

JUDICIAL COUNCIL MEETING

Minutes
Tuesday, September 11, 2012
Silver Mine A
Park City Marriott
Park City, 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. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. John Sandberg
Hon. Larry Steele
Hon. Keith Stoney
Hon. Thomas Willmore
John Lund, esq.

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Brody Arishita
Ron Bowmaster
Rick Smith
Nancy Volmer

EXCUSED:

GUESTS:

Steve Raabe, OpinionWorks
Judge Reed Parkin

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

Chief Justice Durrant welcomed everyone to the meeting.

Motion: Judge McCullagh moved to approve the minutes from the August 16, 2012 Budget and Planning Session and the August 16, 2012 Judicial Council meeting. Judge Harmond seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported on the following:

He, Mr. Dan Becker and Mr. Rick Schwermer met with the Judicial Compensation Commission, and they discussed judicial salaries and the importance of keeping compensation at levels that will attract qualified applicants and retain judges.

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

Mr. Becker reported on the following items:

The October 22, 2012 Judicial Council meeting will be an all-day event held in Moab. The first part of the day will consist of the Council business meeting. The second part of the day will be a planning workshop format. The workshop will include the following: 1) review of emerging issues and what court systems will be dealing with 10 years into the future, 2) review Justice in the 21st Century findings and recommendations 20 years later, and 3) identify specific challenges courts will face in the future, and 4) produce 2-3 Council study items for consideration.

The Executive Appropriations Subcommittee held their August 28 meeting at the Matheson Courthouse. During this time, they visited Judge Skanchy's drug court.

Mr. Becker mentioned that Utah has been asked by the National Center for State Courts (NCSC) to participate in a National Press Event in Washington, DC in conjunction with the Rehnquist dinner of the Supreme Court. Chief Justice Durrant, Mr. Becker and Representative Eric Hutchings will attend the event as Utah delegates. Representatives from Vermont and an additional trial court have also been invited to participate.

An article on the *Court Observer Program* featured in the Court Review Magazine was distributed.

Judge Rand Beacham has announced his upcoming retirement effective December 16, 2012, and Judge Clint Judkins has announced his upcoming retirement effective February 1, 2013.

Mr. Rick Schwermer attended the Judicial Performance Evaluation Committee (JPEC) meeting this morning representing the courts, and he has been asked by the JPEC Workgroup to attend all future meetings as well. He noted that the 2012 reports on judges up for retention went live today on the Commission's webpage.

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 September.

Policy and Planning Meeting:

Judge Orme reported on the following:

The Committee met in September. Judge Orme mentioned that most of the rules discussed during the meeting will be listed on the Council's October agenda for final action.

The following two items were handled separately: 1) review of the proposed amendment to the Court Interpreter Rule, and 2) review of a provision in the Probate Code for adoption of a fee schedule by the Judicial Council. Policy and Planning has decided not to advance the proposed Court Interpreter Rule, and no change will be made to the current rule. For the provision in the Probate Code relative to adoption of a fee schedule, the Policy and Planning Committee will recommend to the Liaison Committee, for the upcoming Legislative Session, to include a minor revision in the court's Housekeeping Bill noting that "the court will, in a contested case, award reasonable attorney's fees".

Bar Commission Report:

Mr. Lund reported on the following:

The Commission held their retreat in August. Mr. Lund highlighted their priority list as prepared at the retreat: 1) public and lawyer education, 2) judicial independence, 3) delivery of affordable legal services, 4) Utah State Bar's building review, 5) implementation of diversity policy and 6) group benefits.

The Commission is reviewing the rule relative to lawyer advertising.

The next Commission meeting will be held on September 28.

5. PUBLIC TRUST AND CONFIDENCE SURVEY: (Nancy Volmer, Opinion Works Staff)

Ms. Volmer mentioned that Judge Robin Reese, Public Opinion Subcommittee chair of the Public Outreach Committee, was unable to attend and asked to be excused. She reported that the last public opinion survey was conducted in 2006. She reviewed the selection process for securing a vendor to conduct the 2012 survey.

Ms. Volmer introduced Mr. Steve Raabe, President of OpinionWorks, to provide the results of the survey.

Mr. Raabe provided background information on OpinionWorks. He highlighted the following relative to the Public Trust and Confidence Survey: 1) how the survey was conducted, 2) survey sample reflective of Utah's adult population, 3) survey objective, and 4) survey findings.

The survey questions included: 1) confidence in public institutions, 2) familiarity with the Utah State Courts, 3) ever needed to get information about the courts, 4) sources of information about the courts, 5) personal involvement with the Utah Courts, 6) type of case, 7) role in the case, 8) perceived outcome of the case, 9) confidence in the Courts Based on Court Experience, 10) deciding not to take a case to court, 11) barriers to court access, 12) importance of court functions, 13) performance of court functions, 14) impact analysis of court functions, 15) Utah courts as revenue-raisers, 16) overall opinion of the Utah Court System, and 17) conclusions.

Discussion took place. Questions were asked and comments were provided. It was noted that the subcommittee will review the survey for areas of focus and use the survey results to improve services and the public's understanding of its court system.

Mr. Raabe was thanked for his work on the survey.

6. CRIMINAL E-FILING UPDATE: (Debra Moore)

Ms. Moore reported on the update provided by Mr. Mark Nash, Director of the Prosecution Council, to the Management Committee at their August 7, 2012 meeting. The prosecutors currently use a case management system known as the Prosecutor's Information Management System (PIMS). A version of this case management system will be tailored to interface with the CORIS system and interface with local law enforcement agencies to receive police reports electronically.

Ms. Moore highlighted the following in her update: 1) pilot testing of the e-filing software began in Weber County last spring and has moved to Davis County, 2) test filings are being done in Cache County, 3) addressing security system issues in county locations, 4) a tentative roll out date for criminal e-filing has been prepared and is expected to be released this

week, 5) additional funding is being sought to provide additional technical staff to complete the criminal e-filing efforts, 6) e-filing to public and private defense counsel is available statewide, and 7) in development is the ability to file amended information, summons, warrants and booking sheets which will be built into the system at a later date.

Questions were asked of Ms. Moore. She provided responses.

7. GUARDIAN AD LITEM BUILDING BLOCK REQUEST: (Rick Smith)

Mr. Rick Smith was welcomed to the meeting. He updated the Council on the Building Block requests submitted on behalf of the Guardian ad Litem (GAL).

He highlighted the three requests which include two requests submitted last year: 1) additional attorney position in the Eighth District, 2) attorney salary parity increase, and 3) funding request in the amount of \$55,000 for CASA personnel costs as a result of losing funding from a grant from the National CASA. Mr. Smith noted there are currently 561 CASA volunteers, statewide.

The GAL Oversight Committee voted unanimously in favor of submitting the Guardian ad Litem building block requests.

Questions were asked relative to the use of guardian ad litem in district court. Mr. Smith shared how the issue is being addressed.

Motion: Judge Steele moved to approve the request for submission to the Governor and Legislature. Judge Harmond seconded the motion, and it passed unanimously.

8. JUDICIAL WORKSPACE APPLICATION: (Ron Bowmaster and Brody Arishita)

In working with the electronic record, a judicial workspace application has been developed for use by judges. The following requirements were highlighted: 1) case/incident management, 2) hearing preparation, and 3) in-courtroom case management.

The following capabilities relative to hearing preparation were reviewed: 1) view hearings from calendar, 2) display case/incident and hearing type from the hearing schedule, 3) display case/incident events and documents for a case, 4) identify one or more documents relevant to the hearing, 5) add case/incident/hearing/document notes, 6) highlight or add comments on selected document, 7) save case/incident/document information to shared folder, and 8) move folder to supported devices if desired.

The following capabilities relative to In Courtroom Management were reviewed: 1) display case/incident when called, 2) display case/incident summary information, 3) display case/incident/hearing/document notes, 4) retrieve selected document(s), 5) take an action, 6) record hearing minutes, 7) convert minutes to documents, and 8) docket minute entry.

Mr. Arishita provided a demonstration of the courtroom management system. The screens and their functionality were reviewed. Discussion took place and questions were asked. Mr. Arishita provided answers to the questions asked.

Once the design has been approved, the plan is to have the prototype available in beta form before rolling it out statewide in January.

Mr. Bowmaster and Mr. Arishita were thanked for their presentation.

**9. CERTIFICATION OF SENIOR JUDGES AND COURT COMMISSIONERS:
(Tim Shea)**

The following senior judges have terms that will expire on December 31, 2012; and they have applied for reappointment. 1) Judge Kent Bachman, 2) Judge Russell W. Bench, 3) Judge James E. Box, 4) Judge Betty Burns, 5) Judge Richard D. Carr, 6) Judge Roger S. Dutson, 7) Judge Pamela T. Greenwood, 8) Judge Gordon J. Low, 9) Judge Sharon P. McCully, 10) Judge A. Lynn Payne, 11) Judge Allan D. Vail, 12) Judge Sara Watson, and 13) Judge Jeril B. Wilson. He noted that Judge Burns and Judge Carr formerly were active senior judges, and they are applying for inactive status.

The following commissioners have terms that will expire on December 31, 2012; and they are up for reappointment: 1) Commissioner Thomas Arnett, 2) Commissioner Joshua Faulkner, and 3) Judge Daniel Garner.

Mr. Shea noted a problem with the survey of attorneys for senior judges from a court of record. Of the 11 active senior judges, the National Center for State Courts (NCSC) has reported survey results from only two of them. A problem was found with AIS and CARE not having a corresponding script (computer instructions) to report the necessary information to the National Center. With the exception of the attorney surveys, all of the senior judges meet all of the minimum performance standards.

The only option would be to obtain attorney survey results by administering a traditional survey in an accelerated fashion.

Motion: Judge Orme moved to forward the recommendations, on behalf of the Council, to the Supreme Court to certify the senior judges applying for reappointment as active senior judges. Judge Steele seconded the motion. The motion was withdrawn.

Motion: Judge Maughan moved to advance the appropriate reports to the National Center for State Courts (NCSC) on behalf of the senior judges applying for reappointment as required by rule. Judge Orme seconded the motion, and it passed unanimously.

Mr. Shea reported that the senior judges in the justice courts and the court commissioners meet the minimum performance standards to be reappointed.

Motion: Judge McCullagh moved to forward the recommendations, on behalf of the Council, to the local presiding judges to certify the senior judges in the justice courts and the court commissioners, for reappointment. Judge Hornak seconded the motion, and it passed unanimously.

Motion: Judge Hornak moved to enter into an executive session to discuss a personnel matter. The motion was seconded, and it passed unanimously.

10. EXECUTIVE SESSION:

An executive session was held at this time.

11. ADJOURN

The meeting was adjourned.