

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Tuesday, May 30th, 2006

Vernal Courthouse
920 East Highway 40
Multipurpose Room
Vernal, Utah

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine Durham
Hon. James Davis
Hon. Ronald Nehring
Hon. Gary D. Stott
Hon. Michael Lyon
Hon. Robert Hilder
Hon. Mark Andrus
Hon. Jody Petry
Hon. Kevin Nelson
Hon. William Barrett
Hon. Rand Beacham
Hon. Jerry Jensen
David R. Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Rick Schwermer
Mark Jones
Matty Branch
Susan Burke
George Braden
Holly Frischknecht

EXCUSED MEMBERS:

Hon. Hans Chamberlain

GUESTS:

Judge John Anderson, 8th District
Judge Lynn Payne, 8th District
Judge Larry Steele, 8th Juvenile
Commissioner Mike McKee, Vernal
Bill Johnson, Executive Director of
Economic Development, Vernal
Tim Taylor, Saratoga Springs Attorney

1. WELCOME AND APPROVAL OF MINUTES:

Chief Justice Durham welcomed everyone to Vernal and thanked them for attending after their Memorial Day weekend. Judge Stott introduced Judge Michael Lyon as the newest member of the Judicial Council, replacing Judge Jon Memmott. The Council members welcomed him. After reviewing the minutes, the following motion was made.

Motion: Judge Stott motioned to approve the minutes, Judge Jensen seconded the motion, the motion passed unanimously.

2. CHAIR'S REPORT

Chief Justice Durham reported the following items:

-Robert Wilde, Leslie Slaugh, David Mortenson are the three names the 4th District

Nominating Commission has sent to the Governor for consideration. His decision is expected by the end of June. Chief Justice Durham reported that Michele Christiansen will also be keeping her responsibilities with the appointment process of new judges despite her new responsibilities as General Counselor to the Governor.

-The Nominating Commission for Judge Brown' s position will meet July 27th and August 8th. Judge Frederick's and Judge Hansen's positions will be advertised June 1st.

3. ADMINISTRATOR'S REPORT

Mr. Becker reported the following items:

-The State Justice Institute has approved the courts grant request for funding of the public opinion survey. This survey will gauge the public's knowledge and understanding of the courts and is modeled after a California survey. The Public Outreach Committee will oversee this process.

-Governor Huntsman has made the following changes in his staff:

-Palmer DePaulis as the new Director for the Department of Community and Culture, he moves from the Tax Commission

-D' Arcy Dixon Pignanelli will take Palmer' s place on the Tax Commission, leaving as Director of Administrative Services

-Richard Ellis will be Director of Administrative Services, he leaves the Governor' s Office of Planning and Budget

-John Nixon will serve as the new Director of the Governor's Office of Planning and Budget, leaving as Deputy Director of Department of Workforce Services

-Jesse Gallegos will be the new Director of CCJJ, he leaves the Board of Pardons and Parole

-Michele Christiansen is now General Counsel to the Governor, she had served as Director of CCJJ

-Jerome Battle, the court' s IT Director, has resigned and a national search to fill that position will begin shortly. Tom Clark from the National Center for State Courts visited Utah a few weeks ago to help assess the current state of the IT department and identify attributes the next IT Director should possess. Gordon Bissegger will be the acting IT Director until that position is filled.

-Utah Dispute Resolution honored Kathy Elton, the court' s ADR Director, as the Utah Peacekeeper of the Year. A tree was planted in her honor in the Peace Gardens.

4. REPORTS:

Management Committee: (Chief Justice Durham)

Chief Justice Durham referred Council members to the minutes for an overview of the Management Committee' s discussion.

Bar Commission: (David Bird)

Mr. Bird reported that the Bar is working on selecting a recipient of the Lifetime Service to the Bar Award to be given at the 75th Anniversary celebration in September. Mr. Bird reported that the nominations should go to John Baldwin as soon as possible.

The Annual Bar Convention will be in July at Newport Beach California. Room accommodations are going quickly so it was suggested arrangements be made immediately if any judges plan on attending.

The Bar recently approved a reorganization of their policy and procedures manual. Copies are available upon request.

The Lawyers Helping Lawyers program has assisted approximately 110 lawyers over the past year, which is a higher number than the program has helped in the past.

Although progress on the Bar' s performance review has slowed, they continue to work on the best approach for obtaining a comprehensive review. The Performance Review Committee will make a progress report to the Bar Commission in July. The Bar has never done a performance review or a full scale performance audit and have had a difficult time gaining the resources necessary to conduct one.

The Bar's 75th Anniversary Celebration will be held September 21st at the Rice Eccles Stadium in the west towers. Information will be sent out as the date approaches.

Mr. Bird reported that the Bar continues to work on the issue of malpractice insurance by gathering information. A proposal to the court requiring disclosure could be forthcoming.

5. LEGISLATIVE INTERIM REPORT: (Rick Schwermer, Mark Jones)

Mr. Schwermer reported that the Judiciary Committee approved the following study items to be considered:

Rules of Evidence

Title 78, purely recodification

HB 413, Comparative Negligence Amendments

HB 257 , Material Harmful to Minors Amendments

SB 195, Child Support Guidelines

Protective Orders

Wrongful Death of Heir

Penalty Enhancements Effectiveness

Plea in Abeyance

Tort Reform in Medical Practices

Victim's Right to Subpoena Notification

Mr. Schwermer reported the Transportation Committee met and determined that, although they had initially requested the information, identifying race on a driver's licence was no longer needed.

The unauthorized practice of law statute is up for routine sunset review and a discussion took place about the necessity of this statute based on previous Supreme Court rulings. This rule will most likely be re-authorized for an additional ten years.

Mr. Schwermer reported that during the special legislative session recently held, only technical changes were made to court documents. Mr. Becker reported that leadership in the Appropriations Committee will change after the elections, but it is unknown who will fill those positions.

6. MEDIATION/DIVORCE EDUCATION PROGRAM: (Rick Schwermer)

Mr. Schwermer provided information on the 2005 mediation statistics in district and juvenile court cases. A report on mandatory divorce mediation was also made. The increase in mandatory divorce mediation was 65% between 2004 and 2005. The Interim Committee was pleased with the positive report on the use of mediation.

7. WORKLOAD PROJECTIONS FOR 8th DISTRICT: (Mark Jones, Susan Burke, George Braden)

Mark Jones, Susan Burke and George Braden provided data on the workload in the eighth district. Mr. Jones reported that the details of the district court information demonstrated that, although there are some areas with an increase in case filings, overall there is a decrease in case filings district and state wide. Ms. Burke also explained the data in the juvenile case filings follow a similar pattern with the district court case filings. Discussion took place about the handouts provided to the Council members outlining the details of this report. Specific workload reports on the 8th District were provided and showed modest increases in both courts.

8. TARGETS FOR COURTOOLS MEASURES: (Daniel J. Becker)

Mr. Becker reported that after the last Judicial Council' s discussion on targets for Courtools measures, staff met to discuss the direction of this topic. It was determined that relying on trend reporting on performance measures was preferable to setting targets. Mr. Becker indicated measuring trends and reporting on quarterly performance would be a more beneficial use of the Courtools data. Creating a culture of accountability and ensuring correct data should be the immediate focus of this initiative.

9. JUSTICE COURT STUDY COMMITTEE: (Justice Ronald Nehring)

Justice Nehring reported that after meeting three times the Justice Court Study Committee has determined there is a need for limited jurisdiction courts. Problems the committee are considering is the perception of influence that financial gain has in the justice courts, the control of local governments over justice courts, and the lack of equality of service in each justice court. The next meeting will focus on the operational issues and the retention practices of justice court judges. Colin Winchester, from the Judicial Conduct Commission, will also attend and discuss some of the issues that often come before the Conduct Commission regarding justice courts.

Justice Nehring reported that the committee is working on what an ideal court of limited jurisdiction would look like and will then develop a system that could be realistically created. The committee also discussed the implications of Goodman v. West Jordan.

Justice Nehring invited input and participation from Council members and judges.

10. JUSTICE COURT JUDGE REQUEST: (Rick Schwermer)

Mr. Schwermer reported that the justice court vacancy position at question is from Paul Thompson, who has acted as a Justice Court Judge in the past and is now requesting approval as an acting senior judge.

Motion: Judge Davis motioned to approve Judge Thompson as an active Sr. Judge, Judge Hilder seconded the motion. The motion passed unanimously.

11. CITIZEN'S COMPENSATION COMMITTEE REPORT: (Daniel J. Becker)

Mr. Becker reported that the Citizen's Compensation Committee met earlier this month to address the short term and long term strategy for judicial compensation. Mr. Cornaby the chair of the committee reported that he and Scott Anderson, from Zion's Bank, intended to continue to work on the goal of a 21% increase. The Committee will also work with nominating commissions to gain more insight into what is happening during the recruitment of judicial officers. The committee will begin working with legislators earlier in the year and provide information explaining their assessments in time for the Annual Judicial Conference. Mr. Cornaby indicated that the salary requests should be separate from the operational budget requests of the court.

The Committee also determined that it might be desirable to have rule or judicial administration setting out the process and criteria used in evaluating judicial compensation. It was determined that the Committee will meet again before the Annual Conference in September.

Judge Stott reported that the District Court Judges discussed the compensation issue during the bench meeting. Judge Stott indicated alternative options were discussed, but overall the District Court Judges were very supportive of the Compensation Committee's efforts. The suggestion was made that additional members be added to the citizen committee. The current members of the committee will look to people in the community for additions to the commission.

12. 8th DISTRICT STATUS REPORT:(Judge John Anderson, Judge Lynn Payne, Judge Larry Steele, Commissioner McKee, Bill Johnson)

Judge Anderson reported that the 8th District has four locations, so the judges spend a significant time on the road. He indicated that the oil boom has created rapid growth in the community and has led to seemingly longer calendars. Judge Anderson reported that the district suffered a serious loss recently with the death of Court Executive John Greene last month.

Judge Steele indicated that although growth is happening throughout the basin, many of the children of those working in the oil business have not moved into the community which has meant limited growth in the juvenile court at this point.

Commissioner McKee reported that in the past few years the amount of drilling requests have more than doubled in the area. The projection of the wells in the area have approximately a 25 to 30 year life span. The Commissioner indicated that in the past three years a 24% growth in voter registrations has occurred. The challenge to compensate their workforce in local positions has also created a difficult dilemma for the small business owners.

Mr. Johnson welcomed the Judicial Council to Vernal and discussed how the up swing in growth has affected the community. Vernal is experiencing a meth problem that has remained somewhat hidden, but as the population grows, this challenge will become more evident. Another challenge the county faces is the lack of jail space and the difficulties in transportation due to the increase in oil trucks using the roads.

Discussion took place about local funding and the increase in taxes that have taken place in the last two years. Commissioner McKee reported on the efforts the county is making in order to re-direct funds into the jail, law enforcement and other local needs that will also support the court needs. Judge Petry reported that her caseload has also increased and she has been supported by the county commission. Justice Nehring indicated the more collaborative development put into planning for growth, the more beneficial the outcome will be from a state, local and municipal level.

Judge Payne reported that the housing situation has been one of the greatest challenges for those individuals working in Vernal. Once more housing is available, the growth will be felt more directly in the community.

13. SARATOGA SPRINGS JUSTICE COURT REQUEST: (Tim Taylor)

Mr. Taylor provided an updated budget that anticipated costs based on data from the creation of a Saratoga Springs Justice Court. Mr. Taylor explained that approximately 50% of the 675 Utah County Sheriff's Office citations issued within the City of Saratoga Springs are residents of the city. It is proposed that a part time judge would hold court for a 2 day per week with a full time clerk employed to take receipts.

Mr. Taylor reported that after discussing operational issues with other courts of similar size, the amount of time and money for the creation of a new justice court was determined. Mr. Taylor responded that Saratoga Springs is anticipating building a new county building that would also include a courtroom that would allow for flexibility in meeting the needs of Saratoga Springs constituents.

Mr. Taylor reported that providing services to constituent and having an autonomous law enforcement system was the main influences for requesting a Saratoga Springs Justice Court. Mr. Taylor responded to questions about the

set up of the court.

Motion: Judge Hilder motioned to approve the Saratoga Springs request, Judge Andrus seconded the motion, the motion passed unanimously.

14. ADJOURN:

Chief Justice Durham thanked all those who helped make the Judicial Council's trip to Vernal so informative.

Motion: A motion was made to adjourn the meeting, the motion was seconded and passed unanimously.