

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Monday, November 22, 2004

Council Room, 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. Kevin Nelson
Hon. Jon Memmott
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
Nancy Volmer
Kim Allard
AnNicole Faeth

GUESTS PRESENT:

Colin Winchester
Hon. Michael Kwan

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

All in attendance were welcomed to the meeting. The minutes of the Council's October meeting were discussed. The following motion was then made.

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

The motion carried unanimously.

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

Chief Justice Durham reported the following:

- Chief Justice Durham assisted in hosting a session at the Capitol on civics and democracy education in public schools.
- In connection with the Pew Commission report, Chief Justice Durham has begun to have conversations with leaders to make changes in the area of child welfare/foster care. Judge Thorne, Judge McCully, Dan Becker, also involved.
- Meetings with the new legislative leadership will be schedule shortly.

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

Daniel J. Becker reported the following items:

- The American Institute of Architects has recognized the new courthouse in Logan. It was mentioned that the new West Jordan Courthouse, which is currently under construction, is based on the same prototype model as the Logan courthouse.
- Mr. Becker distributed information related to Governor-Elect Huntsman's transition advisory committee.

- Meetings have been scheduled with legislators throughout the state.
- Rep. Greg Curtis will be the new Speaker of the House, and Sen. John Valentine will be the new Senate President.
- Two legislative audits of the court system are currently underway. One audit is of the Guardian ad Litem Office, the other is of delay in civil cases in the District Court.
- A presiding judges' workshop is being developed. The workshop will take place February 15-16, 2005.

4. Reports:

Management Committee: (Chief Justice Christine M. Durham)

- Chief Justice Durham reported that the Management Committee did not meet this month.

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that Policy and Planning discussed the issue of term limits on the Council. Presently, Council members serve two consecutive terms, but there is nothing included in the rules to that effect. Judge Dever reported that a rule has been amended to limit Council membership to a maximum of two consecutive years, and that this rule has been sent out for comment. Policy and Planning also discussed limiting terms of Council committee chair to two terms (each term being one year).

Liaison Committee: (Hon. Jerald Jensen)

Judge Jensen reported that Liaison Committee had not met since the Council's last meeting.

Bar Commission: (David Bird, esq.)

David Bird reported that the Bar Commission had not met since the Council's last meeting.

5. Report: Judicial Conduct Commission: (Colin Winchester)

Colin Winchester reported that it is proposed that all of the Judicial Conduct Commission's existing rules be repealed and replaced with updated rules. A set of proposed rules was distributed to the Council for its review. In particular, the following rules were discussed R595-4-1 Dismissals with Warning or upon Stated Conditions, and R595-4-2 Sanctions Guidelines. A minor language change was suggested to Mr. Winchester related to R595-4-1, and Mr. Winchester indicated that he was amenable to making that change. The Council then thanked Mr. Winchester for his report and his willingness to meet with them.

6. Committee Appointments: (Tim Shea)

Tim Shea reported that a number of vacancies presently exist on standing committees. After the Council reviewed the recommendations advanced by the Board of District Court Judges to fill the vacancies, the following motions were made.

Motion: Judge Dever made a motion to appoint Judge Randall Skanchy to the Judicial Performance Evaluation Committee. The motion was seconded and carried unanimously.

Motion: Judge Dever made a motion to appoint Judge Rand Beacham as co-chair of the Standing Committee on Children and Family Law. The motion was seconded and carried unanimously.

Motion: Judge Davis made a motion to appoint Judge Sheila McCleve to the Standing Committee on Children and Family Law. The motion was seconded and carried unanimously.

Motion: Judge Davis made a motion to appoint Judge Samuel McVey to the Judicial Outreach Committee. The motion was seconded and carried unanimously.

Motion: A motion was made to approve the appointment of Jessica Van Buren, law librarian, to the Judicial Outreach Committee. The motion was seconded and carried unanimously.

Motion: A motion was made to appoint the Court Technology Committee. The motion seconded and carried unanimously.

Motion: A motion was made to appoint Judge Kathleen Nelson to the Court Facilities Committee. The motion was seconded and carried unanimously.

7. Budget Issues: (Daniel J. Becker)

- Governor's Recommendations for FY 2006

Daniel Becker reported that he and Chief Justice Durham recently met with Governor Walker to discuss the court's budget requests for FY 2006. Since that time, the GOPB recommendations have been issued. In regards to courts, it was reported that most of the court's requests are included in the GOPB recommendations. These include, among other items, law clerks, a judges in the 2nd Juvenile and 4th District Courts.

- Budget Planning Calendar for FY 2007

Mr. Becker distributed and discussed a proposed FY 2007 budget planning calendar. After discussion took place, the following motion was made.

Motion: Judge Hilder made a motion to approve the calendar. Judge Davis seconded the motion. The motion carried unanimously.

8. Report: Board of Justice Court Judges: (Hon. Michael Kwan)

Judge Kwan, chair of the Board of Justice Court Judges, provided an update to the Council regarding the work of the Board. Judge Kwan reported that in 2004 there were 83,609 criminal cases, 436,080 traffic cases, and 21,185 small claims cases handled by Utah's Justice Courts. Presently, 65% of all filings in the state are in justice courts.

Judge Kwan reported that the Justice Court Board developed a DVD that is shown at each justice court in the state. This DVD explains basic court procedures, legal vocabulary and processes, and explains constitutional rights. It was also reported that the Justice Court Board is conducting a sentencing survey this year to determine sentencing practices throughout the state. This survey will assist the Board in planning education courses.

Judge Kwan then shared the Board's long-range goals with the Council. These include the following:

- 1) Enhance judicial independence
- 2) Improve internal communication
- 3) improve external communication
- 4) Develop a consistent message
- 5) Increase participation by judges
- 6) Improve judicial education
- 7) Improve the use of technology

After discussion took place, the Council thanked Judge Kwan and the Justice Court Board for their work.

9. Legislative Update: (Richard Schwermer)

Richard Schwermer provided a brief update to the Council concerning the upcoming legislative session. It was mentioned that the Council's Liaison Committee would be meeting shortly to further discuss pending legislation.

11. Other Business:

Judge Memmott reported that he recently met with John T. Nielson, and the Executive and Judicial Compensation Commission. Judge Memmott reported that the Commission's report indicates that state judges have fallen to 13% below salaries of upper-level public attorneys, and that judicial salaries are in the lowest quarter of private sector attorneys. Additionally, it was mentioned that the cost of living has increased 8.3% in the last few years, during which time judges have received a 1% increase. Judge Memmott also reported that the pool of applicants for judicial vacancies is shrinking, the average age of applicants is decreasing, and average years of experience is declining.

Judge Memmott then discussed how a request for an increase in judicial salaries would proceed in coming months, and during the legislative session. Judge Memmott indicated that a letter related to this issue will be sent to all judges next week, and judges will be asked to work with their presiding judge to arrange one on one meetings with their local legislators.

Judge Sheila McCleve reported that Judge Hans Chamberlain served as chair of the Facilities Standing Committee for 8 years, during which time a number of significant courthouses were constructed. In recognition of Judge Chamberlain's service, Judge McCleve presented a token of appreciation to Judge Chamberlain.

12. Adjourn:

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