

JUDICIAL COUNCIL MEETING

Minutes

May 24, 2021

Meeting conducted through Webex

9:00 a.m. – 1:30 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Todd Shaughnessy, Vice Chair
Hon. Brian Cannell
Hon. Samuel Chiara
Hon. Augustus Chin
Hon. David Connors
Hon. Ryan Evershed
Hon. Paul Farr
Hon. Michelle Heward
Justice Deno Himonas
Hon. Mark May
Hon. David Mortensen
Hon. Kara Pettit
Hon. Derek Pullan
Hon. Brook Sessions

AOC Staff:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Geoff Fattah
Meredith Mannebach
Jordan Murray
Bart Olsen
Jim Peters
Tiffany Pew
Nini Rich
Stacey Snyder
Nick Stiles
Karl Sweeney
Chris Talbot
Jeni Wood

Excused:

Rob Rice, esq.
Shane Bahr
Neira Siaperas

Guests:

Quinn Bennion, Vernal City Manager
Hon. James Brady, Fourth District Court
Ron Gordon, General Counsel to the Governor
Alicia Green, Third Juvenile Court
Hon. Royal Hansen, Third District Court

Guests Cont.:

Hon. George Harmond, Seventh District Court
Dennis Judd, Vernal City Attorney
Kristina King, OLRGC
Annie Knox, Media
Hon. Michael Leavitt, Fifth Juvenile Court
Hon. G. A. Petry, Vernal Justice Court
Lucy Ricca, Supreme Court
Cindy St. Clair, KSL
Jonathan Stearmer, Vernal City
Benjamin Winslow, Media
Bob Yeates, GAL Committee Chair

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Due to the coronavirus pandemic, the Council held their meeting entirely through Webex.

Motion: Judge Paul Farr moved to approve the April 26, 2021 Judicial Council meeting minutes, as amended to correct section five from end of planning to end of life planning, and to add that a discussion was held about the scope of the access to justice gap and its impact on other communities, including underserved communities. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

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

Chief Justice Durrant noted this will be Judge Mary T. Noonan’s last Judicial Council meeting. Judge Noonan is a delightful member of the Judiciary and had a profound effect on judges and employees over the past 2.5 years.

Chief Justice Durrant thanked Brent Johnson for his extraordinary contribution to the courts noting that everyone relied on his careful, thorough legal analysis, his informative and fun presentations, and his friendship. Mr. Johnson was a remarkable General Counsel, administrator, and friend to so many in the court system.

3. ADMINISTRATOR’S REPORT: (Judge Mary T. Noonan)

Judge Noonan thanked everyone, specifically Chief Justice Durrant, for their work in the Judiciary. The special legislative session was held last week. The Judiciary requested \$12M and received \$14M in ARPA funding, a \$1M increase in carryforward authorization, an extension of the authority to use the jury/witness fund to address costs associated with jury selection to address the court jury trial backlog, and \$1M for the use of additional judicial assistants and senior judges to help address the jury trial backlog caused by the pandemic. The Manti Courthouse received \$2M in funding for the development of plans and drawings. Chief Justice thanked Judge Noonan, Cathy Dupont, and Michael Drechsel for their work on the funding requests.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

Judge Mark May mentioned the work of the committee will be addressed later in the meeting. Judge May noted that the Career Ladder item in Old Business/New Business will be an action item. This item will be discussed with item 13.

Liaison Committee Report:

Judge Pettit reported that the Sheriff’s O.R. bill passed during the special legislative session.

Policy and Planning Committee Report:

Judge Derek Pullan noted the work will be discussed later in the meeting. They held discussions on a proposed rule that was prepared in response to an audit about the courts maintaining exhibits. Next month they will have further discussions about grant applications and AOC resources.

Bar Commission Report:

Rob Rice was unable to attend; however, he provided his report by email noting that from a list of three excellent finalists, the Bar Commission last week selected Elizabeth Wright to serve as the new Executive Director, upon John Baldwin’s departure in August. Ms. Wright currently serves as the Bar’s General Counsel. Mr. Rice felt she is an excellent choice. Chief Justice Durrant said Ms. Wright was an excellent choice.

5. ADR COMMITTEE REPORT: (Judge Royal Hansen and Nini Rich)

Chief Justice Durrant welcomed Judge Royal Hansen and Nini Rich. In 1994, the Utah State Legislature enacted the Utah Alternative Dispute Resolution Act (ADR Act) which required the Judicial Council to implement a program utilizing Alternative Dispute Resolution in the state courts. The program was implemented by the Judicial Council and Supreme Court rules in January, 1995.

All mediation programs directly administered through the ADR Office (Child Welfare, Co-parenting and Restorative Justice) were shifted online in April 2020 and continue to be offered exclusively online as of May 2021. Private ADR providers on the Utah Court Roster report conducted 63% of sessions online in the 2020 calendar year.

ADR Programs

Child Welfare Mediation	Statewide (juvenile court cases involving abuse or neglect)
Co-Parenting Mediation	Third District Court (Utah Code § 30-3-38)
Divorce Mediation	Statewide (Utah Code § 30-3-39)
General Civil Referrals	Statewide (mediation or arbitration) (CJA Rule 4-510.05)
Restorative Justice	Statewide (juvenile truancy & victim/offender mediation)
Probate Mediation	Statewide (CJA Rule 6-506)
Small Claims Mediation	Various justice courts
Small Claims Appeals	Second and Third District Courts

Statistics and Services FY20

- More than 1,850 cases were referred directly to court-administered ADR Programs. In addition, more than 4,000 cases were mediated by private providers selected by parties.
- Six ADR staff mediators (5 FTE) were assigned 1,242 Child Welfare mediations statewide. Of those cases mediated, 91% were fully resolved. (Since 1998, the Child Welfare Mediation Program has conducted over 18,500 mediations for the Utah State Juvenile Courts.)
- Three juvenile justice mediators (2.5 FTE) were assigned 141 truancy mediations and 78 victim/offender mediations statewide.
- More than 250 pro bono divorce and co-parenting mediations were arranged by ADR staff.
- Over 500 pro bono mediations were provided through ADR Program collaborations with nonprofit community organizations and educational institutions.
- The Utah Court Roster lists 172 ADR providers who mediated 3,785 cases and arbitrated 27 cases in the 2020 calendar year. Twenty-five new applications and 181 roster re-qualifications were processed by the ADR Office in 2020.

- 592 pro bono mediations and 2 pro bono arbitrations were provided by members of the Utah Court Roster.
- The ADR Committee continues to provide ethics outreach and education using the Utah Mediation Best Practice Guide. The Committee continues to review and update the Best Practice Guide based on input from outreach efforts and developments in the field.
- The ADR Committee created an on-line ethics examination for new applicants to the Utah Court Roster which expanded the scope of the exam to cover all Utah court rules and statutes that govern ethical behavior of mediators who are members of the Utah Court Roster. The online exam contains live links to the relevant rules and statutes.
- Ongoing ADR training and information are provided to court personnel through a 40-hour Basic Mediation Training, New Judge Orientations and specialized training sessions arranged for judges, court staff and supervisors.
- Outreach and education are provided to the Utah State Bar, Utah State Legislature, Utah ADR Providers and court clients through reports, seminar and conference presentations and the ADR website.

Ms. Rich thanked Judge Hansen for his leadership on the committee and the Council for their support of the ADR Department. Chief Justice Durrant thanked Judge Hansen and Ms. Rich.

6. BOARD OF JUVENILE COURT JUDGES REPORT: (Judge Michael Leavitt)

Chief Justice Durrant welcomed Judge Michael Leavitt. The juvenile courts selected fairness and accountability as their 2020/2021 area of focus. The juvenile courts partnered with CCJJ for two phases of data analysis of the juvenile delinquency data. The juvenile courts joined DCFS and other child welfare partners in a Casey Family Programs initiative to eliminate racial inequity in the child welfare system. Phase I was completed and included a high-level overview of disparities in the juvenile justice system at the point of referral to the court, petition, and disposition. Phase II is in progress with an expected completion of August, 2021 and includes exploring deeper relationships between variables, comparing severity of dispositions and outcomes for similarly situated youth, identifying disparate treatment at various points of court processes, and controlling for factors such as severity of the offense, delinquency history, risk level, age, etc.

What can judges do?

- 1) Emphasize law and facts in court when possible
- 2) Utilize risk assessments and evidence-based practices and uniformly issue sanctions and clearly explain any deviation
- 3) Challenge removals from custody and focus on the least restrictive interventions
- 4) Ensure they maintain the appearance of neutrality in the courtroom
- 5) Be mindful of parents' constraints when issuing delinquency orders
- 6) Allow people the opportunity to speak and ask questions
- 7) Be patient with interpreters and the interpretation process
- 8) Be smart about colloquialisms and pronouns
- 9) Be aware of cultural differences and when they matter
- 10) Dress code

Judge Pullan hoped the juvenile courts continue to pursue the collection of data regarding bias. Judge Leavitt noted for child welfare cases, data has not been collected, largely due to the information funneling through DCFS. They will continue to work on their data collection. Judge Michelle Heward thanked Judge Leavitt for starting good discussions through his presentation.

Chief Justice Durrant thanked Judge Leavitt.

7. AN ACTION PLAN FOR COMPILING JUDICIAL COUNCIL HISTORY: (Cathy Dupont)

Chief Justice Durrant welcomed Cathy Dupont. Ms. Dupont said last year the Council discussed hiring a videographer to interview individuals who were involved in the amendments to Article VIII of the Utah Constitution in the 1980s, which created the Judicial Council form of government. Due to the pandemic and budget considerations, the interviews did not take place. Judge Pullan and Ms. Dupont prepared and sent a list of questions for those to be interviewed. They've received some of the responses back. Justice Gordon Hall completed the video interview. Ms. Dupont will follow up on the responses not yet received from two of the interviewees. Judge Pullan thought that a graduate student might be able to collate the information. Justice Howe will not be able to participate. Ms. Dupont will contact Senator Lyle Hillyard and Roger Tew for possible legislators to contact.

Chief Justice Durrant thanked Ms. Dupont.

8. GAL OVERSIGHT COMMITTEE REPORT: (Bob Yeates and Stacey Snyder)

Chief Justice Durrant welcomed Bob Yeates and Stacey Snyder. Mr. Yeates reviewed the seven-member committee membership. Mr. Yeates complimented the courts on hiring Ron Gordon. Ms. Snyder will replace Mr. Gordon's position on the committee once he becomes the State Court Administrator.

- As more in-person meetings are held, the GAL attorneys look forward to the face-to-face meetings with the youth.
- District court GAL cases are nearly double due to the pandemic. This has been difficult to fill those requests.
- Members on the roster must have background checks and the appropriate training.
- They've received funds for representation of children in court, this has allowed for a 5% salary increase for court employees.

Chief Justice Durrant thanked Mr. Yeates and Ms. Snyder.

9. UINTAH COUNTY AND VERNAL CITY INTERLOCAL AGREEMENT: (Jim Peters and Brent Johnson)

Chief Justice Durrant welcomed Jim Peters. The Management Committee considered a proposal to consolidate the Uintah County and Vernal City Justice Courts at its meeting on January 12, 2021. Following discussion, Brent Johnson was asked to provide a legal opinion about the proposal. After reviewing the relevant statutes, Mr. Johnson concluded that Uintah County cannot use an interlocal agreement to dissolve its justice court. To combine the operations of the two courts, either Vernal must dissolve its court pursuant to Utah Code § 78A-

7-123(2) so that its cases automatically go to the county justice court, or Vernal and Uintah County would need to enter into an interlocal agreement that does not purport to dissolve either of their justice courts. The courts decided to enter into an interlocal agreement with neither court seeking dissolution.

The Council reviewed an amended Interlocal Agreement that removes any language as to the dissolution of the Uintah County Justice Court. The request moves to expand the territorial jurisdiction of the Vernal City Justice Court and the process of facilitating the transfer of cases from the Uintah County Justice Court to the expanded Vernal City Justice Court to be completed by the end of June, 2021. Mr. Johnson did not feel this would impede court operations and as the staff is already low and many functions have been transferred over already.

The dormant Uintah County Justice Court would take responsibility for cases if the Vernal City Justice Court dissolved; the cases would not be sent to the district court. A county justice court can dissolve with a 1-2-year notice to allow district courts time to ensure there are adequate resources to take those cases. A dissolution of a county court would require the cases to be moved to a district court.

Mr. Peters said Vernal City Justice Court cannot handle county cases without the Council's approval. The Council also must approve the date this will be effective but does not have discretion to oppose the agreement. Judge Brook Sessions clarified that the agreement appears to comply with statute. Before the county justice court could resume operations, they would need to hire a new judge. Judge Sessions didn't see a need to reduce the 180-day requirement. Mr. Peters explained that there are only three of the six judicial assistants between the city justice court and the county justice court left. It's in the best interest of the community to waive the 180-day requirement.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Augustus Chin moved to approve the Vernal City Justice Court and Uintah County Justice Court Interlocal Agreement effective July 1, 2021, as presented. Judge Farr seconded the motion, and it passed unanimously.

10. JUSTICE COURT JUDGE CERTIFICATION: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. Peters reviewed Utah Code § 78A-7-202 Justice Court Judges to be Appointed -- Procedure, which requires justice court judges to complete an orientation then be certified by the Council prior to taking the bench.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Shaughnessy moved to certify Judge Christopher G. Bown to the Taylorsville Justice Court, as presented. Judge Sessions seconded the motion, and it passed unanimously.

11. FREQUENCY OF BOARD REPORTS TO THE JUDICIAL COUNCIL: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. CJA Rule 1-303(3) requires that the Board of District Court Judges, the Board of Juvenile Court Judges and the Board of Justice Court Judges to report to the Judicial Council a minimum of once every three months. These boards are chaired by Judge Barry Lawrence, Judge Michael Leavitt and Judge Rick Romney, respectively. Each of them supports the idea of reporting to the Judicial Council on a less frequent basis. Historically, the practice was to report every six months.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Shaughnessy moved to approve amended CJA Rule 1-303(3) to allow for all Boards to report to the Council every six months and send the rule to Policy & Planning, as presented. Judge Chin seconded the motion, and it passed unanimously.

12. SETTING A REALISTIC GOAL FOR PROCESSING THE JURY TRIAL BACKLOG: (Judge Mary T. Noonan and Michael Drechsel)

Chief Justice Durrant welcomed Judge Mary T. Noonan and Michael Drechsel. Jury trials began in the Third District Court on January 25, 2021, with those who are in custody receiving prioritization. Jury trials have now been conducted in multiple districts with safety measures in place as instructed by public health recommendations. As more Utahns are being vaccinated, the health department is working with the courts to allow for more trials through revised safety protocols. Time constraints on public defenders and prosecutors are being considered as the courts work on the jury trial backlog of cases.

Health officials are no longer requiring rapid testing on all participants. The Department of Health is willing to conduct the rapid testing should that be needed. Judge Noonan noted that public health partners recommended the courts cease using Hepa filters and an enclosed witness booth; rather, the courts can use a single plexi glass between the witness booth and judge.

Michael Drechsel stated that on average 1,200 trials are conducted annually, of those, nearly 850 are typically bench trials, and 350 are civil and criminal jury trials. Securing the funding needed for additional senior judge and judicial assistant coverage will help considerably with the backlog. Mr. Drechsel is working with the TCEs to set goals for the backlog of cases so the need for senior judges can be identified.

Judge Shaughnessy explained that the Third District Court was prepared to hold jury trials in November but was unable to begin holding trials until January. There are 20-25 trials scheduled each week. Approximately 25, mostly criminal jury trials, have been held since January in the Third District. Approximately 50-60% of all statewide jury trials occur in Salt Lake County. At this time, there are only two courtrooms at the Matheson Courthouse that meet the safety requirements necessary. In anticipation of the relaxation of the standards and the ability to have more courtrooms available to hold jury trials, the limitation will be jury selection. The Third District and local attorneys prefer continuing to hold jury selection through Webex. This will require additional judicial assistants and technology. The Third District uses a jury trial

master calendar scheduling 30-40 jury trials a week. Most cases settle prior to trial and of the 30 to 40 scheduled trials, only 3 usually go to trial.

Judge Noonan explained the Management Committee will meet weekly through June to address amendments to the Risk Response Plan and Administrative Order in our rapidly changing environment.

Judge Sessions expressed concern about holding too many jury trials due to the limited jury pools in some of the smaller counties. Judge Kara Pettit said jurors are not considered to have served unless they report to the court for jury selection. The Third District is qualifying jurors for a shorter period of time to allow for more jurors. Judge Pettit noted that one week, there were 40 cases scheduled, all but 1 were resolved. The ability to set a case for trial helps the court move criminal calendars more efficiently. Of the 200,000 jurors studied, 137,000 were available but only about 3,000 actually served on a jury.

Judge Pullan observed that setting too many trials at once impacts prosecutors and defense counsel who may be assigned to multiple trials at the same time. Judge Shaughnessy said setting upfront expectations and continued communication with counsel is key to success.

Chief Justice Durrant thanked Judge Noonan, Mr. Drechsel and all of those involved in this effort. Chief Justice Durrant thanked the press for attending the meeting.

13. BUDGET AND GRANTS: (Judge Mark May, Karl Sweeney, Judge Mary T. Noonan, Bart Olsen, Jordan Murray, Lucy Ricca, and Alicia Green)

Chief Justice Durrant welcomed Judge Mark May, Karl Sweeney, Judge Mary T. Noonan, Bart Olsen, Jordan Murray, Lucy Ricca, and Alicia Green.

Jordan Murray presented the Hewlett Grant and UServe Grant requests as follows:

Hewlett Grant
\$140,000 FY22
\$110,000 FY23
\$250,000 Total

No cash or in-kind match required.

Provides contractor & consultant compensation for Utah's Office of Legal Services Innovation over a two-year period for the Executive Director, Data Analyst, and Project Manager. These funds would also support the hiring of a Website Marketing Contractor as well as an IT Consultant, in addition to fees for Auditor Contractors. The SJI Grant currently funds the contractors, with the exception of Helen Lindamood, who is a court employee.

Judge Connors asked how this office would continue being funded if the grant expires. Mr. Murray explained that prior to the elimination of funding, he and Ms. Ricca would seek additional funding from external sources. Ms. Ricca noted she is actively researching grant opportunities. Judge Connors noted from a funding perspective, relying on grant funding didn't seem to be a good long-term method. Justice Deno Himonas said they are looking to expand the pilot project and do not anticipate long-term grant funding. Justice Himonas said this could result

in a legislative funding request or a one-time funding request. Judge Shaughnessy thought the Council made it clear when they approved this that the Office would have to get funding from other sources, get appropriation from the legislature or become self-sufficient. Justice Himonas said there was a change when the Office moved from a two-year pilot to seven-years. Judge Shaughnessy was concerned that the Supreme Court made the decision to extend the length of the pilot program, but the effect of the extension could potentially impose a financial obligation on the Council. Judge Shaughnessy felt the Council should have been consulted prior to this decision. Justice Himonas disagreed that the Council's authority should extend to pilot programs dealing with the regulation of the practice of law, which is a Supreme Court function. Judge Shaughnessy thought the problem is that the extension creates a commitment for those already working in the sandbox. Justice Himonas said the Council has the right to decide if they will approve one-time funds.

Judge Pullan thought it's important for the Council to recognize that grant money is not intended to fund initiatives long-term. It then becomes incumbent on the Council at some point to make difficult decisions whether to fund initiatives that were seeded with grant money.

Chief Justice Durrant appreciated the careful concerns of the Council. The program has received national attention. Chief Justice Durrant hoped that this does not result in a request for one-time funding but if it does, it will be the duty of the Council to address it. Justice Himonas recognized that this program cannot run on grants long-term.

Critical to Judge Pullan's motion to support the sandbox grant, was Justice Himonas assuring the Council that the Supreme Court would never approach the legislature unilaterally to request funding for the office. Any legislative request for such an appropriation would be through the standard process of prioritization and approval by the Council.

Motion: Judge May moved to approve the Hewlett Grant, as presented. Justice Himonas seconded the motion, and it passed with Judge Shaughnessy voting no.

Judge Shaughnessy clarified that he voted no on the motion because the long term funding of the office is uncertain and the funding plans have changed since the first grant. He is supportive of the regulatory sandbox and the Office that administers it.

UServe Utah Grant

Cash match

\$5,071 Grant

\$2,000 other matching funds from non-state entities

\$53,901 matching state dollars from general fund

\$60,972 Total

In-kind match

\$5,071 Grant

\$19,555 matching state dollars from other source

\$24,626 Total

These grant funds would ensure the Village Project can continue providing reimbursement for approved personal expenses volunteer mentors incur during their individual mentoring activities. This incentive promotes more robust volunteer participation and by financially supporting volunteers the project is more likely to retain dedicated, trained volunteers. With this financial support from UServe Utah, the project expects to serve 70 at-risk youth during FY22.

Motion: Justice Himonas moved to approve the UServe Utah Grant, as presented. Judge Heward seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Judge May, Mr. Sweeney, Judge Noonan, Mr. Olsen, Mr. Murray, Ms. Ricca, and Ms. Green.

14. FACILITY PLANNING COMMITTEE REPORT: (Judge James Brady and Chris Talbot)

Chief Justice Durrant welcomed Judge James Brady and Chris Talbot.

Five-Year Capital Development Plan, as required by the legislature

- 1) Sanpete County, Manti Courthouse
New courthouse to replace the existing county leased court spaces
\$15.8M
- 2) Washington County, St. George Courthouse
Expansion of existing courthouse for up to four new courtrooms if the Federal Court agrees to a 20-year lease that covers entire cost of project.
\$26M or \$1.8M annually over a 20-year bond
- 3) Wasatch County, Heber City Courthouse
Proposed expansion of county owned facility to add a new juvenile courtroom
\$TBD
- 4) Davis County Courthouse
Proposed new courthouse with up to 16 courtrooms to consolidate the existing Farmington, Layton, and Bountiful Courthouses into one facility
\$TBD
- 5) Iron County, Cedar City Courthouse
Proposed expansion of the existing courthouse to add 3 courtrooms
\$TBD

Capital Development Requests

- FY19 purchased property cost \$335,103
- FY20 Abatement/Demolition \$1,070,655
- Total funding requested for FY22 \$15.8M-20.4M

Capital Improvement Projects

- Top 30 prioritized projects approved by Legislature for FY21. Total funding of \$5.4M with 80% of projects completed YTD.

- Notable Projects from FY21 – Security access and camera upgrades to 4 courthouses, Matheson carpet replacement, Statewide courtroom AV upgrades (\$350K) and HVAC upgrades to 6 facilities.
- Top 23 prioritized projects approved by Legislature for FY22. Total funding of \$5.2M.

Judge Samuel Chiara wondered without knowing how many calendars would be virtual in the future, has the committee considered the possibility of two judges sharing a courtroom when addressing the creation of future courthouses. Mr. Talbot shared for the Manti Courthouse they have removed 1,500 square feet from the GAL and probation offices as a result of telecommuting options, and that they will need 2 courtrooms. This has decreased the cost of the courthouse. Judge Connors agreed with the priorities but is also interested in a new consolidated courthouse in Davis County. He hopes that the courts can take advantage of the fact that Davis County has multiple legislators who may support the project. Mr. Talbot said the Davis County Courthouse is included as project number 4. Judge Connors said he would like to see Davis County move up the list.

Chief Justice Durrant thanked Judge Brady and Mr. Talbot.

Motion: Judge Connors moved to approve the five-year plan, as presented. Judge Mortensen seconded the motion, and it passed unanimously.

15. CJA RULES 1-204, 2-103, 4-403 FOR FINAL APPROVAL: (Keisa Williams)

Chief Justice Durrant welcomed Judge Pullan. Policy and Planning recommended that CJA Rules 1-204 and 2-103 be approved with an effective date of November 1. No comments were received for either.

CJA Rule 1-204. Executive committees

The proposed amendments in lines 49-52 allow the Policy and Planning Committee, Liaison Committee, and Budget and Fiscal Management Committee to each determine their own schedule for electing chairs. The experience or expertise required of a chair may differ among committees, necessitating a longer or shorter term. The proposed amendment in line 58 isn't substantive. The proposed language matches that found in other rules.

CJA Rule 2-103. Open and closed meetings

The proposed amendment in line 77 adds the category of "safeguarded" to the list of reasons that a Council meeting may be closed. The amendment corrects an oversight. The rule wasn't updated when "safeguarded court records" were added as a classification in CJA rule 4-202.02.

CJA Rule 4-403. Electronic signature and signature stamp use

New Utah Rules of Civil Procedure 7A and 7B, effective May 1, 2021, have eliminated the order to show cause process. Instead, there is now a process under a "motion to enforce." Similar to the OSC process, a moving party files an ex parte motion and the court issues an order. Under new URCP 7A(c)(4) and new URCP 7B(c)(4), the resulting order is an order to "appear personally or through counsel" instead of an "order to show

cause." The Forms Committee has approved plain language forms consistent with this process, titling the model order "Order to Attend Hearing."

Chief Justice Durrant thanked Judge Pullan.

Motion: Judge May moved to approve CJA Rules 1-204 and 2-103 with an effective date of November 1, 2021, and 4-403 with an expedited effective date of May 24, 2021, to be followed by a 45-day comment period as presented. Judge Farr seconded the motion, and it passed unanimously.

16. PRETRIAL RELEASE COMMITTEE MEMBERSHIP: (Keisa Williams)

Chief Justice Durrant welcomed Judge Pullan. Judge Pullan addressed two vacancies on the Pretrial Release and Supervision Committee due to Senator Hillyard's resignation on the committee and Representative Hutchings departure from the legislature. Senator Michael McKell was nominated by the President of the Senate but declined. Representative Karianne Lisonbee expressed interest in serving on the committee and was supported by the Speaker of the House of Representatives. Judge Shaughnessy noted the Management Committee approved Representative Lisonbee but thought it was appropriate to allow the President of the Senate to appoint the Senator position.

Chief Justice Durrant thanked Judge Pullan.

Motion: Judge Shaughnessy moved to approve the appointment of Representative Karianne Lisonbee and the appointment of the Senator who is selected by the President of the Senate to the Pretrial Release and Supervision Committee. Judge Connors seconded the motion, and it passed unanimously.

17. JURY TRIALS UPDATE: (Judge Mary T. Noonan and Cathy Dupont)

This item was combined with item 12.

18. OLD BUSINESS/NEW BUSINESS

Bart Olsen provided an update to the Council on the career ladder program mentioning that the program is unsustainable because it relies on the accumulation each year of ongoing savings, which is never certain. The idea for the move away from career ladder is to improve the strategy of compensation. The courts can transition to the new compensation strategy by sun setting the career ladder program by offering those employees who qualified for the career ladder raises this last year a onetime bonus payment for each completed career ladder step. Those employees can then participate in the new compensation program (which will be referred to as the Sunrise Program as shorthand for starting the new program). HR will inform employees and encourage participation in the sunset/sunrise programs and the new compensation strategy through 1) a statewide tour from HR to the districts; 2) explaining the repurposing of turnover savings; 3) additional compensation tools; and 4) explaining a workplace that people love. The survey showed strong support among management for this new process. If approved, HR will target management training, training on performance management tools, and ongoing coaching (in-person and virtual). Human Resources will help management set measurable standards. There are performance tools on the HR website.

Mr. Olsen concluded that if there is any challenge with the plan it would be the messaging and marketing of the changes to employees. It's important to help individuals better understand the new compensation strategy. Judge May thanked Mr. Olsen for his time and effort into this program. Judge Pullan emphasized it would be important to assure employees that discretionary compensation decisions would be guided by objective criteria and principles.

Mr. Olsen said employees will be given FY21 and FY22 to complete their current career track.

Motion: Judge May moved to approve adopting the new career ladder program. Judge Shaughnessy seconded the motion, and it passed unanimously.

19. EXECUTIVE SESSION

An executive session was not held.

20. CONSENT CALENDAR ITEMS

a) CIP Grant Renewal. Approved without comment.

b) Committee Appointments. Appointment of Judge Troy Little to the ADR Committee Representative Karianne Lisonbee to the Pretrial Release Committee. Approved without comment.

c) CJA Rules for Public Comment. CJA Rules 1-205, 3-419, 4-202.02, 4-206, and 4-401.02 for public comment. Approved without comment.

21. ADJOURN

The meeting adjourned.