

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Monday, May 23, 2005

Provo Juvenile Court Facility
2021 South State
Provo, 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. K.L. McIff
Hon. Hans Chamberlain
David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
Mark Jones
Ray Wahl
Rob Parkes
Nancy Volmer
AnNicole Faeth

MEMBERS EXCUSED:

Hon. Gary Stott

GUESTS PRESENT:

Bill Greer, *Legislative Fiscal Analyst*
Hon. Paul Iwasaki, *Presiding Judge, Salt Lake City Justice Court*
John Day, *Trial Court Executive, Fourth District Juvenile Court*
Edward Skrobiszewski, *Mayor, Perry 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 April meeting were discussed. The following motion was then made.

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

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

Chief Justice Durham reported that the Appellate Judicial Nominating Commission has selected seven nominees for the Utah Court of Appeals vacancy. The position will replace Judge Norman H. Jackson who announced his retirement effective August 2005. The nominees are as follows: Carol Clawson, Salt Lake City, attorney, Clawson & Falk, LLC; Scott J. Daniels, Salt Lake City, arbitrator/mediator; Laura B. Dupaix, Kaysville, assistant attorney general, Utah Attorney General's Office; Robert K. Hilder, Park City, Third District Court judge; Thomas L. Kay, Bountiful, Second District Court judge; Carolyn B. McHugh, Salt Lake City, shareholder, Parr Waddoups Brown Gee & Loveless; Anthony W. Schofield, American Fork, Fourth District Court judge. The names are currently out for comment and will officially go to the Governor for consideration, Tuesday, May 24th.

It was also reported that the Second District Nominating Commission will conduct interviews May 25th to fill a new judicial position in that district which was allocated by the legislature during the 2005 General Session.

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

Daniel J. Becker reported the following:

- A portion of the Council' s June agenda will be devoted to evaluating recommendations concerning modifications to the Clerical Weighted Caseload.
- The Interim Committees of the Legislature met last week. The Judiciary Interim Committee considered recommendations made in a legislative audit report related to the Guardian ad Litem Office. The Appropriations Sub-committee also met, and paid particular attention to the Department of Corrections in terms of jail contracts and prisoner housing issues.
- The Juvenile Judges Conference took place last week in Bryce, Utah. It was mentioned that three tribal judges participated in this year' s conference.
- The first Utah Drug Court Conference will take place June 2 - 3 in Park City, Utah. Over 220 participants are registered to attend.
- AnNicole Faeth, staff to the Judicial Council, has accepted a research position with the University of Utah' s Center for Public Policy and Administration. Ms. Faeth' s last day with the court system will be July 29th.

4. Reports:

Management Committee: (Chief Justice Christine M. Durham)

Chief Justice Durham reported the following:

- Former judge, Regnal Garff, was asked to serve as chair of the Guardian ad Litem Oversight Committee. However, Judge Garff indicated that he is unable to accept this appointment due to prior commitments. Debra Moore, a member of the Oversight Committee, has been kind enough to accept the position of chair.
- The Council recently considered a policy on political activity, and at that time the Council asked the Management Committee to further review the policy. In its May meeting, the Management Committee considered and approved the following change to the policy: A Employees of the Judiciary are prohibited from running for, being appointed to, or otherwise holding an elected office at any level of government."

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that Policy and Planning had not met since the Council's last meeting.

Liaison Committee: (Hon. Jerald Jensen)

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

Bar Commission: (David Bird, esq.)

David Bird reported that the Bar had not met since the Council' s last meeting. He did report, however, that the Bar Commission is considering conducting an operational audit of the Bar.

5. Report: Law Day, Juror Appreciation Activities: (Nancy Volmer)

Nancy Volmer reported that Law Day and Juror Appreciation Week, which took place the week of May 2 - 6, were organized by the newly formed Public Outreach Standing Committee of the Council. Ms. Volmer reported that activities were conducted in each district, including mock trials, juror appreciation certificates, and other community awareness increasing activities. It was reported that Governor Huntsman signed a declaration naming the week "Juror Appreciation Week" . Ms. Volmer reported that the committee would like to continue holding a Juror Appreciation Week each year.

6. Uniform Fine & Bail Schedule: (Mark Jones)

Mark Jones reported that the Uniform Fine & Bail Standing Committee recently met and considered modifications to the Fine & Bail Schedule based upon recent changes to legislation. Mr. Jones reviewed changes with the Council as recommended by the committee. The following motion was then made.

Motion: Judge Poulson made a motion to approve the Uniform Fine & Bail Schedule per standing committee recommendation. Judge Hilder seconded the motion. The motion carried unanimously.

7. Expansion of Provo Juvenile Courthouse: (John Day)

John Day reported on several changes that have been occurring in the Provo Juvenile Courthouse. It was reported that perimeter security funding was recently allocated, and a new mediation room was created in the courthouse. Additionally, Mr. Day reported on plans to expand the courthouse in order to create four additional courtrooms and increased parking. The present building will be converted into probation office space. This expansion is the result of enormous growth in Utah County (40% over the past decade).

In regards to the Fourth District Juvenile Court, Mr. Day reported that the district has seen an increase in child welfare cases. Additionally, the district has several drug courts for families and juveniles, and the courts have yielded great success.

8. Part-time/Full-time Judge Issue: (Hon. Paul Iwasaki, Richard Schwermer)

Richard Schwermer reported that the Council considered the use and payment of part-time judges by the Salt Lake City Justice Court a few months ago. It was reported that meetings have taken place with the justice court concerning the use of part-time justice court judges. Judge Paul Iwasaki, presiding judge of the Salt Lake City Justice Court, indicated that the justice court has reviewed this issue and found that there was an apparent misunderstanding concerning how a part-time judge could be paid, and that the court is making efforts to pay its part-time judge a fixed monthly salary, rather than an hourly rate, per Utah Statute.

The Council expressed appreciation to Judge Iwasaki for the justice court's efforts to address and resolve this issue.

9. Perry Justice Court Application: (Richard Schwermer)

Richard Schwermer reported that the Council considered the re-certification of the Perry City Justice Court approximately a year ago. At that time, the Council was concerned with various issues related to the operation of the court, and voted to de-certify the court. Perry City has since submitted an application for the creation of a new justice court. Mr. Schwermer reviewed the application materials and a demonstrated need with the Council.

Motion: Judge Hilder made a motion to approve the creation of a justice court in Perry City. Justice Nehring seconded the motion. **The motion failed with 13 opposed.**

Note: Judge Kevin Nelson has been approached by Perry City to serve as a Judge Pro Tem if the city's application to create a new justice court is approved. Therefore, Judge Nelson recused himself from voting and participating in Council discussion concerning this matter.

10. Executive Session:

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

11. Adjourn:

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