Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Thursday, August 25, 2005

Large Conference Room
Matheson Courthouse

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
Tim Shea
Holly Frischknecht

1. 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, and the following motion was made.

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

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

Chief Justice Durham reported she had nothing to report further than what had been discussed in the Budget and Planning Meeting.

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

Daniel J. Becker congratulated the Council on accomplishing so much during the Budget and Planning Meeting. Mr. Becker then reported the following:

-The Parawon issue has been resolved . He stated that the judges and court staff from the 5th District should be commended for their efforts in working out a mutually successful resolution with the county government.

-Paul Iwasaki was confirmed as a 2nd Juvenile Judge by the senate on Wednesday, August 24th.

-A group of Jordanian judges will be visiting Utah in October. Court staff and judges will be asked to help welcome them and answer their questions.

-The Interim Judiciary Committee has recommended that the ADR program be extended for 10 years.

4. Reports:

Management Committee (Chief Justice Durham)

Management committee met and Chief Justice Durham had nothing to add to the minutes.

Policy and Planning Committee (Hon. Lee Dever, Tim Shea)

Judge Dever Reported that minutes from the most recent Policy and Planning Committee meeting would be provided at a later date. Tim Shea reported on an issue surrounding Rule 11 regarding the destruction of

misdemeanor convictions. The records between judge and defendant are now required in Justice Court and District Court. A proposal to amend the Criminal Procedure Rule is being considered.

Bar Commission (David Bird, Esq.)

Mr. Bird reported that the Bar continued its discussion on mandatory insurance disclosure last month while in Sun Valley. A survey was taken and 50% of respondents reported they currently had insurance. No action has been taking; information and issues are currently being gathered

A petition has been prepared which will allow law school faculty admission to do pro-bono work. This allows more pro-bono work to be done and allows the faculty closer ties to the legal community. The petition will be sent to the Supreme Court in the near future.

The Lawyer Assistance Program is currently being reviewed by a newly formed committee. The Bar is looking for ways to increase participation in this program.

The Bar addressed the ethical issue of whether a lawyer/mediator who represents a party should be allowed to prepare the final findings. The commission voted to support the majority which said the lawyer/mediator cannot represent parties after they have acted as the mediator.

Rick Schwermer reported that currently the ADR committee has a rule that requires the mediator to prepare a final document for the judge to sign. The ADR committee has been asked to respond to this opinion. Further discussion will continue on the opinion.

Chief Justice Durham reported that the Supreme Court recently reviewed extensive Rule changes surrounding Appellate Advisory Committee , Criminal, Juvenile, Professional Conduct, Civil Procedure, and Evidence. The majority of these changes will be approved and sent out via Tim Shea.

5. Justice Court Requests

Mr. Schwermer reported that Ogden City Council has requested approval be granted to begin on July 1, 2006. Mr. Schwermer reported that Judge West of 2nd District suggested the Council approve the request and allow the waiver for the formation of the new court with the understanding a transition time for the District Court will be needed.

Motion: Judge Poulson made a motion to accept the waiver from the Ogden City Council and allow a Justice Court to open on July 1, 2006. Judge Nelson seconded the motion. The motion passed unanimously.

Mr. Schwermer reported that the meeting with the Mayor Billings of Provo took place last week and Provo still anticipates opening a Justice Court in July of 2007. Although details on the formation of the Justice Court are unclear, the District Court will anticipate losing jurisdiction of traffic and class B and C misdeamenor violations on July 1, 2007.

Mr. Becker reported that the State Court relayed to the Provo Mayor that the desire to establish a Justice Court should be based on the merits of the City Court and not over concerns with how the District Court is handling these cases. Mayor Billings agreed.

6. Approval of Rules

Tim Shea reported that Rules 1-205 and 4-906 that were presented to the Council have gone out for comment and have been reviewed by the Policy and Planning Committee.

Judge Andrus questioned deleting the inventory of personal property by judges as only being deleted and not replaced. It was clarified that the intent is to eliminate the requirement for such an inventory.

Motion: Judge Chamberlain motioned to approve the proposed rule changes, Judge Andrus seconded the motion, the motion passed unanimously.

Mr. Shea reported that under Rule 11, changes had been made to allow Sr. Judges over 75 to continue as active judges if deemed competent.

10. Adjourn:

Motion: Judge Andrus made a motion to adjourn. The motion was seconded and passed unanimously.