

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Monday, January 31, 2005

Council Room, Matheson Courthouse
450 South State Street

Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham
Justice Ronald Nehring
Hon. James Davis
Hon. Kevin Nelson
Hon. Jon Memmott
Hon. J. Mark Andrus
Hon. Jerald Jensen
Hon. Clair Poulson
Hon. Robert Hilder
Hon. Lee Dever
Hon. Gary Stott
Hon. K.L. McIff
Hon. Hans Chamberlain
David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Ray Wahl
Richard Schwermer
Mark Jones
Matty Branch
Tim Shea
Gordon Bissegger
Fred Jayne
Brent Johnson
AnNicole Faeth

GUESTS PRESENT:

Hon. Sheila McCleve, *Chair, Standing
Committee on Facilities*

1. Welcome & Approval of Minutes: (Chief Justice Christine M. Durham)

All in attendance were welcomed to the meeting. The minutes of the Council' s December meeting were discussed. The following motion was then made.

Motion: Judge Davis made a motion to approve the minutes. Judge Andrus seconded the motion. The motion carried unanimously.

2. Chair' s Report: (Chief Justice Christine M. Durham)

Chief Justice Durham reported that she recently attended the midyear meeting of the Conference of Chief Justices. Primary issues discussed at the conference included problem solving courts, and judicial independence. It was also reported that meetings recently took place with legislative leadership.

3. Administrator' s Report: Daniel J. Becker

Daniel J. Becker reported the following:

- The State of the Judiciary Address was delivered Monday, January 17th.
- Discussions have taken place with Governor Huntsman regarding the Executive Branch staffing a coordinator to the Commission on Racial and Ethnic Fairness. If approved, it is likely that the position would be housed in the Commission on Criminal and Juvenile Justice.
- Judge Norman Jackson has announced his intent to retire from the Court of Appeals bench, effective August 1st.
- The American Bar Association Midyear Meeting will be held in Salt Lake City February 8-14, 2005.
- The Utah State Courts received funding to hold a Drug Court Symposium. The Symposium will take place June 2-3, 2005.
- The Trial Court Executives recently participated in a strategic planning workshop.
- A presiding judge workshop will take place February 15-16, 2005.

- The Utah State Court' s Annual Report to the Community has been published and distributed.

4. Reports:

Management Committee: (Chief Justice Christine M. Durham)

Chief Justice Durham indicated that she had nothing to report in addition to what is included in the committee' s minutes.

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that, in it' s recent meeting, Policy and Planning discussed Court Reporter transcripts and fees. The committee recommends, at this time, that no photocopy costs be assessed towards public agencies for transcripts. It was reported that the committee also discussed records retention in regards to juror questionnaires. Policy and Planning recommends that the questionnaires be destroyed after the first appeal.

Liaison Committee: (Hon. Jerald Jensen)

Judge Jensen reported that a legislative update would be given later in the meeting. It was mentioned, however, that thus far the Legislative Session is proceeding very well.

Bar Commission: (David Bird, esq.)

David Bird, esq. reported that the Bar has been working with its members and members of the business community to educate members of the legislature about the need for judicial salary increases. It was also reported that the Bar has been coordinating with local law schools to improve relations between the Bar and law students. Additionally, it was mentioned that the Bar is recommending that Lowry Snow be appointed as the Bar' s representative on the Court' s Committee on Self-Represented Litigants.

5. Legislative Audit of the Office of Guardian ad Litem: (Daniel J. Becker)

Daniel J. Becker reported that the legislative audit of the Guardian ad Litem program has been completed, but the legislature' s audit committee has not reviewed the audit report yet. It was mentioned that the audit, which began last April, largely came about a result of legislation that came forth during the 2004 Legislative Session related to child welfare cases. Mr. Becker reported that, generally, the audit report is favorable towards the Guardian ad Litem Program. Mr. Becker then discussed a number of recommendations included in the report with the Council.

It was then reported that one recommendation made in the audit report is that the Judicial Council set up an oversight committee consisting of non-judges, and that an interim study be conducted. Mr. Becker mentioned that the Judicial Council has studied the placement of the Guardian ad Litem Office in past years, and that in each instance, the Council determined that the best placement of the office at the time was with judicial branch. He further mentioned that the audit recommended that the Judicial Council establish an oversight committee for the Guardian ad Litem Office.

Motion: David Bird made a motion to refer to Management Committee the work of establishing an oversight committee and subsequent recommendation to the Council. Judge Hilder amended the motion by adding that the Judicial Council should be prepared to provide a proposal or recommendations on the issue of placement for consideration by an Interim Committee if one is formed. The motion was seconded and carried unanimously.

6. Executive Session:

Motion: A motion was made to go into executive session to discuss litigation matters. The motion was seconded and carried unanimously.

Motion: A motion was made to come out of executive session. The motion was seconded and carried unanimously.

7. Budget Request Update: (Daniel J. Becker)

Daniel J. Becker reported that Governor Huntsman has essentially adopted former-Governor Walker' s budget recommendations as they relate to the courts, with the exception of funding the Provo land purchase. The courts will continue to pursue this request. Additionally, Governor Huntsman has changed Governor Walker' s recommendation for a Cost of Living Increase from 3% to 2.5%. It was also mentioned that both judgeships advanced by the courts have reported favorably out of committee. Mr. Becker reported that the Appropriations Sub-committee will consider the court' s budget requests this Wednesday, February 2nd, at 2:00 p.m.

8. St. George Property Acquisition: (Hon. Sheila McCleve, Gordon Bissegger)

Judge McCleve reported that the current Fifth District Courthouse in St. George has 3 courtrooms that are shared by 5 judges. Additionally, between 1990 and 2000, the population in the region has grown 86.1%. It was reported that the City of St. George has agreed to trade property with the courts to provide for future construction of a new

courthouse in St. George. It was mentioned that the Facilities Standing Committee unanimously recommends the proposal. After discussion took place, the following motion was made.

Motion: Judge Davis made a motion to approve recommending to the 2005 Legislature the proposed property trade. Judge Hilder seconded the motion. The motion carried unanimously.

9. Legislative Update: (Richard Schwermer)

Richard Schwermer provided an update to the Council concerning the status of the Legislative Session. In particular, the following bills were discussed:

- SB 10 - Liability Reform Act Amendments
- SB 22 - Drug Offender Reform Act
- SB 25 - Transportation Amendments
- SB 30 - Amendments to Search Warrants
- SB 92 - Utah Attorney's Fees Recovery Act
- SB ... - Judiciary Amendments
- SB 136 - Justice Court Operations Amendments
- HB 4 - Divorce Mediation Program
- HB 56 - Divorce Amendments
- HB 202 - Revisions to Child Welfare
- HB 232 - Unused Sick Leave and Retirement

The Council thanked Mr. Schwermer, Mr. Jones, and all members of the Liaison Committee for their work on behalf of the Judiciary.

10. Adjourn:

Motion: A motion was made to adjourn the meeting. The motion was seconded and carried unanimously.