

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



CONSTITUTION AND BY-LAWS
OF THE
SHIVWITS BAND OF PAIUTE INDIANS OF
THE SHIVWITS RESERVATION
UTAH



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CONSTITUTION AND BY-LAWS OF THE SHIVWITS BAND OF PAIUTE INDIANS OF THE SHIVWITS RESERVA- TION, UTAH

PREAMBLE

We, the members of the Shivwits Band of Paiute Indians, in order to establish a legal organization, promote the general welfare, conserve and develop our land and secure to ourselves and our posterity the power to exercise certain rights of home rule not inconsistent with the Federal, State and local laws, do ordain and establish this constitution for the Shivwits Band of Paiute Indians of the Shivwits Indian Reservation of the State of Utah.

ARTICLE I—TERRITORY

The jurisdiction of the Shivwits Band of Paiute Indians shall extend to the territory within the confines of the Shivwits Indian Reservation as established by Executive Order of April 21, 1916, and to such other lands as may be hereafter added thereto under any law of the United States, except as otherwise provided by law.

ARTICLE II—MEMBERSHIP

SECTION 1. The membership of the Shivwits Band of Paiute Indians shall consist as follows:

(a) All persons of Indian blood whose names appear on the official census roll of the Band as of January 1, 1939, provided that such roll may be corrected by the Business Council with the approval of the Secretary of the Interior within one year after approval of this Constitution and By-laws.

(b) All children born to any member of the Shivwits Band of Paiute Indians who is a resident of the reservation at the time of the birth of said children.

SEC. 2. The Business Council shall have the power to promulgate ordinances, subject to review by the Secretary of the Interior, governing future membership and the adoption of new members when the resources of the reservation makes such adoptions feasible.

ARTICLE III—GOVERNING BODY

SECTION 1. The governing body of the Shivwits Band of Paiute Indians shall consist of a council, known as the Business Council.

SEC. 2. This Business Council shall consist of six members duly elected to serve for a term of three years, two members being elected each year.

SEC. 3. The Business Council so organized shall elect from within its own number, (1) a chairman, and (2) a vice-chairman, and from within or without, (3) a secretary, and (4) a treasurer, and may

appoint or employ such other officers or committees as may be deemed necessary.

SEC. 4. The present Council, within sixty days after ratification and approval of this Constitution, shall call a general tribal meeting for the election of officers in accordance with this Constitution. The two candidates receiving the highest number of votes shall hold office until December 1942; the two candidates receiving the next highest number of votes shall hold office until December 1941; and the two candidates receiving the third highest number of votes shall hold office until December 1940. Thereafter, the term of office for Councilmen elected under this constitution shall be three years. After the first election, elections for the Business Council shall be held on the second Tuesday of December.

SEC. 5. All elections shall be by secret ballot and shall be held in accordance with rules and regulations prescribed by the Business Council or by an election board appointed by the Business Council.

ARTICLE IV—VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. If a Council member shall die, resign, or permanently leave the reservation, or be removed from office for cause, the Council shall declare the position vacant and appoint a successor to serve until the annual general tribal meeting in December, at which time the general tribal meeting shall elect a successor for the unexpired term.

SEC. 2. The Business Council may, by two-thirds vote, expel any member for neglect of duty or gross misconduct, provided charges are made in writing, subscribed by competent witnesses, and formally served upon the accused at least five days prior to the hearing. The accused member shall be given a full and fair opportunity to reply to any and all charges against himself, and also the opportunity to summon witnesses in his behalf.

SEC. 3. Upon receipt of a petition signed by one-third of the eligible voters of the reservation calling for the recall of any member or members of the Council named in said petition, it shall be the duty of the Council to call an election on such recall petition. No member may be recalled in any such election unless at least 30 percent of the legal voters of the reservation shall vote at such election. In the event the majority of those voting in such election favor such recall from office, the office shall be declared vacant and the Council shall proceed in the usual manner to hold elections to fill the said vacancy.

ARTICLE V—POWERS OF THE BUSINESS COUNCIL

SECTION 1. *Enumerated Powers.*—The Business Council of the Shivwits Indian Reservation shall exercise the following powers, subject to any limitations imposed by the Statutes or the Constitution of the United States:

- (a) To negotiate with the Federal, State and local governments.
- (b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (c) To veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets.
- (d) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the

reservation prior to submission of such estimates to the Bureau of the Budget and to Congress.

(e) To manage all economic affairs and enterprises of the Shivwits Indian Reservation in accordance with the terms of a charter that may be issued to the Shivwits Band of Paiute Indians by the Secretary of the Interior.

(f) To promulgate and enforce ordinances which shall be subject to review by the Secretary of the Interior governing the conduct of members of the Band; providing for the manner of making, holding and revoking assignments of tribal land or interests therein; providing for the levying of taxes and the appropriation of available funds of the Band for public purposes; providing for the licensing of nonmembers coming upon the reservation for purposes of hunting, fishing, trading or other business; and for the exclusion from the reservation of persons not legally entitled to reside thereon under ordinances which shall be subject to review by the Secretary of the Interior.

(g) To provide for the appointment of guardians for minors and mental incompetents by ordinance or resolution, subject to review by the Secretary of the Interior.

(h) To charter subordinate organizations for economic purposes, and to delegate to such organizations, or to any subordinate boards or officials of the reservation, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

(i) To adopt resolutions not inconsistent with this Constitution and attached By-laws regulating the procedure of the Business Council and of other organizations of the Shivwits Indian Reservation.

SEC. 2. *Future Powers.*—The Business Council may exercise such further powers as may in the future be delegated to it by the Secretary of the Interior or any other duly authorized official or agency of the State or Federal Government.

SEC. 3. *Reserved Powers.*—Any rights and powers heretofore vested in the Shivwits Band of Paiute Indians but not expressly referred to in this Constitution, shall not be abridged by this Article, but may be exercised by the members of the Band through the adoption of appropriate by-laws and constitutional amendments.

SEC. 4. *Manner of Review.*—Any resolution or ordinance which by the terms of this Constitution shall be subject to review by the Secretary of the Interior, shall be presented to the Superintendent in charge of the reservation, who shall, within ten days thereafter, approve or disapprove the same. If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may, within ninety days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the Business Council of such decision.

If the Superintendent shall refuse to approve any ordinance or resolution submitted to him within ten days after its enactment, he shall advise the Council of his reasons therefor. If these reasons appear to the Council insufficient, it may, by majority vote, refer the ordinance or resolution to the Secretary of the Interior, who

may, within ninety days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

ARTICLE VI—BILL OF RIGHTS

SECTION 1. *Suffrage*.—Any member of the Shivwits Band of Paiute Indians twenty-one (21) years of age or over, who has maintained legal residence on the reservation for one year immediately preceding any election, shall be eligible to vote or to election to office therein.

SEC. 2. *Economic Rights*.—All members of the Band shall be accorded equal opportunities to participate in the economic resources and activities of the reservation.

SEC. 3. *Civil Liberties*.—All members of the Band shall enjoy without hindrance, freedom of worship, conscience, speech, press, assembly, and association.

ARTICLE VII—LAND

Tribal Lands.—All lands of the Shivwits Reservation and all lands which may hereafter be acquired by the Shivwits Band of Paiute Indians or by the United States in trust for the Shivwits Band of Paiute Indians, shall be held as tribal lands and no part of such land shall be mortgaged or sold. Tribal lands shall not be allotted to individual Indians, but may be assigned to members of the reservation, or leased, or otherwise used by the Band in accordance with ordinances and resolutions adopted pursuant to Article V, Section 1 (f).

ARTICLE VIII—AMENDMENTS

This Constitution and By-Laws may be amended by a majority vote of the qualified voters of the reservation, voting at an election called for that purpose by the Secretary of the Interior: *Provided*, That at least 30 percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of two-thirds of the members of the Business Council, or upon presentation of a petition signed by one-third of the qualified voters, members of the Shivwits Band of Paiute Indians.

BY-LAWS OF THE SHIVWITS BAND OF PAIUTE INDIANS OF THE SHIVWITS RESERVATION, UTAH

ARTICLE I—DUTIES OF OFFICERS

SECTION 1. *Chairman of the Business Council*.—The chairman of the Business Council shall preside over all meetings of the Business Council, shall perform all duties of the chairman and exercise any authority delegated to him by the Business Council. The chairman shall also preside at all meetings of the Band. He shall have no vote.

SEC. 2. *The Vice-Chairman of the Business Council*.—The vice-chairman shall assist the chairman when called upon to do so, and in the absence of the chairman, he shall preside. When so presiding,

he shall have all the rights, privileges, duties and responsibilities of the chairman.

SEC. 3. *Secretary of the Business Council.*—The secretary shall keep a full report of all proceedings of each regular and special meeting of the Business Council and of the Band, and shall perform such other duties of like nature as the Business Council shall from time to time by resolution provide, and shall transmit copies of the minutes of each meeting to the Superintendent in charge of the Reservation and to the Commissioner of Indian Affairs.

SEC. 4. *Treasurer of the Business Council.*—The treasurer shall be the custodian of all moneys which may come under the jurisdiction or into the control of the Business Council. He shall pay out money in accordance with the orders and resolutions of the Business Council. He shall keep an account of all receipts and disbursements and shall report the same to the Business Council at each regular meeting.

He shall be bonded in such an amount as the Business Council may, by resolution approved by the Commissioner of Indian Affairs, provide. The books of the treasurer shall be subject to audit or inspection at the direction of the Business Council or the Commissioner of Indian Affairs. Until the treasurer is bonded, the Business Council may make such provision for the custody and the disbursing of funds as shall guarantee their safe and proper disbursement and use.

SEC. 5. *Duties of Appointive Officers and Boards.*—The duties of all appointive officers or boards shall be clearly defined by resolution of the Business Council at the time of their creation or appointment. Such boards and officers shall report from time to time, as required, to the Business Council, and their activities and decisions shall be subject to review by the Business Council upon the complaint of any person aggrieved.

SEC. 6. It shall be the duty of the Business Council, and every member thereof, to promote the general welfare of the members of the Band, and to carry out the provisions and purposes of this Constitution and By-laws.

ARTICLE II—CERTIFICATE OF ELECTION

It shall be the duty of the Business Council, or a board appointed by them, to certify to the election of newly elected Council members within five days after the election, and thereupon they shall be notified by the Secretary of the Business Council of their election.

ARTICLE III—COMPENSATION OF COUNCIL MEMBERS

The Business Council may prescribe such compensation of officers and members of the Business Council as it deems advisable from such funds as may be available, subject to approval at the general meeting of the Band in the annual December meeting.

ARTICLE IV—TIME AND PLACE OF MEETINGS

SECTION 1.—*Meetings.*—Regular meetings of the Business Council shall be held at the Shivwits Sub-Agency once a month, the time to be designated by the Council by resolution.

Special meetings may be called by the Chairman or by written notice signed by a majority of the Business Council members, and when so called, the Business Council shall have power to transact business as in regular meetings.

SEC. 2. *Quorum*.—No business shall be transacted unless a quorum is present. A quorum shall consist of four Council members.

A quorum at a general meeting of the Tribes shall consist of one-third of the eligible voters of the reservation.

SEC. 3. *General Tribal Meetings*.—There shall be an annual general tribal meeting open to all members of the Band, held at the Sub-Agency on the second Tuesday in December. At this annual meeting, elections shall be held as designated heretofore in this Constitution. The By-laws, orders and resolutions which are subject to approval at the general tribal meeting shall be taken up for consideration at this time. It shall also be the duty of the Chairman to make a report at said meeting of the activities of the Business Council throughout the year, and to outline proposed plans for the economic and social betterment of the reservation.

SEC. 4. Special general tribal meetings may be called by the Chairman, provided that due notice is posted within the reservation at least five days prior to such meeting. Thirty per cent of the legal voters of the Band may at any time, by written petition, call a general tribal meeting, provided that at least five days' notice is posted within the reservation.

SEC. 5. *Order of Business*.—The order of business at any regular or special meeting of the Business Council shall be as follows:

1. Call to order by the Chairman.
2. Roll call.
3. Reading of minutes of previous meeting.
4. Reports of committees.
5. Report of the Treasurer.
6. Reading of communications.
7. Unfinished business.
8. New business.
9. Adjournment.

ARTICLE V—INSTALLATION OF OFFICERS AND COUNCIL MEMBERS

Each officer elected or appointed hereunder shall take an oath of office prior to assuming the duties thereof, by which oath he shall pledge himself to support and defend the Constitution of the United States and this Constitution and By-laws.

Oath: "I, _____, do solemnly swear that I will support and defend the Constitution of the United States against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of my people, in accordance with this Constitution and By-laws."

ARTICLE VI—RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and By-laws, when adopted by a majority vote of the voters of the Shivwits Band of the Paiute Indians of the Shivwits Indian Reservation, voting at a special election called by the

Secretary of the Interior in which at least 30 percent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in force from the date of such approval.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved January 5, 1940, by the Assistant Secretary of the Interior, the attached constitution and by-laws was submitted for ratification to the members of the Shivwits Band of Paiute Indians and was on February 10, 1940, duly approved by a vote of 40 for, and 1 against, in an election in which more than 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

TONY TILLOHASH,
Chairman, Election Board.
STEWART SNOW,
Secretary, Election Board.

O. C. WRIGHT,
Superintendent, Uintah and Ouray Agency.

I, Oscar L. Chapman, the Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached constitution and by-laws of the Shivwits Band of Paiute Indians of the Shivwits Reservation of Utah.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said constitution and by-laws are hereby declared inapplicable to the members of the Shivwits Band of Paiute Indians.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said constitution and by-laws.

Approval recommended:

FRED H. DAIKER,
Assistant to the Commissioner of Indian Affairs,

OSCAR L. CHAPMAN,
Assistant Secretary.

[SEAL]

WASHINGTON, D. C., *March 21, 1940.*