

JUDICIAL COUNCIL MEETING

Minutes

Monday, February 24, 2014

Matheson Courthouse

Salt Lake City, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Justice Jill Parrish
Hon. Carolyn McHugh for Hon. James Davis
Hon. Glen Dawson
Hon. George Harmond
Hon. Thomas Higbee
Hon. David Marx
Hon. Paul Maughan
Hon. David Mortensen
Hon. Reed Parkin
Hon. John Sandberg
Hon. Randall Skanchy
John Lund, esq.

EXCUSED:

Hon. James Davis

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Alison Adams-Perlac
Dawn Marie Rubio
Debra Moore
Jody Gonzales
Rick Schwermer
Tim Shea
Brent Johnson
Ron Bowmaster
Heather Mackenzie-Campbell
Derek Byrne
Alyn Lunceford
Charlie Bird
Jymn Edwards
Rosa Oakes
Kim Allard

GUESTS:

Judge James Brady, video conf
Judge Vernice Trease
Bruce Larsen, Cisco

1. WELCOME AND APPROVAL OF MINUTES: (Judge Kimberly K. Hornak)

Judge Hornak welcomed everyone to the meeting.

Motion: Justice Parrish moved to approve the minutes from the January 27, 2014 Judicial Council meeting. Judge Harmond seconded the motion, and it passed unanimously.

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

Mr. Becker reported on behalf of Chief Justice Durrant:

Chief Justice Durrant, Mr. Becker and Mr. Schwermer met with House and Senate Leadership to discuss proposed legislation and other legislative matters.

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

Mr. Becker reported on the following items:

2014 Legislative Session. Mr. Becker reviewed the appropriations process and highlighted the following: 1) the Appropriations Subcommittees spent the first week reviewing base budgets and identifying funds that could be reallocated, 2) four lists were created relative to funding needs, 3) funding for the Duchesne County courtroom expansion project, through a revenue bond, is being considered.

The four lists, created by the Appropriations Subcommittees, used for funding considerations include: 1) interagency reallocation list, 2) mandatory items list, 3) additional reallocations list, and 4) request for new funding recommended to Executive Appropriations Committee.

Funding for the Jury/Witness/Interpreter – FY 13 Deficit Supplemental is being addressed on the interagency reallocation list.

Funding for the Lease, O & M Increases is being considered on the mandatory items list.

Funding for courtroom and interpretation equipment is being considered on the additional reallocations list.

Funding for GAL attorney salary parity increases is being considered on the request for new funding list.

Funding for the Jury/Witness/Interpreter – ongoing increase will not be addressed this legislative session.

Conference of Court Public Information Officers (CCPIO). Ms. Nancy Volmer, courts public information officer, is slated to become the CCPIO president in May, and she will serve a two-year term.

Juab County Courthouse. The Juab County Courthouse opened on February 18. The Council is scheduled to hold their April 28 meeting in the new courthouse.

Judicial Retirement. Judge Ben Hadfield has announced his upcoming retirement, effective August 15.

E-Filing Exemption Request in Criminal Cases. A request for exemption from the electronic filing deadline of March 31, 2014 for criminal cases was received from Mr. Blake Nakamura of the Salt Lake District Attorney's office. The Management Committee scheduled the item to the February 24 Judicial Council agenda for consideration and requested Ms. Moore invite Mr. Nakamura to present his request for exemption to the Council.

The request was withdrawn and the court staff has been working with the Salt Lake County District Attorney's office to meet the e-filing deadline for criminal cases.

Executive Session. An executive session will be held later in the meeting.

Management Committee Meeting. A short Management Committee meeting will be held upon the completion of the Council meeting.

State of the Judiciary Address Photo. Mr. Becker presented to Chief Justice Durrant a photo from the State of the Judiciary Address.

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:

Justice Parrish reported on the following:

The January 31 and February 7 minutes are included in the Council material. Further updates will be provided with Mr. Schwermer's legislative update.

Policy and Planning Meeting:

Judge Maughan reported on the following:

The February Policy and Planning Committee meeting minutes are included in the Council material. Several rules being considered by the committee will be placed on the March Judicial Council consent calendar.

Bar Commission Report:

Mr. Lund reported on the following:

A video clip advertising the Bar's Pro Bono and Modest Means program was viewed by members of the Council.

Plans are underway for the Bar's Spring Conference to be held in St George March 13-15.

5. ETHICS ADVISORY COMMITTEE UPDATE: (Brent Johnson)

Chief Justice Durrant welcomed Mr. Johnson to the meeting.

Mr. Johnson provided an update to the Council on the activities of the Ethics Advisory Committee. He highlighted the following in his update: 1) membership of the committee, 2) no opinions were prepared in 2013, 3) an opinion regarding the ability of a judge to send a letter of commendation to a supervisor is being addressed in the current year, 4) amendments to the Code of Judicial conduct submitted to the Supreme Court for approval, and 5) updating the annotations in the Code of Judicial Conduct.

Chief Justice Durrant thanked Mr. Johnson for his update.

6. SENIOR JUDGE CERTIFICATION: (Alison Adams-Perlac)

Judge Shumate has applied to be appointed as an active senior judge. He is in compliance with the minimum performance standards.

Motion: Judge Higbee moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge James Shumate as an active senior judge – effective April 1. Judge Sandberg seconded the motion, and it passed unanimously.

7. FINAL REPORT OF THE REMOTE SERVICES SUBCOMMITTEE: (Judge James Brady)

Chief Justice Durrant welcomed Judge Brady, who joined the meeting remotely.

Judge Brady reported on the findings of the Remote Services Subcommittee. He highlighted the following in his report: 1) the committee's charge to examine the options available for remote hearings and services now that the judiciary relies on electronic filing, electronic records and electronic case management; 2) the committee focused their study on 16 court sites (contract sites included) that have fewer than 1,000 district court case filings annually; 3) county and district officials and local attorneys were surveyed with 13.8% responding; 4) reviewed the current statutes and rules in place in Utah and in other states with regard to remote

hearings; 5) review of federal law requirements regarding remote hearings; 6) current available technology for use with remote hearings was reviewed and analyzed; 7) future use of video conferencing needs was addressed; 8) the use of remote clerical services was addressed; and 9) more accessibility to XChange, My Case and OCAP by patrons.

The subcommittee determined that the video system used for remote services should mimic personal attendance as much as possible. The following points were highlighted in this regard: 1) the remote participants should be able to see and hear the courtroom participants and vice-versa; 2) the remote participants should be able to see and hear each other; 3) the public should be able to see and hear the remote participants from the courtroom; 4) if counsel and client are in different locations, they should be able to communicate confidentially; 5) documents, photos, and the like that are delivered in the courtroom should be delivered previously or simultaneously to the remote participants; 6) there should be a verbatim record of the proceedings; and 7) the system should support remote interpreting.

Recommendations from the Remote Services Committee include the following: 1) create a foundation for the present uses of remote technology and expand its use by amending statutes and rules to support it; 2) request the IT department to continue researching the most effective systems for use in courtrooms; 3) enhance the technologies currently in place; 4) modify XChange to allow a court user access to his or her case information and records without charge, similar to the access provided to lawyers in district court cases and similar to access provided to parties through the juvenile court's My Case; and 5) explore and expand other self-service options, like OCAP and internet-based information and forms.

Questions were asked how the following would be addressed: 1) change of plea, and 2) evidentiary proceedings. Discussion took place.

Mr. Becker noted that funding for courtroom and interpretation equipment has been set aside by the Appropriations Committee, which could be used to address remote services needs.

Chief Justice Durrant thanked Judge Brady for his presentation and expressed his appreciation to the Remote Services Committee for their work in researching and preparing the findings of their study.

Motion: Judge Maughan moved to accept the report, on behalf of the Committee on Remote Hearings and Services, and refer it to the Policy and Planning Committee to consider further recommendations. Judge Harmond seconded the motion, and it passed unanimously.

8. LEGISLATIVE AND BUDGET HIGHLIGHTS: (Daniel J. Becker and Rick Schwermer)

Mr. Schwermer highlighted, in his update, the following bills being considered this legislative session: 1) SB 108 – Judiciary Amendments, 2) HB 251 – Unsworn Declaration Amendments, 3) HB 70 – Forcible Entry Amendments, 4) SB 132 – Human Services Amendments, 5) HB 85 Electronic Filing of Traffic Citations and Accident Reports Amendments, 6) SB 159 – Bail Amendments, 7) HB 319 – Court System Modification Amendments, 8) SB 54 – Elections Amendments, 9) HB 128 – Electronic Device Location Amendments, 10) HB 325 – Judicial Performance Evaluation Commission Amendments, 11) HB 120 Continuing Education on Federalism, 12) HB 303 – Driving Under the Influence Amendments, 13) HB 318 – Right of Parents and Children Amendments, 14) grand jury panel proposal, 15) HB 404 – Court Security Fee Amendments, 16) mental health court funding, and 17) Legislative subpoena authority.

Discussion took place.

9. LANGUAGE ACCESS COMMITTEE UPDATE: (Judge Vernice Trease and Alison Adams-Perlac)

Chief Justice Durrant welcomed Judge Trease to the meeting:

Judge Trease provided an update to the Council on the activities of the Language Access Committee. She highlighted the following in her update: 1) current members of the committee were noted, 2) strategic plan objectives, 3) language access standards of importance, 4) current items of focus, 5) period review and amendments to Rule 3-306 and the accounting Manual, 6) federal language access regulation awareness, and interpreter usage.

The strategic plan objectives being addressed by the Language Access Committee include: 1) cultural awareness, 2) community outreach, 3) quality interpretation, 4) role of the committee, and 5) education.

Standards of importance to the committee include: 1) providing language access to people with limited English proficiency, 2) elevating the quality of interpreters, and 3) ensuring that Rule 3-306 and the Accounting Manual are consistent with best practices and meet federal language access regulations.

The current focus of the Language Access Committee included the following: 1) review and update interpreter scheduling process, 2) review and reorganize training and testing practices, and 3) development of curriculum on language and culture for court staff.

Chief Justice Durrant thanked Judge Trease for her update.

Motion: Judge Hornak moved to enter into an executive session to discuss matters of professional competence. Judge Harmond seconded the motion, and it passed unanimously.

10. EXECUTIVE SESSION:

An executive session was held at this time.

11. ADJOURN

The meeting was adjourned.