

## **MINUTES**

### **FLORIDA CLERKS OF COURT OPERATIONS CORPORATION**

**MONDAY, FEBRUARY 27, 2017 3:00 PM EDT**

#### **EXECUTIVE COUNCIL MEETING**

**Embassy Suites, Lake Buena Vista South, 4955 Kyngs Heath Road, Kissimmee, FL 34646 (Magnolia A)**

The February 27, 2017 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) was called to order by Executive Council Chair Sharon Bock at 3:00 PM (EDT). Chair Bock thanked all in the room and on the telephone for attending the Executive Council meeting. Roll call was taken by John Dew, the Executive Director. Council Members present were the Honorable Sharon Bock, Honorable Ken Burke, Honorable Stacy Butterfield, Honorable John Crawford, Honorable Jeff Smith, Honorable Ron Ficarrota, and Honorable Paula S. O'Neil. Honorable Harvey Ruvin was present via telephone. Mr. Dew stated that there was a quorum.

#### **APPROVAL OF AGENDA**

Chair Bock noted that the agenda was posted on the CCOC website. Clerk Smith made a motion to approve the agenda with a second by Clerk O'Neil. Chair Bock asked if there was any discussion, changes or deletions. Hearing none, the vote was taken and passed unanimously.

#### **SWEARING IN OF NEW EXECUTIVE COUNCIL MEMBERS**

At the last meeting there were two members, Tim Sanders and Bob Inzer who noted they would be retiring effective January 2017. This leaves two vacancies on the Executive Council. One vacancy was for Group 1 (counties with a population of fewer than 100,000) and one vacancy for Group 2 (counties with populations of between 100,000 and 500,000). There were six Clerks that stated they were willing to serve. The Clerks in a special election chose Clerk Todd Newton for Group 1 and Clerk Tara Green for Group 2. Chair Bock swore them in. After the Clerks repeated the oath, Chair Bock and the audience congratulated them.

#### **APPROVAL OF MINUTES – November 14, 2016**

Mr. Dew noted that the materials were posted on the website and that an addendum to the meeting was posted today. Chair Bock asked CCOC Secretary/Treasurer Clerk Butterfield to present the minutes for approval of the previous meeting. Clerk Butterfield noted that the minutes from November 14, 2016 were in the packet. Clerk Butterfield made a motion to approve the minutes as submitted. Clerk Ruvin seconded the motion. The vote was taken and the minutes were approved unanimously.

#### **TREASURER'S REPORT**

Clerk Butterfield presented CCOC's Financial Statement Audit for 2016 which was part of the packet. The auditor's opinion was an unmodified opinion. Lanigan & Associates performed the audit and on page 59 in the packet there is a summary. There were no findings listed in the report. Clerk Butterfield made a motion to accept the Financial Statement Audit. Clerk Smith seconded the motion. Chair Bock asked if there were any questions. Hearing none, the vote was taken. The motion passed unanimously.

CCOC's financial report is included for the first four months of the county fiscal year on page 61 of the packet. For the four months, CCOC is at 30.19%. Chair Bock asked if there were any questions about the monthly financial report. Clerk Butterfield made a motion to approve the report. Clerk Newton seconded the motion. Chair Bock asked if there were any questions about the monthly financial report. Clerk Smith asked why contractual amounts increased so much in January. Clerk Butterfield noted that it was because of a payment for the contractual expense of Evergreen's organizational study. There were no more questions and the vote was taken. The motion passed.

Chair Bock then turned to CCOC's Plan of Operations. As Vice-Chair of the CCOC Executive Council, Clerk Burke is the Chair for the plan and he gave an update. He noted that there was not much of an update today. He and Joe Boyd are working on some items to see if there will be any amendments to the plan that will need to be brought forward at the annual meeting in June. An example of an item would be if the Executive Council knows that a Council member is resigning, maybe the election process can take place so there is no gap in coverage. Clerk Burke welcomed any ideas or feedback. Chair Bock encouraged Council members, Clerks and audience to read the Plan of Operations and if you have any ideas, please forward them to Clerk Burke. Voting on changes can only be done at the Annual meeting.

Chair Bock asked Clerk Butterfield to speak about the Peer Group Review Study. Clerk Butterfield noted that every year during the budget process, the Clerks are put into groups in which they are compared for budget review purposes. The statutory requirements states that the counties will be compared as similarly situated counties. In the past about every two years, there has been a consultant review the actual peer groupings. The statutory writings has the similarity in a county's population and cases. Is it new cases, re-opened cases, continuing cases, etc? There are many kinds of cases that can go into it. Population questions such as prison and visitor population have been brought forward, also. The Council hired Bo Shippen from Economist, Inc. to provide a review of the peer groups and offer a recommendation on suggested peer groups. Mr. Shippen is familiar with the peer groups from his work on the last study two years ago. At the December 7<sup>th</sup> Budget Committee meeting, he talked to the Budget Committee as well as Clerks about the process in the peer group review. After the meeting, a letter from Clerk Butterfield was sent to all Clerks asking for any input on the peer group such as criteria, conditions, anything that they felt the consultant needed to consider. During last summer's deliberations, many Clerks brought up issues with the grouping they were in. There was input received and that was passed on to Mr. Shippen. It is expected at the March 15<sup>th</sup> Budget Committee meeting that he will have his draft ready for the committee for approval and then the Committee's recommendation will be given to the Council. The report when it comes available will be posted on the CCOC's website. Chair Bock clarified that if any Clerk wanted to give input, it is important to read the document and be on the phone or attend the Budget Committee meeting on March 15<sup>th</sup>. There is a short turnaround time to put the

budgets together that will be based on the peer groupings that will come out of this study. Chair Bock asked if there were any questions. There were none.

### **EXECUTIVE COMMITTEE**

Chair Bock noted that the Executive Committee membership is the Chair, Vice Chair and Secretary/Treasurer of the Executive Council and that is Clerk Bock, Clerk Burke and Clerk Butterfield. The Executive Committee usually meets to go over internal issues. Mr. Dew passed out the minutes from the last meeting. At the last meeting, it was agreed to have a list of all the contracts, all the vendors, amounts, terms and dates available for the Executive Council. This is similar to what is going on at the FCCC. This puts all the contracts in one place and shows how the CCOC's budget relates to the contracts. Secondly, the committee began to review all the CCOC's current policies and procedures. If possible, this information will be brought to the Executive Council at the Summer Conference. Chair Bock asked if there were any questions. There were none.

### **BUDGET COMMITTEE**

Clerk Butterfield began with an overview of the Budget Committee meeting on December 7, 2016. One item that has already been discussed was the Peer Group study by consultant Bo Shippen. There was an update on the operational budget regarding the forms and setting a submittal deadline. At this time, the forms have been submitted and will be discussed at the March 15<sup>th</sup> meeting. Another update was given on the Trust Fund. The major outcome was the settle up dollars. If there was a shortfall, which there was, the settle up from the 2016 Trust Fund will happen before we move forward with the monthly disbursements to the funded Clerks. There was also an update on the juror funding.

The November 16<sup>th</sup> Revenue Estimating Conference (REC) results were also discussed. The REC provided a projection in November that was lower than projection that was used on the LBC document that was approved October 1. Jason Harrell gave an update on the State's fiscal outlook. The Budget Timeline was discussed and voted on at that meeting to try and have the Clerks submit their budgets on May 1<sup>st</sup> so there would be more time to do the technical reviews, to speak with Clerks about issues, and to have more time before the deliberations.

There was an update on three workgroups: Base Budget Workgroup, Healthcare Workgroup, and the Case Count Workgroup.

Clerk Butterfield wanted to bring to the Council's attention that on January 12<sup>th</sup> there was presentation to the Senate Appropriations Committee on the budget. A copy of the presentation is in the meeting packet. The REC has met again since November. That meeting was February 16<sup>th</sup> and as expected, the estimates were down. The total from the July REC meeting to today is \$13.9 million less from July 2016. The CCOC numbers were not down as much. The good news is that the Clerks' better months are ahead. Also, estimates are just that, estimates, and will be monitored by CCOC staff and Clerk Butterfield.

Clerk Butterfield noted that the next Budget Committee meeting will be March 15<sup>th</sup> in Tallahassee during the Clerk's Legislative Day. There was coordination with the FCCC to insure that nothing was taken away from this day for Clerks. The meeting will be in a convenient location for Clerks and committee members to be able to attend the meeting as well as meet with their legislator. The committee members were polled and asked if they would attend the meeting as well as visit their legislators and the majority felt they could accomplish that.

Chair Bock thanked Clerk Butterfield and wanted to say how well received her presentation to the Legislature was. She also thanked all the Clerks and the Legislative Committee for clear and concise information that was provided. Clerk Butterfield acknowledged it was a team effort.

Next was the action items that needed approval from the Council. Clerk Butterfield made a motion that the Council confirm the recommendation of the Budget Committee as outlined mainly moving the date of the initial budget up to May 1<sup>st</sup>. A second was made by Clerk Burke. Chair Bock asked if there was any discussion from the audience or those on the telephone. Hearing none, the vote was taken. Motion passed.

The meeting was turned over to Clerk Burke to talk about case studies. The case count effort is to insure that cases are being counted the same way all over the State of Florida. Sounds simple, but it is not. There are reasons why case counts vary. There are rules that are open to interpretation. Also we should look at subclasses of some of the subcases. For example dependency is a very broad one that can be interpreted many different ways. It is a very high cost case with very little income. We need to make sure the reporting of these numbers for budget purposes are being counted the same by using the same methodology from county to county. Clerk Burke acknowledged Denise Bell and Gary Cooney from Lake County and Jill Lennon from Collier County for their hard work. There has been two WebEx calls in which 54 counties participated. The counties that could not participate were contacted. To date, 45 of the counties have returned their surveys. The next thing is to look at these surveys and then determine what further studies need to be done. For those counties that still look to be outliers, there will be a team of outside Clerks to look and see why those anomalies take place. They will be looking for explanations. Case counts have to be right for the weighted workload measures to work. He thanked all for the cooperation. Clerk Butterfield thanked Clerk Burke and this workgroup. Clerk Burke also thanked Doug Isabelle for his work.

## **PERFORMANCE IMPROVEMENT AND EFFICIENCY (PIE) COMMITTEE**

Chair Bock called upon Clerk Green to give the PIE Committee report. Clerk Green outlined the two reports that will need to be approved and then moved to updates for the ongoing projects. The committee met on January 8, 2017. The

meeting served as an update to the various projects as well as the review of the 4th quarter Action Plan Performance report. During the 4th quarter which is July to September 2016, there were 17 or 25% of clerk's offices that met or exceeded performance standards in all areas of performance. Six counties required at least one action plan and collectively required 129 action plans across all performance measures. It is notable that there were 61 less action plans from the previous quarter. Even though there are less action plans than the previous quarter, it may not be indicative of improved performance. It seems that quarter after quarter if improved performance is made in one area, there is a slip in another area. There is a bouncing of resources back and forth. On collections, the number of action plans decreased from 103 to 90, most was in the criminal division. Civil traffic remained unchanged with 31 action plans and that is about 35% of all collection plans required. In relating to timeliness, action plans increased a little from 34 to 36. The Civil Court division went below the statewide standard for the second quarter in a row. All Civil court divisions are showing declining performance from the end of last year.

The second report is the Collection Agent report. Clerks sent approximately \$309 million collectively to all the collection agencies. Over half of that figure was related to criminal cases. The remaining unpaid accounts were \$98 million and were related to traffic and \$74 million was collected during that time. It is important to note that the collections that were received during this time period are not necessarily associated with the accounts during the same time period. That was the end of the second report and Clerk Green made a motion to approve the two reports. Clerk Butterfield seconded. Chair Bock asked if there were any questions. The vote was taken and the two reports were accepted and approved.

Clerk Green continued with a quick update on the projects of the PIE committee. The committee is moving forward with the performance and accountability - PAC framework. This is a cleanup effort of the "Betty Book" to capture the inventory of what Clerks do in their office so a better story can be told about the work they do with their court-related responsibilities. Eventually it will tie cost and revenues to the work the Clerks do. Clerk Green recognized all the individuals that have been working with Doug Isabelle on this project. It is still a work in progress. The nine court-related services, the 35 activities and the 420 tasks from across all the court divisions have been completed. Gary Cooney, Lake County Clerk Senior Chief Deputy, is finishing the work on legal authorities. The committee has a costing project and this methodology is being tested. The counties of Clay, Polk, Hillsborough, Hernando and Citrus are testing the costing methodology. Basically they are looking at the framework and looking at all the different divisions and services that Clerks do and assigning employees to work on those tasks to get a better idea of the costs. Costs are mostly personnel, but also looking at operating cost, and capital costs by service areas. This will help us better know the cost of different service areas within the Clerk's divisions. Also revenue identification to the services Clerks do is being started by Lake County Clerk staff person Denise Bell. Ultimately, the committee would like to start looking at performances that reflect the services that the Clerks do and maybe take a look at performance measures and enhance them a bit and get

something that is a little more meaningful to Clerks in the current environment. We are looking at doing that later this year.

The second update is the weighted subcases or the weighted workload measures. Clerk Green turned the update over to Clerk Barbee who is chairing this workgroup. Clerk Barbee began by saying the purpose of this group was to take the weighted workload measure that the Clerks have been operating on as a tool for the budget committee to use in their tool box to analyze the Clerks' budgets. The problem was not all circuit civil cases are created alike and no probate cases are alike. What the workgroup wanted to do was break that down to a finer detail and go through the subcase types and determine if it could find a weight to the subcase types instead of all circuit civil or for all probate. The workgroup met in Gainesville and the workgroup came up with a number of answers. The group returned to the pilot counties and discussed it with the staff. Upon their return, the workgroup debated for hours what the actual number was that could be assigned to these various case types. In the end, the workgroup came up with a number that they were comfortable with. It is ready to be sent out, but we are waiting for Clerk Burke's case count report to be completed first. If the Clerks are not counting the new cases correctly, the group does not want to send it out and not be counted correctly the subcases. Once the new case types are being counted correctly, then the sub case will be sent out to be filled in. That will give the Budget Committee an extra detail tool as they work through the budget process. Clerk Green noted that these sub case types are SRS and non-SRS. That was the end of Clerk Green and Clerk Barbee's report. Chair Bock thanked them both.

## **LEGISLATIVE COMMITTEE**

Chair Bock asked Clerk Timmann to give the Legislative Committee report. Clerk Timmann began by saying that even though the committee has not met, they have been very busy. She again noted that Clerk Butterfield did an amazing job with the presentation to the Senate. The Legislative Committee has been focusing on improving the way the CCOC and the FCCC are working together on all these legislative components. The committee also has been incorporating finance staff from Clerks' offices into the legislative proposals. There is a plan to have a CCOC legislative committee meeting in March. The meeting will go over more detail planning for moving into session and the fast tracking of all the legislative analyses and amendments as they come to the committee. The committee is making sure they have a good system in place as well as sharing the review sheet. The CCOC has been monitoring several bills of interest providing financial impact upon request. The legislature is really reaching out to us now and sending us a lot of these proposals which increases the CCOC staff work load but it allows us to look at all of proposals and make a good analysis and send them out to Clerks' offices. The proposals may or may not have impacts but there are really good responses going back to the legislature. She thanked the Vice-Chair Clerk Burke for helping to split the workload of being available when needed in Tallahassee.

Clerk Timmann noted that about 30 bills are being looked at and we will be giving a fiscal analysis to the legislature. A couple are worthy of mentioning, Senate Bill 156 is the PIP reform bill. We are still trying to work through that and getting some sound fiscal numbers for the legislature's consideration. Another is Senate Bill 302 dealing with Driver's license suspensions and trying to come up with different tiers and scenarios for the different driver's behavior on when and how they will pay if their driver's license would not be suspended. Senate Bill 448 is pre arrest diversion and we are still trying to work on that. House Bill 6007 is the red light camera repeal and of course that varies by county. The vast majority of the bills so far have no significant impact, but we still need to respond to the legislature so they are aware that we are analyzing these and getting responses to them. Also the committee is working on jury payments and any other impacts from the juror funding model. The committee will continue to monitor the revenue funding bill for Clerks.

Chair Bock commended the committee for working with staff and working so quickly to get answers back to the legislature. She encouraged the Clerks and staff to come to Tallahassee on March 15<sup>th</sup> for Clerk's Day. She asked if there were any questions. Clerk Ruvin wanted to alert Clerk Timmann to a bill that was sent to him by Senator Rodriguez dealing with jury compensation. He wanted to send it to Clerk Timmann. He had some concerns. Clerk Timmann noted that the committee has been looking at the fiscal reviews on that. Chair Bock thanked Clerk Timmann.

#### **FUNDING TECHNOLOGY WORKGROUP**

Chair Bock called upon Clerk Peacock to speak on the Technology Funding Workgroup. Clerk Peacock began by stating the group is waiting on the business services assessment from the Technology sub-committee. This is the maturity model that has been discussed that allows us to quantify where different Clerks are from a technology standpoint and how that cost may be related. We have data that the group can use to monetize the cost of technology across different agencies. He intends to have a report on the status of some of the numbers that we can talk about if possible at the summer conference. She asked if there were any questions. She thanked Clerk Peacock.

#### **ORGANIZATIONAL STUDY OF CCOC OFFICE**

Chair Bock noted that there was an organizational and compensation study being done right now. The first draft has been received and it is being gone through. The final product will be given at the summer conference. She asked if there were any questions on that.

#### **ROLE IN COLLECTIONS EFFORTS**

Chair Bock brought forward the next item to talk about the role of Clerks and Judges in the collection efforts statewide. The CCOC Budget Committee recommended that Chair Bock should send a letter to Chief Justice Lebarga asking him to meet with CCOC leadership to discuss the importance of collection efforts statewide and the need to work together. A letter was sent in December. Since that time, there have been many conversations. Judge Ficarrotta has helped us navigate to a solution. Chair Bock asked Judge Ficarrotta to talk about the solution to this problem. He began by saying that the letter was brought to the attention of all the chief judges of the 20 circuits in Tallahassee at a meeting in December. Since that time, there has been many conversations. He noted that what they are working on right now is educating the judges if there is an issue with this. At the County Judges Conference led by Judge Joe Williams, Baker County, this summer, Lee county Judge Gagliardi is going to present a course dealing with fines, court costs and fees. It will be a good opportunity for the Clerks to have the information they want to share and provide that to Judge Gagliardi to make sure that it is part of the curriculum. Also Scott Bernstein from Miami Dade is a former education chair of our conference. Maybe some type of program can be crafted or included with those already in place, so we can educate the judges about this. Also there will be a new judge's school sometime in March. He will reach out to the Dean of that new school and make sure that there is some type of educational program that they could fit into an existing educational program.

Judge Ficarrotta stated that the role of the judge is to assess and the role of the Clerk is to collect. One other suggestion is if we can identify a particular circuit that has an issue with assessment and collections or paring it down to a particular judge in a circuit or a county that there is an issue with, please let him know that and he will be glad to speak directly to the chief judge of that circuit and have him or her speak to that particular judge or arrange a meeting between the clerk of that county and the chief judge of that county to better educate those judges on what the problem is and see if the issue can be resolved. Clerk Burke gave a scenario for Pinellas County. The problem is when there is a violation with the payment plan, instead of working with the Clerks to re-establish a payment plan, the county judges are waiving all these things trying to help the person out. He is working with his judges and feels that the training will help. Clerk Doggett noted that she had talked and worked with Judge Gagliardi to get the payment plan made right away with the defendant. Clerk Timmann gave another example for Martin County. She feels that there is a misunderstanding by the judges not knowing how successful the payment plans are on the front end. Chair Bock thanked Judge Ficarrotta.

## **REPORT ON CLERKS' TRUST FUND**

Chair Bock asked John Dew to give the Clerks' Trust Fund report. He thanked the Chair and started his report by stating that the Trust Fund had the dollars necessary for funded Clerks for the month of February. It has also provided all the dollars to Clerks that were due dollars from 15/16 budget year. The situation for the month of March does not look as good. There is \$1.5 million in the Trust Fund as of today and \$1.9 million is needed for the funded Clerks. Another situation now occurs that the methodology used to determine who are the funded Clerks and who are the depository Clerks is based on Clerks' revenue projections from June and their approved budget in October. Now we have new revenue projections from Clerks of \$7.6 million less. We also have new revenue projections from the REC of less revenues. There is a need to go back and look at the methodology and put in the new numbers. Today we are asking that authority be given to the Budget Committee and at their March 15<sup>th</sup> meeting to look and run the numbers and come up with a methodology to determine the funded and depository Clerks and the amount. Another item discussed was that the State requires a quarterly release. Right now, the Department of Revenue is asking for data to prove that there is enough revenue to do the quarterly release. They are likely going to use the REC numbers and not ours. Clerk Crawford made a motion to give authority to the Budget Committee and at their March 15<sup>th</sup> meeting to look and run the numbers and come up with a methodology to determine the funded and depository Clerks and the amount. Clerk O'Neil seconded the motion. Chair Bock asked if there were any questions. Hearing none, the vote was taken. The motion passed unanimously. She thanked Mr. Dew.

#### **UPDATE ON TCBC ISSUES**

Chair Bock called upon Judge Ficarrota to give his report on the TCBC. She asked if he would also give the detail of TCBC and what it is working on and the correlation to what the CCOC is doing. He began by saying their meetings are very similar to the CCOC meetings. Like the CCOC, they are waiting to see what happens in this legislative session. It is no secret that the courts are gearing up for a tough time in Tallahassee with the budget issues. There are issues such as term limits of judges and with rule making. On the budget front, TCBC met in January and a conference call in February and discussed the updates for the fiscal year as well as the allocation policies and end of year initiatives. They are looking to cover the anticipated shortfall in our budget due to increasing costs in expert witnesses and court interpreting elements. We have supplemented the 17/18 LBR and are seeking additional funding for the third DCA building in Miami and also resources relating to the Supreme Court certification of additional judgeships. The Supreme Court has certified 12 additional judgeships statewide. They have also have recommended an e-certification of six county judgeships. At the trial court level there have been no new judges since 2005. Judge Ficarrota noted that The TCBC is very similar to the CCOC with a legislative team that answers questions from the legislative staff. He ended his report by saying that the TCBC is anxiously awaiting session that starts next week. Chair Bock asked if anyone had a question for Judge Ficarrota. She added that CCOC staff does attend the TCBC meeting and brings back any information and in particular on how and what CCOC can do like the TCBC in providing information to what they are doing. Judge Ficarrota stated that he gets with John Dew before the meetings. Chair Bock encouraged Clerks to attend the meetings if the meeting is in your

county. It provides insight to the Clerks on how the court system works and the issues that they are facing. Judge Ficarrotta offered to introduce Clerks if they let him know they are coming.

### **OTHER BUSINESS**

Chair Bock asked if there was any other business to be brought forward to the Executive Council. She thanked everyone for coming today especially Clerks and clerk staff. She also thanked the CCOC staff.

Hearing no other questions the meeting was adjourned at 4:35 PM.