

# JUDICIAL COUNCIL MEETING

## Minutes

Thursday, August 18th, 2011

Large Conference Room A

Matheson Courthouse

Salt Lake City, Utah

**Chief Justice Christine M. Durham, Presiding**

### **ATTENDEES:**

Chief Justice Christine M. Durham  
Hon. Michael Westfall, vice chair  
Justice Jill N. Parrish  
Hon. Judith Atherton  
Hon. Donald Eyre, Jr.  
Hon. Kimberly K. Hornak  
Hon. Paul Maughan  
Hon. Brendan McCullagh  
Hon. Gregory Orme  
Hon. Jody Petry  
Hon. Larry Steele  
Hon. Keith Stoney  
Hon. Thomas Willmore  
Lori Nelson, esq.

### **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Lisa-Michele Church  
Jody Gonzales  
Debra Moore  
Rick Schwermer  
Tim Shea  
Diane Abegglen  
Kim Allard  
Nancy Volmer

### **GUESTS:**

Hon. Kate Toomey

### **EXCUSED:**

**1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)**

Chief Justice Durham welcomed everyone to the meeting.

**Motion:** Judge Petry moved to approve the minutes as amended. Judge Hornak seconded the motion, and it passed unanimously.

**2. CHAIR'S REPORT: (Chief Justice Christine M. Durham)**

Chief Justice Durham had nothing new to report.

**3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Mr. Becker reported on the following items:

He commented on an article in the *Governing* magazine entitled *Swift Justice* which references performance measures and Utah's CourTools.

Mr. Becker has received a draft copy of the Legislative Audit. Court Staff will be meeting with the Legislative Auditors on Wednesday, August 24 to review the findings and

recommendations with the audit staff. It will then be presented to the Audit Committee in September. The audit results will be discussed at the Council's September meeting.

Mr. Becker and Chief Justice Durham will meet with Chief Justice Marilyn Kite and State Court Administrator Joann Odendahl from the Wyoming Courts on Tuesday, August 26 to review the Utah court system.

#### **4. COMMITTEE REPORTS:**

##### ***Management Committee Report:***

Chief Justice Durham reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda. She noted that Item 6 - Language Access Plan was put into a plan format as a result of the work completed by Policy and Planning and the rule changes already approved by the Judicial Council. The plan was adopted by the Management Committee at their August meeting.

##### ***Liaison Committee Report:***

No meeting was held in July. Proposed legislation was presented at the Budget and Planning Session held prior to the Council meeting.

##### ***Policy and Planning Meeting:***

The Policy and Planning Committee minutes accurately reflect the issues discussed. The items needing to be addressed are listed under the Rules for Final Action and the Rules for Final Comment of the Council agenda.

##### ***Bar Committee Report:***

Ms. Nelson reported on the following:

The Bar Commission will hold their retreat and meeting on Friday, August 26 which will include leadership development training.

The lifetime service awards will be presented at the Bar's Fall Forum.

The Bar is advertising for a new lawyer training coordinator, and they are in the process of hiring a Deputy Senior Counsel for the Office of Professional Conduct.

Ms. Nelson mentioned an ABA study, Modest Means Program, that would provide legal support at a lower cost.

The Bar is developing a presentation to middle schools regarding the study of Civics at that level.

A site visit to Snowmass, Colorado as a potential annual conference location was completed.

#### **5. DISTRICT COURT WEIGHTED CASELOAD: (Judge Kate Toomey)**

Chief Justice Durham welcomed Judge Toomey to the meeting.

Mr. Mark Bedel, new District Court Program Administrator, was introduced and welcomed to the Council.

Judge Toomey provided background information relative to the district court weighted caseload. With the help of the court services staff, the Board of District Court Judges took on the project of updating the district court weighted caseload. A version was approved by the Board of District Court judges at their June meeting.

She highlighted the changes in the update to include: 1) revised travel times in the Third and Eighth Districts, 2) drug court change weight from 2.10 minutes to 3 minutes, 3) protective order hearing weight changed from 9.19 minutes to 19 minutes, and 4) authorized judicial officers was adjusted for Commissioner Garner between First and Second District. She mentioned that prior to the update there were no calculations for specialty court hearings.

The new weighted workload data was compared to the existing weighted data, and variances were pointed out. Based on the data, the judicial officer need has gone from 84.10 judges to 86.30 judges statewide.

**Motion:** Judge Maughan moved to accepted the district court weighted caseload. Judge Eyre seconded the motion, and it passed unanimously.

**6. RULES FOR FINAL ACTION: (Tim Shea)**

Mr. Shea was welcomed.

Policy and Planning is recommending that the following two rules be approved:

CJA 04-0613 - Jail Prisoner Transportation. It amends the rule to conform to a new agreement between the courts and the counties.

CJA Appendix B - Justice Court Standards for Recertification. It establishes standards for recording equipment in the justice court.

He noted that CJA 04-0613 takes effect November 1, and he asked the Council if that date was acceptable for CJA Appendix B. The Council was in consensus with November 1 as the effective date for both rules.

**Motion:** It was moved and seconded to accept the rules for final action as presented. The motion passed unanimously.

**7. SENIOR JUDGE CERTIFICATION: (Tim Shea)**

Mr. Shea reported that Judge Glenn K. Iwasaki and Judge Sandra N. Peuler have applied for certification as active senior judges.

**Motion:** Judge Hornak moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge Glenn K. Iwasaki and Judge Sandra N. Peuler as active Senior Judges. The motion was seconded, and it passed unanimously.

Judge Holly M. Barringham and Judge Garry R. Sampson have applied for certification as active senior judges in the justice courts. It was noted that Judge Sampson had one public reprimand during his previous term of office. Discussion took place.

**Motion:** Judge Westfall moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge Holly M. Barringham and Judge Garry R. Sampson as active senior judges in the justice courts. Judge Stoney seconded the motion, and it passed unanimously.

Mr. Shea reviewed the inactive senior judges requesting certification for reappointment. They include: 1) Judge Arthur Christean, 2) Judge Floyd Gowans, 3) Judge F. John Penrod, and

4) Judge David Roth. He noted that several inactive senior judges did not reapply for reappointment.

**Motion:** Judge Westfall moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge Arthur Christean, Judge Floyd Gowans, Judge F. John Penrod, and Judge Dave Roth for reappointment as inactive senior judges. Judge Petry seconded the motion, and it passed unanimously.

Mr. Shea reviewed the list of active senior judges in the justice courts requesting reappointment. They include: 1) Judge Peggy Acomb Wade, 2) Judge James E. Box, 3) Judge Betty Burns, 4) Judge Richard D. Carr, and 5) Judge Sara Watson.

**Motion:** Judge Westfall moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge Peggy Acomb Wade, Judge James E Box, Judge Betty Burns, Judge Richard D. Carr, and Judge Sara Watson for reappointment as active senior judges in the justice courts. Judge Stoney seconded the motion, and it passed unanimously.

**8. COMMISSIONER CERTIFICATION: (Tim Shea)**

Mr. Shea reported that Commissioner T. Patrick Casey and Commissioner Catherine S. Conklin are up for reappointment as their terms of office will expire December 31, 2011.

**Motion:** Justice Parrish moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Commissioner T. Patrick Casey and Commissioner Catherine S. Conklin for reappointment. Judge Atherton seconded the motion, and it passed unanimously.

**9. EXECUTIVE SESSION:**

**Motion:** Judge Westfall moved to enter into an executive session to discuss a personnel competency matter. Judge Hornak seconded the motion, and it passed unanimously.

The Council ended their executive session.

**Motion:** Judge Petry moved to refer the personnel matter to the Judicial Conduct Commission. Judge Atherton seconded the motion, and it passed unanimously.

**10. ADJOURN**

The meeting was adjourned.