

MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
EXECUTIVE COUNCIL
THURSDAY, MAY 19, 2005
TELECONFERENCE

The May 19, 2005 teleconference of the Executive Council of the Clerks of Court Operations Corporation (CCOC) was called to order at 1:30 p.m. by Chairman Maryanne Morse who welcomed members and guests. Members of the Executive Council of the Corporation present were the Honorable Maryanne Morse, Honorable Jeffrey K. Barton, Honorable Jim Fuller, Honorable Howard Forman, Honorable Harvey Ruvlin, Honorable Tim Smith, and Honorable Richard Weiss. Honorable Annie Mae Murphy was excused due to having to attend a friend's funeral out of town.

Ms. Morse announced to those non-Council members dialing in that if they wanted to speak they just needed to press *1 on their phone and this would allow us to recognize them for questions or comments.

APPROVAL OF MINUTES FROM APRIL 19, 2005

Ms. Morse asked if there were any revisions to the Draft Minutes from the April 19, 2005 Executive Council meeting. There being none, a motion to approve the minutes was made by Mr. Weiss and seconded by Mr. Barton. The minutes were approved as circulated.

TREASURER'S REPORT

Mr. Barton, Council Treasurer, reported between April 13, 2005 and May 10, 2005 that we received \$50,030. During this same period, the Corporation has disbursed 17 checks totaling \$44,595.69 leaving \$278,492.38 available for Corporation use.

SUBCOMMITTEE REPORTS:

Personnel:

Mr. Smith, chair of the Personnel Subcommittee, presented recommendations regarding compensation issues for the CCOC employees related to retirement, health insurance, and life insurance. The Council approved a budget last year that included a compensation package amount for CCOC employees. Mr. Smith outlined suggested benefits and estimated costs for these benefits. He moved that we accept these recommendations. Mr. Forman seconded his motion. Mr. Weiss asked if there was any legal requirement to provide the same level of benefits for all employees since the recommendation provided slightly different benefits between employees. Mr. Boyd responded that there is no such legal requirement and that the recommendation is within

the parameters of what is provided to state employees. A vote was taken and the motion passed unanimously.

Legislative:

Mr. Forman, chair of the Executive Council Legislative Committee, gave an overview of the 2005 Session. He stated that there were three particular bills he wanted to summarize for the members since they directly impact the CCOC. These are Senate bills 2600 and 2048 and House Bill 1935. None of these bills have been signed into law yet by the Governor.

First, Mr. Forman mentioned that SB 2600, the Legislature's Appropriations Bill, provides the authority for disbursement of up to \$30 million from the Clerks' Trust Fund for Clerk's budgets in FY 2005/06. Further, the bill provides for an appropriation of up to \$2 million to fiscally support the Corporation operations as well as fund positions for DFS. Secondly, Mr. Forman stated that SB 2048 provides authority for an additional 56 new judges to be appointed during county fiscal year 2005-06. He said this will fiscally impact those Clerks' offices that have to provide staff to support such judges. However, the good news is that HB 1935 provides authority for a Clerk to exceed their CCOC approved expenditure cap to help pay for such staff.

HB 1935 provides that the CCOC must present to the Legislative Budget Commission, for approval, any proposal to increase a Clerk's approved budget cap due to new judges, magistrates, or additional functions required by changes in law or court rule. Mr. Forman said the law provides that the total amount of increase to be approved by the Legislative Budget Commission (LBC) shall not exceed 2% of the maximum annual budgets approved by the CCOC. This would allow a statewide increase of up to approximately \$8 million if needed. Ms. Morse mentioned that the law further requires that the CCOC must take to the LBC information on how we verify that Clerks seeking money are meeting performance standards. She said we would be discussing this process further at the June meeting.

HB 1935 moves back the date Clerks are required to submit their budgets to CCOC from August 1 of each year to August 15th of each year. This was requested by the CCOC to allow Clerks a few more weeks for budget preparation. It also clarifies that 56.4% of the dollars from fines collected in the unincorporated areas of Dade County shall be provided to the Clerk. This clarifies legislative intent, since Dade County, after the original law passed in the 2004 session, claimed the percentage of dollars sent to the Clerk should be lower because they considered unincorporated areas of the county as a municipality.

Mr. Forman further mentioned that HB 1935 postpones the Clerk's responsibility for the redaction of records implementation from 2006 to 2007. Finally, HB 1935 requires the Corporation to develop a determination of indigent status form and provide this to the Supreme Court for final approval.

Mr. Forman thanked those Clerks who visited the Legislature during session and also met with their Legislators. He also thanked John Dew, Joe Boyd, Fred Baggett and Senator Rod Smith for playing key roles during the session.

Mr. Smith asked Mr. Ruvin if he was satisfied with the Legislative resolution of his issues since Dade County initially was going to have a budget crisis unless given authority to increase their budget cap. Mr. Ruvin said that his ability to meet his

contractual obligations (\$3.8 million) was his greatest concern and that the Legislature has given him authority to increase his budget expenditure cap by that amount. However, he still is a couple of million dollars short since the Legislature did not address revisiting the methodology used to determine estimated expenditures used to determine expenditure caps for the current budget year. The other issue concerning Miami-Dade County related to revenue from unincorporated areas. Mr. Ruvin said that Senator Rod Smith clearly indicated that that money collected in the unincorporated areas of Dade County had to be treated as if it were in the county and not part of the municipality. Therefore, with the passage of HB 1935, more dollars will be going to the Clerks' Trust Fund. Mr. Ruvin reported that Dade County wants him to make up that money from his non-court functions and he expects to be in strong disagreement with them on that issue. Mr. Ruvin thanked everyone on the Council for supporting his effort to resolve the budget problems in his office.

Hearing no further questions, Ms. Morse thanked Mr. Forman for the legislative report.

Performance Measures:

Ms. Murphy, chair of the Performance Measures subcommittee, was unable to attend the meeting and no report was provided.

Budget:

Ms. Morse stated that a report from the Budget subcommittee would be handled as part of the budget process presentation coming up as agenda item #6.

NEGOTIATIONS WITH DFS REGARDING EXPENDITURE CAPS

Ms. Morse stated that we have not received a response, either affirmative or negative, from the CFO's office regarding this issue. DFS staff said they are reviewing HB 1935 first, and it will be a couple of weeks before they complete their review.

IN-KIND SERVICES BUDGET ADJUSTMENT

Ms. Morse said that during our survey conducted in December to determine the actual expenditures of Clerks for FY 2003-2004, we found that 14 Clerks had under-reported their in-kind services dollars. We have held off making adjustments to their budgets while awaiting word back from DFS on our request for a potential change in the methodology used to determine expenditure caps. Because we have not heard back from them and we are already more than six months into this budget year, we need to make adjustments in their budget expenditure caps.

Mr. Dew pointed out that he has spoken with DFS staff and explained that the increase for these 14 Clerks is being done because we have better information and that the methodology agreed to under the current contract is still being used. He said they understood and agreed that the Corporation had the authority to increase such budgets.

Mr. Ruvin moved that the CCOC officially approve increasing the expenditure caps for the 14 Clerks outlined in Tab 5 of the Council meeting packet. The motion was seconded by Mr. Forman. The motion passed unanimously. Ms. Morse asked Mr. Dew to notify each of these 14 Clerks formally and to let them know they are required to

resubmit their budget to CCOC staff by June 30, 2005 if they chose to increase their budget.

BUDGET PROCESS FOR FY 2005/2006

Mr. Dew thanked Glenn Robertson and Mike Richardson for their help in developing the forms and instructions for the upcoming budget process as well as for previous budget cycles. Having the continuity of them on contract for both budget cycles helps immensely to make the process more efficient. He stated that the budget forms and instructions proposed for FY 2005/2006 have changed only slightly from the current budget year and each of those changes would be highlighted for Council approval. He asked Mr. Roberson to go over each of the modifications.

Mr. Robertson said that each of the items he was about to present for discussion had been reviewed and approved by the Budget FACC/CCOC Workgroup consisting of several deputy clerks from throughout the state. He asked the members to look at the checklist included in the packet because he wanted to present individually each proposed action for discussion and approval. Some of these proposals involve edits to the budget forms and instructions while others involve steps to be taken in development of implementation of the budget process. Executive Council members, after lengthy discussion, unanimously approved each of the following Action Requests.

Action Request 1-1 requires that booked forfeitures and child support reimbursement will be included in the revenues for calculating the revenue growth rate. Clerks may place forfeitures in liability accounts before booking them, giving them the ability to book forfeitures over time.

Action Request 1-2 authorizes the distribution, upon request, of Revenue Projection Templates developed by CCOC staff which can be used to assist Clerks in making revenue projections.

Action Request 2-1 authorizes staff to begin developing a process, for Council review, for adding clerk support for new judges as assigned. This includes developing individual staffing models in terms of FTE's and costs for these allocations.

Action Request 2-2 authorizes staff to begin developing a process, for Council review, for adding the costs of newly authorized function / program mandates to the expenditure cap. It also authorizes reviewing the potential need for cap adjustments to prepare for implementing a "redaction" function for court related records prior to January 2007 and developing a credible approach to costing out functions / programs, if necessary, prior to requesting an increase in the expenditure cap. Ms. Morse suggested that we table this action as there is no major impact to Clerks in budget year 05-06 since the redaction issue has been postponed for a year.

Mr. Weiss suggested that redaction could fiscally impact our budgets this year in preparing for implementation. Ms. Morse replied that a majority of the redaction process expense will be part of the recording function and not as much a part of the court function. Ms. Morse stated that the redaction law (effective January 1, 2007) requires that all sensitive information contained in a document be removed before posting the document to the Internet. She said she does not believe that redaction is to be retroactive prior to January 1, 2007. Mr. Weiss said that he has heard that it will be retroactive and that he needs to get started now to be ready by January 2007. Ms. Morse stated that we are not redacting information from a hard copy as the hard copy is a public document and

cannot be altered. Redaction will be done on images, and IT people will have to do this between now and January 2007. Mr. Smith said that until we determine if the redaction process is retroactive or not that we should proceed with Action Request 2-2 authorizing staff to begin the development of the processes previously described. He stated we have the redaction mandate beginning in 06-07 and it may not be wise to wait a year to get started. Mr. Weiss suggested that the impact may be minimal if you're just talking about staffing, but if it means converting microfilm to electronic imaging and you don't have enough money in Records or IT to do this, it's a bigger problem. Mr. Ruvin agreed that we should at least keep this issue open in this year's budget cycle and have staff review the issue more later.

Action Request 2-3 authorizes staff to develop a process for presenting mandate costs to the Legislative Budget Commission.

Action Request 3-1 requires Clerks to report the same amount of booked forfeitures on Exhibit G as reported on Exhibit A.

Action Request 3-2 approves clerks to include Cash Carry-Forward Funds from FY04-05 (approved budget revenues not expended) into FY 05-06 to help balance their budget.

Action Request 4-1 allows for a delay in recording re-openings as a performance measure until a definition / collection process can be fully developed during FY 05/06.

Action Request 4-2 approves the dissemination of final "Business Rules" to Clerks to assure definition, collecting and reporting consistency for "Timeliness" and "Collection Rate" measures.

Action Request 4-3 authorizes staff to develop a performance measure reporting process, for Council review, that meets the Quarterly Measurement Reporting requirements of the CFO for outputs and timeliness measures. Mr. Dew specified that the process format would be provided to the CCOC for review before submitting it to the CFO.

Action Request 5 approves a policy to assure revenue shortfall relief during the fiscal year and to protect the Trust Fund's ability to support deficit budgets and revenue shortfalls. Mr. Robertson referred members to the document, "Revenue Projections and Trust Fund Protection Policies and Procedures", included in their packet. This document explains that we have little historical data for the Article V budget process (less than a full year of the process) and that rebasing will impact a Clerk's 06/07 budget cycle. The Trust Fund balance must be sufficient to handle deficits and shortfalls that may occur during the budget year. The document also presents a Trust Fund Reserve, essential to ensuring that the Trust Fund can support any kind of unforeseen emergency revenue shortfalls or revenue projection shortfalls occurring for other reasons. The BAR process must protect the capacity of the Trust Fund in order to be certain that deficit counties are covered and then to be able to cover non-recurring revenue shortfalls (e.g. hurricanes) as well as revenue shortfalls of a recurring nature where revenues are not likely to be recouped (e.g. law enforcement is not ticketing as much as they had historically). We will need to verify the exact cause of the shortfalls (recurring or non-recurring) and determine whether the Trust Fund can support these shortfalls. We have three primary options for the BAR process: 1) Very restricted – approval for emergency situations only; 2) Partial relief concept – approval for shortfalls due to emergencies; and, if available, for non-emergency shortfalls, but only up to a limited level. For non-disaster related

shortfalls, the county would be required to “internally manage” at least the amount of revenue loss equal to a specified percentage of its CCOC Approved Budget revenue growth rate; or 3) Approval for full relief for emergency situations and for recurring and non-recurring revenue shortfalls to the full extent of the loss and up to the full capacity of the Trust Fund to provide support. The FACC/CCOC workgroup that evaluated these options concluded that Options 1 and 3 were not practical. Option 2 appears to be the best option. Ms. Morse recapped the three options. The members of the Executive Council agreed to go with Option 2.

Mr. Dew requested approval for the FY 2005/2006 budget forms and instructions as provided to the Council members and posted on the CCOC website. Mr. Forman moved to approve and Mr. Weiss seconded the motion. The motion to approve the budget forms and instructions passed unanimously.

CLERKS’ REVENUES AND EXPENDTURES UPDATE

Mr. Dew stated Clerks’ revenues were higher in March than in previous months. The Trust Fund is at approximately \$6.9 million, up a \$1 million over last month. Mr. Dew noted that if Clerks continue to collect revenues at the current rate there appear to be sufficient funds available to meet their budget needs.

OTHER BUSINESS

Ms. Bonnie O’Keefe, Director of Fiscal Operations for the Volusia County Clerk, asked for clarification of the FACC May 11, 2005 Advisory provided to the Clerk’s that attempts to clarify a Clerk’s responsibility for submitting 1/3 of their revenue to the Clerks’ Trust Fund. Ms. Morse said it is her opinion that while the law says you are to send 1/3 of your gross revenue to the Clerks’ Trust Fund, the CCOC has the authority to allow Clerks to keep some of these revenues if needed to meet their budget needs. Some monies should be held in reserve to help meet the following month’s expenses, keeping in mind that those Clerks paying employees biweekly will have two months in which there will be three payroll cycles instead of two. It is not realistic to send all excess to the Clerks’ Trust Fund each month and then to turn around and submit a BAR to CCOC requesting money to pay expenses for the next month if there is no revenue reserve. However, if there is money over and above what is needed to cover expenses, that excess should be sent to the Trust Fund.

Mr. Boyd emphasized that it is imperative Clerks follow the law and that CCOC will continue to make sure everyone understands the law. CCOC will be working with DFS and Legislative staff to make certain that we have consensus that the practical solution presented here is within both the letter and the spirit of the law. No one should take from this conversation that CCOC or the Executive Council is advocating not following the law. Ms. Morse agreed and said we will continue to work on this issue to assure we do what is correct.

Indigent Forms

Ms. Morse presented the draft Indigent Status Application Forms to the Council members for their approval. She noted that HB 1935 requires the CCOC to develop this form and submit it to the Supreme Court for approval. Because the form needs to be in place by July 1, 2005 we have expedited the form development process. She asked if

Council members or anyone on the phone conference call had suggestions. Hearing none, she suggested some minor edits. She suggested increasing space on the form for writing dollar amounts, adding a period on item #4, and on both forms changing the word 'including' to 'include'. Mr. Dew reported that he received a call from Sheldon Gusky, the Executive Director for the Public Defenders' Association today. Mr. Gusky said he sent the draft forms to the Public Defenders for their review and that they were asked to get comments back to us before the Council meeting. Mr. Dew noted that no comments had been received prior to the meeting. Hearing no objection, the draft forms, with the suggested edits, were approved. Ms. Morse asked CCOC staff to send them to the Supreme Court.

An announcement was made that the next meeting of the CCOC Executive Council will be held Sunday, June 12, at the Marriott Sawgrass in Ponte Vedra. There being no further business the meeting was adjourned.