

**REGULAR MEETING
TRIBAL FORESTRY COMMITTEE
OCTOBER 27, 2009 – 3:00 P.M.
TRIBAL OFFICE BOARDROOM**

1. Roll call and Call to order

Chairman Randal Chevalier called the meeting to order at 3:04 p.m. Roll call was taken with a quorum present. MEMBERS PRESENT: Randal Chevalier, Myrna Warrington, Anthony Waupochnik, Alfred Pyatskowitz, Walter Cox, David Grignon, Jeremy Pyatskowitz. MEMBERS ABSENT: Rick Warrington (excused), and Susan Waukau (excused). Also present: Christopher Caldwell.

2. Moment of Silence.

Randal Chevalier requested a moment of silence.

3. Approval of Minutes dated September 22, 2009.

Corrections were made to the following:

Item # 7, fourth sentence: the phrase needs to be corrected to “sustained yield”, (not sustain yield). The Committee would like more information added to the minutes on the process of how land is taken out of sustained yield; to state the purpose how other lands are taken out of sustained yield; how the Tribe keeps track of land transfers, and who takes care of keeping track of this process.

On the first page: the wording needs to be changed to state that both draft ordinances (Distribution of Forestry Profits and Timber Severance Tax) will be sent to the Legal Department for review.

Chris Caldwell and Rick Warrington will need to research the land transfer process in regards to sustained yield; what is the base amount of land that needs to be held in sustained yield, and present a report back to the Committee.

Motion made by Anthony Waupochnik to approve the minutes of the regular meeting dated September 22, 2009 with corrections. Second was by Jeremy Pyatskowitz. All those in favor of the motion signify by saying aye. Motion carried: 5 for, 0 opposed, 1 abstention (M. Warrington), and 2 absent (R. Warrington and Waukau).

4. Silvicultural Prescription Process: PowerPoint Presentation

Christopher Caldwell requested this item to be tabled until next month’s meeting.

Motion made by Myrna Warrington to table item # 4 (Silvicultural Prescription Process: PowerPoint Presentation until the next meeting. Second was by David Grignon. All those in favor of the motion signify by saying aye. Motion carried: 6 for, 0 opposed, 0 abstentions, and 2 absent (R. Warrington and Waukau).

5. Ordinance # 02-22: Discussion and Recommendation

The Committee reviewed the outline that was given to them on the background and other material that is used to assess a stumpage payment. Mr. Caldwell summarized previous discussions held. A formula was developed and the Tribe submitted a bill to MTE that covered the timeframe of July 1, 2007 to June 30, 2008. MTE paid this bill.

Mr. Caldwell provided the Committee with the summarized logging rates, and the credits that are given for the 1st quarter of MTE's fiscal year. (July 1, 2009 – September 30, 2009).

MTE has declined to provide Mr. Caldwell with any further information. Mr. Caldwell read an email that was received by Melinda Cook (Corporate Secretary) in March 2008, which stated: *"Mr. Miller has instructed me to inform you that the representatives noted within your email from MTE will not be attending the meeting per MTE legal counsel. The issue of stumpage payment is unconstitutional in accordance with Article VII of the Constitution."* This has been a continued practice until recently.

It was suggested to send the bill to MTE to receive payment. When the Tribe sends the bill to MTE for payment, the Tribe should request a written response as to why MTE will not pay the bill if that is what they choose to do.

The Committee questioned why the BIA is listed within the Ordinance. Christopher Caldwell explained to the Committee that the BIA Trust Forester stated that once the MTE Bonds were redeemed that there still needs to be some type of oversight on the forest. The BIA should only be contacted when technical assistance is needed.

The Committee discussed if the Ordinance should be amended at this time. The Ordinance has not been challenged legally and would like to see what the Legal Department has decided on the constitutionality on the Timber Severance Tax Draft Ordinance. The Committee will wait to amend the Ordinance until they receive the clarification on the Timber Severance Tax Draft Ordinance.

Mr. Caldwell presented three options for the Committee to review as follows: 1) to assess last years profit (June 30, 2008 to July 1, 2009); 2) catch up with the current year's profit (July, August and September 2009), and 3) send MTE a monthly bill.

Motion made by Alfred Pyatskowitz that the Tribal Forestry Committee recommends that the MTL Chairman send out a stumpage assessment per Tribal Ordinance 02-22 for tribal forest materials removed by MTE starting on June 30, 2008 and ending on July 1, 2009 for an assessed value of \$1,341,000.04. Second was by David Grignon. All those in favor of the motion signify by saying aye. Motion carried: 4 for, 2 opposed (M. Warrington and Waupochnik), 0 abstentions, and 2 absent (R. Warrington and Waukau).

Please note: Legislator Myrna Warrington qualified her opposition as follows: *"I do have a concern; the cost to MTE and what it will do to them up there. I know last year when they had to pay that, they almost had to shut down. (They did some layoffs). Having that billing; effects the mill workers, and I have always voiced my opinion that this Committee should be made up of half MTL people and half MTE people so that there is an even input from them up there as well. We have no input from them, and there is an ongoing issue that they have with what is going on, and that is why they are not participating, but we need that."*

Anthony Waupochnik qualified his opposition as follows: *"My concern is the reference to the Constitution, and that stumpage should be based on excess profits unless I am not recalling that right, but to me that is what is said in the Constitution."*

6. Amendment to Ordinance # 05-22: Discussion and Recommendations

The Committee reviewed the final changes to the Ordinance concerning the timelines. The timelines were eliminated, because MTE was consistently late and the Legislature had to extend the timelines.

The Committee discussed the white pine areas, and how it is determined that regeneration is taking place.

Walter Cox explained to the Committee how the Conservation Department and the Tribal Police Department enforce this Ordinance. The Committee discussed the penalties that are listed and were informed that the Legal Department did review this Ordinance.

Motion made by Myrna Warrington to send our recommendations on the amendments to Ordinance 05-22 (made by this Committee) to the Legislature for approval. Second was by Alfred Pyatskowitz. All those in favor of the motion signify by saying aye. Motion carried: 5 for, 0 opposed, 1 abstention (Cox), and 2 absent (R. Warrington and Waukau).

7. Checklist Development: Discussion and Recommendations

Christopher Caldwell requested that this item be tabled until the next meeting.

Motion made by Jeremy Pyatskowitz to table item # 7. Second was by Anthony Waupochick. All those in favor of the motion signify by saying aye. Motion carried: 6 for, 0 opposed, 0 abstentions, and 2 absent (R. Warrington and Waukau).

8. Recommended agenda for MTL/MTE Joint Meeting.

It was mentioned that the Tribal Chairman and the MTE Board of Director's Chairman met to discuss what should be on the joint meeting agenda.

The Committee reviewed potential items for the joint meeting. The request for a special meeting came from the forest management plan workgroup. This workgroup is concerned how both entities will interact.

Chris Caldwell will get the package materials together for both entities. Timelines, having a neutral party host the public hearings; the BIA Road's and the FMP's.

Walter Cox would like to see MTL and MTE sit down and discuss setting a protocol about allowing non-tribal members access to the woods. This situation comes up whenever a salesperson wants to sell their machines. MTE would like access to the woods, but the Constitution states non-tribal members do not have access to the woods.

Motion made by David Grignon to approve the joint MTL/MTE agenda for November 3, 2009. Second was by Walter Cox. All those in favor of the motion signify by saying aye. Motion carried: 6 for, 0 opposed, 0 abstentions, and 2 absent (R. Warrington and Waukau).

9. Trust and Management Agreement: Annual Determination Report

Christopher Caldwell handed out a letter that was received on Monday, October 26, 2009, that indicated MTE is still in discussion on the reporting process.

The Committee is still in the process of compiling the information and will be coming shortly.

10. Forest Management Plan Updates

There was no action taken.

11. Trust Resource's Director's Reports (September, 2009)

There were no questions on the report.

Motion made by Walter Cox to accept the Trust Resources Director's Report. Second was by Jeremy Pyatskowit. All those in favor of the motion signify by saying aye. Motion carried: 6 for, 0 opposed, 0 abstentions, and 2 absent (R. Warrington and Waukau).

12. Intertribal Timber Council nominations paperwork for awards:
Discussions/Recommendations

Chairman Chevalier informed the Committee that if they are interested in nominating someone for a natural resource scholarship; the deadline is January 22, 2010. The Committee did not nominate anyone at this time.

13. Draft Ordinance # ____ - Distribution of Forestry Profits: Discussion/Recommendations

This information has not been received back from the Legal Department.

Motion made by Myrna Warrington to table item # 13 (Draft Ordinance # 13 – Distribution of Forestry Profits) until the next meeting. Second was by David Grignon. All those in favor of the motion signify by saying aye. Motion carried: 6 for, 0 opposed, 0 abstentions, and 2 absent (R. Warrington and Waukau).

14. Draft Ordinance # ____ - Timber Severance Tax: Discussion/Recommendations

This information has not been received back from the Legal Department.

Motion made by Myrna Warrington to table item # 14 (Draft Ordinance # ____ - Timber Severance Tax) until the next meeting. Second was by Alfred Pyatskowit. All those in favor of the motion signify by saying aye. Motion carried: 6 for, 0 opposed, 0 abstentions, and 2 absent (R. Warrington and Waukau)

15. Other Business
Legal Needs for Next Meeting

The Committee needs to have the Distribution of Forestry Profits and Timber Severance Tax draft ordinances for the next meeting.

16. Adjournment

Motion made by Alfred Pyatskowitz to adjourn the meeting. Second was by Jeremy Pyatskowitz. All those in favor of the motion signify by saying aye. Motion carried: 6 for, 0 opposed, 0 abstentions, and 2 absent (R. Warrington and Waukau).

Meeting adjourned at 4:47 p.m.

Respectfully submitted by,

Linda L. Peters, Transcriber
Recording Clerk – Chairman's Office