

# JUDICIAL COUNCIL MEETING

**Minutes  
September 10, 2019  
Park City Sheraton  
Wasatch room  
1895 Sidewinder Drive  
Park City, Utah 84060  
12:30 p.m. – 4:00 p.m.**

*Chief Justice Matthew B. Durrant, Presiding*

**Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Kate Appleby, Vice Chair  
Hon. Brian Cannell  
Hon. Augustus Chin  
Hon. Ryan Evershed  
Hon. Paul Farr  
Justice Thomas Lee  
Hon. Mark May  
Hon. Kara Pettit  
Hon. Derek Pullan  
Hon. Brook Sessions  
Hon. Todd Shaughnessy  
Hon. John Walton  
Rob Rice, esq.

**AOC Staff:**

Cathy Dupont  
Michael Drechsel  
Shane Bahr  
Tom Langhorne  
Suzy Lee  
Meredith Mannebach  
Bart Olsen  
Jim Peters  
Neira Siaperas  
Nancy Sylvester  
Jeni Wood

**Guests:**

Hon. Gregory Orme, Court of Appeals  
Hon. Rick Romney, Provo City Justice Court

**Excused:**

Hon. Mary T. Noonan

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Chief Justice Durrant welcomed Bart Olsen as the new Human Resources Director and Meredith Mannebach as the new District Court Program Coordinator.

**Motion:** Judge Kate Appleby moved to approve the Judicial Council minutes and the Annual Budget meeting minutes from the August 23, 2019 meetings, as amended to state: the Bar voted to increase existing funding for the licensed lawyer program. Judge Mark May seconded the motion, and it passed unanimously.

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

Chief Justice Durrant thanked the Council members for holding the Council meeting in conjunction with the Annual Judicial Conference in Park City.

**3. ADMINISTRATOR’S REPORT: (Cathy Dupont)**

Cathy Dupont thanked Judge Augustus Chin, Judge Kara Pettit, and Judge Mark May for their membership on the ad hoc Budget & Finance Committee, which will hold their first meeting next week. The committee will address several topics, including:

- Clerical Weighted Caseloads
- Market Comparability Analysis
- Judicial Reallocation
- Alternate Funding for the Public Outreach/Education Coordinator
- Ongoing Funding for the Self-Help Center Attorneys
- Possible Funding for Drug Court Clerks

Ms. Dupont enjoyed volunteering at the Court’s Fan X booth, which hosted more than 2,000 visitors. This was a great outreach effort that provided the public with information about the courts and the programs that are offered.

The Liaison Committee, Michael Drechsel and Ms. Dupont are preparing for the 2020 Legislative Session by meeting with Legislative Leadership and legislators to discuss court budget priorities and to introduce Judge Mary Noonan as the permanent State Court Administrator.

Ms. Dupont briefly addressed the memo from the Juvenile and District Court Judges that summarized their proposal for cooperation and job-sharing of judges between juvenile and district court judges.

Judge Thomas Willmore announced his retirement for February 16, 2020 after serving more than 20 years on the bench.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Liaison Committee Report:**

Justice Thomas Lee noted Senator Todd Weiler may sponsor the court housekeeping bill, reallocation of judicial positions, and probate rules. Justice Lee requested any comments on the upcoming special session on the medical cannabis bill be directed to Mr. Drechsel.

**Policy and Planning Committee Report:**

Judge Derek Pullan said the committee is reviewing the Audit of Evidence Storage and Management Among Selected Utah District and Juvenile Courts and may propose rule amendments, as necessary to comply with the Audit findings.

**Bar Commission Report:**

Rob Rice said President Herm Olsen is enthusiastic about speaking at the Annual Judicial Conference. Mr. Rice discussed a recent court case that upheld a mandatory integrated bar. Some states, including Utah have an integrated mandatory Bar.

**5. BOARD OF APPELLATE COURT JUDGES REPORT: (Judge Gregory Orme)**

Chief Justice Durrant welcomed Judge Gregory Orme. Judge Orme stated this is the first time the Board has reported to the Judicial Council. The Appellate Board is unique in that it is the only Board that involves two court levels and the only Board where all 12 appellate judges are members. The Board has the responsibility to concur with the State Court Administrator's recommendation of the Appellate Court Administrator. The Board also has authority to approve or reject applicants for the appellate representation roster; this includes appeals from individuals whose roster application was rejected. The Board meets three times a year. In addition, the Board will begin reporting semi-annually to the Council.

The appellate courts look forward to the electronic filing of appellate documents.

Chief Justice Durrant thanked Judge Orme.

**6. BOARD OF JUSTICE COURT JUDGES REPORT: (Judge Rick Romney and Jim Peters)**

Chief Justice Durrant welcomed Judge Rick Romney and Jim Peters. Judge Romney reviewed the Boards membership.

The Board goals are:

- Improve communication
- Study justice court judicial and clerical compensation
- Develop a proposal for justice court reform

The justice court presiding judges will attend the annual presiding judges meeting tomorrow, staffed by Michael Drechsel. There is discussion about assistance from justice courts to the district courts.

Chief Justice Durrant thanked Judge Romney and Mr. Peters.

**7. EDUCATION COMMITTEE REPORT: (Tom Langhorne)**

Chief Justice Durrant welcomed Tom Langhorne. Mr. Langhorne appreciates the support of the Council. The Education Committee welcomed a few new members, including Bart Olsen and Professor James Hedges, Director of Continuing Adult Education at Westminster College.

The Education Department has two new positions: 1) a juvenile justice specialist position was created (due to HB239) and 2) an online training support coordinator was transferred from the HR Department to the Education Department.

There are 275 ongoing online courses. There will be a minimum 148 live in-person classes throughout the state. There will be approximately two webinars monthly. Thus far, each

webinar has exceeded 100 participants. Mr. Langhorne presented a new method for court employees to register for courses. Mr. Langhorne noted that under a long-standing policy with the bar, the Annual Judicial Conference would qualify for the Bar's CLE credit, as it has in the past. This year the Education Department conducted 34 statewide conferences. Mr. Langhorne was successful in getting a rule amended so that CLE credit reporting will move from an annual year to a fiscal year reporting cycle for judges.

Justice court judges will be invited to the Annual Judicial Conferences beginning in 2020. The Snowbird Resort has been removed from the Annual Judicial Conference rotation.

Chief Justice Durrant thanked Mr. Langhorne.

**8. COMMUNICATION MATRIX: (Cathy Dupont)**

Chief Justice Durrant welcomed Cathy Dupont. Ms. Dupont discussed the requests and recommendations received by court personnel, derived from the NCSC system review. It was noted that some of the recommendations received are already in place. This can be remedied with better communication. Ms. Dupont noted that some comments suggested that the Council should be more engaged when a subject-matter expert presents at a Council meeting. One recommendation was to have minutes available on the courts website. Many committees already post their minutes on the website. In an effort to provide better communication, the TCEs recently received a list of website that contain agendas, minutes, and meeting materials. Justice Lee thought the entities that report to the Council should have more focused reporting – such as a specific topic – rather than providing a summary of information. A recommendation was made that the Council provide an outline of expectations on what is being reported – such as challenges over next 12 months or staffing resources.

Judge Shaughnessy and Ms. Dupont will prepare points as to the direction on reporting. The Council recommended a standing invitation to Board Chairs (or designees), Trial Court Executives, and Clerks of Court to attend Council meetings, in person or by video.

Chief Justice Durrant thought the Council should consider inviting additional people to attend presentations to allow for a more thorough dialogue.

Chief Justice Durrant thanked Ms. Dupont.

**9. ASSIGNMENT TO THE STANDING COMMITTEE ON CHILDREN AND FAMILY LAW COMMITTEE - "A PERFORMANCE AUDIT OF CHILD WELFARE DURING DIVORCE PROCEEDINGS": (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant noted the Council requested this committee review the Audit. Ms. Dupont said a bill from the 2019 Legislative Session removed legislators from some committees, including this one. Senator Todd Weiler has expressed that he would like to continue his membership on this committee. Ms. Dupont noted that it would be helpful to have a legislator serve on the committee because some of the recommendations from the audit may require legislation or funding. The 2019 legislation included a provision that permits a committee to request that a legislator be allowed to continue to serve. That request is made by submitting a

letter to the Legislative Management Committee. The Council was comfortable with Judge Noonan making that request at the next Child Welfare Oversight Committee if the Chairs of the Standing Committee on Children and Family Law approved. Ms. Dupont will poll the chairs.

**10. SENIOR JUDGE CERTIFICATIONS: (Nancy Sylvester)**

Chief Justice Durrant welcomed Nancy Sylvester. The senior justice court judges below have terms of office that will expire on December 31, 2019. None of the senior judges has complaints pending before the Utah Supreme Court or the Judicial Conduct Commission.

**Justice court senior judges seeing recertification:**

<b>Active</b>	<b>Inactive</b>
Judge Norman Ashton	Judge Holly Barringham
Judge Marsha Thomas	Judge James Beesley
	Judge Lesley Scott

An executive session will be held to discuss one of the recertification requests.

Chief Justice Durrant thanked Ms. Sylvester.

**Motion:** Judge Shaughnessy moved to approve recertification of Judge Marsha Thomas (active), Judge Holly Barringham (inactive), Judge James Beesley (inactive), and Judge Lesley Scott (inactive), as amended to move Judge Norman Ashton to inactive status until he is in compliance with the education requirements. Judge Chin seconded the motion, and it passed unanimously.

**11. CERTIFICATION OF 2020 RETENTION JUDGES: (Nancy Sylvester)**

Chief Justice Durrant welcomed Nancy Sylvester. JPEC rule 597-3-4(2) provides that “No later than October 1st of the year preceding each general election year, the Judicial Council shall certify to the commission whether each judge standing for retention election in the next general election has satisfied its performance standards.” All judges listed below have met the standards as required by CJA Rule 3-101.

<b>Supreme Court</b>	<b>Court of Appeals</b>
Justice John A. Pearce	Judge Michele Christiansen Forster
	Judge Diane Hagen
	Judge Ryan Harris
	Judge David Mortensen
	Judge Gregory Orme
	Judge Jill Pohlman

<b>District Court</b>	<b>Juvenile Court</b>	<b>Justice Court</b>
Judge Matthew Bates	Judge Steven Beck	Judge Randy Birch
Judge Matthew Bell	Judge Craig Bunnell	Judge Michael Boehm
Judge M. James Brady	Judge Sherene Dillon	Judge Augustus Chin
Judge Robert Dale	Judge Susan Eisenman	Judge Trevor Cook
Judge Lynn Davis	Judge Michelle Heward	Judge John Cox

Judge Jared Eldridge	Judge Mary Manley	Judge Morgan Laker Cummings
Judge David Hamilton	Judge Kirk Morgan	Judge John Dow
Judge Anthony Howell	Judge Robert Neill	Judge Paul Farr
Judge Elizabeth Hruby-Mills	Judge Douglas Nielsen	Judge Gary Johnson
Judge Noel Hyde	Judge Jeffrey Noland	Judge Michael Junk
Judge Thomas Kay		Judge Brian Memmott
Judge Keith Kelly		Judge Trent Nelson
Judge Wallace Lee		Judge Gary Owens
Judge Thomas Low		Judge Reed Parkin
Judge Robert Lunnen		Judge Kelly Schaeffer-Bullock
Judge Clark McClellan		Judge Thad Seegmiller
Judge John Morris, Jr.		Judge Clay Stucki
Judge Kraig Powell		Judge George Vo-Duc
Judge Todd Shaughnessy		Judge John Ynchausti
Judge Andrew Stone		
Judge James Taylor		
Judge Jennifer Valencia		
Judge John Walton		
Judge Thomas Willmore		

Chief Justice Durrant thanked Ms. Sylvester.

**Motion:** Justice Lee moved to approve the above listed judges for the 2020 election term, as presented. Judge May seconded the motion, and it passed with Judge Shaughnessy, Judge Chin, and Judge Farr abstaining.

## 12. OLD BUSINESS / NEW BUSINESS

Justice Lee has been working with a task force including Judge Shaughnessy, Judge Farr, Judge Noonan and Michael Drechsel on the composition of the Council.

Topics addressed:

- Possibly change ad hoc Budget & Finance Committee to a permanent Council executive committee and establish/amend any rules or statute as necessary.
- Be more transparent and invite advocates to Council meetings.
- Encourage Boards to send a representative to each Council meeting, remotely or in person and a Council member attend Board meetings.
- May increase Council members by two additional judges (1 – district and 1 – juvenile) and establish/amend any rules or statute necessary. Considerations included:
  - at what point does the Council have too many members;
  - additional members may minimize the Council workload on various committees;
  - the size of Council room;
  - invite Judge Connors and Judge Chiara to participate in the Council composition discussion; and
  - tentatively propose that the Second District have a dedicated seat on the Council.

Currently, the Council consists of members who represent the following courts:

Supreme Court – Chair and 1 member	Fifth District – 1 member
Court of Appeals – Vice Chair	Third District Juvenile – 1 member
First District – 1 member	Eighth District Juvenile – 1 member
Third District – 2 members	Justice Courts – 3 members
Fourth District – 1 member	Utah State Bar – 1 member

Utah Code § 78A-2-104 states:

- (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall be composed of:
  - (a) the chief justice of the Supreme Court;
  - (b) one member elected by the justices of the Supreme Court;
  - (c) one member elected by the judges of the Court of Appeals;
  - (d) five members elected by the judges of the district courts;
  - (e) two members elected by the judges of the juvenile courts;
  - (f) three members elected by the justice court judges; and
  - (g) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing at the time of election by the Board of Commissioners.

Judge Walton noted the Fifth, Sixth, and Seventh Districts share a seat on the Council and rotate after one term each. Board of District Court Judges recently received approval by the Council to include a dedicated seat for the Fifth District. The Council agreed to allow Justice Lee continue his participation on the Council composition as an ex officio.

**13. RECOGNITION OF OUTGOING COUNCIL MEMBER: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant stated Justice Lee is the finest judicial thinker and writer and that is has been a great privilege to serve on the court with him. The Liaison Committee, with Justice Lee's leadership, made great strides to expand relationships with the legislature.

**14. EXECUTIVE SESSION**

**Motion:** Judge Appleby moved to go into an executive session to discuss a personnel matter. Judge Brian Cannell seconded the motion, and it passed unanimously.

**15. CONSENT CALENDAR ITEMS**

- a) **Forms Committee Forms.** 1022GE Acceptance of Service and the 1251FA Request to Register Foreign Domestic Order Approved without comment.
- b) **CJA Rule 4-202.02 and LPP Forms.** Approved without comment.

**16. ADJOURN**

The meeting adjourned.