JUDICIAL COUNCIL MEETING

Minutes
Monday, December 15, 2014
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. James Davis
Hon. Glen Dawson
Hon. Thomas Higbee
Hon. David Marx
Hon. David Mortensen
Hon. Reed Parkin
Hon. John Sandberg
Hon. Randall Skanchy
John Lund, esq.

EXCUSED:
Daniel J. Becker

STAFF PRESENT:
Ray Wahl
Jody Gonzales
Dawn Marie Rubio
Debra Moore
Rick Schwermer
Tim Shea
Alison Adams-Perlac
Derek Byrne
Alyn Lunceford
Rosa Oakes
Nancy Sylvester

GUESTS:
Judge Royal Hansen
Judge Mary Noonan

1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**
   Chief Justice Durrant welcomed everyone to the meeting.

Motion: Judge Hornak moved to approve the minutes from the October 27, 2014 Judicial Council meeting as amended. Judge Boyden seconded the motion, and it passed unanimously.

2. **CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**
   Chief Justice Durrant reported on the following items:
   2014-2015 local legislative meetings have been scheduled in each judicial district, with the first one scheduled for December 22 in the Sixth District.

3. **ADMINISTRATOR'S REPORT: (Ray Wahl)**
   Mr. Wahl reported on the following items:
   Report of the Utah Elected Official and Judicial Compensation Commission. Mr. Wahl distributed a copy of their 2014 report to members of the Council. He highlighted the following from the presentation made to the Executive Appropriations Committee on December 9, 2014, by the Elected Official and Judicial Compensation Commission to include the following:
   1) Utah judicial salaries are headed toward the uncompetitive position; 2) judges caseloads are changing, noting an increase in civil filings; 3) judicial applicant pools are becoming smaller;

4) recruiting and retaining good judges requires reasonable salaries; 5) compared judicial salaries to public sector compensation; 6) the recommendation to increase trial court judges' salaries to $160,000 per year over a two-year period; 7) the recommendation to increase Appellate Court and Supreme Court salaries at 105% and 110% of $160,000, respectively over a two-year period; and 8) the recommendation of funding the judicial salary increase, ongoing, in the amount of $4,013,000.

Mr. Schwermer provided responses to questions asked relative to the recommendations of increased judicial salaries by the Elected Offices and Judicial Compensation Commission.

Governor's FY 2016 Budget Recommendations. The Governor's FY 2016 budget recommendations were released on Thursday, December 11. Mr. Wahl highlighted the following relative to the recommendations: 1) 2% cost-of-living increase for staff, 2) juror/witness/interpreter supplemental for FY 2014 deficient in the amount of $814,200, 3) Fourth District Court Juvenile Court judgeship and staff in the amount of $385,000, 4) ongoing increase to eliminate the jury/witness/interpreter line item deficits in the amount or $850,000, 5) replace trust GFR account appropriation with general fund, 6) judicial salary adjustment of 4 – 4.25% increase in the amount of $1 million.

Mr. Schwermer highlighted the following additional FY 2016 budget recommendations: 1) $1.5 million to fund the Justice Reinvestment Initiative (to be included if the Healthy Utah Plan is approved), 2) $2 million to fund CCJJ grants relative to evidence-based practices, and 3) in addition to the 2% cost-of-living increase for staff, the Governor is recommending discretionary funding for other salary adjustments.

2014-2015 Legislative Meetings. Mr. Schwermer distributed a copy of the 2014/2015 schedule of legislative meetings to be held in each judicial district with the local legislators.

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 December.

Policy and Planning Meeting:

Judge Parkin reported on the following items:

The Policy and Planning Committee discussed the following at their December meeting: 1) media policy, 2) interpreter's role in the law library, and 3) model jury instruction.

Bar Commission Report:

Mr. Lund reported that the Bar Commission had discussion on what type of interaction they would like to take place between members of the Bar and members of the Judicial Council throughout the course of each year.

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

Mr. Schwermer highlighted the following in his legislative update to the Council: 1) reviewed the Senate standing committee and executive appropriations/appropriations subcommittee assignments, 2) reviewed the House of Representatives standing committee and executive appropriations subcommittee assignments, and 3) no interim committee meetings were held in December.

6. HIGH COST LEASE APPROVAL: (Alyn Lunceford)

Chief Justice Durrant welcomed Mr. Lunceford to the meeting.

Mr. Lunceford provided background information on the current lease agreement with Piute County. He mentioned that legislative approval to renew the amended lease was not required; it only required approval from the Judicial Council.

The Facilities Planning Committee is recommending approval of the amended high cost lease agreement for the Piute County court facility, for a period of 15 years, in the amount of $669,500. The amended lease includes one five-year renewal and a repair and maintenance fund has been added to the renewal.

Motion: Judge Bagley moved to approve the amended high cost lease agreement for the Piute County court facility. Judge Davis seconded the motion, and it passed unanimously.

7. LANGUAGE ACCESS REPORT: (Alison Adams-Perlac)

Chief Justice Durrant welcomed Ms. Adams-Perlac to the meeting.

Ms. Adams mentioned that the 2012-2014 Language Access Report includes data on behalf of the Utah justice courts. She highlighted the following from the Language Access Report: 1) English fluency by Utah population; 2) language spoken at home; 3) speaks English less than very well; 4) interpreter credentialing types; 5) interpreter availability; 6) percent of hours interpreted per language; 7) district court – interpreted hearings by district, case type, and hearing type; 8) juvenile court – interpreted hearings by case and parties, and by district; 9) justice court – interpreted hearings by language, and by case type; 10) interpreter costs, 2012-2014; 11) change in language interpreting costs, 2013-2014; 12) travel costs, 2012-2014; 13) data sources used for preparing the report; 14) program costs vs. number of hearings; 15) staff interpreter program; 16) remote interpreting program; 17) the recommendation on behalf of the Language Access Committee to focus on improving record-keeping and interpreter schedule practices; and 18) the recommendation on behalf of the Language Access Committee to study and propose solutions for creating video recordings of hearings that require an ASL interpreter.

Ms. Adams-Perlac provided responses to questions asked during her report to the Council.

8. SENIOR JUDGE CERTIFICATION: (Nancy Sylvester)

Chief Justice Durrant welcomed Ms. Sylvester to the meeting.

Judge Dennis Barker has applied for appointment as an inactive senior judge. He meets the minimum performance standards.

Motion: Judge Mortensen moved to forward the recommendation, on behalf of the Council, to the certify Judge Dennis Barker as an inactive senior judge. Judge Higbee seconded the motion, and it passed unanimously.

9. ADR COMMITTEE UPDATE: (Judge Royal Hansen and Nini Rich)

Chief Justice welcomed Judge Royal Hansen and Ms. Nini Rich to the meeting.

Judge Hansen and Ms Rich highlighted the following in their update to the Council: 1) the ADR Committee's current focus of creating a Best Practice Guide for Utah Mediators, 2) continuation of the ADR Department's annual 40-hour mediation training program, 3) coordination between the Self-Help Center and the ADR Department in scheduling mediations, 4) committee membership changes, 5) program structure and rationale, 6) ADR

program statistics for FY 2014, 7) ADR Committee and programs in 2014, and 8) ADR resources.

Chief Justice Durrant thanked Judge Hansen and Ms. Rich for their update.

10. BOARD OF JUVENILE COURT JUDGES UPDATE: (Judge Mary Noonan and Dawn Marie Rubio)

Chief Justice Durrant welcomed Judge Noonan to the meeting.

Judge Noonan mentioned that Mr. Becker provided details of the Governor's FY 2016 budget relative to the courts at the December 12 Board of Juvenile Court Judges meeting. She also expressed the board's appreciation for the ongoing communication between the judiciary and the Judicial Performance Evaluation Commission (JPEC).

Judge Noonan highlighted the following board goals and study item in her update: 1) implementation of the juvenile court e-filing action plan in three phases; 2) implementation of the use of the Education Court Report Form statewide for DCFS caseworkers, probation officers, JJS case managers, and CASAs; 3) evaluating representation in juvenile court proceedings; and 4) study law clerk needs for the juvenile bench, statewide.

Judge Noonan provided an update on the discussion of shackling of youth offenders in court proceedings. The practice in Utah allows for indiscriminate shackling. A six month pilot is being conducted in Third District Court with respect to shackling practices which will end in February 2015. Youth offenders entering Judge Dane Nolan's and Judge James Miche's courtrooms will enter unshackled. Interviews will be conducted of youth on the effect of shackling upon entering court proceedings, and it will be noted if there are any disruptions as a result.

Mr. Schwermer noted that a protected bill has been drafted, for the upcoming legislative session, regarding the practice of unshackling.

Judge Noonan briefly mentioned the discussion of Judicial Conduct Commission jurisdiction among the Board and before the Management Committee.

Chief Justice Durrant thanked Judge Noonan for her Board of Juvenile Court Judges update to the Council.

11. EXECUTIVE SESSION

An executive session was not needed at this time.

12. ADJOURN

The meeting was adjourned.