

Budget '79

How Does the Budget Become Final?

by Cynthia Stowell

Questions raised at the recent general council meetings revealed some confusion about the procedures by which the annual budget is approved and presented to the tribal membership and what members can do if they want to challenge the budget.

Spilyay Tymoo has dug into the tribal constitution seeking clarification of the matter. What we present here, in addition to excerpts from the constitution, is a synthesis of how those involved in the budget approval process have interpreted the written guidelines.

The key documents that are applied to adoption of the annual budget are two articles in the constitution, Resolution No. 4729 regarding referendum procedures, and an opinion written by tribal attorney Owen Panner.

General manager Ken Smith said that although Panner's opinion is informal, he hopes that regional B.I.A. solicitors will sanction it as the official interpretation giving Tribal Council, management and the Bureau one set of guidelines by which to perform.

Article V updated

As presently set forth in Article V, the tribal budget is exempt from the limitations on expenditures detailed in the first half of the article. Appropriations beyond the budget that exceed \$2,500 must be reviewed by the Secretary of Interior, who is represented locally by B.I.A. Superintendent Jim Cornett; and any amount exceeding \$25,000 must be approved by a vote of the tribal membership.

Prior to 1948, the ceiling was \$5,000 but voters elected to raise the amount to \$25,000 on April 24 of that year.

In 1973 Article V underwent an even more dramatic change, when the people voted to separate the tribal budget from that set of limitations.

The budget is now bound to its own set of constitutional requirements, as detailed below.

(Smith drew attention to the loose language used in the budget exemption. Technically any appropriation could be classed as budgetary, he pointed out, but those concerned interpret "budget" to mean the "annual budget.")

Amended Article V states that upon the Tribal Council's approval of the annual budget and at least 90 days before the effective date of the budget, copies of the budget must be posted in three public places for a period of 30 days. This is usually done at the Administration Building, the Tribal Court, the Community Center and Macy's Store.

A public hearing must be held and an authorized representative of the Secretary of Interior must then approve the budget. Cornett says that he is authorized to approve the budget unless it exceeds the tribal income, and then it must go to the Portland area director for approval.

Cornett disagrees with the sequence of events implied in Article V, Section 1. He feels he is bound by Section 2 which says that the Superintendent must approve or disapprove any council action that is subject to review within 10 days after the action.

The timing of the public hearing is also a matter of some debate. Two councilmen interviewed said that the constitution calls for the public hearing to be held after the thirty-day posting and petition period, which is when the council in fact holds the hearings. But the constitution does not appear to suggest a sequence for the posting and the hearing; it simply states that a hearing must be held. Some feel that a hearing during the petition and posting period might better inform tribal members of the specifics of the budget so they can respond to it appropriately.

According to Olney Patt, Sr., who was Tribal Council Chairman when the 1973 amendment was passed, the posting and public hearing requirements were provided "to give people the opportunity to get involved" in the budget procedure. "Before that, administration could spend \$25,000 on lots of different budget items and the people wouldn't know where it was going," said Patt.

The point of the 90-day period is to give management and council enough time before the effective date to respond to community feedback, said Patt. The budget is normally posted as close to October 1 as possible with the effective date the first of the year.

Patt and Cornett both said that the removal of the budget from the \$25,000 limitation was recommended because the budget was becoming "unmanageable" with such a restriction.

Cornett said that every tribal member eligible to vote who could be located (all but two or three) was informed of the constitutional election at least six weeks in advance. Each voter was encouraged to register for the election and was given a copy of the proposed amendment.

Members may petition for a referendum vote

The 30-day posting coincides roughly with the right in Article VI for tribal members to challenge a council decision by petition within 30 days of the action. Although Article VI (Initiative and Referendum) does not refer specifically to the budget, it has been applied to the annual budget process.

Article VI says that the council "shall" submit matters of great importance to the vote of the people, but this is interpreted as a discretionary power. It appears to be up to the council to determine what a "matter of great importance" is and how to handle it.

But Article VI is more specific with regard to the procedure for bringing an issue to referendum.

Any two councilmen or twenty percent of the enrolled membership may call for a referendum within 30 days after council action (e.g. approval of the budget). The budget does not have to be posted the same day as the council acts on it, so the 30 day posting period does not necessarily coincide exactly with the 30 day petition period, a discrepancy that Owen Panner feels should be cleared up. (This year, council approved the budget and posted it the same day).

Beyond the initial 30-day period, the right to petition is subject to some interpretation. Owen Panner maintains that if

no one petitions for a referendum, the budget is technically approved and is not thereafter subject to petition.

However, if council amends or modifies the budget as a result of the hearing, that action would be subject to popular referendum in accordance with Article VI. It is not clear whether the whole budget can be challenged or only the changes. Panner was not available for comment on this.

A petition for popular review of the altered budget must be made within thirty days of the council's change. Smith noted that this should all take place within the 90 days allotted before the effective date.

(Note: Council chairman Gene Greene informed Spilyay that in all likelihood the council would not modify this year's budget, except to reconsider positions and programs held in abeyance. The money has already been budgeted for these items, so if they are reinstated it will not mean an increase in the bottom line. It could mean a reduction, however if the items are deleted).

Greene said the council could make changes up to \$25,000 without a popular referendum, but according to Panner any such action would be subject to an Article VI petition.

If the altered budget is not challenged it becomes final. However, at any time individual items in the budget may be petitioned so long as expenditures have not already been made, according to Panner. For instance, if a particular construction project that was not detailed in the budget does not meet with the approval of tribal members they may petition for a vote of the people. Panner's point is that even if tribal members let the budget pass as a whole, individual expenditures within the budget can be challenged at a later date, unless the money has been spent or a contract has been entered into.

Expenditures over the approved budget are subject to the limitations specified in Article V, with Tribal Council having the authority to expend additional funds up to \$25,000 with the approval of the Secretary of Interior.

Council resolution further specifies petition procedure

In 1976 Tribal Council passed Resolution No. 4729 which provided rules and regulations to accompany Article VI in the constitution. This was not a constitutional amendment so it did not have to be voted on by the people.

Resolution No. 4729 details the proper procedure for filing a petition to request a popular referendum. This resolution will be explained in a future edition of Spilyay.

Summary

Article V, Section 1 (t) of the tribal constitution as amended in 1973 makes expenditures above \$25,000 subject to popular referendum but exempts the annual budget from this limitation.

The annual budget, once approved by the council, must be posted in three public places at least 90 days before its effective date for a period of 30 days. A

Excerpts From the Tribal Constitution

ARTICLE V--POWERS OF THE TRIBAL COUNCIL

Section 1 (t) (As amended in 1973)

To appropriate for tribal use of the reservation, any available tribal funds; provided that any such appropriation exceeding \$2,500 shall be subject to review by the Secretary of the Interior; and provided, further, that any appropriation in excess of \$25,000 in any one fiscal year for any purpose, other than per capita payments, shall be of no effect until approved in a popular referendum. The foregoing limitations shall not apply to expenditures made pursuant to tribal budget, provided, that not less than 90 days before the effective date of such budget it is posted in three public places on the reservation for not less than 30 days and provided further, that a public hearing is held on such budget and thereafter the budget is approved by the Secretary of the Interior or his authorized representative.

ARTICLE VI - INITIATIVE AND REFERENDUM

Whenever a matter of great importance comes before the Tribal Council, the councilmen shall, by resolution duly passed, submit the matter to the vote of the people. If they do not so agree to submit the question, any two members of the council, or one-fifth of the members of the Confederated Tribes, may within 30 days after the vote of the Council, call such a popular referendum but no councilman shall call more than two referendum elections during any calendar year. When a referendum election has been called, the question to be voted on shall be posted at the voting places for at least ten days prior to election . . . The will of the majority of those voting shall be the law, provided at least one-third of the eligible voters actually vote.

public hearing must be held to inform tribal members of the budget, and the Secretary of Interior or his authorized representative must approve the budget.

According to Article VI of the constitution, within 30 days of the council action approving the budget any two councilmen or 20 percent of the enrolled member-

ship may challenge the budget. Article VI has been interpreted to apply to later council revisions of the budget resulting from the public hearing. Within 30 days of any council change, an Article VI petition may be filed.

These procedures were designed to give council more leeway in budget preparation but also to give tribal members an orderly way to offer their input.

EXIT

This is a guide to escape from home, work, high rise buildings, and public places where you happen to be when fire breaks out.

Your worst enemy is smoke.

Smoke, heat, and gases can choke and kill you after a few breaths. If you are caught in smoke, get down and crawl.

Another enemy is the elevator.

It can trap you. If the elevator signals are heat activated, the elevator can be forced to the fire floor, where it stays. You wouldn't want to be inside. Make a mental note of the fire exit stairs wherever you are. Use them to get beneath the fire floor.

Escape from public places.

1. Make a mental note of several fire exits whenever you enter a restaurant, store, theater, or other public building.
2. Smoke or a burning smell can mean a fire emergency.
3. Use your knowledge of fire exits to avoid crowded main exits.

Escape from your business location, high rise, or apartment building.

1. If you live in the building, install a smoke detector outside your sleeping area.
2. Learn the location of fire exits and alarm boxes near you; know the fire department number.
3. Sound the alarm if you see smoke or detect a burning smell.
4. Close doors behind you.
5. Use exit stairs, never elevators.
6. Have a prepared escape plan showing your escape routes. (Ask your employer or the building manager about it.)

Escape from your house.

1. Install a smoke detector outside your sleeping area. It should have a label of a safety testing organization.
2. Each family member plan two escape routes from his bedroom. If a window is one, make sure it works. (You may need to buy a special fire escape ladder if the window is high above ground.)
3. Sleep with the bedroom door closed. It holds back smoke and increases the escape time.
4. Test the door. If hot, use the alternate escape route. If cool, brace your shoulder against the door and open it cautiously. Be ready to slam it if smoke or heat comes in. If the hall is clear, your usual exit may be safe.
5. Set a meeting place outdoors so you'll know everyone's safe.
6. Write out your escape plan and rehearse it twice.

If you are trapped:

1. Think.
2. Crawl in smoke. Hold your breath and close your eyes when you can too.
3. Put closed doors between you and the smoke. Seal off cracks around doors and vents with cloth or rug. Soak them if water is nearby.
4. Find a room with an outside window. If it opens, open it slightly at both top and bottom.
5. Signal from the window. If there's a phone, call the fire department and tell them where you are, even if they are already on the scene.
6. Be calm. Rescue may be moments away.

Learn not to burn!