

MINUTES

FLORIDA CLERK OF COURT OPERATIONS CONFERENCE MONDAY, MAY 24, 2004 MARRIOTT – AIRPORT TAMPA, FLORIDA

The meeting of the Clerk of Court Operations Conference (CCOC) was called to order at 1:00 p.m. by Chairman James C. Watkins who welcomed members and guests. Members and staff of the Conference present were Honorable James Watkins, Honorable DeWitt Cason, Honorable Howard Forman, Honorable Regina Parish, Honorable Marsha Ewing, Honorable Lydia Gardner, Honorable Richard Ake, Honorable Harvey Ruvin, John Dew, Joseph Boyd, and Judy Zorn. Honorable Judge Belvin Perry was absent.

APPROVAL OF MINUTES FROM APRIL 13, 2004

Mr. Watkins asked if there were any revisions to the Minutes. There being no discussion, a motion to approve the minutes was made by Ms. Gardner and seconded by Ms. Parrish. The minutes were approved.

TREASURER'S REPORT

Ms Parrish reported that to date CCOC has written 104 checks totaling \$450,281.09. In addition we have encumbered bills of \$4,329.11 for a total of \$454,610.20. Our current balance is \$345,453.22 including interest earned in the amount of \$63.42. A breakdown of expenses to date is provided in the meeting packet. Mr. Dew noted that based on current contracts we should have a surplus of over \$100,000 at the end of the fiscal year.

ELECTION ISSUE

Mr. Watkins stated that he had been made aware of the interest in the issue of electing the Executive Council for the new Corporation that will begin operation July 1, 2004. He asked if anyone in the Conference had an objection to moving this issue to first on the Agenda. There being no objection, Mr. Watkins outlined the elections process being recommended. That process includes sending an interest survey to each Circuit Court Clerk, gathering responses, drafting and distributing a ballot to all Circuit Court Clerks requiring votes, and collecting ballots which must be returned to Joseph Boyd's office no later than 4:00 p.m. June 4, 2004. Ballots will be opened in a public forum and the newly elected Executive Council notified. The process mirrored that of FACC in the election held a year ago for members of CCOC. The rationale for holding elections before the FACC Summer Conference is to allow time for the new Executive Council to get up to speed before taking over July 1, 2004. There will be much to be done July 1 with contracts to ratify and first full-year budget preparation in full swing.

Ms. Barbara Scott, Clerk of Charlotte County, suggested that an important difference in the way FACC handled their elections and the process being proposed is that FACC hired an accounting firm. She had concerns about validation of ballots and tallying votes. She was also concerned that the Corporation could not take a vote before July 1, 2004 since it would not be in existence before that date and, as such, could not conduct business.

Mr. Fred Baggett, FACC General Counsel, suggested that the vote could be taken before July 1, but the Corporation's first order of business on July 1 would need to be ratification of the slate. Mr. Boyd, CCOC General Counsel, agreed with Mr. Baggett's statement. Mr. Watkins suggested that the same problem we are addressing today occurred a year ago when elections were held June 27, 2003 for the Conference which came into being July 1, 2003.

Roger Alderman, FACC Executive Director stated that the timeframe presented would not give Clerks enough time to decide whether they want to run or not and would not give them enough time to decide who they would like to elect. Mr. Watkins announced that last week he sent an email to all Clerks asking them to think about whether they would be interested in serving on the Corporation's Executive Council giving them adequate time to decide.

Mr. Ake moved that we accept the original proposal as set forth in today's meeting packet. Mr. Forman seconded the motion. Mr. Watkins called for discussion.

Mr. Forman agreed that the timeline as presented needs to be accepted to allow for the Corporation to be prepared for business July 1.

Mr. Cason stated that he is in favor of presenting a slate at the FACC Summer Conference and allowing those interested to have a chance to speak with Clerks at the Summer Conference regarding their interest.

Mr. Watkins asked Mr. Cason if he wanted to amend the motion currently on the floor. Mr. Cason asked the proposed process be amended to state that the ballot must be postmarked by June 10. A vote was taken and the amendment was defeated 7-1.

A suggestion was made to open the ballots on July 1 thereby avoiding the need for a reaffirmation of those elected. The upside is that no reaffirmation is needed; the downside is that the people elected won't know they have been elected and won't have been afforded time to gain understanding of what we have learned over the past year and what is expected very quickly after July 1, 2004. Mr. Watkins stated that the Clerks who vote in early June will be the same Clerks who will be reaffirming the vote July 1 – barring death or unexpected resignation. Mr. Boyd stated that there is much to be accomplished July 1, and the Executive Council needs to be up and running on that date.

Mr. Watkins called for a vote on the original motion whereby the process would be followed as presented using the General Counsel's office to coordinate the election and

with votes being opened June 8, 2004 at 4:00 p.m. in a public meeting place. The motion carried 7-1.

BUDGET PROCESS

Glenn Robertson presented a summary of the FY 2003-04 Quarter IV budget submissions. The total budget submission from all 67 Clerks included a projection of \$106.854 million and expenditures/reserves of \$112.882 million. This results in a \$6.028 million deficit.

Mr. Robertson showed Criminal and Civil Court budget summaries and budget breakdowns by county population groupings, true deficit counties (those requiring the use of the Trust Fund to balance their budget) and budget reserve levels submitted.

He then presented the "Key Criteria Checklist" for CCOC budget analysis including requirements of law, the CCOC budget policies and the Operations Trust Fund capacity to assure all county budgets are balanced. The criteria to be used by staff to review revenue projections and expenditure estimates submitted by each Clerk were discussed. Currently, 91% of budget submissions are within expected expenditure ranges and 94% are within expected revenue ranges.

Key issues affecting the FY 2003-04 Quarter IV budget certification process were reviewed. Optional approaches for eliminating the \$ 6.028 million overall deficit were discussed.

In answer to questions, Mr. Watkins stated that the most important thing that CCOC will do between now and July 1, 2004 is put in place precedent setting protocols for the 4th quarter budget. He suggested that we give CCOC staff authorization to take these formula that they have in place, look at the revenues and expenditures, talk with the counties that are outside on either revenues or expenditures, and see if they can come back to us with explanation as to how we can solve the budgetary problems.

Mr. Dew stated that he'd like the authority to talk staff to staff with the person who filled out the forms for their particular county regarding justification of issue(s). Then if they cannot resolve the problem(s), he would like a Clerk from the CCOC contact the Clerk of that county to see if they can resolve the problem. He would like to have all issues resolved before our meeting June 14. If, however, there are still unresolved issues, he proposes that the Clerk will come to the CCOC meeting on June 14th; staff will give our recommendation(s); and the Clerk will have a chance to state why he/she disagrees with our recommendation(s). The CCOC will then determine the outcome.

Mr. Ake made a motion to have Mr. Dew to contact budget staff regarding any issues regarding a particular county's budget. Mr. Ruvin seconded the motion. The motion passed unanimously. Mr. Watkins asked Mr. Ake if he would consider being the CCOC Clerk to contact individual County Clerks if Staff to Staff communication fails to resolve the issue(s). He agreed.

LEGISLATIVE UPDATE

Mr. Boyd, General Counsel, gave an overview of SB 2962. Certain recording fees will change as of June 1; the rest of SB 2962 will take affect July 1, 2004. Mr. Boyd reported that the Corporation is the de facto successor to the Conference. We will become a public Corporation with sixty-seven ex officio members with an 8-member Executive Council elected by the sixty-seven Clerks of the State of Florida.

As before the Executive Council will be representative of the four population groupings of the state. Chapter 119 will apply at least to the members of the Executive Council and discussion will take place as to whether it also applies to all sixty-seven members of the Corporation when it comes to Corporation business.

Mr. Boyd delineated the duties of the Corporation as outlined in SB 2962. As stated, the CFO will review the certifications of CCOC, determine compliance with the process, and lawfully examine any of the budgets submitted by the Clerks to the CCOC. There will be annual CPA audits as to whether or not Clerks have complied with the budgets CCOC certified. The Bill did specify certain criteria for certifying the budgets.

SB 2962 has provided \$2.5 million and 5 FTE's for the Chief Financial Office which will then establish a contract with the Corporation.

INTERNAL AUDIT

Mr. Cason reported that we have tentatively made our selection of a CPA to perform the Internal Audit of CCOC. The Audit is on hold as it is unclear whether the Conference can enter into a contract for work to be performed for the Corporation. Mr. Dew stated that the audit wouldn't begin until after July 1. There does need to be an audit of the Conference even though it will cease to exist July 1. It was decided to wait until July 1 to formalize the contract. Recommendations regarding the hiring of this CPA firm will be handed to the Executive Council of the Corporation for their consideration.

FACC REPORT ON CLERKS' MONTHLY REVENUES/EXPENDITURES

Doug Isabelle, with the FACC, stated that the bottom line is "if we're using the 1/3, we're projecting that there will be adequate funds for all the clerks if they retain some of the 1/3 according to the process. The issue becomes, as Mr. Robertson pointed out earlier, we're estimating \$32 million from the \$50 filing fee up front to the state. It's at the back end of the process, how much of that 1/3 to cover our expenditures might be left over for the state. That has been a moving target. And then depending on corrections being made during this process as well as projections, i.e. the \$200 filing fee as we all know for the local and municipal ordinances, because if we estimate at the back end of the process, we're going to estimate somewhere around \$33 million for a total of \$65, there goes \$24 or \$25 million just like that. Again you could average in an 8% factor maybe on expenditures. That is the question, the back end of the process."

When asked directly by Mr. Watkins, Doug Isabelle stated that there will be enough revenues for the needs of the Clerks' offices.

GETTING READY FOR 2004-05 AND 2005-06 BUDGET PROCESS

Mr. Dew stated that August 1 is the date the 2004-05 budgets are due at the Corporation. Prior to August 1, we need to develop a form and provide instruction to the Clerks as to how to fill out that form. FACC has a workgroup on performance measures; Ms. Ewing is the Conference's representative on that workgroup.

Glenn Robertson reported that in transitioning from the 2003-04 Qtr 4 budget to the 2004-05 budget, changes include the addition of performance measures, the 103% and 105% expenditure-related cap, and the assessment of operational efficiencies, fiscal management capacities, and performance standards status. The 2005-06 budget process will add the required "Revenue Growth Related Expenditure Cap".

AMENDED CONTRACT FOR GENERAL COUNSEL, JOSEPH BOYD

Mr. Watkins reported that our original agreement with Mr. Boyd stipulated a salary of \$1250 per month. Mr. Watkins recommended we change that amount to \$200 per hour based on the fact that Mr. Boyd has done a great deal of work for us and will be needed to do a great deal more as we transition from Conference to Corporation. Mr. Dew noted that approximately \$21,000 in pro bono legal services has been provided to the CCOC by Mr. Boyd's firm this year.

Mr. Ake made a motion that we pay Mr. Boyd \$200 per hour. It was seconded by Ms. Gardner. The motion passed unanimously.

OTHER BUSINESS

Ms. Gardner stated, for the record, how difficult it is going to be for all clerks to meet budgetary expenses which are out of Clerks' control, such as the cost of health insurance and, specific to Orange County, the cost of six new magistrates. She further stated there is no way to show these expenses on her budget and stay within the 103% without making some alterations. She feels it is exceedingly difficult if not impossible to budgetarily meet these expectations and, in addition, remain a surplus county. Mr. Ruvin dittoed Ms. Gardner's statements.

Mr. Watkins expressed thanks to Judge Perry for his service to the Conference. Mr. Ruvin formalized those feelings in a motion that we thank Judge Perry for his service. Ms. Gardner seconded the motion which passed unanimously.

There being no further business, the meeting was adjourned at 3:30 p.m. It was announced the next meeting of the Clerk of Court Operations Conference would be held in Tampa on June 14 from 1:00 – 5:00 p.m.