

JUDICIAL COUNCIL MEETING

Minutes
Friday, March 11, 2016
Rimrock Ballroom
Courtyard Marriott
St George, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Justice Thomas Lee
Hon. Marvin Bagley
Hon. Mark DeCaria
Hon. Paul Farr
Hon. Thomas Higbee
Hon. David Marx
Hon. David Mortensen
Hon. Mary Noonan
Hon. Reed Parkin
Hon. Randall Skanchy
Hon. Kate Toomey
John Lund, esq.

ESCUSED:

Hon. Ann Boyden

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Debra Moore
Dawn Marie Rubio
Rick Schwermer
Tim Shea
Kim Allard
Nancy Sylvester (by phone)
Brent Johnson (by phone)

GUESTS:

Angelina Tsu
Robert Rice
Rick Davis
Hon. John Walton
Hon. Noel Hyde
Russ Pearson
Shane Bahr
Comm. Joshua Faulkner

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

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

Motion: Judge Skanchy moved to approve the minutes from the February 22, 2016 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 the following items:

He acknowledged the passing of Judge John Anderson and Judge James Davis.

He expressed his gratitude to Mr. Dan Becker, Mr. Ray Wahl, Mr. Rick Schwermer, Mr. Derek Byrne, and Mr. Alyn Lunceford for all the work they accomplished, on behalf of the courts, during the 2016 Legislative Session.

3. ADMINISTRATOR’S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

Second District Court TCE. Mr. Larry Webster has been selected as the Second District TCE. Mr. Becker provided background information of his work experience.

Court Hackathon. A court hackathon was held at the Matheson Courthouse last weekend with close to 100 participants. The participants were challenged with creating programs that would provide better interface between the public and the courts.

Legislative Audit – Cash Bail System. Another audit of the cash bail system will be conducted. An entrance conference is scheduled for March 14.

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:

Judge Mortensen reported that a legislative report would be deferred to later in the meeting.

Policy and Planning Meeting:

Judge Parkin reported that there is a rule for final action to be considered later on the agenda.

Bar Commission Report:

Mr. Lund deferred the Bar Commission report to later in the meeting which will be provided by Ms. Angelina Tsu and Mr. Robert Rice.

**5. REMARKS FROM UTAH STATE BAR PRESIDENT/PRESIDENT ELECT:
(Angelina Tsu and Robert Rice)**

Chief Justice Durrant welcomed Ms. Angelina Tsu and Mr. Robert Rice to the meeting.

Ms. Tsu and Mr. Rice highlighted the following in their remarks: 1) educating attorneys on the importance of attorney surveys relative to judicial performance evaluations, 2) Affordable Attorneys for All, 3) Utah State Bar directory project, 4) Courthouse Steps Program, and 5) Utah State Bar amendments to Rule 14-807 – Law School Student and Law School Graduate Legal Assistance.

Ms. Tsu and Mr. Rice were thanked for their service to the Utah State Bar membership.

6. FIFTH DISTRICT UPDATE: (Judge John Walton, Judge Thomas Higbee, and Rick Davis)

Chief Justice Durrant welcomed Judge John Walton and Mr. Davis to the meeting.

Judge Walton and Mr. Davis highlighted the following in their update: 1) Fifth District Court juvenile judges continue to cover protective order hearings in St. George; 2) Judge Paul Lyman, Sixth District Court, continues providing coverage of district court matters in Beaver County; 3) the continued need for an additional judgeship in the Fifth District; 4) continued senior judge assistance is being provided; and 5) the seven-month case filing update reflects an increase of 13% in domestic case filings and an increase of 11% of general civil filings.

Judge Higbee highlighted the following in his update: 1) referrals are holding steady, and 2) access to available services to help families of youth in Iron County and Beaver continues to be a challenge.

Chief Justice thanked them for their Fifth District Court update.

7. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Noel Hyde and Debra Moore)

Chief Justice Durrant welcomed Judge Hyde to the meeting.

Judge Hyde highlighted the following in his update to the Council: 1) acknowledged all that Ms. Moore does on behalf of the Board of District Court Judges, 2) review of the judicial weighted caseload, 3) document management system changes relative to document numbering, 4) supportive of JRI efforts, and 5) proposed senior judge rule change.

Judge Hyde mentioned the Board of District Court Judges opposition to the proposed draft of the senior judge rule. The Board of District Court Judges voted, unanimously, at their March 10 meeting, to request the Council defer action on Rule 3-108 – Judicial assistance until their April meeting to allow the Board of District Court Judges to prepare input relative to the proposed rule change.

Judge Hyde was thanked for his update.

8. RULE FOR FINAL ACTION: (Judge Reed Parkin and Nancy Sylvester)

Judge Parkin noted that Ms. Nancy Sylvester would be representing the AOC in Ms. Adams-Perlac's stead.

Judge Parkin noted the charge of the Policy and Planning Committee as they reviewed the senior judge rule change.

The proposed amendments to Rule 3-108 – Judicial assistance pertaining to the use of senior judges includes two assignment categories: 1) exigent circumstances, and 2) non-exigent circumstances.

Mr. Shea provided an interpretation of the Supreme Court Rule 11-201 – senior judges, specifically, as it pertains to the assignment of a senior judge under paragraph 6. Any assignment beyond 60 days is considered an extraordinary circumstance, and the assignment rests with the chief justice.

It was noted that the intention of Rule 11-201 spoke to the perspective to designate and use a senior judge but not the authority and assignment in appointing a senior judge.

Discussion took place.

Motion: Judge Skanchy moved to defer action on Rule 3-108 – Judicial assistance until the April Council meeting to allow for the Board of District Court Judges to prepare a response, as well as, look at redrafting the rule as it relates to exigent circumstances. Justice Lee seconded the motion.

The motion was amended to defer action on Rule 3-108 – Judicial assistance until the April Council meeting to allow for the respective boards to prepare a response and invite them to present their perspectives at the April Council meeting for further discussion and action. The amendment to the motion was accepted, and it passed unanimously.

Mr. Becker reported that he will get input at the upcoming PJ/TCE/Clerk of Court meeting.

9. CHANGES TO CIVIL COVER SHEETS/CASE TYPES: (Kim Allard)

Chief Justice Durrant welcomed Ms. Allard to the meeting.

Ms. Allard highlighted the following changes made to civil case types: 1) changes regarding small claims, 2) general civil, 3) guardianship, and 4) torts.

Discussion took place relative to the asbestos case type. Ms. Allard noted that the asbestos case type could be left as is and a product liability case type created.

Motion: Judge Toomey moved to approve the changes in case types as proposed, with the exception of the asbestos case type. Judge Skanchy seconded the motion, and it passed unanimously.

10. TCE UPDATE: (Russ Pearson and Shane Bahr)

Chief Justice Durrant welcomed Mr. Russ Pearson and Mr. Shane Bahr to the meeting.

A handout providing details of the *Annual Trial Court Executive Report to the Judicial Council* was distributed to members of the Council.

Mr. Pearson and Mr. Bahr highlighted the following in their update to the Council: 1) mandatory e-filing in juvenile court, Phase I, effective December 1, 2015; 2) Phase II of e-filing in juvenile court is scheduled to deploy on August 1, 2016; 3) development of a method to send appeals records electronically to the Appellate Courts using Adobe Pro; 4) court staff continues scanning and uploading documents on behalf of pro se parties; 5) two Supervisory Skills Development Academies were held; 6) a Mid-Management Leadership Academy was held; 7) Academy attendees are encouraged to visit a monthly TCE meeting to expose them to management discussion on a state level; 8) 34 court executives, clerks of court, and chief probation officers have completed the Michigan State University (MSU) Judicial Administration Program with a graduation ceremony to be held on August 23; 9) employee survey; 10) addressing declining referrals by repurposing probation positions; 11) Phase I of the Duchesne County District Court construction has been completed; 12) design and planning of future court facilities in Provo, Carbon County and Manti was noted; 13) use of court resources when vacancies occur; and 14) addressing implications of the Justice Reinvestment Initiative at monthly meetings.

Questions were asked relative to evaluating the work of case managers in each judicial district. Responses were provided.

Mr. Becker expressed his appreciation to all the court executives for all they do on behalf of the courts.

11. LEGISLATIVE BUDGET UPDATE/INTERIM HIGHLIGHTS: (Daniel J. Becker and Rick Schwermer)

Mr. Becker express his appreciation to the AOC staff who provided support during the 2016 Legislative Session to include: 1) Mr. Rick Schwermer, 2) Mr. Ray Wahl, 3) Mr. Alyn Lunceford, and 4) Mr. Derek Byrne.

He highlighted the appropriation requests approved for the courts during the 2016 Legislative Session: 1) Fourth District Juvenile Court Judge and staff; 2) CORIS-AIS Rewrite; 3) juror/witness/interpreter FY 2015 supplemental; 4) parking facility for the new Provo courthouse; 5) compensation increases—2% COLA, 4.04% increase in judicial compensation; 6) health insurance cost increase; 7) retirement cost increase; and 8) employee 401K match.

The following court budget requests were not funded during the 2016 Legislative Session: 1) Fifth District Court Judge and staff, 2) court lease increases, 3) replace main line item court complex account with general fund, and 4) ongoing juror/witness/interpreter funding.

Mr. Becker mentioned that the FY 2017 budget will be discussed and approved at the April Council meeting.

Mr. Schwermer highlighted the following bills which were considered during the 2016 Legislative Session:

HB 160 Justice Court Qualifications Amendments, 3rd Substitute – Amended and Passed
HB 207 – Fourth District Court Juvenile Judge – Passed
HB 297 – Bail Bond Amendments – Amended, Merged, Failed
HB 377 Grandparents Rights Amendments – Passed
HB 381 1st Sub – Standards for Issuance of Summons – Fixed, Passed
HB 405 – Juvenile Sentencing Amendments – Subbed, Passed
SB 42 Public Notice of Court Recording – Passed
SB 45 – Compulsory Education Revisions 1st Sub – Failed
SB 79 4th Sub – Child Welfare Revisions – Passed
SB 90 4th Sub – Falsification of Information in a Protective Order Proceeding – Fixed,
Failed
SB 155 – Indigent Defense Commission 2nd Sub – Subbed, Passed
SB 187 Reclassification of Misdemeanors 1st Sub – Passed
SB 206 – Cohabitant Abuse Procedures Act Provisions – Passed
SB 209 – Fifth District Court Judge – Failed
SB 243 – Indigent Counsel in Private Parental Termination Cases fixed, merged into SB
155 - Passed
SB 158 – Juvenile Court and Child Abuse Amendments – Passed
SB 181 – Judiciary Amendments – Passed
HB 455 – Health Modifications – Passed

Motion: Judge Skanchy moved to enter into an executive session to discuss personnel and legal matters. The motion was seconded, and it passed unanimously.

12. EXECUTIVE SESSION

An executive session was held at this time.

Motion: Judge Skanchy moved to instruct the state court administrator to take appropriate action as discussed in the executive session. Judge Toomey seconded the motion. The motion passed with Judge Marx and Justice Lee abstaining from the vote.

13. ADJOURN

The meeting was adjourned.