

JUDICIAL COUNCIL MEETING

Minutes
Monday, April 22, 2013
Matheson Courthouse
Salt Lake City, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, vice chair
Justice Jill Parrish
Hon. Judith Atherton
Hon. Glen Dawson
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. Reed Parkin
Hon. John Sandberg
Hon. Larry Steele
John Lund, esq.

EXCUSED:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Nancy Volmer
Derek Byrne
Tom Langhorne
Ron Bowmaster
Jessica Van Buren
Mary Jane Ciccarello
Karolina Abuzyarova
Michaelle Jones

GUESTS:

Judge David Marx
Judge John Baxter
Marissa Lang, SL Tribune
Judge John Kennedy
Ukrainian Visitors:
Ivan Boychenyvk
Dmytro Kravets
Victoriya Lisnyak
Tetyana Ostapchuk
Oksana Remetski
Bohdan Yarema
Sergei Uhadov - Interpreter

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting. A special welcome was extended to a group of Ukrainian judges and court officials. Judge John Kennedy introduced the visitors. Chief Justice Durrant provided background information as to the role of the Judicial Council as the governing body of the Utah Court system.

Motion: Judge Maughan moved to approve the minutes from the March 15, 2013 Judicial Council meeting. Judge Sandberg seconded the motion, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reported on the following:

He recently spoke at the Justice Court Judges Conference in St George and at the Juvenile Court Conference in Midway.

The Council's JPEC Workgroup met with the Judicial Performance Evaluation Commission at their April meeting. Mr. Schwermer will provide a more detailed report later on the agenda.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

Juvenile Court Administrator. Ms. Lisa-Michele Church has submitted her resignation, effective April 30, 2013. The recruitment process has begun, and Mr. Becker has met with the Board of Juvenile Court Judges to discuss the process in filling the vacancy with them. Mr. Ray Wahl will assume the duties of the Juvenile Court Administrator until the vacancy has been filled.

Judicial Vacancies. Judge Michael Lyon has announced his upcoming retirement, effective September 1, 2013.

Mr. Kymber Housely, the Governor's appointment to fill the First District vacancy, has withdrawn his name for consideration.

Mr. Becker mentioned that there are six judicial vacancies in the process of being filled to include: 1) 1st District, 2) 2nd District, 3) 3rd Juvenile, 4) 3rd District, 5) 8th District, and 6) 8th Juvenile.

GAL Director. Ms. Elizabeth Knight has been hired to fill the vacancy for the GAL Director. She will begin working for the courts on April 29. Mr. Becker provided background of her work experience.

Standing Committee on Children and Family Law (SCCFL). Senator Weiler has been appointed as the Senate representative to the committee.

2017 Court Technology Conference. Salt Lake City has been selected to host the 2017 court technology conference. This conference draws a large number of national and international attendees.

SB 77 – Availability of Government Information. This bill requires certain public bodies to post minutes and audio recordings of meetings on the Utah Public Notice Website, and it modifies the manner and time of making minutes public. Policy and Planning will review the legislation and address the necessary rule changes. This bill becomes effective in May, and the recording of the May Council meeting will be posted to the Public Notice Website.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

No meeting was held in April.

Policy and Planning Meeting:

No meeting was held in April.

Bar Commission Report:

Mr. Lund reported on the following:

The Commission has not met since their March meeting.

He highlighted the Bar's election results to include: 1) Mr. Curtis Jensen, President-elect, will serve as the Bar's president for the 2013-2014 year, 2) Mr. James Gilson was selected to serve as the President-elect of the Bar, 3) Mr. Kenyan Dove was selected as the Second District representative to the Bar Commission, 4) Ms. Susanne Gustin and Mr. John Lund were selected as Third District representatives to the Bar Commission.

5. BOARD OF JUSTICE COURT JUDGES UPDATE: (Judge David Marx)

Chief Justice Durrant welcomed Judge Marx to the meeting.

Judge Marx provided an update to the Council on the activities of the Board of Justice Court Judges. He highlighted the following in his update: 1) completion of the judges annual conference which included small claims training and leadership and mentoring training, 2) the first of two clerks conferences is to be held this week, 3) revised judicial weighted workload formula, 4) approaching a one-year benchmark of recorded proceedings in the justice courts, 5) outreach awareness, 6) compliance with private provider opinion, 7) JPEC and the justice courts, 8) reviewing ways to educate judges and advance evidenced-based sentencing, 9) advancing paperless systems in the justice courts, and 10) defining/advancing judicial independence at the justice court level.

Judge Marx was thanked for all he has accomplished, on behalf of the justice courts, as the Board chair.

It was noted that Judge Marx has been selected to fill the vacancy on the Judicial Council in October when Judge McCullagh's second term has expired.

6. APPOINTMENT OF SENIOR JUDGES TO COMMITTEES: (Tim Shea)

On behalf of the Court Interpreter Committee, Mr. Shea reported that Judge Noonan has stepped down as the Juvenile Court judge representative. After recruitment efforts were extended to the juvenile judges, no interest was expressed. A juvenile senior judge has agreed to fill the vacancy, if approved by the Council. Mr. Shea noted that the Board of Juvenile Court Judges has approved the appointment of a juvenile senior judge to the Committee.

The matter was discussed with the Management Committee at their April meeting. The Management Committee deferred the matter to the Council for discussion and action.

Discussion took place regarding the precedent of appointing a senior judge to serve on a standing committee.

Motion: Judge Maughan moved to send the matter back to the Board of Juvenile Court Judges for additional recruitment efforts to fill the vacancy on the Court Interpreter Committee for a juvenile judge representative. Justice Parrish seconded the motion, and it passed unanimously.

7. COURT INTERPRETER – INCREASE IN HOURLY FEE: (Tim Shea)

Mr. Shea requested approval of a one percent increase of the hourly fee for court interpreters to coincide with the one percent salary increase approved by the legislature for state employees. The funding for the increase would come from the Juror/Witness/Interpreter Fund.

Motion: Judge Maughan moved to approve the proposed interpreter fee schedule for FY 2014. Judge Hornak seconded the motion, and it passed unanimously.

8. MANDATORY E-FILING REPORT: (Ron Bowmaster and Debra Moore)

Ms. Moore and Mr. Bowmaster were welcomed to the meeting.

Mr. Bowmaster highlighted the following e-filing dates in his update: 1) mandatory civil/domestic e-filing, effective April 1, 2013; 2) mandatory probate e-filing, effective July 1, 2013; 3) general civil e-filing, originally started in March 2010; and 4) domestic/probate/small claims e-filing, became available in January 2013.

In anticipation of the mandatory e-filing date, the following communication was provided to prepare for the move: 1) notices were printed in the Bar Journal, 2) exhibition booths set up at various Bar Conferences, 3) publication of brochures and best practice guides, and 4) statewide and local training sessions were held.

E-filing status data was provided to include: 1) number of attorneys registered to file electronically, 2) percentage of civil case filings, 3) help desk support, 4) number of criminal electronic case filings, and 5) noted upcoming changes to the signature application, formatting of documents, and OCAP implementation and e-filing capability.

Ms. Moore highlighted the following in her update: 1) the move to mandatory e-filing transitioned smoothly, 2) development of Phase 2 of the judicial workspace application is underway, 3) statistics on the hearing preparation and management of the judicial workspace application was provided, 4) signing application enhancements are being addressed, 5) Rich Text Format (RTF) document formatting issues are being addressed, and 6) all additional/upgraded equipment requested by the districts has been delivered and installed.

Discussion took place. Questions were asked relative to the Appellate Courts Panel Management System and the Juvenile Court e-filing plan. Clarification was provided.

Gratitude was expressed to all court staff involved with the move to mandatory e-filing and its smooth transition.

Mr. Becker noted that a review of contract sites and the type of services provided at the contract sites due to the impact of e-filing is forthcoming. More specific recommendations relative to this matter will be provided at a future meeting.

9. REPORT ON EFFORTS TO IMPROVE GUARDIANSHIP AND CONSERVATORSHIP APPOINTMENTS: (Tim Shea)

Mr. Shea provided an update to the Council on the courts' efforts to improve guardianship and conservatorship appointments. Background information was provided to what has taken place. Mr. Shea highlighted the following in his report: 1) recognized and thanked Judge Harmond for staffing the ad hoc committee; 2) the work of staff in developing web pages, forms, bench books, and reference manuals; 3) development of the Court Visitor Program being staffed by Ms. Karolina Abuzyarova, Program Coordinator, and Ms. Michaelle Jones, Volunteer

Coordinator; 4) passing of HB 327 – Probate Amendments which includes a definition of incapacity, requires nationally recognized credentials for qualification as a professional guardian, and express recognition of the judge’s authority to direct the inquiries of a court; and 5) establishment of a workgroup by the Board of District Court judges to examine the role of the court in trying to re-establish contact with guardians and conservators with whom the court has lost contact.

Discussion took place.

Mr. Shea was thanked for all he has done with the guardianship and conservatorship matters.

10. JPEC UPDATE: (Rick Schwermer)

Mr. Schwermer provided an update to the Council on the April JPEC Meeting, attended by the Council’s JPEC workgroup.

He highlighted the following in his update: 1) discussion on the integrity of the survey data and methodology for judges up for retention in 2014, 2) concerns regarding the judicial performance evaluation process, 3) comments provided by Commission members, and 4) a response, in written form, will be provided by the Commission chair.

Discussion took place.

11. FY 14 OPERATIONAL BUDGET UPDATE: (Ray Wahl and Daniel J. Becker)

The recommendations for the FY 14 operational budget for the courts were reviewed by Mr. Wahl and Mr. Becker.

The following ongoing general fund recommendations were highlighted: 1) drug court funding, 2) data processing e-filing programming funding, 3) transfer from contracts line item for Utah Code Annotated funding, 4) VOIP budget savings, 5) fund one time-limited law clerk, 6) juvenile law clerk, fund 50% from ongoing funds, 7) clerical restructuring plan – final installment - clerical increase, 8) career track, 9) market comparability adjustments, and 10) legislative actions requiring funding.

The recommendations for one-time funding were reviewed.

Motion: Judge Steele moved to approve the FY 14 operational budget for the courts as proposed. Judge Dawson seconded the motion, and it passed unanimously.

12. RESOURCES FOR SELF-REPRESENTED PARTIES COMMITTEE UPDATE: (Judge John Baxter and Tim Shea)

Chief Justice Durrant welcomed Judge Baxter to the meeting.

Judge Baxter provided an update to the Council on behalf of the Resources for Self-Represented Parties Committee.

The Self-Help Center functions as a virtual center providing services through the following channels: 1) by phone, 2) by mail, 3) through texting, 4) and online.

Judge Baxter provided background information on the Self-Help Center. He reminded the Council that the center was developed five years ago starting in two judicial districts. The center is currently staff by Ms. Mary Jane Ciccarello and six part-time attorneys.

Training on the use of the Self-Help Center, awareness of the Self-Help Center as a resource, and development and posting of available forms on the court’s website continues.

Judge Baxter highlighted the following numbers reflective of the contacts using the center: 1) in 2008, 830 contacts; 2) in 2013, 11,113 contacts, and 3) an average of 77 contacts per day.

Mr. Becker noted a public outreach meeting was held last week at the Calvary Baptist Church, and Ms. Ciccarello presented on the Self-Help Center.

Judge Baxter was thanked for his update.

13. SENIOR JUDGE CERTIFICATION: (Tim Shea)

Judge Atherton left the meeting at this time.

Judge Judith Atherton has applied to be appointed as an active senior judge. Mr. Shea reported that Judge Atherton meets the minimum performance standards.

Motion: Judge Maughan moved to forward the recommendations, on behalf of the Council, to the Supreme Court to certify Judge Atherton for appointment as an active senior judge. Judge McCullagh seconded the motion, and it passed unanimously.

14. EXECUTIVE SESSION

An executive session as not needed at this time.

15. ADJOURN

The meeting was adjourned.