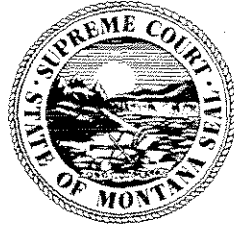


State of Montana



DISTRICT COURT COUNCIL

Approved
Minutes of the Regular
District Court Council Meeting
March 15, 2002

DCC Voting Members Present:

Chief Justice Karla M. Gray, Montana Supreme Court, Helena
The Honorable Diane Barz, District Court Judge, 13th Judicial District, Billings
The Honorable Thomas McKittrick, District Court Judge, 8th Judicial District, Great Falls
The Honorable Ed McLean, District Court Judge, 4th Judicial District, Missoula
The Honorable John Warner, District Court Judge, 12th Judicial District, Havre

DCC Non-voting Members Present:

Mike Hutchin, MACO/ Lake County Commissioner, Polson
Tim Smith, Montana Court Reporters Association (MCRA), Billings
Glen Welch, Montana Juvenile Probation Officers Association (MJPOA), Missoula

Staff:

Rick Lewis, Supreme Court Administrator
Beverley Boyd, Court Services Director
Beth McLaughlin, Human Resource Director
Lisa Smith, Administrative Services Director
Greg Whipple, District Court Program Manager
Jane M. Hayden, Program Specialist

Guests:

L. Harold Blattie, Assistant Director, MACO, Helena
Matt Bugni, Office of Budget and Program Planning, Governor's Office, Helena
Tim Callahan, MJPOA, Great Falls
Daniel Chelini, Information Technologies Bureau Chief, Department of Corrections, Helena
Doug Dellwo, Court Appointed Special Advocates (CASA), OCA, Helena
Connie Erickson, Legislative Services Division, Legislative Branch, Helena
Sandra Oitzinger, MJPOA, Helena

The District Court Council met in regular session on Friday, March 15, 2002, at 8:00 a.m. at 1310 East Lockey, Helena, Montana. Chairperson Chief Justice Karla M. Gray called the meeting to order. A quorum being present, the meeting duly convened and business was transacted as follows:

(Item No. 1)

WELCOME AND INTRODUCTIONS

The Chairperson stated that there was no need for introductions and moved on to the approval of the February 15, 2002 minutes.

(Item No. 2)

APPROVAL OF FEBRUARY 15, 2002 MINUTES

The Chairperson presented the February 15, 2002 minutes.

WHEREAS, The District Court Council has reviewed the February 15, 2002 minutes,

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

THAT, The District Court Council hereby approves the February 15, 2002, minutes.

Motion to adopt the February 15, 2002 minutes was requested by District Court Council Member, Judge McLean. Motion to adopt was seconded by District Court Council Member, Judge Warner. No further discussion.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

(Item No. 3a)

REQUESTING THE COUNCIL TO ADOPT THE TRAVEL POLICY

District Judge John Warner moved to adopt the State Travel Policy as it is written with the proviso to add specifics as appropriate.

WHEREAS, The District Court Council has reviewed the State Travel Policy with the proviso to add specifics as appropriate,

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

THAT, The District Court Council hereby approves the Travel Policy.

Motion to adopt the State Travel Policy with the proviso to add some specific and supplemental details at a later time was requested by District Court Council Member, Judge McKittrick. Motion to adopt was seconded by District Court Council Member, Judge McLean. No further discussion.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

(Item No. 3b)

REQUESTING COUNCIL TO ADOPT STATE PROCUREMENT PROCEDURES

Glen Welch asked if the budget information that was sent out was preliminary and whether or not Beverley Boyd and Greg Whipple would be visiting with the counties about their budgets. Chief Justice Karla Gray responded in the affirmative to both questions. Mr. Welch suggested a procedure where the county would sign off on bills and send them to the Montana Supreme Court for direct payment. Lisa Smith answered that that may be a viable option.

Judge Warner asked Ms. Smith whether the counties would have to purchase everything from the State's Central Stores. Ms. Smith explained that they might purchase from other sources if the price is lower. Ms. Smith stated that there would be a presentation on a MasterCard Purchasing Card Program at the next Council meeting. Each District Judge would control who uses these cards, what can be purchased, and set the maximum amount to be spent.

WHEREAS, The District Court Council has reviewed the State Procurement Procedures as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the State Procurement Procedures with the proviso to add some specific and supplemental details at a later time by District Court Council Member, Judge Barz. Judge McKittrick seconded motion. Further discussion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves the State Procurement Procedures as amended.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

(Item No. 4a)

GENERAL ITEMS – DEPARTMENTAL UPDATES

Human Resources – Workers Compensation Insurance

Beth McLaughlin stated that court reporters electing to be independent contractors could purchase workers compensation policies for \$250 to \$350 per year. Tim Smith stated that it might be possible to put all court reporters under a group policy and then the cost would be dispersed per dollar amount earned per member of the group. Chief Justice Karla Gray and Judge Warner thought this would be a viable option. Mr. Smith further stated that the one problem concerning a group policy covering the Montana Court Reporters Association was that not all court reporters belong to the Association and there is no monetary incentive for them to join or even to substitute in court. All concurred that independent court reporters cannot be considered state employees for purposes of workers compensation insurance and could not be covered by the Court's workers' compensation policy.

Lengthy discussion on how to insure all categories of independent contractors: court reporters, interpreters and secretaries. Ms. McLaughlin stated that if you hire temporaries from an employment agency, the agency carries the workers compensation, but volunteers and temporary employees come under the Judicial Branch's Workers' Compensation Insurance. Further discussion concerned finding a flat rate of pay for the various independent contractors.

Human Resources – Personnel Updates

Beth McLaughlin listed these tasks:

- National Center for State Courts (NCSC) will have draft of staff classifications next week. Payroll benefits and insurance packets have been sent to all staff.
- Court reporter election forms went out March 14, 2002.
- Deposition and transcript forms went out March 14, 2002.
- Held three insurance seminars the week of March 11th and another presentation will be scheduled for Missoula County.
- There will be another insurance seminar today, March 15, 2002, at 1:00 p.m.
- Next employee newsletter should go out the week of March 18th with the help of Greg Whipple.
- Remaining payroll packets will be sent out in mid-April, 2002.
- If we can go with the electronic time entry system, then training will be done in June 2002.
- Policy development group met March 7, 2002, and provided excellent feedback. Judge John McKeon has been a wonderful addition. Policy training for supervisors will be in June or July, 2002.
- Working with Workers Compensation on keeping rates low and on safety plans.

To do: Beth McLaughlin to investigate flat-fee rates for the various categories of independent contractors (court reporters, interpreters and secretaries) to be presented at the April 19, 2002, District Court Council Meeting.

(Item No. 4b)

GENERAL ITEMS – DEPARTMENTAL UPDATES

Finance

Lisa Smith had researched legal definition of "earmarked funds" (discretionary funds of the District Courts) and found that no current definition exists. According to SB 176 these earmarked funds go with the District Courts over to the State. Back in 1993 or 1995, the Legislature passed

a statute that stated that "dedicated" revenue would be reviewed and afterward a lot of dedicated revenue was "undedicated" and went into the General Fund.

One existing definition concerning a dedicated revenue provision means an administrative or legislative action that allocates the revenue from a tax fee assessment or other source to an account in the State Special Revenue Fund. Ms. Smith concludes that there are probably two kinds of funds in the District Courts: the first may have an administrative or legal basis for which it was formed and what its uses are; and the second would be a "slush fund" which would have no administrative or legal basis. The first type will have to be dealt with on a unique basis to decide whether they do stay with the county or if they are a specific District Court fund. If it is determined that it is a District Court fund it is more than likely it will have to come over to the State and we will need to find a way to account for it. Ms. Smith is developing a form to be sent to the District Court Judges that asks what types of funds exist in their courts, the mandate behind them, and the balances in them.

Lengthy discussion followed. Chief Justice Karla Gray concluded that the District Judges should list all their various accounts and have Ms. Smith look at all of them and make a proper designation of each one.

To do: Lisa Smith will be sending out forms next week to collect the following information: inventory of automobiles (whether they are leased or purchased); inventory of items costing more than \$5000; installment loans; inventory of sensitive items (such as antiques and non-recorded items that might be susceptible to theft). Ms. Smith suggested that it would be a good idea to record furnishings whose value is not over \$5000 even though the State does not require it.

(Item No. 4c)

GENERAL ITEMS – DEPARTMENTAL UPDATES

Grants

Beverly Boyd and Beth McLaughlin have identified 29 employees who are grant funded. They have determined that in FY 2003 only, the Board of Crime Control grants, Byrne grants and Department of Justice grants cannot be assumed by the State for administration, but stay with the counties. It is assumed that in the future (FY 2004 and on) the State will administer these aforementioned grants, but that is not certain. There has not been a determination on the Department of Corrections placement dollars that fund six employees. These include Juvenile Probation Officers and special project people.

There was a lengthy discussion by Chief Justice Karla Gray, Judge Ed McLean, and Glen Welch concerning what to do about Juvenile Probation employees who are funded by Federal Grants.

These were the conflicting points:

- According to SB176 all Juvenile Probation employees must become State employees.
- If the State assumes these employees, the federal grant monies that fund them cannot be transferred to the State.
- SB176 did not provide the funding to take over the salaries for these grant-funded employees.
- These employees are in the position that they must be hired by the State, but may be fired immediately afterward for lack of funding.

Chief Justice Gray called for District Court Council consensus on this grant problem:

1. Whether we think there is a better chance of hanging onto these employees by leaving them out there under the county with the Federal grants (and not meet what the law requires), or
2. We take a stand and bring them over because the law requires it and the Legislature acted on what turned out to be inaccurate information about continuation of the Federal funding and we go to the Legislature and lobby for a supplemental on this item on a stand-alone basis.

WHEREAS, The District Court Council has reviewed the Grant information and choices,

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to treat all Youth Court employees that are now county employees and other employees that are District Court employees as State employees as of July 1, 2002, requested by District Council Member, Judge McLean. Motion to adopt was seconded by District Court Council Member, Judge Barz. No further discussion.

THAT, The District Court Council hereby approves the Assumption of All Youth and District Court employees as State employees as of July 1, 2002.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

(Item No. 4d)

GENERAL ITEMS – DEPARTMENTAL UPDATES

Jury Fees

Beverley Boyd has been working with Lori Maloney, Dena Tippetts, Mike Hutchin, and Gordon Morris on Jury and Witness Fee payments. They have had some questions, issues, and concerns, but hope to have these policies completed by the next meeting of the District Court Council on May 10, 2002.

(Item No. 4e)

GENERAL ITEMS – DEPARTMENTAL UPDATES

Legislative Finance Committee

Chief Justice Karla Gray, Rick Lewis, and Lisa Smith met with the Legislative Finance Committee and updated them on the implementation of the system. Chief Justice Gray made a strong commitment that the system will be up and operating by July 1, 2002, but made it clear to the Committee that there were insufficient funds for FY 2003 and will need increased funding for FY 2004 onward. The Committee was told that Jury, Witness and Indigent Defense fees were variable costs and not "controllable" and will have to be paid upon assumption.

(Item No. 6)

Finance – FY 2003 Budget

Greg Whipple is in the process of collecting the District Court budgets and by the next DCC meeting should have the budget numbers worked out for presentation. Greg Whipple opened up for general questions. Judge Barz asked about a 10 million figure. Mr. Whipple stated that the 10 million is the amount assumed by the Counties and the 18 million is the amount assumed by the State. Mike Hutchin asked on what budget line would you put the Public Defenders. Greg Whipple responded that on the budget forms the public defenders would be put under District Court Administration in Professional/Contract Services.

Senate Bill 176 states that, “(4)...the State shall reimburse counties:

- (i) in district court criminal cases only; expenses for indigent defense; and
- (ii) in proceedings under subsection (1)(e): (YINC)
 - (a) expenses for appointed counsel for the youth; and
 - (b) expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth.”

These costs will be reimbursed in much the same manner that the existing District Court Reimbursement Program does now.

Mike Hutchin asked where to put Juvenile Detention Centers. Unanimous response was that they go under the County budget and do not come over to the State.

Judge Warner asked about the structure and categories of the budgets and if the Department of Revenue is helping us. Lisa Smith responded that we are working closely with the Departments of Administration and Revenue to make certain that we can get the particular types of accounts onto the State system that are needed to track the different costs for our categories.

Ms. Smith hopes to present a solid proposal at the next DCC meeting.

Harold Blattie said that Department of Revenue had sent questionnaires to the Clerks of District Court and MACO who are not even part of the District Court Assumption (SB176). Chief Justice Gray made her own motion to have Lisa Smith meet with her and they will acquire a copy of whatever Revenue has sent out and have a discussion with Revenue as to whether they are or are not getting in the way of our project. Chief Justice Gray was very concerned that the Department of Revenue may have sent out something that touches on our project and have not informed us.

Greg Whipple stated there is still work being done to determine the costs that are fixed and variable and appreciates the input he has received from the Counties. Judge McLean stated that Polygraph Examinations should not be listed as a cost at all – all agreed.

(Item No. 7)

Other Business

Rick Lewis introduced Dan Chelini as the new Information Technology Director, who will be starting with the Office of the Court Administrator on April 1, 2002. Mr. Chelini made a short presentation about the immediate issues that are being dealt with in order of priority and they are payroll processing, email connections, and Internet connectivity.

Judge McLean and Chief Justice Gray had a short discussion concerning the surcharge that has supported our technology needs. Chief Justice Gray does not want to increase the surcharge and put more strain on the users, but go to the Legislature for more money.

Re-election forms were distributed to District Court Council Voting and Non-voting Members with expiring terms. Official notification of re-election replacements must be received by the middle of June.

Harold Blattie expressed his gratitude for cooperation between all the Departments, Agencies and Supreme Court staff. Mr. Blattie requested to be placed on the next District Court Council agenda for a fifteen-minute presentation. Chief Justice Gray assented.

Schedule

Next meeting scheduled for April 19, 2002.

Scheduled new District Court Council meetings for July 19th and August 16th, 2002.

There being no further business come before the District Court Council, upon motion made, seconded, and carried, the meeting was adjourned at 11:30 a.m.

Chief Justice Karla M. Gray
Chairperson, District Court Council

Jane M. Hayden
Custodian and Recorder of Records