

**THREE AFFILIATED TRIBES  
JUDICIAL COMMITTEE  
REGULAR MEETING  
FEBRUARY 02, 2001**

**01. CALL TO ORDER:**

Committee Chairman, Daylon Spotted Bear called the meeting to order at 10:35 a.m.

**02. ROLL CALL:**

**Members present:** Committee Chairman Daylon Spotted Bear, Member Mark Fox and Member Marcus Wells, Jr. Also present at this meeting were recording secretary, V. Judy Brugh, Elmer Four Dance, Nelson Heart, and Tribal court staff along with Legal Services attorney, Jim Fitzsimmons..

**03. APPROVAL OF MINUTES:**

**Committee member, Mark Fox, moved to approve the minutes of December 18, 2000. Seconded by Committee member, Marcus Wells, Jr.**

**VOTE:**           3 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting  
Motion carried.

**04. AGENDA:**

Committee member, Marcus Wells, Jr., asked if animal control can be inserted onto the agenda and a letter from Mike Kempt asking if law enforcement training was needed. They will be inserted as item 6 a and item 6 b.

**05. LAW ENFORCEMENT:**

Elmer Four Dance presented the name of an applicant for the COPS FAST program. His name is Nathan McKleesh, non Indian, who graduated from the BIA Indian Police Academy. Mr. Four Dance would like a 30 day appointment for Mr. McKleesh. At the last meeting it was his understanding a concern was expressed they needed to hire from this point on, because of the CRF issue, people who had already been trained. Committee member, Marcus Wells, Jr. brought up the issue of our own enrolled members not being given a chance to start at entry level and offered the opportunity to become trained. This does not send a good message to the enrolled member who apply, we should exhaust the enrolled member first. Committee member Marcus Wells, Jr. felt the Tribe is hiring non enrolled and non Indians. He further felt minimum qualifications should be considered as the highest qualified will beat our people most of the time. Mr. Four Dance said it's getting them into training, that's the hardest part. Committee member, Mark Fox, said he spoke with Malcolm Wolf, New Town Council Representative. He said Mr. Wolf is interested in filling the spot and hiring someone who is already trained and this issue will be brought to full council for hire. Committee member, Marcus Wells, Jr. again stated his position in hiring enrolled members first.

The New Town Law Enforcement agency will be having some officers detailed here from

**Three Affiliated Tribes  
Judicial Committee  
Regular Meeting  
February 02, 2001  
Page two**

Winnebago, Nebraska and another one in two weeks to help because of sending officers to training and there were two communities where tensions were high. He gave an update on the Safe Highway Initiatives. They will be obtaining some new radar systems that are the top of the line and all officers will be receiving training on this. Mr. Four Dance updated the Committee on some of the complaints mentioned from the last program report and said he checked into them and has files on each one. Mr. Four Dance was requested by full council to provide this report to the committee and this is what he has complied with.

Mr. Four Dance has a survey he has put together to see what the elderly have for needs from their program and will provide them at the Elderly Summit.

Officer Standish is teaching in the schools on the "GREAT" program, one in Mandaree, two in New Town, and two in Parshall. Jeff White is doing the teaching in White Shield. The officers who have gone to training are doing well in Artesia. In Devil's Lake one was released due to entry level screening and he resigned. In the school's there have been two additional arrests made on controlled substance with the use of their dog.

**6. BIA - MOA/MOU:**

MOA: Ms. Tyra Wilkinson handed out copies of the MOA. Mr. Four Dance said under the Tribal Cops Program on page 2, section A, item 2 where it states the Tribes agree to by way of this MOA to provide vehicles, weapons, uniforms, badges, patches, supplies and materials for each law enforcement officer, contingent upon DOJ and federal funds. He said they do not differentiate between COPS FAST and Bureau Officers, they are treated the same. He felt if any revisions or additions are made to this it would have to go back to the Solicitor's office. He said he was under the impression that in the Tribal portion of this, it was only for salary and the rest would be provided. Committee member, Mark Fox, asked if it could be inserted into the MOA the language that states "subject to the availability of funding and strike off "contingent upon DOJ or federal funding". Indian Preference was brought up as to where it was in the MOA. These two subjects were discussed at length..

**Committee member Mark Fox motioned to forward the BIA/ MOA to full council for review and approval subject to the minor language adjustment "subject to availability of funding." Seconded by Committee member, Marcus Wells, Jr.**

Discussion: Committee member Marcus Wells, Jr. asked that Indian Preference be inserted into the MOA. Committee member Mark Fox said the Tribal Business Council does the hiring, not the BIA.

**Three Affiliated Tribes  
Judicial Committee  
Regular Meeting  
February 02, 2001  
Page three**

Committee member Marcus Wells, Jr. asked Personnel to bring in the file on police officer applications. He said there are over 15 applications on file and mentioned two applicants who applied. Mr. Four Dance said he asked for an updated file and the two applicants Committee member Wells mentioned are not in the file. Indian preference was again brought up.

In Article IX ; A.1, liability of the Tribe and BIA was talked about along with Article VI on federal tort claims. Committee member, Mark Fox, stated what Mr. Fitzsimmons is saying there is other language in the contract that seems to contradict or could contradict the interpretation of the Federal Tort Claims Act in Article IX.

**Committee member Mark Fox withdrew his motion on forwarding the BIA/MOA to full council for review and approval subject to the minor language adjustment “subject to availability of funding”and Committee member Marcus Wells withdrew his second.**

**Committee member Mark Fox motioned to have the Legal Department in coordination with the BIA Field Solicitor, Elmer Four Dance, Jim Fitzsimmons, and others, come up with the language everyone would agree with, and present at the next Judicial Committee meeting. Seconded by Committee member Marcus Wells, Jr.**

**VOTE:**           3 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting  
Motion carried.

Elmer Four Dance informed the committee the police officers were unable to obtain gasoline in White Shield due to the power being shut off at the Roads Department. (Councilman Austin Gillette sat in on part of the meeting)

Elmer Four Dance was hoping to get the MOA resolved as he wanted to run a tighter ship. He informed the Committee he was going to start writing up officers who break the chain of command by going to a Council Representative. Committee member Mark Fox said they have accepted supervision of BIA Law Enforcement over Cops Fast officers and the Council done nothing to the contrary. The issues that come before the Council, the Council, as a Council, needs to make a decision amongst its self whether or not the issue needs to be brought before them or whether it is referred to the Judiciary Committee or whether or not it should even be brought before them. There is another premise that the Council is open to the people to address any grievance.

**Three Affiliated Tribes  
Judicial Committee  
Regular Meeting  
February 02, 2001  
Page four**

Comp time was spoke about by Mr. Four Dance and discussion followed on the salary of the Cops Fast officers and the amount of hours they spend working along with no overtime. Committee member Mark Fox said they're sending a person to Seattle to seek funding for uniforms, guns, etc., otherwise it's coming from Tribal funds. Mr. Four Dance said the Tribal Resource Grant comes up to \$865,000.00 or \$785,000.00. It's all budgeted. They asked for over one million dollars and did receive a large amount. This should buy all the vehicles and everything that is going to be purchased is listed in the grant. Councilman Austin Gillette addressed Mr. Four Dance and said the Tribe pays \$28,000 for the Tribal officers and part of the cost they were looking at was to have a modification of the grant to recoup some of these costs. Mr. Four Dance said if any modification was made to the grant DOJ would have to be involved. Committee member Marcus Wells, Jr. said the two vehicles the Tribe purchased with general fund monies were to be reimbursed back to the Tribe. Councilman Gillette said he will check into this.

07. **Animal Control:** Committee member Marcus Wells, Jr. asked if Cops Fast funds can be used for animal control. Mr. Four Dance said the only way to have any revisions is to get approval from DOJ. Job descriptions are being faxed into his office on animal control. Tribal attorney, Kip Quale said staff and a place to put the dogs are needed.

**Committee member Mark Fox motioned to use all current existing resources to organize the animal control provisions of the Tribal Code and programs and to use all existing resources and a recommendation to the Tribal Business Council to reconsider allocating additional resources. Seconded by Committee member Marcus Wells, Jr.**

**VOTE:** 3 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting  
Motion carried.

08. **Criminal Investigator - Nelson Heart, Sr:**  
Mr. Heart said he needed an extradition on an enrolled member to let him proceed with a warrant. Discussion followed on whether or not this was done previously.

**Committee member Mark Fox motioned to pursue the extradition through the extradition code and provisions and for Mr. Nelson Heart address the issue as required under the ordinance subject to legal review and all proper documentation and all necessary items completed. Seconded by Committee member Marcus Wells, Jr.**

**Three Affiliated Tribes  
Judicial Committee  
Regular Meeting  
February 02, 2001  
Page five**

**VOTE:** 3 in favor, 0 Opposed, 0 Abstained, 0 Not Voting  
Motion carried.

**09. Animal Control cont:**

**Committee member Marcus Wells, Jr. motioned to advertise for an animal warden at \$10.00 per hour for three months. Seconded by Marcus Wells, Jr.**

**VOTE:** 3 Ayes, 0 Nays, 0 Opposed, 0 Not Voting  
Motion carried.

Discussion: Committee member Marcus Wells, Jr. said he will put this on the agenda for the February 8<sup>th</sup> meeting.

**10. Drug Paraphernalia - Attorney, Kip Quale:**

Attorney Quale passed out handouts on the drug paraphernalia with attachments of the proposed criminal code as amended and a copy of the proposed resolution to the Committee.

**Committee member Mark Fox motioned to forward Section 1000.16 (Drug Paraphernalia) with its attachments of the proposed criminal code be forwarded to the Tribal Business Council for review and approval on the 8<sup>th</sup>. Seconded by Committee member, Marcus Wells, Jr.**

**VOTE:** 3 Ayes, 0 Nays, 0 Opposed, 0 Not Voting  
Motion carried.

**11. Tribal Court:**

Mr. Evan Burr informed the Committee that Ms. Maggie Young Bear, Court Administrator, was called to the Community College for an emergency meeting so she will be late.

Ms. Judy Yessilith informed the Committee there are several cases that are requesting a jury trial. Committee member Mark Fox asked if there was a possibility they could provide the Committee a list of names and the Committee would certify the list. Discussion followed on this topic. Attorney Kip Quale was called into the meeting again. He said he provided tribal court a potential jury list which consisted of the 1998 election. He was asked to provide poll books and he did. Committee member Mark Fox said it

**Three Affiliated Tribes  
Judicial Committee  
Regular Meeting  
February 02, 2001  
Page six**

needs to be more precise, strike known felons or people not suitable to be juror or are not allowed to be jurors under the law. The tribal court needs an official juror list.  
Ms. Yessilith informed the Committee of her other concerns.

**Committee member Mark Fox motioned to bring to the Tribal Business Council to bring the training individual or company here to see if they will do on-site training and evaluation analysis immediately. Seconded by Committee member Marcus Wells, Jr.**

**VOTE:** 3 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting  
Motion carried.

Ms. Yessilith informed the Committee that Judge B.J. Jones stated their tuition was already paid for to attend this workshop. Discussion followed in regards to who will be attending the training and who was paying for it.

**CLOSED SESSION:** ( for tribal court staff only).

**Committee member Mark Fox motioned to have Pat Wilkinson do an immediate analysis of the administrative capabilities and functions in Tribal Court. Seconded by Marcus Wells, Jr.**

**VOTE:** 3 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting  
Motion carried.

**12. Bill & Lila Wells:**

Mr. and Mrs. Wells presented their concern to the Judicial Committee. They were informed by Committee member Mark Fox the procedure was to put their concerns in writing and present it to the Chairman. The Chairman will review the items and determine if it should be on the agenda or should stay with the court and schedules it on the subsequent judicial committee meeting.

**13. Judicial Minutes:**

**Committee member Mark Fox motioned to approve the minutes of August 03, 2000. Seconded by Marcus Wells, Jr.**

**VOTE:** 3 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting  
Motion carried.

**Three Affiliated Tribes  
Judicial Committee  
Regular Meeting  
February 02, 2001  
Page seven**

**Committee member Mark Fox motioned to adjourn. Seconded by Committee member Mark Fox.**

**VOTE:**        3 Ayes, 0 Nays, 0 Abstentions, 0 Not Voting  
                  Motion carried

**Meeting adjourned at 2:50 p.m.**

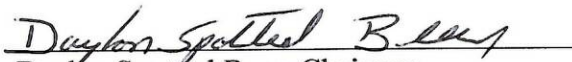
**For the record, the Judicial Committee waited for one hour for the Court Administrator who never showed up so the meeting was adjourned.**

Dated this 2<sup>nd</sup> day of February, 2001.



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V. Judy Brugh, Recording Secretary  
Judicial Committee  
Three Affiliated Tribes

**ATTEST:**



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Daylon Spotted Bear, Chairman  
Judicial Committee  
Three Affiliated Tribes