

## Judicial Council Meeting Minutes

### JUDICIAL COUNCIL MEETING MINUTES

Thursday, March 11, 2004  
Sabra B, Holiday Inn

850 South Bluff Street  
St. George, Utah

Chief Justice Christine M. Durham, Presiding

#### **MEMBERS PRESENT:**

Chief Justice Christine M. Durham  
Justice Matthew Durrant  
Hon. James Davis  
Hon. Jon Memmott  
Hon. Mark Andrus  
Hon. Jerald Jensen  
Hon. Clair Poulson  
Hon. Robert Hilder  
Hon. Lee Dever  
Hon. Gary Stott  
Hon. K.L. McIff  
Hon. Ronald Hare  
Hon. Scott Johansen  
David Bird, esq.

#### **STAFF PRESENT:**

Daniel J. Becker  
Myron K. March  
Richard Schwermer  
D. Mark Jones  
Ray Wahl  
Matty Branch  
Tim Shea

#### **GUESTS PRESENT:**

Hon. Hans Chamberlain, *Chair, Facilities Standing Committee*  
Hon. Philip Eves, *Chair, Committee on Improving Jury Service*  
Beani Martinez, *Trial Court Executive, Second District Juvenile Court*  
John Greene, *Trial Court Executive, Eighth District Court*  
Mayor Daren Barney, *Ivins City*

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

All in attendance were welcomed to the meeting. 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 Hare seconded the motion. The motion carried unanimously.

#### 2. **REMARKS: BAR COMMISSION: (Debra Moore, John Baldwin)**

Debra Moore reported that one priority of the Bar this year has been to improve the delivery of legal services. One way in which they are trying to accomplish this is through providing a legal research service to attorneys called Casemaker. Another way they are trying to improve legal services is by authorizing lawyers to ghost write pleadings. Ms. Moore then reported the following:

- Meetings have taken place with Justice Ronald Nehring regarding a statewide initiative on improving access to justice.
- The Bar Commission would be discussing the Unauthorized Practice of Law in their meeting that day.
- The Bar= s Brown v. Board of Education Celebration will take place shortly. The celebration will include a film festival, and a section in newspapers providing information about the Brown v. Board of Education decision and highlighting celebration events.
- Justice Bryer of the US Supreme Court will visit in July, in conjunction with the federal 10<sup>th</sup> Circuit Conference.
- The Bar is doing well financially, but they haven= t had a dues increase in some time. Additionally, the Bar hasn= t had a surplus in several years, which means no room for development of programs.

#### 3. **CHAIR= S REPORT: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported that she recently received a phone call from Governor Olene Walker indicating her intent to run for Governor this Fall.

#### 4. **ADMINISTRATOR= S REPORT: (Daniel J. Becker)**

Daniel J. Becker reported the following items:

- Samuel McVey will take the oath of office as a judge in the Fourth District Court, Aril 14<sup>th</sup> at 3:00 p.m.
- The Third District Juvenile Court Nominating Commission will meet soon to fill a judicial vacancy in that district.
- The Sixth District Court has been selected to be part of a study led by the Justice Management Institute, looking at issues facing rural courts.
- The Technology Standing Committee recently held a retreat and engaged in the program based budgeting process, as well as a strategic planning exercise.

#### 5. **REPORTS:**

##### **Management Committee: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported that the Management Committee placed a grant application and a standing committee appointment on the Council= s consent calendar. The Committee also heard a report from Heather Mackenzie-Campbell regarding a recent audit.

##### **Policy and Planning: (Hon. Lee Dever)**

Judge Dever reported that the Policy and Planning Committee determined that the court= s outreach committee should not be responsible for recommending policies to address the needs of self-represented litigants. Policy and Planning also recommends that the mandatory aspect of the Annual Judicial Conference be eliminated, but that judges be encouraged to attend.

**Motion:** Judge Dever made a motion to adopt a change to Rule 3-403(3)(A), which would eliminate the mandatory attendance requirement related to the Annual Judicial Conference. The thirty-hour education requirement would remain intact. Judge Stott seconded the motion. **No vote was taken on the motion.**

It was determined that issues related to the proposed rule change would be taken back to Policy and Planning for further consideration.

**Motion:** Judge Dever made a motion to change the sentence beginning on line four, page 13 of Rule 3-201.02 to read A If a presiding judge is recused, the chair shall temporarily appoint a presiding judge of another judicial district with a court commissioner.@ It was also moved that all remaining rules for consideration be approved. The motion was seconded and carried unanimously.

##### **Liaison Committee: (Hon. Jerald Jensen)**

Judge Jensen reported that the results of the Legislative Session would be discussed later in the Council= s meeting.

##### **Bar Commission: (David Bird, esq.)**

David Bird indicated that he had nothing to report in addition to the remarks already given by the President and Director of the Bar.

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

Judge Chamberlain reported that the legislature approved the construction of a new courthouse in Tooele if the courts can identify funding. The Standing Committee will consider this at a future meeting. Gordon Bissegger reported that the courts may be able to work out an arrangement with the City of Tooele in which the courts finance the building through lease payments.

Judge Chamberlain reported that the court= s request for the purchase of land adjacent to the courthouse in Cedar City for future expansion was not funded by the legislature. It was also mentioned that the new West Jordan Courthouse is currently under construction.

#### 7. **REPORT: TRIAL COURT EXECUTIVES: (Beani Martinez, John Greene)**

Beani Martinez and John Greene reported on a number of changes and events that had taken place in the last year:

- The Logan Courthouse opened in August of 2003. This courthouse is the prototype for future courthouses.
- A number of courthouses are being updated.
- The CARE system is in development. The system will serve as a central repository for all juvenile justice and child welfare information and permit the sharing of information among state and local government organizations.
- The juvenile court in several districts are engaged in a number of after school programs for juveniles.
- Drug courts are proceeding with a considerable amount of success.
- The Trial Court Executives are participating with the Boards in the program based budgeting initiative.
- Five changes have occurred in districts with Trial Court Executives this year. Also, eight new judges have come on board this year.

The Trial Court Executives expressed appreciation to the Council for their support.

#### 8. **FINAL REPORT: COMMITTEE ON IMPROVING JURY SERVICE: (Hon. Philip Eves)**

Judge Eves reported that the Committee on Improving Jury Service was formed in 1997, and that they have managed to accomplish a great deal in that time related to juries. Judge Eves reported that the committee feels that their work has come to a successful conclusion, and they request that the committee be dissolved at this time. It was reported that future work in this arena could be handled by a number of other existing committees.

The Council expressed appreciation to Judge Eves and the Committee on Improving Jury Service for their many efforts in improving Utah's jury system.

**Motion:** A motion was made by acclamation to disband the Committee on Improving Jury Service.

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

Daniel Becker expressed appreciation to Richard Schwermer, Mark Jones, Myron March, Gordon Bissegger, and Fred Jayne for their work during the session. In terms of the budget, Mr. Becker reported that the legislature took the following action related to the court's budget:

On-going Funds:	Request	Action	
Lease and Contract Increases	471,400	471,400	
Juror Fees (expansion)	150,000		
2 <sup>nd</sup> District Judge	236,600	227,800	
2 <sup>nd</sup> Juvenile Commissioner	223,000		
State Supervision	384,300		
Appellate Mediation	157,800	157,800	
Sanpete Day Treatment Ctr	127,500	127,500	
			984,500
One time Funds:			
Juror Fees (supplemental)	559,300	559,300	
Digital Recording (one time)	100,000	100,000	
			659,300
Salary/Benefits:			
Market Comparability	492,600	449,700	
1% COLA		582,900	
1% Bonus		620,000	
Health/Retirement		1, 105,800	
			2,758,400
Total			4,402,200
		On-going	3,122,900

## Senate Bill 196

Juvenile Security up to 1,800,000  
Justice Court tech/education up to 900,000

Mr. Becker then reported that in April the Council will consider items that may be funded in FY 2005 through one-time funds.

Richard Schwermer and Mark Jones then discussed a number of bills with the Council. The following bills in particular were reviewed.

- HB 97 - Protective Order Amendments
- HB 121 - Code of Criminal Procedure Amendments
- SB 118 - Judiciary Amendments
- SB 150 - Judicial Confirmation Process
- SB 161 - Judicial Conduct Commission
- SJR 6 - Resolution on Impeachment Authority
- HB 140 - Child and Family Services and Related Judicial Code Amendments
- HB 231 - Review and Approval of Federal Monies Received by the State
- HB 268 - Child Welfare Processes
- SB 196 - Court Fee Adjustments
- SB 219 - Amendments to Justice Court Operations

In reference to HB 140, discussion took place regarding a number of concerns expressed by the Standing Committee on Children and Family Law and Kristin Brewer, Director of the Office of Guardian ad Litem.

***Motion:*** Judge Johansen made a motion to have the Council ask the Governor to veto HB 140. The motion was not seconded, and no vote was taken on the motion.

***Amended Motion:*** Judge Johansen made a motion to have the Council request that the Governor veto HB 140 based upon items 1-5 of the GAL letter, and similar concerns expressed by the Standing Committee on Children and Family Law. Judge Hare seconded the motion. The motion carried with one opposed.

It was determined that a letter will be sent to Governor Walker, signed by Chief Justice Durham.

In regards to SB 219, discussion took place by the Council. The following motion was then made.

***Motion:*** Judge Poulson made a motion to ask the Governor to veto the bill. Judge Andrus seconded the motion. The motion carried with one opposed.

#### 10. **IVINS JUSTICE COURT: (Mayor Daren Barney)**

Chief Justice Durham reported that Mayor Barney was invited to attend the Council meeting that day to speak to whether or not the Ivins Justice Court has sufficient clerical support so the Council can consider recertification of the Justice Court.

Mayor Barney reported that Ivins City has no intent or desire to interfere with the operation of the justice court. It was reported that a letter was recently sent to the City Manager and Public Works Director clarifying that they are not to interfere with providing clerical support for court operations.

After discussion took place, the following motion was made.

***Motion:*** Judge Davis made a motion to certify the Ivins City Justice Court. The motion was seconded and carried with three opposed. Judge Hilder abstained from the vote.

#### 11. **ADJOURN:**

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