

# CONSTITUTIONAL AMENDMENTS

## How We Got Here

by Chairman Delores Pigsley

Although the Siletz Constitution has served the governmental needs of the Siletz Tribe very well since it was adopted more than 20 years ago, it has become clear that certain provisions need to be modernized and clarified.

With this in mind, a process was started two years ago when the Council established an ad hoc committee to identify and make recommendations on the provisions of the Constitution that need to be amended.

Although the Tribal Council very early on reviewed the provisions of the Constitution and made some preliminary recommendations for changes, the Ad Hoc Committee was charged with conducting community meetings to obtain general membership input.

Based on community input and ad hoc committee recommendations, the Tribal Council held a workshop devoted entirely to discussing and reviewing constitutional issues. Every Council member participated by prioritizing and recommending the change he or she believed to be the most critical and needed.

Each proposed change was then evaluated. The resulting prioritized changes will be the ones submitted to all qualified tribal members in a special election. Each section will be voted on individually by the members.

The process that the Tribal Council pursued complies with Article VIII, Amendment of the Constitution, which states that "the Constitution may be amended by a majority vote of the qualified voters" of the tribe "at an election called for that purpose by the Secretary of the Interior." And further, the "election shall be conducted in accordance with rules and regulations as set forth by the Secretary of the Interior."

We have asked the secretary to authorize an election on the proposed amendments to give every qualified tribal member an opportunity to vote on these proposed amendments.

What follows is an explanation of the proposed constitution changes prepared by Tribal Attorney Craig Dorsay.

## Proposed Amendment to Article IV, Section 2

This amendment will modernize the Tribal Court provisions of the Siletz Constitution and give the tribe and Tribal Court more flexibility to meet the needs of the tribe and tribal members. Current constitutional language does not expressly address creating an appellate or specialty courts, and does not provide for establishing different categories of judges. The amendatory language allows the Tribal Council to create new courts to address specific needs.

The proposed language clarifies that the court's jurisdiction is to be found in the Constitution or in express ordinance authorization. It allows for additional categories of court employees and permits the chief judge to delegate court administrative duties to a court administrator. It fixes judges' compensation and prohibits that compensation from being reduced during the term of office. Finally, it allows the Tribal Council as well as the chief judge to draft court rules of pleading. Other language stays the same.

## Proposed Amendment to Article VI, Section 3

This section changes the date of the annual election to the first Saturday in May. The reason for this change is to avoid the inclement weather that often occurs during the current election date in February. The date for announcement of candidacy is changed to match.

## Proposed Amendment to Article VI, Section 5

This section authorizes a temporary extension of office for Tribal Council members currently in office to bridge the gap between February and the proposed May annual election date. This extension will continue for three years after the constitutional amendment passes, until the three-year selection cycle for election of a new Tribal Council has been completed.

## Proposed Amendment to Article V, Section 2 (B)

The current Constitution vests considerable power in the tribal chairman. At some points, the current Constitution gives the chairman veto authority over the actions of the rest of the Council. For example, since the chairman has authority

under the Constitution to call meetings, he or she can prevent the rest of the Tribal Council from conducting the tribe's business by refusing to call a Tribal Council meeting when requested. This happened two years ago after the recall was completed. The proposed change will restrict the power of the chairman by requiring that a special Tribal Council meeting be held when three Tribal Council members request it. If the tribal chairman refuses to call the meeting, the remainder of the Tribal Council can go forward and hold the Tribal Council meeting without the chairman's approval.

## Proposed Amendment to Article V, Section 2 (D)

The purpose of the proposed change is to make sure that your governing body - the Tribal Council - can operate even when there are fewer than the full nine members. The current Constitution requires five members before the Tribal Council can meet. There may be times, however, when the Tribal Council may have fewer than nine members for a short period of time (until replacement members can be nominated under Article VI, Section 6), such as death, sickness, recall, or expulsion.

When there are fewer than nine members, it is harder to reach a quorum of five to conduct tribal business. It can also allow a minority of the Council to prevent the Tribal Council from conducting its business. For example, if the Tribal Council has six members, two can prevent the Tribal Council from conducting business by refusing to meet. The proposed change will prevent this occurrence from happening by changing the quorum from five at all times to a majority of the number of seated members of the Tribal Council.

One other change is being proposed to this section. If the Tribal Council ever falls below five members - as happened during the recall two years ago - the proposed change will not allow the remaining members to conduct the business of the tribe until the Council gets back to five members. It is appropriate that at least a majority of the Council (five members) be seated before the Tribal Council conducts the business of the Tribe. The proposed change would limit the authority of any remaining members to appointing replacement Tribal Council members to bring the Tribal Council back to five members. At that point, the Tribal Council could conduct business and then discuss how the remaining four vacancies can be filled.