

## Judicial Council Meeting Minutes

### JUDICIAL COUNCIL MEETING MINUTES

Monday, October 22, 2001

Vernal Courthouse  
920 East Highway 40  
Vernal, Utah

#### **Members Present:**

Chief Justice Richard C. Howe  
Justice Michael J. Wilkins  
Hon. James Z. Davis  
Hon. Ben Hadfield  
Hon. Jerald Jensen  
Hon. Clair Poulson  
Hon. Lee Dever  
Hon. Andrew Valdez  
Hon. Lynn Davis  
Hon. Lyle Anderson  
Hon. Ronald Hare  
Hon. Scott Johansen  
Debra Moore, esq.

#### **Staff Present:**

Daniel J. Becker  
Myron K. March  
Richard Schwermer  
D. Mark Jones  
Tim Shea  
Matty Branch  
Ron Oldroyd  
Gordon Bissegger  
AnNicole J. Faeth

#### **MEMBERS EXCUSED:**

Hon. Robert Hilder

#### **GUESTS PRESENT:**

Hon. Lynn Payne, *Presiding Judge, Eighth District Court*  
Hon. John Anderson, *Eighth District Court*  
Hon. Larry Steele, *Eighth District Juvenile Court*  
Sherry Stettler, *Trial Court Executive, Eighth Judicial District*  
Ed Peterson, *President, Uintah Basin Bar Association*

#### **1. LUNCH**

The Uintah Basin Bar Association joined the Judicial Council for lunch.

#### **2. WELCOME: (Chief Justice Richard C. Howe)**

All members, staff and guests were welcomed to the meeting. Judge James Davis was introduced as a new member of the Judicial Council, replacing Judge Russell Bench whose term expired in September.

#### **3. EIGHTH DISTRICT DRUG COURT PROGRAM: (Hon. Lynn Payne, Hon. John Anderson, Hon. Larry Steele, Sherry Stettler)**

Judge Anderson reported to the Council concerning the drug court program in the Eighth District. The program has been operational for three years, and has been quite successful.

#### **4. EIGHTH DISTRICT TRUANCY MEDIATION PROGRAM: (Hon. Lynn Payne, Hon. John Anderson)**

Sherry Stettler shared several examples of the success of the truancy mediation program in the Eighth District with the Council, and expressed gratitude to local volunteers and the Alternative Dispute Resolution Program in the Administrative Office of the Courts for their assistance. Ms. Stettler reported that exit survey results indicated that 92% of participants strongly agreed that the process was favorable, and only 8% of participants were either unsure of the process or strongly disagreed with the process. Additionally, results showed that relationships between kids and schools greatly improved, as well as relationships between schools and parents.

Ms. Stettler also shared information concerning the Victim Offender Mediation Program in the Eighth District, and shared an example of the program's success.

Stan Arias, a volunteer mediator in the Eighth District, reported to the Council concerning mediation programs in the region. Mr. Arias expressed the importance of the concept of "justice for all" and how mediation plays a part in achieving that.

#### **5. APPROVAL OF MINUTES: (Chief Justice Richard C. Howe)**

The minutes of the Judicial Council's September 18<sup>th</sup> meeting were discussed. A motion was then made.

*Motion:* Judge Anderson made a motion to approve the minutes. The motion was seconded by Judge Lynn Davis and carried unanimously.

#### **6. REPORT FROM CHAIRMAN: (Chief Justice Richard C. Howe)**

Chief Justice Howe reported that the Legislature asked the Judiciary to review the Unauthorized Practice of Law Issue, as the Supreme Court has the authority to govern the unauthorized practice of law. Justice Wilkins will serve as chair of the Steering Committee which will review the issue. The committee's first meeting will take place the beginning of November.

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

Daniel Becker reported the following items to the Council:

- It was mentioned that since the Council needs to spend a significant amount of time reviewing budget issues, other agenda items may need to be postponed to the Council's November agenda.

*Motion:* Judge Jensen made a motion to move items 12 - 14 of the agenda to the Council's November agenda. The motion was seconded and carried unanimously.

- The State Building Board held hearings last week. The courts made a proposal requesting funding for the purchase of land and design/construction costs in Sandy. The Building Board separated the request into two parts and prioritized them as follows: the land purchase is listed as priority number 10, and design/construction costs are listed as priority number 20.

- Utah will receive \$650,000 in new federal funding. The courts will receive \$165,000 of the funds to purchase a computer software upgrade.

- The State Auditor's re-audit of the Juvenile Justice System has been completed. The report is being presented to the panel, October 22, 2001 at 2:00 p.m.

- Scott Daniels, President of the Utah State Bar, wrote a letter to the editor of the Deseret News explaining a judge's inability to comment or defend himself or herself. His comments were directed at the criticism of Judge Kay in the Weitzel case.

#### **8. REPORTS:**

##### **Management Committee: (Chief Justice Richard C. Howe)**

Chief Justice Howe reported that the Management Committee discussed appointments to committees, and a change in term lengths on the Commissioner Conduct Committee. The Management Committee also made recommendations to the Council concerning Executive Committee assignments.

##### **Policy and Planning: (Hon. Scott Johansen)**

Judge Johansen reported that Policy and Planning is continuing to look at the possibility of obtaining insurance for judges for judicial conduct complaints. The Committee also discussed protective order issues.

##### **Liaison Committee: (Hon. Lee Dever)**

Judge Dever reported that the Liaison Committee has not met since the Council's last meeting, and has nothing to report.

##### **Bar Commission: (Debra Moore, esq.)**

Debra Moore reported that the Bar Commission has implemented a military pro bono assistance program. The Commission also discussed the multi-disciplinary practice status. A report on the topic has been issued, and the Commission would like input from the Court regarding how to continue from this point. Ms. Moore also reported that the Commission has received their annual audit.

#### **9. COUNCIL COMMITTEE ASSIGNMENTS: (Chief Justice Richard C. Howe)**

The Council reviewed executive committee assignments as recommended by the Management Committee. The recommendations are listed below:

**Management Committee Recommendations for  
Judicial Council Committee Assignments  
(October 2001 - September 2002)**

Chief Justice Richard C. Howe, Judicial Council Chair  
Judge James Z. Davis, Judicial Council Vice Chair

**Management Committee:**

Judge Lyle Anderson, Chair designee  
Chief Justice Richard C. Howe  
Judge James Z. Davis  
Judge Robert Hilder  
Judge Clair Poulson

**Policy and Planning Committee:**

Judge Scott Johansen, Chair  
Judge Lee Dever  
Judge Ben Hadfield  
Judge Ronald Hare  
Debra Moore, esq.

**Liaison Committee:**

Justice Michael Wilkins, Chair  
Judge Lynn Davis  
Judge Jerald Jensen  
Judge Andrew Valdez

A motion was then made.

**Motion:** Judge Lynn Davis made a motion to approve the assignments. The motion was seconded and carried unanimously.

**10. BUDGET: (Daniel J. Becker)**

Daniel Becker reported that the Governor held a news conference on October 12<sup>th</sup>, in which he reported that the State is experiencing a significant reduction in revenue. The Courts will report actions that will be taken to reduce our budget to the Governor November 5<sup>th</sup>.

Prior to September 11<sup>th</sup>, the State was experiencing a \$93 million shortfall. Since September 11<sup>th</sup>, the State is experiencing an additional \$84 million shortfall, for a total of a \$177 million. The Governor has recommended using ½ of the rainy day fund, \$60 million, and requiring an additional 2% reduction from all agencies with the exclusion of education and public safety. This reduction would generate \$24 million. The Legislature will review the Governor's recommendations.

Prior to September 11<sup>th</sup>, the Courts reached a 2% reduction by holding back \$949,100 in one time funds and \$914,300 in ongoing funds for a total of \$1,863,400. Additional reductions as a result of September 11<sup>th</sup> will mean an additional \$1,898,300 in FY 02 one time or ongoing cuts, and \$2,847,400 in FY 03 in ongoing cuts. Total permanent reductions are \$3,761,700.

To put things in perspective, 73.86% of the court's general fund budget is in personal services, 16.96% of the general fund budget is in leases and contracts, 2.03% in Jury/Witness/Interpreter fees, 1.01% was the FY 02 ongoing reduction, the remainder of the general fund budget is only 6.14% for current expenses which is the money necessary to operate the courts. Additionally, personnel turnover rates have been dropping recently. Turnover rates are typically around 18%. That rate dropped to 8% six months ago, and only 3 people resigned in September of this year. This drop in turnover reduces the money generated through turnover savings.

A number of assumptions inherent in the budget reduction recommendations were mentioned. The assumptions were:

1. The current expense budget should not be reduced any further.
2. Prioritized reductions are preferable to across the board reductions where permanent reductions have to be taken. Prioritized or targeted reductions leave the organization better prepared to

3. return to normal operations.  
Reductions should be made taking into consideration the probability of funding for a particular item
4. being subsequently restored by the Legislature.
5. Technology should be part of the solution in maintaining productivity with less resources.
6. The AOC should take the lead by taking a disproportionate permanent reduction.
7. Clerk Offices are the area least able to sustain a personnel reduction.
8. Juvenile Court child welfare workload is the highest system priority for adding additional resources.  
Area best able to sustain a reduction is juvenile probation, specifically recently created deputy probation officers who assist probation officers.

Mr. Becker explained that Juvenile Court referrals have dropped consistently since 1996 in delinquency, while Juvenile Court child welfare workload has increased. Additionally, there has been a total increase of 109.5 Probation Officer and Deputy Probation Officer positions since 1995.

The following recommendations concerning permanent reductions for FY 2003 were presented:

Non-Personnel:

1. Ongoing reductions from FY 2002 (\$914,300)
  2. Murray courthouse lease termination (\$280,000)
  3. Cancel court interpreter hourly increase (\$160,000)
  4. Cancel contract for leased parking and shuttle (\$85,000)
  5. Terminate probation lease 53rd South and move staff into Matheson Courthouse (\$225,000)
  6. End reimbursement for justice courts conducting preliminary hearings (\$25,000)
- Total non-personnel \$1,689,300

Personnel:

1. Eliminate 32 of 47 Deputy Clerks positions freed from the creation of West Valley and Salt Lake City Justice Court, and retain 10 Deputy Clerk positions for reallocation and 1 Juvenile Court Commissioner to be shared between the Second and Third Districts (\$1,056,000)
2. Eliminate 6 AOC FTE (\$210,000)
3. Eliminate 2 Court Reporter positions (\$100,000)
4. Eliminate 2 District Court Law Clerks (\$120,000)
5. Eliminate 1 Appellate Court FTE (\$35,000)
6. Eliminate 14 DPO positions (\$490,000)
7. Reduce GAL contract funds (\$62,000)

Total personnel \$2,073,000

Total permanent reductions \$3,762,300

The following recommendations concerning onetime reductions for FY 2002 were presented:

1. Suspend incentive award program (\$150,000)
  2. Reduce reserve (\$200,000)
  3. Reduce court executive capital expenditures (\$50,000)
  4. Reduce technology capital expenditures (\$50,000)
  5. Freeze 6 deputy clerk positions allocated but not filled (\$210,000)
  6. Savings from judicial vacancy (6 months) (\$60,000)
  7. Reduce onetime education funds (\$15,000)
  8. Further reduce travel:
    - every other month meetings for Council, Committees, Boards, TCE's, Clerks, CPO, etc.
  9. (\$50,000)
  10. - Cancel Sun Valley meeting for Council and Boards (\$30,000)
- Remaining ARI funds and onetime lease payment from West Valley City (\$205,000)  
Freeze 50 positions for eight full months in order to generate the equivalent of 31 positions being frozen for twelve full months (\$880,000)

Total onetime reduction \$1,900,000

**Motion:** Judge Johansen made a motion to meet Tuesday, October 23<sup>rd</sup> at 8:00 a.m., and to decide at that time if the Council will need an additional meeting the following week. The motion was seconded and carried unanimously.

## 11. TOUR OF THE NEW VERNAL COURTHOUSE: (Gordon Bissegger)

The Council received a tour of the new Vernal Courthouse.

### **Tuesday, October 23, 2001**

The Council met to continue their discussion of budget issues. Judge Jerald Jensen, Judge James Davis, and Judge Robert Hilder were not present. All other Council members were in attendance. The following discussion took place:

The following information was clarified concerning personnel recommendations:

<u>Type of Position:</u>	<u>Current Staffing:</u>	<u>Increase/Decrease:</u>	
<b>Juvenile Court</b>			
Judges/Comm.		+2	
Clerks	127	+4	
PO/DPO	245.5	-14 (DPO only)	
<b>District Court</b>			
Judges			+1
Clerks		419	+6
Court Reporters		19	-2
Law Clerks		15	-2
<b>Appellate Courts</b>			
Clerks		10	-1
Law Clerks/Central Staff		29	
Secretaries		12	
<b>AOC</b>			
IT Staff		33	
Other		60	-6

**Motion:** Justice Wilkins made a motion to adopt the FY 2003 recommendations which Daniel Becker presented October 22<sup>nd</sup>, as listed previously in the minutes. The motion was seconded and carried with one opposed.

**Amended Motion:** Judge Johansen made a motion to eliminate funding of the Racial and Ethnic Fairness Coordinator position in addition to 6 FTE's in the Administrative Office. The motion did not receive a second and was not voted on.

**Motion:** Justice Wilkins made a motion to adopt the FY 2002 recommendations which Daniel Becker presented October 22<sup>nd</sup>, as listed previously in the minutes, with one change. Justice Wilkins moved that the Council and its Committee's meet every month. There was no vote on the motion.

Discussion took place regarding the Council not attending the Bar Conferences in St. George and Sun Valley in order to save money.

**Motion:** Judge Dever made a motion to have the Council continue to attend the Mid-Year Bar Conference in St. George, and to hold Board, Council and Executive Committee meetings every month in Salt Lake through the end of fiscal year 2002. Judge Dever further moved that a one time fee of \$50 be assessed for all Council and Board members who attend the Mid-Year Bar Conference in order to offset costs. There was no vote on the motion.

**Substitute Motion:** Justice Wilkins made a motion to adopt the FY 2002 recommendations which Daniel Becker presented October 22<sup>nd</sup>, as listed previously in the minutes, with item 8 (every other month meetings, and conferences) being considered later. The motion was seconded and carried unanimously.

**Motion:** Justice Wilkins made a motion to have the Council and Boards not hold meetings in Sun Valley in conjunction with the Annual Bar Meeting this year. The motion was seconded and carried unanimously.

The meeting adjourned at 9:20 a.m.