

# MINUTES

## EXECUTIVE COUNCIL FLORIDA CLERKS OF COURT OPERATIONS CORPORATION THURSDAY, JULY 1, 2004 FACC OFFICE TALLAHASSEE, FLORIDA

The Honorable Maryanne Morse, Chairperson of the Executive Council called the first meeting of the Executive Council of the Florida Clerks of Court Operations Corporation to order. All members were present.

**Organizational:** Ms. Morse asked that Pat Gleason, Assistant Attorney General for the State of Florida provide an overview of the Sunshine Law and implications of the law on the Executive Council. Ms. Gleason explained that any gathering of two or more Council members to discuss action that may be taken up by the Council is subject to the Sunshine Law and, as such, must be noticed. In addition, the law is broad enough to keep members from using someone else to pass information to others. Both criminal and civil charges may be filed for willful or intentional violation of the law. If the Council itself violates the Sunshine Law, then all action taken by the Council from that point on is void.

In answering questions, Ms. Gleason stated that the Sunshine Law might apply to all members of the Corporation and not just the Executive Council. When asked if one Clerk could talk with another Clerk regarding the Budget Process, she said that the Sunshine Law might also apply to discussions of whatever duties the Legislature has defined for the Corporation. If members of the Corporation have questions as to whether the Sunshine Law applies, Ms. Gleason suggested the members contact our General Counsel, Mr. Boyd, for clarification. As to methods of noticing meetings, she suggested using the media, hosting on our websites (FACC and CCOC), and placing notices in public areas of the building(s) as possible.

### **ADMINISTRATION:**

Mr. Richard Weiss made the motion to change the order of the Agenda so we could conduct the general business at this point. It was seconded. Ms. Morse stated that all issues prior to the general business are important. By vote of the Council, the motion was defeated.

**Bank Depository:** Ms. Morse called for a motion to establish a Bank Depository for Corporation funds. Mr. Dew stated that we currently have our funds in the SunTrust Bank. Mr. Dew had spoken with a SunTrust employee yesterday and they are willing to set up the account for the Corporation if the Council so desires. Mr. Forman made a motion that we continue to use SunTrust; it was seconded and passed unanimously.

**Legal and Tax Related Issues:** Ms. Morse asked Mr. Boyd to take the necessary steps to see that our corporation is established. Mr. Boyd reported that we already have our Tax ID number. Mr. Dew noted that he is working with the Department of Revenue to seek a tax exemption certificate.

**Corporation Financial Report:** Ms. Morse requested a Financial Report. Mr. Dew reported on the current financial state of the Conference. The Conference will turn approximately \$222,000 over to the Corporation. He has a more detailed breakout of how funds were used and stated that the Conference will be audited. Ms. Morse requested that copies of the detailed accounting be sent to all members by July 8. Mr. Dew agreed that this would be possible.

**Interim Corporation Budget:** Ms. Morse asked Mr. Dew to provide detail on the Corporation Interim Budget (July – September) for discussion. Mr. Dew stated that the initial budget he prepared at Mr. Alderman’s request is based on the Conference’s use of funds to date and an estimate of what may be needed in the future. Some items, such as Glenn Robertson and FACC, may be over-inflated using such criteria to project needs. On the other hand, he allowed that the Executive Council may require things he is not aware of, and he would be happy to include those items as the Council requests. Ms. Morse said this budget is not one she is willing to adopt without further information. Ms. Morse stated that she wanted Mr. Dew to work with her and Mr. Barton on the development of a budget for the Corporation. Mr. Dew agreed to meet with both within the next week if possible. He suggested that during the interim the Council might adopt a tentative budget to get us through until the next meeting when additional information could be brought forward. Mr. Forman moved that the Council adopt a 30-day budget not to exceed \$75,000 to allow operations until a more detailed budget could be developed. Seconded by Ms. Murphy, the motion passed.

**Independent Certified Public Accountant:** Ms. Morse asked about the status of the hiring of a Certified Public Accountant to audit the Conference. The RFP has been completed and a firm has been contacted. The firm was not hired as it was felt the audit would not be started until after June 30, and at that point it would be a Corporation responsibility to hire a firm to audit the Conference. Ms. Morse requested that all the audit information be distributed by Tuesday, July 5 to each member of the Executive Council for his / her review. Mr. Boyd suggested we should contact each of the four firms who originally submitted RFP’s to ascertain their interest at this point in time. Mr. Dew stated that the members would be sent the information and that he would also contact the firms that had submitted a proposal.

## **GENERAL BUSINESS:**

**Contract with DFS:** Ms. Morse asked if we have any contract yet with the Department of Financial Services. Mr. Boyd stated that he received a draft contract earlier in the day and would provide copies to the members. Ms. Morse asked that the contract be distributed to the members of the Executive Council before the Council adjourns today.

He said that could be done. Mr. Boyd said that he would be meeting with the DFS counsel the next week after he received input from the Executive Council members and others.

**FACC Education Program Contract:** Ms. Morse stated there is a proposal before the Council regarding the Education Contract. Mr. Alderman stated that approval is dependent on the DFS Budget for the Corporation. Mr. Forman moved that we postpone voting on the Education Contract until we get the DFS Budget. The motion was seconded and passed.

**Consideration of Continuing Contracts:** Mr. Fuller moved the existing contracts be approved for ninety days while the Corporation gets organized. The motion was seconded and passed.

## **WORKSHOP**

**Status of Budget Process:** Mr. Dew and Mr. Robertson presented an update regarding development of the 04-05 budget process, forms, and instructions. The Corporation is charged with determining the maximum budget allowed for each clerk. This involves first determining what each Clerk's estimated expenditure was for fiscal year 2003/04 and then increasing by either 103% or 105%. Mr. Robertson detailed several options for the Executive Council to help them determine how to calculate each Clerk's estimated expenditures. It was duly noted that where one option might favor a majority of counties, a different option may favor some counties. After the presentation, Mr. Weiss moved to adopt Option 1 (multiplying the Clerk's 03-04 fourth quarter budget and reserve by four), but to give individual counties the option of choosing – with explanation – another alternative. The motion was seconded and passed.

Mr. Robertson stated that he has not yet determined which counties would be eligible for a 105% increase versus those only eligible for a 103% increase. Ms. Morse directed Mr. Robertson to work on the 103% / 105% and get back to the Council through Mr. Dew. As budgets are due back August 1, this needs to be done as soon as possible. He agreed to provide the information at our next meeting.

In conclusion, Mr. Robertson cautioned that we must allow for a variance from our projections. If a disturbing trend develops, we will have to reconsider the numbers and options. For example, if the amount of the total projected Clerk expenditures is more than the amount of total projected Clerk revenues, then the Council may have to make tough choices. Such choices could mean not approving the amount of revenues and/or expenditures requested. After any approvals, then of course staff will need to continue to monitor the amount of dollars in the Trust Fund and be prepared to notify the Council of any problems.

Ms. Morse asked whether counties should be held responsible for reporting their revenues and expenditures on a monthly basis. She suggested that reporting quarterly

would be easier on the counties and would better show trends. Staff from the Department of Financial Services stated that the draft contract requires monthly reporting. Mr. Ruvin moved that we require monthly reports. Mr. Forman seconded the motion which passed.

Mr. Forman made a motion that we accept the budget forms and instructions as distributed. Mr. Smith seconded. The motion passed. Ms. Morse asked how the forms and instructions would be sent to each clerk. Mr. Dew responded that he would place the forms on the CCOC website and contact each Clerk to let them know they can download the forms from that site. Mr. Isabelle stated that the forms would also be placed on the FACC website. Mr. Isabelle further noted that training on the forms would begin the next week.

Ms. Morse stated that in accordance with the budget process, standards have been approved with the forms. It is her understanding that the Council will still have to establish criteria for certifying the budgets and the reserves as well as develop a process for amending budgets. Mr. Robertson requested a member of the Council be assigned to work with him and with Mr. Dew to develop those policies which will be brought back to the Council for approval. Ms. Morse appointed Mr. Barton as the Council member to work with staff on budget issues.

**Pending Judicial Rule:** Ms. Morse stated that there is a pending rule change before the Supreme Court allowing the Chief Judge of a Circuit to determine what the Clerk will do. While this is an FACC problem, it also affects this body as any assigned jobs will need to be funded and will impact budgets. Ms. Morse, as a member of the Council, moved that the Corporation go on record and instruct Mr. Dew to work with FACC and Fred Baggett to defeat this rule. Ms. Murphy seconded the motion which passed unanimously.

**Council Subcommittees:** Mr. Dew requested a Council member be appointed to help work on legislative issues. Ms. Morse asked Mr. Dew to bring to the next meeting a list of committees he would like to establish within the Council.

Ms. Morse announced that the next meeting of the Council will be held telephonically at 10:00 a.m. July 20, 2004.

There being no further business, the meeting was adjourned at 1:35 p.m.