



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

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TRIBAL BUSINESS COUNCIL

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THREE AFFILIATED TRIBES JUDICIARY COMMITTEE MEETING WEDNESDAY FEBRUARY 2, 2000

MINUTES

1. Call to Order and Opening Prayer.

The Judiciary Committee Meeting of Wednesday February 2, 2000 was called to order at 10:50 am in the Tribal Council Chambers. A moment of silent prayer was held.

2. Roll Call.

All Members Present: Chairman; Mark Fox, Member; Austin Gillette, Member; Daylon Spotted Bear, Committee Recording Secretary; Joelle Demaray

Others Present: Elmer Four Dance, Judge Albert Jones, Pat Wilkinson, Jim Fitzsimmons, El Marie Conklin, Evan Burr, Belinda Beston, Thomas Wells, and Tally Sorenson.

3. Announcements.

The Detention Center Planning Committee will meet at the end of the month in Minneapolis. They will tour Benton County Jail/ Detention Center and will also meet with Mr. Kevin Kechler out of Colorado and the architect firm in Minneapolis to go over the operations program. There will be some preliminary meetings with the TBC to be better prepared. The target date for new Detention Center is December 2001.

4. Approval of Minutes.

Deferred until next Judiciary Committee Meeting.

5. Approval of Agenda

Motion by Austin Gillette to approve the agenda as amended, **Seconded** by Daylon Spotted Bear.

Vote: 3-0-0-0 / MOTION CARRIED

6. Fort Berthold District Court.

a. Drafting of Reso. For Presentation to TBC/Budget Update:

Judge Jones presented a booklet he put together for the Judicial Committee that consists of tracking reports (civil, criminal, and juvenile), an overview of the Statewide Detention Support Services Guidelines, and it also explains the Drug Court process. The last section of the booklet includes a memo regarding a meeting with the Court and Law Enforcement and the Courts budget. (The following section is what was discussed pertaining to the booklet)

Judge Jones stated that there is money available to possibly start up a Drug Court. The Tribe can apply for a planning grant, the deadline for the application is March 15th. He also stated that Turtle Mountain can assist in the planning grant process, since they are familiar with it, he has been in touch with them and will continue to keep the Committee informed on the progress of that prior to March 15th.

Austin stated that we have grant writers here and suggested that Legal Services could assist the Tribe in this matter. Mark asked if there would be any charge by Turtle Mountain and Judge Jones stated that there would not be any charge.

Motion by Austin Gillette to direct the Court to work with Comprehensive Management, with input from Legal Services to research the grant application process and also request information from Turtle Mountain regarding their grant application, to submit to the TBC, **Seconded** by Daylon Spotted Bear.

VOTE: 3-0-0-0 / MOTION CARRIED

Prisoner Transport by the Court- There was a situation where the Magistrate transported a prisoner from Stanley to New Town. Judge Jones stated that wasn't the Courts role, it was the Law Enforcements. He couldn't find any information otherwise that allows judges to transport prisoners

Micromanaging Law Enforcement- Judge Jones stated that he felt the Court was not micromanaging the Law Enforcement and that the Court allows this as part of the sentencing guidelines, for people to work or go to school.

Good Behavior- The "good behavior" rule is a Law Enforcement issue. This rule allows an incarcerated person a certain number of days deducted from an original sentence for good behavior. Chairman Fox stated that if this is used frequently, it is undermining the court system, to a degree. He suggested that Elmer Four Dance prepare a report to get percentages on how many inmates actually serve their whole sentence to see how it affects the Courts sentencing.

The Courts Budget

Judge Jones presented a supplemental budget request for \$100,000.00. The Courts current budget is \$289,175.00. Austin Gillette stated that the TBC is going to go over the whole Tribes budget at a working session next week. Chairman Fox suggested that Judge Jones and Pat Wilkinson meet with Bonnie Morin, from Finance, to clarify the budget items and to have them ready at the next meeting.

b. Update on Tribal Court Issues

There is 13 jury trials scheduled. Chairman Fox questioned if there was enough money in the budget set aside for jury trials. Evan Burr stated that when it actually comes time for trial, some of the people would do plea agreements, which will reduce the number of jury trials. Chairman Fox stated that if there are 13 scheduled, the Court should be prepared to do 13. He also stated that when he was in Legal Department, they developed a system of paneling the jurors. The system hasn't been used because there has not been a jury trial in years. He suggested that the Legal Department coordinate with Judge Jones to find old resolutions pertaining to the 'old system' that was originally approved.

Tribal code development is a concern. Chairman Fox stated that the codes should be amended to meet the time and need. He suggested that Mr. Four Dance identify the areas in the code that need modification and present it to the Full Council.

Jim Fitzsimmons stated one of the concerns brought to him was the rule about a person being held in custody more than 72 hours without seeing a Judge or Magistrate. There were some cases where a person got thrown in jail on a Friday and there was a holiday the following Monday, the person would not be able to see a judge until Tuesday, which would be a Civil Rights violation so therefore, arraignments will be changed from Monday and Wednesday to Monday and Thursday.

c. Katherine Smith Grievance:

d. Court Committals:

Belinda Beston stated her concern about court committals being referred to The Circle of Life. The guidelines for someone to be committed into treatment are two affidavits and one petition. Doctors, Licensed Social Workers and the Program Director of an Alcohol Program generally sign them. Another concern of the Circle of Life is how a majority of people use treatment as an alternative to jail, and when they get out of treatment, they don't follow through. Belinda stated that the committals should be back in the court where she feels they belong.

Motion by Austin Gillette to direct Belinda, the Court, Law Enforcement, and Legal Services to draft a procedure regarding the committal process so the Tribe can implement the procedure to tribal members, **Seconded** by Daylon Spotted Bear.

Vote: 3-0-0-0 / MOTION CARRIED

*At this time, Mark Bluestone was added to the agenda and the Extradition Matters were deferred to tie in with Item 8.

Motion by Austin Gillette to add Mark Bluestone to agenda, **Seconded** by Daylon Spotted Bear.

Vote: 3-0-0-0 / MOTION CARRIED.

7. Legal Assistance of N.D. - DRAFT: Tribal Court Rights Brochure.

Jim Fitzsimmons presented a brochure (If You Have Been Charged With a Crime in Fort Berthold District Court-) This brochure is an outline of the rights people are entitled to in District Court under the Indian Civil Rights Act and the Fort Berthold Tribal Code. There are some amendments that need to be made, so Jim Fitzsimmons will continue working on the brochure and it will be ready for the next Judiciary Committee Meeting.

8. Fort Berthold Law Enforcement.

a. Extradition Matter:

The Law Enforcement has brought an issue to the table of a certain individual that may be extradited to Ward County. This individual has recently applied for a Law Enforcement position. The fact that he may be extradited and also other records brought to the Law Enforcement's attention, make him 'unsuitable for the job'. However, his salary authorization form was signed which makes him an employee.

Motion by Austin Gillette to recommend that the Committee reconsider employment as a Law Enforcement Officer on account of information received from Ward County, **Seconded** by Daylon Spotted Bear.

Vote: 3-0-0-0 / MOTION CARRIED.

Break - 2:15

Reconvene- 2:32.

b. Briefing on Meeting, Albuquerque, NM. Jan. 12-13, 2000:

Elmer Four Dance presented a trip report regarding the Law Enforcement Work Group Meeting. He stated that an additional \$20 million dollars was added to the FY 2000 Budget for Law Enforcement. In the past, the formula used to determine the funding needs included Crime Rate Statistics. Elmer felt that this does not provide a fair picture of the effectiveness of a Law Enforcement Program because Law Enforcement agencies with effective implementation of crime prevention programs such as school programs and community partnerships would receive less consideration or fewer dollars for doing a good job.

The Interim Funding Formula the Law Enforcement proposed included the following considerations.

1. Number of calls for service.
2. Defined geographical area serviced-Land Base, acreage, transportation miles, number of communities, and municipalities.
3. Total service population
4. DOJ Funding
5. Proactive law enforcement programs, community partnerships, and incentive given to law enforcement agencies that have implemented crime prevention programs.

Elmer stated that he felt the concerns and points of discussion of the Law Enforcement was well taken.

c. Clarification on Process Serving by Law Enforcement Officers:

There was a concern raised about the process serving with Law Enforcement and Tribal Court. If it were done on a criminal matter, the Law Enforcement

would serve the papers. If it were a civil matter, the Court would serve them. A system will be worked out to clarify this matter.

9. Additional Discussion Items.

- a. The dog ordinance issue was brought up and Mark directed Elmer to have Report ready at next meeting about what the Tribe and City need to do.
- b. The Committee received a letter from Hope Fregoza. She stated that three Play Station video games were taken from her home, they were in Homer White Buffalo's custody, which he then turned over to the State Lab. In the process of this, they were misplaced. She is asking to be reimbursed the PO is now in the Treasurers Office, and she will be reimbursed.

10. Adjournment.

Motion to adjourn the meeting at 3:35 pm by Daylon Spotted Bear, seconded by Austin Gillette.

Vote: 3-0-0-0 / MOTION CARRIED.

Approved



**Mark Fox, Chairman
Judiciary Committee**

Date

12/18/00