

MINUTES
Special Meeting
SUMMIT LAKE PAIUTE COUNCIL
Sunday, February 20, 2011
Summit Lake Primary Administrative Office

CALL TO ORDER. At 8:07 a.m., the Council meeting was called to order by Vice-Chairman Ernie Barlese.

ROLL CALL. Council Member Randi DeSoto called roll. Present: Ernie Barlese, Jerry Barr, and Randi DeSoto. Absent: Warner Barlese and Jerri Lynn Barlese. Vice-Chairman Ernie Barlese declared a quorum was present and Council could conduct business.

STAFF PRESENT: William Cowan, Natural Resources Department Director; Ron Johnny, Environmental Coordinator and Acting Chief Administrative Employee

REPORTS - ACTING CHIEF ADMINISTRATIVE EMPLOYEE

Ron Johnny, Acting Chief Administrative Employee presented Resolution, "Amending the Tribe's Personnel Policies to Allow for the Re-Hiring of Temporary Employees and Credit for Previous Satisfactory Work Service Towards Probationary Period Calculation". Mr. Johnny stated that he worked with Ms. Frances Winn, Finance Director and Mr. William Cowan, Natural Resources Department Director regarding this proposed change to the Summit Lake Paiute Tribe's (SLPT) Personnel Manual. The proposed change would allow for the rehiring of temporary employees and give credit for their prior satisfactory work performance towards the probationary period requirements for becoming a regular employee.

Mr. Cowan commented the red ink tpestyle that show proposed changes to the Personnel Manual does not photocopy clearly. He suggested future amendments to resolutions, policies and ordinances not be redlined since it doesn't show up when photocopied in black ink. Mr. Johnny stated that he will now circulate color copies of documents with proposed changes. Mr. Cowan stated that perhaps proposed changes be italicized.

MOTION: Council Member Jerry Barr introduced a motion to enact Resolution SL-03-2011, Amending the Tribe's Personnel Policies to Allow for the Re-Hiring of Temporary Employees and Credit for Previous Satisfactory Work Service Towards Probationary Period Calculation. Acting Secretary/Treasurer Randi DeSoto seconded the Motion. Vote called. Vote: 2 For, 0 Against, 0 Abstaining. Vice-Chairman Ernie Barlese refrained from voting and declared the Resolution enacted.

Mr. Johnny reported the Higher Education Committee attempted to meet but a quorum was not available so the meeting could not be held. He discussed the remaining Higher Education fund 2010 balance of \$4,682.83. Two Tribal members have applied for funds and have submitted all necessary documentation required by the Higher Education Guidelines. Mr. Johnny presented a draft resolution for disbursing funds to the two applicants.

Secretary/Treasurer Jerri Lynn Barlese arrived at the meeting at 8:35 a.m.

Mr. Cowan commented that there are other factors Council should consider given that there are limited funds available for scholarships. The type of school the student is enrolled in should also be considered. For example, enrollment in a university is much more expensive per credit than enrollment in a community college. Discussion followed regarding basing funds distributed to students by the number of credits the student is taking. For these two students, who are taking a combined total of 22 credits, the per credit funding amount would be \$212.85.

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MOTION: Council Member Jerry Barr introduced a motion to enact Resolution SL-04-2011, Higher Education Guidelines Mandated Resolution. Council Member Randi DeSoto seconded the Motion. Vote called. Vote: 3 For, 0 Against, 0 Abstaining. Vice-Chairman Ernie Barlese refrained from voting and declared the Resolution enacted.

Mr. Johnny discussed Ruby Pipeline's (Ruby) trespass on the Reservation by posting two access markers eight months ago. On December 12, 2010, Mr. Johnny authored a letter for Chairman Barlese's signature to the Bureau of Indian Affairs (BIA) Western Nevada Agency (WNA) Superintendent requesting monthly updates on Ruby trespass issues. The Superintendent responded via email discussing actions BIA has taken regarding the issue over the last eight months. BIA advised SLPT they have two options: (1) request BIA WNA investigate the claim of trespass or (2) request that BIA WNA review the trespass data that SLPT had acquired. The Superintendent would need a Council Resolution requesting assistance from BIA WNA. Mr. Johnny presented a draft resolution, "Requesting Bureau of Indian Affairs/OJS/Solicitor Expedite Their Investigations on the Tribe's Now Eight (8) Month Old or More Request for Investigation and Civil and Criminal Prosecution of Ruby Pipeline, LLC, Its Agents or Contractors, for Trespass on the Summit Lake Reservation".

Secretary/Treasurer Barlese asked Mr. Johnny if SLPT could charge Ruby and its contractors for violating Reservation air space with helicopters. Mr. Johnny stated that other places charge for air space use. He stated that just around the corner from the Sparks office, there is a device that records the noise level of airplanes. The Washoe County Airport Authority then has to pay the residents in the affected area for any noise pollution detected. Mr. Johnny stated that if he finds time, he will research this further. He stated that the Reservation isn't just the land. It's the air above the land and down below the ground. Council Member Barr stated that SLPT doesn't have monitors to watch for this kind of activity. Mr. Johnny stated that any settlement that would come from the Ruby trespass issue could include that they would install noise pollution devices. Vice-Chairman Barlese asked if helicopters could affect the fish run. No reply was forthcoming. Mr. Johnny stated that he repeatedly complained about noise pollution throughout the Ruby project.

MOTION: Council Secretary/Treasurer Jerri Lynn Barlese introduced a motion to approve Resolution SL-05-2011, Requesting Bureau of Indian Affairs/OJS/Solicitor Expedite Their Investigations on the Tribe's Now Eight (8) Month Old or More Request for Investigation and Civil and Criminal Prosecution of Ruby Pipeline, LLC, Its Agents or Contractors, for Trespass on the Summit Lake Reservation. Council Member Jerry Barr seconded the Motion. Vote called. Vote: 3 For, 0 Against, 0 Abstaining. Vice-Chairman Ernie Barlese refrained from voting and declared the Resolution enacted.

Mr. Johnny reported the Ninth Circuit Court of Appeals denied SLPT's emergency motion for a stay. Professor Collette Routel then filed an emergency motion for reconsideration pointing out to the judges that the briefing schedule that was ordered did not allow the United States enough time to submit the administrative record and so they should reconsider their decision. Mr. Johnny stated the Defenders of Wildlife case is still before the U.S. Court of Appeals. Ruby entered into a stipulation with Defenders of Wildlife that Ruby was not going to construct between mile markers 518 and 549.9 unless the court denied Defenders' motion for an emergency stay.

Mr. Johnny stated that SLPT has received advantages out of its attack on the Ruby project and trying to protect its resources. Ruby funded SLPT to conduct six regional meetings for Tribal member input. SLPT upgraded the office copier to a high-speed color printer. SLPT was able to buy a second satellite phone. There are still funds to add minutes to this phone. SLPT received an 11-day stay prohibiting Ruby from operating. SLPT established an agreement with Ruby to test One Mile Spring water to June 2015. Mr. Johnny reported that Mark Hall, Archaeologist, Bureau of Land Management (BLM) Winnemucca District, will be providing SLPT with maps showing the Ruby pipeline route in relation to the Reservation.

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Mr. Johnny reported the Superintendent, BIA WNA, Ruby and SLPT have agreed to monitor the water level, quality and quantity over a five year period. WNA has conferred with the BIA Western Regional Office Environmental Branch and Natural Resources Branch. BIA is requesting a copy of the SLPT/Ruby negotiated water quality agreement.

CONSENSUS: At 9:20 a.m., it was the consensus of the Council to take a break.

CALL BACK TO ORDER. At 9:30 a.m., Vice-Chairman Ernie Barlese called the meeting back to order.

ROLL CALL. Secretary/Treasurer Jerri Lynn Barlese called roll. Present: Ernie Barlese, Jerry Barr, Jerri Lynn Barlese and Randi DeSoto. Chairman Warner Barlese entered the meeting via conference call. Vice-Chairman Ernie Barlese declared a quorum was present and the Council could conduct business.

STAFF PRESENT: William Cowan, Natural Resources Department Director; and Ron Johnny, Environmental Coordinator and Acting Chief Administrative Employee.

Mr. Johnny stated he would draft a letter, in consultation with Chairman Barlese, to the Superintendent BIA WNA regarding BIA ordering Ruby to conduct water quality testing at One Mile Spring. After 45 days, should no action be taken by BIA WNA, the Council will start consultation with the Nevada U.S. Attorney, Dan Bogden, who told Secretary/Treasurer Barlese and Council Member Barr that the Nevada U.S. Attorney can then involve the Federal Bureau of Investigation.

REPORTS – ENVIRONMENTAL PROTECTION DEPARTMENT

Mr. Johnny reported he travelled to Yreka, California to meet his new GAP Project Officer, Tim Wilhite. Mr. Johnny stated it was a pleasure working with someone who was much like his previous Project Officer, Greg Phillips. Mr. Wilhite gave Mr. Johnny recommendations on making minor amendments to the 2011/2012 GAP application to ensure it would be funded. Mr. Wilhite also gave Mr. Johnny suggestions to make the current SLPT GAP Work Plan easier to administer. Mr. Johnny stated again that it was just a joy to have feedback like he received in the past from Mr. Phillips. Mr. Johnny stated he never received feedback from his immediate past Project Officer.

Mr. Johnny reported on the RTOC meeting he attended near Madera, California. Ms. Jean Gamache, Director of the Environmental Protection Agency (EPA) Region 9's Tribal Programs Office, will be leaving EPA and relocating to Alaska to work for the National Forest Service. Mr. Johnny stated this would be a benefit to the Tribe's and he hopes that EPA will bring someone in who the Tribe's can really work with rather than someone who is really strong on administration. He continued Tribe's need a strong voice in the Director position to help the Tribe's, particularly since SLPT has received notice that aside from EPA § 319, § 106 funding, and GAP funding, EPA will have less money to fund programs.

REPORTS – NATURAL RESOURCES DEPARTMENT (NRD)

Mr. Cowan, NRD Director, provided written and oral reports. He stated he is back from his extended leave. Mr. Kent Bloomer, Resource Technician, has been relieved of his Acting Director duties. Mr. Cowan stated he reviewed reports Mr. Bloomer presented to the Council in Mr. Cowan's absence and found Mr. Bloomer covered most of the NRD business fairly well.

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Mr. Cowan discussed the excess computers located in the Primary Administrative Office and the process for Tribal Members to receive a free computer. Mr. Cowan recommended a notice be sent to Tribal Members via newsletter that computers could be picked up starting February 28, 2011.

CONSENSUS: Consensus of Council was for Tribal Members to receive computers on a First-Come, First-Serve basis. Tribal Members will be advised to contact Council Member Jerry Barr to pick up a computer.

Discussion Topics

Mr. Cowan asked Council for input regarding Dr. Geoff Smith, UNR, coming to the Reservation to conduct cultural resource inventories on various proposed projects. Dr. Smith has proposed conducting inventories May 15 to May 30, 2011. Projects needing cultural inventories include: the west road reroute, the proposed new fence and the cemetery fence. UNR would then produce a report for SLPT which would be available late Fall 2011.

UNR is proposing a "pedestrian" survey meaning it's a walk-through survey. There is no excavation. UNR will identify what can visually be seen on the ground and then inventory and catalogue the data. They may illustrate the projectile point, flake or other artifact, GPS it and indicate where there are hot zones. UNR could potentially spend two weeks doing cultural resource inventories contingent upon BLM doing the inventory for the fence and if the cemetery fence falls off as a priority. NRD needs to let UNR know if Council supports NRD's position.

CONSENSUS: Consensus of Council was to authorize UNR to set up camp in the compound while they are conducting cultural resources inventories. Council prioritized cultural inventory studies as follows: New Fence, One Mile Spring, Cemetery, West Road Reroute, and Community Center.

Mr. Cowan stated Dr. Smith could make a presentation at the May 21, 2011 Council meeting about the science of archaeology.

Dr. Smith informed Mr. Cowan that he had made a request to Sheldon National Wildlife Refuge (Sheldon) for a study of rock shelters. FWS sent an email to Chairman Barlese, Mr. Cowan, and Mr. Johnny describing the rock shelter excavation project and requested a government-to-government consultation at today's meeting. Mr. Cowan stated he had trusted Chairman Barlese would channel the information on the study to the Council so it could be included on today's meeting agenda. This is important because the rock shelter study is a sensitive project. UNR is proposing May or June 2011 to conduct the study. Secretary/Treasurer Barlese asked if she could join UNR when they conduct their rock shelter study. Mr. Cowan replied yes, but it would be at UNR's schedule and time, and she would need to discuss it with Dr. Smith. He asked Council if they felt the rock shelter study should be discussed in Open Forum or in Executive Session. Chairman Barlese requested someone introduce a motion to go into Executive Session.

MOTION: Secretary/Treasurer Jerri Lynn Barlese introduced a motion to begin Executive Session to discuss the Sheldon rock shelter study. Council Member Jerry Barr seconded the vote. Vote called. Vote: 4 For, 0 Against, and 0 Abstaining. Vice-Chairman Ernie Barlese refrained from voting and declared the motion had passed. Executive Session began at 10:50 a.m. and concluded at 11:06 a.m.

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CONSENSUS: Consensus of Council is to send a letter from Chairman Barlese to FWS inviting them to the March 19, 2011 Council meeting for government-to-government consultation to discuss proposed research at Sheldon. UNR will be copied on the letter, which Mr. Cowan will draft.

Mr. Cowan gave an update on the Long Range Transportation Plan (LRTP). He spoke to the BIA Division of Transportation about rerouting the west road away from the lake and they agreed putting more BIA money into this section of road is inappropriate until SLPT fixes the road. Sedimentation enters the Lake under muddy, snowy and rainy conditions because the road is so close to the lake. There is also the potential for noxious weed invasion. Additionally, if a vehicle accident occurred on that road and a vehicle ended up in the lake, there would be a petroleum spill. Mr. Cowan proposed to Council the west road reroute be included in the LRTP to ensure it is rerouted according to engineering standards.

Mr. Cowan stated the LRTP is a planning process which sets forth road priorities for the next 20 years. It will take major funding to implement the LRTP. Road maintenance is a continuous problem for SLPT. Ultimately SLPT needs road conditions that are safe not only for the public but also for SLPT residents. SLPT's LRTP proposes starting at the base of Hell's Canyon. The LRTP will allow SLPT to incorporate non-Reservation road miles on the Indian Reservation Road (IRR) inventory. Currently the IRR addresses only the road from Denio to the intersection with Crane Creek. Mr. Cowan informed BIA this section of road may have been a priority of the Council when the IRR system was established ten years ago but things have changed. SLPT's Primary Administrative Office is now in Sparks. The route to the Reservation coming from the south is used more frequently now than the route from the north. Additionally, a high component of Tribal Members travel to the Reservation from the Surprise Valley area in California. Therefore, all three major access roads to the Reservation should be elevated in importance. BIA IRR system funding is based on the amount of road miles in the IRR, residency and land base. NRD discovered that SLPT can include roads off the Reservation if they intersect with another road that is a priority within SLPT's IRR system. Mr. Cowan stated there is a factor applied to the miles of non-Reservation road. If the non-Reservation road is 85% owned by the state of Nevada, a 15% credit could be applied for credit of road miles for a given funding year. If SLPT added, for example, 0 miles of non-Reservation road to get to main intersections on the Reservation, SLPT would only get credit for 15 miles.

Mr. Cowan reported on the LRTP consultants' visit to the Reservation in November 2010. They took pictures and georeferenced all the flooded areas of the road coming from Gerlach. There's already been an inventory from the Denio route off the Reservation to the intersection with Crane Creek. The consultants have not seen the road westward toward Cedarville. Mr. Cowan stated as they were travelling to the Reservation, they stopped at Hell's Canyon. Hell's Canyon is not high on anybody's priority for maintenance but it needs serious engineering work. One of the consultants suggested paving it. Mr. Cowan suggested Hell's Canyon be rerouted in its entirety. The condition of Hell's Canyon needs to be addressed now for the long term safety of SLPT residents.

Mr. Cowan stated the LRTP is for long range projects which need to be included in the LRTP for future analysis and engineering. The projects can then be prioritized with BIA as to where BIA directs their attention with regard to funding. NRD wrote the LRTP with the consultants to truly integrate SLPT's priorities. The process is, you get your priorities in the LRTP and then begin research and outreach for funding. For something like rerouting Hell's Canyon, it will probably take millions of dollars and may require Congressional appropriation. Now is the opportunity to get it in place. SLPT may be requesting BLM to dispose of lands to accommodate reconstruction of roads. Mr. Cowan stated Council needs to make time for the LRTP process. There are set deadlines to get the LRTP into the IRR system.

Another potential project could be to construct a visitor's vista where visitors could still take in the beauty of the lake and landscape while being a safe distance from the lake to prevent poaching and other activities.

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Discussion followed regarding designation of a community area. The community area and future HUD housing would require public access. Mr. Cowan asked Council for their vision with regard to the community center. If Council wants to move the location of the community center, it should be decided now for inclusion in the LRTP. Mr. Cowan's concern is the community center needs to be away from the creek so it doesn't compromise water quality and that's why the center is currently designated by the fence in the compound. If SLPT receives two mobile homes from FEMA, NRD will be back talking to Council about where to place them and to finalize the site for a future community building. The Land Use Plan designates a community area offset closer to the base of the hills to the north. Council will need to decide by April where they want the buildings as it pertains to the IRR system.

Discussion followed regarding fishing limits for 2011. The NRD recommends leaving the limit the same as last year.

CONSENSUS: Consensus of Council was to keep the fishing limit in 2011 the same as 2010: five for adults, two for minor children.

The Hunting and Fishing Ordinance requires anyone age 16 and over to have a permit to fish. The definition of minor child needs to be determined. Mr. Cowan will research the Ordinance and report to Council at the March 19, 2011 meeting.

Mr. Cowan discussed the Treatment As A State (TAS) application. EPA requires all Tribes that wish to establish, enforce and regulate water quality on waters within the Reservation to pass a TAS application with EPA. This came about when EPA realized Tribes were sovereign nations. Tribes were questioning why states were trying to assert water quality authority on Reservations. EPA wrote regulations requiring Tribes to apply to EPA to prove that they are administratively capable and have powers to establish, enforce and regulate water quality standards. SLPT's original TAS application was done in July 2008. It then languished at EPA but eventually they responded and said the legal statement was lacking. EPA required SLPT to draft a statement from someone who is legal counsel for the Tribe. NRD modified the Section 106 grant to employ legal counsel. Ms. Jeanne Whiting was hired and she fulfilled the terms of her contract. A draft legal statement was sent to EPA for their legal staff review. EPA recommended that SLPT apply for 401 Certification. 401 Certification is a section of the Clean Water Act. Rachael Youmans, Fish and Wildlife Biologist, researched the EPA Handbook and condensed the 401 Certification process. Mr. Cowan is requesting Council approve a new resolution authorizing the 401 Certification be included in the TAS application along with a revised legal statement. The refined, revised application will be resubmitted to EPA to start the approval process over again.

A 401 Certification allows the Tribe to regulate and support permits whenever there is an activity to discharge water into waters on the Reservation. SLPT will be assuming responsibility to grant and approve a 401 permit, or grant with conditions, deny or waive the permit. An example would be if SLPT had a fish hatchery and the water coming out of it was discharged into One Mile Spring. Mr. Cowan stated this was truly SLPT's plan with the fish hatchery a decade ago. In this example, Council would then have the Department of choice review the permit and assess the impact of discharging water into One Mile Spring by analyzing the effluent to determine if water quality was degraded and whether the water meets SLPT's water quality standards.

Mr. Cowan asked Council to approve integrating the 401 Certification in the TAS application.

CONSENSUS: At 12:05 p.m., it was the consensus of the Council to take a lunch break.

CALL BACK TO ORDER. At 12:39 p.m., Council Vice-Chairman Ernie Barlese called the meeting back to order.

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ROLL CALL. Secretary/Treasurer Jerri Lynn Barlese called roll. Present: Ernie Barlese, Jerry Barr, Jerri Lynn Barlese and Randi DeSoto. Absent: Warner Barlese. Council Vice-Chairman Ernie Barlese declared a quorum was present and the Council could conduct business.

STAFF PRESENT: William Cowan, Natural Resources Department Director; and Ron Johnny, Environmental Coordinator and Acting Chief Administrative Employee.

GUESTS PRESENT: Lorieta Cowan, Tribal Member

Discussion continued regarding the 401 Certification process. Vice-Chairman Barlese asked Mr. Cowan if Tribal Members would need Council approval if they were going to divert water from the creek for irrigation. Mr. Cowan stated that any time water is diverted for any purpose Council approval is required. With regard to irrigation diversion, if there is to be a change in an irrigation system, a 404 permit from the Army Corps of Engineers is required. If there was a request from a Tribal Member to get water from the creek, and there's not already a structure there to get water out of the creek and the Tribal Member wishes to go in and shovel dirt or rocks to divert the water, they would need a 404 permit.

Mr. Cowan explained the 401 Certification addresses water quality where there is a defined discharge. The 401 Certification application has been written to allow both the Environmental Protection Department and NRD to oversee the 401 Certification process including reviewing applications, and making recommendations on either granting or denying applications, and compliance.

CONSENSUS: Consensus of Council was to approve both the Environmental Protection Department and NRD to oversee the 401 Certification application process.

Mr. Cowan discussed assessing a fee to each 401 Certification applicant since there is no funding to pay for the review process. NRD recommends the fee deposit be required at the beginning of the application process. Costs for processing the application will then be drawn from the deposit. Funds remaining, if any, after the application process is complete, will be refunded to the applicant. Additional funds SLPT may need to finish the review process will be charged to the applicant. The fee will be decided annually based on prevailing wages and the amount of estimated time for processing based on the complexity of the application. The Environmental Protection Department and NRD will make recommendation to Council on what the fee will be each year. Mr. Cowan stated some Tribes assess the fee based on whether the application is "simple" or "complex". Simple or Complex is defined by the number of feet of stream or the amount of earth that is affected. The other option is to not apply a fee but there has to be a mechanism to pay for staff time to process the 401 Certification applications.

Mr. Cowan stated staff will review each application to determine if it is complete. If incomplete the application is returned to the applicant with instructions for it to be resubmitted.

CONSENSUS: Consensus of Council was to approve NRD recommendations for applying a fee to individuals submitting a 401 Certification application. Such fee deposit to be paid at the time application is made. Applicants can be charged additional fees should staff time to process applications exceed the initial fee deposit.

Mr. Cowan stated once a 401 Certification application is submitted to SLPT, the Department of choice will screen it. If deemed complete, there will be a public comment period for Tribal Members. NRD is recommending a 30-day comment period. Tribal

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Members will then be given notice of the 401 Certification application. The Department will make a recommendation to approve the application as is, approve with conditions, or deny. Mr. Cowan requested Council's input regarding concurrently running the public comment period and Departmental review or should the public comment period follow Departmental review.

CONSENSUS: Consensus of Council was to approve a 30-day comment period for Tribal Members.

Mr. Cowan asked Council if they could think of any other information that would need to go in SLPT's 401 Certification application. Council Member Barr suggested timeframe for the applicant's project should be included to ensure the project can be completed before winter weather hits. Mr. Cowan will incorporate this information into the application.

Mr. Cowan stated that General Permits can be authorized for certain activities. A General Permit will be issued when the project is determined to be "Finding Of No Significant Impact" (FONSI). This terminology is used in the National Environmental Policy Act (NEPA) process. NEPA is a process where effect on environment is considered. NRD will not allow any project that will not meet SLPT's water quality standards. Any General Permit would be categorized by a finding of either FONSI in the environmental review process, or a "Categorical Exclusion". A Categorical Exclusion is basically a checklist to show what action was taken on the application. There are a series of projects that have been determined to not warrant more in-depth environmental analysis. Mr. Cowan provided Council with a copy of the checklist. Projects of a specifically defined type can proceed with limited or no individualized review. General Permits require only notification to the federal agency issuing the Permit about the proposed project, others do not. SLPT has the option on General Permits of elevating the review to other federal agencies. Any projects that do not qualify as a FONSI or Categorical Exclusion would require more scrutiny and probably require other federal agencies' involvement.

Mr. Cowan stated the permitting process goes through the following layers of scrutiny:

- FONSI,
- Categorical Exclusion,
- Environmental Assessment (EA), and
- Environmental Impact Statement (EIS) which is the highest level of scrutiny.

The 401 Certification application is subject to an appellate process that EPA will be scrutinizing to ensure SLPT has an appeal process in place in the event an applicant is unhappy with a decision made by SLPT. Petitions for appeal are submitted to the Council. Discussion followed regarding the length of time for the appeal process.

CONSENSUS: Consensus of Council was to allow 45 days for the appeal process.

Mr. Cowan discussed the final point of the 401 Certification process which is enforcement. Since SLPT does not have law enforcement, enforcement provisions of the 401 Certification will be a joint effort between Tribal Departments, Army Corps of Engineers, BIA and other enforcement agencies. Tribal Departments will conduct preliminary investigations and inform enforcement agencies if a compliance issue is discovered. SLPT will apply a condition to all projects whereby monitoring will occur to ensure the project is not compromising water quality standards.

Mr. Cowan presented a resolution for Council consideration to resubmit the TAS Application to EPA.

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MOTION: Council Secretary/Treasurer Jerri Lynn Barlese introduced a motion to approve, Resolution SL-06-2011, Application for Treatment As A State for Administration of Programs Under Section 303 Water Quality Standards and Section 401 Certification Programs of the Clean Water Act. This Resolution reaffirms Council's support and approval of the revised TAS application to EPA. Council Member Jerry Barr seconded the vote. Vote called. Vote: 3 For, 0 Against, and 0 Abstaining. Council Vice-Chairman Ernie Barlese refrained from voting and declared the Resolution enacted.

Mr. Cowan stated there is an SUV targeted to be purchased with the Tribal Wildlife Grant. There is also a dump trailer targeted to be purchased with BIA Roads funds and a boat NRD would like to purchase with BIA Fisheries funds. Procurement Policy dictates that any purchase in excess of \$500.00 requires informal bids and anything over \$10,000.00 requires formal bids. Mr. Cowan is asking Council to designate one Council Member to participate on the bid committee. He stated all these items will likely be purchased from a private party since SLPT cannot afford to buy the equipment new. Council Member Barr and Secretary/Treasurer Barlese volunteered to participate.

CONSENSUS: Consensus of Council is to delegate authority to a Committee to decide on procurement matters related to the purchase of an SUV, dump trailer and boat, all of which are at or below \$10,000.00. Council Member Jerry Barr and Council Secretary/Treasurer Jerri Lynn Barlese will serve as Council Representatives on this Committee.

Mr. Cowan reported first aid/CPR training has been scheduled for March 29, 2011 through Red Cross for NRD staff. He asked if Council wanted to participate in the training. Council Secretary/Treasurer Barlese and Council Member DeSoto expressed an interest. Secretary/Treasurer Barlese will speak with Frances Winn, Finance Director, to determine if CTGP can pay for Council to attend. The Red Cross fee is \$75.00 per training.

Mr. Cowan asked Council their opinion for NRD to partner with FishBio with regard to the VAKI Riverwatcher fish counting equipment. The partnership will focus on application of the fish counter as a demonstration project in small stream systems.

CONSENSUS: Consensus of Council is to approve NRD to partner with FishBio for a demonstration project for applying the VAKI Riverwatcher fish counting equipment in small streams.

Mr. Cowan stated that some type of agreement will be drafted by NRD. FishBio will likely request some proprietary rights to publish their information and share it on the internet. Mr. Cowan felt this is fine since they are providing the equipment and technical expertise; however, there will need to be a provision for NRD to review the products before they are posted on the internet.

Mr. Cowan discussed the Personal Property Release form which relates to employees who work on the Reservation. Staff were previously requested to take their personal property with them whenever they left the Reservation because NRD did not want to be responsible for their personal belongings if for some reason they didn't return to the Reservation. Last year NRD wrote an interim policy that states, should an employee leave their personal property on the Reservation on their days off, and not return to the Reservation for whatever reason, it's the employee's responsibility to return to the Reservation and retrieve their property; or, they can designate another employee to pick up their belongings. Chairman Barlese approved this process last year; however, Mr. Cowan is requesting full Council approval of the interim policy and associated forms. He provided a copy of the Personal Property Release form and the Authorization for Retrieval of Personal Property form. Employees are required to retrieve personal property within 30 days of leaving employment with SLPT.

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MOTION: Council Secretary/Treasurer Jerri Lynn Barlese introduced a motion to approve the Personal Property Release Policy and associated forms. Council Member Jerry Barr seconded the vote. Vote called. Vote: 3 For, 0 Against, and 0 Abstaining. Council Vice-Chairman Ernie Barlese refrained from voting and declared the Motion passed.

Mr. Cowan presented draft Noxious Weed Technician and Maintenance Worker job announcements for Council approval. There are no significant changes on the Noxious Weed Technicians job announcement from last year. Mr. Cowan intends to rehire the Maintenance Workers from last year provided they are still available to work, pursuant to Resolution SL-03-2011 enacted by Council earlier in today's meeting. However, there may be other Maintenance Worker positions that will function as range riders and also work on the fence project. Mr. Cowan may be requiring these workers provide their own pack horses to move cows off the Reservation and to travel to the south end of the Reservation to construct and repair the fence. He is requesting Council approval of these job announcements. The positions will be advertised in the next few weeks to satisfy the 10-day Tribal Member Preference requirement. Mr. Cowan stated he may not fill the Noxious Weed positions until April 30, 2011.

CONSENSUS: Consensus of Council is to approve the Noxious Weed Technician and Maintenance Worker job announcements.

Mr. Cowan discussed strategies to protect riparian and lake shorelines from trespass livestock and wild horses. His concern is the water gap and intentions of Soldier Meadows (SM) Ranch to graze their full allotted number of cows. It was based on Mr. Cowan's discussions with Mr. Rolando Mendez, Manager, BLM Black Rock Field Office, wherein Mr. Mendez relayed that SLPT should count on SM grazing their full allotment authorization. Mr. Cowan recounted his visit to the Reservation in November 2010 when he discovered that SM was exercising beyond what was allowed with their trailing permit. Mr. Cowan was told by BLM that SM was given a stern warning about trespass livestock. There is still a forthcoming meeting planned to discuss the schedule for cows to be on the range, but bottom line is SLPT needs to be prepared to deal with trespass livestock. BIA has stated they would support SLPT constructing an electric fence along the lake shoreline, and employing range riders to keep cows away from the lake. Mr. Cowan will be monitoring the trespass livestock issue aggressively to document this problem. SM is authorized to graze cattle in the Warm Springs pasture, which is closest to Section 36, July 1 through October, 2011. This is the period of time Mr. Cowan proposes to hire range riders to herd cattle away from the shoreline and document trespass activity. This leads to SLPT's need to develop a Trespass Ordinance. Once the Ordinance is approved by BIA, SLPT then has authority to impound cows and start to assess a fee. Mr. Cowan asked Council for approval of his plans for dealing with trespass livestock.

CONSENSUS: Consensus of Council is for NRD to proceed with their strategy for protecting riparian and lake shorelines from trespass livestock and wild horses by installing electric fences and hiring range riders.

Mr. Cowan stated that the Tribal Wildlife Grant will fund noxious weed signs. SLPT will need to advertise for vendors. Mr. Cowan requested volunteers from Council to serve on a Committee to close a deal with a sign fabricator. Also, at a future time, he will be talking to Council about where the signs should be located. Secretary/Treasurer Barlese and Council Member Barr volunteered to participate.

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Mr. Cowan is considering working with the National Fish and Wildlife Foundation (NFWF). NFWF has several million dollars in their budget to sponsor a Lahontan Cutthroat Trout (LCT) keystone initiative project. Mr. Cowan, along with Dr. Chandra from UNR and possibly the U.S. Geologic Survey from Independence Lake, may be submitting a proposal to NFWF to fund investigating elements that are important for preserving and enhancing recovery of LCT in lake systems.

Mr. Cowan discussed proposed NRD fish passage projects as follows:

- Remove the Snow Creek diversion just upstream from the culvert and potentially replacing the culvert with a bridge. The existing structure is rotting and is potentially unsafe. NRD may hold off for another year or two but if a rush of water comes through, the structure will be destroyed. This is an opportunity for SLPT to work with FWS for funding to engineer the bridge correctly and take care of the problem.
- Reconnecting Snow Creek to Summit Lake to allow spawners to get upstream.
- Remove the diversion structure upstream from the road crossing on Mahogany Creek behind the Fort McGarry ruins. The structure is burnt and half of the supports are in Mahogany Creek.
- Installation of screens on livestock water trough intakes.

Mr. Cowan asked for input from Council regarding these proposed projects. Council agreed with the projects. Mr. Cowan will move forward to try to get funding.

The Army Corps of Engineers (ACE) is requesting consultation with Tribes regarding Nationwide Permits. Although these Nationwide Permits don't affect SLPT, it may be a benefit to invite the ACE to a meeting so ACE can explain their authority to regulate water quality. Mr. Cowan stated this relates to Council Vice-Chairman Barlese's earlier inquiry about SLPT being able to modify a stream channel or to divert water from a creek for irrigation. The ACE is the agency which regulates these activities. Council agreed with inviting ACE to a future Council meeting.

Mr. Cowan asked for clarification regarding the agenda for the Council's next meeting. He has been assigned to invite two entities, FWS and UNR, to consult at the March 19, 2011 Council meeting. He asked Council if the ACE consultation should be postponed or included on the March 19, 2011 agenda. Council agreed all three entities should be invited.

Mr. Cowan asked if Council wanted to have an informal meeting to discuss the proposed Sheldon rock shelter project. Council agreed to hold a meeting on March 12, 2011 at 9:00 a.m. Local Council Members will meet at the Tribal office. Chairman Barlese and Vice-Chairman Barlese will phone Mr. Cowan with their comments on Sheldon's proposal.

REPORTS – COUNCIL SECRETARY/TREASURER

Council Secretary/Treasurer Barlese reported she made two trips to the Reservation, on January 20 and January 26, 2011.

REPORTS – FINANCE DEPARTMENT

Council Secretary/Treasurer Barlese provided Council with flash drives from the Finance Director containing January 2011 reports.

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REPORTS – COUNCIL MEMBERS

Council Members Barr and DeSoto discussed their recent travel to the Historic Preservation Conference in Denver which was sponsored by El Paso Corporation and Ruby Pipeline. They stated there was a question and answer period, but Ruby Pipeline would not answer questions posed by the audience. Mr. Cowan asked that copies of the conference agenda and materials that were handed out at the meeting be provided to Council and NRD.

OLD BUSINESS

None.

NEW BUSINESS

None.

APPROVAL OF MINUTES

MOTION: Council Member Jerry Barr made a motion to introduce and approve the December 17, 2010 Council meeting minutes with the reading of the minutes. Council Member Randi DeSoto seconded the motion. Vote called. Vote: 3 For, 0 Against, and 0 Abstaining. Council Vice-Chairman Ernie Barlese abstained from voting and declared the Motion passed at 2:38 p.m.

Mr. Johnny read the minutes of the December 17, 2010 Council meeting. Ms. Lorieta Cowan asked Mr. Johnny what happened at the meeting with BLM regarding One Mile Spring. He responded there were a series of conference calls which Chairman Barlese had directed Mr. Johnny participate in leading up to Ruby giving SLPT its plan to test the water at One Mile Spring. Ruby originally only agreed to test the water 30 days before and 30 days after construction of the pipeline and one year later. Council rejected Ruby's proposal. Ruby finally agreed to test in June in the years 2011 through 2015. Council negotiated with Ruby and received funding to pay for the Tribe's costs of doing the work related to SLPT's water testing and for Council to continue to make site visits along the pipeline construction route.

The Council negotiated a budget with Ruby for \$62,630.00 to reimburse SLPT for its costs for working with Ruby. Ruby has only volunteered to do water testing at One Mile Spring. BLM and the Federal Energy Regulatory Commission (FERC) have stated they can't enforce the water testing agreement between SLPT and Ruby because the testing is voluntary on Ruby's part. The Council is demanding BIA order Ruby to do the testing so that BIA can enforce the agreement. Mr. Johnny stated that it doesn't sound like BIA is willing to do that so earlier in today's meeting the Council authorized Chairman Barlese to send a letter to BIA telling them they must order Ruby to do the testing.

Mr. Johnny stated there have been prayer sticks and other items found. In early January, one of Ruby's trenching machines uncovered a bone. Ruby took photographs of the bone and sent it to BLM. BLM determined, based on the photographs, the bone could be animal or human. When BLM went on-site the next day, the bone was gone. The Council has been negotiating ever since to get photographs so that SLPT can conduct its own analysis on the bone.

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Ms. Cowan asked if the bone had been recovered. Mr. Johnny replied SLPT does not have the bone. He continued that under the plan approved by BLM, Ruby was supposed to have a security guard present to watch the artifact. Ruby did not follow that plan so someone took the artifact. Mr. Johnny stated that Vice-Chairman Barlese signed an Information Sharing Agreement with BLM. SLPT asked BLM for a copy of the photograph of the bone. BLM told SLPT a letter needed to be on file with BLM designating Mr. Cowan and Mr. Johnny as SLPT's representatives on the Information Sharing Agreement and then BLM will share the photograph with SLPT.

Vice-Chairman requested Mr. Johnny read the October 28, 2010 Council meeting minutes.

Ms. Cowan asked if Ruby had advised SLPT how they were going to clean up Ruby contractor petroleum spills. Mr. Johnny responded Ruby sent SLPT reports that show they did follow the plan approved by FERC which is that Ruby put a material on the ground to prevent oil spills from spreading into water or other places. Ruby was then required to bring equipment necessary to dig all of the dirt that had been contaminated by the spills and place the dirt in spill-proof bags. Ruby was required to take the bags and store them securely at their work site. Ms. Cowan asked if Ruby had refilled the area from where the contaminated dirt was taken. Mr. Johnny stated Ruby graded the contamination site. In the areas where the truck roll-overs occurred, diesel fuel, oil, and transmission fluid were all leaked into the ground.

Ms. Cowan asked about Ruby rerouting their route away from One Mile Spring. Mr. Johnny stated that BLM and Ruby met and agreed to move the route approximately one-half mile north of One Mile. Council told BLM that SLPT wanted Ruby Pipeline to move their route all the way to the southern boundary of Sheldon. BLM and Ruby rejected this proposal. SLPT went to court with the Ninth Circuit Court of Appeals opposing BLM and Ruby's position.

MOTION: Council Member Jerry Barr made a motion to introduce and approve the October 28, 2010 Council meeting minutes with the reading of the minutes. Council Member Randi DeSoto seconded the motion. Vote called. Vote: 3 For, 0 Against, and 0 Abstaining. Council Vice-Chairman Ernie Barlese abstained from voting and declared the Motion passed at 3:11 p.m.

Ms. Cowan had questions about enrollment action Council took at last month's meeting. She questioned why Council enrolled one of the enrollment applicants. She advised Council that she was aware of the applicant's family history and the applicant was not a descendant of an SLPT member and had previously been denied enrollment. Mr. Cowan stated that the Enrollment Committee had reviewed the applicant's documentation. They recognized that "NE", meaning Not Eligible, appeared on SLPT's 1940 Census for this applicant which is why the Enrollment Committee recommended Council disqualify the applicant. The SLPT Articles of Association dictate that anyone with an NE annotated on the 1940 Census is ineligible for enrollment in SLPT. Mr. Cowan stated this was discussed by the Enrollment Committee while reviewing this applicant's documentation and the information should have been carried forward to the Council. Mr. Johnny stated the Enrollment Ordinance says someone has to file a complaint in writing and then another hearing would need to be held so the applicant can address the complaint. Council Member DeSoto stated that Chairman Barlese objected to that because he wanted the issue to go back to the Enrollment Committee. Ms. Cowan will file a written complaint regarding the applicant.

CONSENSUS: At 3:25 p.m., it was the consensus of the Council to take a break.

CALL BACK TO ORDER. At 3:40 p.m., Council Vice-Chairman Ernie Barlese called the meeting back to order.

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ROLL CALL. Council Member Randi DeSoto called roll. Present: Ernie Barlese, Jerry Barr, Jerri Lynn Barlese, and Randi DeSoto. Absent: Warner Barlese. Council Vice-Chairman Ernie Barlese declared a quorum was present and the Council could conduct business.

STAFF PRESENT: William Cowan, Natural Resources Department Director; and Ron Johnny, Environmental Coordinator and Acting Chief Administrative Employee.

GUESTS: Lorieta Cowan, Tribal Member

MOTION: Council Secretary/Treasurer Jerri Lynn Barlese introduced a motion to begin Executive Session to discuss personnel action and options to improve NRD administration. Council Member Randi DeSoto seconded the motion. Vote called. Vote: 3 For, 0 Against, and 0 Abstaining. Council Vice-Chairman Ernie Barlese refrained from voting and declared the motion had passed. Executive Session began at 3:43 p.m. and concluded at 4:13 p.m.

Vice-Chairman Barlese reported the Indian Health Board of Nevada (IHBN) is requesting SLPT remit payment for 2011 annual dues in the amount of \$600.00. Discussion followed regarding the benefits SLPT is receiving from IHBN. Council Member DeSoto asked how long SLPT has been a member. Council Member Barr requested Mr. Johnny find out if SLPT paid IHBN dues in 2010 and have the Finance Director determine if there are funds budgeted for the dues. The item is tabled until Mr. Johnny returns to Council with his findings.

ADJOURNMENT

MOTION: Council Member Jerry Barr introduced a motion to adjourn. Council Secretary/Treasurer Jerri Lynn Barlese seconded the motion. Vote called. Vote: 3 For, 0 Against, and 0 Abstaining. Council Chairman Warner Barlese refrained from voting and declared the motion had passed. The meeting adjourned at 4:38 p.m.

CERTIFICATION

I, Jerri Lynn Barlese, Secretary/Treasurer of the Summit Lake Paiute Council, hereby state and affirm that the above Minutes of the February 20, 2011 Special Meeting of the Summit Lake Paiute Council were approved by the Council during a duly called meeting of the Council on March 10, 2012, by a vote of 4 For, 0 Against, and 0 Abstaining. Council Vice-Chairman Ernie Barlese refrained from voting.

March 10, 2012
Date


Jerri Lynn Barlese, Secretary/Treasurer
Summit Lake Paiute Council