

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Monday, February 27th, 2006

Matheson Courthouse
Council Room
Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham
Hon. James Davis
Hon. Hans Chamberlain
Hon. Kevin Nelson
Hon. J. Mark Andrus
Hon. William Barrett
Hon. Jody Petry
Hon. Rand Beacham
Hon. Jon Memmott
Hon. Jerry Jensen
Hon. Robert Hilder
Hon. Gary Stott
David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
Mark Jones
Ray Wahl
Holly Frischknecht
Tim Shea
Kim Allard
Matty Branch

GUESTS PRESENT:

Colin Winchester
Judge Bo Behrens

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

Chief Justice Durham welcomed everyone to the meeting and thanked them for attending. After changing the spelling of Parowan in the minutes, the following motion was made.

Motion: Judge Andrus motioned to approve the minutes, the motion was seconded and approved unanimously.

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

Chief Justice Durham reported the following:

She attended the breakfast to kick off 'And Justice for All' which Justice Ronald Nehring spoke at regarding access to the courts.

The Governor has appointed Mark Kouris to the 3rd Judicial vacancy, he comes from the Legal Defender's Office.

3. Administrator' s Report: (Daniel J. Becker)

Mr. Becker reported the following:

After hearing from Parowan during the last Judicial Council meeting, Mr. Becker sent a letter to Justice Court Judge Adams that included a memo Brent Johnson had prepared that outlined jurisdiction and related issues surrounding the City of Enoch's purported justice court.

Congressional support for the Pew Commission, will result in an increased amount of Court Improvement Project funding in the future.

A survey has been prepared that will be sent to the Bar members that will gauge the attorney attitude about judicial vacancies. The survey will be sent this week. This survey also allows the Council to gain information on judicial compensation issue that the Executive and Judicial Compensation Committee has requested for next year.

The company Securcom, out of Pittsburgh, has been hired to prepare a cost benefit analysis on alternatives for perimeter security along the Wasatch Front. The report is expected to be completed by the summer in time to be considered for the August budget and planning meeting.

The Commission on Criminal and Juvenile Justice has awarded the courts 40% of the Juvenile Justice Incentive block grant funds for the coming year.

4. Reports:

Management Committee:

Chief Justice Durham reported that the minutes cover the issues discussed at the Management Meeting and mentioned that a Justice Court Review Committee was discussed at length and will be reviewed later on the agenda.

Policy and Planning:

The Policy and Planning Meeting have not met since the last Judicial Council Meeting.

Liaison Committee:

Justice Nehring thanked the members of the Liaison Committee for their hard work during a busy Legislative Session. A more detailed description of the committee's efforts will be reviewed during the legislative update portion of the agenda.

Bar Commission:

The Bar Commission has not met since the last Judicial Council Meeting.

5. BUDGET UPDATE: (Daniel J. Becker)

Mr. Becker reported that the general themes of the 2006 Legislative session has been to reduce the size of government, decrease taxes and fund transportation. The main debate has been between the House, Governor, and the Senate over the food tax. Mr. Becker passed around a document that was sent to the Executive Appropriations Committee requesting on going funds, which totaled \$406 million, including transportation. The amount available at the time of this request was \$56 million. After the compromise on taxes on Friday, the amount available is now \$67 million.

The appropriations committee dealing with the courts budget has only had \$6 million of their original request of \$25 million approved. Half of the Lease and Contract request, approximately \$400,000 has been approved. Mr. Becker reported that the ability to open the Tooele Courthouse had hinged on having money in Lease and Contracts. The \$300,000 of court complex money was also supposed to be restored this year in order to cover the bonds on the Matheson and West Jordan Courthouses.

The 4th District Judge will be funded along with a Jury Witness and Interpreter fund supplemental. One time Data Processing costs and furnishing costs for the Tooele Courthouse will also be approved.

The purchase of the land and the cost of a bond retirement for the St. George courthouse will be funded. The cost of the design for the building is still being discussed.

A Drug Court expansion has been approved and the courts will receive \$60,000 of the total \$500,000 available. Many fiscal notes also remain undecided.

A bill has passed the House and Senate that proposes a 2.5% increase for all state employees, including judges. As of Friday the WPU's for education has increased to 6% and corrections will receive a market comparability consideration. Kay Cornaby and Scott Anderson from the Citizen's Committee have been working on the judicial compensation issue and have met with leadership. Chief Justice Durham recognized the work of the Citizen Committee. Chief Justice Durham also spoke with Governor Huntsman on Friday and he offered his support, but there are many issues that will effect compensation that must still be considered. Nine judges have been contacted to speak with Executive Compensation Committee Members.

The court's GAL request has not been funded. Two GAL bills are still being considered but it is expected that neither bill will pass.

In the March Judicial Council meeting the Council ideas will be discussed on how to address unfunded needs. In April a budget plan for FY 2007 will be presented to the Council.

Judge Stott thanked Mr. Becker and all staff for their hard work at the Legislature.

6. JUSTICE COURT RULES COMMITTEE: (Daniel J. Becker)

Mr. Becker provided a memo that had been discussed in the Management Meeting that outlined the responsibilities of the committee that would conduct a comprehensive review and update of the Rules of Judicial Administration concerning justice courts. The committee would address the following issues:

examine how existing Rules of Judicial Administration address the issues of: 1) selection; 2) retention; 3) court operations and administration; 4) jurisdiction; 5) fiscal implications; and 6) Judicial Council's role

as possible, draft proposed rule changes which would address the above issues and, thereby, strengthen the justice court system

identify, for future consideration, improvements, which can only be addressed through legislation report back to the Judicial Council at its November 2006 meeting

Mr. Becker explained that this effort is two part, first to strengthen the justice court system by identifying issues that can be addressed with immediacy through rule making, and second, identifying the elements of a longer term agenda for the future of justice courts which may require more fundamental changes, such as, jurisdiction, structure, and funding.

An eight member committee is recommended: five from the Judicial Council, representing all court levels and the Bar: two members named by the Board of Justice Court Judges: and, the state court administrator and AOC Legal Counsel. Rick Schwermer would staff the committee. The suggestions for the Judicial Council representatives are:

Justice Ron Nehring, Chair

Judge Gary Stott, District court

Judge Jerry Jensen, Justice Court

Judge Hans Chamberlain, Juvenile Court

David Bird, Bar

The Management Committee discussed the need to include information provided by other groups involved in the justice courts by creating agenda's that include presentations by those individuals. The timing of the report was discussed. It is expected that the committee will identify future goals, and suggested a process for addressing issues which cannot be addressed through Rules.

7. JUDICIAL CONDUCT COMMISSION UPDATE: (Colin Winchester)

Colin Winchester from the Judicial Conduct Commission reported that the legislation changing wording in the Conduct Commission Statute has passed both the House and the Senate and is awaiting the Governor's signature.

There has been discussion about the possibility of including the names of judges for whom public sanctions have been issued in the weekly update that Mr. Winchester sends to the judges, the conduct commissioners, Jerry Howe, and court administrators. Mr. Winchester has asked judges to respond to him by email within the next few weeks on this issue.

The Judicial Conduct Commission will consider a statute change or clarification regarding judges who have resigned as a result of a Conduct Commission inquiry and want to return to a judicial position. The intent would be to preclude a former judge from returning to the bench under such circumstances.

Mr. Winchester reported that the number of complaints have gone back down to a more typical number of about 100 per year. Mr. Winchester indicated that the terms of several members of the Conduct Commission will be completed this spring and new people will be appointed.

Chief Justice Durham thanked Mr. Winchester for his presentation.

8. JUVENILE BOARD REPORT: (Judge Charles Behrens)

Chief Justice Durham welcomed Judge Behrens to the Council meeting and thanked him for his attendance. Judge Behrens and Ray Wahl presented the goals of the Board of Juvenile Court Judges. These goals were set in September 2005 and are reviewed periodically with updates and assessments, they are:

Implementation of CARE

State Supervision Study

Protective Orders

Clerical Salaries

As the year has progressed, some of the Board's goals have changed. Now that CARE implementation has occurred, the Board of Juvenile Judges serve in an advisory role to the CARE user group. Utah will serve as a model court to help test the implementation of the new delinquency guidelines. Additional emphasis is also being placed on evidenced based practices and outcome measures through committees such as "Table's of 6," which are small groups around the state who meet to address these types of concerns.

Mr. Wahl reported that the child welfare mediator position will not be funded by the Legislature and the Board of Juvenile Judges are considering other ways to continue two positions. Discussion took place about the use of JABG grants that Mr. Becker had discussed at the beginning of the meeting. After the Legislative Session is over the Board and Judicial Council will evaluate other options for funding.

Mr. Wahl reported that the video and CD that Judge Valdez made discussing the rights of juveniles created in both English and Spanish have been distributed to each district through the TCE's.

9 LEGISLATION UPDATE: (Rick Schwermer, Mark Jones) Handouts Attached

Mr. Schwermer reported on the efforts being made to increase the Lease and Contract funds available to the courts. Mr. Schwermer indicated that HB 4, the compensation bill, has been recalled and it is anticipated that there will be a 3% state employee increase with some possible options for employees regarding medical coverage in order to gain a half percent more in salary increase. Mr. Schwermer reiterated that this plan is still in its infancy and many details could change before a final decision is reached. It was anticipated the judicial compensation increase would also be at 3%.

Mr. Schwermer reviewed the status of the bills that the Liaison Committee had discussed by providing handouts for each Council member. Mr. Schwermer indicated that many bills still must be heard in both the House and the Senate.

Chief Justice Durham thanked Mr. Schwermer and Mr. Jones and all the staff for their hard work and effort during the Legislative Session.

10. SENIOR JUDGE APPLICATION: (Tim Shea)

Motion: Judge Chamberlain motioned to approve Judge Christean as a Sr. Judge, Judge Davis seconded the motion, the motion passed unanimously.

11. JUSTICE COURT JUDGE CERTIFICATION: (Tim Shea)

Motion: Judge Stott motioned that Judge Nielson be approved for certification, Judge Andrus seconded the motion, the motion passed unanimously.

12. JUDICIAL COUNCIL DISCUSSION

Chief Justice Durham asked for Council input on the effectiveness of Council agendas and the adequacy or time for discussion on agenda items. Council members discussed the importance of connecting with the District, Juvenile and Justice Court Boards.

Discussion took place about the article in the paper about Lawyers helping Lawyers and the status of those services.

Chief Justice Durham reported that the Supreme Court has determined to launch a study of the Code of Judicial Conduct now that the ABA is almost completed with their update to the work on a model code. Chief Justice Durham reported that the committee reviewing these changes will be made up of judges and staff already working with the Ethics Advisory Committee, as well as a representative of the Judicial Conduct Committee.

13. ADJOURN

Motion: A motion was made to adjourn, the motion was seconded and was approved unanimously.