

**MINUTES**  
**FLORIDA CLERKS OF COURT OPERATIONS CORPORATION**  
**EXECUTIVE COUNCIL**  
**TUESDAY, APRIL 8, 2008**  
**JACKSONVILLE, FLORIDA**

Mr. Forman, Council Chair, called the April 8, 2008 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) to order at 1:00 pm ET. He welcomed members and guests. Members of the Executive Council present were the Honorable Howard Forman, Honorable John Crawford, Honorable Marsha Ewing, Honorable Bob Inzer, Honorable Tim Sanders, and Honorable Richard Weiss. Honorable Harvey Ruvlin and Honorable Charlie Green were present telephonically.

**AGENDA**

Mr. Forman asked for approval of the Agenda. Mr. Crawford moved approval. Mr. Inzer seconded the motion which passed unanimously.

**MINUTES**

Mr. Forman asked if there were any changes to the February 8, 2008 Executive Council meeting minutes. There being none, Mr. Inzer moved approval of the minutes as circulated. Mr. Weiss seconded the motion. The motion passed unanimously.

**TREASURER'S REPORT**

Mr. Weiss reported that 67% into our fiscal year most budget items are well within budget. In total, we have expended 43.1% of our allowed budget and 43.2% of our annual education budget. There are adequate funds to run the Corporation.

**COMMITTEE REPORTS**

**FINANCE AND BUDGET COMMITTEE**

Mr. Weiss, CCOC Treasurer, reported that the Finance and Budget Committee met telephonically on Wednesday, March 26, 2008. The Committee reviewed and approved most of the items presented to the committee at that meeting. Mr. Weiss asked CCOC staff to present each of the items.

**Budget Amendment Requests (BARs)**

The Finance and Budget Committee reviewed two Budget Amendment Requests. Brevard County is requesting approval to expend up to their approved budget cap. They had originally projected they would need less expenditures than their cap allowed. This BAR will allow them to increase expenditures by \$87,014 dollars but still be within their

cap. Calhoun County is experiencing a revenue shortfall. They originally projected revenues of \$442,900 for FY 07-08 but it appears they will realize only \$380,747. Calhoun is requesting help through the CCOC 2% revenue shortfall policy. This BAR will provide \$9,931 in additional revenues. Both were approved by the committee and are presented for Council approval today. Mr. Weiss moved approval of the two BAR's with Mr. Crawford seconding the motion. The motion passed unanimously.

#### Budget Education Training Programs

Mr. Robertson, of Glenn Robertson & Associates, reported on the recently developed Budget Education Training (BET) Program. Because we will soon have four full years of budget data for all Clerks, we are better able to 1) identify evolving budget opportunities and problems and respond to them, 2) analyze and monitor expenditure patterns over time and monitor, manage, and project expenditure requirements, and 3) see the impacts of more or less revenues and expenditures on a Clerk's ability to process workloads, meet performance standards, and fulfill the obligations of the Clerk's office. The priority BET programs relate to 1) using red flag systems, 2) rebasing and revenue projections, 3) finding efficiencies, and 4) responding to budget reduction requirements. Mr. Robertson briefly explained each of the BET priority programs that will be presented, in part, at the Regional Budget Instructions Training Workshops. It is hoped that these presentations will provide guidance for developing future full-scale presentations in various mediums. He stated that we wish to tailor programs to what the Clerks need and the format in which it will be most helpful to Clerks and their staff. Mr. Green would like to see us develop a program to help larger counties with bigger budgets that are currently not surplus counties become surplus counties. Mr. Dew reported that we are focusing on identifying those counties having difficulty meeting revenue projections, trying to understand why they are having difficulty and helping them overcome the problem(s). Mr. Dew further noted another opportunity would be to help Clerks who do not have surplus dollars find additional sources of revenue. Mr. Inzer noted that statewide, half of our revenues come from traffic. In some counties where the majority of the population lives in unincorporated areas the Clerks get to keep 100% of the fines and forfeiture revenues collected. In largely incorporated counties, however, revenues collected per ticket are significantly less. Revenues are also a factor of the number of tickets written versus other types of cases. There are a great number of factors besides total population, total revenue, and total cost to consider and some of these are beyond the Clerk's control.

#### Regional Training Sessions to date

Mr. Forman noted that to date Regional Budget Training Programs have been scheduled in Marianna, Sarasota, Viera, and Gainesville. In addition, a training session will be held in Daytona Beach at the Summer Conference.

#### Update on Collections Agent Survey.

CCOC has contracted with FACC to provide updated Clerk collection agent data. Mr. Isabelle sent a survey to Clerks to help determine their use of Collection Agents in FY 2006-07. As soon as CCOC receives the information from FACC, they will review

and analyze the data, distribute it to the Finance and Budget Committee, and report the results to the Council at its meeting in June at the Summer Conference.

#### Trust Fund Reconciliation Process

Mr. Culp reported that, with the addition of a new staff person, CCOC is now reconciling the monthly Trust Fund remittances as they are reported to CCOC on the Revenue and Expenditure Report with what has been received by DOR. This issue was identified by the Auditor General in the prior year's audit report.

#### Charlotte County BAR

Charlotte County has requested \$85,050 additional budget cap authority for 1.5 Records Department Court-Related FTE's not included in their initial Article V Court-Related budget. Before approval, the Finance and Budget Committee requested that CCOC make sure that we have answers to any questions that might be asked regarding this issue. CCOC is scheduling a visit to Charlotte County to ensure that all required information is submitted before taking this back to the Finance and Budget Committee and possibly bringing it to the Executive Council.

#### PERFORMANCE MEASURES COMMITTEE

Ms. Ewing, Committee Chair, reported that the Performance Measures Workgroup met in Altamonte Springs, March 12, 2008 to discuss the current performance measures and standards and to discuss FY 2008-09 performance measures. The Workgroup members suggested that no adjustments be made to the current levels. At issue is the state of the economy and the possibility that some Clerks will be less likely to meet the standards as a result of decreased revenues, the number of civil cases, and the increase in foreclosures. The Workgroup felt that not altering performance measures standards will aid in preserving the history which will ultimately portray the impact of the current fiscal environment on Clerks' offices. Clerks may not be able to meet the standards, but their inability to do so may be the result of their not being able to hire the staff to make it happen.

Regarding Collections, the Workgroup also discussed the issue of some counties seemingly doing a better job of collections than others. Lower collections numbers could be the result of how the data is being extracted and reported. A suggestion was made that CCOC staff visit some of these counties to ensure that they are extracting and reporting data correctly.

Last year, the Workgroup recommended that Information Reporting be considered as a performance measure for FY 2008-09. This measure would require an annual report from Clerks determine the extent of their submittal of statutory and court-rule required reports. The Workgroup agreed to continue moving Information Reporting forward as the next performance measure and will discuss it further at their next meeting.

Mr. Shore asked about CCIS. Ms. Ewing reported that she and others met with FACC staff March 11th to discuss the possibility of extracting performance measures data from FACC's CCIS system. Martin County, as a test county, will work with FACC staff on timeliness beginning later this year. Ms. Ewing will continue to pull the numbers as in the past and compare her data to that extracted through the CCIS system.

## PERSONNEL COMMITTEE

Mr. Sanders introduced CCOC's newest staff member, Lacey Picariello, who graduated from FSU in December and began with CCOC in January.

Mr. Sanders also congratulated Mr. Dew on his milestone 50<sup>th</sup> birthday.

## LEGISLATIVE COMMITTEE

Mr. Green, Committee Chair, reported that during this session there are two key bills affecting Clerks. The Audit Bill, SB 640 will be going before the Senate Community Affairs Committee at 4 pm tomorrow. It's moving along fairly well. The other is the Fee Bill, SB 1790. There are a lot of things going on with this bill, but it's moving along well in the Senate. There are four weeks left in the Session.

Mr. Forman noted that many have been tracking SB 1636, the Collection Court Bill. It was originally intended as a study and has now taken on a life of its own. There are differences between the Senate and House versions of this bill. In some areas Collection Courts have been profitable; in other counties they haven't. Mr. Inzer asked what our collective opinion is regarding this bill. Mr. Forman suggested that we should all be in favor of the collection method that costs the least and collects the most and the method that works best may vary from one county to the next. Mr. Ruvin, Mr. Forman, and Mr. Green reported that Collection Courts have not proven to be cost- or time-effective in their counties. Mr. Inzer reported that Collection Court does work for Leon County. He would suggest we do some empirical analysis before we decide one way or the other. Mr. Inzer moved that we don't take any position on SB 1636. Mr. Weiss seconded the motion. The motion passed 5-3 with Mr. Forman, Mr. Ruvin, and Mr. Green voting against the motion.

## **CCOC EXECUTIVE COUNCIL ELECTIONS PROCESS**

With the implementation of Revision 7, Article V of the State Constitution, the Florida Legislature revised and adopted Sections 28.35 and 28.36, Florida Statutes creating the CCOC. By its Plan of Operations, CCOC is required to elect an Executive Council comprised of eight Clerks elected by the Clerks of Court to serve a term of two years. Two Clerks are elected from counties with fewer than 100,000 residents, two Clerks from counties of at least 100,000 but fewer than 500,000 residents, two Clerks from counties of at least 500,000 but fewer than one million residents, and two Clerks from counties with more than one million residents. A survey was sent to each Clerk asking them to indicate their interest in serving on the Council. The deadline for returning this survey is April 15, 2008. Prior to May 15, 2008, ballots will be mailed to each Clerk of Court. Ballots must be returned to Lanigan and Associates, the Auditing firm that will open and count the ballots and certify the results of the election. Mr. Dew reported that we have had thirty-seven Clerks return interest surveys, eight of whom have indicated interest in serving on the Council. We will contact all Clerks who have not responded to the interest survey.

## **UPDATE ON GENERAL COUNSEL ISSUES**

Mr. Boyd updated the Council on the issue of the reopens fee involving potential litigation in Pinellas County. Mr. Boyd suggested that regarding the Collections Court issue, he agreed that the appropriate stance is gathering more information before making any recommendation.

Mr. Boyd also discussed the Uniform Traffic Citation Case about which Mr. Fuller, Duval County Clerk, has kept us apprised. The same attorney has filed similar cases in Dade and Broward Counties. Mr. Boyd issued his opinion to CCOC. The question is whether or not funding for contribution toward settlement of those claims is a matter that should be coming through the CCOC. His opinion is that it should not be coming through the CCOC. He stated that he have brought this issue to the attention of Robin Lotane, the new General Counsel for DHSMV. He is not sure it's really a problem when you read the statute and use common sense, but to date there has not been a court determination that the process being followed is correct or incorrect. The real issue, in his opinion, is that it shouldn't be handled county by county and it shouldn't be handled at the expense of the Court Clerks. It is a Highway Safety issue regarding the way their statutes are being construed so we have passed it on to Highway Safety. Mr. Boyd isn't telling Clerks to not be concerned. Rather he would like to see a court determination on the issue or notification from Highway Safety as to how they are going to change their procedures to avoid similar suits in the future. Ultimately the General Counsel's opinion is that CCOC is not a deep pocket for this issue. Ms. Ewing asked if FACC has plans to address this issue. Mr. Fuller stated that Mr. Baggett is reviewing it to see if language can be tacked onto the end of the Highway Safety Bill.

## **UPDATE ON BUDGET FORMS AND INSTRUCTIONS**

Mr. Culp noted that the Council discussed the 08-09 budget forms and instructions at the February 8th meeting. They were presented to, and reviewed and passed by the Finance and Budget Committee. There were three modifications to the prior year's budget instructions and forms. The dates and time frames were one of the changes. In Exhibit E we added the ability to utilize a dollar amount instead of having to back into the reserve amount as a percentage. And in Exhibit G we added Information Reporting as a new output measure. The Budget Forms and instructions have been disseminated to all interested parties. Because there are so few changes to the forms, we request that the Executive Council pass them so we can begin training this year's budgeting on these forms and instructions. Mr. Crawford moved that approval of the 2008-2009 Budget Forms and Instructions. Mr. Weiss seconded the motion which passed unanimously.

## **REBASING TRENDS**

Mr. Culp reported that as each budget year progresses, CCOC staff looks at the revenue numbers on a monthly basis and begins to look at the rebasing numbers and whether it appears a Clerk's office will be rebased up or down. Current trends show that

many Clerks project to have their initial cap increased due to actual revenues being higher than projected. A small number of Clerks will be disadvantaged as a result of rebasing. We have included in your packet a letter written from Mr. Dew to Legislative staff concerning information requested regarding Clerks who may be disadvantaged due to rebasing. Nine Clerks were identified as being disadvantaged between FY 04-05 to FY 06-07. Six of those Clerks experienced negative growth and three experienced less than 3% annual growth. In trying to annualize numbers for this year, it appears that six Clerks at the end of FY 07-08 will still be disadvantaged or have negative growth. At the Finance and Budget Committee Meeting we discussed monitoring this on a monthly basis and using this data in our budget education and training. They also discussed visiting any offices that appear to be facing being rebased down or that have significant revenue shortfalls. Mr. Culp feels staff can be very insightful and helpful in many instances and we intend to do so.

Mr. Green warned that, when doing their budgets for the coming fiscal year, Clerks will need to be very careful projecting growth. Mr. Dew responded that the first year we did rebasing no counties projected negative growth. The second year five Clerks projected negative growth because they realized that their growth the previous year probably wouldn't be sustained that year. By way of example, Okeechobee projected a negative 5.68% growth. They are experiencing a negative 2.62%. The good news is that this means a positive 3.06% growth. We are, through budget training, trying to help Clerks' staff think about the prior year and projecting realistically for the coming year. It is an essential part of the budgeting process.

### **UPDATE ON COLLECTIONS PRACTICE SURVEY**

CCOC with the contractual assistance of FACC is currently working on a statewide civil traffic collections study. This is in direct response to the OPPAGA report which indicated several potential areas for Clerk's collection improvement. Civil Traffic was chosen for the review based on the size and scope of this collections area.

Mr. Isabelle reported that CCOC and FACC staffs are scheduled to visit fourteen Clerks' offices to determine why some offices have higher or lower than average Civil Traffic collections rates. We are reviewing actual cases from the issuance of the citation through when the fine is sent to collections. We have offered technical assistance and education when we can. If factors for success can be targeted, we will bring these "best practices" forward in an effort to help those offices that may desire assistance.

Mr. Weiss asked if they have any findings. Mr. Isabelle stated that they are tracking the D-6 process, looking at uncollected fines, finding out where and how cases are dismissed by judges, and reviewing timeliness issues relating to when fines are turned over to collections' agents. At this point we are compiling the data as the study is ongoing.

Mr. Dew stated that during our visit to Clerks' offices, we are reviewing files. In each large county we look at one hundred cases where the fine was paid timely and one hundred cases where the fine was not paid timely. In smaller counties we are looking at 50 cases in these two categories. We examine the demographics of those receiving tickets and whether the person lives out of county or out of state. We are also looking at the D-6's, that is whether the Clerk is submitting information to the Department of

Highway Safety and Motor Vehicles in a timely manner for the Department of HSMV to notify the person that their license will be suspended. We will have a report for the Council sometime this fall.

### **TRUST FUND UPDATE**

The Trust Fund remains solvent with a February 29, 2008 balance of \$11,375,776.83. Under current law, the Trust Fund can be swept every month. We had an agreement with DFS that they would sweep only twice a year, in June and October to protect us during hurricane season and to the next budget cycle. However, we have received an email from the Department of Financial Services notifying us that due to the state revenue loss, an effort is being made to sweep the Trust Fund every month. We do have an agreement that they will leave at least \$5 million in the Trust Fund at all times. After the next sweep of \$6 million, we will have approximately \$5.3 million in the Trust Fund. The bottom line is there are sufficient dollars in the Trust Fund and there will continue to be sufficient dollars in the Trust Fund this year to assure the monies will be there for those Clerks who need funds every month.

Mr. Forman would like to see us check the Trust Fund more than once a month. Mr. Dew agreed that we can do that.

### **OTHER**

Mr. Fuller, Clerk of Duval County, addressed the Council. When Revision 7 passed, his court-related budget was based on the previous year's budget. Duval was budgeted at about \$15 million below most large counties. Over the years of budgeting, that gap has been increasing. During the last couple of years, Mr. Fuller has been working with the Legislature trying to get his base budget raised. However, it appears that no one in Tallahassee knows how to do this. He sends \$500,000 back to DOR every month. He wanted to raise his base budget by keeping half of that and send \$250,000 instead. They claim they've already spent the \$6 million he's required to send so he can't have any of it back. He said he may send a letter to CCOC asking CCOC to increase his base budget by \$4 million. He knows CCOC will probably reject his request. His next option may be to lower his fees so he doesn't have to send as much money to the state. The object of his plan is to get the state's attention.

Mr. Ruvin said he is concerned that many other counties could then be criticized for charging the higher fees. While Mr. Fuller realizes this, he's been working on this issue for three years and he needs to get someone's attention. Mr. Green asked how he plans to charge lower fees than what the law tells him to charge. Mr. Fuller stated that the statute states that he can charge up to a certain amount and he's at the legal limit.

Ms. Ewing suggested that if Mr. Fuller sends his letter to the CCOC, it will provide the Council an opportunity to review the ramifications of it and develop what action(s) we need take prior to his taking his action. Mr. Fuller stated that he would allow CCOC time to review and respond to his letter. He reiterated that it is not his intention to put any other clerk in a bind.

Mr. Forman assured Mr. Fuller that we fully review all budget requests and will do so with this one. Mr. Ruvin suggested Mr. Fuller run this by Mr. Baggett before he proceeds.

Mr. Green stated that Lee County will send approximately \$6.5 million to the state this year. As he understands it, the Trust Fund was established to help fund court functions throughout the state, not just the Clerks' offices. Those counties that were small enough or had shortfalls and couldn't meet their budget needs could use the Trust Fund and the balance would go to help all of the judiciary. He stated that Lee County also needs to be rebased but he feels that he can't withhold funds to the state at this time just to try to make a point with the Legislature. He feels that giving more money to the state and keeping our economy strong will benefit us more in the long run. Mr. Fuller responded that the money swept from the Trust Fund doesn't just go to the courts, rather it goes into general revenue and is funding many areas outside the court system.

Mr. Fuller added that the legislative staff in Tallahassee does not know who has the authority to grant him the right to rebase his budget – whether it's CCOC, DOR, Legislature, or DFS.

Mr. Sanders asked Mr. Fuller to reconsider an action that could hurt his fellow Clerks. Ms. Ewing asked how much Mr. Fuller has worked with CCOC and she asked Mr. Dew how familiar CCOC is with Mr. Fuller's issue. Mr. Dew responded that CCOC has known that Duval, when compared to other counties of similar size, seems to be under funded. When Revision 7 passed, the legislature allowed the courts, public defenders, and states attorneys to be brought up to an equal funding level. This is the purpose of Revision 7. From Circuit to Circuit there was not a level of funding that needed to be there. Unfortunately, this was not allowed for the Clerks according to Mr. Dew. It was instead determined that, for their first budget cycle, the Clerks' would just receive a 3% increase over their previous year's expenditures. If a Clerk was historically under-funded, this system did not help. It did not bring those historically under-funded Clerks to an adequate funding level. Mr. Dew noted that he has reported this to Legislative staff and asked that the Corporation be given budget authority and dollars to bring those counties to an adequate funding level. He said he was hoping the Legislature would give CCOC the authority over some of the money sent in every year, whether it would be a specific amount or a percentage of what's sent, to help Duval and other such counties. He stated that he is aware of the problem and has been to Duval County several times to talk with staff. Unfortunately it's a bad year for getting revenue of any sort. Mr. Forman thanked Mr. Fuller for his comments.

There being no further business, the meeting was adjourned.