

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Thursday, March 15, 2001

Sabra F & G
Holiday Inn
St. George, Utah

Chief Justice Richard C. Howe, Presiding

Members Present:

Chief Justice Richard C. Howe
Justice Michael Wilkins
Hon. Russell Bench
Hon. Ronald Hare
Hon. Jerald Jensen
Hon. Clair Poulson
Hon. Ben Hadfield
Hon. Lynn Davis
Hon. Lyle Anderson
Debra Moore, esq.
Hon. Lee Dever
Hon. Scott Johansen
Hon. Anne M. Stirba(joined the Council
by telephone for part of the meeting)

Staff Present:

Daniel J. Becker
Myron K. March
D. Mark Jones
Ray Wahl
Richard H. Schwermer
Holly Bullen
Gordon Bissegger
Tim Shea
Fred Jayne
Jan Thompson
AnNicole J. Faeth

Excused:

Hon. Andrew Valdez

Guests:

Hon. Kim Hornak (for Judge Valdez)
Hon. Tyrone Medley (for Judge Stirba)
Hon. Gordon Low
Hon. Gregory Orme
Dave Nuffer, *President, Utah State Bar*
Steve Stewart, *Judicial Conduct Commission*
Rick Davis, *Second District Trial Court Executive*
Jim Nelson, *Fifth District Trial Court Executive*
Sharon Hancey, *First District Trial Court Executive*
Beani Martinez, *Second District Juvenile Court Trial Court Executive*
John Day, *Fourth District Juvenile Court Trial Court Executive*
Paul Sheffield, *Fourth District Trial Court Executive*

WELCOME/REMARKS BAR COMMISSION: (Chief Justice Richard C. Howe)

All members, guests and staff were welcomed to the meeting. Chief Justice Howe excused Judge Anne Stirba and Judge Andrew Valdez from the meeting. David Nuffer, President of the Utah State Bar Commission was welcomed to the meeting. Mr. Nuffer mentioned the importance of continued cooperation and comradery between the courts and the bar, as well as the importance of planning for the future, managing change and evaluating what is going on around us in order to keep up with the times.

Judge Kim Hornak, attending on Judge Valdez' behalf, and Judge Tyrone Medley, attending on Judge Stirba's behalf, were welcomed to the meeting.

It was mentioned that Judge Medley has been selected to receive the Judge Ray Uno Award. The presentation will take place Friday, March 16, 2001 as part of the Mid-Year Bar Conference.

PRESENTATION: (Jan Thompson, Ray Wahl)

The Parent to Parent video which was created last year has received two awards; one at The New York Film Festival and another award of distinction from The Communicator. Jan Thompson and Ray Wahl presented the awards to

Chief Justice Howe.

**REPORT FROM CHAIRMAN AND APPROVAL OF MINUTES:
(Chief Justice Richard C. Howe)**

Chief Justice Howe thanked David Nuffer and Daniel Becker for responding to an editorial in the Salt Lake Tribune. The minutes of the Council's February meeting were then discussed. It was mentioned that the third sentence of the section titled "Judicial Retirement and Medical Insurance Premiums" on the fifth page of the minutes should be deleted.

Motion: Judge Davis made a motion to approve the minutes of the Council's February meeting with the aforementioned revision. The motion was seconded and carried unanimously.

**LEGISLATIVE OVERVIEW - BUDGET/LEGISLATION
/FACILITIES/PROJECT COORDINATOR DISCUSSION:
(Daniel J. Becker, Fred Jayne, Richard Schwermer, Mark Jones, Gordon Bissegger)**

Richard Schwermer discussed a number of new bills with the Council. Judge Stirba then joined the Council by telephone. Daniel Becker reported on the following items concerning the recent legislative session:

Priority/Item Council Request Legislature Notes

- A. Leases and Contracts \$1,776,000 \$1,765,000 mandate
- B. Guardian ad Litem \$499,100 \$250,00 mandate
- C. County Contract Incr. \$92,300 \$23,291 mandate
 - 1. DP Staffing \$174,000 -
 - 2. Child Welfare Mediation \$169,600 \$170,000
 - 3. Guardian ad Litem \$420,000 \$270,000 fiscal note
 - 4. Lease Perimeter Security \$242,000 -
 - 5. Law Clerks \$540,700 \$130,000
 - 6. Diversity Training \$28,000 \$28,000 one-time
 - 7. Project Coordinator \$60,500 \$60,000 one-time
 - 8. Interpreter Program Mgr. \$70,200 -

Other:

- Benefits Restoration \$424,600 \$424,600
- Market Survey Increases \$600,000
- Drug Courts \$168,700
- Olympic Reserve \$220,000 one-time
- Fiscal Note Funding \$314,000

Capital Facilities:

Cache County Courthouse \$12,621,800 \$12,493,800 one-time

FY 2001 Supplementals:

- Juror, Witness, Interp. Fees \$1,169,400 \$600,000
- Benefits Restoration \$424,600 \$424,600
- Court Reporter Tech. \$50,000 \$50,000 dedicated credit
- On Line Court Assistance \$35,000 \$35,000 dedicated credit
- County Contract Increase \$25,500 -

Salaries and Benefits:

- Employees 6% compensation package (2.75% merit, 1.25% discretionary, 2% medical insurance)
-
- Justices and Judges 4% increase and 2% medical insurance (District Court Salary \$103,700)

Intent Language:

- Non-lapsing authority for all line items

- Authorization to create a Commissioner for 4th District Court from IV-D funds
- Authorization to create FTE's from fiscal note funding
- Additional evaluation of Drug Court Programs
- The Sandy land purchase was approved in a preliminary bill, but the decision was reversed in a subsequent bill in order to balance the budget. The purchase will likely be pursued again next year.
- The courts were unable to gain legislative approval to create a new judgeship in the Third District Juvenile Court through the use of drug court funding.

Mr. Becker asked the Council for guidance in how funding approved by the legislature for new law clerk positions should be applied. The initial request of the courts was for five clerks plus money to increase pay for law clerk bailiffs in the Fourth District. The legislature approved funding sufficient for creating two new law clerks, or one law clerk and increased law clerk/bailiff compensation. Several options were discussed. A motion was then made.

Motion: Judge Davis made a motion to refer the issue and decision to the Board of District Court Judges. The motion was seconded and carried unanimously.

Mr. Becker then reported that the legislature approved one-time funding for a Project Coordinator position which will implement the recommendations of the Task Force on Racial and Ethnic Fairness. An additional grant has made it possible to fill the position in April of 2001. It was mentioned that in August of 2000, it was the Council's intent to seek funding to fill the position on a permanent basis. Additionally, the importance of continuing the work of the Task Force was expressed in order to ensure equal access to the courts and to preserve the courts' relationship with groups contacted during the investigative stages of the Task Force's work.

Motion: Justice Wilkins made a motion to approve the advertisement of the position as a permanent position as long as applicants are informed of the nuances of the funding. The motion was seconded and carried unanimously.

Judge Stirba was then excused from the remainder of the meeting.

JUDICIAL PERFORMANCE EVALUATION ISSUES: (Tim Shea, Hon. Gregory Orme)

Hon. Gregory Orme and Tim Shea presented the document "Analysis of Changes to the Judicial Performance Evaluation Program" to the Council that was prepared by the Judicial Performance Evaluation Committee. In September and October of 2000, the Judicial Council made a series of conceptual changes to the Judicial Performance Evaluation Program. The Council directed the Committee to consider these changes in light of current law and draft the necessary rule amendments. These changes were discussed with the Council. After the Council discussed various changes, a motion was made.

Motion: Justice Wilkins made a motion to defer action for one or two Council meetings in order to submit the changes to the boards of judges for their consideration and subsequent recommendation. The Council's minutes should be reviewed to see what decisions the Council has already made regarding this issue. The motion was seconded carried unanimously.

After the motion, a discussion ensued regarding what materials would be presented to the Boards. After the discussion another motion was made.

Motion: Justice Wilkins made a motion to revise his previous motion to exclude the directive to circulate the changes to the boards. The information should be revised and presented again to the Council. The motion was seconded and carried with one opposed.

REPORT FROM JUDICIAL CONDUCT COMMISSION: (Steve Stewart/Hon. Gordon Low)

There was a discussion regarding information that might come to the attention of the Council and then be forwarded to the Conduct Commission, as to whether or not the Council should be considered the complainant. Mr. Stewart indicated that the Conduct Commission could be identified as the complainant in those cases.

Mr. Stewart then reviewed current statistics and types of cases that are dismissed by the Conduct Commission. Mr. Stewart also reported that a judicial conduct handbook will be delivered to all judges statewide in the next week or two.

TRIAL COURT EXECUTIVE UPDATE: (Rick Davis)

Rick Davis mentioned a number of positive initiatives that are occurring within the courts including drug courts, case management, secondary language stipends, special program money, assessment tool in the juvenile court, statewide probation officer manual, customer service improvements, the Online Court Assistance Program, leadership training, perimeter security, and the juvenile court re-engineering project. Mr. Davis mentioned various issues that the TCE's would appreciate the Council considering in the future including special program money, addressing the needs of self-represented litigants, dealing with specialty courts, drug court transfers and evaluating a possible policy to deal with transfers in the future, implementing perimeter security in all court sites statewide, and DUI case handling.

JUDICIAL COUNCIL SUB-COMMITTEE REPORTS:**Policy and Planning: (Hon. Scott Johansen)**

The Policy and Planning Committee has not met since the Council's February meeting.

Liaison Committee: (Hon. Lee Dever)

The Liaison Committee has not met since the Council's February meeting.

State Bar Commission: (Debra Moore)

The Bar Commission has not met since the Council's February meeting.

Management Committee: (Hon. Russell Bench)

Judge Bench reported that the Management Committee discussed the following items in their March meeting: The audit of the Washington County Justice Court has been completed, and training will be held statewide based upon various issues identified in the audit; in April, the Council will discuss the change of the Summit County contract court site to a regular court site.

The meeting adjourned at 4:20 p.m.