

JUDICIAL COUNCIL MEETING

Minutes

November 20, 2017

Huntsman Cancer Foundation and Corporation

500 Huntsman Way

Salt Lake City, Utah 84108

12:30 p.m. – 4:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Attendees:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Toomey, Vice Chair
Hon. Augustus Chin
Hon. Mark DeCaria
Hon. Paul Farr
Hon. Thomas Higbee
Justice Thomas Lee
Hon. David Marx
Hon. Mary Noonan
Hon. Kara Pettit
Hon. Derek Pullan
Hon. Todd Shaughnessy
Rob Rice, esq.
Hon. John Walton

Staff:

Richard Schwermer
Ray Wahl
Jeni Wood
Heidi Anderson
Shane Bahr
Kim Free
Tom Langhorne
Alyn Lunceford
Jim Peters
Nancy Sylvester
Keisa Williams

Excused:

Guests:

Ronnie Adams
Hon. Diana Hagen
Kacie Bosone
Hon. David Mortensen
Justice Paige Petersen

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

Chief Justice Matthew Durrant welcomed everyone to the meeting. Chief Justice Durrant administered the Oath of Office to new members Judge Augustus Chin, Judge Kara Pettit, and Judge John Walton.

Motion: Judge Kate Toomey moved to approve the minutes from the October 3, 2017 Judicial Council meeting. Judge Paul Farr seconded the motion, and it passed unanimously.

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

Chief Justice Durrant said he recently attended the Conference of Chief Justices Board meeting. Chief Justice Durrant noted Judge Pullan spoke at Georgetown Law School on civil justice reform.

3. ADMINISTRATOR'S REPORT: (Richard Schwermer)

Richard Schwermer introduced the new Appellate Court Administrator, Cathy Dupont. Mr. Schwermer noted Ms. Dupont and Jacey Skinner will start Monday. Mr. Schwermer said the Council asked Jennifer Yim at the last meeting to clarify the OPC referral process. Ms. Yim reported that JPEC does not require that the judge be the signatory to the Bar complaint. Mr. Schwermer noted the Board of Examiners met and approved the jury interpreter fund overage and recommended funding to the Legislature. The National Center for State Courts tracks court data through their court statistics project. Mr. Schwermer stated Utah was one of two states in 2017 that received 100% on reporting all data elements. The Utah courts will receive the National Center for State Courts 2017 Court Statistics Project Award of Excellence, which will be presented at the Conference for State Court Administrators. Mr. Schwermer said there is a judicial vacancy in Third District Court to replace Justice Paige Petersen's position.

4. COMMITTEE REPORTS:

Management Committee Report:

There was no report on this meeting.

Liaison Committee Report:

Justice Thomas Lee said the Liaison Committee had a retreat. Jacey Skinner attended the retreat and noted she would like to help members of judiciary to feel more informed and included in the legislative process.

Policy and Planning Meeting:

Judge Derek Pullan said the work of the Policy & Planning Committee is reflected in the minutes.

Bar Commission Report:

Rob Rice reported that the Bar Commission approved a survey of small businesses and individuals to address why and when people do or do not hire lawyers. There will be 800 individuals and 200 businesses surveyed. After the results have been received the State Bar will conduct a focus group. Once the group has completed their work, the results will be shared with the Judicial Council.

5. JUDICIAL COUNCIL COMMITTEE MEMBERSHIP: (Richard Schwermer)

Mr. Schwermer reviewed the proposed Judicial Council committee membership, which was recently approved by the Management Committee.

Motion: Judge Mark DeCaria moved to approve the Judicial Council committee membership as presented. Judge Kara Pettit seconded the motion, and it passed unanimously.

6. CODE OF JUDICIAL ADMINISTRATION RULE 1-201: (Keisa Williams)

Chief Justice Durrant welcomed Keisa Williams. Ms. Williams stated rule 1-201 has completed the public comment phase with no comments received. Ms. Williams would like the rule approved with an effective date of May 1, 2017.

Motion: Judge Todd Shaughnessy moved to approve rule 1-201 for final approval as proposed with an effective date of May 1, 2017. Justice Thomas Lee seconded the motion, and it passed unanimously.

7. EDUCATION COMMITTEE UPDATE: (Judge Diana Hagen, Tom Langhorne and Kim Free)

Chief Justice Durrant welcomed Judge Diana Hagen, chair of the Standing Committee on Judicial Education, and Tom Langhorne. Mr. Langhorne introduced Kim Free, staff in the Education department. Mr. Langhorne reviewed a power point presentation for the Council. Mr. Langhorne said the Education Department annually has more than 100 day-long classes at courts throughout the state, as well as 24 major statewide conferences including specialty workshops.

8. PROPOSAL FOR NAMING OF PROVO COURTHOUSE: (Justice Paige Petersen, Judge David Mortensen, Alyn Lunceford, and Katie Bosone)

Chief Justice Durrant welcomed Justice Paige Petersen, Judge David Mortensen, Alyn Lunceford, and Katie Bosone. Justice Petersen introduced Ms. Bosone, who discussed with the Council a presentation addressing Reva Bosone's accomplishments. Ms. Bosone would like to have the Provo Courthouse named after Reva Bosone.

Mr. Lunceford noted there are two named courthouses in Utah. Mr. Lunceford explained the process of how a courthouse is named. Mr. Lunceford noted the buildings are typically named during the funding stage. If approved by the Council, the proposal would be sent to the Building Board, who would then report this proposal to the Legislature. Mr. Lunceford said it is also possible to name a room in the courthouse without having to seek approval from the Building Board and the Legislature, as we did in naming the mediation suite in the Ogden Juvenile Courthouse.

Mr. Schwermer said the choices before the Council are 1) reject the proposal; 2) name a room at the Provo Courthouse; 3) accept the proposal and send Ms. Bosone's name to the Building Board; or 4) seek approval from Price to name that courthouse. Judge Mortensen said there will be a ceremonial courtroom at the Provo Courthouse that could possibly be named. Mr. Lunceford noted the State Building Board is reluctant to name buildings. Judge Pullan said he received several emails from individuals who saw the Council's agenda wanting to provide potential names for the Provo Courthouse. Judge Pullan said there should be a process in place to allow consideration of all potential candidates. Currently the courts do not have a process for naming rooms or courthouses. Ms. Bosone said she is open to adding the name to the Price Courthouse but she prefers the Provo Courthouse.

After further discussion the Council decided to create a process and invite Ms. Bosone's family to participate. The Policy & Planning Committee will work on creating a process. Mr. Schwermer will contact Ms. Bosone and let her know that once the process is complete, she may apply.

Motion: Justice Lee moved to reject the current request to have the Provo Courthouse named after Reva Bosone and to have the Policy & Planning Committee work on a policy. Judge Toomey seconded the motion, and it passed unanimously.

9. STANDING COMMITTEE ON CHILDREN AND FAMILY LAW: (Ray Wahl)

Chief Justice Durrant welcomed Ray Wahl. Mr. Wahl said the committee felt strongly that they wanted to continue their work, especially now that the Council had asked the committee to implement the recommendations of the Domestic Case Process Improvement Sub-committee.

Motion: Judge Higbee moved to approve the Standing Committee for Children and Family Law continue for an additional six years. Judge Toomey seconded the motion, and it passed unanimously.

10. NOTICE OF INTENT TO DISSOLVE NEWTON/AMALGA JUSTICE COURT: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. Peters said the Newton/Amalga Justice Court is a class 4 court. The courthouse is located in Newton. Mr. Peters noted there were attempts at exploring an interlocal agreement, however, there has been no further indication that this option is still in discussion. Mr. Peters said the court handles about 100 cases per year. Mr. Peters recommends dissolution of the court effective April 1 contingent on legislative approval.

Motion: Judge Toomey moved to approve the dissolution of the Newton/Amalga Justice Court contingent on the Legislature's approval. Justice Lee seconded the motion, and it passed unanimously.

11. JUSTICE COURTS PRESIDING JUDGE RULE 9-109: (Jim Peters and Nancy Sylvester).

Chief Justice Durrant welcomed Nancy Sylvester. Mr. Peters noted this rule proposal mimics the district/juvenile court rule addressing presiding judges. This rule creates an infrastructure because the justice courts do not have Trial Court Executives or Clerks of Court. Judge Farr noted this rule will significantly help with the education of judges and allow for better judge-mentoring. Mr. Peters would like the rule to be effective May 1, 2017. Mr. Peters said the presiding judge and education judge can be held by the same person in smaller districts, however, larger districts may want to split those roles.

Motion: Judge Toomey moved to approve Rule 9-109 be sent for public comments as proposed, Judge DeCaria seconded and it passed unanimously.

12. RETENTION ELECTION CERTIFICATIONS: (Nancy Sylvester)

Ms. Sylvester addressed the certification of Judge Arthur Christean as an inactive senior judge.

Motion: Judge Toomey moved to approve Judge Arthur Christean as an inactive senior judge. Judge Shaughnessy seconded the motion, and it passed unanimously.

13. SENIOR JUDGE RECERTIFICATION AND COMMISSIONER EVALUATIONS: (Nancy Sylvester)

Ms. Sylvester briefly addressed the recertifications and evaluations.

Motion: Judge Higbee moved to approve all recertifications with the exception of Judge Read and Judge Carpenter. Justice Lee seconded the motion, and it passed unanimously. Judge Pullan abstained in relation to himself. Judge DeCaria abstained in relation to himself. Judge Pettit abstained in relation to herself. Chief Justice Durrant had excused himself from the meeting, therefore, Judge Toomey, as chair, did not vote. Judge Noonan was not present during voting.

14. EXECUTIVE SESSION

Motion: Judge Toomey moved to go into executive session to discuss the character or fitness of an individual. Justice Lee seconded the motion, and it passed unanimously.

An executive session was held.

15. ADJOURN

The meeting was adjourned.