

# JUDICIAL COUNCIL MEETING

**Minutes**  
**Friday, March 15, 2013**  
**Lexington Hotel**  
**Sabra Ballroom FG**  
**St George, UT**

**Chief Justice Matthew B. Durrant, Presiding**

**ATTENDEES:**

Chief Justice Matthew B. Durrant  
Hon. Kimberly K. Hornak, vice chair  
Justice Jill Parrish  
Hon. Judith Atherton  
Hon. Glen Dawson  
Hon. George Harmond  
Hon. Paul Maughan  
Hon. Brendan McCullagh  
Hon. David Mortensen  
Hon. Gregory Orme  
Hon. Reed Parkin  
Hon. John Sandberg  
Hon. Larry Steele  
John Lund, esq.

**EXCUSED:**

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Diane Abegglen  
Lisa-Michele Church  
Debra Moore  
Rick Schwermer  
Tim Shea  
Ron Bowmaster

**GUESTS:**

Judge John Walton  
Judge Jeffrey Wilcox  
Lori Nelson, State Bar Pres  
Curtis Jensen, State Bar Pres-Elect  
John Baldwin, State Bar  
Rob Rice, State Bar  
Michelle Harvey, State Bar  
Judge Royal Hansen  
Sylvester Daniels, Second Dist TCE  
Rick Davis, Fifth Dist TCE  
Board of District Court Judges  
Board of Juvenile Court Judges  
Kevin Jenkins, The Spectrum

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

Chief Justice Durrant welcomed everyone to the meeting.

**Motion:** It was moved and seconded to approve the minutes as written from the February 25, 2013 Judicial Council meeting. The motion passed unanimously.

**2. INTRODUCTION OF NEW FIFTH DISTRICT JUDGE: (Judge John Walton)**

Judge Walton introduced Judge Jeffrey Wilcox to the Judicial Council and mentioned what a fine addition he will make to the bench. On behalf of the Council, Chief Justice Durrant welcomed him to the court family.

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

Chief Justice Durrant reported on the following:

The Chief complimented Mr. Becker and his team on their activities during the Legislative Session. He mentioned that he thought that the credibility that the courts enjoyed with the Legislature was as good as it has ever been and that has served the branch well.

The Chief mentioned that Judge Atherton has announced that she will retire effective August 1, 2013. He discussed what a loss this was for the judiciary and wished Judge Atherton the best in retirement. Judge Maughan will serve as the Council's representative for the Third District Nominating Commission.

**4. ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Mr. Becker reported on the following items:

Mr. Becker reported on an outcome of the clerical restructuring. When the initial restructuring took place in December of 2008, 23% of the workforce had an Associate's degree and 14% a Bachelor's degree. Of new hires since January 1, 2009, 22% have an Associate's degree and 50% a Bachelor's degree. He reminded the Council that one objective of the clerical restructuring was to develop a smaller, but better educated and trained workforce to deal with the challenges of a paperless system and e-filing.

He reminded the Council that the Boards of District and Juvenile Court judges would participate in the legislative and budget update of the agenda. He also reported that recommendations for the 2014 spending plan will be presented at the April 22 Council meeting.

**5. 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:***

Justice Parrish reported on the following:

She mentioned that Liaison Committee meeting minutes accurately reflect the bills discussed. She complimented the committee on their hard work and dedication during the legislative session.

***Policy and Planning Meeting:***

Judge Orme reported on the following:

As the committee had not met since the last Council meeting, there were no items placed on the agenda for Council consideration.

***Bar Commission Report:***

Mr. Lund had nothing to report as there would be several reports from the Bar at the Council meeting today.

**6. REMARKS FROM UTAH STATE BAR PRESIDENT/PRESIDENT ELECT:  
(Lori Nelson, Curtis Jensen, and John Baldwin)**

Ms. Nelson reported on the Bar's midyear program and several Bar initiatives. She also provided a handout to the Council on the Annual Bar Conference in Snowmass Village, Colorado on July 17-20<sup>th</sup>. She expressed her appreciation to all the judges who have volunteered their time on Bar activities and looked forward to seeing people during the Mid-Year Bar Conference.

**7. PRO BONO COMMISSION UPDATE: (Rob Rice and Michelle Harvey)**

Mr. Rice and Ms. Harvey updated the Council on the implementation of the Pro Bono initiative. Particular attention was given to the work of the Pro Bono Commission and local Pro Bono Committees. Local judges were recognized for their role in helping organize the work of the local committees.

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

Judge Hadley introduced the members of the Board of District Court Judges. He thanked them and Ms. Moore for their contributions. He reported on the transition of the district courts to mandatory e-filing and use of electronic records. He noted that additional improvements to the signature process were in progress. Judge Hadley expressed appreciation for the legislative liaisons and all who worked with the Legislature during the recent session. He reported that the Board had discussed the proposed leadership rule and recommended against its adoption. Board members believe that the rule is not necessary.

Judge Hadley further reported that the Board recommends that the Judicial Council consider adopting a Judicial Outreach Day to enable all members of the judiciary to participate in a pre-planned day of activities to educate schools, communities, and the public about the judicial branch. The Board proposes that judges report the results of their activities to their Board representative, and would like the Council's endorsement to adopt this program for the district court bench.

Regarding the recent ethics opinion on use of treatment provider lists, the Board supports reconsideration of the opinion by the Council and will make specific recommendations to the Council in May. The Board is currently studying the appropriate role of the court when contact is lost with a guardian or conservator.

Judge Hadley concluded by inviting the Council to make assignments to the Board.

**9. TCE UPDATE: (Sylvester Daniels and Rick Davis)**

Mr. Daniels reported on issues related to District Court that included the ECR Court in Third District, Case Assignment Divisions in Fifth District, the law clerk/bailiff program in Fourth District and the Consistency Committee in Second District. He also discussed the preparation for mandatory e-filing that included the back scanning program in Fourth District and the contract sites moving to electronic records.

Mr. Davis reported on issues related to Juvenile Court and innovative practices that included examples of evidence-based practices implemented and the focus on case planning. He

also discussed the progress that had been made by the Juvenile Court with the electronic record, orders being completed in court and the standardization of forms.

Both Mr. Daniels and Mr. Davis made mention of cross training of judicial assistants and the workload adjustments made in the districts.

Chief Justice Durrant expressed his appreciation for the work of the Trial Court Executives.

#### **10. JUDGES WORKSPACE APPLICATION: (Debra Moore and Ron Bowmaster)**

Mr. Bowmaster made a PowerPoint presentation to the Council on the Judicial Workspace, which included how it was created, the training and support necessary, and its implementation. He showed a portion of an on-line training program module on the workspace and gave an update on e-filing.

Ms. Moore discussed the training that has occurred with five “beta” judges and their teams. The Judges involved included Judges Kouris, Allen, Skanchy, Shaughnessy and Connors and their teams. Additional training was provided before the release to Judges Mortensen, Brady, Harmond, McClellan, Ludlow, Lee and Bagley and their teams.

The presentation included progress on documents attached and hearings completed. There was a review of comments made by various judges.

Mr. Bowmaster concluded with a report on the number of attorneys registered as e-filers, the percentage of civil cases e-filed, and the number of criminal e-filings.

Chief Justice Durrant, on behalf of the Council, expressed appreciation for all the hard work done on this project and the preparation for mandatory e-filing on April 1.

#### **11. LEGISLATIVE AND BUDGET UPDATE/INTERIM HIGHLIGHTS: (Rick Schwermer, Daniel J. Becker, and Ray Wahl)**

Mr. Becker began the discussion by expressing his appreciation to the team that provided support during the Legislative Session. They included Derek Byrne, Alyn Lunceford, Kim Allard, Ray Wahl and Rick Schwermer. Mr. Becker made special mention of the work of Mr. Schwermer, who spends all 45 days of the session in an office at the Capitol and how he is able to manage the bills filed, amendments made, develop fiscal notes and represent the Court’s interest. His efforts have created credibility with those legislators and staff involved in the session. Mr. Becker characterized the session as quiet for the courts, with the exception of child welfare legislation. He also mentioned that the Legislature was quite supportive of several of the budget priorities of the Courts and consequently, we were treated well.

Mr. Wahl presented information on the budget appropriated to the Courts this year. He reviewed a handout that reviewed the requests made by the Judicial Council and their funding status, which included the two judges in Eighth District, the request for law clerks, the funding for IT programming, and several special accounts that received funding. This information was going to be reviewed again at the Legislative Update on April 5.

Mr. Schwermer mentioned that the Liaison Committee reviewed 56 bills, and took positions on 21. Of those bills, all that were supported passed, and none that were opposed passed.

He reviewed the following bills and indicated that some would be discussed at the Legislative Update. The bills he reviewed included:

HB 105 - Serious Youth Offenders Amendments  
HB 156s6 - Restoration of Terminated Parent Rights  
HB 239 s2 - Jury Service Amendments  
HB 309 - Judicial Performance Evaluation Amendments  
HB 327 - Probate Amendments  
SB 1/HB 388 - Alimony Amendments  
SB 49s1 - Child Welfare Modification  
SB 111 Electronic Filing of Traffic Citations and Accident  
SB 112s3 - Work Week Amendments  
SB 116 - Garnishment for Debt Collection  
SB 155s1 - Post Adoption Contract Agreements  
SB 156 - Jail Release Amendments  
SB 204 - Judiciary Amendments  
SB 255 - Human Service Amendments

## **12. REVIEW OF JPEC MEETING**

Mr. Wahl attended the JPEC meeting on March 12 and reported on the following:

- 1) The Legislative session – JPEC did not get additional funding they had requested for Justice Court evaluations.
- 2) A meeting was held with the Lieutenant Governor where they discussed the need for additional funding to publicize the availability of performance reports for judges up for retention. A committee was formed chaired by Nate Alder, and included Myron March and Dave Lambert, to pursue additional funding.
- 3) There was a lengthy discussion about the concern that there was gender/ethnicity bias in their surveys. They have asked Market Research to look at this issue closer.
- 4) They reported on Justice Court recommendations and the wrap up of grant activities.
- 5) They discussed the survey subcommittee and still were looking at ways to qualitatively evaluate appellate court judges. Suggestions included getting retired appellate court judges to assist with developing a fair standard and checking with the National Association of Appellate Court Judges to see if they had information that might prove useful to such evaluations.
- 6) JPEC staff reported that they would launch court staff surveys for those judges up for retention in 2014 within one month.

## **13. ADJOURN**

There being no further business, the meeting was adjourned at 4:15 pm.