**INDIGENT DEFENSE TRUST FUNDS**

**Virtual/Telephone Board Meeting Minutes**

***Anchor Location: Taylorsville State Office Building***

***4315 South 2700 West, Floor 3***

***Taylorsville, UT 84129-2128***

April 14, 2021

11:30 a.m.

Public Meeting Minutes

Attendance - Board Members

Neal Hamilton, Chair, Criminal Defense Attorney, Board Chair

Randy B. Elliott, Davis County Commissioner

Mike Bleak, Iron County Commissioner (absent)

Kevin Daniels, Sanpete County Attorney (absent)

Troy Rawlings, Davis County Attorney

Clinton Painter, Juab County Commissioner

Richard Gale, Criminal Defense Attorney (absent)

Janica Gines, Assistant Director, Division of Finance

Judge Mary T. Noonan, Administrative Office of the Court (absent)

Attendance - Staff and Others:

Paul Tonks, Attorney General’s Office, Legal Counsel for DAS

Anne Nelson, Attorney General’s Office, Paralegal

Barbara Sutherland, Administrative Assistant, Division of Finance

Note: A copy of meeting materials, and an audio recording of the meeting can be found on the Public Notice Website. The minutes may refer to the recording found on the Public Notice Website with the number where an issue is being discussed.

**1. Welcome:** Neal Hamilton welcomed everyone to the meeting.

**2. Welcome and Introduce Commissioner Clinton Painter, Juab County Commissioner to the Indigent Defense Trust Funds Board.** He is replacing and completing County Executive Craig Buttars term on the Board. County Executive Buttars term runs through August (at the time hopefully Commissioner Painter will agree to complete a new 4 year term)**. Commissioner Randy Elliott was appointed to another Term.**

Neal Hamilton welcomed Commissioner Painter to the Board. Also, thanked Commissioner Elliott for agreeing to serve on the Indigent Defense Trust Funds Board for another term.

**3. Thank you Judge Noonan, introduce Ron Gardner, Administrative Office of the Courts.** Mr. Gardner will be officially join the Indigent Defense Trust Funds Board June 1, 2021.

A thanks goes out to Judge Noonan for her willingness to serve as a member of the Indigent Defense Trust Funds Board, and the contact person at the Courts for the Board. Her input and expertise had greatly benefitted the Board.

Paul Tonks made a correction, the new representative from the Administrative Office of the Courts is Ron Gordon. He was previously with the Governor’s Office. He will be the Funds contact person at the Courts for appointments etc. He will also be a member of the Indigent Defense Trust Funds Board.

We look forward to meeting Mr. Gordon, at the next Board Meeting.

**4. Review, Vote and Approval of the Meeting Minutes from the January 5, 2021, Board Meeting.**

Janica Gines moved to approve the minutes from the Indigent Defense Trust Funds Board Meeting held on January 5, 2021. Commissioner Randy Elliott seconded the motion. The motion passed unanimously.

**5. Assignments from the meeting held on January 5, 2021, Board Meeting.**

1.) Barbara will send a letter or email to Brandy Grace at Utah Association of Counties for a replacement for Craig Buttars, and an appointment of another term for Commissioner Elliott.

(Completed, Juab County Commissioner Clinton Painter, will replace Cache County Executive Craig Buttars. Commissioner Randy Elliott was appointed to another term.)

2.) Barbara will talk with Richard Gale to see if he would be interested in remaining on the Indigent Defense Trust Funds Board for another term. (Email sent March 8, 2021, Richard agreed to stay on the Board for another term on March 18, 2021.)

3.) Put Neal Hamilton and Richard Gales reappointments on the agenda for the Board to vote on. (See agenda item 6.)

All assignments are completed. The Board moved to number 8. on the agenda.

**6. Vote to approve Neal Hamilton and Richard Gale for another Indigent Defense Trust Fund Board Terms.**

Paul Tonks feels Neal Hamilton brings the perspective of the defense bar, which is really helpful to this Board, and feels he has done a great job as Chair of the Indigent Defense Trust Funds Board.

Commissioner Randy Elliott move to reappoint Neal Hamilton and Richard Gale to the Indigent Defense Trust Funds Board for another 4 year terms. Janica Gines seconded the motion. A vote was taken, Mr. Hamilton abstained from voting. The motion passed unanimously.

**7. Review and Vote to approve Bryan Sidwell’s Request, and Rule 8 Qualification Information.**

Mr. Hamilton explained that it takes board approval for someone to be added to the Pre-contracted Rule 8 Qualified Attorneys list. He explained when aggravated murders are filed in a participating county that pays a yearly assessment into the Indigent Defense Trust Fund, this Board funds those cases. When someone is appointed as counsel on one of these cases, there is a preexisting list of Rule 8 Qualified Attorneys that the Board Contracts with.

Because capital homicide carries the possibility of the death penalty, the rules of criminal procedure require that defense counsel specializes in capital representation. Rule 8 is the check list that defense counsel go through before they can be appointed. When defense counsel enters into an appearance of a capital case they submit rule 8 certification.

The Board maintains an ongoing roster of pre-contracted rule 8 qualified attorneys to take the cases the fund pays for. So when there is a referral for an appointment to a case the board funds, the judge is sent 3 names from the pre-contracted list of attorneys, and the judge selects the attorney from those 3 names.

Mr. Hamilton explained that Mr. Sidwell is an attorney that practices in Southern Utah, he meets the rule 8 qualifications and would like to be added to the list of Pre-Contract Rule 8 Attorneys. Mr. Hamilton reviewed his list of qualifications and feels he is qualified to be added to the pre-contracted list of rule 8 qualified attorneys the Board maintains. He asked for a motion to add Mr. Sidwell to the list.

Troy Rawlings made a motion to approve Bryan Sidwell be added to the list of Pre-Contracted Rule 8 Attorneys. Commissioner Elliott seconded the motion, a vote was taken and the motion passed unanimously. Barbara will inform Mr. Sidwell that he was approved to the rule 8 list.

**8. Discuss and approve the remaining $888.00, left owing on the last invoice from Scott Wiggins on the David Drommond appeal**.

Mr. Wiggins stated there is $888.00, left to pay on his last invoice on the David Drommond appeal. He explained the work that took the amount over the funding level on his last invoice.

Neal Hamilton had this issue added to the agenda because he felt he did not have the ability to approve the payment without the Board’s approval, because the amount exceed the approved amount of funding. But, he has no problem with the request and feels it is appropriate.

Mr. Hamilton asked for an approval to pay the remaining $888.00, left owing on Mr. Scott Wiggins final invoice on the David Drommond appeal.

Commissioner Elliott move to approve to pay Mr. Wiggins the remaining $888.00 on his last invoice on the Drommond appeal. Janica Gines seconded the motion. A vote was taken and the motion passed unanimously. Barbara Sutherland will process Mr. Wiggins’ payment.

The Board moved back to agenda item 6, and continued with the agenda.

**9. Fund Balances as of April 9, 2021.**

Janica Gines reviewed the Fund balances as of April 9, 2021. The ending balance is over $2.2 million, largely because all of the County 2021 Assessments have been received. The payments that are going out are fairly typical. There is a healthy balance in the Fund.

**10. Review of Current Cases:** The Board reviewed the current cases.

Glenn Howard Griffin appeal-Box Elder County, Jennifer Gowans Attorney

Jonathan Mendoza Llana-Box Elder County, Richard Gallegos Attorney,

Kyle Taylor Gooch-Cache County, Rudy Bautista, Attorney

Angel Christopher Abreu-Davis County, Kent Morgan Attorney

David Drommond appeal-Davis County, Scott Wiggins Attorney (Paid last of Scott Wiggins invoices)

Michael Jameel Hines-Davis County, Rudy Bautista Attorney

Joshua Scott Schoenenberger appeal-Davis County, Scott Wiggins

Sun Cha Warhola-Davis County, Edward K. Brass Attorney, Ms. Warhola was found competent about 2 years ago. A hearing was scheduled to discuss the competency, but is was canceled, the judge on the case has retired. There is a motion hearing set for July 1, 2021, and a jury trial date set to commence on September 7, 2021. Ms. Warhola is still housed at the State Hospital.

Joseph Edward Fought-Iron County, Douglas D. Terry Attorney

Maida Janet Martinez-Westfall-Iron County, Rudy Bautista Attorney

William C. Lawton appeal-Sevier County, waiting on appointment of attorney

Izaiah Lee Kirkpatrick-Tooele County, Rudy Bautista Attorney, new waiting on contract

Colin Jeffery Haynie-Tooele County, Richard Van Wagoner attorney

Valerie Stringham Peck-Tooele County, Rudy Bautista Attorney

**11. Other Business:** No other business was discussed.

**12.**  **Next Meeting:**

It was suggested to have the next meeting electronic and in person.

Commissioner Elliott moved to hold the next Indigent Defense Trust Funds Board Meeting on June 30, 2021 11:30 p.m. Commissioner Painter seconded the motion, the motion passed.

**13. Adjourn:**

Janica Gines moved to adjourn the meeting Commissioner Elliott seconded the motion. The meeting adjourned at 11:37 a.m.

Paul Tonks introduced Anne Nelson, she replaced Nicole Alder. She is the new paralegal assigned to Finance and to Indigent Defense.

Assignments from this meeting.

1. Pay Mr. Wiggins the final payment of $888.00 on the David Drommond appeal. (paid April 22, 2021)

2. Inform Bryan Sidwell of his approval to be added to the Pre-Contracted list of Rule 8 Qualified Attorneys. (Mr. Sidwell notified on April 16, 2021)