

**MINUTES**  
**FLORIDA CLERKS OF COURT OPERATIONS CORPORATION**  
**EXECUTIVE COUNCIL**  
**TUESDAY, OCTOBER 11, 2005**  
**TELEPHONIC**

The October 11, 2005 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) was called to order at 1:00 p.m. by Chairman Maryanne Morse who welcomed members and guests. Members and staff of the Executive Council of the Corporation present were the Honorable Maryanne Morse, Honorable Jeffrey K. Barton, Honorable Ken Burke, Honorable Howard Forman, Honorable Harvey Ruvin, Honorable Tim Smith, Honorable Richard Weiss, John Dew, Joseph Boyd, and Judy Zorn. Honorable Annie Mae Murphy was absent from the meeting.

**MINUTES**

Ms. Morse asked for a motion to accept the Minutes of the September 13, 2005 meeting in Sarasota and telephonic continuances September 20 and 30, 2005 as distributed. Mr. Smith so moved with Mr. Burke seconding. The motion passed unanimously.

**SUBCOMMITTEE REPORTS:**

**PERFORMANCE MEASURES**

There was no report on Performance Measures.

**TREASURER'S REPORT**

Mr. Barton reported that since the September 7, 2005 report the CCOC has received \$188,000 and disbursed \$106,018.97 leaving an available balance of \$104,701.63. In addition, we have pending revenues of \$90,000. Upon receipt of these monies, the available balance will be \$194,701.63. Motion was made by Mr. Weiss and seconded by Mr. Smith that we file the report for audit. The motion passed unanimously.

**PERSONNEL**

Mr. Smith had no issues to report on at this time.

**LEGISLATIVE**

Mr. Smith related that he is a member of and attended the FACC Legislative Committee Meeting October 10 in Tallahassee. He reported that there are a number of proposed issues relating to budget items. It is his understanding that the FACC Legislative Committee will forward this proposed legislation to CCOC since they are court-related budget issues. He further reported that Mr. Baggett, General Counsel for the FACC, told the group that this may not be a good year to recommend fees and

budgets increases and that he envisions Article V taking a back seat to other issues this year.

Mr. Dew reminded the members that at the September 30 teleconference meeting, the Executive Council recommended they hold, in conjunction with the November 15 meeting, a special workshop to discuss legislative issues. Mr. Weiss requested that we get copies of FACC's legislative information for review before that meeting. Ms. Morse stated that this will not be a problem.

Mr. Forman announced that there is a House Judiciary Appropriations Committee meeting October 20. He has requested the Agenda.

### **CCOC-FACC SERVICES CONTRACT**

Mr. Weiss thanked CCOC staff in their efforts to work on the services contract and requested Mr. Boyd to provide an update. Mr. Boyd said he has been meeting with Mr. Baggett but that they have not yet reached agreement on all issues. Mr. Ruvin asked Mr. Boyd why we are moving ahead with this contract given that we were criticized for not doing competitive bidding in our last audit. Ms. Morse responded that we do have a second vendor approved through DFS. While Mr. Ruvin agreed that FACC may likely be seen as a strong contender, he moved that we follow our auditor's comments and commence the competitive process for our consultant contracts. Mr. Forman seconded the motion.

Mr. Burke pointed out that the audit report also stated that if we feel a Request for Proposal (RFP) is not advisable, we can document this in the minutes. Mr. Burke remarked, with Mr. Smith's concurrence, that he feels FACC is the most qualified to do the work. However, Mr. Smith suggested that we develop a scope of services and if we believe other entities in addition to FACC have the ability to provide the services we need, then we should do a RFP. Mr. Ruvin agreed to incorporate the development of a scope of services into his motion and also stated that he is open to not going forward with an RFP if that is the Council's decision. Mr. Forman agreed to the modification of the motion. Mr. Weiss asked if, considering this motion, we are requesting that Mr. Boyd stop negotiation with FACC on this contract until the scope of services has been completed and a decision made. Ms. Morse answered that such negotiations would cease until a decision is made concerning the scope of services and the need or not for a RFP process. The motion, to determine the scope of a services contract and ascertain the possibility of a competitive bid process, passed unanimously.

### **BUDGET CERTIFICATION PROCESS**

Ms. Morse announced that the meeting packet included a draft of the report on Clerks' certified 05/06 court-related budgets and performance on established standards. She said the draft report, by law, is to be sent to the President of the Senate and Speaker of the House, Chief Financial Officer, and Department of Revenue. We are requesting each Clerk review the draft report for accuracy. If there is a problem with any of the data, the deadline for notifying CCOC is Thursday, October 13. Mr. Dew will hand-deliver the report Friday, October 14 to meet our October 15 due date.

## **LEGISLATIVE BUDGET COMMISSION PROCESS (LBC)**

CCOC received the LBC guidelines from LBC staff on September 28. They were immediately distributed to all Clerks who would be requesting cap amendments from the LBC. These Clerks responded to the CCOC with the required information within 3 work days of receiving the request for information. Ms. Morse thanked the Clerks for working so hard and reported that the CCOC is pushing to have everything ready for the October 20, 2005 LBC meeting.

She noted that there is a concern with the draft LBC process and instructions provided to the CCOC. The LBC usually goes through the Governor's Office of Planning and Budgeting for the checks and balances of requests submitted by agencies. However, the Governor's Office is not involved in the review of requests by Clerks but DFS is serving in the role of reviewing the budget packet developed by the CCOC. A particular concern is determining how the DFS interprets reviewing "reliability of data" in the CCOC packet which is a role the LBC gave DFS in the draft process. The question is whether data reliability means that DFS must visit all counties to verify accuracy of the data CCOC is presenting and conduct their regular audits of the Clerk or does it mean picking up the phone and seeking answers to questions.

Because we are still pushing for inclusion on the October 20 LBC Agenda it does not make sense that DFS would have to do an audit of Clerks seeking a request prior to LBC approval. Despite the outcome of these discussions with LBC and DFS leadership, Ms. Morse stated that it is imperative that Clerks going through the LBC process maintain an upbeat and positive attitude that we will eventually get this accomplished but at the same time provide those services necessary to support the judiciary and the public. There is always a possibility that we will not make the LBC Agenda on October 20 and/or that the LBC may not approve the information until it is verified by a complete DFS audit.

Ms. Morse stated she is sending a letter to the LBC Chair and Vice-Chair requesting notification of our inclusion on the October 20 Agenda. The next LBC meeting after the October meeting is not scheduled until early December; but with judges coming on board in November, we cannot maintain the level of service without additional staff.

Logistically, as a Council, we must approve the data provided by each Clerk asking for a cap amendment and submit a packet request to the LBC. This information, included in your packets, is the information we will provide to the LBC on each Clerk's behalf. A number of Clerks that have additional new magistrates and/or judges are going to provide staff within their already approved cap. However, there are 25 Clerks seeking an increase in their expenditure cap.

Ms. Morse noted that the DFS will review the LBC packet created by the CCOC from these 25 Clerks. Mr. Smith asked what data provided by the Clerks may be questionable by DFS and therefore require them to do a complete audit. Ms. Morse responded that while DFS has had access to most of the information requested, they have not reviewed the Performance Standards data since this has only recently been submitted by Clerks. Mr. Smith suggested that the LBC approve the cap amendments for the counties receiving judges with the stipulation that the amount can be adjusted if an error is found at the time of an audit. Any information provided by a Clerks' office is public information and has been reviewed, audited, and certified. Ms. Morse cautioned that,

because this is a brand new process, it is a matter of interpreting the words 'data reliability' and further stated that DFS is not trying to be a stumbling block in the process but in fact has a job to do and is trying to help the Clerks through the process.

Mr. Weiss suggested that while he currently meets all performance standards, he will not be able to meet them if he cannot hire and train staff before his new judges take the bench. Mr. Weiss said he needs to already hire people and begin training now because he has no other choice if he is to support the judges coming in November and maintain his level of service to the public.

Mr. Richard Donelan, Counsel for DFS stated, for the record, that this is a process created by the LBC and not by the DFS. DFS' role is to assist Clerks in being able to put their best foot forward, not to slow the process down in any way. He stated that if the LBC will accept the data from the CCOC without DFS having to go down to each Clerk's office and made an inspection of that office then this would be fine with DFS. Mr. Ruvin commented that he wanted to thank the DFS staff for their effort in this process.

Ms. Morse said that because this is a new process that there has to be some concessions made the first go around to accommodate the needs and requirements of the Clerks as well as the LBC. If this were a year or two down the pike then I think it would be a difference scenario. However I believe the majority of the members of the LBC can understand the urgency of the situation and understand the problems in trying to get a new process up and running and off the ground while at the same time having to staff new judges.

Mr. Pittman, Honorable Clerk of Pasco County, asked if CCOC has given thought to communicating our concerns directly to members of the LBC, both legislative and staff persons. Ms. Morse stated that legislative staff drafted guidelines and forwarded these to Representative Joe Negron (LBC Chair) and Senator Lisa Carlton (LBC Alternating Chair) who signed off on the guidelines and forwarded them to CCOC. CCOC then sent that information to each of the affected Clerks. She added that we have spoken with them, with legislative staff, and with DFS staff on issues regarding the process. They are aware of the situation across the board.

Mr. Irby, Honorable Clerk of Alachua County, said he agreed with Mr. Weiss's earlier comments that we have to go ahead with hiring staff right now to support the new judges regardless of what happens in the LBC process because the Clerks have a job to do. However we have to hope for some financial relief from whoever can help us.

Mr. Forman made a motion, which was seconded by Mr. Weiss, to accept the LBC budget amendment recommendation as provided under Agenda Item #6 in the meeting packet and move this issue forward for the October LBC meeting. Mr. Dew clarified that Honorable Tim Sanders, Clerk of Madison County, has not requested the entire \$35,000 per position for his cap amendment. Rather he needs \$30,186 per position with the total being \$45,279. Therefore the total LBC request for the 25 Clerks will be revised from \$5,085,546 to \$5,078,325. The motion passed unanimously.

## **REVENUE – EXPENDITURE REPORT**

Mr. Dew reported that we are doing well with revenues of \$39,000,000 and expenditures of \$32,600,000. The current Trust Fund balance is \$7,800,000.

## **OTHER BUSINESS**

Mr. Ruvin expressed concern about Clerks being held financially responsible for contracting for legal representation in bond forfeitures which occurs when there's a lawsuit for a remission of a forfeited bond. He questioned if we need to make a budget request to handle this? Mr. Ruvin explained that before Article V, county attorneys handled these cases. The first glitch bill made this a state attorney responsibility. However language added in the last legislative session declared Clerks the party in interest stating that they can contract with a private party to handle these cases. Mr. Ruvin reported that his state attorney turned this over to him stating that other Clerks they contacted are handling the responsibility. Mr. Ruvin asked if Clerks who are handling this responsibility have made it part of their budget request or are they just absorbing it? Ms. Morse reported that Seminole County contracts with its own legal counsel for these services and that the associated costs are included as part of her general operating expense. Mr. Ruvin requested anyone with additional information to please email it to him.

Mr. Burke reported that the DFS personnel who came to their office a couple of weeks ago were competent, professional, and easy to work with. He wondered if DFS could have a person assigned to talk at the Council meetings when problems / questions arise. Mr. Donelan responded that DFS is always in attendance at the meetings and available to answer all questions. He further stated that, this being the meeting of the Executive Council, DFS will be glad to speak only when requested to do so.

Ms. Morse adjourned the meeting at 1:53 p.m.