

# JUDICIAL COUNCIL MEETING

## AGENDA

Tuesday, September 11, 2012

Silver Mine A

Park City Marriott

Park City, Utah

*Chief Justice Matthew B. Durrant, Presiding*

- 12:00 p.m. Lunch to be Served  
Recognition of Outgoing Members
1. 12:30 p.m. Welcome & Approval of Minutes . . . . Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 12:35 p.m. Chair's Report. . . . . Chief Justice Matthew B. Durrant
3. 12:45 p.m. Administrator's Report. . . . . Daniel J. Becker
4. 12:50 p.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant  
Liaison Committee. . . . . Justice Jill Parrish  
Policy and Planning . . . . . Judge Greg Orme  
Bar Commission. . . . . John Lund, esq.  
(Tab 2 - Information)
5. 1:05 p.m. Public Trust and Confidence Survey. . . . . Nancy Volmer  
(Information) Opinion Works
6. 1:50 p.m. Criminal E-Filing Update. . . . . Debra Moore  
(Information)
- 2:05 p.m. Break
7. 2:15 p.m. Guardian ad Litem Building Block Request. . . . . Rick Smith  
(Action)
8. 2:25 p.m. Judicial Workspace Application. . . . . Ron Bowmaster  
(Information) Brody Arishita
9. 2:50 p.m. Certification of Senior Judges and Court Commissioners. . . . . Tim Shea  
(Tab 3 - Action)
10. 3:00 p.m. Executive Session. . . . .
11. 3:30 p.m. Adjourn





**Consent Calendar**

*The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.*

1. Committee Appointment  
(Tab 4)

Tim Shea



# TAB 1

# **Budget and Planning Minutes**

**JUDICIAL COUNCIL  
Budget and Planning Session  
Minutes  
Thursday, August 16th, 2012  
Large Conference Room A  
Matheson Courthouse  
Salt Lake City, UT**

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

**ATTENDEES:**

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

**EXCUSED:**

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Diane Abegglen  
Lisa-Michele Church  
Jody Gonzales  
Debra Moore  
Rick Schwermer  
Tim Shea  
Ron Bowmaster  
Alyn Lunceford  
Nancy Volmer  
Kim Allard  
Derek Byrne  
Tom Langhorne

**GUESTS:**

Judge L.A. Dever  
Judge Kate Toomey  
Judge Janice Frost  
Judge Elizabeth Hruby-Mills  
Judge Katherine Bernards-Goodman  
Commissioner Michelle Blomquist  
Gary Syphus  
David Walsh  
Juliette Tennert, GOPB  
Judge Ed Peterson  
Russ Pearson, 8<sup>th</sup> Dist TCE  
Shane Bahr, 4<sup>th</sup> Dist TCE  
John Lund

**1. WELCOME: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant welcomed everyone to the meeting.

**Motion:** Judge Maughan moved to approve the minutes. Judge Steele seconded the motion, and it passed unanimously.

**2. GOVERNOR'S OFFICE OF PLANNING AND BUDGET ECONOMIC PRESENTATION: (Juliette Tennert)**

Chief Justice Durrant welcomed Ms. Juliette Tennert, Deputy Director, from the Governor's Office of Planning and Budget to the meeting. Ms. Tennert explained that Mr. Bigelow was called away at the last minute and that she would be making the presentation. Mr. Bigelow sends his regrets.

Ms. Tennert highlighted the following in her update to include: 1) key economic performance indicators, 2) State fiscal briefing, and 3) economic outlook.

She reviewed data to include: 1) United States employment and global insight forecast headlines, 2) Utah's level of employment from June 2002 to June 2012, 3) Utah's unemployment rate, 4) Utah's demographic profile, 5) Utah's fiscal situation, 6) Utah's economic outlook, and 7) Utah's budget outlook.

Ms. Tennert noted the following sources of funding and/or expenditures to monitor relative to the budget outlook: 1) forecast error/new revenue, 2) changes in risk, 3) response to federal policy, 4) unexpected one time sources, 5) public education growth and inflation, 6) Medicaid growth, 7) \$25 million structural imbalance, 8) federal reductions, and 9) pension costs.

Ms. Tennert was thanked for her update.

**3. OVERVIEW OF BUDGET PLANNING SESSION: (Daniel J. Becker)**

Mr. Becker noted that each member received the following information to review prior to the meeting: 1) FY 2014 Annual Budget Plan, 2) Navigating the Budget, and 3) Court Administrator's Review and Recommendations.

Mr. Becker reviewed the agenda for the budget and planning session. The budget and planning session will include: 1) fiscal trends and restricted fund reports, 2) data presentation overview to include justice court data and Eighth District specific data, 3) reports and requests from boards and committees, 4) Mr. Becker's analysis and recommendations, 5) discussion and voting on budget priorities, and 6) review of proposed legislation.

Following the budget and planning session, a Council meeting with an executive session, and brief Management Committee meeting with an executive session will be held.

**4. FISCAL TRENDS AND RESTRICTED FUNDS REPORTS: (Derek Byrne)**

Mr. Byrne reviewed the Utah Courts budget summary as it relates to the fiscal data and trends.

He highlighted the following restricted funds: 1) Children's Legal Defense Fund (CLDF), 2) Alternative Dispute Resolution, 3) Court Complex Funding, 4) Law Library Non-Lapsing Fund, 5) Security Fee, and 6) Justice Court Technology, Security, and Training Account.

#### **DATA PRESENTATION OVERVIEW: (Kim Allard)**

Ms. Allard updated the Council on the FY 2012 Caseload Review. Data for all court levels from FY 2002 – FY 2012 was included.

Supreme Court. There were 600 case filings in FY 2012, of which, 171 cases were retained for decision.

Court of Appeals. There were 956 case filings in FY 2012, of which, 429 were transferred from the Supreme Court.

District Court. There were 286,587 district court case filings in FY 2012 compared to 305,974 case filings in FY 2011 which represents a 6% decrease in case filings. She highlighted the district court case filings to include: 1) by case type, 2) by district, 3) reflecting changes over time, 4) judicial weighted workload, 5) workload vs. available hours per judicial officer, 6) and average days pending by case type and by district.

Justice Court. There were 551,023 case filings in FY 2012 compared to 577,543 in FY 2011 which represents a 5% decrease in case filings. She highlighted the justice court filings to include: 1) by case type, and 2) time to disposition.

Juvenile Court. There were 41,066 referrals in FY 2012 compared to 41,033 in FY 2011. She highlighted the juvenile court referrals to include: 1) by case type, 2) by district, 3) comparison of referrals and weighted hours, 4) judicial weighted workload, 5) workload compared to available hours per judicial officer, 6) delinquency and status offenses, 7) child welfare proceedings adjudication, and child welfare proceedings disposition.

Eighth District. Ms. Allard reviewed the percent of standard caseload data relative to the Eighth District Court and Eighth District Juvenile Court.

### **5. REPORTS AND BUDGET REQUESTS FROM BOARDS AND COMMITTEES**

#### **BOARD OF DISTRICT COURT JUDGES: (Judge Kate Toomey and Debra Moore)**

Chief Justice Durrant welcomed Judge Kate Toomey to the meeting.

The Board of District Court Judges received requests to fund judgeships in the Third, Fifth and Eighth Districts, and the request to obtain permanent funding for the five time-limited law clerk positions. The Board determined the priority for funding of a judgeship was in the Eighth District as they were functioning at 150% of standard, 113% after assistance from the Seventh District.

Judge Toomey expressed her gratitude for the help being provided by Seventh District Judge George Harmond and Judge Doug Thomas.

She spoke on behalf of the Board of District Court Judges request for funding of a judgeship in the Eighth District. She noted the need for a judge in the Eighth District as reflected by the judicial caseload data as well as their belief that the public is best served by judges who live in the district where the sit.

Judge Ed Peterson, Eighth District Presiding Judge, spoke on behalf of the judgeship request.

The request for permanent funding of the five time-limited law clerk positions is reflected by the Board's beliefs that law clerks are essential to high-quality written decisions that fulfill a key element of procedural due process by helping parties understand the reasons for the decision.

**BOARD OF JUVENILE COURT JUDGES: (Judge Janice Frost and Lisa-Michele Church)**

Chief Justice Durrant welcomed Judge Frost to the meeting.

Judge Frost highlighted the following: 1) Utah's juvenile court goals, 2) staff mission, 3) NCSC principles of judicial administration, 4) juvenile court current performance at a high-level of excellence, 5) juvenile court 'right sizes' resources, and 6) progress on 2012 Board goals.

The Board of Juvenile Court Judges requested funding for the following two items: 1) funding of a new judgeship in the Eighth Juvenile Court, and 2) support the Standing Committee on Technology's request for funding for the conversion to electronic records in juvenile court.

Judge Frost highlighted the following reasons for funding a judgeship in the Eighth Juvenile Court to include: 1) one judge/one family model—continuity of caseload is unique to juvenile court, 2) weighted caseload growth has been continuous over five years, currently at 194%, 179% after assistance from the Seventh District; 3) constitutional requirement that the judge shall stand for retention election only in the geographic division to which they are selected, 4) financial impact with the cost of senior judge assistance, and 5) human factors.

The juvenile court supports the Technology Committee's budget request for funding of \$160,000 to help accomplish the juvenile court's two year e-conversion plan. Judge Frost highlighted the following reasons in support of the funding request: 1) the benefits of using judicial workspace across court levels, 2) the synergy between shared resources, and 3) the opportunities for court-wide efficiencies.

The preference for placement of a juvenile judge in the Eighth District would be in Duchesne County. Discussion on the following options took place: 1) continued shared resources from the Seventh District, 2) use of senior judge assistance, and 3) sharing of a judgeship.

Questions were asked of the Board chairs relative to the judgeship requests.

**TECHNOLOGY STANDING COMMITTEE: (Ron Bowmaster)**

Chief Justice Durrant welcomed Mr. Bowmaster to the meeting.

The Technology Standing Committee is requesting the following building block requests: 1) funding to provide continued programming support with the move to e-filing, 2) provide permanent funding for continued implementation of a five-year computer replacement schedule, 3) one-time funding for an additional mobile smart podium for the St. George Courthouse, and 4) one-time funding to install VIACK video conferencing capabilities in Monticello and Castledale.

Mr. Bowmaster provided details relative to the Committee's requests.

**STANDING COMMITTEE – COURT FACILITIES PLANNING COMMITTEE:  
(Judge L.A. Dever and Alyn Lunceford)**

Judge Dever and Mr. Lunceford were welcomed to the meeting.

Judge Dever reported that the budget request to cover lease, O & M increases would be funded from existing resources.

The following requests were highlighted: 1) new Second District Juvenile Courthouse capital development request; and 2) Northern Utah County property purchase land bank request.



## **BASE AND SYSTEM-WIDE REQUESTS**

### **DIVORCE EDUCATION FOR CHILDREN PILOT PROGRAM: (Commissioner Michelle Blomquist and Judge Elizabeth Hruby-Mills)**

Commissioner Blomquist and Judge Hruby-Mills were welcomed to the meeting.

Background information on the current Divorce Education for Children Pilot Program was provided. The Divorce for Education Subcommittee was formed with the purpose of developing a pilot program for children of divorced parents. A two-hour pilot program being held in the Third and First Districts was developed for children ages 9-12.

The Divorce Education for Children Subcommittee is requesting a two-year mandatory pilot program in the First and Third Districts, with the goal of expanding the program statewide, in the future. Past funding sources were mentioned.

Mr. Becker's alternate funding recommendation was acknowledged. The Subcommittee is not opposed to funding alternatives. Discussion took place regarding the request for a mandatory pilot program.

### **JUROR/WITNESS/INTERPRETER SUPPLEMENTAL FOR FY 12 DEFICIT**

A request for supplemental funding to cover the deficit of \$114,700 for FY 2012 has been recommended.

### **TOBACCO SETTLEMENT FUNDS SHORTAGE**

A request for supplemental funding to cover the shortage of \$159,100 for drug courts due to loss of FY 2013 Tobacco Settlement Restricted Account Revenue has been recommended.

### **GUARDIAN AD LITEM (INFORMATION)**

This item has been deferred until the September Judicial Council meeting.

## **6. STATE COURT ADMINISTRATOR'S ANALYSIS AND RECOMMENDATIONS**

Mr. Becker reviewed several areas noted by Ms. Tennert to monitor relative to the State of Utah's budget outlook to include: 1) \$25 million structural imbalance, 2) education, 3) Medicaid, 4) pension and health increases, and 5) replenishing the Rainy Day Fund.

Mr. Becker reported that the budget requests received from the various boards, committees, and offices for ongoing funding in FY 2014 total close to \$2 million, excluding the Office of Guardian ad Litem. The current workload trends are reflective of more normal levels.

His recommendations are summarized as follows:

Child Divorce Education Pilot Program in the amount of \$413,100 for a two-year project.

An alternative would be to look at expansion of the program to the Second and Fourth Districts and find an ongoing funding source for the expansion. It was recommended to seek legislative approval to use \$50,000 from the Children's Legal Defense Fund to expand the child divorce education program.

IT Equipment Replacement Schedule. It was recommended to defer this request and use one-time funding.

AOC Attorney. Mr. Becker provided background information on what the AOC Legal Department consists of and the current needs of the department. It was recommended to defer this request to the April Council meeting as a one-time funding request.

Fifth District Smart Podium. It was recommended to eliminate this request from consideration.

Seventh District VIACK Installations. It was recommended to eliminate this request from consideration, and use one-time funding.

Facilities – Lease, O & M Increases. It was recommended to use one-time funding to cover the contractual obligations of contracts and leases.

Juror/Witness/Interpreter. It was recommended to advance a supplemental increase to cover the FY 2012 deficit in the budget.

Tobacco Settlement Funds. It was recommended to advance a supplemental increase to cover the shortage.

Eighth District Judgeship Requests for District and Juvenile Court. Mr. Becker provided insight relative to the judgeship requests. He highlighted options considered previously regarding the need for additional judicial support in the Eighth District: 1) consolidation of the Seventh and Eighth Districts, 2) redistricting of the Seventh District to include Duchesne County, and 3) sharing of resources between the Seventh and Eighth Districts. Discussion took place as to the advancement of one or both judgeship requests in the Eighth District.

Law Clerks. It was recommended to seek permanent funding for three law clerks. If this request is approved, the remaining two positions would need to be continued with one-time funds in the FY 2014 spending plan.

E-Filing Programming Funds. It was recommended to advance this request.

Second District – Ogden Juvenile Courthouse. It was recommended to advance this request.

Northern Utah County Land Bank Request. It was recommended to advance this request.

Mr. Becker made note to the Council of the need to monitor the request by Davis County to dissolve their justice court.

## **7. BUILDING BLOCK DISCUSSION AND JUDICIAL COUNCIL DECISIONS ON PROPOSED FY 2014 LEGISLATIVE REQUESTS**

Mr. Schwermer reviewed the process of prioritizing the budget requests. He mentioned the importance of assessing each request, reviewing the options, and making a decision on each request.

E-Filing Programming Funds. The Council agreed to submit this request as an appropriation building block.

**Motion:** Judge Steele moved to submit the request for e-filing programming funding in the amount of \$160,000. Judge Hornak seconded the motion, and it passed unanimously.

Fifth District Smart Podium. The Council agreed to eliminate this request.

**Motion:** Judge McCullagh moved to eliminate the request for the Smart Podium. Judge Harmond seconded the motion, and it passed unanimously.

Seventh District VIACK Installations. The Council agreed to use alternate funding for this request.

**Motion:** Judge Harmond moved to fund the Seventh District VIACK installations with alternate funding. Judge Atherton seconded the motion, and it passed unanimously.

Lease, O & M Increases. The Council agreed to use alternate funding for this request.

**Motion:** Judge Mortensen moved to fund this request with alternate funding. Judge Harmond seconded the motion, and it passed unanimously.

Juror/Witness/Interpreter Supplemental and Tobacco Settlement Funds Shortage. The Council agreed to submit this request as a mandate.

**Motion:** Ms. Nelson moved to submit the supplemental requests as mandates. Judge McCullagh seconded the motion, and it passed unanimously.

Implement Five-Year Computer Replacement Schedule. The Council agreed to defer this request to the April Council meeting and fund with one-time money.

**Motion:** Judge Maughan moved to defer this request to the April budget plan. Judge Stoney seconded the motion, and it passed unanimously.

AOC Attorney. The Council agreed to defer this request to the April Council meeting.

**Motion:** Judge Steele moved to defer this request to the April budget plan. Judge Maughan seconded the motion, and it passed unanimously.

Divorce Education for Children Pilot Program. The Council agreed to seek ongoing funding by requesting legislative approval for use of \$50,000 from the Children's Legal Defense Fund to expand the existing pilot program.

**Motion:** Ms. Nelson moved to approve the recommendation for funding from the Children's Legal Defense Fund to expand the existing pilot program to include the Second and Fourth Districts. Judge Maughan seconded the motion, and it passed unanimously.

Law Clerks. The Council agreed to defer the request for two law clerks (FTEs) to the April budget plan, and to submit a request as an appropriation building block for three existing law clerk (FTEs).

**Motion:** Judge Maughan moved to approve the recommendation to submit the request for permanent funding of three existing law clerks and defer funding of the remaining two law clerks until the April budget plan. Judge Mortensen seconded the motion, and it passed unanimously.

Eight District Judgeships – District Court and Juvenile Court.

**Motion:** Judge Hornak moved to advance the request for an Eighth District Court judgeship and an Eighth Juvenile Court judgeship with the priority towards a juvenile court judgeship. Judge Harmond seconded the motion, and it passed unanimously.

Second District – Ogden Juvenile Courthouse. The Council agreed to submit this request to the Building Board.

Northern Utah County Land Bank Request. The Council agreed to submit this request to the Building Board.

**Motion:** It was moved and seconded to submit the recommendations for the Second District – Ogden Juvenile Courthouse and the Northern Utah County Land Bank Request to the Building Board for consideration. The motion passed unanimously.

**Motion:** Judge Willmore move to prioritize the building block requests in the following order: 1) Eight Juvenile Court Judge, 2) Eighth District Court Judge, 3) Law Clerks (3 FTEs), 4) E-Filing Programming Funds, and 5) Increase CLDF Restricted Account Spending Authority/Divorce Education for Children Pilot. Judge McCullagh seconded the motion, and it passed unanimously.

Guardian ad Litem. This item has been deferred to the September Council meeting.

**FY 2014 BUILDING BLOCK REQUESTS Approved by the Judicial Council--8/16/12**

Request	\$ Requested	Judicial Council Action	Judicial Council Priority	Amount Requested
8th Juvenile Court Judge and Staff (3 FTEs)	353,300	Advance as Legislation	1st Legislative Bill Priority	353,300
8th District Court Judge and Staff (3 FTEs)	353,300	Advance as Legislation	2nd Legislative Bill Priority	353,300
Law Clerks (3 FTEs)	252,000	Building Block	1	252,000
E-filing Programming Funds	160,000	Building Block	2	160,000
Increase CLDF Restricted Account Spending Authority/Divorce Education for Children Pilot	50,000	Alternative Funding	3	50,000
Law Clerks (2FTEs)	168,000	Deferral	N/A	168,000
Implement 5-year Computer Replacement Schedule	250,000	Deferral	N/A	250,000
5th District Smart Podium - 1 Time	15,000	Elimination	N/A	-
7th District VIACK Installations - 1 Time	6,800	Alternative Funding	N/A	6,800
AOC Attorney (1 FTE)	102,800	Deferral	N/A	102,800
Lease, O & M Increases	13,300	Alternative Funding	N/A	-

**SUPPLEMENTALS-FY 2013**

Juror /Witness/Interpreter Supplemental for FY 12 Deficit	114,700	Building Block	1	114,700
Tobacco Settlement Funds Shortage	159,100	Building Block	2	159,100

**Contracts & Leases--Judicial Council Recommendations Forwarded to the Building Board**

Request	Type	Amount
2nd Juvenile District Ogden Courthouse	Capital Development	30,000,000
Northern Utah County Land Bank Request	Land Bank	1,750,000

**8. PROPOSED LEGISLATION**

Mr. Schwermer reported that the Liaison Committee met prior to the Budget and Planning Session. He provided information relative to the proposed legislation. He highlighted the following legislation to be considered: 1) HB 231, Guardianship Amendments; 2) 77-20-4 – bail to be posted in cash, by credit card or debit card, or written undertaking; 3) 77-7-20 – Service of citation on defendant – filing in court – electronic filings – contents of citations; 4) 78A-10-105 – Senate confirmation of judicial appointments – courts of record; and 5) 77-40-107 – Petition for expungement – prosecutorial responsibility – hearing – standard of proof – exception.

The proposed legislation relative to bail will be referred to the Boards for further discussion and input.

The draft change to the proposed legislation relative to service of citation was approved.

**Motion:** Judge McCullagh moved to approve the recommendations provided by the Liaison Committee. Judge Steele seconded the motion, and it passed unanimously.

**9. ADJOURN**

The meeting was adjourned.

# **Council Minutes**

# JUDICIAL COUNCIL MEETING

## Minutes

Thursday, August 16, 2012

Large Conference Room A

Matheson Courthouse

Salt Lake City, UT

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

### ATTENDEES:

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

### STAFF PRESENT:

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

### EXCUSED:

### GUESTS:

John Lund, esq.

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

Chief Justice Durrant welcomed everyone to the meeting.

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

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

Chief Justice Durrant reported on the following:

He updated the Council on communication with the Judicial Performance Evaluation Commission highlighting the following: 1) referenced a letter sent on behalf of the judiciary to Mr. Schofield, Commission Chair; and 2) discussion that took place at the August 14 JPEC meeting. Members of the Council's JPEC workgroup and Mr. Schwermer provided comments on the meeting.

Chief Justice Durrant reported that he addressed members of the Utah State Bar at their annual meeting in July with the focus being on the work and accomplishments of the Judicial Council.

**3. RECOGNITION OF OUTGOING MEMBER: (Chief Justice Matthew B. Durrant)**  
Chief Justice Durrant recognized and thanked Ms. Lori Nelson for her service and contributions to the Judicial Council.

Ms. Nelson provided a few comments to the Council.

Mr. John Lund was recognized as the newest member of the Council who will fill the vacancy left by Ms. Nelson as the Utah State Bar representative in September.

**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:***

The legislative issues were discussed during the Budget and Planning Session.

***Policy and Planning Meeting:***

No meeting was held in August. The Committee plans to meet in September.

***Bar Commission Report:***

Ms. Nelson reported on the following:

The Bar Commission approved the modest means referral service which will connect under-employed lawyers with members of the public who cannot afford legal services and might not otherwise qualify for pro bono.

Magistrate Judge Samuel Alba and Judge David Nuffer will receive special service awards at the Bar's Fall Forum. Other lifetime and special recognition awards are being considered as well.

The Commission voted on Mr. John Lund to replace Ms. Nelson on the Council as the Bar's representative.

The Commission has approved a \$50,000 contribution to the SJ Quinney Law School remodel. The contribution will be funded from a portion of the Bar dues. A letter will be sent to the Bar membership relative to the contribution with an opt-out provision for members not wanting to contribute.

**5. JUSTICE COURT MERGERS: MENDON/NIBLEY: (Rick Schwermer)**

Mr. Schwermer reported that a new method for reviewing details relative to the creation and dissolutions of justice courts is being tested. A form has been developed to aid in addressing issues relative to inter-local agreements.

The request for justice court merger by Mendon/Nibley was prepared on the new form and distributed to members of the Council. Mr. Schwermer provided background information on Mendon and Nibley. They are requesting a waiver of the one-year waiting period with a September 1 effective date. Discussion took place.



**Motion:** Judge McCullagh moved to authorize the dissolution of the Wellsville/Mendon Courts and the inter-local agreement between Mendon/Nibley effective September 1, 2012. Ms. Nelson seconded the motion, and it passed unanimously.

**Motion:** Judge Hornak moved to enter into an executive session to address a personnel issue. Judge McCullagh seconded the motion, and it passed unanimously.

**6. EXECUTIVE SESSION:**

An executive session was held at this time.

**Motion:** Ms. Nelson moved, based upon the prior decertification of the Taylorsville Drug Court and the fact that it was communicated to the court and information recently has been received to the effect that this court continues to operate, to refer it to the Judicial Conduct Commission to investigate the matter further. Judge Hornak seconded the motion, and it passed unanimously.

**7. ADJOURN**

The meeting was adjourned.

# TAB 2

# **Management Committee Meeting**

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE  
MINUTES**

**Thursday, August 16th, 2012  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah**

**MEMBERS PRESENT:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Kimberly Hornak, vice chair  
Hon. Judith Atherton  
Hon. George Harmond  
Hon. John Sandberg

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Diane Abegglen  
Jody Gonzales  
Rick Schwermer  
Tim Shea

**EXCUSED:**

**GUESTS:**

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

Chief Justice Durrant welcomed everyone to the meeting. After reviewing the minutes, the following motion was made:

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

**2. COMMITTEE APPOINTMENTS: (Rick Smith)**

The Committee on Self-Represented Parties has a vacancy for an Appellate Court clerk. The Appellate Court administrator recommends Ms. Lisa Collins to fill the vacancy.

**Motion:** Judge Sandberg moved to approve the recommendation of Ms. Lisa Collins to fill the vacancy for an Appellate Court clerk on the Committee on Self-Represented Parties and place it on the September Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

**3. MATHESON COURTHOUSE SECURITY REVIEW: (Carol Price)**

This item has been deferred until the October meeting.

**4. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant reviewed the proposed Council agenda for the September 11 Council meeting.

**Motion:** Judge Hornak moved to approve the September Council agenda as amended. Judge Harmond seconded the motion, and it passed unanimously.

**Motion:** It was moved and seconded to enter into an executive session to discuss a personnel issue. The motion passed unanimously. Chief Justice Durrant recused himself from the executive session.

**5. EXECUTIVE SESSION**

An executive session was held at this time.

**6. ADJOURN**

The meeting was adjourned.

# **Liaison Committee Meeting**

**JUDICIAL COUNCIL LIAISON COMMITTEE**

**DRAFT MINUTES**

**Thursday - August 16, 2012**

**7:30 a.m.**

**Conference Room B/C**

***Hon. Jill Parrish, Presiding***

**MEMBERS PRESENT:**

Hon. Brendan McCullagh  
Hon. David Mortensen  
Hon. Jill Parrish  
Hon. Larry Steele

**STAFF PRESENT:**

Daniel Becker  
Lisa-Michele Church  
Brent Johnson  
Debra Moore  
Richard Schwermer  
Tim Shea  
Ray Wahl  
Sandy Iwasaki

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**1. WELCOME: (Justice Jill Parrish)**

Justice Parrish welcomed everyone to this meeting.

**2. 77-20-4. BAIL TO BE POSTED IN CASH, BY CREDIT OR DEBIT CARD, OR WRITTEN UNDERTAKING:**

After some discussion about the proposed amendment and its implications, the following motion was made.

***Motion:*** Judge Steele moved to seek more input from the Boards of Judges before a recommendation is made on the proposed amendment. Judge Mortensen seconded the motion, and the motion carried unanimously.

**3. 41-1a-1303.01. DRIVING WITHOUT REGISTRATION OR CERTIFICATE OF TITLE - CLASS C MISDEMEANOR:  
41-1a- 1303.02. DRIVING WITHOUT REGISTRATION OR CERTIFICATE OF TITLE - CLASS B MISDEMEANOR:**

After some explanation and discussion, the following motion was made.

***Motion:*** Judge McCullagh moved to amend the proposed legislation by removing lines 10, 11 and 12. Judge Mortensen seconded the motion, and the motion carried unanimously.

***Motion:*** Judge McCullagh moved to recommend advancing the proposed legislation as amended. Judge Mortensen seconded the motion, and the motion carried unanimously.

**4. 77-7-20. SERVICE OF CITATION ON DEFENDANT - FILING IN COURT - ELECTRONIC FILING - CONTENTS OF CITATIONS:**

The committee discussed the concept that the defendant should receive a printed copy of the citation, but the citation data should be filed with the court by transmitting the data electronically to the court.

***Motion:*** Judge Steele moved to have Mr. Shea rework the language of the draft legislation to reflect the concept that the defendant should receive a paper copy of the citation, but the citation data rather than a paper copy of the citation shall be filed electronically with the court. Judge McCullagh seconded the motion, and the motion carried unanimously.

**5. 78A-10-105. SENATE CONFIRMATION OF JUDICIAL APPOINTMENTS - COURTS OF RECORD:**

Mr. Shea explained the reason for the proposed amendments. The committee discussed this proposed draft legislation.

***Motion:*** Judge Steele moved to recommend advancing the proposed amendments. The motion died for lack of a second.

**6. 77-40-107. PETITION FOR EXPUNGEMENT - PROSECUTORIAL RESPONSIBILITY - HEARING - STANDARD OF PROOF - EXCEPTION:**

Mr. Shea advised the committee that the proposed amendment specifies that if the court receives an objection concerning a petition for expungement, the court shall set a hearing date and shall notify the petitioner and the prosecuting attorney of the date for the hearing. The prosecuting attorney will be required to notify the victim.

***Motion:*** Judge Mortensen moved to recommend this amendment for the housekeeping bill. Judge McCullagh seconded the motion, and the motion carried unanimously.

**7. H.B. 231 - GUARDIANSHIP AMENDMENTS:**

Mr. Shea advised the committee that this proposed legislation is much the same as last year's substitute bill that had been proposed, but that had failed during the session. He provided some of the highlights of the bill as follows:

- changes the definition of what it means to be "incapacitated" from an entirely cognitive definition to a functional definition;
- provides an extensive definition of "developmental disability" to exempt parents of adult children who have had a developmental disability from the annual reports;



- recognizes the judge's discretion to direct the scope of inquiries by court visitors;
- refines the definition of what it means to be a "specialized care professional" as someone who is certified by the National Guardianship Association;
- removes accreditation by the Division of Occupational and Professional Licensing as a health care provider from the definition of a specialized care professional; and
- requires the guardian to file a management plan by court rule or by court order.

***Motion:*** Judge McCullagh moved to recommend advancing this proposed legislation. Judge Mortensen seconded the motion, and the motion carried unanimously.

**8. 75-1-110. COST OF LIVING ADJUSTMENT OF CERTAIN DOLLAR AMOUNTS:**

Mr. Shea indicated that the Management Committee has suggested that this amendment is needed.

***Motion:*** Judge Steele moved to recommend this amendment for the housekeeping bill. Judge McCullagh seconded the motion, and the motion carried unanimously.

There being no other business to discuss, the meeting adjourned.

# TAB 4



## Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

### MEMORANDUM

Daniel J. Becker  
State Court Administrator  
Raymond H. Wahl  
Deputy Court Administrator

**To:** Management Committee  
**From:** Tim Shea *T. Shea*  
**Date:** August 8, 2012  
**Re:** Committee appointments

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The Committee on Self-represented Parties has a vacancy ready to be filled. The committee identifies the needs of self-represented parties and recommends and coordinates resources to meet those needs.

Due to Pat Bartholomew's tragic death, the committee has a vacancy for an appellate court clerk. That community is very small, and the appellate court administrator recommends Lisa Collins. Ms. Collins has been the clerk of the Court of Appeals for many years and is serving as the interim clerk of the Supreme Court.

The mission of the Utah judiciary is to provide the people an open, fair,  
efficient, and independent system for the advancement of justice under the law.

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