

## **MINUTES**

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

**TUESDAY, SEPTEMBER 11, 2018 10:00 AM EDT**

#### **EXECUTIVE COUNCIL MEETING**

##### **Conference Call**

The September 11, 2018 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) was called to order by Executive Council Chair Stacy Butterfield at 10:00 AM (EDT). John Dew, CCOC's Executive Director, called roll. Council Members attending by phone were the Honorable Stacy Butterfield, Honorable Tara Green, Honorable JD Peacock, Honorable John Crawford, Honorable Pat Frank, Honorable Todd Newton, Honorable Harvey Ruvlin, Honorable Paula O'Neil and Honorable Ron Ficarrota. Clerk Kyle Hudson was not present. Mr. Dew stated that there was a quorum.

Chair Butterfield asked for a motion to approve today's agenda. Clerk Newton made the motion. Seconded by Clerk O'Neil. There was no discussion on the motion. The vote was taken, and the motion passed unanimously.

Clerk Butterfield called on Clerk Ken Burke, the Budget Committee Chair, to discuss the CFY 18-19 Clerks' Budget Request, the allocations of the resources available to the Clerks and the recommendations by the Budget Committee. Clerk Burke began by acknowledging the work of the CCOC staff, the Budget Committee members and the Clerks' staffs throughout the State that participate in this budget request review process. This process demands a tremendous amount of effort and work.

The Budget Committee met and had much conversation on how to approach the budget for the 18-19 fiscal year. There was unanimous feeling that we did want to do a deep dive into all 67 Clerk's budgets and find out why anomalies exist, why some might have higher costs than others, and making sure all elements when comparing budgets are as similar as possible. He noted that there are different practices in the court systems throughout the State and differences within Clerks offices from county to county also. With the short timeframe this year, the Committee knew that those items could not be addressed for this budget time. It was decided an across the board approach be taken and that is what is being recommended to the Council. The Budget Committee has made great progress over the years, but not to the finish line yet. Clerk Green and the CCOC Performance and Improvement Committee has done extensive work to look into the cost of each of the case types. At the same time, the Budget Committee has made a commitment to this budget process and therefore has committed to start in probably January to begin conducting an extensive budget review process for CFY 19-20. Clerk Burke said he will come up with a plan and coordinate with the CCOC staff.

The Budget Committee is submitting a budget approval by individual Clerks which is located in the meeting packet. It is CCOC's obligation to look at any county which exceeds the 10% and that has been done. The committee is now suggesting the budget which was submitted with what the REC has determined can be spent. Clerk Burke asked that a member of the Executive Council make a motion to approve the across the board approach and the budget numbers

which are a part of the proposal which is included in the packet. Clerk Crawford made the motion to accept the recommendations of the CCOC Budget Committee as found in the Council meeting packet. Clerk Ruvin seconded the motion. Chair Butterfield opened the floor for discussion.

At this point Chair Butterfield noted that she has not analyzed in depth the Revenue Estimating Conference's (REC) revenue projection for next year. The REC projected total revenues for us and we included the State general revenue jury funding that brings our statewide budget authority to \$424.6 million. A specific Clerk may not make their individual revenue projections and the Budget Committee will work with them. She hopes this does not occur much, but if it does the Council will work with them and CCOC will be monitoring revenues as part of their role. Clerk O'Neil asked if evaluating a Clerk's revenue projections to actuals would be part of Clerk Burke's committee analysis for CFY 19-20. Chair Butterfield said yes. The line was opened for those listening to ask any questions. There were no questions. The vote was taken, and the motion carried.

Clerk Burke asked if he could speak more about the budget. Chair Butterfield said that would be fine. Clerk Burke began by stating that as part of the REC process this year there was the issue that we as Clerks anticipate that our revenues will exceed what the REC estimated. Based on today's numbers and best estimate the amount will be around \$14 million. We are bringing in more in Clerk revenues than was anticipated this year by the REC. The REC's position is that excess money is General Revenue to the State. He is speaking as part of the Budget Committee and believes any excess revenue should be projected into the Clerk's Trust Fund as far as availability of money for the Clerks to use for their constitutional duties in the following year. He continued that it seems punitive that if the Clerks do not make the REC revenue projections that the State does not provide any remedy to fulfill their budgets and forces the CCOC to cut the budgets of each Clerk.

If the Clerks exceeds the numbers, the State gets to benefit from the General Revenue. He believes that this is a conflict of interest for the folks around the REC table who have a stake increasing general revenue as much as possible. To under project what the Clerks collect gives them more general revenue. He thinks that is problematic and a conflict of interest that the REC has. He would like for the CCOC to take a position and make a motion. The motion would say that it is CCOC's position that any revenues over budget authority revenues should be retained by the Trust Fund for the use by Clerks the following year to do their constitutional responsibilities. Clerk Crawford made this in the form of a motion. Clerk Frank seconded the motion. Chair Butterfield opened it up for discussion. Clerk O'Neil asked for a legal opinion before a motion like that can be made. Mr. Dew stated that Joe Boyd was present and that he had been asked that question earlier. Mr. Boyd acknowledged that this had been looked at before. Regarding the ability to retain those funds it is his position it is proper and that there is a legal basis for it.

Clerk Butterfield thanked Mr. Boyd. Clerk Burke asked to be recognized. As part of this motion, this would be handed off to the CCOC Legislative Committee and the FCCC association to provide clarifying language in statutes to make sure the interpretation is more clearly defined. Chair Butterfield asked if there was any more discussion. Clerk Bexley wanted to make a comment that this was a reoccurring theme from Clerks all over the State to limit the REC. He

will work with Clerk Timmann as the Legislative session approaches and make some proactive changes. He noted that it is being heard and is being addressed. Hearing no more discussion, the vote was taken. The motion passed unanimously.

Chair Butterfield asked Clerk Burke if he had anything else. He acknowledged he did. There is the issue we have each year of unexpended expenditures. He explained with the uncertainty of the budget, income and other factors, this is an issue with Clerks. Each dollar that is allocated cannot be spent by the end of a fiscal year. There is always an amount that has been approved as expenditure and until that settle-up happens we do not know that amount. This year the estimated unexpended amount is approximately \$6 million. In the past, the REC has recognized that this is part of the allocation that we can budget to Clerks. This year they have taken a different position. They have recognized that they have no authority to sweep this money. It will stay in the Trust Fund but the CCOC has no ability to allocate that as part of the 18-19 budget. Clerk Burke stated that this not like past practices. He would like to suggest a second motion to the Executive Council that CCOC take a position that any unexpended expenditures for one year should be carried forward in the Trust Fund to be used for Clerks constitutional responsibilities. Clerk Crawford made the motion. Clerk Peacock seconded the motion.

Chair Butterfield stated that if you watched the REC meeting their staff admitted the statute was not clear and it would be beneficial for the CCOC to address it with the Legislature. She asked Mr. Welty if that was correct and he stated yes, they expressed that exact sentiment. Chair Butterfield asked the Council if they had any questions. This would follow the same process of turning this over to Clerk Timmann who will work with both CCOC Legislative Committee and FCCC. With the amount of funding that we have this year, even though it is more, it is still less than what is needed to cover the statutory duties of Clerks and being able to keep these funds would help. The unexpended amount should be available to Clerks it is a reasonable expectation. Hearing no more discussion, the vote was taken. The motion passed. Clerk Burke recognized Chair Butterfield's leadership and dedication to the CCOC on behalf of all Clerks to help provide a fair budget allocation process.

Chair Butterfield asked Clerk Burke to talk about the next item, Gadsden County. He noted that the Gadsden issue came about due to less revenues being available locally than projected. There was a request for an additional \$198,000 to be provided to Gadsden County from the CCOC Trust Fund for the month of September. Clerk Burke stated that this was not an expenditure issue. No one changed or authorized expenditures for the current year budget based on the Gadsden solution. This was only a cash flow problem. Broward, while is offering up less dollars coming to them from the Clerks' Trust Fund does not give up any of their expenditure cap. They are able to do this because they had more local revenues come in than projected and don't need the Trust Fund dollars for the last month. Again, the solution did not affect anyone's expenditure cap.

Clerk Burke asked Mr. Welty if he had explained that correctly. Mr. Welty stated that Clerk Burke had explained it perfectly. Clerk Burke asked for a motion to be made to approve what the Budget Committee and the CCOC Executive Committee has already approved as stated in Agenda item #2 in the packet. Chair Butterfield wanted to make sure everyone was aware that because of the time sensitive nature of this because it was a cash flow emergency, the Executive Committee of the CCOC met and approved it upon the recommendation of the Budget Committee. This is coming to the Council as a ratification of the motion. Clerk Peacock made the motion as clarified by Chair Butterfield. It was seconded by Clerk Frank. Chair Butterfield asked for any discussion. Hearing none, the vote was taken. The motion passed.

Chair Butterfield asked if there was any other business that needed to come before the Council. She reminded all that the next Council meeting was October 2 at 2:00PM in Jacksonville.

The motion to adjourn was made by Clerk Ruvin. A second was made by Clerk Peacock. Motion passed and the meeting was adjourned.