JUDICIAL COUNCIL MEETING

Minutes
Monday, January 27, 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. Gregory Orme 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.

STAFF PRESENT:
Daniel J. Becker
Ray Wahl
Alison Adams-Perlac
Dawn Marie Rubio
Debra Moore
Jody Gonzales
Rick Schwermer
Tim Shea
Nancy Volmer
Ron Bowmaster
Derek Byrne
Kim Matheson
Karolina Abuzyarova

EXCUSED:
Hon. James Davis

GUESTS:
Joanne Slotnik, JPEC
Bob Fotheringham, JPEC
Marissa Lang, SL Tribune

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

Chief Justice Durrant welcomed everyone to the meeting. A special welcome was extended to Judge Orme who was sitting in for Judge James Davis.

Motion: Justice Parrish moved to approve the minutes from the December 16, 2013 Judicial Council meeting. Judge Mortensen seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported on the following item:

Justice Durham was presented with the Rosa Parkes Award, on behalf of NAACP, at a luncheon held on Martin Luther King Day.

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

Mr. Becker reported on the following items:

2014 Legislative Session. The 2014 Legislative Session began today. Chief Justice Durrant will deliver the *State of the Judiciary Address* this afternoon. Members of the Council were invited to attend.

The Appropriations Committees are scheduled to meet on the afternoon of January 28 and for several afternoons following, to discuss base budgets.

Mr. Becker, Mr. Wahl and Mr. Schwermer met with Representative Eric Hutchings last week to review the courts budget requests. Mr. Becker and Mr. Schwermer met with Senator Lyle Hillyard to review the court budget requests.

Funding has been approved for an additional courtroom at the Silver Summit Courthouse. The Juab County Courthouse is on schedule for completion. Concrete for the Ogden Juvenile Courthouse has been poured.

Judicial Announcement/Retirement. Due to health reasons, Judge Karla Staheli has announced her upcoming resignation, effective February 1, 2014. Judge Steven Hansen has announced his upcoming retirement, effective July 1, 2014.

Judicial Appointments. Governor Herbert has appointed 37 of 112 state court judges during his term of office as the governor. There are six appointments pending.

Trial Court Executive Appointment. Ms. Neira Siaperas has been appointed to fill the vacancy for a court executive in the Third District Juvenile Court. Mr. Becker provided background information on her experience with the courts.

JPEC. The Judicial Performance Evaluation Commission (JPEC) has finalized their work with regard to the certification process for judges up for retention in 2014. The final reports will be released later today following the Council meeting. A letter was sent by Chief Justice Durrant, on behalf of the Council, to JPEC's chair and executive director regarding JPECs discussion at their December meeting regarding whether the Judicial Council should continue to receive copies of the retention reports for judges up for retention. The commission, at their January 7 meeting, determined to continue sending the Judicial Council the retention reports and other information they have received in the past.

Annual Report. A copy of the 2014 Annual Report to the Community was distributed to members of the Council. The focus for this year's report is on programs being operated by judges. Copies of the report will be distributed to legislators and to the public. Court executives will receive copies to have available at all court locations.

Snowmass Council and Board Meetings. Mr. Wahl highlighted the following regarding the Council and Board meetings to be held in Snowmass, Colorado in July in conjunction with the Bar's Summer Conference: 1) a lodging preference request was sent to Council and Board members by Ms. Jody Gonzales which included the reimbursable maximum lodging rate per night, mileage rate, out-of-state per diem rate, and a list of available condominiums; 2) beginning travel date for the Council of July 15 with their meeting scheduled on July 16; 3) beginning travel date for Board members of July 16 with their meetings scheduled on July 17; and 4) budget for these meetings.

Mr. Lund provided his opinion of the available lodging and location of the meetings.

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 committee is meeting weekly. The minutes from the January 10 meeting are included in the Council material. Further update will be provided with Mr. Schwermer's legislative update.

Policy and Planning Meeting:

Judge Dawson reported on the following:

He noted that the minutes from the January meeting, included in the Council material, accurately reflect the issues discussed. He highlighted the following from the meeting: 1) adoption of local rule in Sixth District for orders to show cause, 2) discussion of the comments to Rule 4-603 – mandatory e-filing, and 3) discussion of performance evaluations of senior judges and court commissioners.

Bar Commission Report:

Mr. Lund reported on the following:

Mr. Curtis Jensen, Bar president and Chief Justice Durrant met last Friday.

The Bar's 2015 Summer Conference will be held in Sun Valley, ID.

Elections for the Bar president will be held in the spring to include the following two candidates: 1) Tom Seiler, Fourth District; and 2) Angelina Tsu, Third District.

5. MID-YEAR CASE FILING REVIEW AND UPDATE ON THE COURTS PERFORMANCE STANDARDS: (Kim Matheson)

Chief Justice Durrant welcomed Ms. Matheson to the meeting. Mr. Becker introduced Ms. Matheson as a member of the Court Services staff, and he mentioned that she would provide data on case filings and referrals for the first six months of FY 2014.

Ms. Matheson reviewed case filings in district court from July 2013 to December 2013. She highlighted the following case filing data in her review: 1) criminal case filings in district court, 2% increase; 2) domestic case filings in district court, 3% decrease; 3) general civil case filings in district court, 4% decrease; 4) judgment case filings in district court, 3% decrease; 5) probate case filings in district court, 1% increase; 6) property rights case filings in district court, 0% change; 7) tort case filings in district court, 6% increase; 8) traffic case filings in district court, 12% decrease; and 9) overall district court case filings, 3% decrease.

She reviewed the juvenile court referrals from July 2013 to December 2013. She highlighted the following referral data in her review: 1) felony, 2% decrease; 2) misdemeanor, 15% decrease; 3) infraction, 36% decrease; 4) contempt, 4% increase; 5) status, 5% decrease; 6) traffic, 0% change; 7) adult violation, 5% decrease; 8) child welfare, 3% increase, 9) termination of parental rights, 10% decrease; 10) voluntary relinquishment, 7% increase; 11) domestic/probate, 1% increase, and 12) overall juvenile court referrals, 8% decrease.

Ms. Matheson reviewed the following areas relative to court performance standards: 1) district court, average days active cases are pending; 2) statewide time to disposition report; 3) statewide justice courts time to disposition report; and 4) availability of reports on an internal webpage. Ms. Matheson demonstrated how to access the court performance standard reports online.

The question was asked relative to case filing and referral data showing decreases in juvenile referrals. Mr. Becker provided a response to possible reasons for the decreases.

Chief Justice Durrant thanked Ms. Matheson for her update.

6. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Rick Schwermer)

Mr. Schwermer provided a legislative update to the Council.

He highlighted the following bills being considered this legislative session in his update: 1) HB 70 – Forcible Entry Amendments – this bill modifies the Utah Code of criminal Procedure regarding the use of forcible entry by law enforcement officers when conducting a search or making an arrest, 2) SB 132 – Human Services Amendments – this bill amends provisions of the Utah Code relating to the Office of Guardian ad Litem, 3) HB 238 – Local Referendum Requirements Amendments – this bill amends provisions of the Election Code relating to local referenda, 4) HB 251 – Unsworn Declaration Amendments – this bill makes amendments to the Judicial Code, and 5) grand jury panel discussion, nothing filed yet.

Discussion took place.

7. RULE FOR FINAL ACTION: (Alison Adams-Perlac)

The district court judges in the Sixth District requested approval of a local rule, Rule 10-1-602 – Orders to show cause, which was previously approved as a local rule in the Fifth District. The rule requires a first appearance to be held prior to an evidentiary hearing when an order to show cause is requested in any case in which a commissioner is unavailable.

Discussion took place.

Motion: Judge Mortensen moved to approve Rule 10-1-602 – Orders to show cause as a local rule for the Sixth District and publish it for comment. Judge Harmond seconded the motion, and it passed unanimously.

8. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik)

Chief Justice Durrant welcomed Ms. Joanne Slotnik and Mr. Bob Fotheringham to the meeting.

Ms. Slotnik introduced Mr. Fotheringham to the Council noting that he is one of the Supreme Court's appointments to the commission. Mr. Fotheringham provided background information of his experience.

Ms. Slotnik and Mr. Fotheringham highlighted the following in their update: 1) the 2014 evaluations for the judges up for retention in 2014 have been completed, 2) reviewed the process for completing the evaluations, 3) reports will be sent to the appropriate judges today, 4) copies of the reports will be sent to members of the Council, 5) the judges' narratives will be reviewed, 6) the 2014 retention reports will be made available to the public nearer to election time, and 6) a justice court amendment bill will be introduced this legislative session relative to the justice court evaluation process.

Discussion of available information for retiring judges being considered for certification as senior judges took place.

9. BUDGET HIGHLIGHT – SENIOR JUDGE BUDGET: (Ray Wahl)

Mr. Wahl reviewed the current senior judge budget and the use of this budget. He highlighted the following: 1) $223,100 was allocated to the senior judge budget for FY 2014, 2) no additional funding was included in the FY 2014 allocation, 3) 77% of the budget has been spent during the first seven months of this fiscal year, 4) 35% of the budget is used to provide senior judge assistance for use with backlog, 5) 65% of the budget is used to provide senior judge assistance due to retirements or unique circumstances, 6) approximately 400 senior judge days were used as the estimate for funding the senior judge budget in FY 2014.

The senior judge budget will be discussed further at the April Council meeting when the FY 2015 spending plan will be considered.

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

The following retired judges have applied for appointment as Inactive Senior Judges: 1) Judge Kay Lindsay, and 2) Judge Tyrone Medley. Both judges meet the minimum performance standards.

Motion: Judge Maughan moved to forward the recommendations, on behalf of the Council, to the Supreme Court to certify Judge Kay Lindsay and Judge Tyrone Medley as inactive senior judges. Judge Skanchy seconded the motion, and it passed unanimously.

11. EXECUTIVE SESSION:

An executive session was not needed at this time.

12. ADJOURN

The meeting was adjourned.