students who have scored below proficiency on the ISAT for 2 years in a row.

Ms. Wak Wak expressed appreciation to the Council for putting education on its agenda. **Chairman Jorgenson** stated that education should be a continuing item on the Council's agenda. **Mr. Tyler** suggested that Idaho adopt a "full-ride" scholarship for Native American scholars to help them attend college similar to that adopted in Utah. **Chairman Jorgenson** encouraged **Ms. Wak Wak** to attend the sessions of the House and Senate Education Committees once the Legislature convenes.

Nez Perce Tribal Executive Committee Chairman Penney announced that **Ms. Wak Wak** was recently named as one of six finalists for the Outstanding Non-Traditional Student award. A letter from the Nez Perce Tribal Executive Committee congratulating **Ms. Wak Wak** on this achievement was presented by **Mr. Penney** to **Ms. Wak Wak**. The entire Council extended its congratulations to **Ms. Wak Wak** as well.

Chairman Jorgenson expressed his appreciation for the continuing efforts of the Council and related his intention to visit each of the reservations. **Chairman Jorgenson** announced that the Council's secretary will arrange for the date of the next meeting which will likely be held in early to mid-December. The meeting was adjourned at 4:42 p.m.