

JUDICIAL COUNCIL MEETING

Minutes
Friday, August 14, 2015
Large Conference Room A
Matheson Courthouse
Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Justice Deno Himonas for Justice Thomas Lee
Justice Jill Parrish
Hon. Marvin Bagley
Hon. Ann Boyden
Hon. Glen Dawson
Hon. Paul Farr
Hon. Thomas Higbee
Hon. David Marx
Hon. David Mortensen
Hon. Reed Parkin
Hon. Ryan Harris for Hon. Randall Skanchy
Hon. Kate Toomey
John Lund, esq.

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jeni Wood
Nancy Sylvester
Dawn Marie Rubio
Debra Moore
Rick Schwermer
Tim Shea
Alison Adams-Perlac

GUESTS:

Judge Michele Christiansen

EXCUSED:

Justice Thomas Lee
Hon. Randall Skanchy

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Marx moved to approve the minutes from the July 20, 2015 Judicial Council meeting. Judge Toomey seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported on his recent trip to Omaha where he attended the Annual CCJ/COSCA meeting, and he recognized Justice Jill Parrish for her years of service on the Judicial Council.

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

Mr. Becker had nothing to report.

4. **LEGISLATIVE UPDATE: (Rick Schwermer)**

Chief Justice Durrant welcomed Mr. Schwermer to the meeting.

Mr. Schwermer highlighted the following in his legislative update: 1) discussion took place relative to the protective order system; 2) proposed legislation that would require the courts to post signs at each courthouse informing court patrons that court proceedings are being recorded; 3) proposed legislation, being considered by the Sentencing Commission and its

subcommittees, would classify all traffic Class C as misdemeanors; and 4) proposed legislation that would include a provision that would make clear that a person could not be placed in jail for failure to pay a fine.

5. 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:

There was nothing to report at this time.

Policy and Planning Meeting:

Judge Parkin deferred all discussion to the Rules for Final Action being considered later on the agenda and the Rules for Public Comment on the consent calendar.

Bar Commission Report:

Mr. Lund reported on the following items: 1) the Bar's Summer Convention held at the end of July, 2) discussion by the Bar Commission relative to middle-class litigants being represented in court, and 3) the release of the report on the future of legal practice.

6. RULES FOR FINAL ACTION: (Alison Adams-Perlac)

Chief Justice Durrant welcomed Ms. Adams-Perlac to the meeting.

The Policy and Planning Committee is recommending final action on the following rules: CJA 1-205 – Standing and ad hoc committees. The rule is being amended to add a professor of criminal law to the Model Criminal Jury Instructions Committee.

CJA 3-201 – Court commissioners. The rule is being amended to provide a public comment period for commissioner nominations and reappointments.

CJA 4-502 – Expedited procedures for resolving discover issues. The rule is being repealed as expedited procedures for resolving discovery issues are now covered by Rules 26, 30, 37 and 45 of the Utah Rules of Civil Procedure.

CJA 4-603 – Mandatory electronic filing. The rule is being amended to provide that a person seeking a hardship exemption may do so by filing a written request, in lieu of a form provided by the AOC, with the District Court Administrator.

Ms. Adams-Perlac reported that comments were received and considered on CJA 1-205, and CJA 3-201.

Motion: Mr. Lund moved to approve the recommended rule changes as proposed, with an amendment to the motion, requesting that rule CJA 4-502 not be used in the future. Judge Hornak seconded the motion, and it passed unanimously.

7. SENIOR JUDGE AND COMMISSIONER CERTIFICATIONS: (Nancy Sylvester)

Chief Justice Durrant welcomed Ms. Sylvester to the meeting.

Ms. Sylvester highlighted the following relative to senior judge and commissioner certifications: 1) certification process for senior judges was noted, 2) certification for commissioners was noted, 3) attorney survey information, 4) attorney and presiding judge/court executive survey results included in Council materials, 5) senior judge applications included in Council materials, and 6) end of term surveys for commissioners included in Council materials.

The following judges terms as senior judges will expire at the end of 2015, and they have applied for recertification: 1) Judge Judith Atherton – active senior judge, 2) Judge Kent Bachman – active senior judge, 3) Judge Russell Bench – active senior judge, 4) Judge Roger Dutson – active senior judge, 5) Judge Pamela Greenwood – active senior judge, 6) Judge Clint Judkins – active senior judge, 7) Judge Michael Lyon – active senior judge, 8) Judge Frederic Oddone – active senior judge, 9) Judge Lynn Payne – active senior judge, 10) Judge William Thorne – active senior judge, 11) Judge William Bohling – inactive senior judge, 12) Judge Richard Carr – inactive senior judge, 13) Judge Dennis Frederick – inactive senior judge, 14) Judge Allan Vail – inactive senior judge, and 15) Judge Jeril Wilson – inactive senior judge.

The following commissioners terms will expire at the end of 2015, and they are up for recertification: 1) Commissioner Patrick Casey, 2) Commissioner Catherine Conklin, and 3) Commissioner Joanna Sagers.

The survey results for the commissioners are in order, and certification is appropriate.

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

Motion: Judge Higbee moved to forward the recommendations, on behalf of the Council, to the Supreme Court to certify the commissioners up for certification and the judges applying for active and inactive senior judge status and waive the education hour requirement for Judge Michael Lyon to certify him as an active senior judge, as well. Judge Toomey seconded the motion, and it passed unanimously.

8. COURT COMMISSIONER CONDUCT COMMITTEE UPDATE: (Judge Michele Christiansen)

Chief Justice Durrant welcomed Judge Michele Christiansen to the meeting.

Judge Christiansen reported there have been six complaints filed against commissioners. Four of which were found to be without merit, while two are still pending.

Judge Christiansen was thanked for her update.

9. JUSTICE COURT JUDGE CERTIFICATIONS: (Rick Schwermer)

Mr. Schwermer recommended the certification of the following justice court judges who recently completed justice court judge orientation and passed the orientation exam: 1) Ms. Cyndee Probert, Fillmore City Justice Court; 2) Mr. Brook Sessions, Wasatch County Justice Court, and 3) Mr. Brian Brower, Clearfield City Justice Court.

Motion: It was moved and seconded to certify the following justice court judges: 1) Ms. Cyndee Probert, 2) Mr. Brook Sessions, and 3) Mr. Brian Brower. The motion passed unanimously.

10. EXECUTIVE SESSION

An executive session was held at this time.

11. ADJOURN:

The meeting was adjourned.