

**MINUTES**  
**FLORIDA CLERKS OF COURT OPERATIONS CORPORATION**  
**TUESDAY, NOVEMBER 16, 2004**  
**FLORIDA MALL HOTEL**  
**ORLANDO, FLORIDA**

The November 16, 2004 meeting of the Executive Council of the Clerks of Court Operations Corporation (CCOC) was called to order at 1:35 p.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 Jim Fuller, Honorable Howard Forman, Honorable Annie Mae Murphy, Honorable Tim Smith, John Dew, Joseph Boyd, and Judy Zorn. Honorable Harvey Ruvin and Honorable Richard Weiss participated by telephone. Ms. Morse announced that a quorum was present.

**APPROVAL OF MINUTES FROM SEPTEMBER 22, 2004**

Ms. Morse asked if there were any revisions to the draft minutes from the September 22, 2004 meeting. There being none, a motion to approve the minutes was made by Mr. Barton and seconded by Mr. Smith. The minutes were approved as circulated.

**TREASURER'S REPORT**

Mr. Barton, CCOC Treasurer, reported that since the September 22, 2004 meeting, the Corporation has expended \$115,864. The Corporation has received two checks from the CFO's office totaling \$95,000. The Corporation balance as of November 4, 2004 is \$150,079.17. With encumbered bills in the amount of \$38,204.26, the available balance is \$111,874.26.

Mr. Smith moved that we accept the financial report. The motion, seconded by Mr. Fuller, passed unanimously.

**PERFORMANCE MEASURES SUBCOMMITTEE REPORT**

Ms. Murphy, Chair of the Performance Measures Subcommittee, stated that she, Mr. Dew, and Mr. Robertson have worked on the Performance Measures Progress Survey. This survey, designed to help determine the difficulties clerks may have in gathering the Performance Standards information, will be presented today to the Council and if approved, distributed to all clerks by the end of next week. Ms. Murphy noted that according to our contract with the CFO we have to provide them a "progress report" on each Clerk's status in developing a system to review their performance. This survey will help us determine each Clerk's current status and provide a report to the CFO in January 2005.

## **BUDGET SUBCOMMITTEE REPORT:**

Mr. Barton, Chair of the Budget Subcommittee, said the only issue this month from the Budget Subcommittee was a request to have the Council approve the Budget Amendment Requests (BARs) received from several Clerks' offices that have experienced less than expected revenues. Mr. Barton asked Mr. Dew to go over the Budget Amendment Requests the CCOC staff received since the September 2004 meeting. Mr. Dew stated that we received a BAR from the Clerks from Jackson, Polk, and St Johns counties due to a shortfall of revenues for the last quarter of county Fiscal Year 2003/2004. Each of these Clerks experienced decreased revenues as a result of the hurricanes. All three have under-expended their approved budget for the three-month period. Mr. Dew recommended the Budget Amendment Requests be approved. Mr. Ruvin moved approval of all three BAR's, and Mr. Barton seconded his motion which passed unanimously.

Mr. Dew stated that we have a BAR from Hardee County for a request to increase the amount of funds submitted to them from the Clerks' Trust Fund for county fiscal year 2004/2005. This is due to the extended impact of the Hurricane damage in the Hardee county area and a decrease in revenues. The BAR is for \$148,527 to be provided over the next 8 months. Mr. Dew said the amount of dollars each month from the Trust Fund to Hardee County will decrease after February 2005 since it is expected that the revenues there will began to increase close to the original projections by July 2005. Mr. Smith moved approval of the Hardee County 04-05 BAR, and Mr. Barton seconded the motion which passed unanimously.

## **PERSONNEL ADMINISTRATION SUBCOMMITTEE REPORT:**

Mr. Smith, Chair of the Personnel Administration Subcommittee, announced that Attendance / Leave reports have been established to track leave accrued and used by office staff every two weeks. CCOC Staff has also established and is using a Credit Card Policy. As was previously approved, Mr. Dew will begin recruiting a third staff member and has the authority to hire such a person.

Finally, Mr. Smith noted that Mr. Dew will establish an employee performance evaluation process to evaluate the CCOC staff. The Personnel Administration Subcommittee will need to do the same for Mr. Dew. Ms. Morse requested Mr. Smith look at developing a mechanism for Mr. Dew's review pending his upcoming anniversary.

## **LEGISLATIVE SUBCOMMITTEE REPORT:**

Mr. Forman, Chair of the Council Legislative Subcommittee noted that the Florida Legislative is holding their 2004/2005 Organization Session today and will begin Interim Committee meetings in a few days. Mr. Forman shared with the members the

legislative schedule for the upcoming interim committee meetings and noted that the 2005 Legislative Session begins on March 8, 2005. Mr. Forman stated he hopes that many people will get involved in the legislative process this year. He reported that Senator Crist will be chairing the Senate Appropriations Committee that will be responsible for Article V funding issues. It is not yet known who will chair the House Criminal Justice Appropriations Committee.

Mr. Forman went through a number of legislative issues that the FACC reviewed during its Legislative Committee meeting a week earlier in Tallahassee. Mr. Weiss asked about recording fees and the ability to have those fees available for court related expenditures. Mr. Forman responded that this is an important question but needs to be reviewed prior to further discussion. Ms. Morse noted that legislatively we need to push for an allowance of bad debts and that is a priority to protect all of us.

### **STAFF SUMMARY OF 03/04 FOURTH QUARTER BUDGET**

The purpose of the draft report is to show how much revenue was collected by Clerks for the 4<sup>th</sup> quarter of county fiscal year 2003/2004 and how much was expended. Mr. Dew noted that to date the report is not complete because we still have approximately 10 Clerks that have not reported their revenues and expenditures for September 2004. Ms. Morse noted that the reason some Clerks may not yet have reported is that many of them are still working on closing out their financial books since it is the end of the fiscal year.

Mr. Dew noted that the current numbers, even though draft, show that for the three month period of July through September 2004 that there may be a net surplus of revenues over expenditures for the Clerks. This surplus will be approximately \$10 million dollars which is required to be submitted to the Department of Revenue in January 2005. He stated that as soon as we receive the September numbers from the remaining Clerks that a final report will be written and made available to the Council.

### **DOCUMENTATION / UPDATE 04/05 BUDGET ISSUES PROBLEMS WITH EXPENDITURE CAP METHODOLOGY**

Ms. Morse stated that most Clerks are currently faced with a difficult financial situation because the law has limited their expenditure cap to only a 3% increase over their previous fiscal year estimated expenditures while their increases in workmen's compensation, health insurance, and required salary increases are much higher than 3%. We need information on other issues affecting budgets. For example, some courts have hired a special master and therefore the Clerks need to provide a staff person for that special master. Ms. Morse asked Clerks to continue to document such experiences and to provide this information to the CCOC staff. She further requested that clerks track turnover in their offices, especially when staff resigns to work for the Sheriff, private sector, or other place where they can earn more money.

Mr. Ruvin agreed that we need to document these situations that show the 3% increase is not sufficient to take care of the needs of Clerk's offices. He however also said we should go back and look at the methodology that the Council used earlier to

determine the “estimated expenditures”. We were forced to use estimates for the 03/04 year back in July because we needed to provide some baseline for Clerks to develop their budget by August 1, 2004. Mr. Ruvin pointed out that now since it is several months later we have the actual expenditure numbers for numbers for 03/04. When he compares his “actual expenditures” for County Fiscal Year 03/04 to the “estimate” used by the Council he found that the actual expenditures were \$2.5 million dollars more than the estimate for Dade County. If he could get his cap increased by this \$2.5 million it could prevent his office of having to lay off a few hundred staff. He pointed out that it seems we should look at the actual expenditures for all Clerk offices and compare it to the estimated expenditures.

Prior to getting this information from all Clerks, Mr. Ruvin said that he has already set up a meeting with the CFO staff to show them the potential problems with the estimated expenditures used earlier to determine the budget expenditure cap for Dade County. Ms. Morse stated that at this time she would not recommend that we go back and redo our budgets through the CFO’s office. Instead she recommended we seek a relief from the Legislature since the session will be starting soon. Ms. Murphy also suggested that the problem is with the Legislature and not with expenditure cap methodology, and we need to work with the Legislature to get this issue resolved. Mr. Forman stated that he would hope that, through Mr. Ruvin’s meeting with the CFO’s office, we can get additional information which might help us when we approach them or the legislature.

Mr. Smith stated he felt that it would not be inappropriate for this Council to make a recommendation that we do support Mr. Ruvin in his effort to revisit this issue with the CFO to see if it would be better to use actual expenditures as opposed to estimated expenditures. Ms. Morse said that she has asked CCOC staff to seek expenditure information so we can get good data. We need to have this data properly analyzed before we go to the CFO so we can see if it will harm some while it helps others. That survey for gathering the expenditure data is to go out next week.

Mr. Dew said the survey will go out next week and we can have the information in by mid December. He will then combine it with information we already have from monthly reports for July through September 2004 and compare the affect of the methodology on each individual clerk. Ms. Morse stated if we can get this information from the counties, it will give us the ability to determine the impact on each Clerk before we visit the legislature and the CFO. Mr. Dew stated that when the information comes in, we’ll figure the expenditures (actuals) and get this information to the Executive Council.

## **TRUST FUND UPDATE**

Mr. Dew reported that the Trust Fund balance as of October 31, 2004 is \$5.8 million. If the Trust Fund grows as expected at the rate of \$1.3 million per month, by the end of the county fiscal year we could have a balance of more than \$15 million. He noted that one important issue that we need to be aware of is that it is important that this Trust Fund not be swept each month but continue to have dollars available in case of revenue shortfalls.

## **OVERVIEW OF PERFORMANCE MEASURES READINESS SURVEY**

Mr. Dew provided an overview of the purpose of the survey and the process used to develop the Performance Readiness Survey. He asked Mr. Robertson to present the draft survey to the Council members.

Mr. Robertson provided an overview of each question on the survey. After the presentation, a lengthy discussion ensued among Council members regarding the collection rate process. In particular, a number of questions were raised as to how difficult it may be for some Clerks to follow each case every month it's open to gather data on amounts assessed, amendments to the amounts assessed, and amounts paid for the reporting process. Comparing each individual case and case type to determine receivables and verify a collection rate is a great deal of work. It was suggested that the performance standard for a particular collection rate could instead be determined using the overall percentage of revenues collected to fines, fees, service charges, and court costs assessed each month for all cases. Mr. Dew pointed out that these were all good points, but these are issues we do not need to resolve until after we get information back from the Readiness Survey. In fact, the survey will help show that a number of Clerks may have difficulty in providing collection rates by individual cases.

In summary, Mr. Dew said that the major reason for this survey is to be able to present by end of January 2005 the difficulties some Clerks will have in gathering and submitting the required information regarding the performance of their office in meeting performance standards to the CCOC by April 2005. Ms. Murphy suggested that information on meeting performance standards should not be submitted to the Legislature until all counties have the ability to do so. Mr. Dew responded that the purpose of this readiness survey is to show which Clerk's offices may have difficulty in gathering data and then to help those particular Clerks be prepared to submit the data for a report due in April 2005. It would make sense to not report individual Clerk's performance until all 67 Clerks are able to provide the necessary data. Ms. Morse requested that the data gathered from the survey be distributed to the Executive Council before being presented to the CFO. The survey was approved by the Council.

## **OTHER BUSINESS**

Mr. Boyd, CCOC General Counsel, reported on the proposed Florida Bar rule that would provide that Chief Judges have authority over Clerks as to what programs the Clerks would have to provide. The Florida Bar Board of Governors has rejected that rule and sent it back to committee. Vote on the issue has been postponed until after the legislative session. The issue is still floating around with the idea it will be a legislative decision.

Mr. Boyd stated that regarding the Dade Issue, Attorney Bob Ginsburg, County Attorney in Dade County, issued an opinion on June 8, 2004 that unincorporated areas of Dade County are a municipality for the purpose of receiving certain revenues under section 142 and also Chapter 28, Florida Statutes. If this were the case, then it is projected that Dade County would be allowed to keep over \$7 million that otherwise would go to the Clerks' Trust Fund. The CCOC at its last meeting voted to ask the Dade

County Attorney to join with us in seeking an Attorney General's opinion as to where these funds should go. Mr. Ginsburg has not responded to a letter sent from CCOC General Counsel. A formal request for an opinion has been sent to the Attorney General and we are awaiting a response. Mr. Boyd noted that he has prepared, and will file tomorrow, a brief with the Attorney General. The brief suggests strongly that the Legislature is aware of the words it uses and when it says municipality, it means municipality, not unincorporated areas of Dade County. Mr. Boyd stated that at this time, we have done all we can in accordance with Florida Law and are just waiting for an opinion from the Attorney General.

Ms. Morse announced the next meeting will be held January 19, 2005 in Orlando.

Without objection, the meeting was adjourned at 3:35 pm.