

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Thursday, August 28, 2003
Large Conference Room, W-19A
Matheson Courthouse
450 South State Street
Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham
 Justice Matthew Durrant
 Hon. James Davis
 Hon. Ben Hadfield
 Hon. Scott Johansen
 Hon. Clair Poulson
 Hon. Robert Hilder
 Hon. Lee Dever
 Hon. Gary Stott
 Hon. K.L. McIff
 Hon. Ronald Hare
 David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
 Myron K. March
 Richard Schwermer
 Tim Shea
 Ray Wahl
 Matty Branch
 Kim Allard
 Nancy Volmer
 Diane Cowdrey
 Gordon Bissegger
 AnNicole Faeth

MEMBERS EXCUSED:

Hon. Andrew Valdez
 Hon. Jerald Jensen

GUESTS PRESENT:

Hon. Kimberly Hornak
 Kevin Miller, *GSBS Architects*

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

All in attendance were welcomed to the meeting. The minutes of the Council's July meeting were then discussed. One minor correction was mentioned, and the following motion was then made.

Motion: Judge Davis made a motion to approve the minutes as modified. Judge Johansen seconded the motion. The motion carried unanimously.

• **STRATEGIC PLAN: EDUCATION: (Hon. Kimberly Hornak, Diane Cowdrey)**

Judge Kimberly Hornak, outgoing chair of the Standing Committee on Education, expressed appreciation to Diane Cowdrey for her work in directing the activities of the Education Division. Judge Hornak mentioned that, in Dr. Cowdrey, Utah is fortunate to have a nationally recognized individual heading their judiciary's educational program.

Judge Hornak reported that Rule 3-403 is the rule governing judicial branch education. The intent of this rule is to establish the Judicial Branch Education Committee's responsibility to develop and evaluate a comprehensive education program for all judges, commissioners, and court staff. Judge Hornak reported that specific activities of the committee related to Rule 3-403 implementation include budget oversight and approval, annual long-term planning, policy interpretation and development, overall curriculum development, and advancing a system-wide initiatives by providing education and training. This material was presented in the form of a strategic plan for Education.

Judge Hornak then discussed education services provided, including judicial branch education for judges, judicial branch education for court staff, and public outreach efforts. A number of objectives identified by the committee within each of these identified areas, and related tasks to be able to accomplish those objectives were then discussed. Judge Hornak also mentioned that the Education Standing Committee feels that one of their subcommittees, Public Outreach, should become a separate standing committee.

• **STRATEGIC PLAN: PUBLIC INFORMATION: (Kim Allard, Nancy Volmer)**

Kim Allard reported that a framework for communications was formed several months ago, and that framework has been used by Nancy Volmer, the court's new Public Information Officer, to create a strategic plan. Ms. Volmer reported that the purpose of the plan is to strategically direct the court's communication (internal/external), public information, and outreach activities. A number of challenges and opportunities associated with this plan were discussed, as well as key constituents such as the public, education, government officials, media, attorneys, and court employees. Ms. Volmer then discussed a number of objectives such as improving the image of the Utah State Courts by enhancing public trust and confidence in the judiciary, improving internal communications, and increasing awareness of the accessibility of the Utah Court System. A number of strategies to meet these objectives were shared with the Council.

- **PUBLIC OUTREACH COMMITTEE: (Myron K. March)**

Myron March reported that the Public Outreach Committee was formed as a subcommittee of the Education Standing Committee. It was reported that the Education Standing Committee has voted and recommends that the Council consider transforming the subcommittee into a Council standing committee due to the scope of the issues this committee deals with and the ongoing nature of those issues. It was noted that the Public Outreach Committee supports this change. Mr. March asked the Council for their feedback on this issue. After discussion took place, the following motion was made.

Motion: Judge Davis made a motion to transform the Public Outreach Subcommittee of the Education Standing Committee into a separate standing committee, and that Policy and Planning draft a related rule change and recommendations regarding committee membership. Judge Hilder seconded the motion. The motion carried unanimously.

- **CHAIR'S REPORT: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported the following:

- The courts will be assisting in the design of a curriculum related to civics instruction.
- The Annual Conference of Chief Justices and Conference of State Court Administrators recently took place. It was reported that Chief Justice Durham and Daniel Becker provided a presentation during the course of the conference related to Utah's handling of recent budget shortfalls. Chief Justice Durham mentioned that Utah has been a model for how to address shortages in the budget during recent years.
- The new Logan courthouse was recently dedicated.

- **ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Daniel J. Becker reported the following items:

- The Council will discuss the process for program based budgeting in their September meeting.
- Confirmation hearings for Randy Kester and Derrick Pullan will take place September 5th.
- New Judge Orientation is taking place this week.
- The first terms of Judge Hadfield and Judge Valdez on the Council will expire next month.

- **REPORTS:**

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

Chief Justice Durham reported that she had nothing to report in addition to what is included in the Management Committee's minutes.

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

Judge Dever reported that in addition to other issues discussed by the Policy and Planning Committee, they spent a good deal of time evaluating disability benefits for judges.

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

The Liaison Committee had nothing to report.

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

David Bird reported that the Bar will be undertaking a commemorative Brown v. the Board of Education celebration in the near future. Mr. Bird then reported that there is a connection between the Lawyers Helping Lawyers program and those who appear before the Office of Professional Conduct, and that the Bar is looking at this issue. It was also reported that the Bar has been looking at their admissions program. Council discussion took place related to this issue.

- **WEST JORDAN COURTHOUSE DESIGN PROPOSAL: (Gordon Bissegger, Kevin Miller, GSBS Architects)**

Gordon Bissegger reported that a design proposal for the West Jordan Courthouse was being presented for the Council's review. It was mentioned that the proposed project is based upon the design of the Logan Courthouse, but that it bears a number of distinct differences. After a review of the proposal took place, the following motion was made.

Motion: Judge Dever made a motion to wholeheartedly approve the design of the West Jordan Courthouse. The motion was seconded and carried unanimously.

- **REPORT FROM POLICY AND PLANNING REGARDING THE RECORD OF TRIAL COURT PROCEEDINGS: (Tim Shea)**

Tim Shea, on behalf of the Policy and Planning Committee, reported that rule 4-201 establishes a method for recording court hearings. It was reported that, as digital audio systems are becoming more prevalent, this rule needed to be amended in order to permit the interchangeable use of video or audio record keeping systems. A draft rule, which is currently out for public comment, was provided for the Council's review.

Mr. Shea then reported that there will continue to be a rule requiring a court reporter in capital cases, but a court reporter will no longer be required in first degree felonies. Mr. Shea reported, however, that a court reporter should be used when it is likely that a case will be appealed, and that the TCE's and judges should use discretion in the use of court reporters accordingly.

It was reported that Policy and Planning also looked at current court reporter classification levels. There are currently three levels which correspond with certain certifications or qualifications. Mr. Shea reported that there is presently only one court reporter who is a level I, and that Policy and Planning recommends that upon the eventual departure of this individual, this level be eliminated. At that time, there will be only two court reporter classification levels, level II and level III.

Mr. Shea reported that Policy and Planning evaluated how the court's reduction in force policy applies to court reporters. It was reported that the court's policy currently RIF's employees based upon years of service, which makes sense for clerks and probation officers, whose expertise is generally correlated with years of service. It was mentioned that, with regards to court reporters, it may make more sense to RIF based upon qualifications/certification. Policy and Planning made no formal recommendation on this issue, however.

Policy and Planning also reviewed the number of court reporters needed. It was reported that there are presently 17 court reporters for the state, one of which is a managing reporter for the Third District. Mr. Shea reported that the judiciary has no formula for determining the number of court reporters needed for a given caseload, and that a weighted caseload formula could be developed.

Mr. Shea then reported that Policy and Planning met with the Appellate Court Administrator regarding the issue of delays in filing the transcripts for appeals. It was determined by the committee that these issues are real, but not widespread. Policy and Planning felt that management could deal with these issues.

Motion: Judge Johansen made a motion to ask Policy and Planning to re-draft the court's reduction in force policy as it relates to court reporters. Judge Davis seconded the motion. The motion carried unanimously.

- **REPORT FROM POLICY AND PLANNING REGARDING RULE 11-203, SENIOR JUSTICE COURT JUDGES: (Tim Shea)**

Tim Shea reported that the Policy and Planning Committee recommends that senior justice court judges comply with the same minimum requirements as senior judges of the courts of record. Mr. Shea reported that Policy and Planning also recommends that three year terms for existing senior justice court judges who have reached the age of 75 be implemented.

Motion: Judge McIff made a motion to approve this recommendation. The motion was seconded and carried unanimously.

- **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.

Motion: A motion was made to accept an amendment to guardianship forms which appeared on the Council's consent calendar as follows: the word "completely" should be stricken from the form. The motion was seconded and carried unanimously.

- **CERTIFICATION OF SENIOR JUDGES: (Tim Shea)**

Motion: A motion was made to accept the recommendations of Policy and Planning regarding the certification of senior judges, and to recommend that a draft of rule 11-203 be adopted in order to reflect changes in the policy for senior judges. The motion was seconded and carried unanimously.

- **ADJOURN:**

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