

# JUDICIAL COUNCIL MEETING

## Minutes

Monday, April 27, 2015

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

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

### ATTENDEES:

Chief Justice Matthew B. Durrant  
Hon. Kimberly K. Hornak, Vice Chair  
Justice Jill Parrish  
Hon. Marvin Bagley  
Hon. Ann Boyden  
Hon. Glen Dawson  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. David Mortensen  
Hon. Reed Parkin  
Hon. John Sandberg  
Hon. Randall Skanchy  
Hon. Kate Toomey  
John Lund, esq.

### EXCUSED:

### STAFF PRESENT:

Daniel J. Becker  
Ray Wahl  
Jody Gonzales  
Dawn Marie Rubio  
Debra Moore  
Rick Schwermer  
Tim Shea  
Alison Adams-Perlac  
Nancy Sylvester  
Dan Larsen  
Derek Byrne  
Tom Langhorne  
Ron Bowmaster

### GUESTS:

Judge Marsha Thomas  
Joanne Slotnik, JPEC  
Gil Miller, JPEC  
David Walsh  
Gary Syphus  
Ken Matthews  
Cheri Linsley, 3<sup>rd</sup> Dist  
Evangelina Burrows, 3<sup>rd</sup> Dist  
Tim Smith, self

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

**Motion:** Judge Skanchy moved to approve the minutes from the March 13, 2015 Judicial Council meeting. Judge Hornak seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported on the following items:

A ceremony to recognize the 800-year anniversary of the signing of the Magna Carta took place at the Matheson Courthouse on Wednesday, April 15; where Chief Justice Durrant participated in a ceremonial signing of the replica document.

He offered comments at the Juvenile Court Judges Conference held last week in Cedar City.

Judge Kate Toomey, Court of Appeals, was sworn in to replace Judge James Davis who resigned.

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

Mr. Becker reported on the following items:

Justice Court Judges Conference. At the Justice Court Judges Spring Conference, the Justice Court Judges approved the appointment of Judge Paul Farr to replace Judge John Sandberg on the Council, upon his retirement at the end of May.

Carbon County Courthouse. Carbon County is prepared to move forward with applying for a CIB grant to fund a new courthouse. Mr. Becker highlighted the following relative to the proposed new courthouse: 1) a lease increase of \$300,000 would need to be approved in FY 2019, on a one-time basis; and 2) thereafter, with the completion of the Farmington lease in FY 2020, funding would be available to address the ongoing lease requirements for the new Price courthouse.

Davis County Commission. Mr. Becker, Mr. Rick Schwermer, and Mr. Brent Johnson are scheduled to meet with the Davis County Commissioners later today to discuss their request to dissolve the Davis County Justice Court in December 2016. An update of this matter will be provided to the Council at their May meeting.

**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 April.

***Policy and Planning Meeting:***

Judge Parkin reported on the following items: 1) the committee continues to review and consider rule changes and policies brought before them, 2) they are scheduled to meet on May 1, and 3) a rule for final action is on the agenda, for approval, later in the meeting.

***Bar Commission Report:***

Mr. Lund reported on the following items:

He expressed his appreciation to Chief Justice Durrant for his participation in the signing of the Magna Carta at the event held on April 15 at the Matheson Courthouse. The Magna Carta display will be set up at the Law Day Luncheon on May 1.

The results of the Bar election included: 1) Rob Rice, president elect; 2) Kate Conyers and Michelle Mumford, Third Division Commissioners; 3) Liisa Hancock, Fourth Division Commissioner; and 4) Kristin Woods, Fifth Division Commissioner.

The Bar's Summer Convention will be held July 29 – August 1 in Sun Valley, Idaho. Associate Justice Anthony M. Kennedy, U.S. Supreme Court, is scheduled as a keynote speaker on July 30.

Expanding the Fall Forum to a two-day event is being considered by the Bar Commission.

**5. RULES FOR FINAL ACTION: (Alison Adams-Perlac)**

The Policy and Planning Committee recommended Rule CJA 01-0205 – Standing and ad hoc committees be approved for final action. The rule has been amended to reauthorize numerous Judicial Council Standing Committees, and it adds a representative from the Self-Help Center to the Committee on Resources for Self-Represented Parties. If approved, the amended rule would be effective May 1.

**MOTION:** Judge Skanchy moved to approve the recommended changes to Rule CJA 01-205 – Standing and ad hoc committees, as proposed by the Policy and Planning Committee, effective May 1. Judge Hornak seconded the motion, and it passed unanimously.

**6. RESOURCES FOR SELF-REPRESENTED PARTIES COMMITTEE UPDATE: (Judge Marsha Thomas and Nancy Sylvester)**

Chief Justice Durrant welcomed Judge Marsha Thomas and Ms. Nancy Sylvester to the meeting).

Judge Thomas reminded members of the Council of the update provided to them in October 2014 which included: 1) a brief history of the committee, 2) where the committee is today, and 3) why they would like to go.

A strategic plan has been prepared since the update in October 2014. Prior strategic plans were prepared in 2006 and 2011 which provided guidance to the committee to date. The new strategic plan incorporates priorities from prior plans.

Ms. Sylvester highlighted the following data relative to self-represented parties in selected court case types during FY 2014 compared to FY 2005 to include: 1) no party with an attorney, 60% in FY 14 compared to 47% in FY 05; 2) guardianship, 67% in FY 14 compared to 65% in FY 05; 3) protective orders, 71% in FY 14 compared to 54% in FY 05; and 4) civil stalking, 77% in FY 14 compared to 76% in FY 05.

The proposed priorities in the current strategic plan include: 1) continued support including increased funding for the Self-Help Center, 2) continued development of forms, 3) improvement of lawyer directories and the development of a guided webpage for referral to legal services, 4) support for the development of virtual legal services delivery, 5) the development and implementation of a court navigator program, 6) increased availability of malpractice insurance for volunteer attorneys, 7) changes to the third year practice rule, and 8) increased education for those who interact with self-represented parties.

Ms. Sylvester provided details relative to court navigator programs used by other state court systems, nationally.

Discussion took place.

The following suggestions were made relative to the Resources for Self-Represented Parties Committee and the Self-Help Center: 1) the need for a bar representative on the committee, and 2) the need for self-representation in delinquency and child welfare related cases.

Chief Justice thanked Judge Thomas and Ms. Sylvester for their update. He asked Judge Thomas to express his appreciation to the Resources for Self-Represented Parties Committee for all they do, on behalf of the courts.

**7. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik and Mr. Gil Miller)**

Chief Justice Durrant welcomed Ms. Joanne Slotnik and Mr. Gil Miller to the meeting.

Ms. Slotnik introduced Mr. Gil Miller to members of the Council.

Mr. Miller provided background information on his experience.

Ms. Slotnik and Mr. Miller highlighted the following in their update to the Council: 1) membership changes, 2) a redesign of the JPEC website is in progress to make the website more user-friendly and applicable to mobile users, 3) adding more volunteers to the courtroom observer aspect of the evaluation process, 4) development of a pre-survey letter for attorneys, and 5) dates to remember relative to the 2016 retention elections, 6) dates to remember relative to the 2018 mid-term evaluations.

Membership changes to the Judicial Performance Evaluation Commission (JPEC) include: 1) the Governor has appointed Ms. Sonia Martinez to fill the vacancy replacing Ms. Joanne Rigby, 2) Mr. John Ashton has been appointed as the chair of the committee, and 3) a Supreme Court appointment to fill the vacancy to replace Mr. Anthony Schofield is forthcoming.

Questions were asked of Ms. Slotnik. Ms. Slotnik provided responses to the questions asked.

Chief Justice Durrant thanked Ms. Slotnik and Mr. Miller for their update.

**8. APPROVAL OF FY 2016 SPENDING PLAN: (Daniel J. Becker and Ray Wahl)**

The recommendations for the proposed FY 2016 spending plan, as prepared by the Executive Budget Committee, were distributed and reviewed with members of the Council. A document relative to court commissioner compensation was distributed for further discussion relative to the FY 2016 spending plan.

Mr. Becker reviewed the available ongoing funding, by source, for FY 2016 to include: 1) ongoing turnover savings, 2) funding for nine fiscal notes, and 3) VOIP budget savings.

The available one-time funding available included: 1) one-time personnel turnover savings and current expense, and 2) one-time fiscal note funding.

Mr. Becker highlighted the proposed ongoing spending plan recommendations with regard to the court's budget obligations to include: 1) career track obligations, 2) market comparability adjustments, and 3) child welfare mediator.

He highlighted the proposed ongoing spending plan recommendations with regard to the court's discretionary budget items to include: 1) district court law clerk, 2) juvenile court law clerk, 3) commissioner compensation, 4) district court program administrator (.5 FTE to .75 FTE), 5) transfer of CIP Grant personnel funding to GF (.3 FTE), and 6) Self-Help Center.

Mr. Becker reviewed the proposed one-time spending plan recommendations. The following one-time spending plan recommendations were highlighted: 1) employee incentive awards, 2) education initiatives, 3) senior judges, 4) volunteer court visitor program, 5) Fourth District Juvenile clerical support, 6) district court program administrator (.75 FTE to 1.0 FTE), 7) time-limited law clerks, 8) Fourth District scanning project, and 9) reserve amount.

Court Commissioner Compensation. Mr. Becker mentioned that court commissioners are included with court staff for the approved 3% cost-of-living adjustment. Any changes to commissioner compensation have to be approved by the Council.

He provided background information on commissioner compensation compared to the justification that was used to increase judicial salaries. Mr. Becker highlighted the following to be considered when approving commissioner compensation: 1) an increase to commissioner compensation is supported by the Board of District Court Judges and the Board of Juvenile Court Judges, 2) judicial salary comparability, 3) legislative context, 4) national survey data relative to

commissioner compensation, and 5) survey data relative to comparable Utah government positions.

Discussion took place.

Commissioner compensation increases, approved by the Council, within the past four years were noted.

**Motion:** Justice Parrish moved to: 1) approve the court commissioner's compensation be increased by six percent, which includes the 3% cost-of-living adjustment, 2) continue to fund the district court program administrator position with one-time funding, and 3) reduce the amount to be funded one-time for courtroom technology and remote services. Mr. Lund seconded the motion. The motion passed with Judge Mortensen, Judge Dawson, and Judge Bagley voting no.

**Motion:** Justice Parrish moved to approve the FY 2016 Spending Plan as recommended, with the exception of the changes made relative to the following areas: 1) the commissioner compensation, 2) funding of the district court program administrator position with one-time funding, and 3) a reduction in the amount to be funded one-time for courtroom technology and remote services. Judge Hornak seconded the motion, and it passed unanimously.

**9. APPROVAL OF COURT COMMISSIONER COMPENSATION: (Daniel J. Becker)**

**Motion:** Justice Parrish moved to approve the increase in compensation from \$122,482 (FY 2015) to \$129,831 (FY 2016), which represents a six percent increase. Judge Sandberg seconded the motion, and it passed unanimously.

**10. EXECUTIVE SESSION**

An executive session was not needed at this time.

**11. ADJOURN**

The meeting was adjourned.