

JUDICIAL COUNCIL MEETING

Minutes

Thursday, August 27th, 2009

Large Conference Room A

Matheson Courthouse

Salt Lake City, UT

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham, Chair
Hon. Hans Chamberlain, Vice Chair
Justice Ron Nehring
Hon. Mark Andrus
Hon. Judith Atherton
Hon. Donald Eyre, Jr.
Hon. Michael Kwan
Hon. Michael Lyon
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. Gregory Orme
Hon. Jody Petry
Hon. Michael Westfall
Lori Nelson, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Jody Gonzales
Debra Moore
Ray Wahl
Rick Schwermer
Tim Shea
Alyn Lunceford

GUESTS:

EXCUSED:

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)

Chief Justice Durham welcomed everyone to the meeting. The July minutes were reviewed.

Motion: Judge Petry moved to approve the minutes as amended. Judge Andrus seconded the motion, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Durham)

Chief Justice Durham had nothing to report at this time.

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

Mr. Becker reported on the following items:

He recognized Chief Justice Durham for her two new appointments as the newly installed president of the Conference of Chief Justices and the chair of the board of directors for the National Center for State Courts. He mentioned that this is an honor for both her and the State of Utah. He congratulated Chief Justice Durham on these appointments.

He reported on a meeting held on August 19 with Representative Ron Bigelow, co-chair of the Appropriations Committee. Mr. Becker, Mr. March and Mr. Schwermer were all present

at the meeting. Mr. Becker provided an update on the actions the Court has taken on the Courts budget and discussed issues relative to the administration of the budget. There was good discussion and interaction at the meeting.

The Legislative Audit report on the CORIS implementation was released last week. The audit was very positive. Mr. Schwermer will present information on the Legislative Audit Report at the Council's September meeting.

Mr. Becker provided a brief synopsis of the September Council meeting agenda.

The Courts will receive \$120,000 in funding from violence against women (VAWA) Grant. Part of the funding is the usual VAWA funding, and the other part is provided from Federal stimulus funds. Ms. Moore is looking at how the Courts will put this one-time funding to use.

He reported that the St. George Courthouse is schedule for completion around the first of December. He suggested that the Council hold their December 14 meeting at the new courthouse and hold the dedication of the facility on the same day. The Council agreed to hold their December 14 meeting at the new St. George Courthouse.

Ms. Moore was host to members of the Iowa court system on Friday, August 24 to share information with them on Utah's experience with moving to an all digital recording and transcript management system. Mr. Becker mentioned that 12% of the Iowa court budget is spent on court reporting.

Mr. Becker announced the Governor's selection of Mr. Edwin Peterson to fill the Eighth District judgeship vacancy.

Mr. Schwermer provided Legislative interim highlights to the Council.

The Constitutional Revision Committee continues their study of a proposed amendment to the Utah Constitution on post-conviction relief. He mentioned that today, the Commission agreed on a draft rule and statute change on post-conviction relief that will be advanced to the Civil Procedures Committee and then to the Supreme Court for approval.

He reported that the Judiciary Committee approved as a committee bill, "Criminal Offense Penalties Amendments." An explanation of the changes made with this bill were given. The bill modifies elements of specified criminal offenses and adjust the dollar value of damage used to determine levels of criminal offenses.

Mr. Schwermer reported that the Judicial Performance Evaluation Commission has contracted with a firm to conduct independent surveys. The Commission has been holding focus group meetings with judges, clerks and other court staff to get feedback on the types of questions to include in the surveys. A half-time person has been hired to help develop the courtroom observation program. The Committee hopes to have the surveys ready within the next month.

A meeting was held last month to discuss the issue of conditional probation. Some of the issues discussed include: 1) restrict the time for conditional probation sentences, 2) expand authority of judges over inmates, and employment of pre-sentence investigation writers. Discussion took place.

Chief Justice Durham handed out invitations to the Dialogue on Democracy event.

Mr. Becker and Chief Justice Durham met with Joanne Slotnik and Tony Schofield of the Judicial Performance Evaluation Commission last week. Ms. Slotnik and Mr. Schofield reviewed plans for the pretest of witness and litigant surveys, and there was discussion about the appropriate role of court personnel in administering surveys and related time and expense. The Commission will address these issues at the September Council meeting.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durham reported that she had nothing more to add to what is already reflected in the minutes.

Liaison Committee Report:

Justice Nehring reported that the Committee met yesterday. Information from that meeting was shared with the Council during the Budget and Planning Session earlier in the day.

Policy and Planning Meeting:

Judge Orme reported that the Committee did not meet in August, but they are scheduled to meet on Friday, September 11.

Bar Committee Report:

Ms. Nelson reported that the Bar Commission has not met since the last Council meeting.

5. CITY OF OREM - WAIVER APPLICATION: (Rick Schwermer)

Mr. Schwermer reported that we have received information on the second phase of the approval process in forming a justice court which outlines the caseload, how the court will be organized, the willingness to abide by the rules, and the need for the court. He stated that the application is in order. Part three of the approval process includes a checklist to be completed once the justice court is open for business.

Motion: Judge McCullagh moved to approve the City of Orem's waiver application. Judge Kwan seconded the motion, and it passed unanimously.

Discussion regarding the possible lease of the courthouse in Orem took place. Mr. Lunceford provided an explanation.

6. FILING FEE REVENUE REPORT: (Myron K. March)

Mr. March reviewed the filing fee revenue figures for May, June and July. The filing fee increase became effective May 12, 2009. Revenues exceeded projections for this period.

7. VACANCY PRIORITIZATION: (Chief Justice Christine M. Durham)

Chief Justice Durham deferred this item to the September calendar for further assessment. Judge Eyre asked that a decision be made in September regarding a tentative schedule for filling the remainder of the vacancies to help with scheduling for the upcoming calendar year. Discussion took place.

8. SENIOR JUDGE CERTIFICATION: (Tim Shea)

Mr. Shea presented the request for senior judge status for Judge Rodney S. Page.

Motion: Judge Maughan moved to approve the senior judge requests. The motion was seconded, and it passed unanimously.

Judge Maughan discussed the Evidence-Based Sentencing Project and future plans, including a

scheduled report on the project to the Interim Judiciary Committee. He requested Council support for the project.

Motion: Judge McCullagh moved to give Council support on the effort of the District Court Board and its evidence-based practice project, including plans to implement the study and promulgate it throughout the state. The motion was seconded, and it passed unanimously.

Motion: It was moved and seconded to enter into an executive session for the purpose of discussing potential litigation.

9. EXECUTIVE SESSION

10. ADJOURN

The meeting was adjourned.