

MCT CONSTITUTION MEETING MINUTES

FRIDAY MARCH 15, 2024

HOSTED BY GRAND PORTAGE AT

1854 Treaty Authority, 4428 Haines Road, Duluth, MN 55811

And VIA ZOOM (Meeting Id 871 6115 7665/ Passcode 231698)

Attendees in person: Michele Beeksma (GP), Cheryl Edwards (FDL) Sally Fineday (LL), Michaa Aubid (SL), Tammey Skinaway (SL/WE), Louis Johannsen (WE), Missy Plumber (WE), Julie Hernandez-Cortez (ML), Lila White (ML), Tracey Dagen (BF), Michelle Palomaki (ML), Al Olson (ML), Mike Davis (L), Birdie Roberts (ML), Terese (BF)

Attendees via Zoom: Sandra Borden (GP), John Lemire (GP), Carol Janick (FDL), Marcie McIntire (GP), Sybil Gund (WE), Patty Straub (WE), Jolyn Donnell (WE), Jean Skinaway-Lawrence, Ray Bellcourt (WE), Mykee Brown, Wayne Dupuis (FDL), Tracey (BF)

Documents sent out by the Drafting Committee before the meeting for review: 1) Draft Code of Ethics and Conduct for Court Judicial Personnel and (2) Draft Judicial Code of Ethics and Contact

9:00 am **Welcome and Invocation** by Michele Beeksma: a smudge and short prayer (treat each other with respect, truth). We are using an AI Companion, and it is important to say your name before you speak. Sandra Borden will also take regular notes.

9:30 am **Delegation Roll Call, Housekeeping/Reminders**: Bands present were Boise Forte, Grand Portage, Fund Du Lac, Leech Lake, Mille Lacs Band, White Earth, Sandy Lake.

9:40 am **John Lemire, Grand Portage Delegation: Michigan Tribal Court System**

I (John) am speaking as a Tribal court judge and want to explain what we do. My background consists of my father Cyrus born at Grand Portage. My grandmother is Constance Beargrease. My relatives were put in an orphanage/my father was in a boarding school. Our family then moved to Detroit. In the early 1960's we visited Grand Portage and enrolled. We had to pick up the culture on the way. I was asked to be on the Michigan Legal Board to handle Indian issues; that was my first exposure to Indian law, which is very complex. I spent 25 years in the Detroit court. Then when I retired, I was asked by several tribes to work for them. I was asked to be Associated Judge- Ottawa Tribe. I am one-quarter Indian which was required, and it was important that I did not have family connections to the cases that I tried. I am a license attorney in Michigan. I have visited Grand Portage many times. I am not as familiar with the other bands of MCT.

I had the opportunity to look at the six bands of MCT. Michigan Tribal Courts comes out of the constitution(s). MCT's constitution does not talk about separation of powers and courts. Every MCT

band has a judicial component. Make sure that your constitution has a defined judicial powers/separation of powers (executive, legislative, judicial). In Michigan our tribes have judicial powers, but not all have separation of powers. Consider that for your own constitutions. We all have the same goals: peace, no conflict among constituents.

I asked Michele to show two documents to show the issues that we deal with. Document 1 on Shared Screen listed types of cases; e.g., wage assignments, civil protection, child support, divorces, probate, adoptions, marriage license, name changes, juvenile justice, guardianships, landlord tenant, It really represents sovereignty. When I sign a piece of paper with my decision, it will be honored. The Federal and States need to honor Tribal Courts. We are really proud of the Drug Court. We had assistance from the Feds. We (Michigan) do not have to deal with Public Law 280. PL 280 is complex. I do not have to look over my shoulder related to PL 280. You will probably have to deal with PL 280 at the band level. I advise you to look at sovereignty and separation of powers. I have some rather important cases and have not had pressure to make certain decision. There are frequent election challenges. I have had also some cases related to gaming. Our Drug Court is about to be become a mentor court. I feel a lot of pride that I have been able to help people during their hard times. Preserved your judicial powers. (My first cousin was Jason Burnett who walked on last year.) I told my children that I would help Grand Portage as best I could).

Question (Michele, GP): Tell us more about the Drug Court. Answer: We get most of our referrals from State Court (DWIs, drug issues). We do not take domestic violence. Drug Court is about probation where the participants are under observation. The program lasts a couple of years with lots of stages. All participants are under a court sentence. We couple it with behavioral advice and have cultural education. Little Travis Tribe website has information on the Drug Courts. In my 8 years I have had about 50 people who went successfully through the program; a few did not make it. There is a lot of culture and "higher power" in the program. If the participants don't work out, they go back to the state and serve their sentence.

Question (Michele): Do they (offenders) have a State record? Answer: It is up to the local courts. The sentence can be erased. If they participate in the Drug Court, they do not have to serve time.

Question: Is there a written agreement? Answer: Yes, it is written and the participants know what they have to do. We have a MOU with the District Court judges/Prosecuting Attorney. Everything is button-up so there is no wiggle room for the participant not to obey.

Question: Does Little Travis have a police force? Answer. Yes, we have cross-deputy designations with the local police. We are located in the same building.

Michele: At 1854 our deputies have cross-deputy designations. (Must have the same training.)

Question (Jolyn, WE) How are warrants enforced? Our tribal prosecutor will write the paper work. After examination, the tribal judge will sign. We do not want to become an arm of the State.

Question (Birdie, MLB) Need clarification of the offense, is it on rez or off? Answer: That is the most difficult question, that of jurisdiction. There needs to be an understanding between the local/ fed officials. Almost needs a flow chart. We do what we need to establish peace, then sort the jurisdiction out. Eventually, we do sort it out. We want to have peace, goodwill, I did not exam MCT band judicial organization.

Question (Carol Janick, FDL): Michele sent over a grant request. It is very complicated. Perhaps in the future we can include the judicial needs. Answer: We have a weekly team meeting- psychologist, case manager, judge, court administrator, prosecutor.... The probation officer runs the meeting.

Question (Carol Janick, FDL): Thank you. Do you have experience with shared courts? Answer: Enrollment, we do not have the same hurdles. Most of us have gone our own way. We will have other tribes sitting in watching our Drug Courts. Everything depends on sovereignty and separation of powers in the Constitution that you write. There are times when we are asked to use more Anishinaabe. Little Travis has 3,000 members.

John spoke about his father and first cousin Jason. He also talked about his two nieces: one who is allowed to be a member and one who is not allowed to be a member (related to year of birth).

Question (Ray, WE): Why can't white people be tried in Tribal Court? Answer: Jurisdiction, Federal government has allowed some jurisdiction related to domestic violence. We do a lot of personal protection orders and it can result in a lien.

Document 2 was put on Share Screen: The 2021 LTBB Caseload (408 Hearings).

Question. Steps for retrocession (eliminating PL 280)? Answer: Need to ask a good Indian law firm or talk to a congressman. Does Bois Forte have retrocession on criminal? (yes, per drafting committee research)

Michaa: All bands have to write their own criminal code and expand a court. We need to exercise sovereignty. Need a jail. We have an inherent jurisdiction. Some bands have pulled out of PL 280. Need to enforce our code.

John Lemire: Example case- She caused a disturbance in front of a pharmacy. She was housed in the local jail because we don't have a jail and we paid for the local jail. We do not like to send people to jail (costs money).

Question. Does the county have the same data on our people in jail, etc.? Answer: When we have a member who has problems in other jurisdictions we don't hear about it. We don't necessarily share our information with others.

Question (Sandra Borden, GP) Does privacy apply to criminal cases. Perhaps you don't share info because no one has asked for it. Answer: Criminal cases are in the public domain. No one is asking for our information. Look at other Tribes' constitutions for examples. Lesson learned: Michigan Indians have learned to hire experts when they establish enterprises.

10:35 am Break

10:50 am **Drafting Committee- Carol Janick**

Sally has joined the committee. We have sent out the draft (1) Judicial Code of Ethics and Conduct and (2) Code of Ethics and conduct for Court Judicial Personnel (standard practice to have this code).

Administration and Supervisory Council Article XXI work sheet was discussed and will be posted. The Grand Council has oversight of all Programs including the Administration & Supervisory Council (implementation and enforcement). We have reconstructed the MCT roles and responsibilities. Decision making will be governed by certain concepts (see above posted document). Before other government organizations have jurisdiction over us, we must give prior consent. Carol went over several UNDRIP Articles.

Department of Administration- description of current operations and what documents applied was presented, also the Grand Council, Central Council, and Code of Conducts

There is a need for program evaluation (audit, etc.)

ISDEAA 1975 (PL 93-638) also applies to contracts.

Department of Tribal Elections will be a function of the Department of Administration. The Tribal Records Manager role needs to be expanded to allow for easy access of data.

The current MCT has a Department of Health, Human Service and Employment. There are concerns such as navigating insurance, third-party Health, non-Indian spouse (pregnancy). Our treaties have the right to health care. We want to make sure that UNDRIP rights are addressed.

Tribal Employment Services (current MCT department) – there are many concerns such as job preference, employment, education, advocacy and job training, employee handbook, etc. This department should work with the Grant Department that we are recommending.

Department of Finance currently exists and will currently have a Financial Services Board to write grants. A Fiscal Responsibility Committee is recommended.

Department of Accounting and Computer Service- all departments handling money have to do a quarterly report.

Department of Education- important to manage scholarships.

Department of Natural Resources/Environmental and the Preservation of Rights, is to have an expanded role. Look at White Earth Manoomin Resolution (wild rice) as an example. Usufructuary rights is the right to use and enjoy a portion of the property vested in another. Land/Allotment of land is included.

Department of External Governmental Relationships (new).

Department of Ethics (new). See the draft Codes of Ethics.

Department of Land/allotment/Trust Assets (under MCT called Minnesota Agency). Why does MCT own land when they are not a tribe?

Department of Citizens' Rights (may not need an individual department); e.g., domestic violence, children welfare.

Department of Tradition Custom Dispute Resolution (proposed). Talking circles and other methods of not using legal courts.

Department of Legal Service (current MCT Department).

Department of Appeals (new, recommended by UNDRIP). Example for why it is needed is enrollment.

Department of Enforcement (new): Lack of Remedies, violation of rights, "Warrior Society, Sargent of Arms, Honor Guard, Women Diplomat, Ombudsman. Under Safety functions are law enforcement, security officer, crime prevention, anti-violence, probation officers, school officer, drug prevention.

Topics addressed by drafting committee: Freedom of Speech/Non-Discrimination, Department of Culture and Language and Religion; Redress, Restitution, and Compensation.

Department of Grant Writing (new)

More topics discussed: Benefits, UN Responsibilities, US Obligations; need to use specific references and language of UNDRIP.

Next, we have to deal with enforcement and endorsement of UNDRIP.

"Where the REFORM started and where we are today" document was presented. Alliance document is in 3 parts: Preamble, articles based on rights, treaties, and articles on new governance structure (e.g., Councils, General Assembly). The Alliance framework is there. After ratified we have 18 months to get the Council, organization in place. Then Tradition/Culture and Judiciary can be put in place.

Adoption clause states how the Alliance becomes effective (with 18 months to put the infrastructure in place). We will continue to work on refinement. We should not miss the opportunity with the Secretarial Election to do more than membership. The **concern** is the 30% voting requirement. There is a need to remove the Secretary of Interior from the Constitution.

Julie Hernandez-Cortez (MLB) presented questions about the Alliance Document. First you must determine what to do with the MCT organization. We support the Alliance Organization.

From Chat (Wayne): All the four Dakota tribes in Minnesota have gone to lineal descent.

Michaa: Are we going to terminate a tribe (Federal law consider MCT a tribe)? Phil B. has said that he does not want to disband a tribe.

Mille Lacs Band Constitution Reform Delegation, Review of Alliance Document Draft 10 - March 15, 2024:

“ reviewed the draft 10 version of the Alliance document. I’m going to review the comments from our discussion.

What is the primary purpose of the Alliance? What problem are you solving by creating it?

Is the Alliance considered an organization or a government? Our understanding of the two entities is as follows:

- Alliances are formal **agreements** between **two** or more nations for mutual support.
- A government describes how a (one) society organizes itself and allocates authority to accomplish collective goals and provide the benefits that society receives. Governments originated to protect people from conflicts and to provide law and order.

Is the Alliance draft document a constitution? If not, what is it?

- If it is a constitution, why would we need this constitution when we all have our sovereign governments and have agreed to draft separate constitutions by Tribe?

What is the scope of the intent, responsibility, and authority of the Alliance?

- How we interact and foster effective Government-to-government relations.

Does the MCT still exist alongside the Alliance?

Does the Alliance organization replace the MCT?

If the Alliance replaces the MCT, what happens to it?

Why is tribal governmental responsibility mentioned in the document?

- Why would you give up your sovereignty rights to something if it is just an organization?

To summarize, the MLB Delegation’s position is that you must first determine what to do with the MCT Organization.

- Does it continue to exist as it is, and no revisions are made to the organization and its constitution?
- Do you modify, eliminate, or revise its current authority but continue recognizing the organization?
- Do you dissolve it and do something different?

We support the last scenario. We support the Alliance concept, with the Alliance being a vehicle for support between the bands only; no governmental authority is assigned to this organization. Instead, each band exercises its sovereignty and self-determination within its

governmental structures without any oversight from another” layer” of authority than what has already been established (U.S. Govt).

Just as the MCT cannot be a government, a newly formed Alliance cannot be created as a tribal government. No authority within the IRA supports this action.”

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Response to question “What is the primary purpose of the Alliance; what problem are you solving by creating it? “(Answer from Carol. It is not a constitution, there will be a local constitution. MCT will be reconstructed. Functions will be tweaked. The Alliance document is about policies of who we are and what we want to be, and it is not written in stone. It is what will keep us in alignment and keep us together.)

We (MLB) support the Alliance concept but don’t want another layer of government.

Some of the comments: Ray and Sandra made an argument for being inclusive. Patty agreed. Cheryl: In 2018 we voted to stay together.

There was a lot of discussion that could not be capture because of background noise.

12:30 pm **Lunch**

1: 30 pm Continued discussion

Michele: We would like to take these questions back to our delegation they make some good points.

Birdie: Mille Lacs is hosting the May meeting, and we will present our position then on how we see the relationship (Alliance, MCT).

Carol: My thoughts. We are still under the IRA Constitution. I would recommend that these issues need to be addressed. Can you get one delegate from each band come together to review, reconstruct the Alliance document and decide what belongs in local constitution and what belongs in the Alliance document. I do not think that each band is going to absorb the MCT functions. We need to talk about the councils, names, and that we address these concepts quickly.

Sally: please send the MLB questions to the delegates.

1: 35 pm **TEC Questions**

Cheryl: Last month we submitted questions for the TEC. Are there any additional questions? I have highlighted the current demographic questions that could be sent separately to Joel Smith at MCT. Also I revised the age groups to be reported by band. Are we in agreement to ask the TEC panel to come to our meeting to answer the questions? Sally: What is the purpose of the questions, voting? Cheryl: Registered voters, what is the answer to how many people do we need to vote.

Motion made by Terese BF and seconded Sally FDL: To invite a TEC panel to come to our next meeting April 19, 2024 at Leech Lake to answer Delegation questions related to being prepare for the Secretarial Election and regarding enrollment. Vote: BF yes, FDL yes, GP yes, LL yes, ML yes, WE Yes

There is agreement to send Joel the demographic question.

Sandra: Recommend make the document of questions to TEC is one page.

Carol: Should we add- Are you willing to agree to past practice, because other elections have not used 30% quorum being met? Cheryl- That makes sense. Carol_ add, "if you agree to past practice, you don't have to register, are you willing to ask for a waiver from the Secretary of Interior election requirement for general registration?" Two things are/were needed: an eligible list of 18 years old and a register voters list. You have register for every Secretarial Election. But people don't remember registered. Added to the questions: **"If you agree on using the 30% requirement, would you be willing to draft a new waiver request of the Secretarial procedure on general registration and waive the requirement of registration in 25 CFR 81.43 to protect the requirement to challenge?"**

Registered voters have been used instead of eligible. There have been three Secretarial elections since the 1960's.

Leech Lake is willing to send the request for the TEC to attend the April 19 convention meeting at Leech Lake.

2:1 Recommendation for the April 2024 TEC Meeting: Ask the Tribal Executive committee for a motion to add the Referendum Questions from July 2022 to the next Secretarial Election.5 pm TEC Recommendations

Louie: WE does not believe the questions should be added, because the questions are confusing.

Benefits for MCT Citizens

- Adding these referendum questions to the Resolution 32-15 question would give the people a true choice between continuing the requirement of blood quantum for membership or removing the blood quantum requirement and returning to lineal descent.
- -An affirmative (yes) vote for Resolution 32-q5 would continue the BQ requirement.
- - an affirmative (yes) vote to remove BQ would remove that requirement and return to lineal descent.
- - The people would have a voice in whether the reservation would have the authority to make enrollment decisions or leave it as is.

LL and FDL supports adding the referendum questions.

Micha had additional questions. He is now opposed to Resolution 32-15 because it adds a bigger barrier/increase the bar.

Cheryl is ready to put our Alliance document forward to be voted on.

Louie believes WE would agree if proposed as options, but the referendum questions cannot be reworded.

Carol- As a lawyer, the referendum has to go forward, but it was not brought forward by the membership. We heard that MCT has no money, so why are we doing multiple elections that cost a lot of money. I agree with Michaa and Cheryl that put forward the Alliance document. Birdie and Julie are invited to the next Drafting committee to resolve their questions.

Chat (Wayne): "Yes, the TEC initiated a referendum vote! Constitution spells out that this initiative be brought forward. The clearest direction given to our tribal government is that the people want this issue resolved."

Cheryl: Motion- The delegates will inform the TEC pursuant to the MCT constitution, the TEC is obligated to add the Referendum Questions to the next Secretarial Election. Seconded by Sally Fineday. Vote: BF yes, FLD yes, GP yes, LL yes, ML yes, WE no. Michele (GP- host band running the meeting) stated that the motion is tabled until the question of majority voting can be re-visited. The discussion about majority voting was brought up. Michele stated that the full delegation never resolved and accepted it and needs to be revisited.

John Lemire: When the letter was sent two years, we are/were following the intent. Also, reminder how do we enforce the By-laws to have the TEC obey their oath of Office. It appears that the TEC is holding us at an arm's length.

Michele: Asked WE what are their concerns were about the referendum questions. Answer: All the options were not listed and the questions were confusing.

Michaa- We need to delve into the education issues. Is it possible to revise the wording?

Louie (WE): We want to add lineal descent.

Cheryl: When the questions were developed, White Earth stop us from doing clarification. We cannot change the wording, that is the constitutional procedure.

Louie: White Earth could have a Zoom meeting.

TEC Recommendations were tabled.

3:00 pm **Committee Reports** (none provided, Drafting was presented in the morning session)

Cheryl there has only been one committee that has met this past month, the Drafting Committee. It is not Cheryl responsibility to send out committee invitations.

Next meeting April 19 host and minute preparer- Leech Lake

3:05 pm **Adjourned**