

JUDICIAL COUNCIL MEETING

Minutes

Monday, December 14th, 2009

Room 2000A, Second Floor

St. George Courthouse

St. George, UT

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham
Hon. Hans Chamberlain, Vice Chair
Justice Ron Nehring
Hon. Judith Atherton
Hon. Donald Eyre, Jr.
Hon. Kimberly K. Hornak
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. Carolyn McHugh for Hon. Gregory Orme
Hon. Keith Stoney
Hon. Michael Westfall
Hon. Thomas Willmore

STAFF PRESENT:

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

EXCUSED:

Hon. Jody Petry
Lori Nelson, esq.

GUESTS:

1. WELCOME, NEW COUNCIL MEMBERS WELCOME AND APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)

Chief Justice Durham welcomed everyone to the meeting. She excused Judge Petry from the meeting and mentioned that Judge McHugh will be sitting in for Judge Orme.

Motion: Judge Chamberlain moved to approve the minutes. Judge Westfall seconded the motion, and it passed unanimously.

2. CERTIFICATION OF JUDGES FOR 2010 ELECTION: (Tim Shea)

Motion: Judge Maughan moved to enter into an executive session, to discuss competency issues regarding judicial certification. The motion was seconded, and it passed unanimously.

3. EXECUTIVE SESSION

The Council entered into an executive session at this time.

The Council ended their executive session.

4. CHAIR'S REPORT: (Chief Justice Christine M. Durham)

Chief Justice Durham reported that with all of the discussion on the adequacy of our performance measures, she recently participated on a small steering committee that is working with grant support at the National Center for State Courts to revisit all of the trial work time standards. She noted that the most recent standards are 20 years old.

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

Mr. Becker reported on the following:

He mentioned that he will meet with the presiding judges and court executives on January 7 to discuss the following: 1) the efficiency measures signed off by the Council, 2) to seek advice and input on the best way to implement the efficiencies, and 3) to review the Governor's proposed budget and actions to be taken.

Weber County has indicated they are considering closing their justice court. The cases handled by their court would be handled by three different municipalities to include Roy, Washington Terrace, and Ogden City through an inter-local agreement. Further discussion before the Council is forthcoming.

A meeting with the Governor to discuss the courts budget has been rescheduled for December 21.

Mr. Becker reported that e-payment usage is up to 14% since its introduction in mid-September. Extending this service to juvenile court is in development.

He reviewed the district caseload filings report from July - November. Overall, the filings are up 2% from the same period last year.

He mentioned that the Management Committee discussed the process for reviewing judicial weighted caseload formulas at their last meeting. Mr. Becker was requested by the Committee to contact the National Center for State Courts and seek their assistance in providing a presentation to the Council and board members on what constitutes a state-of-the-art system in evaluating judicial needs. The presentation will be given at the February 22 Judicial Council meeting.

6. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durham reported that the minutes accurately reflect what was discussed at the meeting. She mentioned that a number of items were deferred to the Council meeting for further discussion.

Liaison Committee Report:

Justice Nehring reported that the first meeting of the Liaison Committee will be held on Friday, December 18.

Policy and Planning Meeting:

No report was given at this time.

Bar Committee Report:

No report was given at this time.

7. PRO BONO LAW CLERK UPDATE: (Debra Moore and Ray Wahl)

Ms. Moore and Mr. Wahl provided an update to the Council on the status of the pro bono law clerk pilot program. Information was distributed to the Council members.

Ms. Moore provided a background of what has taken place to date in regards to the pro bono law clerk request. After the presentation to the Council in October, a decision was made to form a committee to pursue the idea further and review any recommendations with the Council at a later date. The names of the committee members were provided. The committee met on November 25.

The proposal includes three types of assistance to include: 1) chambers volunteers - to provide legal research and writing, 2) public assistance - to provide help in the self-help center, and 3) assistance in the administrative offices - to provide legal research and writing.

The criteria and implementation of the program was outlined. Discussion took place. Concerns were expressed regarding the flexibility of the program.

It was determined to proceed with the pilot program.

Chief Justice Durham thanked Ms. Moore and Mr. Wahl for their presentation.

8. DRAPER JUSTICE COURT REQUEST: (Rick Schwermer)

Mr. Schwermer reported on the request from Draper City to approve an additional waiver and extension regarding the full-time judge requirement. He provided a brief history of the situation.

Discussion took place regarding the requirements and re-certification standards for full-time judge status in justice courts. Different options were reviewed.

Motion: Judge Maughan moved to deny Draper City Justice Court's request for extension and refer to the Supreme Court the issue of defining "full time" for a rule change review. Judge Atherton seconded the motion. The motion failed with Justice Nehring, Judge Hornak, Judge McCullagh, Judge Willmore, and Judge Westfall voting no.

Motion: Justice Nehring moved to grant Draper City an extension in waiving the full-time judge requirement through July 2010 and refer it to the Management Committee to consider amendments to the Rules of Judicial Conduct. Judge Willmore seconded the motion. The motion passed with Judge Atherton and Judge McCullagh voting no.

9. BUDGET DISCUSSION: (Daniel J. Becker)

Mr. Becker provided information on the recommendations for FY 2011 and FY 2010 supplementals as prepared by the Governor's office. The information reviewed included: 1) a budget summary, 2) the statewide overview, 3) FY 2010 recommendations, 4) FY 2011 recommendations, 5) critical areas, and 6) FY 2011 recommended revenue.

He reviewed the GOPB recommendations relating to the courts budget.

He summarized the implications for the courts budget for the remainder of FY 2010 and FY 2011. He reviewed possible budget actions that may be necessary to bring the 2010 budget into balance. Discussion took place.

He mentioned that further budget discussions would take place at the January 7 Presiding Judge and TCE meeting.

Discussion regarding reinstating a hiring freeze took place.

Motion: Judge Maughan moved to reinstate a hiring freeze effective January 1, 2010, with the exception of law clerks. Judge McCullagh seconded the motion, and it passed unanimously.

Motion: Judge McCullagh moved to enter into an executive session at this time. Judge Westfall seconded the motion, and it passed unanimously.

The Council ended their executive session.

10. ADJOURN

The meeting was adjourned.