

MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
EXECUTIVE COUNCIL
TUESDAY, OCTOBER 13, 2009
TELEPHONIC

Mr. Forman called the October 13, 2009 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) to order at 2:00 pm. He welcomed members and guests. Members of the Executive Council present were the Honorable Howard Forman, Honorable Harvey Ruvlin, Honorable Richard Weiss, Honorable John Crawford, Honorable Scott Ellis, Honorable Buddy Irby, Honorable Bob Inzer, Honorable Tim Sanders, and Honorable Judge Steinbeck.

MINUTES

Mr. Forman called for approval of the minutes of the August 18, 2009 Executive Council meeting. Mr. Irby moved approval of the minutes with Mr. Sanders seconding his motion. Mr. Sanders noted that he was not able to attend in person, but attended telephonically. With the change as noted, the motion passed unanimously.

TREASURER'S REPORT

Mr. Weiss noted that through the first three months of the fiscal year, CCOC has expended only 13.99% of its budget and 8.94% of the education budget. Therefore, the Corporation is well within its budget.

REVIEW OF FY 09-10 CLERKS' BUDGETS

Mr. Weiss reported that budgets for SFY 09-10, based on the \$451 million Legislative appropriation, were approved at the May 21, 2009 meeting. The FY 09-10 budgets for the current nine-month period represent 75% of that total appropriation. Mr. Dew further reported that since the Executive Council approved the SFY 09-10 budgets, they have been revised twice, to correct an error in the Santa Rosa budget and to move dollars from Collier to Lee County to staff a judge who was moved from Collier to Lee.

Mr. Dew reported that CCOC chose the current budget format which allows staff to compare the FY 09-10 budget to those of previous years and to future budgets. Mr. Dew appreciates the timely submission of the budgets and reported that staff has been working to complete technical reviews to ensure the numbers are correct.

Mr. Cowan presented a comparison of the FY 09-10 budgets to those of previous years. He reported that while the FY 09-10 budgets total \$451 million, this is approximately \$88 million less than the \$539 million budget approved for FY 08-09. Coupled with this was a drop in the number of FTE's to below the number of FTE's for FY 04-05. The reserve amounts estimated for FY 09-10 are significantly low. Mr. Inzer noted that we do not know when the number of foreclosures will drop off and that Clerks may have projected conservatively based on what they hope will happen. Mr. Cowan added that

statewide trends relating to cases may not reflect local trends as the foreclosure issue is just beginning to hit some areas not previously affected. Mr. Weiss also noted that foreclosures have not hit commercial properties as prolifically to date but this is predicted. Staff will continue to compare projections to actual numbers.

Mr. Weiss moved approval of the report. The motion was seconded by Mr. Inzer. Mr. Inzer also reported that revenues projected by Clerks are significantly below those projected by the state. Based on information to date, Leon County is running at its budgeted projections, below state projections. Mr. Dew noted that Clerks have projected revenues of \$487 million while the state has projected \$509 million. Mr. Dew stated that CCOC is working with the Office of Economic Demographic Research on this issue. EDR is aware of current trends. Staff has also met with FACC to help them understand the difference in the numbers.

Mr. Irby said that the downturn in revenue projections is due in part to the shift in funds to other sources. Mr. Dew stated that, of the decrease from \$550 million to \$487 million, approximately \$40 to \$45 million has been shifted to other entities.

CONTRACT EXTENSIONS

Mr. Isabelle, who is working on the contractual process, reported that CCOC has contracted with nine different groups for budgeting, auditing, educational, and tech support. With the current CCOC workload, the General Counsel advised that CCOC can extend these contracts for ninety days. This issue was slated for proposal to the Executive Council at its September meeting which was postponed. Because contracts expired September 30, the Chair, on Mr. Boyd's recommendation, approved extending contracts. Mr. Weiss moved approval of Mr. Forman's decision to extend contracts for an additional ninety days. Mr. Sanders seconded the motion which passed unanimously.

REPORT FROM CCOC LEGISLATIVE COMMITTEE

Mr. Inzer, Legislative Chair, reported that a majority of the Committee's recommendations reflect cleaning up language in last year's legislation. He elaborated on a few of these issues:

- 1) Develop a state budgeting process that allows Clerks to continue to budget on a county fiscal year,
- 2) Resolve the cash flow problem that will exist annually on July 1,
- 3) Remove the 8% Administrative Fee attached to the Clerk's Trust Fund, and
- 4) Resolve the FY 10-11 issue of quarterly reviews with budgetary adjustments based on the Clerk's prior quarter performance.

The Committee is also working on the following issues:

- 1) Allow for a carry-over of the Clerks' Trust Fund annually,
- 2) Resolve the timing difficulty associated with the one year notice to courts under s. 28.44(1)(b), F.S. concerning decreasing services.
- 3) Clarify that under s. 28.2401(3), F.S. dollars collected for Clerk Education are to go to the Clerks' Trust Fund instead of the Financial Services Trust Fund, and

- 4) Decrease the frequency of Auditor General audits of the operations of the Corporation to have audits done on a schedule more similar to what is required for other state and public entities.

Mr. Forman also noted that it is CCOC's responsibility to recommend fees and feels the Corporation should be working on this issue in the next few months.

Mr. Inzer stated that, if these issues are approved by the Executive Council, the Legislative Committee would seek authorization to work with the Legislative Council to revise and refine these issues in the way of legislative language so we can propose them for development. The Legislative Committee will review them again before they are brought back to the Executive Council for specific approval.

Judge Steinbeck, noting the timing difficulty with regard to the one-year notice to courts under s. 28.44(1)(b), F.S., asked if Clerks consider this to be a new problem resulting from amendments to the legislation. Mr. Inzer stated that this is primarily a budget constriction issue. Clerks are seeing a collapse in their budgets. Additionally, they were operating under a \$35 million loan they will need to begin repaying, the state is requiring an 8% administrative fee tied to the Trust fund, and there aren't sufficient dollars to even make disbursements on greater than a 1/48 basis. Clearly having an obligation to provide services for a protracted period of time while the state is collapsing Clerk budgets is worrisome. Judge Steinbeck stated that the notice issue will probably become more problematic in the future. She stated that the Court will want such notice so they can join Clerks in asking the Legislature to adequately fund Clerks to assure that we are providing core functions and maintaining a level of service to all of our constituents throughout the state. She further stated that she cannot support changing the one-year notice. Mr. Inzer stated that he appreciates Judge Steinbeck's position. But he feels that, although we can request the dollars needed to maintain a level of service, there is no guarantee the request will be approved. The Clerks' concern is what to do if the Legislature does not honor their budget request. Mr. Forman added that, because of the decreasing economy, Clerks need to make decisions without being able to wait one year.

Mr. Ruvin asked if there has been any progress in having the two legislative representatives appointed to the Executive Council. Mr. Dew reported that he received a call from the Senate President's office. He has not heard from the Speaker of the House. As Legislative Chair, Mr. Inzer stated that we have made calls to the Senate President's office and the Speaker of the House's office asking that these representatives be appointed but this is not a priority for them at this time.

With regard to the Auditor General's audits, Judge Steinbeck asked what is regularly done with other state entities. Mr. Dew stated that audits are generally done every two to three years and, in some cases, less often. Annual audits were recommended because it was felt that, at its inception, the Corporation should be reviewed yearly. Judge Steinbeck suggested that having an independent body like the Auditor General audit CCOC can help identify problems with the current funding stream. By way of an audit, they can identify issues and provide data to support an argument that can be made to the legislature when we see needed changes. Mr. Dew agrees that audits can be helpful, but in this case, the audits are more financial audits. OPPAGA looks at the program performance aspect of the Corporation and identifies programmatic problems. The Auditor General's office reviews the numbers and notes the same issues in spite of improvements we have made each and every year.

Ms. Frank, Clerk of Hillsborough County, asked if Judge Steinbeck feels that the Judiciary and their programs should be audited annually. Judge Steinbeck responded that judges do not collect and disburse funds. She noted that they do report a great deal of data so there is monitoring of judicial activity with regard to disposition of cases. Ms. Frank asked Judge Steinbeck about the Court Trust Fund. Mr. Ruvin added that the increase in fees Clerks collect goes to the Supreme Court Trust fund. He asked if this is audited. Judge Steinbeck stated that it may be audited but she's not aware of such an audit.

REVISIONS IN COUNCIL FORMS

Mr. Isabelle reported that, from a budget perspective and trying to monitor the Trust Fund, it is important to know the revenue streams and the availability of those revenues. SB 2108 provided that Clerks can withhold ten percent of their fines and allocate these dollars to their public records modernization trust fund for enhancements. Legislative staff requested that CCOC be prepared to present these numbers. Estimates made by the economic forecasting group and others are in the \$20 million range but currently we don't know the correct numbers. Mr. Isabelle suggested that we need to be in a position to provide this information when the legislature requests it. Therefore, on the monthly Expenditure and Collections Tracking Report, staff is recommending adding a line to the report for Chapter 28.37 for 10% of fines. He further noted that we need to gather this data back to its inception in July 09 and continue throughout the fiscal year.

Mr. Sanders requested, as regards the revision of forms, that the Executive Council consider making any such reports be done on annual basis instead of a monthly report. Mr. Forman countered that, with the new system, we will need this data on a monthly basis. Mr. Weiss suggested that entering the amount of fines is misleading and feels Clerks also need to indicate how the dollars have been expended. Mr. Weiss suggested that we might not need to do this monthly, but rather quarterly or semi-annually. He requested permission for the Finance & Budget Committee to work with Mr. Isabelle to come up with a separate report. Mr. Isabelle agreed. Mr. Forman, without objection, approved that the Finance & Budget Committee work with Mr. Isabelle on this issue.

UPDATE ON THE COMMUNICATIONS WORKGROUP

Mr. Inzer and Judge Steinbeck reported that the Communications Workgroup held their first meeting September 11 in Orlando. The next meeting is tentatively scheduled for October 29 at the Tampa Airport Marriott. Judge Steinbeck suggested that it would be helpful for CCOC to schedule one of the regional Budget Workshops around that meeting as well.

DISCUSSION OF BUDGET WORKSHOPS

Mr. Dew stated that the potential process for the Budget Workshops has been laid out and the technical reviews of the SFY 10-11 budget requests are being done. Potential budget workshop dates, October 28 and 30 and November 3 and 5, have been set. Staff is currently working on specific locations and times. He noted that we have planned a Budget Workshop to be convenient for Clerks who will be participating in the Communications Workgroup in Tampa October on 29. Thus far, we have planned October 28 for southeast Florida in Palm Beach or Martin County, October 30 in Tampa, November 3 for

the northwest region and November 5 in Alachua County. We will be working with the Executive Council and the individual Clerks who will present their budgets to schedule presentations.

Staff will also provide a set of support materials prior to each workshop. Council Members will receive a copy of each Clerk's budget, statewide summaries, trends, key factors influencing the budget, multi- and current-year peer group comparisons, approved budget comparisons of their FY 09-10 budget and the FY 10-11 budget request. Staff will provide each member of the Executive Council a 1-2 page summary of each request so members can become familiar with each Clerk's history over several years and be able to compare that history to the current year's request. Additionally, members will be able to compare each Clerks's budget request with that of others in his/her peer group. He noted that staff compiled a DRAFT version of sample data for this packet. Mr. Dew asked if there is any other information the Executive Council would like to have prior to the workshops. He asks that members please provide such requests to himself, Mr. Isabelle, or Mr. Cowan. Mr. Dew volunteered that staff will be happy to do the research, run the numbers, and do the analysis so the Executive Council has everything it needs to be able to ask questions of each Clerk or Clerk's staff who appears before them at the Budget Workshops.

Mr. Dew reminded the Executive Council that we must be prepared to provide a recommendation to the Legislature and Supreme Court by December 1, 2009. In reviewing the data provided, it is important that the Council keep in mind that the appropriation for SFY 09-10 is \$451 million while the budget request for SFY 10-11 stands at \$469 million, \$17.5 million more than for the current year. Clerks have projected revenues totaling \$489 million. After removing the 8% Trust Fund administrative fee, there will be \$450 million available for Clerks, not \$469 million. Mr. Dew further reminded the Council that legislatively they are required, if Clerks are significantly higher than members of their peer group, to request the Clerk to provide the rationale for the higher budget. Mr. Inzer noted that while unit cost is a criterion, it is not the only criteria.

Mr. Ruvin asked if all Clerks are required to present or will the Council hear from only those who wish to present. Mr. Inzer replied that the Executive Council cannot mandate that Clerks appear. He does feel we should encourage Clerks to be available to answer questions and discuss issues that the Executive Council may have concerning their budget. This information will enable the Council to better review and understand their budget.

CLERK TRUST FUND

Mr. Dew reported that the cash flow to the Trust Fund is not sufficient to enable CCOC to provide a 1/12 disbursement at the beginning of each month. CCOC staff is working with Clerks to be sure the dollars come into the Trust Fund as required.

Mr. Weiss wrote a memo to the Justice Administrative Commission staff regarding a request to have dollars taken from the Trust Fund to begin repayment of the \$35 million loan. Currently after the third week disbursement for October is made, we will have only \$2 million in the Trust Fund. We will need an additional \$7 million before we can make the last October disbursement. We cannot begin repayment of the loan until there is adequate cash flow to make Clerk disbursements on a more timely basis.

OTHER

Auditor General Report

The Auditor General report for FY 07-08 is provided for review. Many of the items reported in this audit have already been corrected. Mr. Dew feels that none of these items will continue to be problems. Many were taken care of during FY 08-09. There were no questions.

PIE Committee Report

Mr. Irby reported that the Performance Improvement and Enhancement Committee will be meeting Thursday, October 15. One of the Committee's charges is to look at Performance Measures. He feels the Committee will have to look at this in the context of the budgets and staffing allocations as they are approved. Mr. Isabelle reported that the Agenda and materials for the upcoming meeting will be posted on the website by this afternoon. The meeting is being held at the Hyatt, Orlando Airport.

There being no further business, the meeting was adjourned.

MINUTES
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EXECUTIVE COUNCIL
FRIDAY, OCTOBER 23, 2009
TELEPHONIC

Mr. Forman called the October 23, 2009 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) to order at 10:00 am, EDT. He welcomed members and guests. Members of the Executive Council present were the Honorable Howard Forman, Honorable Richard Weiss, Honorable John Crawford, Honorable Scott Ellis, Honorable Buddy Irby, Honorable Bob Inzer, and Honorable Tim Sanders, and Honorable Meg Steinbeck. Honorable Harvey Ruvin was unable to attend.

Mr. Forman noted that we have scheduled four Budget Workshops around the state and encouraged the Executive Council to be present as the final recommendation will be presented to the Executive Council for its approval.

Mr. Dew reported that the workshops are scheduled for October 28 at the Marriott, Hutchinson Island, October 30 at the Tampa Airport Marriott, November 4 at the Ag Center in Marianna, and November 5 at the Best Western in Gainesville. Mr. Dew reported that a letter he received from Mr. Inzer has been distributed to the Executive Council members. In the letter, Mr. Inzer reflected on the fact that the Executive Council was slated to conduct the budget workshops after which the Finance & Budget Committee would meet to develop budgetary recommendations to bring to the Executive Council for action at its November meeting. He feels it would be a better idea for the Finance & Budget Committee to conduct the Budget Workshops so they have full understanding of the issues with the budgets and are better able to make the recommendation.

Mr. Sanders moved that the Finance & Budget Committee conduct the Budget Workshops as recommended by Mr. Inzer and that the Executive Council attend as possible. Mr. Crawford seconded the motion. The motion passed unanimously.

There being no further business, the meeting was adjourned.