

MINUTES

FLORIDA CLERKS OF COURT OPERATIONS CORPORATION

MONDAY, JUNE 25, 2018 2:00 PM EDT

EXECUTIVE COUNCIL MEETING

**West Palm Beach Hilton, 600 Okeechobee Blvd, West Palm Beach, FL 33401
Oceana D Meeting Room**

The June 25, 2018 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) was called to order by Executive Council Chair Ken Burke at 2:00 PM (EDT). Clerk John Crawford delivered the Invocation. Clerk Tara Green called roll. Council Members present were the Honorable Ken Burke, Honorable Stacy Butterfield, Honorable Tara Green, Honorable Sharon Bock, Honorable John Crawford, Honorable Pat Frank, Honorable Todd Newton, Honorable Jeff Smith, Honorable Kyle Hudson and Honorable Paula O'Neil. The Honorable Ron Ficarrota attended by telephone. Clerk Green stated that there was a quorum.

Chair Burke noted how the format would work today. First, there will be the Executive Council meeting. After that meeting is adjourned, the annual Corporation meeting will be convened. After the Corporation meeting is adjourned, there will be the Organizational meeting to swear in the new council members and election of the officers.

Chair Burke asked for the approval of the Executive Council Agenda. Clerk Butterfield made a motion to approve the agenda. Clerk Smith seconded. Seeing there was no discussion, the vote was taken. The motion passed unanimously.

APPROVAL OF MINUTES – FEBRUARY 27, 2018 EXECUTIVE COUNCIL MEETING

Chair Burke presented the minutes that were in the meeting packet. He asked if there were any questions or additions to the minutes. Hearing none, he entertained a motion to approve the minutes. Clerk Green made the motion. Clerk Newton seconded. The vote was taken and the motion carried.

TREASURER'S REPORT

Chair Burke asked Clerk Green to give the Treasurer's Report that was found on pages 13 through 18 in the meeting packet. The first item was the CCOC office 17-18 operating budget update. She noted that the CCOC office was staying within their spending authority through May. Concerning the upcoming budget year, the 18-19 operating budget is recommended to be a continuation budget. There were some adjustments such as positions and salaries based on the Evergreen study, but this is all done within the same budget authority of \$1.6 million. And lastly, the DFS contract which is the funding mechanism of CCOC. Clerk Green made a motion to approve agenda item 3a through 3c and wanted a discussion. Clerk O'Neil seconded the motion. Clerk Green continued that as a Council, it needed to address that last year there was an increase based on what State employees received through the legislative session. The amount was \$1,400 per employee making under \$40,000 and \$1,000 per employee making more than \$40,000. At that time John,

the Executive Director, opted not to take the \$1,000 increase in lieu of a performance evaluation. The Council needs to conduct the performance evaluation, but there have been time constraints. She would like to bring before the Council these discussion points. The Council needs to address the Executive Director's receiving the \$1,000. Secondly, there is a significant amount of accrual hours and the policy behind those hours. And lastly, implement an evaluation of the Executive Director's position. Chair Burke asked for a discussion on this point. Clerk Butterfield inquired that the Executive Director position was not discussed last year. Clerk Green confirmed that it was not. Clerk Butterfield said that is what we are acting on today. Clerk Green stated that a performance evaluation was to be done in the interim. The discussion point is whether to retro back and give the Executive Director the increase, then go forward and conduct the performance evaluation. Chair Burke asked Clerk Green if that was in the form of a motion. Clerk Green said yes that was a motion. Clerk Butterfield seconded the motion.

The second point was that a policy is needed to address what to do with the accrual hours that the Executive Director has at this point. He notified the Executive Committee leadership back in September 2017 that he would have excess unused annual leave at the end of the year if he needed to continue to work the hours necessary to get the job done for the remaining months of the year. He preferred that the Council allow either carryover of this leave or some payout as opposed to the leave being converted over to sick leave. Clerk Green said that whether it is a payout or gifting to an employee, it needs to be addressed in a policy. Clerk Smith asked if this was paid time off. Clerk Green stated that there is no policy. Mr. Dew clarified that there is a policy for CCOC staff, but no policy for the Executive Director. For the CCOC staff if they have hours over, they can be paid out and as Executive Director he can do that. There is no policy that gives the Council the authority to pay him. He knew he would have hours that would be moved to sick leave which he had done the previous year. Clerk Burke asked Clerk Green if the Council could assign her the task of working with John on developing a policy and an evaluation document, would she be the point person to handle both? She agreed. Clerk Butterfield made a motion to do this. Clerk Hudson seconded the motion. Clerk Frank asked what the minimal cost would be? Mr. Dew stated an estimate of over \$9,000 for the more than 150 hours held in abeyance but he would be willing to carry some of the annual leave over as opposed to payment for leave. Chair Burke thanked Clerk Green. Clerk O'Neil asked if Clerk Green then would return to the Council with a recommendation. Chair Burke said yes. He warned that the Council could not give comment to Clerk Green because of the Sunshine Law. If you have concerns, please express them to Mr. Dew. The vote was taken on all the motions and they passed unanimously.

Judge Ficarrotta joined the meeting and Chair Burke asked him to give his report at this time. The Judge noted that the Trial Court Budget Commission has had a series of conference calls since the last legislative session. The TCBC has been working on the reallocation for the post judiciary drug court. They have taken steps to solve the FY 2018-2019 problem of court funding proviso language. They have formed an advisory group to deal with policy considerations related to court appropriation. The TCBC is working on the certified Court interpreters and due process issues. The next

meeting is tomorrow in Orlando. They are going to be looking at a status update on the 17-18 budget and the proposed allocations for 18-19. The TCBC will make further recommendations and updates regarding the problem-solving court issues and identification of potential financial year 2019 budget request. He will get with Mr. Dew and Chair Burke and discuss tomorrow's meeting. Chair Burke thanked him for his service and hoped that he would be reappointed as the judicial representative to the CCOC. He acknowledged that he had asked to be reappointed at least one year and maybe even longer.

BUDGET COMMITTEE REPORT

Chair Burke called upon Clerk Butterfield, Chair of the Budget Committee to give her report. She began by saying that the Budget Committee met on April 24, 2018. At that meeting, there were three action items that the committee approved to bring before the Executive Council for their approval. The first item was to ask for Clerks to submit a costs basis(needs-based) budget to the CCOC by June 1 which they have done but we just need confirmation from the Council on the decision. The committee needed to provide direction to the Clerks, so therefore the decision was made at that time. The second item was that the committee approved a draft timeline for submitting not only the budgets but a projected timeline for the activities of the committee for the rest of the fiscal year plus the Chair's ability to make any amendments. The timeline was posted on the CCOC's website and includes dates for potential budget deliberations which is slated for the week of August 27th. The last item authorized the Chair to finalize the budget forms. The draft forms were reviewed at the Budget Committee meeting. The forms were finalized and distributed to the Clerks with the training schedule. Training was held and completed throughout the month of May. Clerk Butterfield made a motion for the Executive Council to approve the three action items brought forward by the Budget Committee. Clerk Smith seconded the motion. Chair Burke asked if there were any questions. Hearing none, the vote was taken. The motion carried.

Clerk Butterfield had two updates that don't need action by the Council. When the Clerks submitted their budgets on June 1, the request was for \$451.9 million. Also included was the request for Jury dollars of \$13.7 million. The grand total of \$465.6 million. As you are aware, we have funding for \$11.7 million for jury dollars. The Clerks request exceeds the funding amount by nearly \$2 million. She noted that the way our budgets work, if we only have \$11.7 million, the additional dollars would be absorbed in the Clerks' budgets. The \$2 million was added to the \$451.9 million for the grand total submission is still the \$465.6 million, but in the pieces of \$453.9 million and \$11.7 million for jury. The budget submission is \$465.6 million. Chair Burke asked if there were any questions for Clerk Butterfield. Clerk Frank was recognized. She offered an observation that the Clerks are driven by a cap that is unconstitutionally put upon us by the REC, however, we have the revenue capable of funding what our needs are. There were no other questions.

Clerk Butterfield presented an update on the revenue. This year that we are in now based upon the most recent reports, the Clerks will meet the revenue projections for this year to accomplish the \$409 million and likely exceed that. This is good news as we have not been able to say that in many years. The Budget Committee is not planning on convening to recommend any budget cuts for the current county fiscal year of 17/18. The revenue projections moving forward for CFY 18/19 that we have received from each of the Clerk's offices show an increase over the current year based on whether you use a low, medium or high projection.

Clerk Burke asked what the revenue estimates for the low, middle and high projections were. Clerk Butterfield stated that with the carry forward, the low was \$417 million, the middle was \$421 million and the high was \$432 million. The low being the worst-case scenario and the high the best case. The middle is middle of the road and would be the number that we are comfortable with. She noted one caveat that goes back to a recent the survey we sent out to Clerks asking them to identify if they have been keeping any Holland and Knight (H & K) dollars as opposed to sending them to State general revenue as this information is needed to make sure of what are in the numbers that are being projected. The CCOC is using all kinds of modeling to predict those numbers. The numbers that we are trying to get to for the projections should not include the H & K numbers. She noted that when we are making projections, we do not want to be wrong. We need the information from the Clerks' offices to determine that we are using the correct numbers. Chair Burke added that the numbers would be confirmed when all the surveys are in.

Clerk Green asked about the survey results concerning any revenues from H & K dollars collected by Clerks. Clerk Butterfield said the survey was due last Friday, June 22. The survey was asking for two pieces of information. The survey asked for the actuals for the remainder of this year and included going back to September 2017 if the Clerks were retaining those dollars. All Clerks were asked to put the numbers there and the listed five that were included in the Opinion that this Council acknowledged. Clerk Butterfield encouraged Clerks that have not submitted the survey, to do so immediately as the information is needed. This information is very vital. We are already receiving questions about the results of the survey and the amount of money. Chair Burke stated that there were nine counties that have not submitted the survey and he would appreciate it if they would submit the surveys so the CCOC can respond to the legislative inquiries concerning the H & K money.

That was the end of her report. Chair Burke thanked her, all the Budget Committee members and staff.

PIE COMMITTEE

Chair Burke called upon Clerk Green to give her report. The material can be found on pages 24 through 92 in the meeting packet. Clerk Green began by saying that five reports have come through the PIE Committee and need Council approval. The first reports to be approved is the 17-18 Quarter 1 and 2 reports which can be found on pages 24 through

48 and 49 through 71. Some of the highlights of these two reports found a 7% decline in filing cases timely for criminal division and a 5% decline in docketing for circuit civil. She said that this was important because when you look from quarter to quarter, it is hard to see a decline because there is shifting of resources around. But when you see year after year, there is a significant decline in both of those measures. The second report is the updated PAC Framework. That is now called the Clerk's Court Services Framework. The bottom line is the committee went through the exercises looking at all the legislation that went through and updated the framework to reflect either additional tasks or some duplicate tasks such as new cases.

Many of the new legislative tasks such as risk protection orders (RPOs) had very little to no revenue associated to them. That is where the power of this framework comes in. Now we can start looking at things that come into the Clerks' offices and see additional tasks that cost them and they do not receive revenues. The third report has to do with some of the new legislation. These are the Risk Protection Orders (RPOs) found on page 87. Clerks are required to report back to March 2018 and what you will find is a temporary report that will be sent out to collect data and going forward that information will be automatically included in your outputs. The fourth report has to do with civil indigent reporting. This is the result of a request from the Budget Committee last year. That is found on page 88. The committee approved the first half of this report but not the second. The first part of the reporting that the committee is going to do is counting files and approved indigent applications. She said that this will give us a better count of the indigency numbers across the State. The second half of the report will try to capture the more complex piece which is the dollars associated with the waived fees of indigencies.

The committee decided that was going to be complex and a lot of work for the Clerks' offices so for this report, we are going to be collecting indigent applications and not revenue. The fifth report has to do with contraband. This goes back to July 1, 2016 and the new law that had the \$1,000 filing fee from law enforcement. We decided to do an interim report to collect that information. The workgroup and the committee looked at it and noted it was a lot of work and the report was not being used. Data can easily be collected on an as-needed basis. The committee voted to discontinue the contraband forfeiture report. We are recommending that report be removed. Clerk Green made a motion to approve the four reports and the discontinuing of the contraband report. Clerk Pat Frank seconded the motion. Chair Burke asked if there was any discussion. There were no questions, so the vote was taken. The motion passed unanimously. Chair Burke thanked Clerk Green and all the members of the PIE Committee.

LEGISLATIVE COMMITTEE

Chair Burke asked Mr. Jason Harrell to give the Legislative Committee report. Mr. Harrell stated that there had not been a Legislative Committee meeting so there is no written report in the packet. He noted that the committee was still very active and very involved in the various issues that we are dealing with for the Clerks right now. They continue to work with the FCCC and look to respond to any legislative inquiries for data and budget information. CCOC has been

coordinating to get those responses back in. That was the end of the report. Chair Burke asked if there were any questions or comments. He thanked Jason and the Legislative team.

REVENUE ENHANCEMENT COMMITTEE

Chair Burke asked Clerk Moore-Russell to give her report. Clerk Moore-Russell began by reviewing the history of the committee. She stated that the Council wanted to find a long-term funding solution for the Clerks and the committee was re-established in September 2017. There was a short-term goal to present recommended solutions to the CCOC in 2018. The long-term goal will be to develop a case-based funding model to work in case types that have costs associated with them. The committee will be working closely with the PIE Committee. Currently, Kathryn Farynowski from Clerk Russell-Moore's office has agreed to chair the workgroup. She has been to Tallahassee to work with CCOC staff to start thinking through what an appropriate model would be, what data is available, and what the timeline is for managing the budget cycle. Clerk Moore-Russell said the proposed methodology has been emailed to her committee and they are planning on having a meeting mid-July to start thinking through the concept methodology before staff moves forward to work out different models. Clerk Russell-Moore asked if the Clerks have any staff that are interested in working on the workgroup to please speak with Kathryn or her. We are looking for staff who are interested in looking at the methodology from a funding perspective. The workgroup will be running models to bring forward to the committee. As we talk to the Legislature about cases that we do not receive filing fees, the Legislature will ask how much the case cost. She will be reporting back when the workgroup has met and the committee has flushed out the methodology. She asked if there were any questions. Chair Burke noted this information is in the packet on pages 93 to 117. He thanked her for her leadership of the committee.

ELECTRONIC NOTIFICATION PLATFORM WORKGROUP

Chair Burke gave a preview of a bill that was passed close to the end of the legislative session. The Electronic Notification Platform is cooperatively being worked on by CCOC and OSCA. Chair Burke asked Clerk Peacock to be the chair of this workgroup. Clerk Peacock began by explaining the legislation and the approach of the workgroup. This is funding that the Clerks did not yet ask for and involves a lot of work. It was language on a back of a bill with proviso language and Senator Brandes was instrumental in getting these dollars. It is \$750,000 with CCOC working with OSCA to create a text or electronic notification for participants in the court system. This is based on a model that Senator Brandes or his staff saw from a study out of New York. The idea was to reduce the failure to appear in court. It was felt that if defendants were getting notification electronically by text or emails, they would be reminded to go to court. The study proved successful for that small pilot group study in New York.

The proviso language requires that OSCA work with CCOC to do a competitive procurement for this process. It was very vague language in a paragraph. CCOC has been trying to come up with a plan to work on that. Along with Clerk Peacock, Clerk Moore-Russell and Clerk Crawford are on the team from the Clerk side. OSCA selected 3 judges, Judge

Nobles of the 1st District, Judge Perkins of the 7th District, and Judge Bidwill of the 17th District as the advisory team on the judicial side. John Dew is working on our staff side and Steven Hall on the court side. There was an initial meeting with State Court Administrator PK Jameson and Judge Nobles on May 31st to try and figure out what was going to be done. The three Clerks met by conference call to get a perspective on what they were going to get out of this soon thereafter. There was an advisory group meeting/conference call on June 15th with judges, staff members and clerks to lay out a process with this information. At this point, we have worked out a timeline on possibly getting a bid out. It is not known if CCOC or OSCA will be doing the procurement.

The Clerks see this is more comprehensive than just texting people when their court date is. It has so many different options, reminder for payment plans, reminders to the different parties not just the defendants for different activities of the court. It could very well be bigger than the initial scope of the dollars. It is probably going to be expensive. We are looking at it comprehensively as to what it can be in the future. He noted he is not sure what OSCA sees at this point other than the initial message was to reduce FTAs. Getting text reminders electronically is the way of the world at this point.

From a timeline standpoint, we are identifying what the deliverables might possibly be. At the June 15th meeting, the responses to the Clerk surveys that already have some type of notification process were reviewed. He thanked those who responded to what the individual offices were doing from a texting notification. We discussed examples from several of the counties and one of the circuits that do that and what event we are notifying them about. Clerk Peacock said he can see two sides of the issue. One is you must have a data set of who is specifically to be notified. On the other side is the delivery of that message. There has been a representative of a company that has done business with the State through mass Emergency Management notifications and they think that they have a solution that could tag along on top of their state contract. However, that is a mass notification to everybody and anybody, but what we are talking about is taking data of everybody's system and notifying specific individuals about specific events. Therein lies the difficulty of how we get that piece of data to reach them.

The delivery of the notification is not that hard. It is the collection of the data that needs to be pulled out of one of our systems whether it be CCIS or individual. Clerk Peacock stated that is the status of this project. The next big step is setting up a meeting with Senator Brandes. Clerk Hudson wanted the group to look at the push back part of the text messaging to know the time the text went out, etc. Chair Burke agreed that there are a lot of moving parts to this. There are so many rules on judicial procedures on mailing people. He thinks what he has seen so far that this is additional work for the clerks. It is not saying that you don't have to mail the notice, but is saying that text messaging is in addition. The amount of \$750,000 statewide to make this happen and the work involved needs to be looked also. He hopes that we will talk to Senator Brandes about how quickly the Florida Bar and the court system revises the rules. There needs to be a corresponding relief for the clerk not to have to mail out notices if we are going to notify with a more effective means of texting. Doubling the work is not solving a problem.

Clerk Peacock stated that clerks have found ways to do things individually, this is requiring a statewide solution. How do you get such a comprehensive thing out of a small amount of dollars? Chair Burke agreed. The clerks are not relieved from mailing, this is additional work. They want the clerks to move to new technology, but the rules do not allow clerks to do that. He hopes that the Legislature would work with the court system to change the rules from mailing notices to text messages. It would save the clerks money. Clerk Moore Russell voiced a concern about getting the data elements to text messages. How do you get cell phone numbers?

Clerk Butterfield noted that a lot of clerks do not capture a cell phone number. It is not in the case maintenance system. Changes to the system must be done and can be done, but where do you get that number. Clerk Peacock stated that even though you get the cell phone number, the FCCC does not allow the clerks to just start texting them. The people will have to opt in. It will take a Legislative to change that. This is not as simple as it appears. Clerk Frank was recognized. She added that the easiest way would be to categorize the cases where texting would be used. The party would be informed that they would have to submit their cell phone number or text message address. It would be pledged that the information would not be used other than court proceedings – no marketing, advertising, no third-party investors, etc. Clerk Newton spoke that the cell numbers of the clients keep changing. Keeping up with that will be a problem. Clerk Peacock feels these concerns need to be brought to Senator Brandes. Chair Burke asked if there were any other questions, hearing none, he thanked Clerk Peacock for his leadership on this. He also thanked Clerks Crawford and Moore Russell.

TENATIVE MEETING SCHEDULE

Chair Burke noted that the CCOC Executive Council proposed meeting schedule for the next year is found on pages 130-133. As CCOC policy, the dates are aligned with FCCC meetings. The locations are whatever the FCCC has chosen. There were no questions.

ANNUAL REVIEW OF THE EXECUTIVE DIRECTOR

Chair Burke thanked Clerk Green for heading this up. He apologized that the evaluation did not get completed this year.

CCOC PLAN OF OPERATIONS - REVIEW

Chair Burke stated that from pages 134 to 144 is the CCOC Plan of Operations as amended from the May 9th Corporate meeting. It is presented here for informational purposes only.

CCOC COUNCIL ELECTION RESULTS

Chair Burke continued with the election results. In Group I, Clerk John Crawford was elected. In Group II, Clerk JD Peacock was chosen. In Group III, Clerk Paula O'Neil was selected. In Group IV, Harvey Ruvin was elected. Chair Burke offered his congratulations to all. He continued that Clerk Todd Newton is representing Group I for another year. In Group II, Clerk Tara Green has another year of her term. Clerk Stacy Butterfield

will serve Group III for another year. Clerk Pat Frank continues to serve Group IV. Clerk O'Neil was the House Appointee, now that will be a vacant position. Clerk Hudson is the Senate Appointee. Judge Ficarrota serves as the Judicial appointee. He continued by thanking Clerk Jeff Smith for his service to the CCOC Executive Council. Clerk Bock was then recognized for her service. She was Council Chair, Vice-Chair, Secretary-Treasurer and served the Executive Council for many years. She did not run for re-election, so she could focus on being FCCC president for this year. He thanked her for her tremendous service to the CCOC.

Clerk Butterfield asked to be recognized. She thanked Chair Burke for his many years on the Executive Council serving as Secretary Treasurer, Vice-Chair and Chair.

The Council meeting was adjourned at 2:56 PM.