

## Judicial Council Meeting Minutes

### JUDICIAL COUNCIL MEETING MINUTES

Monday, April 25, 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  
Richard Schwerme  
Mark Jones  
Ray Wahl  
Tim Shea  
Fred Jayne  
AnNicole Faeth

#### **GUESTS PRESENT:**

Dave Walsh, *Governor's Office of Planning and Budget*  
Colin Winchester, *Executive Director, Judicial Conduct Commission*

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

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

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

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

Chief Justice Durham reported that she recently met with Bar leadership. Among items discussed, it was mentioned that the Bar's 2006 Annual meeting will be held in Newport Beach, California.

Chief Justice Durham then reported that the Initiative on Children in Foster Care has been formed and will hold its first meeting soon. Additionally, the Appellate Nominating Commission is in place and will begin meeting shortly to fill the vacancy on the Court of Appeals resulting from Judge Norman Jackson's upcoming retirement.

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

Daniel J. Becker reported the following:

- A special session of the legislature took place last week. In regards to the courts, the legislature considered DORA and funds for Legal Aid.
- In regards to the Parowan Justice Court, it was reported that local court officials intend to move the Parowan workload to Cedar City. An option has been put forth, however, which would allow parties to request that a case be heard in Parowan rather than Cedar City.
- The Annual Justice Court Judges Conference was held last week. At that time it was determined that Judge Jody Petry will replace Judge Clair Poulson when his term expires on the Council next Fall.

- A meeting will take place with the editorial boards of the Salt Lake Tribune and Deseret News regarding the upcoming Jury Appreciation Week.
- During the Council's March meeting the Council approved the creation of a new justice court in Herriman. After discussions with surrounding justice courts, it was reported that the effective date of the court will be July 1, 2006.

#### **4. Reports:**

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

Chief Justice Durham reported the following:

- Retirement letters have been received from both Judge Philip Eves, of the Fifth District Court, and from Judge K.L. McIff, of the Sixth District Court.
- At the Council's March meeting, the Council approved asking State Finance to facilitate a switch to two pay periods a month for judges, rather than being paid every other week. It was reported that State Finance is unable to accommodate this request because of the cost of system changes and staffing. This means that judge compensation will be spread over 27 pay periods. Rob Parkes will send a letter to judges informing them of this.
- The Management Committee approved the membership of a Guardian ad Litem Oversight Committee.
- The Management Committee considered a request from court commissioners to establish a court commissioner bonus system. It was reported that, after lengthy discussion, the committee did not support the establishment of such a bonus system.

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

Judge Dever reported that Policy and Planning considered a presentation by court commissioners, in which the request was advanced by the commissioners to extend their terms from four to six years. Policy and Planning recommends that the length of commissioner terms remain at four years, and not be changed.

The Policy and Planning Committee also discussed the issue of protecting personal-identifying information in court records. The committee discussed the possibility of including all personal-identifying information on one coversheet that will be destroyed after it has been used.

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

Judge Jensen reported that the Liaison Committee has not met since the Council's last meeting. Richard Schwermer discussed a few bills that were taken up during the Legislative Special Session. In regards to DORA, it was reported that the bill was much smaller in scope, involving a single jurisdiction demonstration project and a limited type of offender, and offering very limited funds which will restrict treatment funds to 250 individuals. Therefore, the court's approach will be to seek support for full drug court funding.

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

David Bird reported the following:

- Law Day will take place Friday, May 6<sup>th</sup>.
- The Bar feels that its relationships with both the Legislature and the Courts are excellent right now.
- There is currently a vacancy on the Bar Commission for a public members, replacing Darcy Pignanelli.
- In regards to the Bar's Lawyers Helping Lawyers Program, the Bar is assessing the program to determine if it can be further improved. More information about improvements will be coming shortly.
- The Bar Commission is considering the issue of lawyer malpractice insurance and possible disclosure requirements.

#### **5. Commissioner Compensation: (Myron K. March, Rob Parkes)**

Myron March reported that the Management Committee recommends a 6% salary increase for court commissioners. Rob Parkes reviewed the compensation options presented to the Management Committee with the Council. After discussion took place, the following motion was made.

**Motion:** Judge Hilder made a motion to approve a 6% salary increase for commissioners. Judge McIff seconded the motion. The motion carried unanimously.

## 6. FY 2006 Budget Plan Adoption: (Daniel J. Becker)

Daniel Becker reported that the Council needs to set an operating budget for FY 2006. Mr. Becker reported than an executive budget committee, consisting of Trial Court Executives and Court Administrators, recently met. The committee reviewed the court's budget for the coming fiscal year, and Council priorities identified during the Council's August of 2005 budget planning meeting. The committee then made a number of recommendations as to how projected ongoing and one-time funds should be allocated. Mr. Becker reviewed sources of available funds with the Council. These funds total \$394,600 in ongoing funds and \$1,500,000 in one-time funds. The Council then reviewed ways in which the one-time and ongoing funds could be allocated.

It was mentioned that the Board of District Court Judges suggests that a third law clerk be funded. The Board of Juvenile Judges requests that funds that will accumulate until a judge is hired in the Second District Juvenile Court, be used to fund the service of a senior judge. Additionally, the Juvenile Board requests that the Council provide one-time funding to accommodate additional workload in juvenile courts as the result of protective orders on behalf of children being moved to the juvenile court two years ago. Specifically, the Juvenile Board recommended that the same amount that was allocated last year be allocated for the next fiscal year.

After discussion took place, the following motion was made.

**Motion:** Judge Hilder made a motion to fund *recurring allocations* with one-time funds as proposed and reviewed by the Council. The motion was seconded and carried unanimously.

**Motion:** Judge Memmott made a motion to add a law clerk on the available ongoing funds, and keep one deputy clerk in the 6<sup>th</sup> District permanent, reduce the amount of the reserve to \$229,900, reducing DP replacement equipment to 160,000, to reduce the proposed deputy clerk pool to 6 clerks, and to reduce the security enhancement to \$170,000. **The motion did not receive a second.**

**Substitute Motion:** David Bird made a motion to fund, out of available ongoing funds, career ladder increases and 1 law clerk with ongoing funds, to use \$30,000 ongoing to fund a clerk in the Sixth District, and to fund additional one-time money to fund two additional clerks in the Sixth District - in the amount of 64,600. Judge Dever seconded the motion. The motion carried unanimously.

**Motion:** Judge Dever made a motion to delete case clean up assistance in the amount of \$24,000. Judge Davis seconded the motion. The motion carried unanimously.

**Motion:** Judge Davis made a motion to take \$30,000 from DP replacement equipment, and \$10,000 out of district equipment. Justice Nehring seconded the motion. The motion carried unanimously.

**Motion:** Judge Davis made a motion to approve the allocation of available one-time funds as modified. Judge McIff seconded the motion. The motion carried unanimously.

**Motion:** Judge Dever made a motion to approve a \$5 pay increase for interpreters which would be half of what was requested in their original proposal. The motion was seconded and carried with one opposed.

**Motion:** Judge Davis made a motion to ask the Board of District Court Judges to determine where the permanent law clerk will be allocated. The motion was seconded and carried unanimously.

**Motion:** Justice Nehring made a motion to allow the Second District Juvenile Court to have senior judge assistance one day per week until their new judge is on board. The motion was seconded and carried unanimously.

In summary, the following reflects the Council's allocation of funds:

### On going Funding

- Employee Career Ladder Increases 300,000
- Law Clerk (I FTE, location to be determined 65,000  
by the BD of District Court Judges)
- 6th District Deputy Clerk (1 FTE) 30,000

### One time Funding

- Continue Time limited District Court Law Clerks (2 FTE) 170,000
- 6th District Deputy Clerks (1.75 FTE) 64,600
- Continuation of Senior Judge Benefits 20,000
- Second Language Incentive Program 50,000

- Temporary Sm. Claims Deputy Clerks (2nd & 3rd Districts) 76,500
- Judicial and Staff Conference Funding 30,000
- Employee Incentive Awards 100,000
- Tuition Assistance Program 25,000
- Juvenile Protective Order Overtime Funds 22,600
- Presiding Judge/Court Executive Workshop 12,000
- Data Processing Equipment Replacement 139,400
- District Office Equipment 40,000
- Document Translation 7,000
- Time Limited Deputy Court Clerk Pool (7 FTEs) 266,000
- Increased Perimeter Security 190,000
- Senior Clerks Academy 30,000
- Small Claims Pro tem Judge Training 2,000
- Out of State Judicial Education 13,000

In addition to the above, the Council set the compensation of court commissioners at \$99,907, effective July 2, 2005. This represents an increase of 6% over current compensation. Proposals to increase the length of commissioner terms and establish a longevity bonus program for commissioners were considered but not adopted.

Approval was also given to increase the hourly rate of pay for court interpreters, effective July 2, 2005, as follows:

- certified current 30.00 new 35.00
- approved (no certification available) current 25.00 new 30.00
- approved ( certification available) current 20.00 new 22.50
- conditionally approved current 15.00 new 17.50

#### **7. Report: Judicial Conduct Commission: (Colin Winchester)**

Colin Winchester, Executive Director of the Judicial Conduct Commission, reported the following:

- Rule 595-4. Sanctions. which is currently out for comment. This rule provides guidelines for implementing sanctions.
- Two JCC recommendations are currently before the Supreme Court. One involves the judge of the Hilldale Justice Court. The other involves a recommendation for a public reprimand.
- In 1999 the JCC set an all time record for the most complaints received, at 125. At present, the JCC has received 117 complaints this year, with two months remaining in the current fiscal year. It was noted, however, that the number of serious complaints has not increased.
- Susan Hunt, of the JCC office, will speak to the juvenile court judges at their Spring Conference.
- The JCC is currently planning its Fall conference.

#### **8. Case Management Audit: (Mark Jones)**

Mark Jones reported that a meeting recently took place with the Legislative Audit Committee regarding a case management audit that was recently conducted. Mr. Jones reported that, in a letter he submitted to the Legislative Auditor General, it was indicated that the courts acknowledge the recommendations made in the audit report, and that the courts are taking measures to address the recommendations.

#### **9. Mission Statement, Principles, & Goals: (Daniel J. Becker)**

Daniel Becker reviewed the Judicial Council' s mission, principles, and strategic agenda, per Council discussion and recommendation. After discussion took place, the Council determined that it would review the planning document and discuss it in greater detail during the Council's next meeting.

#### **10. Third District Court Request to Replace Domestic Commissioner: (Daniel J. Becker)**

Daniel Becker reported that Commissioner Susan Bradford has submitted her intent to resign, effective May 20<sup>th</sup>. Council rules require that the Council approve the filling of the vacancy.

**Motion:** Judge Davis made a motion to authorize the Third District Court to proceed with filling the aforementioned vacancy. Judge McIff seconded the motion. The motion carried unanimously.

**11. Adjourn:**

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