

## Judicial Council Meeting Minutes

### JUDICIAL COUNCIL MEETING MINUTES

Wednesday, July 13, 2005

Limelight A, Sun Valley Inn  
Sun Valley, Idaho

Chief Justice Christine M. Durham, Presiding

#### **MEMBERS PRESENT:**

Chief Justice Christine M. Durham  
Justice Ronald Nehring  
Hon. James Davis  
Hon. Kevin Nelson  
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 Schwermer  
Mark Jones  
Ray Wahl  
Matty Branch  
Tim Shea  
Gordon Bissegger  
Rob Parkes  
AnNicole Faeth  
Holly Frischknecht

#### **MEMBERS EXCUSED:**

Hon. Jon Memmott

#### **GUESTS PRESENT:**

Hon. Michael Allphin (for Judge Memmott)

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

All in attendance were welcomed to the meeting. It was noted that this would be AnNicole Faeth= s last Judicial Council meeting, as her last day will be July 29<sup>th</sup>. Holly Frischknecht, who will be replacing Ms. Faeth was introduced and welcomed.

The minutes of the Council= s June meeting were then discussed, and the following motion was made.

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

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

Chief Justice Durham reported that the Sixth District Nominating Commission recently met and sent four names to Governor Huntsman for consideration and subsequent appointment to a judicial vacancy in that district. It was also reported that Salt Lake justice court judge, Paul Iwasaki, was just appointed to the Second District Juvenile Court by the Governor. Judge Iwasaki is awaiting Senate confirmation.

Chief Justice Durham then noted that Judge Andrew Valdez of the Third District Juvenile Court was selected to receive the Bar= s Judge of the Year Award.

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

Daniel J. Becker reported the following:

- Holly Frischnecht will replace AnNicole Faeth as staff to the Judicial Council and assistant to the State Court Administrator and Deputy State Court Administrator.
- Susan Burke, director of the Utah Substance Abuse and Anti-Violence Council, recently accepted the position of Assistant Juvenile Court Administrator, replacing Ron Oldroyd.
- A resolution was prepared, honoring former justice I. Daniel Stewart. A copy of the finalized resolution was distributed to Council members for their information.

- Mr. Becker and Richard Schwermer recently met with Lisa-Michelle Church, Executive Director of the Department of Human Services, regarding drug court funding.
- At the May Council meeting, the Council approved the allocation of 7 Deputy Court Clerks to districts in greatest need. The Council asked for feedback from the Trial Court Executives concerning the allocation. They recommended 2 clerks remain in the 2<sup>nd</sup> District and 5 clerks go to the 4<sup>th</sup> District. Mr. Becker indicated that the 2<sup>nd</sup> District has requested that the two positions in that district remain, in order to staff a scanning project. Mr. Becker suggested that a cost-benefit analysis of the scanning project take place, and that the clerks be approved for 6 months, rather than a year.

**Motion:** Judge Stott made a motion to approve the aforementioned allocation of the 7 court clerks. Judge Davis seconded the motion. The motion carried unanimously.

Richard Schwermer discussed issues surrounding the Small Claims limit. Mr. Schwermer requested feedback from the Council the possibility of changing the limit.

**Motion:** Judge McIff made a motion to not make any changes to the Small Claims limit. Judge Poulson seconded the motion. The motion carried unanimously.

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

##### **Management Committee: (Judge Davis)**

Judge Davis reported that he had nothing to report in addition to what was included in the committee= s minutes.

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

Judge Dever reported that the Policy and Planning Committee 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 expressed appreciation, on behalf of the Bar, to the Council for holding its meeting in conjunction with the Annual Bar Conference.

Mr. Bird reported that the Bar Commission would be discussing the issue of attorney= s disclosing to clients if they do not have malpractice insurance. They will also be discussing an advisory opinion regarding the preparation of final divorce documents by mediators. The Bar= s committee that has considered this issue, feels that the Bar= s rules prohibit such an act. Finally, it was reported that the Bar Commission will hear a report in its upcoming meeting concerning the IOLTA rule change. This rule makes participation in IOLTA mandatory.

#### **5. Human Resources Report: (Rob Parkes, Gordon Bissegger)**

##### **- Management Development Update:**

Rob Parkes reported that approximately a year ago, the Council approved the re-allocation of a position in the AOC to the Human Resources Office. Among other duties, this position has been responsible for the development of a management training program. Mr. Parkes reported that the objectives of the training are to: 1) Deliver focused, court specific skills and expectations to managers through the courts; 2) Utilize small, district based groups to focus training and enhance team building; 3) Create a safe environment for the discussion of issues and solutions; and 4) Set the standard for successful court management. Mr. Parkes reported that several courses have been developed with these objectives in mind, and the courses will be offered to court managers in the near future.

##### **- Proposed Core Measures on Employee Satisfaction:**

Rob Parkes reported that in its last meeting, the Council determined that it would review one core performance measure during each meeting through 2005 (with the exception of the August planning meeting). Mr. Parkes reported that he would be presenting the Court Employee Satisfaction measure. Mr. Parkes indicated that he would like to establish a baseline of employee satisfaction; survey a random sample of employees from each district on a quarterly basis; and, utilize aggregate data to provide Council updates on statewide results and trends, inform management training and educational tools, and inform Court Executives for use in their districts. Mr. Parkes indicated that the survey would consist of questions prepared by the National Center for State Courts. Mr. Parkes reported that it is important for the courts to commit to the responsibility associated with seeking

feedback from employees; communicate the findings; provide feedback to appropriate stakeholders; and, establish performance expectations and best practices.

**Motion:** Judge Poulson made a motion to approve the aforementioned core performance measure and accompanying plan. The motion was seconded and carried unanimously.

#### **- Sick Leave Conversion/ Impact of HB 213:**

Rob Parkes reported that HB 213 eliminated the automatic five year benefit; as of 12/31/05 it caps the accrual eligible for conversion into months of coverage; it eliminated the exchange of sick hours for months of health insurance coverage; it created a formula for converting hours into dollars; it resulted in a 75% reduction in the value of sick hours accrued after 1/1/06; and, it did not directly affect judges. Mr. Parkes reported that 19 employees have retired or set a retirement date (this includes 9 management level employees), and 6 additional employees have announced their intention to retire (includes 3 management level employees).

Mr. Parkes reported that Rule 3-501 governs judges' retirement benefits. The rule currently provides for 8 months of paid-up insurance for every year in which 4 days of sick leave or less are used. Additionally, upon eligible retirement, judges receive a maximum of five years medical, dental, and life insurance. It was noted, however, that these benefits do not exceed seven years.

It was reported that in March of 2005, the Council decided that current judges and those hired prior to 12/31/05 will continue under the current rule 3-501. The Council would then, at a later date, determine if there are to be changes impacting judges hired after 1/1/06. Mr. Parkes asked the Council to consider the issue of whether rule 3-501 needs to be modified for judges hired after 1/1/06 to reflect the intent of HB 213. Mr. Parkes presented a number of options for addressing this issue. During discussions that took place, it was determined that the Council doesn't feel comfortable changing rule 3-501 at this time. Rather, staff were instructed to flesh out options in the event it is necessary to make a change to the rule in future.

#### **6. Court Security: (Gordon Bissegger)**

Gordon Bissegger reported that there was an attempt to arrive at a uniform rate for perimeter security contracts based upon averages in class 1, 2 and 3 counties. It was found, however, that a wide variety of rates are being used in different counties. Furthermore, a state average would equate to \$23.86/hour, which would be a decrease in the hourly rate for Salt Lake County, and would result in a \$600,000 increase in annual perimeter security expenses. Mr. Bissegger then shared rates for private security providers with the Council. It was reported that these rates are generally lower than those of sheriff's offices. Daniel Becker suggested the possibility of having an external consultant study this issue, and provide the courts with a cost-benefit analysis related to public vs. private security providers for perimeter security.

**Motion:** Judge Hilder made a motion to send out a request for proposal (RFP) related to hiring a consultant to conduct a study to evaluate the costs and benefits of retaining sheriff's deputies to provide perimeter security, vs. hiring private security providers. The motion was seconded and carried unanimously.

#### **7. Compensation Discussion: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported that last year, the Council determined to approach the legislature to receive a 7% pay increase for judges. It was reported that the 2005 Legislature awarded a 6% increase. Chief Justice Durham reported that the Council may want to develop a plan for requesting a salary increase for judges for the coming fiscal year. Judge Allphin, a member of the Board of District Court Judges and attending on behalf of Judge Memmott, reported that the Board recently discussed the salary issue and would like to see the courts pursue an additional salary increase during this coming legislative session. After discussion took place it was determined that staff would collect additional information concerning various options for obtaining salary increases for judges during the coming legislative session.

#### **8. Ogden and Provo Justice Court Requests: (Richard Schwermer)**

Richard Schwermer reported that the courts have received applications from both Ogden City and Provo City requesting that justice courts be created in their respective cities. Ogden has requested that the Council waive the two year waiting requirement, and allow them to form a court effective July 1, 2006.

It was mentioned that, per statute, both Ogden and Provo may create justice courts assuming they meet the operational standards. Furthermore, the Council will need to consider the impact these courts will have on staffing and resources in the Second and Fourth Districts.

After discussion took place concerning whether or not the Council should grant a waiver to Ogden City, the following motion was made.

**Motion:** Judge Davis made a motion to reject Ogden City= s request for a waiver to the two year waiting requirement. Judge Dever seconded the motion. **No vote was taken on the motion.**

**Substitute Motion:** Judge Hilder made a motion to allow Ogden City to address the Council= s concerns regarding waiving the 2 year requirement in its August meeting, and to defer action on their request until then. Judge Jensen seconded the motion. **The motion carried unanimously.**

In regards to Provo City= s request, Mr. Schwermer reported that he recently spoke with the Mayor of Provo concerning the city= s interest in creating a justice court, and provided some additional context of the city= s motivation to the Council.

#### **9. Discussion of Justice Court Issues: ( Richard Schwermer)**

Richard Schwermer reported that the Council has received an application from Judge Richard Carr, a justice court judge, requesting that he be granted senior justice court judge status. After discussion took place, the following motion was made.

**Motion:** Judge Poulson made a motion to approve Judge Carr= s application. Judge Nelson seconded the motion. The motion carried unanimously.

Richard Schwermer then reported that an issue the Council will need to consider is a proposal that may be out there to make a certain type of justice court a court of record.

In terms of an overview of issues the Council needs to consider related to justice courts. Mr. Schwermer indicated that some examples of these issues include the following:

- the creation of new justice courts
- the certification of justice court judges
- proposals regarding the retention of courts and the creation of courts of record
- intent language and legislative interest related to justice courts

Mr. Schwermer mentioned that it would be useful for the Council to review the history of justice courts and their constitutional basis.

#### **10. Adjourn:**

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