

MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
EXECUTIVE COUNCIL
TUESDAY, NOVEMBER 15, 2005
FLORIDA MALL HOTEL
ORLANDO, FLORIDA

Ms. Morse announced that we had recessed the October 11, 2005 meeting in the event that we would need to reconvene immediately before the Legislative Budget Commission meeting. As the LBC meeting did not occur and no Executive Council meeting was necessary, she entertained a motion to adjourn the October meeting. Mr. Barton so moved with Mr. Burke seconding his motion. The motion passed unanimously.

Ms. Morse called the November 15, 2005 meeting to order. The November 15, 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.

AGENDA

Ms. Morse asked if there were any changes to the Agenda. There being none, the Agenda was approved as circulated.

MINUTES

Ms. Morse entertained a motion that the Minutes to the October 11, 2005 meeting be approved with the amendment that the meeting was adjourned rather than recessed. Mr. Weiss so moved with Mr. Barton seconding his motion. The motion passed unanimously.

TREASURER'S REPORT

Mr. Barton reported that since our last meeting, the Corporation has received \$110,220.29 and disbursed \$97,209.46 leaving an available balance of \$117,712.46. The breakdown is included in the packets.

Mr. Barton moved that the Financial Report be filed for audit. Mr. Smith seconded the motion. There being no discussion, the motion passed unanimously.

PERFORMANCE MEASURES

Ms. Murphy was not present. There were no issues regarding Performance Measures.

BUDGET AMENDMENT REQUEST – Santa Rosa County

Mr. Dew reported that Santa Rosa suffered a direct hit from Tropical Storm Arlene and from Hurricane Dennis which impacted their revenue collections. They are seeking an amount of \$34,809. They had over-submitted to the Trust Fund the amount \$89,266 and need to get the \$34,809 back to pay back the county. Santa Rosa has still under-expended their cap. We did this last year under similar circumstances. Mr. Barton moved approval of the BAR with Mr. Smith's second. The motion passed unanimously.

BUDGET-RELATED ISSUES

Mr. Dew reported that when the budgets were approved by the Executive Council in September, Exhibit G – Revenues contained the cash-carry forward projection. We realized that once the books were closed, we would have to go back in some cases to revise that projection for either increase or decrease. Mr. Dew requested guidance as to whether the Executive Council would be comfortable with Mr. Barton and Mr. Dew reviewing and revising these amounts once the books are closed and final reports are submitted. Ms. Morse asked if, with altering the cash-carry forward amounts, the amended budgets would need Executive Council approval. Mr. Dew noted that this change will not alter the expenditure cap; it simply alters the payment to or from the Trust Fund. Ms. Morse asked for Mr. Boyd's opinion as to legality. Mr. Boyd stated that what Mr. Dew is asking is legal. Mr. Barton suggested the Council approve their making the changes with those changes being presented to the Council at its next meeting in January. Mr. Weiss seconded the motion. Mr. Boyd agreed that this might be preferable. Ms. Morse stated that clerks have until January 31 to remit funds as required, so that there would still be time to accomplish this after the January meeting. Mr. Dew noted that a deficit county with a sufficient cash-carry forward amount would have the option of keeping the money and becoming a surplus county or sending the money to the state as settle-up in January and remaining a deficit county receiving a monthly check from the Trust Fund. He would like for the process worked out before the next meeting so guidance can be given to the Clerks as to their responsibility with this issue. Mr. Burke suggested that the Council authorize staff, working with Mr. Barton as Council representative, to initiate the changes and notify the Executive Council of the changes in January thereby eliminating any delay in the changes taking effect. When asked, Mr. Dew stated that not more than half of the 67 counties would be affected by this issue. Mr. Barton and Mr. Weiss withdrew their motion and second. Mr. Burke moved that the Council authorize staff, in conjunction with Mr. Barton, to make and approve the changes regarding the cash-carry forward issue with notification to the Council in January. Mr. Barton seconded. When asked if the state would have a problem with settle-up monies not being submitted as a result of the cash-carry forward issue, Mr. Dew reported that Legislative staff and DOR are aware of this and DOR is drafting instructions to be sent to the Clerks' offices regarding settle-up dollars. Mr. Dew suggested they take the cash-carry forward issue into consideration; and if Clerks have any questions, they can contract the CCOC office. There being no further discussion, vote was taken and the motion passed unanimously.

Mr. Dew reported that previously there was language in the Minutes clarifying that Clerks have the authority to move monies from category to category within their budget without doing a budget amendment. This year we did not specifically add that

clarification language. Mr. Dew requested that such clarification be included in these Minutes. Ms. Morse stated that we approving bottom-line figures as opposed to specific dollar amounts for each category of the Clerks' budgets. Mr. Barton so moved with Mr. Weiss seconding and the motion passed unanimously.

PERSONNEL COMMITTEE

Mr. Smith introduced the issue of insurance for personnel and for our assets. Our auditor notes that we are a blended component unit of the state and as such have certain compliance requirements. Section 5-E, real property and equipment management states that non-profit entities purchase and maintain insurance on behalf of the directors, officers, and employees of the non-profit entity against any personal liability or accountability by reasons of actions taken while acting within the scope of their authority. He reported that it is in the best interest of the corporation to look at Workers' Comp and liability insurance for the employees as well as content insurance. While content insurance falls outside the scope of the Personnel Committee, Mr. Smith recommended the Council appoint a committee, on which he would be willing to serve, to work with Mr. Boyd and Mr. Dew to draft an RFP to bring back to the Council in January for possible action at that time. Ms. Morse asked for Mr. Boyd's opinion. Mr. Boyd stated that the Corporation does not have sovereign immunity. While the Council is under sovereign immunity, the ex-officio members are not. He recommended pricing Officers and Directors insurance in addition to Workers' Comp. He suggested drafting an RFP and gathering quotes. If they are reasonable, they can be discussed at the January meeting; and if not, we can further negotiate. Ms. Morse asked that Mr. Smith serve on the committee and discuss the issue with Mr. Boyd and Mr. Dew.

LEGISLATIVE SUBCOMMITTEE

Ms. Morse stated that we will address Legislative issues at the Legislative Workshop.

LBC PROCESS

Ms. Morse announced that a special session has been called for the week we had hoped to appear before the LBC. It does not look optimistic for our meeting with the LBC. If we are not able to meet with the LBC at this time, our next opportunity is January 12, 2006. Mr. Weiss restated his issue that counties need to get staff onboard before then to have them trained for judges who are starting in November and in January. Mr. Ruvin suggested that we get a letter to Legislative leadership detailing the problems Clerks incur when judges are approved and appointed with the hope that laying the groundwork will make approval easier. Ms. Morse stated that, absent objection, the Corporation will draft the letter.

Mr. Dew stated that our relationship with DFS has been very positive with regard to this issue. Legislative staff gave them permission to do a desk audit rather than a site audit of each Clerk's office. They requested that the Corporation split the magistrates from the judges and to submit the timeliness performance measures as actual percentages. With Mr. Robertson's help, those changes were made within two days and have been submitted. Ms. Morse thanked DFS and commended Mr. Dew for working through some of these issues.

Mr. Forman suggested talking with the Legislators as well as their staff regarding these issues.

SERVICES CONTRACT

Mr. Dew reminded the Council that at the last meeting, Mr. Ruvin moved that we look at specific tasks regarding the scope of the Services Contract. The memo in your packet lists specific tasks suggested by Mr. Dew, Ms. Morse, and Mr. Weiss. While the Council may add to this list, we are now able to develop an RFP to send to potential vendors, generating responses that we can bring to the Council in January. We may need to have a list of vendors. Mr. Dwyer, Auditor General's Office, announced at the Justice Appropriations meeting in the House of Representatives that they were critical of the Corporation for appearing to be sole-sourcing subcontractor tasks. Representative Siler (?) stated that an RFP should be done in all cases. Mr. Dew responded that we were planning to do an RFP for the services contract which is our largest contract. Mr. Weiss moved that Mr. Dew and Mr. Boyd work together to prepare and RFP for the items listed in the packet and hopefully report back at the January meeting with the results. Mr. Ruvin seconded the motion adding that the RFP could include other items as deemed necessary. There being no discussion, the motion passed unanimously.

REVENUE-EXPENDITURE UPDATE

Mr. Dew reported that in September, local revenues were nearly \$40 million, the second highest month for revenues. Expenditures were nearly \$46 million, the highest for expenditures. This was expected due both to payrolls and to the Clerks waiting to purchase items until such a time as they knew they would have the money. There are sufficient funds in the Trust Fund to cover our needs. The Trust Fund balance as of the end of last month was \$9,535,476.58, one of the highest balances we've had. Mr. Dew spoke with DOR and Economic Demographic and Research regarding sweeping the Trust Fund. They have agreed to allow 2% of expenditures (approximately \$8.3 million) to remain in the Trust Fund at all times to cover potential needs. They'll sweep anything above that amount in January and June of 2006.

OTHER BUSINESS

Ms. Frank, Clerk of Hillsborough County, appearing telephonically stated that she could not hear most of the meeting. Ms. Morse responded to her questions regarding the LBC meeting and the Cash-Carry Forward issue.

Mr. Forman stated that David Ellspermann, Clerk of Marion County and member of the FACC Legislative Committee, supplied the Corporation with a list of potential legislative issues. The Corporation chose those issues involving us, approximately 60 to 70 issues. These issues will be discussed at the Legislative meeting immediately following this meeting.

Ms. Morse announced that the next Executive Council meeting is scheduled for January 19, 2006. This may be held telephonically especially if we meet with the LBC January 12. Mr. Forman moved to recess the meeting. Seconded by Mr. Barton, the motion passed unanimously. The meeting was recessed at 1:45p.m.

Ms. Morse called the Council Meeting back to order. Mr. Weiss moved that Mr. Forman draft a summary of the legislative proposals involving fees and send them to the

Council so we can bring them back to the January meeting for discussion. Mr. Barton seconded the motion. Mr. Forman stated that he will meet with Mr. Boyd, Mr. Baggett, Mr. Ellspermann, and other interested parties to compile the list of legislative issues of interest to CCOC. The motion passed unanimously.

Ms. Morse adjourned the meeting at 4:13 p.m.