

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Thursday, March 13, 2003
Sabra Ballroom, Holiday Inn

850 South Bluff Street
St. George, Utah

Chief Justice Christine M. Durham

MEMBERS PRESENT:

Chief Justice Christine M. Durham
Justice Matthew Durrant
Hon. James Davis
Hon. Ben Hadfield
Hon. Jerald Jensen
Hon. Clair Poulson
Hon. Robert Hilder
Hon. Lee Dever
Hon. Andrew Valdez
Hon. Gary Stott
Hon. K.L. McIff
Hon. Ronald Hare
Hon. Scott Johansen
C. Dane Nolan, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
D. Mark Jones
Ray Wahl
Tim Shea
Gordon Bissegger
AnNicole Faeth

GUESTS PRESENT:

John Baldwin, *Executive Director, Utah State Bar*
John Adams, *President, Utah State Bar*
Hon. Hans Chamberlain, *Chair, Standing Committee on Facilities*

Colin Winchester, *Executive Director, Judicial Conduct Commission*

- **WELCOME & APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)**

All in attendance were welcomed to the meeting.

- **REMARKS: BAR COMMISSION: (John Adams, John Baldwin)**

John Adams, President of the Utah State Bar, thanked the courts for their support of Marbury v. Madison 200th anniversary commemoration events which took place on February 24th. It was reported that events were held in areas throughout the state, and were well received.

It was mentioned that the Bar has been concerned with HB 349, which deals with the unauthorized practice of law. Mr. Adams reported that the Bar Commission would be meeting that day, and would discuss whether they will contact the Governor regarding this bill. It was also mentioned that Rep. Urquhart was invited to attend their meeting.

Mr. Adams also reported that Debra Moore is heading a task force which is looking at what may be done to address areas such as informing the public how to get a lawyer, how to identify when a lawyer is needed, and alternative services available to the public.

- **APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)**

The minutes of the Council's February meeting were discussed. The following motion was then made.

Motion: Judge Poulson made a motion to approve the minutes. Judge Johansen seconded the motion. The motion carried unanimously.

- **CHAIR'S REPORT: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported that Jill Parrish will be sworn in as a justice in the Supreme Court, Monday, March 17th. A formal swearing in ceremony will take place April 22nd. Judge Ronald Nehring will be sworn in after Justice Russon's retirement on May 15th. Justice Russon's retirement reception will take place May 16th.

Chief Justice Durham reported that a resolution honoring retired judge George E. Ballif appears on the Council's consent calendar. It was noted that Judge Ballif's widow will be invited to the next Council meeting, and, if she is able to attend, the resolution will be presented at that time. If she is unable to attend, the resolution will be delivered to her home. The Council also agreed that a resolution should be created anytime a former judge passes away.

- **ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Daniel J. Becker reported the following items:

- The Legislative Update for judges will take place March 28th at the Matheson Courthouse.
- Larry Gobelman, the Trial Court Executive of the Third District Court, has accepted a position with the California Court System. His last day will be March 25th.
- Susan Scott, the former Fifth District Clerk of Court, has been sentenced. She was placed on a 36 month probation, and 1 year jail with work release which will be reviewed in 90 days.

Mr. Becker reported that the Council tentatively agreed that they would attend the Annual Bar Conference in Sun Valley, Idaho, with the understanding that this decision would be reviewed after the Legislative Session. Mr. Becker recommended cancellation and asked for the Council's input on this issue.

Motion: Judge Johansen made a motion to cancel the Council/Boards' attendance at Annual Bar Conference. Judge Poulson seconded the motion. The motion carried unanimously.

Motion: A motion was made to hold the Council meeting in Salt Lake on July 15th beginning at 1:00 p.m. The motion was seconded and carried unanimously.

- **REPORT: STANDING COMMITTEE ON FACILITIES: (Hon. Hans Chamberlain, Gordon Bissegger)**

Judge Chamberlain reported that the new West Jordan court facility was funded during the Legislative Session. The Sandy courthouse will be sold to Sandy City for \$4.5 million. It is anticipated that the West Jordan courthouse will be completed June of 2005. The Tooele project and the purchase of land adjacent to the Cedar City Courthouse were not approved.

Appreciation was expressed to the Facilities Standing Committee for their fine work, and to Gordon Bissegger for his excellent work on the West Jordan project during the session.

- **REPORT: JUDICIAL CONDUCT COMMISSION: (Colin Winchester)**

Colin Winchester, Executive Director of the Judicial Conduct Commission (JCC), reported that, as a result of HB 119, a private reprimand may not be given after the conclusion of a confidential hearing. The JCC is also looking at developing rules to shorten the process once a decision about discipline is made.

Mr. Winchester reported that the backlog which existed when he became executive director nearly a year ago has been addressed in all but two cases. Also, turnover in cases is being increased.

It was reported that HB 136, from the 2002 General Session, required a substantial amount of information to go to the Supreme Court. A new data base has been created which will generate this information.

Mr. Winchester also mentioned that the Legislative Audit of the JCC is still in process.

- **LAW CLERK POLICIES: (D. Mark Jones)**

Mark Jones reported that, approximately a year ago, the Board of District Court Judges unanimously passed a resolution to give districts the opportunity to convert a law clerk into a staff attorney at the district's discretion. It was reported that the benefits associated with becoming a staff attorney include a higher potential salary range, and the ability to accrue and cash out annual leave upon resignation.

Motion: Judge Dever made a motion to approve this proposal. The motion was seconded and carried with two opposed.

- **LEGISLATIVE/BUDGET UPDATE: (Daniel J. Becker, Myron K. March, Richard Schwermer, D. Mark Jones)**

Daniel Becker thanked members of the AOC staff for their hard work during the Legislative Session. Mr. Becker then reported that the security fee bill, HB 371, passed. The bill generates \$2.2 million in revenue on an ongoing basis, which substitutes \$2.2 million in general fund money which has been taken as part of the reduction in the court's budget. The bill will be effective May 5, rather than the beginning of April, as previously anticipated. This impacts the budget by reducing revenue to the courts by 5 weeks the current fiscal year. The FY 2003 budget will balance without a reduction in force or a furlough.

In FY 2004 the main line item was reduced \$939,800, the Guardian ad Litem program was ultimately reduced \$4,700, and the Juror, Witness, Interpreter Fund was reduced \$67,700. \$662,000 was restored to the Lease and Contract budget on a one time basis, and \$534,000 in ongoing funds were added to the budget, to cover the mandated increased costs in leases and contracts.

Richard Schwermer reported on the following bills related to the courts that passed during the legislative session:

- HB 34. Amendments to Child Welfare Legislative Oversight Panel.
- HB 57. Expansion of Protective Order.
- HB 107. DNA Amendments. 50,000 allocated to courts for taking DNA samples.
- HB 112. County Correctional Facility Reimbursement.
- HB 119. Judicial Conduct Commission Revisions.
- HB 201. Judiciary Amendments.
- HB 222. Child Welfare Proceeding Amendments.
- HB 238. Utah Code of Criminal Procedure Amendments.
- HB 324. Jury System Amendments.
- SB 27. Involuntary Commitment Amendments.
- SB 93. Justice Court Judge Amendments.
- SB 128. Protective Order Amendments.

- **LESSONS LEARNED IN 2003 LEGISLATIVE GENERAL SESSION:**

Judge Jensen, chair of the Liaison Committee, reported that before the Legislative Session began, a communication workshop was held in which relations with the legislature was among the items addressed. At that time, it was determined that 1) All judges should be kept informed of legislative developments as the session progressed, 2) Judges should be more directly involved in the process, 3) There should be better coordination and increased involvement with everyone in the judiciary, and 4) The judiciary should speak with a single voice.

Council discussion took place regarding how well the courts did in meeting each of the aforementioned objectives.

- **REPORTS:**

Management Committee: (Chief Justice Durham)

Chief Justice Durham reported that everything the committee discussed was included on the Council's agenda.

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that the Policy and Planning Committee discussed an issue related to the appellate courts receiving transcripts. The committee also discussed the recodification of the Code of Judicial Administration into the rules of procedure. The committee recommended that these go out for comment.

Motion: Judge Johansen made a motion to send the aforementioned changes out for comment. Judge Hare seconded the motion. The motion carried unanimously.

Liaison Committee: (Hon. Jerald Jensen)

Judge Jensen reported that the Liaison Committee had not met since the Council's last meeting.

Bar Commission: (C. Dane Nolan, esq.)

Dane Nolan reported on draft procedures related to addressing unfair criticism of judges. Mr. Nolan also mentioned that the Bar will still be looking at whether they can financially assist judges in attending the Annual Bar Conference if they were to serve on panels.

- **EXECUTIVE SESSION:**

Motion: A motion was made to go into executive session. 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.

- **ADJOURN:**

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

