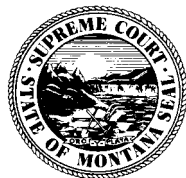


# State of Montana



## DISTRICT COURT COUNCIL

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**Minutes of May 15, 2003  
KwaTaqNuk Inn  
303 US Highway 93 East  
Polson, Montana**

### **DCC Voting Members Present:**

The Honorable Karla Gray, Chief Justice, Supreme Court  
The Honorable Diane Barz, District Court Judge, 13<sup>th</sup> Judicial District  
The Honorable Thomas McKittrick, District Court Judge, 8<sup>th</sup> Judicial District  
The Honorable Ed McLean, District Court Judge, 4<sup>th</sup> Judicial District  
The Honorable John Warner, District Court Judge, 12<sup>th</sup> Judicial District

### **DCC Non-Voting Members Present:**

Lori Maloney, Clerk of the District Court, Butte  
Mike Hutchin, County Commissioner, Polson  
Barbara Monaco (for Glen Welch), Missoula

### **Staff:**

Karen Sedlock, Program Supervisor, Montana Supreme Court  
Jim Oppedahl, Court Administrator, Montana Supreme Court

### **Guests:**

Howard Gipe, Flathead County Commissioner  
Peg Allison, Flathead County Clerk of Court  
Bonnie Olson, Flathead County District Court Administrator  
The Honorable John McKeon, District Court Judge, Malta  
The Honorable Loren Tucker, District Court Judge, Dillon  
The Honorable Wayne Phillips, District Court Judge, Lewistown

## **I. Welcome**

The District Court Council met on Thursday, May 15, 2003, at 8:00 a.m. at the KwaTaqNuk Inn, 303 US Highway 93 East, Polson, 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:

### **Introductions**

Chairperson Chief Justice Karla M. Gray introduced the Honorable John McKeon, District Court Judge from Malta. Judge McKeon expressed an interest in replacing the Honorable John Warner as a council member when Judge Warner moves to the Supreme Court to take a seat as the new Supreme Court Associate Justice.

The Chief Justice welcomed all others present and asked each person to introduce them self.

## **II. Approve April 18, 2003 DCC Minutes**

**(a) Motion to Adopt:** Judge Ed McLean, District Court Council Member, made a motion to adopt the April 18, 2003 District Court Council minutes as presented. Judge John Warner seconded the motion. No further discussion. Motion passed unanimously.

## **III. Legislation Update**

Chief Justice Karla Gray reported on the following bills:

1. **SB's 18, 19 & 20** – were the tidy up bills from the District Court Council. SB19 and 20 passed with minor modifications. SB18 did not pass as a stand-alone bill; it was attached to another bill and passed with modifications.
2. **SB36** – Water Commissioner's Workers Comp Bill, passed.
3. **HB224** – Standing Masters Bill, was a simple straightforward bill but legislators were not happy with the legislation. Members of the Senate Judiciary Committee wanted the counties to continue to pay for the Standing Masters for two, four or six years, then move them over as an FTE into the judiciary. However, there is no way to guarantee that a state FTE will be created. In the end, the bill was heavily amended and simply passed as a repealer to other statues for Court Assumption. However, individual counties can still provide funding to the Judicial Branch for new standing masters.
4. **Sentence Review Division** – Minor changes - passed.

5. **HB18** – Technology Surcharge, passed with major changes. It will sunset in two years and the Supreme Court must find a different way to fund the Information Technology Division.
6. **Clerks of Court** - The clerks were successful with the bill clarifying that all civil jury costs are state assumed.
7. **Juvenile Probation Officers** – SB388 to transfer Juvenile Probation Officers to the Department of Corrections. **Dead**
8. **Citizen Review Board (CRB)** – All funding and the FTEs were removed from HB2. Although the program is still in statute, it is an unfunded mandate and will be phased out internally by the end of June.

**Overall**, the money situation is dire, however, Justice Gray asked members of the council not to panic. The Chief Justice stated she would not close the Court System down, no matter what happens. Beginning July 1<sup>st</sup>, the Supreme Court will be fully responsible for paying all bills. At this point it appears the Court is approximately \$1.8 million short.

The Legislature did allow the Judicial Branch to carry forward any money left over from FY03 to FY04 instead of reverting it to the state's general fund.

**Bottom Line Shortages** – An estimated \$1.8 million on court assumption; \$500,000 for vacancy savings; payout of sick and annual leave for CRB staff; and \$300,000 for civil jury trials; which totals approximately **\$2.6 million**.

The Honorable Thomas McKittrick expressed the importance of keeping the public and the State Bar Association informed of the status of the Judicial Branch's budget.

The Chief Justice encouraged council members to talk to community organizations, such as Rotary and the Kiwanis Club and keep local legislators informed.

#### **IV. Uniform Reporting Standards**

District Court Judge, Ed McLean handed out a phone survey that was conducted by Shirley Faust, District Court Clerk for Missoula County, and Nancy Sweeney, Clerk of Court in Helena. The survey is designed to capture how many filings are going through each county and how the counties are reporting their cases.

Results of the survey indicate that filings are being handled differently throughout the state. Judge McLean would like to see a group of people consisting of court clerks and himself, come up with a suggestion to present to the District Court Council, who will then recommend to the Supreme Court the adoption of uniform filing standards statewide.

Every case that is filed in each Clerk of Court's Office in the State of Montana should be reported to the Supreme Court Administrator's Office. The weight of each filing should be apportioned as this council sees fit.

Judge McLean will present the survey results to all Clerks of Court, along with a note asking for suggestions on filing format. The Clerks will be asked to respond as soon as possible so the information can be compiled and shared at the next District Court Council meeting, June 20<sup>th</sup>.

**V. Break**

**VI. Budget and Reimbursement**

Jim Oppedahl, Supreme Court Administrator, reported that his office sent out a schedule of payments to all County Commissioners. Checks will be mailed out to the counties by the third week in June for expenses incurred through April 2003. May payments will be mailed by the first week in July; then June payments will be made.

Currently reimbursement payments are being made at 100%, pursuant to the last District Court Council's instructions. Mr. Oppedahl asked the Council for continued authority to pay at 100% unless they start to run into some large bills that may cause a problem.

**Motion:** A motion was made by Judge John Warner authorizing the Court Administrator's staff to continue to pay the bills at 100% until further notice. The motion was seconded by Judge Thomas McKittrick and passed unanimously.

Jim Oppedahl reports that they have nine months history of fixed costs on payroll through the month of April with projected expenses of about \$11 Million dollars. By June 20<sup>th</sup> Mr. Oppedahl will have a better look at the figures and will be able to provide a more detailed report.

**VII. Other Business**

**(a) Next Meeting Date.** The next District Court Council meeting is scheduled for June 20<sup>th</sup> in Helena in the Attorney's Lounge. An agenda and location will be mailed to each Council member in advance of the meeting.

**(b) Replacement of District Court Council Member.** Hon. John McKeon will be elected on Tuesday, May 20<sup>th</sup> to replace Hon. John Warner on the District Court Council. Chief Justice Karla Gray thanked Judge Warner for his invaluable service on this council.

**(c) Letter from Flathead County Attorney** Hon. Ed McLean presented a letter to the Council that was written to the District Court Judges of the

Eleventh Judicial District by the Office of the County Attorney from Flathead County indicating that the counties will no longer be obligated for damages that have occurred in the past.

Pursuant to this letter, Judge McLean suggests that the District Courts will need to communicate immediately with their respective County Commissioners. Judge McLean has strong reservations about the counties taking this position. He stated the key is to look at what the law requires the court assumption program to pay. July 1<sup>st</sup> is fast approaching and that is when the new contracts will be signed.

MACO sponsored a bill to establish a Trial and Appellate Defender Commission and have all the employees become county employees. This entity would become an adjunct to the Department of Administration for Administrative purposes. The Department of Administration would assume responsibility for paying public defense bills. Chief Justice Karla Gray stated the legislation regarding the Public Defender Program failed. Other than a few minor changes in Section 3-5-901, MCA, it remains the same.

SB490 should be reviewed prior to the next District Court Council meeting. The District Court Council will not take action at this time due to the pending litigation. The matter will be discussed at the next District Court Council meeting because it will affect the way the bills are paid.

## **IX. Adjourn**

**Motion:** A motion was made by Hon. Diane Barz to adjourn the meeting. The motion was seconded by Lori Maloney and passed unanimously. The meeting adjourned at 10:15 a.m. by order of the Chair, Chief Justice Karla Gray.