

# JUDICIAL COUNCIL MEETING

## Minutes

May 20, 2019

Matheson Courthouse  
Council Room  
450 S. State St.  
Salt Lake City, Utah 84111  
9:00 a.m. – 4:40 p.m.

*Chief Justice Matthew B. Durrant, Presiding*

### **Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Kate Appleby, Vice Chair  
Hon. Brian Cannell  
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.

### **Excused:**

Hon. Augustus Chin

### **Guests:**

Jacqueline Carlton, Office of Legislative Research  
Travis Erickson, TCE Seventh District  
Hon. Dennis Fuchs, Senior Judge  
Robert Yeates, GAL Oversight  
Hon. David Hamilton, Second District Court  
Hon. Barry Lawrence, Third District Court  
Hon. David Mortensen, Court of Appeals  
Justice Paige Petersen, Supreme Court  
Russ Pearson, TCE Eighth District  
Peyton Smith, TCE Third District  
Aimee Thoman, Judicial Conduct Commission  
Joseph Wade, Office of Legislative Research  
Dr. Jennifer Yim, JPEC

### **AOC Staff:**

Hon. Mary T. Noonan  
Ray Wahl  
Shane Bahr  
Heidi Anderson  
John Bell  
Michael Drechsel  
Cathy Dupont  
Todd Eaton  
Geoff Fattah  
Kim Free  
Alisha Johnson  
Brent Johnson  
Tom Langhorne  
Jim Peters  
Nathanael Player  
Clayson Quigley  
Nini Rich  
Neira Siaperas  
Stacey Snyder  
Nancy Sylvester  
Chris Talbot  
Jessica Van Buren  
Libby Wadley – by phone  
Keisa Williams  
Jeni Wood

**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 Joseph Wade and Jacqueline Carlton from the Office of Legislative Research and General Counsel.

**Motion:** Judge Kate Appleby moved to approve the Judicial Council minutes from the April 22, 2019 meeting, as presented. Judge John Walton seconded the motion, and it passed unanimously.

**2. OATH OF OFFICE – JUDGE BRIAN CANNELL AND JUDGE BROOK SESSIONS: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant welcomed and administered the Judicial Council Oath of Office to Judge Brian Cannell and Judge Brook Sessions.

**3. APPOINTMENT OF JUDICIAL COUNCIL EXECUTIVE COMMITTEE: (Judge Mary T. Noonan)**

After brief discussion, Judge Mary Noonan recommended the executive committee memberships as shown below. Judge Brian Cannell will not be assigned to an executive committee at this time.

**Management Committee**

Chief Justice Durrant, Chair  
Judge Kate Appleby  
Judge Todd Shaughnessy  
Judge Mark May  
Judge Paul Farr

**Liaison Committee**

Justice Thomas Lee, Chair  
Judge Kara Pettit  
Judge Brook Sessions  
Judge Ryan Evershed

**Policy & Planning Committee**

Judge Derek Pullan, Chair  
Judge Augustus Chin  
Judge John Walton  
Judge Ryan Evershed  
Rob Rice

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

Chief Justice Durrant noted the Appellate Court Conference was exceptional.

**5. ADMINISTRATOR’S REPORT: (Judge Mary T. Noonan)**

Judge Mary Noonan announced this was Ray Wahl’s last Judicial Council meeting. Judge Noonan thanked the Education Department for the well-prepared and forward-thinking spring conferences. Anonymous comments received from the 2018 Human Resources survey were sent to the TCEs.

Judge Noonan reviewed preliminary FY19 district and juvenile judicial weighted caseloads. The judicial weighted caseload decreased in the Third District and increased in the

Fifth District. Neira Siaperas said there is concern that the weighted caseload formula for Juvenile Court judges has not been updated since 2010. Ms. Siaperas stated that the Board of Juvenile Court Judges will advance a request for an update in the near future.

**6. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Liaison Committee Report:**

Justice Thomas Lee said the next Liaison meeting is scheduled for May 29.

**Policy and Planning Committee Report:**

Judge Derek Pullan said the work of the committee is reflected in the minutes and on the Council agenda.

**Bar Commission Report:**

Rob Rice said Judge John Baxter was selected to receive the Utah Bar “Judge of the Year” Award.

**7. FY2020 BUDGET PLAN: (Judge Mary T. Noonan, John Bell, and Ray Wahl)**

It is the responsibility of the Judicial Council to prioritize requests for fiscal year 2019 carry-forward funds and adopt a spending plan for fiscal year 2020. There are four funding sources: 1) Unrestricted funding (general fund); 2) Restricted funding (includes nonjudicial adjustment fund, Guardian ad Litem account, and others); 3) Dedicated credits; and 4) Federal funds. Mr. Bell noted turnover savings can be either ongoing or one time funds. Mr. Bell explained that the Finance Department receives input from the AOC, court level executives, Boards, and other court personnel, and then reviews the requests with the State Court Administrator. The requests are then brought to the Council for a decision.

Neira Siaperas said the Interstate Compact for Juveniles (ICJ) Operations funding request of \$24,000 includes: 1) \$17,000 annual dues; 2) \$3,000 training and travel expenses; and 3) extradition expenses.

Kim Free addressed the Learning Management System (LMS), which is the justice court clerks’ certification program software request. This will replace the online training program currently offered to all court clerks, including justice court clerks. The software request is the first phase; there may be further requests at a later time.

Mr. Langhorne said the Skills and Middle Management academies have both been very successful. The Court Skills Academy for Non-Supervisory Employees is used to prepare current employees for management. The Middle Management Academy is for managers who may advance to a higher position.

Keisa Williams explained the PC/PSA Programming consists of five requests: 1) \$51,000 Harvard Study; 2) \$255,000 NLET; 3) \$36,000 DMF; 4) \$15,000 Xchange; and 5) \$35,700 for a 10% contingency.

Heidi Anderson explained the five requests from the IT Department in priority order: 1) \$470,000 FY2020 extended workforce; 2) \$193,067 switch replacement; 3) \$250,000 5-year computer replacement schedule; 4) \$450,000 audio/visual courtroom replacement; 5) \$451,000 one time and \$48,000 ongoing redundancy site in St. George (Council ranked this #3 in August 2018); 6) \$71,780 MS Office software; 7) \$161,000 replace wireless LAN controllers; and 8) \$18,000 VOIP phone replacements. Ms. Anderson said the redundancy site in St. George has been requested in the past and is very important, however, IT work is backlogged and a larger workforce would alleviate overtime being paid to current employees.

Travis Erickson noted because the Moab Courthouse does not have a security x-ray machine, all searches are done by hand.

Nathanael Player stated the Self-Help Center is currently open Monday through Thursday. If this request is approved, the Center will be open Monday through Friday.

Peyton Smith noted there are four drug courts in Salt Lake that judges' clerks assist with because there are no dedicated drug court clerks. This impacts clerical workload and consistency.

Mr. Smith thanked the Council for their support with salary increases for judicial assistants. The TCEs approved giving employees a percentage raise to address compression issues, based on their years of service with the courts, not the years of service in their current position. This increase will be in addition to the COLA increase. Mr. Wahl thanked the TCEs for their incredible work on this complicated process.

Mr. Wahl stated Legal Aid, located in the Matheson Courthouse, has \$150,000 Legislative approved funds that will pass-through the court's budget.

Mr. Wahl said career track increases for clerical and probation employees is estimated to be \$400,000 in ongoing funds. A market comparison study was completed for the AOC, law clerks, interpreters, mediators, etc. Mr. Wahl explained that each year a market comparison study is conducted on one of the three groups (1<sup>st</sup> group: clerical; 2<sup>nd</sup> group: probation; and 3<sup>rd</sup> group: everyone else including, AOC, law clerks, interpreters, mediators etc.). The goal of the market comparison study is to bring wages within 10% of the market.

Nini Rich presented a need for a halftime mediator (\$54,800 ongoing funds). Caseloads that were referred by the courts have increased 10% and due to the tight statutory timelines, there are not enough mediators to cover the current workload. Ms. Rich confirmed that if the ongoing funds are not approved next year she would either seek one time funds again or lay off the employee.

Jessica Van Buren will conduct a survey to create a list of judges that prefer hardbound Utah Code books. Each set of Code books cost \$700 for annotated and \$200 for unannotated.

Mr. Bell summarized the following budget structure for the Council and the requests and available funding.

- BAAA – Administration \$139,142,500
  - BBAA – Grand Jury \$800
  - BCAA – Contracts & Leases \$21,386,800
  - BDAA – Jury, Witness, and Interpreter \$2,640,900
  - BEAA – Guardian ad Litem \$9,069,400
- Total \$172,240,400**

The BAAA category is comprised of 80% personnel, 16.95% current expense, .46% other/pass-through, .26% in-state travel, and .12% out-of-state travel.

**Funding available to allocate or adopt:**

**New funding**

Appropriation bills

Fiscal notes identified for a specific use (for adoption only)

Fiscal notes allocated for general use

**One time carry forward from prior year (from FY 2019 into FY 2020)**

Turnover savings from vacant positions – one time savings

Turnover savings from salary differences when a position is filled at a lower rate – ongoing savings (realized in FY 2019)

**Ongoing Turnover Savings (to be realized in FY 2020)**

Savings for a full fiscal year from salary differences when a position is filled at a lower rate (filled in FY 2019 –realized beginning in FY 2020)

Total Available Funds		\$ 2,872,300	\$ 3,192,500		
#	Budget Obligations	One Time	Ongoing	One Time	Ongoing
	JA Recruitment and Retention		\$ 900,000		\$ 900,000
	Third Judicial District Judge Amendments		\$ 905,000		\$ 905,000
	Court Security		\$ 500,000		\$ 500,000
	Expungement Act Amendments (for IT work)	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000
	Domestic Violence & Family Law Legal Aid		\$ 150,000		\$ 150,000
#	Previous Council Priorities Unfunded by Legislature				
1	JA Recruitment & Retention (Unfunded balance)		\$ 520,000		\$ -
2	3rd District: Judicial Officers and staff (Unfunded Balance, requires new legislation)		\$ 904,900		\$ -
3	Create redundancy site in St George ** (IT current rank is 5)	\$ 451,000	\$ 48,000	\$ 451,000	\$ -
4	Self Help Center-Bring 5 employees to full time		\$ 97,400	\$ 97,400	\$ -
5	3rd District Drug Court Clerk-JA II scale		\$ 69,300		\$ -
#	Council Deferrals from August 2018				
	4th District: Support Services Coordinator (1 FTE)		\$ 73,400		\$ -
	5 year computer replacement schedule (IT current rank is 3)		\$ 250,000	\$ 250,000	
	Implement Audio/Visual courtroom replacement ** (IT current rank is 4)		\$ 450,000		
	IT 8: VOIP upgrades ** (IT current rank is 8)	\$ 18,000		\$ -	
	ADR: Child Welfare Mediator (.5 FTE)	\$ 54,800		\$ 54,800	

#	Carryforward spending requests ("X" indicates this item has traditionally been funded)				
X	Market Comp Analysis		\$ 684,000		\$ 137,500
	Career Track Advancement		\$ 400,000		\$ 400,000
X	Utah Code & Rules for judges	\$ 54,069		\$ 54,069	
X	Divorce Ed for Children Video (carry forward of remaining grant balance)	\$ 18,000		\$ 18,000	
X	Employee incentive awards (Awards and taxes)	\$ 260,000		\$ 260,000	
X	Employee educational assistance	\$ 42,000		\$ 42,000	
X	Secondary language stipend	\$ 65,000		\$ 65,000	
X	Supplemental Judicial operations budget	\$ 70,000		\$ 70,000	
X	Contract site Adjustment Funds	\$ 10,000		\$ 10,000	
X	Grant matching Funds	\$ 50,000		\$ 50,000	
X	Time-limited Law Clerks ( 2 FTEs)	\$ 190,650		\$ 190,650	
X	ICI Operations Funding (dues/Training and travel/Extradition)	\$ 24,000		\$ 24,000	
X	Access & Fairness Survey (will require an additional \$7,000 in FY 2021)	\$ 10,000		\$ 10,000	
	Learning Management System (Education rank 1)		\$ 50,000		\$ -
	Court Skills Academy (Education rank 2)	\$ 12,000		\$ 12,000	
	Middle Management Leadership Academy (Education rank 3)	\$ 12,000		\$ 12,000	
	Extended Workforce for FY 2020 (IT current rank is 1)	\$ 470,000		\$ 243,614	
	Switch Replacement (IT current rank is 2)	\$ 193,067		\$ 193,067	
	MS Office Upgrades (IT current rank is 6)	\$ 71,780			
	Replace Wireless LAN Controllers (IT current rank is 7)	\$ 161,000		\$ -	
	Moab X-Ray	\$ 22,000		\$ 22,000	
	PC/PSA Programming	\$ 392,700		\$ 392,700	
	<b>Reserve</b>	\$ 250,000		\$ 150,000	
	<b>Total Requested</b>		<b>\$ 3,102,066</b>	<b>\$ 6,202,000</b>	
	<b>Balance Remaining</b>				<b>\$ - \$ -</b>

**LEGEND**

\*\*=August 2018 figure updated for current costs

*Items italicized in blue represent items prioritized or deferred by the Council in August 2018*

*Items in red represent funding identified by the Legislature for a specific purpose*

**Motion:** Judge Shaughnessy moved to approve FY2020 budget requests categorized with an “x” in the table above indicating the item is traditionally funded, for a total of \$793,719 in one time funds, with the exception of the Market Comparability Analysis. Justice Lee seconded the motion with the amendment that Jessica Van Buren create an updated list of Utah Code & Rules books for judges, and it passed unanimously.

**Motion:** Judge Pullan moved to approve the request to create a redundancy site in St. George for \$451,000 in one time funds (original request \$451,000 one time and \$48,000 ongoing funds). Judge Evershed second, and it passed with Judge Pettit opposed.

**Motion:** Judge Farr moved to approve \$160,000 of the extended workforce request be dedicated to the redundant site in St. George in one time funds. Judge Appleby seconded, and it passed unanimously.

**Motion:** Judge Pettit moved to add an additional \$83,614 to the extended workforce request in one time funds. Rob Rice seconded the motion, and it passed unanimously.

**Motion:** Judge Pullan moved to approve IT switch replacement for \$193,067 in one time funds. Judge Evershed seconded the motion, and it passed unanimously.

**Motion:** Judge Farr moved to approve the Moab x-ray machine for \$22,000 in one time funds. Judge Evershed seconded the motion, and it passed unanimously.

**Motion:** Judge Pullan moved to approve PC/PSA Programming request for \$392,700 in one time funds. Judge Farr seconded the motion, and it passed unanimously.

**Motion:** Judge Evershed moved to approve the ADR child welfare .5 FTE mediators for \$54,800 in one time funds (original request was ongoing funds). Judge Pettit seconded the motion, and it passed with Judge Pullan opposed.

**Motion:** Judge May moved to approve both the Court Skills Academy and the Middle Management Leadership Academy for \$12,000 each in one time funds. Judge Farr seconded the motion, and it passed unanimously.

**Motion:** Judge Pettit moved to approve the Self-Help Center for \$97,400 with one time funds (original request was ongoing funds) with intention to seek ongoing funding from Legislature next year. Justice Lee seconded the motion, and it passed unanimously.

**Motion:** Judge Pullan moved to approve a reserve of \$150,000. Judge Appleby seconded the motion, and it passed unanimously.

**Motion:** Justice Lee moved to approve 5-year computer replacement schedule for \$250,000 with one time funds (original request was ongoing funds). Judge Farr seconded the motion, and it passed unanimously.

**Motion:** Judge Shaughnessy moved to defer the remote wireless LAN and VOIP upgrades request. Judge Cannell seconded the motion, and it passed unanimously.

**Motion:** Judge Shaughnessy moved to not fund the following requests: 1) JA Recruitment & Retention (unfunded) \$520,000; 2) Third District Judicial Officers and Staff (unfunded) \$904,900; 3) Third District Drug Court Clerk \$69,300; and 4) Fourth District Support Services Coordinator \$73,400 and to defer the request for \$48,000 ongoing funds for the creation of a redundancy site. Judge Pullan seconded the motion, and it passed unanimously.

**Motion:** Judge Pullan moved to approve the career track advancement of \$400,000 with ongoing funds. Justice Lee seconded the motion, and it passed unanimously.

**Motion:** Judge Pullan moved to not fund market comparison analysis. Justice Lee seconded the motion, and it passed unanimously.

**Motion:** Judge Shaughnessy moved to defer the Learning Management System \$50,000 request. Judge Appleby seconded the motion, and it passed unanimously.

**Motion:** Judge Shaughnessy moved to approve the market comparison analysis for \$137,500 in ongoing funds. Judge Appleby seconded the motion, and it passed unanimously. This motion supersedes the prior market comparison analysis motion.

## **8. PROBLEM-SOLVING COURT RECERTIFICATIONS: (Judge Dennis Fuchs)**

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs reviewed applications for recertification of the problem-solving courts mentioned below. Judge Fuchs noted all courts have met best practices requirements. Judge Fuchs requested approval to close Judge Renteria's Juvenile Drug Court located in Salt Lake County, West Jordan. The Council discussed waiving

presumptive criteria practices that were not being met. Judge Fuchs noted there are compensating factors for those courts not meeting presumptive criteria.

**Adult Drug Courts**

Davis County, Farmington (Judge Morris)  
Iron County, Cedar City (Judge Barnes)  
Tooele County, Tooele (Judge Bates)  
Washington County, St. George (Judge Wilcox)  
Weber County, Ogden (Judge Bean)

**Adult Mental Health Courts**

Iron County, Cedar City (Judge Little)  
Washington County, St. George (Judge Westfall)

**Dependency Drug Court**

Washington County, St. George (Judge Leavitt)

Chief Justice Durrant thanked Judge Fuchs.

**Motion:** Judge Pullan moved to change the drug court certification check list by moving the following items from “presumed certification criteria” to “best practices standards”: 1) The Drug Court monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants, and 2) New arrests, new convictions, and new incarcerations are monitored for at least three years following each participants entry into the Drug Court; and to waive those two criteria if not met. Judge Appleby seconded, and it passed unanimously.

**Motion:** Judge Evershed moved to approve the recertification of **Adult Drug Courts:** Davis County, Farmington (Judge Morris); Iron County, Cedar City (Judge Barnes); Tooele County, Tooele (Judge Bates); Washington County, St. George (Judge Wilcox); Weber County, Ogden (Judge Bean); **Adult Mental Health Courts:** Iron County, Cedar City (Judge Little); Washington County, St. George (Judge Westfall); **Dependency Drug Court:** Washington County, St. George (Judge Leavitt), and closure of the **Juvenile Drug Court:** Salt Lake County, West Jordan (Judge Renteria) as amended to accept. Judge Walton seconded the motion, and it passed with Judge Appleby and Judge Pullan opposed.

**9. UNIFORM FINE & BAIL COMMITTEE REPORT: (Judge David Hamilton and Shane Bahr)**

Chief Justice Durrant welcomed Judge David Hamilton and Shane Bahr. The committee needs to fill membership slots for two judges. The committee will meet earlier next year in hopes of updating the Fine & Bail Schedule timeline.

Chief Justice Durrant thanked Mr. Bahr.

**10. UNIFORM FINE & BAIL SCHEDULE: (Judge David Hamilton and Clayson Quigley)**

Chief Justice Durrant welcomed Clayson Quigley. Judge Hamilton briefly addressed the Fine & Bail Schedule.



Chief Justice Durrant thanked Judge Hamilton and Mr. Quigley for the committees work on the schedule.

**Motion:** Judge Appleby moved to approve the Uniform Fine & Bail Schedule, as presented. Judge Cannell seconded the motion, and it passed with Judge Sessions abstaining because he was on the Uniform Fine & Bail Committee.

**11. FACILITIES PLANNING COMMITTEE REPORT: (Judge David Mortensen and Chris Talbot)**

Chief Justice Durrant welcomed Judge David Mortensen and Chris Talbot. Judge Mortensen reviewed rules established in Code of Judicial Administration Rule 3-409, Court Facilities planning, committee responsibilities, and lessons learned from the new Price Courthouse.

**Studies Current and Ongoing**

- Manti / Sanpete County - Courthouse replacement study complete, waiting for funding
- Heber City / Wasatch County - Add juvenile courtroom to county facility, requesting feasibility study from DFCM
- Cedar City / Iron County - Courthouse replacement or three courtroom additions, no planned action
- Layton, Farmington & Bountiful / Davis County - New future courthouse, no planned action

**Capital Development Projects**

- Fourth District Provo - District and Juvenile Courthouse Utah County – Opened January 2019
- Seventh District Price - District and Juvenile Courthouse Carbon County – Opened September 2018
- Sixth District Manti - District and Juvenile Courthouse Sanpete County – Property purchased and demolition of existing structures scheduled for FY20. Preparing for possible design and construction funding in FY21

**Facility Master Plan 2019**

- Fifth District Cedar City – Replace or expand the existing 1980’s courthouse. Currently priority #2 on the Capital Development request list. Will not be requested until Manti is funded
- Sixth District Richfield – Identify timing for expansion of existing courthouse. No action has been taken or planned
- Second District Davis County Court Facilities (Layton, Farmington, and Bountiful) – Space needs will be defined in the feasibility study when projections indicate additional courtrooms and program space is needed. No action has been taken or planned

**Leased Court Facilities**

- Sixth District Sanpete County Manti – Construct a new 2-courtroom courthouse in the central business district of Manti City. Property acquisition cost \$400,000. Estimated

overall project cost \$19,071,000. Property purchased and existing structures to be demolished. Project design and construction was not funded by Legislature in FY20.

- Seventh District San Juan County Monticello – Proposed remodel of the existing facility to improve security and operational issues. Additional space needed for juvenile probation offices and juvenile secure holding cells. No action has been taken. This project may be reevaluated in 2022.
- Second District Morgan County Morgan – Construct a new courthouse in the central business district of Morgan City. Morgan County is not interested in funding in the project. No action has been taken.

### **Juvenile Probation Facilities**

- Sixth District Manti – Construct a new courthouse in the central business district of Manti City that will consolidate all district and juvenile functions into a single location. This space is included in the Sanpete County Courthouse request.

### **Projects under review**

These projects require may require local government or court funding.

- Wasatch County Courthouse Expansion - feasibility and funding under review. Fourth District Juvenile Court has submitted a building block to add one additional courtroom to this facility for juvenile court cases. Wasatch County has agreed to this addition on their county owned facility if the court funds the construction estimated at \$2.5M. This project has been presented a few times to the budget committee over the past several years. The court may have funds in FY20 for this project with surplus funds remaining from the new Provo Courthouse. The details and approval from DFCM are still in process. The challenges are spending \$2.5M in State funds on a county owned facility and getting the surplus funds from another project returned to the court.
- West Jordan courtroom build-out of shelled space. Third District is requesting that one of the shelled courtrooms be built out for one of the new judgeships. Estimated cost per DFCM is \$1.14M. Exploring options to fund the project in FY21. Consideration should be given to the court funding construction drawings in FY20 at \$70K.
- Wayne County Courthouse – TBD. Letter received from Wayne County stated the county will need a new court facility within 10 years, and wants the state to participate. No formal talks have been scheduled with the county. Wayne County spoke with DFCM about planning a new county facility that would include the courts needs.
- St. George Courthouse Federal Court Expansion Request – TBD. The Federal Courts in 2018 created a Utah District Southern Region and have expanded services to allow all criminal and civil cases to be heard in St. George. They are requesting a substantial addition to our courthouse before their final lease option expires in 2024 as they will not have funding for a new federal courthouse for 15 – 20 years.

### **Planning Projects**

- Sanpete County (District Court, Juvenile Court, Juvenile Probation and GAL) - Completed, waiting for State funding
- Iron County (District Court, Juvenile Court, Juvenile Probation and GAL) - TBD
- Davis County (District Court, Juvenile Court, Juvenile Probation and GAL) – TBD

### **Capital Improvement Projects Approved FY20**

- West Jordan Court replace ground source heat pump – first phase of three \$1,000,000
- Farmington Court security station upgrades \$200,000
- Ogden Court HVAC upgrade boilers, motors, and pumps \$729,100
- Manti Court existing structure demolition and HAZMAT removal \$1,070,655
- St. George Court upgrade camera & security systems \$924,578
- Matheson Court reseal the exterior plaza areas \$975,000
- Farmington Court HVAC controls upgrade \$250,000
- Logan Court split system replacements \$66,575
- Logan Court cooling tower replacement \$317,375
- Ogden Court ejector pumps \$45,000

Judge David Mortensen advised the Council about a request from the Federal Court, currently housed in the St. George Courthouse, to increase their rented space in the courthouse. A 5-year lease was recently renewed with the understanding that at the end of the lease, the Federal Court will need to vacate due to the growth needs of the Fifth District Courts. The Federal Court would like the Utah Courts to request a bond from the Legislature, and they will then pay back the bond through lease funds for 15 years, at which time the Federal Courts will have their own building. Chris Talbot noted courts spend approximately \$600 per square foot for courthouse space and that, if approved, the courts would require any additions to the building to be designed for future use by the Utah courts and any remodeling would need to be done at night and on weekends.

Chief Justice Durrant thanked Judge Mortensen and Mr. Talbot.

### **12. LAWYER JUDGE WELL-BEING TASK FORCE REQUEST: (Justice Paige Petersen and Kim Free)**

Chief Justice Durrant welcomed Justice Paige Petersen and Kim Free. Justice Petersen stated the Task Force would like to be approved as a permanent joint committee supported by the Judicial Council, the Supreme Court, and the State Bar Commission. Justice Petersen and Dickson Burton will continue as co-Chairs and Kim Free will continue as staff. Members of both law schools are on the committee.

Chief Justice Durrant thanked Justice Petersen and Ms. Free.

### **13. JUDICIAL CONDUCT COMMISSION REPORT: (Aimee Thoman)**

Chief Justice Durrant welcomed Aimee Thoman. Ms. Thoman reviewed the current Commission membership.

#### **Commission caseload update**

- To date in FY19 there have been 53 cases. This is a similar trend to last year, where 58 cases were finalized.
- To date in FY19, the Commission has had 5 DWW (dismissal with a warning) dispositions as follows: 1) Inappropriate texting, 2) Indecorous treatment of an attorney, 3) Ex parte communications, 4) Ex parte communications, and 5) inappropriate representation of judicial office.

- Three cases are pending before Utah Supreme Court.
- The Commission is a party to one matter that is pending before the Supreme Court.

**Miscellaneous activities of the Commission**

- Responses to requests for information based on our archival records (AOC = 1, JPEC = 3, AJDC/CJE = 16).
- Supported two State Department sponsored visits (UCCD) regarding judicial discipline.
- Provided budgetary testimony to the Legislature, but did not request increased funding.
- Agreed to biennial presentation to JPEC.

Chief Justice Durrant thanked Ms. Thoman.

**14. Guardian ad Litem (GAL) OVERSIGHT REPORT: (Robert Yeates and Stacey Snyder)**

Chief Justice Durrant welcomed Robert Yeates and Stacey Snyder. Mr. Yeates reviewed the committee members. Caseload referrals have declined. They have an attorney position and a legal secretary position in Moab open. Ms. Snyder will add the GAL annual report online and distribute them to the Council.

Chief Justice Durrant thanked Mr. Yeates and Ms. Snyder.

**15. REQUEST FOR JUDICIAL COUNCIL RESOLUTION REGARDING OPEN ACCESS TO THE COURTS: (Judge Barry Lawrence and Nancy Sylvester)**

Chief Justice Durrant welcomed Judge Barry Lawrence and Nancy Sylvester. Judge Lawrence presented the Council with information pertaining to recent events of litigants not being allowed by judges or bailiffs into courtrooms due to their attire. Judge Lawrence noted Code of Judicial Administration Rule 3-115 states part of the committee’s duties are to “recommend measures to the Judicial Council, the State Bar and other appropriate institutions for improving how the legal system serves self-represented parties.” Chris Palmer is working with bailiffs to correct their behavior. Judge Lawrence, representing the Resources for Self-Represented Parties Committee, requested the Judicial Council issue a resolution to all Utah courts stating that no person who has business in any court shall be denied access based on their manner of dress or appearance. Some courts have signs posted about dress codes. There was discussion about parts of the proposed rule.

Chief Justice Durrant thanked Judge Lawrence and Ms. Sylvester.

**Motion:** Judge Appleby moved to send the request for a Council resolution to Policy & Planning. Judge Pettit seconded the motion, and it passed unanimously.

**16. CODE OF JUDICIAL ADMINISTRATION RULE 4-401.02: (Michael Drechsel)**

Chief Justice Durrant welcomed Michael Drechsel. Mr. Drechsel said JPEC presented to the Council last month regarding an idea to video record justice court judges for evaluation purposes. Mr. Drechsel noted a rule could be created or amended specifically to pilot projects such as JPEC or an order from the Council could be created to allow JPEC to record in courtrooms with certain criteria being met, such as destroying the recording after it has fulfilled

its purpose. Videos would be recorded with JPEC equipment and stored at JPECs facility until they are destroyed, therefore, the videos would be subject to GRAMA, unless a court rule classified the videos as protected.

The Council recommended the proposed rule be forwarded to Policy & Planning.

**17. CODE OF JUDICIAL ADMINISTRATION RULE 7-302 AND HUMAN RESOURCES POLICY 480 FOR FINAL APPROVAL AND RULE 4-501 FOR REPEAL: (Michael Drechsel)**

Mr. Drechsel stated CJA Rule 7-302 went for public comment in January 2019. No comments were received. The most significant change to CJA Rule 7-302 is replacing the term “social study” with “court report.” These revisions have all been approved and recommended by the Board of Juvenile Court Judges and Policy & Planning.

Mr. Drechsel stated over the last several years, the trial court executives (TCEs) have considered recommending to the Judicial Council a new policy that would permit court employees to exercise up to three times per week for 30 minutes each time. This exercise would take place during compensated time. Participation in the program is not a guaranteed benefit. It will be managed at the local level between supervisors and employees. The intent of the policy is that court operational needs will take precedence over exercise. Participation will require a signed agreement. An employee could be subject to discipline for violating or abusing the policy. It is anticipated that participation in the program will yield better health, increased employee productivity, and a greater ability to attract and retain qualified employees. Policy & Planning was presented with this proposal in October 2018. They worked with TCEs to finalize this request.

Mr. Drechsel presented proposed repeal of CJA Rule 4-501. This was created because of Utah Code § 78B-3-908 with a repeal date set for January 1, 2017. The law was repealed as scheduled, leaving this rule. The courts do not rely on nor use this rule.

Chief Justice Durrant thanked Mr. Drechsel.

**Motion:** Judge Pettit moved to approve Code of Judicial Administration Rule 7-302, as presented. Judge Sessions seconded the motion, and it passed unanimously.

**Motion:** Judge Appleby moved to approve Human Resources Policy 480 (exercise policy) for final approval, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

**Motion:** Judge Shaughnessy moved to approve rule 4-501 for repeal, as presented. Judge Pettit seconded the motion, and it passed unanimously.

**18. APPROVAL OF JUDICIAL COUNCIL JUNE 24 RETREAT: (Judge Mary T. Noonan)**

Judge Noonan noted the Management Committee was in favor of holding the retreat at the University of Utah Law School. The National Center for State Courts system review

specialists, Patti Tobias and J.D. Gingerich are available to facilitate the retreat. Tim Shea and Mike Zimmerman will attend and provide guidance on the history of the Council.

**Motion:** Judge Appleby moved to approve the Judicial Council June 24 retreat agenda at the University of Utah Law School and with Patti Tobias and J.D. Gingerich as facilitators, as presented. Judge Walton seconded the motion, and it passed unanimously.

- 19. 2020 JUDICIAL COUNCIL MEETINGS SCHEDULE: (Judge Mary T. Noonan)**  
Judge Noonan reviewed the proposed 2020 Council meeting schedule.

**Motion:** Judge Appleby moved to approve the 2020 Judicial Council meetings schedule, as presented. Judge Pettit seconded the motion, and it passed unanimously.

- 20. OLD BUSINESS/NEW BUSINESS: (All)**  
There was no old or new business discussed.

- 21. EXECUTIVE SESSION**  
There was no executive session held.

**22. CONSENT CALENDAR ITEMS**

**a) Forms for Final Approval.** 1) Verified Petition for Divorce; 2) Stipulation; 3) Findings of Fact and conclusions of Law; and 4) Divorce Decree and Judgment. Approved with one change in the Divorce Decree and Judgment footer to change the title from “Order Dividing Military Retired Pay”.

**b) Rules for Public Comment.** 1) CJA rule 4-903 - Uniform Custody Evaluations: add a new type of professional who can perform evaluations; 2) CJA rule 1-204 & 3-402: revise process for amending / creating human resource policies; 3) CJA rule 6-506: new rule addressing procedures for contested matters filed in probate court; 4) CJA rule 4-202.03 - Records access: revision to allow parent of victim to access juvenile court disposition order. Approved without comment.

After brief discussion, rule 4-103 will be removed from the consent calendar and return to Policy & Planning.

- 23. ADJOURN**  
The meeting adjourned.