

of our kids and their livelihood from leaving this area. Some of the things being suggested is building new schools in Newport and Toledo to make room for the extra kids. Also they are proposing to turn our excess schools into storage rooms. John said when the Siletz High School was closed, the ballot measure had two measures to vote on. The Department of Revenue said that you can not pass a level for a particular school. So the schools were closed because the ballot measures did not pass and they felt the schools were not required. John said there has been a lot of studies done recently showing that the average student in small schools are being loss due to numbers. In large schools they are being separated into small pier groups. They asked the Council to provide a representative at the meeting Tuesday night. Dee said the Council Representative to the Education Committee would attend. Dolly said the dropout rate of Siletz High School students since transferring to Toledo is very high. John said approximately 75 percent and this is because of the way they are treated. Sharon said the kids that do go through they are at the A and B level. If kids are involved in sports you are talking about a 6:30 a.m. time. Manuel wanted to know if there was a pattern we could follow. Sharon said Eddyville has been in this position over the years and they are willing to help us in anyway. Phil said just a letter of support would not be enough. He feels that the Tribe has a lot of impact in the County and if the Tribal Government as a government goes to the meetings and writes to State representatives it would be a lot more beneficial. Lillie said when the High School closed down there were only 3 Siletz members present whereas Eddyville packed the place with church and committee representatives. Lillie said the Siletz area had heard about the High School closure for over 13 years and no one took it as the final thing. Dee asked how many Council members could attend the meeting at the Newport Middle School Media Center on Thursday at 7:00 p.m. Lillie, Frank, and Monte all said they could. Phil said he would like to go after the LCSD School Board and State Education Board. Dee said this works well but not as good as people who have children in the school being present at the meetings. Teresa Miller said at the time of the High School closure if the Tribe had raised up and objected than the High School would have remained. John said if we oppose the Middle School immediately then the proposal of closure will probably be dropped at the meeting. Then if we want the High School back we can pursue that with the required surveys and why we need the school back. Sharon Rosier said that there is about 1% who does want the school closed. Manuel said if we pursue the High School issue people are going to talk about the increase in taxes. In the past this was brought up when the High School closed and the taxes increase anyway. Dee thanked John and Sharon for coming and that we would be supportive of retaining the middle school.

Break from 2:45 - 3:00

ANDY VILES APPEAL - Dee asked Andy Viles if he wanted the appeal on record. Andy said it was okay. Dee introduced Craig Dorsay to give a brief of the appeal and the Council role in that process. Craig asked Andy if he was planning on making a full appeal. Andy said he felt the firing was unfair and illegal and he was seeking recourse to the firing. Andy said one process was to exhaust remedies. He sent a petition straight to Dee. Craig asked if he was exhausting an administrative

remedy. Andy said there were some procedural problems also. He was unsure of what the Council has seen so far. He said he was more than willing to have the Council refer this to Tribal Court, but he was prepared to make a case before the Council. Dee asked if this was allowable to raise it up to the next level. Craig said all it states is that the employer may present it to Tribal Council. Craig said this is explained in the Personnel Procedure where the employee who has a grievance presents it to his supervisor up to the General Manager. The General Manager can forward it up to the Tribal Council for review. Once the Council makes a decision, that decision is subject to review by Tribal Court. Craig said the question is 1) is it proper before the Council, 2) what to do with it once it is before Council. Craig said Phil was the one who terminated Andy and since he was the one it should be presented to Council. Now it is up to the Council to decide what to do with it. Andy was a probationary employee at the time he was terminated. In Andy's appeal he alleged that he had to be terminated for a just cause. Craig said this is not correct and a probationary employee can be terminated during a probationary period by the supervisor with the General Manager's concurrence for any reason. If the Council agrees than the limits of the appeal are whether Phil violated any administrative procedures. Craig said there were several other grounds raised by Andy that Craig felt do not come up unless you get pass the probationary period. Craig asked if anyone had any questions. Andy said maybe he misspoke about Tribal Court being a more proper form for the appeal. He has been financially short and has been unable to obtain legal advice. Andy said the Tribal Constitution states that each Tribal member shall have equal opportunity to share the resource of the Tribe. Andy said that if a Tribal member can be fired within the first six months for any reason that this is unconstitutional. The second part is where Personnel Procedures talks about discipline of employees under the Tribe. It tells how employees shall be discipline and give grounds for reprimand and grounds for termination. This does not specify about probationary employees. Dee said the Council had agreed to listen to Andy's request for the Council to hear the appeal and had to decide if Phil had the right to fire Andy and if the procedures were correctly followed. Craig said before hearing any evidence, the Council had to decide what aspects they are going to proceed under. Craig said that all probationary employees must be treated equally. Andy said once you are hired you must be treated equally. He said that he is not saying he was not treated as a probationary employee. Craig said the Council had to determine what was meant as a probationary employee and this will guide how you will proceed. Frank asked Andy why he was fired? Andy said he had a lot of evidence to present. Dee said it was too soon for that. Andy said he was concerned with the act of censorship for which he was fired. Andy said this was illegal and unfair. Frank asked if Andy had violated a direct order? Andy said he was willing to present evidence and his case. Dee said what we need from those Council members who help put the Manual together about the intent of the probationary employee section. Dee said the intent was with the idea that probationary employees can be terminated at anytime without cause. Andy said to fire certain tribal members without cause and not fire other tribal members without cause was unfair treatment and violated the Constitution. Craig said if Andy can go to Tribal Court and show that all other probationary employees were fired with cause and he was the only employee fired

without cause then he might have a case. Craig said the critical distinction is whether Andy was singled out different from any other employee. Andy said if this was the case then all he has to prove is that there are two classes of employees. Dee said the action taken was that Andy was fired and did Phil take the proper procedures in the firing. The question does not involved freedom of the press, constitutional rights, etc. but whether Phil followed the procedures he was hired to abide by. Monte said this was an interesting issue in that the procedure followed was right but questioned the probationary period allowing an employee to be fired for any reason. Monte said as an employer himself if he tried anything like that he would be in trouble. Monte said what Phil did was right but the procedure needs to be changed. Jessie said where she works they have a 6 month probationary employee period and they can be fired for whatever reason. Craig that the rights of a probationary employee are very limited. Lillie said the Tribe is kind of an exception because we are not State or anything like that. Craig said he would be very confident in defending the Tribe in any State or federal court. Dee said that was not the issue, but whether Phil violated procedural policy. Andy said this is wrong, the procedures are wrong, and a remedy should be provided for the person wronged. Dee asked if the Council was ready to hear the appeal and make a decision on the issues. Dolly said no because she feels that Phil followed proper procedure. Jane asked what the procedures were when you fire someone. Craig said the manual does not talk about any specific technical procedure, but once the fired employee is fired than he follows the grievance procedures. Andy said the employment manual states why employees can be discipline, reprimanded and terminated. Dee said we were not talking about discipline. Andy said to terminate someone was an extreme part of discipline. He felt the manual was written to prevent someone from being fired for no reason. Frank said that he agreed with Dolly and that Andy was fired for not following a direct order. Jane asked if any one had previously been fired while on probation. Phil said he hasn't but one was fired before he came to work for the Tribe. Lillie said that she had no background and did not know what procedures were to be followed. What does it mean by probationary, can you just up and fire someone. Jane asked if Phil was Andy's supervisor. Craig said not his direct supervisor but the authority goes through Phil. Jane wanted to know if the termination was recommended by the supervisor or straight from Phil. Andy said his supervisor entered the conversation after Phil had fired him. Jessie asked if this was after Andy had received the memo about not printing the article. Craig said the communications about writing the article were before his firing. Lillie reserved her opinion. Jessie and Manuel agreed that Phil was right in the firing. Jane did not agree with the firing. Monte abstained because he had no background. Dee agreed with Phil's action. Dee said this does not bar the Council from hearing the appeal. Dee said she has seen the memos and has kept abreast of the situation along the way and it is a question of whether Phil followed the procedures in the manual. Dolly made a motion to hear the appeal. Jessie wanted to know where it goes from here if Council decides not to hear the appeal. Dee said that he can appeal to Tribal Court. Frank seconded the motion. Andy said he was unsure what evidence the Council has seen and he asked for the Council to hear his side of the appeal and said that it would be of benefit to the Tribe. Motion fails, 3-5-0.