

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Tuesday, September 7, 2004
Garden 2/3, Homestead Resort
Midway, Utah

Chief Justice Christine M. Durham, presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham
Justice Matthew Durrant
Hon. James Davis
Hon. Jon Memmott
Hon. J. Mark Andrus
Hon. Jerald Jensen
Hon. Clair Poulson
Hon. Robert Hilder
Hon. Lee Dever
Hon. Gary Stott
Hon. Ronald Hare
Hon. K.L. McIff
Hon. Scott Johansen
David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
Mark Jones
Ray Wahl
Matty Branch
Tim Shea
Katie Gregory
Nancy Volmer
AnNicole Faeth

GUESTS PRESENT:

Hon. William Thorne

Ron Russell, *member, Judicial Conduct Commission*

1. WELCOME & APPROVAL OF MINUTES:

All in attendance were welcomed to the meeting. The minutes of the Council= s August meeting were discussed. A minor change was mentioned, and the following motion was then made.

Motion: A motion was made to approve the minutes as modified. The motion was seconded and carried unanimously.

2. CHAIR= S REPORT:

Chief Justice Durham that she will be meeting with gubernatorial candidates John Huntsman, jr. and Scott Matheson, jr. to discuss issues affecting the court system. She also reported that the terms of three Council members are coming to an end, those of Judge Ronald Hare, Justice Matthew Durrant, and Judge Scott Johansen. Chief Justice Durham expressed appreciation to each of these Council members for their dedicated service to the Judiciary.

3. ADMINISTRATORS REPORT:

Daniel J. Becker reported the following items:

- Katie Gregory was introduced as the new Assistant Juvenile Court Administrator, replacing Alicia Davis. Ms. Gregory previously worked with Utah Children.
- The appropriations subcommittee that considers the court= s budget will meet September 14th. Reports on e-filing and automated legal research will be made.
- During the month of December, Chief Justice Durham and Daniel Becker will meet with legislators throughout the state, as they= ve done in previous years.
- A delegation from Mongolia visited the Utah State Courts a few years ago to learn more about Utah= s system of court governance. Mr. Becker recently learned that Mongolia has elected to adopt the Utah Judicial Council model of governance.
- The Privacy and Records Public Access Committee will present a final report to the Council at a future meeting. A draft report has been prepared by the committee, and has received a number of comments by the media. It has been suggested that the draft report be further disseminated for review and comment prior to the release of the final report. Mr. Becker, on behalf of the committee, asked for feedback concerning this course of action. The Council did not object to this course of action.

4. REPORTS:

- Management Committee:

Chief Justice Durham reported that she had nothing to report in addition to what is included in the committee= s August 27th meeting minutes.

- Policy and Planning:

Judge Dever reported that the Policy and Planning Committee recently considered a number of rules, discussed the court referee issue, and the committee reviewed a fax filing policy. It was mentioned that the fax filing policy would be presented to the Council in October.

- Liaison Committee:

Judge Jensen indicated that the Liaison Committee had not met since the Council= s last meeting.

- Bar Commission:

David Bird indicated that he had nothing to report.

5. PEW COMMISSION REPORT:

Judge Thorne reported that the Pew Commission Trust wanted to try to leverage a change in the foster care system. They gathered 16 people together to serve on the commission that was chaired by Bill Frenzel, a former budget chairman from the House. The commission also included members of the foster care community, psychologists, and even a former foster care participant.

The Council viewed a video prepared by the commission which outlines the present problems with the national foster care system, and laid the groundwork for the commission= s recommendations. Judge Thorne mentioned that the Conference of Chief Justices, the Conference of State Court Administrators, and other prominent national organizations have passed resolutions in support of the commission= s recommendations.

The Council thanked Judge Thorne for his report, and for his work on the commission.

6. STANDING COMMITTEE ON CHILDREN AND FAMILY LAW LEGISLATION:

Ray Wahl reported that a subcommittee of the Standing Committee on Children and Family Law has recently developed legislation concerning placing a child in protective custody. Mr. Wahl reviewed the legislation with the Council. It was mentioned that the Standing Committee is not asking the Council to sponsor this legislation, rather they were providing this report to the Council for its information.

7. PROPOSED REVISIONS TO FY 2005 BUDGET PLAN:

Daniel Becker reported that the Council created a budget plan its April, 2004 meeting, which outlined a plan for spending one time carry forward funds. Mr. Becker reported that additional one time carry forward funds, in the amount of \$221,000, are available for further allocation. Due to greater carry forward funds than had been projected, the Council reviewed where funds were allocated in April, and discussed possible alternatives for spending the remaining funds. After discussion took place, the following motion was made.

Motion: Judge Hilder made a motion to fund additional second language stipend funds (\$12,000), additional incentive award funding (\$40,000), and equipment (\$50,000). It was also moved that the remaining \$117,000 be held in the reserve for possible future allocation. Judge Andrus seconded the motion. The motion carried unanimously.

8. REPORT OF COMPENSATION COMMITTEE:

Judge Hilder reported that he has chaired a committee that has reviewed issues related to judicial compensation. Judge Hilder reported that judicial salary requests are processed through the Executive and Judicial Compensation Commission, and from there to Executive Appropriations. The Commission= s general report to Executive Appropriations is due no later than 60 days before the commencement of the general session. Judge Hilder then reviewed the salary process, once requests have been submitted to the Legislature. Various public sector salaries (and where judges= salaries fit within that range of salaries) were then shared with the Council. Different approaches in requesting a salary increase for judges, and appropriate increase amounts, were then discussed.

The Council thanked Judge Hilder for his report, and expressed appreciation to the committee for its work.

After further discussion took place, the following motion was made.

Motion: Judge Dever made a motion to have Judge Hilder, Judge Memmott, and Judge McIff spearhead this issue. The motion was seconded and carried unanimously.

9. JUDICIAL CONDUCT COMMISSION RULES:

Ron Russell, a member of the Judicial Conduct Commission, reported that he has been on the JCC for approximately 6 months, when he replaced Gayle McKeachnie who took office as lieutenant governor. Mr. Russell then reviewed the new JCC rules with the Council.

The Council expressed appreciation to Mr. Russell for his report.

The Council then discussed the rules, and the following motion was made.

Motion: David Bird made a motion to recommend to the JCC that in Rule 595-4, in section 1(a)1 the word A misconduct@ be changed to A conduct@ , in 1a2 A misconduct@ be changed to A conduct complained of@ , and that in 1(b)2 and 1(b)3 the word A misconduct@ be change to A conduct@ . Judge Stott seconded the motion. The motion carried unanimously.

10. INTERPRETER ADVISORY PANEL REQUEST:

It was reported that Judge Lynn Davis, chair of the Interpreter Advisory Panel, met with the Council at its last meeting and shared a request of the panel to become a standing committee of the Judicial Council. The request was discussed without any action being taken.

11. ADJOURN:

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