

JUDICIAL COUNCIL MEETING

Minutes

Monday, December 12th, 2011

Senior Citizen Center

Juab County Courthouse

Nephi, UT

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham
Hon. Kimberly K. Hornak, vice chair
Justice Jill N. Parrish
Hon. Judith Atherton
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. Larry Steele
Hon. Keith Stoney
Hon. Thomas Willmore

EXCUSED:

Hon. John Sandberg
Lori Nelson, esq.

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Carol Price
Nancy Volmer
Brent Johnson

GUESTS:

Hon. Kate Toomey
Paul Vance, 4th Dist TCE
County Attorney Jared Eldridge
Commissioner Val Jones
Commissioner Chad Winn
Sheriff Alden Orme
Chief Deputy M. Tischner

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

Chief Justice Durham welcomed everyone to the meeting.

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

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

Chief Justice Durham reported on the following:

She reported that an international group of women from Afghanistan and Pakistan visited the courts recently as part of a sponsorship by the State Department on leadership of women's issues.

Discussion took place at the Management Committee meeting and with members of the Bar regarding the proposed Pro Bono Program and the role the court would play in the program.

Members of the Bar Commission will present the proposed program to the Council at their January meeting.

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

Mr. Becker reported on the following items:

He referred to an article in the National Law Journal on December 5 entitled *We Need a National Justice Index* which recognized Utah's CourTools performance measurement system.

American Fork and Cedar Hills are considering formation of a justice court. They may seek an inter-local agreement.

The next Council meeting will be held on Monday, January 23 which is the start of the 2012 Legislative Session. Chief Justice Durham will give the State of the Judiciary Address that afternoon. Council members are encouraged to attend the address. Transportation will be available.

Mr. Becker reported that revenue projections for the state have been improving. He mentioned the status of several federal juvenile grants which provide funding for various court programs, and the fact that federal grant funding has been declining.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durham 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 December. The Liaison Committee's first meeting is scheduled in early January.

Policy and Planning Meeting:

Mr. Shea reported on the following:

The draft Policy and Planning Committee meeting minutes accurately reflect the issues discussed.

Mr. Shea noted that time was spent discussing the use of social media by judges and how to best implement the social media report. Mr. Brent Johnson, staff to the Ethics Advisory Committee, will draft a paper focusing on the questions developed by the Social Media Subcommittee. The information will then be distributed to judges as well as included as a topic at the Annual Judicial Conference.

The custody evaluation web page has been finalized and has been given to the court's web designer to publish the information.

There will be several rules for final action and published for comment on the January Council agenda.

Bar Commission Report:

Ms. Nelson asked to be excused from the meeting, so no report was provided.

5. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Kate Toomey and Debra Moore)

Chief Justice Durham welcomed Judge Toomey and Ms. Moore to the meeting.

Judge Toomey provided an update to the Council on the activities of the Board of District Court Judges. She highlighted the following in her update: 1) provided a list of board members, and 2) review of the continuing and new goals being undertaken by the Board. With the large number of new members on the Board of District Court Judges, an orientation was held in October. Ms. Moore was thanked for her help in coordinating and participating in the orientation.

Highlighted are the goals being addressed or that will be addressed by the Board: 1) work continues on the domestic case study and the fee waiver guidelines and procedures, 2) monitoring statewide implementation of the new civil discovery rules, 3) mental health court, 4) create a revised statewide district court judges benchbook, 5) propose minimum standards for courtroom computers and software, and 6) design a judges' case management system. She noted the annual service project undertaken by the Board of District Court Judges with the Food and Care Coalition in Provo. Another service project will be selected for the coming year.

Ms. Moore provided insight into the Board's activities for the coming year.

6. THIRD DISTRICT LOCAL RULE ON CIVIL PROCEDURES: (Judge Kate Toomey)

Judge Toomey is requesting ratification of Rule 10-1-306 - Expedited Procedures for Resolving Discovery Issues. The rule was drafted by Judge Toomey and Judge Todd Shaughnessy with the intent to further the just, speedy, and inexpensive determination of civil actions. The Third District bench voted to adopt the rule district-wide. The Board of District Court Judges would like to monitor its use in Third District before determining if the rule should be used statewide.

Judge Mortensen reported that the Fourth District judges will be discussing a similar rule tomorrow.

Discussion took place regarding a concern that individual districts may want to adopt their own local rules and the lack of consistency and uniformity that would result. It was suggested that if additional requests for local rules are received by the Council, that Policy and Planning should advance a uniform rule.

Motion: Judge Orme moved to approve the local rule for use in Third District. The motion was seconded, and it passed unanimously.

7. JUAB COUNTY COURT SECURITY OVERVIEW (Daniel J. Becker)

TOUR (Sheriff Alden Orme, M. Tischner, and Carol Price)

Mr. Becker provided background information on the Juab County court facility relative to the short-term and long-term security concerns. The security audit identified several concerns which Mr. Becker and Mr. Wahl shared with the presiding judges and a Juab County Commissioner, the County Attorney and sheriff in separate meetings.

He noted that two Juab County Commissioners and the County Attorney met with the Facilities Standing Committee on Friday, December 9 to discuss moving forward with plans for a new court facility. The intent is to begin in August of 2012 and build a one-courtroom facility, with the ability to expand to another courtroom, and have the facility completed within a 9-10 month timeframe.

Mr. Becker expressed his concerns with the current facility and the safety of court staff and court patrons in the interim period while a new courthouse is being planned and constructed.

Sheriff Orme, Chief Deputy Tischner and Ms. Price will be providing a tour of the facility for the Council members.

Sheriff Orme provided background information relative to security services provided at the Juab County court facility. He mentioned that the facility is the old high school which now serves as the county offices/county court facility. He reviewed the staffing issues relative to providing adequate court security.

The tour of the court facility took place.

8. JUAB COUNTY COURT SECURITY - REMARKS (Commissioner Val Jones, Commissioner Chad Winn and County Attorney Jared Eldridge)

Chief Justice Durham welcomed County Attorney Jared Eldridge, Commissioner Val Jones and Commissioner Chad Winn to the meeting.

It was noted that discussions between the Juab County Commission and the court's building committee are taking place relative to building a new court facility in Juab County. Commissioner Carlton and County Attorney Eldridge met with the Facility Standing Committee on Friday, December 9. The Juab County officials expressed their concerns with financing of the facility, adequate floor plans and needs.

A meeting between the Juab County officials and the Facilities Standing Committee will be held on January 17 to further discuss the future plans of constructing a new court facility in Juab County.

Short-term security options to improve security at the Juab County court facility were discussed.

9. REPORT ON INTERPRETER PILOT PROGRAMS: (Tim Shea)

Chief Justice Durham welcomed Mr. Shea to the meeting.

Mr. Shea highlighted the two interpreter pilot programs which include: 1) the use of two staff interpreters at the Matheson Courthouse rather than the use of contract interpreters, and 2) the use of remote interpretation in Vernal and Richfield. Cost savings were generated with the use of the staff interpreters and the remote interpretation in Vernal. Due to limited use in Richfield, no savings were realized. Judge Steele provided feedback regarding the use of remote interpretation in Vernal.

Staff interpreters. Mr. Shea reported that the program has been successful. Logistics of administering the program district-wide and statewide would need to be addressed before determining whether to institute the program on a permanent basis or not.

Remote Interpretation. Technical issues and vendor commitment to training of the equipment would need to be dealt with before considering placement of remote interpretation equipment in other districts.

Mr. Shea was thanked for his update.

10. JUDICIAL PERFORMANCE EVALUATION COMMISSION - 2012 JUDGES CERTIFICATION STANDARDS: (Tim Shea)

Mr. Shea reported that the Judicial Performance Evaluation Commission has requested that the Judicial Council certify to them whether the judges standing for election in 2012 have met the three judicial performance evaluation standards as listed: 1) a maximum number of allowable cases under advisement, 2) a minimum number of continuing education hours, and 3) physical and mental competence.

Mr. Shea noted that all the judges standing for election in 2012 meet the standards with the exception of Judge Edwin Peterson who did not meet the education requirement in 2009 as he was not appointed until September of that year, and Judge Shauna Kerr who has more than three cases under advisement for over two months in 2010. Discussion took place.

Motion: Judge Steele moved to approve the transmission of the results of the 2012 judges certification standards to the Judicial Performance Evaluation Commission. Judge Hornak seconded the motion, and it passed unanimously.

11. SENIOR JUDGE CERTIFICATION: (Tim Shea)

Mr. Shea reported that Judge Donald Sawaya has applied to be appointed as an active senior judge.

Motion: Judge McCullagh moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge Donald Sawaya as an active senior judge. Judge Stoney seconded the motion, and it passed unanimously.

12. LEGISLATIVE UPDATE/INTERIM HIGHLIGHTS: (Rick Schwermer)

Mr. Schwermer provided a legislative update to the Council. He highlighted the following: 1) Governor's budget was released today, 2) an Executive Appropriations Committee meeting will be held tomorrow, and 3) provided a list of the bill requests related to the courts that are public. He noted that Senator Urqhart has agreed to sponsor the Self-Help Center Bill.

13. STUDY ITEM RECOMMENDATIONS: (Daniel J. Becker)

Mr. Becker recommended that Rule 3-202 - Court Referees be referred to the Policy and Planning Committee to review its use in district and justice courts to determine if amendments are needed.

No study item will be undertaken in 2012.

Motion: Judge Maughan moved to refer Rule 3-202 - Court Referees to Policy and Planning to consider its use in district and justice courts. Judge Stoney seconded the motion, and it passed unanimously.

Motion: Judge Hornak moved to enter into an executive session to discuss security issues. Judge Steele seconded the motion, and it passed unanimously.

14. EXECUTIVE SESSION

An executive session was held at this time.

The executive session ended, and the Council was back on the record.

15. **ADJOURN**
The meeting was adjourned.