

# MINUTES

## FLORIDA CLERKS OF COURT OPERATIONS CORPORATION HYATT, ORLANDO AIRPORT THURSDAY, AUGUST 19, 2004

The August 19, 2004 meeting of the Executive Council of the Clerk of Court Operations Conference (CCOC) was called to order at 10:10 a.m. by Chairman Maryanne Morse who welcomed members and guests. Members and staff of the Executive Council of the Corporation present were: Honorable Maryanne Morse, Honorable Jeffrey K. Barton, Honorable Howard Forman, Honorable Jim Fuller, Honorable Tim Smith, Honorable Richard Weiss, John Dew, Joseph Boyd, and Judy Zorn. Honorable Annie Mae Murphy and Honorable Harvey Ruvin were present telephonically.

### APPROVAL OF MINUTES FROM JULY 20 and continued on JULY 28, 2004

Ms. Morse asked for any revisions to the Minutes. There being none, a motion to approve the minutes was made by Mr. Forman and seconded by Mr. Fuller. The minutes were approved as circulated.

### TREASURER'S REPORT

Mr. Barton reported that the balance presented at our July 20, 2004 meeting was \$207,861.12. Since that date, the Corporation has expenditures totaling \$16,239.62 with an additional \$25,845.93 in encumbered funds leaving \$166,025.57 available to the Corporation. There being no discussion, Mr. Ruvin moved and Mr. Weiss seconded the motion to accept the report. The motion carried unanimously.

### SUBCOMMITTEE REPORTS

**Budget Review:** Mr. Barton, chair of the Budget Review subcommittee, stated he worked with Mr. Dew and Mr. Robertson on a proposed budget amendment process that would be discussed under Item 4 in the meeting.

**Performance Measures:** Ms. Murphy, Chair of the Performance Measures subcommittee, reported that she will be attending a meeting on September 1 from 9:00 - 12:00 at FACC. The meeting will consist of Clerk staff and will be held by FACC to discuss performance measures and progress reports. In addition, the issue of developing a performance standard for fiscal management will be presented. Ms. Murphy said she would report back on the results of the meeting at the next Council meeting.

**Personnel:** Mr. Smith, Chair of the Personnel subcommittee, passed out documents to the Council members. First was a memo from himself recommending that the Corporation renew all existing contracts for staff and professional services. The remaining two documents contained information on the process used by the previous Conference to search for and select an Executive Director. Mr. Smith commented that Mr. Dew was ranked at the top of the list of the nearly 70 applicants who sought the Executive Director position. He said there are two questions that must be answered at today's meeting. First, we have only extended the contracts to the end of September and we need to address what to do after that. Second, we need to decide to either continue a contract model for personnel, or potentially have some converted to a fulltime staffing model.

Mr. Smith said that when he was selected as a Council member, he was asked by a number of Clerks to come in and help make a decision on the staffing of the Corporation based on what he believed what was best for the Corporation. He stated that every time he has called for information either Mr. Dew, Mr. Boyd, and Ms. Zorn has been responsive and have continued to demonstrate they are committed to the Corporation's work effort. He noted that because we are in the extremely difficult beginnings of our Corporation, it would be a mistake for the Corporation to change those people who have grown up over the last year with the Conference. He therefore was making a recommendation that we renew those existing contracts.

Mr. Smith made the motion to extend all the current contracts and where appropriate to have the Executive Council determine if the contracts should be converted to fulltime status for Mr. Dew and Ms. Zorn. Mr. Forman seconded the motion. Ms. Murphy asked if all contracts need to be made effective October 1, 2004 or can the dates be changed. Mr. Boyd answered that the extensions are written to run for thirteen months to keep us in line with the fiscal year. The only exception is Glenn Robertson's contract as it relates to deliverables. His contract is now based on an hourly rate with a minimum and maximum depending on how much the Corporation needs him. Ms. Murphy also asked about the amount of work / time we would need the subcontractors after this round of budgets is approved. Mr. Smith said Mr. Robertson, and Mr. Boyd are hourly so if we don't need to use their services during certain periods, then we don't pay them.

Ms. Morse stated that it is her opinion that the relationship we have with Mr. Dew and Ms. Zorn should change from a contractual status to employee (permanent) status. Ms. Morse recommended that Mr. Dew's and Ms. Zorn's contracts be set aside and redeveloped under an employee basis rather than a contractual basis. Mr. Smith revised his motion, with Mr. Forman's agreement, that we set aside Mr. Dew and Ms. Zorn's contracts until the September meeting so we can get more specifics on setting up employee status contracts and that today we approve contracts with Mr. Boyd, the FACC, Mr. Robertson and the Lease Agreement as circulated. Mr. Boyd stated that what he was hearing from the Council was that what they wanted was to take the contractual agreement compensation packages with Mr. Dew and Ms. Zorn and convert it under the same terms and conditions to an employee status. Ms. Morse commented that in the last

few months both Mr. Dew and Ms. Zorn have been extraordinarily responsive and very good on communications not just to her but to others throughout the state as we have gone through this budgetary process and so there does not seem to be any problems whatsoever. Mr. Boyd suggested that we at least give a vote of confidence that it will be Mr. Dew and Ms. Zorn who will be employed in these two staff positions as of October 1, 2004. Several Council members noted that both Mr. Dew and Ms. Zorn have done an exception job and they do want to have them continue in their positions. There being no further discussion, the motion carried unanimously.

**Legislative:** Mr. Forman, Chair of the Legislative Subcommittee, stated that he has recently received a memo regarding the possible repeal of the Corporation in this Legislative session. He mentioned that the House, as part of their 2005 Interim Projects, will be reviewing the activities of the CCOC and as part of that process will include examining the repeal of the Corporation. Mr. Dew provided each member a copy of the Interim Project list. Mr. Forman said that while he appreciates others looking at us, it is too early to make a decision as to whether the Corporation should be repealed. He suggested that we should continue to do our best in communicating with legislative staff so they fully understand the massive amount of work the Corporation has done thus far and is continuing to do.

**Budget Amendment Process:** Mr. Barton suggested we handle this under the next Agenda item. Mr. Dew, Mr. Barton, and Mr. Robertson have worked on this issue but are not prepared to present the final process until our September meeting.

## **BUDGET SUBMITTALS UPDATE**

Mr. Dew thanked all clerks who have worked so hard and so quickly to get budgets completed and submitted and then reviewed and revised based on new caps. All initial budgets were in by August 13. After CCOC staff analysis, Mr. Dew sent letters asking those clerks who were over their maximum budget cap to review and revise their budgets. He reported that twenty-four of those budgets are back now. Twelve other counties were within their cap initially and were given until Tuesday to revise but have not. Also, a number of counties submitted information as to why their cap should be revised. Mr. Long and Mr. Isabelle, both of FACC, have worked a great deal with Mr. Robertson, Mr. Richardson, and Mr. Dew on this process.

Mr. Dew began a presentation on the budget submittal update which can be found in its entirety on the [www.flccoc.org](http://www.flccoc.org) website. After the CCOC July meeting, several Clerks noted problems with the set maximum cap for their budgets. In such instances, Mr. Dew and the FACC worked with the individual Clerk's office to identify why their maximum cap numbers were inaccurate. CCOC Staff recommended a cap change for 20 Clerks. Mr. Dew asked Mr. Robertson to go through each of the suggested changes and explain the reason for each.

Mr. Robertson explained how we arrived at the cap for each county. Expenditure Cap adjustments were considered for several reasons: new or corrected information on Monthly Expenditure Tests previously presented to the FACC, quality assurance

corrections to Expenditure Test files, or FY 03-04 fourth quarter new mandate corrections. After all calculations, including the suggested increases for those 20 Clerks requesting an increase, the total maximum budget cap is \$406.3 million. The bottom line is that we have a current projection of \$423 million in revenues and \$406.3 millions in expenditures leaving a \$16.7 million surplus for the DOR Clerk's Trust Fund. CCOC staff met with Chief Financial Office staff earlier in the week and presented the reasons for each of the changes in the maximum caps. The CFO staff appeared to understand the reasons. CCOC staff noted that each of the requests for a maximum cap increase is valid and recommends to the Executive Council that they approve such requests. Mr. Barton moved and Mr. Smith seconded the approval of the Expenditure Cap Adjustments as presented today. There being no further discussion; the motion was approved unanimously.

Mr. Dew pointed out that numerous clerks' offices are still adversely impacted by the required maximum cap based on 103% increase. Many clerk's offices are still short of what they need to operate. He went through a list of problems they will experience because of this shortfall. Such examples include no longer being able to pay insurance costs and reducing operating costs by 35%; discontinuing the employee's contribution to the HMO premium; not having proper funding to staff and provide supplies for a new courthouse; and not having positions needed to meet the demands of a new magistrate assigned to the county. Mr. Forman stated that Clerks have constitutional and statutory duties for which they are responsible and for which they may not have enough funding to assure they are done sufficiently.

Mr. Fuller stated that his office has not had an increase in FTEs in over 12 years. In order to stay within the maximum cap his office will now have to cut 18 staff and decrease another 3% in the operating budget. Mr. Ruvin noted that we have to prove and justify to the Legislature that our original submissions for budgets, prior to the maximum caps, are the true needs of the Clerks. Once the documentation starts to come in, then we can present our case so we can get the funds we need to fulfill the services. Ms. Greene, representing Monroe County Clerk Danny Kolhage, stated that they are very unhappy with the budget cap set by the CCOC and that in reality only the Clerk of each county has the right to set the maximum cap. Ms. Morse thanked all those that commented on the budget cap.

Mr. Dew summarized by stating that budget analysis for the 04/05 budgets will be done from August 18 through September 13. Staff will ask the CCOC Executive Council to certify all Clerks' budgets at our meeting on September 14, 2004. These budgets will be submitted to the State by October 15, 2004. Also, to help resolve some of the problems caused by the limited spending cap, the CCOC staff will develop a Budget Amendment Request process which will be presented at the September 14 Executive Council meeting.

Mr. Robertson stated that the remaining key issues for the next few months include getting all final budget resubmissions; performing critical Trust Fund analysis to assure clerk budget support; certify the budgets for FY 04/05; reviewing each Clerk's monthly expenditure and revenue reports to monitor budget status and predict changes requiring attention; receiving and reviewing detailed revenue breakouts (fines, fees, service charges) for FY 04-05 budget submission per state requirements; and continue

progress in designing, developing and implementing a credible and useful performance measurement process.

## **DETAILED REVENUE BREAKOUT FORM FOR BUDGET SUBMITTAL**

Mr. Dew noted that the contract between the CFO and the CCOC requires that Clerks submit detailed revenue projections along with a budget request packet. Ms. Morse noted that there may be problems breaking out detailed revenue information by fines, fees, and service charges as they do not correspond with the Uniform Chart of Accounts. Ms. Morse suggested we hold off on contacting any clerks for submitting this detail until we discuss this issue with Clerk's staff. Mr. Dew noted that there is a meeting with Clerk financial staff scheduled for September 2<sup>nd</sup> at the FACC to discuss financial matters and this would be the appropriate place to get feedback on how to gather this data. Ms. Morse asked Mr. Dew to attend the September 2<sup>nd</sup> meeting on behalf of the Executive Council and then determine how to get the information.

## **UPDATE ON CLERKS' TRUST FUND AND 03-04 BUDGETS**

There are sufficient funds to meet the needs of revenue-deficit clerks for September 2004. This month 42 Clerks received \$3,312,596 from the Trust Fund to support their offices. Mr. Dew announced that the first payment from surplus counties to the Trust Fund, which is used to take care of counties in need of funds to meet their budgets, is due August 20, 2004. This amount will total \$879,367. He sent a memo to each of the twenty-one surplus counties as a reminder earlier in the week.

Mr. Fuller stated that in Duval County the revenue he projected has not been coming in. He stated that this impacts how much money he has available to send into the Trust Fund. Mr. Dew replied that he is asking Clerks to provide documentation when this situation occurs in their office. Mr. Fuller asked if he should use his reserves to pay what he owes. Ms. Morse stated and Mr. Ruvin concurred that using reserves is not advisable given they could be needed for circumstances like those presented by Hurricane Charley. Mr. Barton stated that any funds left at the end of the year will go to the state anyway. Mr. Dew stated that revenues seem to be down for most clerks during July. He asked, if revenues are back up in August, should we require the clerks to make up the balance of what they couldn't pay in July. The consensus was that the clerks would be required to make up the balance of what's owed as they can do so.

## **CFO CONTRACT**

The CCOC - CFO contract was signed July 30, 2004. Some Clerks have questioned some of the legal issues of the contract. However, the contract is in place and we're working under it now. The Corporation will follow the law. Mr. Dew, CCOC Contract Manager, is working with Burton Marshall, CFO Contract manager, regarding any concerns.

## **OTHER BUSINESS**

### **SUPREME COURT RULE AMENDMENT**

Mr. Boyd stated that there have been letters from himself and others asking that the Florida Bar withdraw the proposed amendment to Rule 2.050 that will allow judges the authority to tell Clerks what services they have to provide in each Judicial Circuit. This amendment as presented is contrary to the purpose of Revision 7 and hampers any Corporation efforts to create a budget system. It is his understanding that the amendment has been sent back to the original Rules committee and may not be sent forward to the Supreme Court this year. Mr. Smith encouraged all clerks to be involved in legislative process, not just the few who tend to get involved now.

### **NEXT MEETING:**

Ms. Morse announced that the next meeting is scheduled for 1:30 p.m., September 14, the day before FACC's quarterly meeting, at the Tradewinds Resort, St Pete Beach. The main agenda item for that day will be to certify the budgets of all sixty-seven counties and discuss the budget amendment process and performance measures.

There being no further business, Ms. Morse adjourned the meeting at 12:50.