

JUDICIAL COUNCIL MEETING

Minutes
Friday, August 16, 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. Glen Dawson
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. David Marx for Hon. Reed Parkin
Hon. John Sandberg
Hon. Larry Steele
Hon. Kate Toomey
John Lund, esq.

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Jody Gonzales
Debra Moore
Rick Schwermer
Brent Johnson
Alyn Lunceford

GUESTS:

Judge Scott Hadley
Sylvester Daniels, 2nd Dist TCE

EXCUSED:

Hon. Reed Parkin

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

Chief Justice Durrant welcomed everyone to the meeting.

Motion: Mr. Lund moved to approve the minutes from the July 22, 2013 Judicial Council meeting. Judge Mortensen seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported on the following items:

He, Justice Lee, Judge Voros, Mr. Becker and Mr. Schwermer attended JPEC's monthly meeting on August 13. The following was highlighted from the meeting: 1) communication between JPEC and the judiciary was addressed, 2) problems relative to the appellate opinion process were discussed, and 3) a draft report from the audit of the survey results has been received.

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

Mr. Becker reported on the following items:

Legislative Retirement Committee. This committee is scheduled to meet on September 25. Judicial retirement is scheduled to be discussed at the meeting. Chief Justice Durrant and Mr. Becker plan to attend.

Prison Relocation and Development Amendments (PRADA). The Committee is scheduled to meet on August 29 to discuss prison relocation. Judge Atherton has been selected as a committee member. Mr. Becker, Mr. Schwermer, and Ms. Moore plan to attend. Discussion will include: 1) remote hearings, 2) alternatives to incarceration, and 3) perspective from the bench.

Juvenile Court Administrator. Ms. Dawn Marie Rubio has been selected as the new juvenile court administrator. She will attend the Annual Judicial Conference early in September and begin working for the courts on September 30. Mr. Becker provided background on her experience in the court system.

Conference of Court Public Information Officers (CCPIO). They held their annual conference in Salt Lake City last week, and the event went very well.

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:

Proposed legislation was discussed during the Budget and Planning Session.

Policy and Planning Meeting:

Judge Orme reported on the following items:

The meeting on August 2 was a lengthy meeting. Rules for final action and rules for comment are included on today's agenda. Discussion also took place regarding guidelines for court payment of interpreters for non-court proceedings.

Bar Commission Report:

Mr. Lund reported on the following:

The Bar Commission has not met since the Bar's Summer Conference in July.

Ms. Slotnik and Mr. John Ashton of the Judicial Performance Evaluation Commission (JPEC) will meet with the Bar Commission later in the month regarding the work of JPEC.

The Bar exam was administered to 350 law students in July.

The Pro Bono/Low Bono program and the Modest Means program are gaining momentum. He noted that the bankruptcy judges are asking for referral capabilities.

5. ETHICS ADVISORY – INFORMAL OPINION 12-02 - FOLLOWUP: (Brent Johnson)

Mr. Johnson provided background information on Informal Opinion 12-02 as it relates to the use of a preapproved roster of service providers created by the courts and making referrals. The informal opinion was originally presented to the Council for consideration at their February 2013 meeting. In February, the Board of District Court judges formed a subcommittee to review the rule as it relates to Informal Opinion 12.02. In May, a Judicial Council workgroup was formed to review Informal Opinion 12-02 and determine if revisions were necessary and whether the opinion should remain as an informal opinion or be amended as a formal opinion.

An amended Informal Opinion 12-02 was drafted which allows for the court to create a preapproved roster. The criteria created for being admitted to the roster must be reasonable and directly related to the services needed by the courts and allow for any interested individual or entity to apply to be included on the roster.

Discussion took place.

Motion: Judge Dawson moved to approve Informal Opinion 12-02 as amended and as an informal opinion. Judge Steele seconded the motion, and it passed unanimously.

6. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Scott Hadley and Ms. Debra Moore)

Chief Justice Durrant welcomed Judge Hadley and Ms. Moore to the meeting.

The following was highlighted in their reports: 1) use of the judicial workspace with a hearing, 2) 59 out of 82 district court judges and commissioners have been trained on the use of the judicial workspace, 3) data shared on the number of hearings completed, 4) data shared on the number of uploaded documents, 5) working with Justice Lee on preparation of proposed standards for professionalism for judges by providing comments, and 6) prepared guidelines for judges for monitoring guardians and conservators.

Judge Hadley thanked members of the Council for providing regular reports to the Board of District Court Judges on the outcome of their monthly meetings. He also expressed the Board's gratitude for the work being completed by Ms. Melanie Haney, the capital litigator attorney.

Chief Justice Durrant thanked Judge Hadley for his update.

7. UPDATE ON MANDATORY E-FILING OF PROBATE AND CITATION CASES: (Ms. Kim Allard and Mr. Ron Bowmaster)

This item was deferred to the September Council meeting.

8. MORGAN COUNTY PETITION TO END CONTRACT SITE: (Sylvester Daniels)

Chief Justice Durrant welcomed Mr. Daniels to the meeting.

Mr. Daniels provided background information on Morgan County's request to transfer responsibility for operation of the district court in Morgan County from a contract-managed site to a state-managed site. He mentioned that preparatory measures have begun to transfer operation of the court site to a state-managed site. He highlighted the following areas that will be addressed as preparations are made for the transfer: 1) an audit of the financial records, 2) transfer of funds, 3) establish proper accounts, 4) minimum staffing issues, 5) matters concerning the lease of the facility, 6) staff space issues, and 7) equipment, furnishings and funding.

The recommended effective date of November 1, 2013 for the transfer from a contract-managed site to a state-managed site of the Morgan County district court was made.

The matter of the court not being open on Fridays was discussed. Security concerns were expressed relative to the courts being manned by a single clerk. It was suggested to request Mr. Alyn Lunceford discuss the matter further with the Morgan County sheriff's office.

The Council requested Mr. Becker address the statutory five-day open requirement for the Morgan County court facility in a letter to Morgan County.

Motion: Judge Dawson moved to approve the recommendation to transfer responsibility for the operation of the district court in Morgan County from a contract-managed site to a state-managed site, effective November 1, 2013; and address the five-day open requirement by way of a letter prepared by Mr. Becker. Judge Steele seconded the motion, and it passed unanimously.

9. RULES FOR FINAL ACTION: (Tim Shea)

Mr. Shea noted that all the recommendations for the rules for final action need no further review, with the exception of Rule CJA 04.0202.02 and Rule CJA 04.0202.03.

The amendments to Rule CJA 04-0202.02 – Records Classification and Rule CJA 04-0202.03 – Records Access were reviewed. Rule CJA 04-0202.02 was amended to classify the addendum to an appellate brief in a case involving termination of parental rights or adoption as a private record and to establish the classification of a “safeguarded” record and which records are classified as safeguarded records. Rule CJA 04-0202.03 was amended to describe who has access to safeguarded records.

Discussion took place.

Motion: Judge Steele moved to approve all rules being recommended for final action noting that with Rule CJA 04-0202.02 and CJA 04-0202.03, they be approved as amended, with the understanding that a juvenile addendum would be considered at a later date. Judge Orme seconded the motion, and it passed unanimously.

10. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Rick Schwermer)

Nothing new to report.

11. EXECUTIVE SESSION:

An executive session was held at this time.

12. ADJOURN

The meeting was adjourned.