

JUDICIAL COUNCIL MEETING

Minutes

Monday, November 25, 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. James Davis
Hon. Glen Dawson
Hon. George Harmond
Hon. Thomas Higbee
Hon. Brendan McCullagh for Hon. David Marx
Hon. Paul Maughan
Hon. David Mortensen
Hon. Reed Parkin
Hon. John Sandberg
Hon. Randall Skanchy
John Lund, esq.

EXCUSED:

Hon. David Marx

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Alison Adams-Perlac
Dawn Marie Rubio
Debra Moore
Jody Gonzales
Rick Schwermer
Tim Shea
Nancy Volmer
Alyn Lunceford
Nini Rich

GUESTS:

Judge Carolyn McHugh
Judge Royal Hansen
Judge Kate Toomey

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 Judge McCullagh who was sitting in for Judge Marx.

Motion: Judge Maughan moved to approve the minutes from the October 28, 2013 Judicial Council meeting. The motion was seconded, and it passed unanimously.

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

Chief Justice Durrant reported on the following:

He, Mr. Becker and Mr. Wahl attended the groundbreaking ceremony for the Ogden Juvenile Courthouse on Monday, November 4. Chief Justice Durrant and Judge Frost spoke at the event.

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

Mr. Becker reported on the following items:

Judicial Confirmations, Nominations and Retirements. The Senate confirmed the following judges last week: 1) Judge Sharon Sipes, Second District Juvenile Court; 2) Judge

Brent Bartholomew, Fourth District Juvenile Court; and 3) Judge John Pearce, Court of Appeals. Nominations are pending to fill the following vacancies: 1) the Second District Court vacancy, 2) the Third District Juvenile Court vacancy, and 3) the Fifth District Court vacancy. Mr. Becker mentioned the unofficial retirement notice from Judge Hans Chamberlain, with a tentative effective date of May 1, 2014.

Building Board. The Building Board met several weeks ago to prioritize building requests and land bank purchases. The Duchesne court remodel project ranked 13th.

Council Photo. Mr. Becker reminded Council members that the Council photo would be taken later in the meeting.

Executive Session. An executive session will be held later to discuss matters of professional competency.

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 November.

Policy and Planning Meeting:

Judge Maughan reported on the following items:

The Policy and Planning Committee spent the majority of their meeting reviewing and discussing the current process for conducting performance evaluations of senior judges and court commissioners.

Bar Commission Report:

Mr. Lund reported on the following:

He expressed the Bar Commission's pleasure in hearing the Council's decision to hold their July 2014 meeting in Snowmass, Colorado, in conjunction with the Bar's Summer Conference. He also noted that efforts would be made to utilize attendees on workshop panels.

Mr. Becker noted preliminary decisions that have been made relative to travel to the conference. He noted that an increase to the judicial operation's budget will be discussed further by the Council at their April meeting when the one-time spending plan for FY 2015 is considered.

5. OPEN AND PUBLIC MEETING LAW ORIENTATION: (Alison Adams-Perlac)

Ms. Adams-Perlac provided the annual training to members of the Council on the Open and Public Meetings Act as required by Rule 2-103. She highlighted the following: 1) the basic principles of the rule include—the meetings must be open unless they are closed in the proper way for the proper purpose, the requirements for an open meeting, and the intent to establish procedures consistent with the philosophy of the Utah Open and Public Meeting Act; 2) what a meeting is; 3) public notice must be given; 4) audio recording and minutes – what the minutes shall include and access to the meeting recording and minutes; 5) public access to the meeting;

and 6) closed meetings – how the meetings are closed, reasons for closing a meeting, and limits on decisions in a closed meeting.

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

Mr. Schwermer provided a legislative update to the Council. He distributed a copy of the draft bill, Court System Task Force, as well as the November 2013 Interim Highlights. He highlighted the following in his update: 1) the Child Welfare Legislative Oversight Panel met, 2) Veteran's Reintegration Task Force Report, 3) court system modifications, 4) Divorce Orientation Course timing, 5) Drug Offender Reform Act (DORA), 6) retirement and independent entities, 7) Senate judicial confirmations, 8) appointment of Ms. Jacey Skinner as the Governor's legal counsel, 9) Executive Appropriations met, and 10) the Governor's 2015 budget recommendations will be released in December.

7. JUDICIAL OUTREACH COMMITTEE UPDATE: (Judge Carolyn McHugh and Ms. Nancy Volmer)

Chief Justice Durrant welcomed Judge McHugh to the meeting.

Judge McHugh provided an update to the Council on the activities of the Judicial Outreach Committee. She mentioned that the 2013-2014 Strategic Communication Plan was distributed to the Council members in their meeting packet. She highlighted the following in her update: 1) members of the committee were mentioned, 2) 2012-2013 public information office accomplishments, 3) noted the subcommittees and their work, 4) 2013-2014 Strategic Communication Plan goals, and 5) implementation of Rule 4-401 – Electronic media coverage of court proceedings. Judge McHugh mentioned that two outreach meetings were held during the past year.

The following 2012-2013 accomplishments of the Public Information Office were highlighted: 1) hosted the Conference of Court Public Information Officers in August, 2) wrote and distributed 56 news releases/media advisories, 3) responded to 775 media inquiries, 4) planned for and facilitated changes to Rule 4-401, 5) produced court publications including the Annual Report and the Court News employee newsletter, 6) managed the court's social media component.

For the 2013-2014 year, the committee included the following as goals in the Strategic Communication Plan: 1) look at ways to build a more positive view of the courts with diverse populations, 2) determine new ways to communicate with target audiences, 3) consider ways to better inform the public about the court's performance measures, and 4) explore creating an online media training program.

The following was highlighted relative to the change to Rule 4-401 - Electronic media coverage of court proceedings: 1) 74 requests for video pool for cameras were received since the changes to the rule took place, and 2) the first gavel to gavel media coverage that was streamed live took place during the MacNeill case.

Judge McHugh expressed her appreciation to Ms. Nancy Volmer for her support to the Committee.

Chief Justice Durrant thanked Judge McHugh for her update.

8. SUMMIT COUNTY COURTROOM EXPANSION: (Alyn Lunceford)

Chief Justice Durrant welcomed Mr. Lunceford to the meeting.

Documents relative to the proposed Summit County courtroom remodel were included in the documentation sent to Council members. Mr. Lunceford provided information relative to Summit County's need for expansion of one additional courtroom to handle the increased caseload.

Mr. Lunceford highlighted the following relative to the proposed remodel to the Summit County court facility: 1) a presentation was made to the Facilities Standing Committee on the proposed design of the expansion project, 2) Summit County has incorporated funding for the expansion into their 2014 budget, 3) architectural firm has been contacted regarding a planning and programming contract, and 4) once design has been finalized, the design will be presented to the Summit County Council and the Facilities Standing Committee for approval.

Mr. Lunceford highlighted the following relative to approval of the remodel project: 1) design of the remodel of the facility to be completed in January-February time frame, 2) construction phase 120-150 days upon completion of the design, 3) anticipated completion of the remodel project by September 2014, 4) an increase of \$50,000 to the FY 2015 budget would be needed for lease payments, 5) thereafter, an adjustment of \$100,000 would be needed for lease payments, 6) working with Summit County on a structure with payback terms within the existing lease term, and 7) current lease expires in 2022.

Mr. Becker mentioned that the Third District presiding judges, Judge Ryan Harris, and Judge Todd Shaugnessy were involved in remodel planning meetings, in addition to management staff.

Mr. Lunceford responded to questions asked relative to the proposed remodel project for the Summit County court facility.

Motion: Judge Skanchy moved to accept the proposal for the Summit County courtroom remodel project. Judge Maughan seconded the motion, and it passed unanimously.

9. UTA ECOPASSES: (Alyn Lunceford)

In an attempt to minimize air pollution statewide, State government has contracted with UTA to obtain Eco-Passes for state employees in UTA service districts at discounted rates. With this, 23 court sites or 928 court employees will have the option of receiving an Eco-Pass in January of 2014 at no additional cost to the courts compared to the 89 employees that are currently receiving UTA transportation passes. An Eco-Pass provides unlimited travel on TRAX, all buses including express buses, S-Line and FrontRunner. The pass excludes ski buses and special services UTA transportation.

Mr. Lunceford was thanked for his update.

10. ADR COMMITTEE UPDATE: (Judge Royal Hansen and Ms. Nini Rich)

Chief Justice Durrant welcomed Judge Hansen and Ms. Rich to the meeting.

A copy of the ADR Program Overview was distributed to members of the Council.

Judge Hansen provided an update to the Council on the activities of the ADR Committee. He highlighted the following in his update: 1) available Alternative Dispute Resolution (ADR) programs, statewide; 2) ADR program statistics for 2013; 3) an overview of the committee membership; 4) 2013 program highlights, and 5) development and approval of a new website resource on Ethics and Discipline for ADR providers.

ADR program statistics highlights included: 1) more than 3,000 cases were mediated through court ADR programs; 2) four ADR staff mediators conducted 1,047 child welfare mediations, statewide; 3) more than 200 pro bono mediations were arranged by ADR staff; 4) over 1,100 pro bono mediations were provided through ADR program collaborations with non-profit community organizations and educational institutions; and 5) provided an annual 40-hour basic mediation training to over 200 court employees since 2007.

Ms. Rich provided an overview of the new Ethics and Discipline online resource available to ADR providers. She noted the availability of a roster of available providers can be found online, as well.

Judge Hansen expressed his gratitude to Ms. Rich and the IT staff involved in developing the online web-pages relative to the ADR program.

Ms. Rich answered questions relating to the mediation program.

Chief Justice Durrant expressed his gratitude to the ADR Committee and Ms. Rich for all they do for the court ADR programs.

11. THIRD DISTRICT COMMISSIONER APPOINTMENT: (Judge Royal Hansen and Peyton Smith)

Judge Hansen stated that the Third District Court has had a commissioner vacancy since the end of August. He outlined the process undertaken in selecting a new court commissioner.

The Third District Bench recommended Ms. Kim Luhn be hired to fill the vacancy for a court commissioner in the Third District Court.

Motion: Judge Maughan moved to accept the recommendation of the Third District Bench to appoint Ms. Kim Luhn to fill the vacancy for a court commissioner. Judge Hornak seconded the motion, and it passed unanimously.

12. PRESENTATION TO ASTAR FELLOWS: (Chief Justice Matthew B. Durrant)

Three judges from Utah completed the ASTAR Platform A Program through the National Courts and Science Institute. The judges include: 1) Judge Kate Toomey, 2) Judge L.A. Dever, and Judge Ric Oddone.

Chief Justice Durrant presented Judge Toomey with her certificate of completion as an ASTAR Science and Technology Fellow. Judge Dever and Judge Oddone were unable to attend.

Judge Toomey provided background information on the program and the training necessary to become certified in the program.

13. COUNCIL PHOTO

A photo of the Council was taken.

14. LANGUAGE ACCESS IN THE TRIAL COURTS OF RECORD: (Alison Adams-Perlac)

Ms. Adams-Perlac provided an update to the Council on language access in the trial courts between the years of 2011-2013. She highlighted the following in her update: 1) English fluency by Utah population; 2) language spoken at home; 3) speaks English less than very well; 4) types of credentialing categories for interpreters; 5) percent of hours interpreted by highest credentials available; 6) percent of Spanish language hours interpreted by a certified interpreter;

7) hours interpreted by district in 2013; 8) district court – total interpreted hearings; 9) juvenile court – total cases and parties using interpreters; 10) interpreting costs, 2011-2013; 11) interpreting costs by district, 2011-2013; 12) change in language interpreting costs, 2012-2013; 13) travel costs, 2012-2013; 14) percent change in program costs vs. percent change in number of hearings; 15) statewide, costs have declined by 1%; 16) remote interpreting program; 17) staff interpreter program; 18) expected impact on program costs in 2014; and 19) language access recommendations.

The following are recommendations made on behalf of the Language Access Committee: 1) study remote interpreting program to determine whether expansion to other areas is feasible, 2) retain the four full-time staff interpreters in the Third District, and 3) study whether there are needs in other districts that warrant hiring staff interpreters.

Chief Justice Durrant thanked Ms. Adams-Perlac for her report.

Motion: Judge Harmond moved to accept the report to include further study of remote interpretation and staff interpreter needs in other districts. Judge Davis seconded the motion, and it passed unanimously.

Motion: Judge Hornak moved to enter into an executive session to discuss a matter of professional competency. Judge Parkin seconded the motion, and it passed unanimously.

15. EXECUTIVE SESSION

An executive session was held at this time.

16. ADJOURN

The meeting was adjourned.