

# JUDICIAL COUNCIL MEETING

Minutes  
Tuesday, May 29th, 2012  
Multipurpose Room  
Vernal Courthouse  
Vernal, UT

**Chief Justice Matthew B. Durrant, Presiding**

## **ATTENDEES:**

Chief Justice Matthew B. Durrant  
Hon. Kimberly K. Hornak, vice chair  
Hon. Judith Atherton  
Hon. George Harmond  
Hon. Paul Maughan  
Hon. Jody Petry for Brendan McCullagh  
Hon. David Mortensen  
Hon. Stephen Roth for Gregory Orme  
Hon. John Sandberg  
Hon. Larry Steele  
Hon. Keith Stoney  
Hon. Thomas Willmore  
Lori Nelson, esq.

## **EXCUSED:**

Hon. Brendan McCullagh  
Hon. Gregory Orme  
Hon. Jill N. Parrish

## **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Jody Gonzales  
Lisa-Michele Church  
Debra Moore  
Tim Shea  
Kim Allard  
Raechel Lizon  
Alyn Lunceford  
Alison Adams-Perlac

## **GUESTS:**

Judge Mark May  
Judge Ed Peterson  
Russ Pearson, 8<sup>th</sup> Dist TCE  
Dawn Hautamaki  
Geoff Liesik, Deseret News  
Mary Bernard, Vernal Express  
Stephen Foote, Duchesne Cty Attny  
Arek Butler, Assistant Attorney Gen  
Loren Anderson, Uintah Cty Attny  
Comm. Darlene Burns, Uintah Cty  
Comm. Kent Peatross, Duchesne Cty  
Marea Doherty, Deputy Cty Attny  
Senator Kevin Van Tassell  
Tammy Lucero, Econ Dev Dir  
Paul Hacking, Dir Impact Mitigation  
Jonathan Streamer, Dep Cty Attny  
Area attorneys

### **1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant welcomed everyone to the meeting.

**Motion:** It was moved and seconded to approve the minutes as amended, and it passed unanimously.

**2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant reported on the following:

He attended and addressed the district court judges at the District Court Conference held May 16-18. The focus of his address was on the Council's meetings with the Judicial Performance Evaluation Commission (JPEC) in discussing the evaluation process, the Council's concerns with the evaluation process, the focus on jury surveys, and the use of comments in the evaluation process.

A separate meeting with Mr. Tony Schofield, JPEC chair, was held on May 17 as a follow-up to the Workgroup's meeting with JPEC on April 10. It was noted that the Council's concerns would be considered at the next three JPEC meetings.

Chief Justice Durrant mentioned that he would be attending and addressing the juvenile court judges at the Juvenile Court Conference on Wednesday, May 30 with the same focus as provided to the district court judges.

He attended and spoke at the drug court graduation held in the Supreme Court on May 23.

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

He reported on the following items:

Mr. Becker reported that Mr. Shane Bahr has been hired to fill the Fourth District court executive vacancy left with the retirement of Mr. Paul Vance. His background and experience was provided. He will begin working for the courts on June 18.

Judge William Barrett has announced his upcoming retirement effective November 1, 2012.

Mr. Becker updated the Council on the move to Gmail last week by the courts. He noted that the transition from GroupWise to Gmail took place in a seven-week span of time with 99% of the data in the court's GroupWise system being converted to Gmail without problems. A dedicated Gmail help desk was manned by four people. He mentioned that the Executive Branch was scheduled to convert to Gmail at the same time, but they postponed their transition.

The Utah Council on Conflict Resolution (UCCR) presented Ms. Bev Klungervik, ADR, with the 2012 Peacekeeper Award on May 18.

**4. COMMITTEE REPORTS:**

***Management Committee Report:***

Chief Justice Durrant 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.

***Liaison Committee Report:***

Justice Parrish was excused from the meeting.

No meeting was held in May.

***Policy and Planning Meeting:***

Judge Orme was excused from the meeting.

The Policy and Planning meeting minutes accurately reflect the issues discussed. No additional information was provided.

***Bar Commission Report:***

Ms. Nelson reported on the following:

The Bar Commission is scheduled to meet on Friday, June 1. Award recipients will be selected at this time.

**5. COST-OF -LIVING ADJUSTMENT FOR COURT COMMISSIONERS: (Daniel J. Becker)**

Mr. Becker provided an overview of the manner by which the cost-of-living adjustments for court commissioners were approved.

A comparison of the commissioner's annual salary from 2005 to the present time was provided for the Council, as well as, their current salary and the one percent cost-of-living adjustment. Funding is available for the cost-of-living adjustment.

**Motion:** Judge Mortensen moved to approve the cost-of-living adjustment for court commissioners. Judge Maughan seconded the motion, and it passed unanimously.

**6. REPORT AND UPDATE ON INDIGENT REPRESENTATION COMMITTEE: (Judge Stephen Roth)**

Chief Justice Durrant welcomed Judge Roth to the meeting.

Judge Roth provided an update on behalf of the Indigent Representation Committee.

Background relative to the study of indigent representation was provided. The original charge of the Committee was to address appellate representation of indigent criminal defendants. In 2010, the Committee was asked to address trial court representation of indigent criminal defendants.

Review of indigent representation at the trial court level has proven to be more complex than Appellate representation. Judge Roth noted that under Utah Law, the individual counties are responsible for indigent defense. The Committee is researching what other states are doing relative to indigent defense reform. The Committee has found, through their research, that many states are being advised by the National Legal Aid and Defender Association (NLADA), and the Committee is considering the possibility of like research assistance.

Judge Roth mentioned that the Committee has met with members of the ACLU and provided details on the work of the study group relative to trial court representation. Judge Roth, Judge Orme, Mr. Schwermer met with Mr. Ron Gordon, CCJJ, and Mr. John Fellows at the end of March to discuss interest in securing research assistance to support the Committee's work. Discussion with members of the legislature has taken place as well. Judge Roth met with Mr. Dan Becker and Chief Justice earlier in the month to provide an update on what has transpired.

Judge Roth noted that the specific group that they are considering for conducting research is the Gideon Project.

Judge Roth included the following in his update: 1) the Committee would like to involve the Gideon Project as appropriate in their research efforts; 2) invite Mr. Ron Gordon, CCJJ, to participate as a Committee member; 3) invite a Senate and a House representative as Committee members; and 4) asked the Council for direction on how the Committee should proceed.

Discussion took place.

Judge Roth will provide an update to the Council at a future meeting.

**7. BOARD OF JUVENILE COURT JUDGES UPDATE: (Judge Mark May and Lisa-Michele Church)**

Chief Justice Durrant welcomed Judge May and Ms. Church to the meeting.

Judge May provided an update to the Council on the Board of Juvenile Court Judges goals. He highlighted the following goals in his update: 1) revise and strengthen training for new juvenile judges, 2) design a best practices guide regarding juvenile court practices on immigration, 3) identify and remove key barriers to moving juvenile court to electronic record and paperless practices, and 4) improve communication between the Board and the juvenile court bench.

Chief Justice Durrant thanked Judge May for his update.

**8. FACILITIES UPDATE: AR&I PROJECTS AND NEPHI COURT FACILITY: (Alyn Lunceford)**

Chief Justice Durrant welcomed Mr. Lunceford to the meeting.

Mr. Lunceford provided a Facilities Update to the Council.

He highlighted the following in his update: 1) FY 2013 capital development scoring, 2) FY 2013 land banking requests, 3) FY 2013 non-state funded request, and 4) courts capital improvement projects.

Mr. Lunceford noted that the Ogden Juvenile Court was funded \$1,625,000 for design and funding for the purchase of the Richfield Courthouse in the amount of \$1,900,000.

Juab County is moving forward with building of a new court facility. Several meetings have been held with Juab County. Mr. Lunceford proposed to Juab County to enter into a contract with DFCM by which Juab County would provide the funding mechanism and then turn the funding mechanism over to DFCM. DFCM would manage the acquisition of design, the design, and the construction of the project for a nominal fee. The amount of funding for the court facility would be around \$2.6 to \$2.9 million to build a one-courtroom facility on the property that the county currently owns.

Last week, a meeting was held with Nephi City to present the timeline and package of what Juab County would need to commit to build the Juab County court facility. On May 22, a confirmation was received by Juab County of their willingness to pursue the agreement. A memorandum of understanding has been prepared for signature at the next Juab County Council meeting. Juab County is in the process of preparing a request for a lease revenue bond. It is anticipated to have the facility operational within 18 months, once building of the facility begins. Incorporated into the agreement is a lease purchase option that would be exercised once the final payment of the lease revenue bond has been made and would allow for state ownership of the court facility.

**9. IS JUVENILE COURT PROBATION EFFECTIVE IN WORKING WITH YOUTH? (Lisa-Michele Church and Raechel Lizon)**

Ms. Church and Ms. Lizon were welcomed to the meeting.

A report on *Utah Juvenile Probation: Leading the Way in Effective Approaches for Working with Youth* was provided. Ms. Lizon highlighted the following in her report: 1) statewide vision – unified approach, 2) cutting edge training and practices, 3) exemplary probation officers and supervisors, and 4) judicial and administrative leadership.

Statewide vision included: 1) common vision and mission for the probation department, 2) balanced and restorative justice approach, and 3) evidence-based practices.

Cutting edge training included: 1) case planning model, 2) motivational interviewing, 3) probation officer safety training, 4) national experts, and 5) development of in-house trainers/experts.

Exemplary probation officers and supervisors included: 1) leadership role and advocate in the community, 2) mentor, coach, and train, 3) help kids make long-term behavioral changes, 4) quality of information, and 5) individualized recommendations.

Ms. Lizon focused her report on the following areas of probation: 1) a day in the life of a probation officer; 2) probation's formula for success; 3) the use of the correctional program checklist (CPC) and what the checklist can provide; and 4) the use of an interactive program assessment website which provides recidivism rates, assessment feedback and TA support to program managers, and probation managers.

Ms. Church detailed challenges faced by juvenile court probation when working with youth which include: 1) limited resources available in rural areas, 2) mental health situations, and 3) truancy. Judge Steele and Judge Petry offered comments relative to the discussion.

Ms. Church and Ms. Lizon were thanked for their presentation.

#### **10. EIGHTH DISTRICT DATA REPORT: (Kim Allard)**

Chief Justice Durrant welcomed Ms. Allard to the meeting. A handout was distributed to members of the Council with data relative to the Eighth District over the past five years.

Ms. Allard highlighted the following in her report: 1) district court cases filed, 2) case filing data, 3) district court judicial hours needed, 4) district court judicial caseload as % of standard, 5) district court judicial officers needed, 6) district court age of active pending cases, 7) district court time to disposition, 8) juvenile court five-year summary, 9) juvenile court referrals, 10) juvenile court judicial hours needed, 11) juvenile judicial caseload as % of standard, 12) juvenile judicial officers needed, and 13) juvenile court time to disposition.

The following district court case filing data with changes between FY08 and FY12 was highlighted: 1) criminal, 5% increase; 2) general civil, 47% increase; 3) domestic, 1% decrease; 4) probate, 15% increase; 5) property rights, 3% increase; 6) tort, 0% change; 7) traffic, 1% decrease; 8) judgments, 69% increase; and 9) the projected number of cases to be filed for FY12 of 7,351 cases compared to 5,753 cases filed in FY08.

The district court judicial hours needed reflects a projection of 4,119 in FY12 compared to 3,454 in FY08.

The district court judicial caseload as a % of standard projection for FY12 is 149% of standard compared to 127% in FY08. When the assistance being provided by the Seventh District is factored in, the district court % of standard in the Eighth District is 110% and in the Seventh District is 93%.

The following juvenile court referral data with changes between FY08 and FY12 was highlighted: 1) felony, 4% decrease; 2) misdemeanor, 10% decrease; 3) infraction, 27% decrease; 4) status, 0% change; 5) traffic, 100% decrease; 6) contempt, 188% increase; 7) adult violations, 53% change; 8) child welfare proceedings, 49% increase; 9) voluntary relinquishment, 317% increase; 10) termination of parental rights, 17% decrease; and 11) the projected number of referrals for FY12 at 1,826 compared to 1,532 in FY08.

The juvenile court judicial hours reflects a projection of 2,321 in FY12 compared to 1,704 in FY08.

The juvenile court judicial caseload as % of standard projection for FY12 is 192% compared to 141% in FY08. The juvenile court % of standard in the Eighth District is 147% and in the Seventh District is 96%, when assistance from the Seventh District is factored in.

Senator Kevin Van Tassell and area county officials were welcomed to the meeting.

**11. SEVENTH AND EIGHTH DISTRICT UPDATE ON SHARING RESOURCES: (Russ Pearson)**

Mr. Pearson provided an update to the Council on an agreement made last year to share judicial resources between the Seventh and Eighth Districts. Before the agreement was made, the Seventh District was only providing partial judicial assistance in Duchesne County. As of last August, the Seventh District took over all district court cases in the Duchesne court.

He highlighted the following in his report: 1) the Eighth District is handling all cases in Roosevelt, 2) assistance from the Seventh District is handling all district court cases in the Duchesne court, 3) Judge Peterson will be handling the collection calendars in Roosevelt during June, 4) Judge Johansen, Seventh District juvenile judge, is providing assistance to the Eighth District Juvenile Court along with senior judge support.

Mr. Pearson mentioned that coordination of all court calendars has been challenging, but manageable. He expressed his gratitude to the Seventh District for all their support.

**12. EIGHTH DISTRICT UPDATE AND CITY/COUNTY GROWTH: (Judge Ed Peterson, and Area Government Representatives)**

Duchesne County Commissioner Kent Peatross, Duchesne County Attorney Stephen Foote, and Commissioner Darlene Burns offered comments supporting funding for additional judgeships.

Ms. Tammy Lucero, Economic Development Director, provided data relative to growth in the Uintah Basin.

Senator Kevin Van Tassell offer comments in support of funding for additional judgeships.

Judge Ed Peterson responded to the need for additional judgeships on behalf of the Eighth District and thanked area representatives for their support.

**13. JUSTICE COURT JUDGE CERTIFICATION: (Ray Wahl)**

Mr. Wahl presented the recommendations for justice court judge certification for Mr. Paul Larsen, Hyrum City Justice Court; Mr. Kenneth Jake Graff, Hildale City Justice Court; Mr. Trevor Layne Cook, Nibley City Justice Court; and Mr. Scott J. Mickelsen, Bluffdale City Justice Court.

**Motion:** Judge Stoney moved to approve the certification of Mr. Paul Larsen, Mr. Kenneth Jake Graff, Mr. Trevor Layne Cook, and Mr. Scott J. Mickelsen as justice court judges. Judge Hornak seconded the motion, and it passed unanimously.

**14. ADJOURN**

The meeting was adjourned.

## **COURTHOUSE TOUR**

A tour of the Vernal Courthouse took place.