

MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
EXECUTIVE COUNCIL
MONDAY, JUNE 14, 2010
TELEPHONIC

Mr. Forman called the June 14, 2010 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) to order at 4:00 pm. He welcomed members and guests. Members of the Executive Council present were the Honorable Howard Forman, Honorable Harvey Ruvin, Honorable Richard Weiss, Honorable Sharon Bock, Honorable John Crawford, Honorable Scott Ellis, Honorable Buddy Irby, Honorable Bob Inzer, Honorable Judge Steinbeck, and Honorable Tim Sanders.

AGENDA

Mr. Forman called for a motion to approve the Agenda. Mr. Ruvin so moved and Mr. Sanders seconded the motion which passed unanimously.

JUDGE STEINBECK RESIGNATION

Mr. Forman reported that he received a letter from Judge Steinbeck. She is resigning from the Executive Council effective June 30, 2010. Mr. Forman noted that she has been a very positive force on the Executive Council and will be missed. Ms. Steinbeck stated that she will miss working with the Executive Council but welcomes future opportunities to work together in other endeavors.

MINUTES

Mr. Ruvin moved approval of the Minutes with Mr. Irby seconded. Mr. Weiss reported two corrections. On page 5 under Interpretation for Fourth Quarter of SFY 10-11 Distribution Methodology, the last line should read, "The motion passed 10-0 with Judge Steinbeck abstaining." Also on page 8 under Other – PIE Committee, the second sentence and paragraph 3 does not read correctly. He suggested changing it to "Staff will be sending reminders that the survey is ready to be completed and submitted." Mr. Dew said that both corrections will be made. With those changes, the motion passed unanimously.

UPDATE ON ERVIN LAWSUIT

Mr. Forman called on Mr. Boyd for an update on the Ervin lawsuit.

Mr. Boyd reported that Judge Frank Sheffield of the 2nd Circuit ruled approximately a month ago that the \$80 going to General Revenue created an improper burden on the access to the courts and found that this funding, which Mr. Boyd believes is now higher than \$80 per case, is unconstitutional. His ruling does not stop the collection of the dollars but it does stop the sending of these dollars to General Revenue. Mr. Richard Donelan, attorney for DFS and CFO Alex Sink has filed an appeal. The Attorney General has also filed an appeal. Both appeals have been filed with the 1st District Court of Appeals. Mr. Sid Matthew, lead counsel for the plaintiffs, has filed a suggestion that the 1st District Court of Appeals relinquish jurisdiction or solicit jurisdiction to the Supreme Court. Normally the DCA makes a ruling and then with conflict, the case moves up to the Supreme Court. The suggestion to move it now has been made because of the great public interest. Mr. Boyd feels the Supreme Court will accept the suggestion notwithstanding normal jurisdictional rules that might otherwise apply. If they do accept the suggestion, it is possible that they could make a final decision probably before Spring of next year and possibly by the end of this calendar year since this decision will impact funds available for appropriation from General Revenue.

Mr. Boyd reminded the Council that we were defendants in this case at one time, but we were taken out of the case approximately six months ago.

FINANCIAL REPORT

Mr. Weiss reported that through April 30, 2010, all expenditures are well within the budgeted amounts. The Corporation is in great financial shape. Mr. Ruvin moved approval of the report and Mr. Inzer seconded the motion. The motion passed unanimously.

CORPORATION PLAN OF OPERATIONS

Ms. Bock noted that after presenting the proposed changes to the Plan of Operations at the Executive Council on meeting May 25th, the Council asked that the DRAFT Plan of Operations be given more time to review prior to Council approval. Mr. Dew noted that the draft has been provided to Council members for several days now as well as being provided to Corporation members. Ms. Bock asked Mr. Boyd to give an overview of the proposed changes being presented for Council approval.

Mr. Boyd noted that we received input from several Clerks including Ms. Bock, Mr. Weiss, and Mr. Inzer. Some of the proposed changes reflect changes made a year ago when the CCOC statutory make-up was changed.

Mr. Boyd noted that the random mentions of FACC have been removed and replaced with a major statement that the Chair of the Executive Council and the CCOC Executive Director will meet monthly with the President and Executive Director of FACC to be sure they each have an understanding of their roles and what they are working on and to coordinate efforts on behalf of the Clerks of Florida.

Article I of the Plan of Operations deals with the organization, structure, powers and duties, and meetings of the Corporation. Mr. Inzer suggested that the Council put forth at its Annual Corporation

Meeting what we believe will be our schedule of meetings for the coming year. This will allow everyone time to plan accordingly. We have also amended the fourteen day notice for meetings to a seven day notice. Minutes from these meetings will be available on the CCOC website.

Article II details the duties and responsibilities, membership, election, and meetings of the Executive Council. The changes define a format by which CCOC can elect eight Executive Council members in staggered terms, with some members elected in even years and others in odd years. The amended Plan also gives the Executive Council, by resolution, until 2012 to develop a plan to implement this provision. This will not apply to the three designees of the President of the Senate, Speaker of the House, and Chief Justice.

Language also allows CCOC, with the assistance of a Certified Public Account and in order to comply with Chapter 119, F.S., to establish electronic voting. While the methodology set forth in the Plan of Operations provided for a secret ballot, there is no authorization under Chapter 119 for a secret ballot. Electronic votes would still be counted and the election certified by a CPA. Further we have included language that if a candidate is unopposed, no ballot process / election process shall be required. And if a vacancy occurs with less than six months left in the member's term, the seat will remain open until the next regular election.

Mr. Boyd noted that the fourteen-day notice of meetings has been amended to a seven-day notice and that this, when the situation dictates, can be waived by vote of seven members of the Executive Council at the commencement of the meeting. This section also states that all reasonable efforts shall be made to provide telephonic access to Executive Council meetings for all members of the Corporation. Executive Council members may attend and vote electronically.

Article III pertains to members of the Executive Council. Language has been added that states that leadership of the Executive Council is the leadership of CCOC.

This article further defines the role of the Executive Director including language that the Executive Director shall be included in Senior Management Services Class. It also specifies that the Executive Director serves without civil service protection.

Article IV details the administration of the Corporation, to include financial, personnel, and program and policy administration. Language relating to a Funds depository has been removed as CCOC no longer has a checking account. Program / policy coordination language specifically defines that the CCOC Executive Council Chair and the CCOC Executive Director shall meet monthly with the President of FACC and its Executive Director to coordinate efforts related to economic, budget, and legislative issues.

Article V relating to Operations of the Corporation maintains that we can still contract for services.

Mr. Boyd feels that changes meet with legal sufficiency. He stated that we are still bound by the statute, but this brings us up to date from what we developed six years ago.

Mr. Dew asked for clarification that if the revised Plan of Operations as presented is passed at the Annual Corporation Meeting, does this immediately take effect and therefore give the Executive Council the authority at their meeting later that day to elect their new officers and set a schedule. Mr. Boyd said it does.

Mr. Sanders asked that the word "Chair of FACC" on page 10 be changed to "President of FACC". Mr. Boyd agreed to make this change.

Mr. Crawford, referring to the ability of the Executive Council to attend and vote telephonically, requested additional language encouraging Executive Council members to make all efforts to attend in person. Mr. Boyd suggested adding that "Executive Council members should attend personally but may attend and vote electronically". Mr. Boyd said he would add some language that provided this.

There being no other questions, Mr. Ruvin moved approval and Mr. Inzer seconded the motion. The motion passed unanimously.

FORECLOSURE RECOVERY APPROPRIATIONS PLAN

Mr. Forman reported that CCOC contacted the Chief Judges in all twenty circuits regarding their plans for the expenditure of their dollars appropriated by the Legislature for handling the backlog of foreclosure cases throughout the state. CCOC was especially concerned with the multi-county circuits. All responses are in. Mr. Dew has provided a worksheet showing the total dollars provided for each circuit. These dollar amounts were approved by the Executive Council at its May 25 meeting in Orlando. Staff then allocated the dollars to each county based on the Chief Justice's allocation of his/her dollars by county. Mr. Dew sent this allocation to each Clerk for their review to determine if they had any concerns. No Clerks responded that they had a problem with the suggested allocation plan. He also provided each Clerk with the backup documentation from his/her Chief Judge. If approved today, Mr. Dew will present this plan to legislative staff on June 16. If legislative staff has no suggested changes to the plan Mr. Dew said we will present a budget amendment request for which approval will then take ten days. CCOC will then begin allocating dollars to Clerks effective July 1.

Mr. Forman asked that Clerks take one last look at the plan and welcomed any questions and/or comments before the Executive Council votes on the plan. There were no comments or questions.

Mr. Weiss moved approval of the plan and with the direction that Mr. Dew present it to legislative staff. Mr. Ruvin seconded the motion. The motion passed unanimously.

Mr. Dew pointed out that, no matter what allocation is passed by the Executive Council, it is subject to change by the Council at a later date if less dollars are needed in one county and more needed in another.

Mr. Weiss asked Mr. Dew if he knew where the \$3.6 million dollars were coming from to fund the Clerk's allocation. In other words, while we know it is to be paid out of the Clerks' Trust Fund is the Legislature putting \$3.6 million in the Trust Fund from another source. Mr. Dew replied that he has not seen any legislation or any section of the 2010 Appropriation Act that placed money into the Clerks' Trust Fund for this purpose. Mr. Weiss asked Mr. Dew to check with legislative staff when he meets with them later in the week to see if there is a transfer to the Clerks' Trust Fund. Mr. Dew replied he will get the answer to this question on June 16 when he meets with legislative staff.

Mr. Sanders asked if each Clerk will be given instructions or guidance on the use of these dollars and the reporting requirements. Mr. Dew stated that Ms. Bock is working with CCOC staff on instructions and a draft form for reporting. He stated that staff is working to have this ready for Executive Council discussion and approval at its June 29 meeting.

OTHER

Mr. Cowan reported that there was discussion at the recent Finance & Budget Committee meeting and the joint PIE and Finance & Budget workgroup meeting regarding the importance of hiring professional statistical assistance to help with the development of a new peer grouping model for use with the FY 11-12 budget cycle. Since the SFY 11-12 budget cycle is rapidly approaching, we need Executive Council approval to begin the process required to assure that we obtain professional assistance.

Mr. Weiss moved that the Executive Director be given authority to proceed with whatever process is required to hire a statistician to help with this process. Mr. Ruvin seconded the motion. There being no discussion, vote was taken and the motion passed unanimously.

There being no further business, the meeting was adjourned.