

**APPROVED MINUTES  
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION  
April 27, 2020 3:00 PM EST  
EXECUTIVE COUNCIL MEETING**

**Via WebEx and Conference Call**

The April 27th, 2020 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) was called to order by Executive Council Chair JD Peacock at approximately 3:00 PM ET. Clerk Crawford began the meeting with an invocation. Clerk Russell called the roll. Council Members present during the meeting were the Honorable Peacock, Clerk Russell, Clerk Smith, Clerk Butterfield, Clerk Crawford, Clerk Newton, Clerk Roth, Clerk Ruvin, Clerk Colonnese and Judge Ficarrota. Clerk Peacock thanked Judge Ficarrota for being on the call and Judge Ficarrota acknowledged the importance of the judiciary and clerks working together.

**APPROVAL OF AGENDA**

Due to this being an emergency meeting the Agenda was not sent out timely, so Clerk Peacock asked for a formal adoption of the agenda and motion for having the meeting. Clerk Harvey made the motion and Clerk Colonnese seconded the motion. No debate or questions on the motion. With no objections the meeting and the agenda was adopted unanimously as presented.

**APPROVAL OF MINUTES**

Clerk Peacock offered to delay adopting the adoption of the minutes for the February 25<sup>th</sup> and March 25<sup>th</sup> meetings because they were lengthy and there was a short timeframe for the Council members to review. Clerk Russell motioned to approve the minutes from both meetings and Clerk Roth seconded the motion. No debate or questions on the minutes. With no objection the minutes were approved as presented.

**ADJUSTMENTS TO DOR DISBURSEMENTS**

Clerk Peacock brought to order the first topic of discussion: the short-term tactical response to the cash cliff due to decreased revenue. Clerk Peacock's goal is for the Council to use the resources they have before the cash cliff catches up. The Council must work on solutions for the budget year. State partners recognize that there is an issue and the CCOC is trying to get facts to present to them. This is step one in the facts process. Jason Welty and team put together estimates based on information in the Expenditure and Collection (EC) Reports. Clerk Peacock started with questions from staff, clerks and staff members at CCOC.

Clerk Peacock first wanted to address some questions he has received from Clerks or their staff to clarify where we are starting from. The timing of revenue as compared to expenses for Clerks is the first point of clarification. Revenue from September 2019 through August 2020 pays for expenses from October 2019 through September 2020. Last month's revenue pays

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for this month's expenses as this month's revenue is collected. Clerk Peacock identified that it can be a confusing concept as it took him several years on the Budget Committee to fully understand why it is done that way.

Clerk Peacock's first goal as well as the Council's goal was to stay solvent through the 3rd quarter of the CFY (June 2020). The second was to use resources available as a Council to accomplish the first goal, and the third was to work with partners at FCCC, OSCA, the Courts, Governor's Office, Legislature – staffers and legislators, to find an emergency fund stabilization solution that gets the Clerks through the year. He said he felt confident that the advocacy team was working towards that goal.

Clerk Peacock explained the cashflow and temporary solution being offered. He walked through the components based on actuals reported in interim revenue reports (IRR) and explained how we look at each Clerk individually. This information was coming fast paced and based off metrics from EC reports and from 04/20 as well as IRR. He apologized that it was not sent out until late Friday, but it was late because staff was working late to make sure everything was well vetted.

Clerk Peacock ran some numbers on his own and then compared to what Jason had done separately to validate against one another. The goal was to understand everybody's cash position at April 1<sup>st</sup> (Column M of the spreadsheet). This comes from everyone's EC report and includes seven months of revenue including September 2019 and inclusive of expenditures for six months starting in October 2019. It also includes disbursements from the Trust Fund for funded counties and excess revenues that goes back to the trust fund (1/12<sup>th</sup> calculation).

Then Jason used the first 15 days of April revenue as a basis to calculate April anticipated revenue by clerk. The next column shows the month of April monthly trust fund distribution to the funded clerks. Then added together expected revenue and trust fund distribution (Column P). From an expenditure standpoint, Jason estimated expenditures for April based on lesser of either the average first 6 months expenditures or average of the remaining budget authority for the final 6 months (whichever was lower). Most people had a lower average for first 6 months.

Once the math was done on April's calculation it becomes the anticipated cash position on May 1<sup>st</sup>. The question becomes, "Can you make the first payroll? Can you make the second payroll?" Column R shows the counties highlighted in orange that we anticipated that may not make first payroll or certainly not the second until a distribution from CCOC comes out (around May 5<sup>th</sup>). Next add in expected expenditures to get cash carry forward number for June.

We have tried to find a way that you have cash carry forward plus expected revenue in June that will carry you through to the end of June. Once you get to July 1, Column Z shows your anticipated cash position. Counties highlighted in red do not anticipate on July 1 there will be enough money to make July payroll.

The deficit number in column Q is the revenue that came in against the expected expenditure, not to budget authority or it would have been a bigger number. That is a \$14 M deficit at May

1. Then, moving forward there is almost a \$31 M deficit for June 1. When you follow that through there is over \$48 M revenue shortfall through the 3rd Quarter.

These numbers help Jason and the advocacy team that communicate with stakeholders by giving them a number. This number shows that in 3 months there will be a funding deficit of almost \$50 M. Clerk Peacock is asking to adjust the monthly TF distribution from the normal monthly distribution to what is on this spreadsheet. They have found a way to use that distribution (a little over \$4.1 M in the trust fund) and adjust what normally goes out to help get everybody to July 1.

Counties listed in Column T will receive a distribution from the CCOC Trust Fund. Some counties that would normally get a distribution from the TF will not get a distribution if it seemed that a county had sufficient cash flow at June 1 without a cash flow distribution in May. The distribution for May is being used to make sure that the Clerks that were going to have a cash flow cliff before July 1 get help. That turned out to be \$2,764,000 for the distribution around May 5.

We will have about \$4.3 M of state trust fund authority left for the two months of the SFY. This gives a \$1.5 M in TF balance to utilize to shore people up come the June distribution if we need to. We will get better numbers May 20 to replace estimates and use the remaining balance to catch people up that won't make it through June. Request to the council is to authorize staff to change the distribution schedule with DOR so that they will distribute to the clerks in Column T as outlined in the spreadsheet.

Clerk Peacock opened it up to Council members to ask questions, get clarifications, or make suggestions. Clerk Butterfield thanked them for their work on a complicated spreadsheet and the time needed to work on such a project to keep everyone operating until June 30. She brought up the revenue projections used in Column N, F and W. Clerk Butterfield wanted to ask Clerks to report early and update sooner rather than later to get actual April numbers. And she pointed out the trend of bringing in less revenue each month but maintaining a monthly expenditure of approximately \$34 M which means most Clerks will be out of money by July, and the problem will just grow bigger and bigger.

Clerk Peacock stated that Clerk Butterfield was accurate and that more information sooner is better. We have a tight timeline for DOR as they wanted the distribution numbers last week, but Clerk Peacock wanted to speak with the Council before sending those over. The \$25 M is effectively the remaining balance statewide. As the team communicated with legislative staffers, they wanted to know about individual Clerks. Even those who may have a positive balance at July 1 will run out of money quickly and they will be in the same situation as the ones in red.

Clerk Peacock asked if anyone has any further questions or comments. Clerk Roth spoke up and thanked Clerk Butterfield for her questions and comments to the timing. She understands that it is a tight timeframe to work with DOR to carry out the distributions quickly. She received an email from Ken Burke and wanted to express his concerns to the Council as he had another call and may not be on the line yet. Clerk Roth understands that timelines and why this was being brought up to the Executive Council for decision; however, Clerk Burke raised concerns

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that the only approval was the Executive Council and not first stopping at the Budget Committee where there is more vetting and vigorous debate. Clerk Roth is putting forward the request of Clerk Burke to reconsider allowing the Budget Committee to meet on this issue. Clerk Peacock thanked Clerk Roth for her comments and took the blame for this issue being brought to the Executive Council level because of emergency that we are in to get this done. When there will be a yearlong budget decision, he would entertain moving that to the Budget Committee first. Right now, Clerk Peacock feels in this emergency situation we are trying to stay solvent from month to month. Once there is a solution identified it may not be the entire deficit and CCOC may have to make hard decisions and push these to the Budget Committee for full debate. It would be on a tight timeframe as this is an emergency action that is just getting us to July. If we get to June without a basic understanding of what the solution will be, we will have to take dramatic steps in the current fiscal year.

Clerk Alvarez-Sowles asked if the surplus clerks would put money into the trust fund going forward. Clerk Peacock assumes that there will be no surplus starting in May, which Jason Welty agreed with. This is due to the revenue shortfall that everyone is experiencing so there would be no excess coming into the trust fund. Clerk Alvarez-Sowles commented that just prior to this meeting she sent updated revenue numbers for Pasco to Jason. Her revenues have dropped significantly, and she asked that CCOC consider the most recent data. Clerk Peacock explains they have built in more numbers to go out in the June distribution to fill in holes they missed in actuals and estimates.

Clerk Alvarez-Sowles is concerned that Pasco won't receive additional money from the TF after the current month. The communication she had with her county to get assistance was reliant upon receiving funds from the trust fund. She states that she understands we are all in this together, but it puts her in a bind locally. Clerk Peacock assured her that we are only adjusting May and June TF distributions. We will examine this each month.

Clerk Peacock stated that he understood the situation and that each Clerk is having to have communication with their county about this issue; some have the relationship to get short term assistance and some don't. He also noted that the court functions are the state's responsibility and he asked that everyone keep track of the funding from other. Also, that we make sure we are communicating all the cost impacts. He states they are trying to make sure each clerk has the cashflow to get them to July 1.

Clerk Butterfield asked if the normal May distribution to funded Clerks would still happen to which Clerk Peacock answered that no, they would not. The only distribution would be as presented on this spreadsheet to get everyone to July 1. Clerk Butterfield also wanted to clarify that this just got everyone through June and that there would still be funds available for a June distribution. Clerk Peacock confirmed that she was correct and that there would be another Executive Council meeting this time next month, if not another one sooner to figure out where the \$1.6 M will go.

Clerk Ruvlin asked if we would at some point address whether Clerks would be part of the discussion during special session. Clerk Peacock stated that he has been working on cash flow and trying to stay solvent. The FCCC legislative and communication team has been leading the efforts to stay in communication with legislative staff and the governor's office.

Clerk Cooney had two points, as Clerk Alvarez-Sowles pointed out these numbers are going to change and asked if the Council would vote on the formula instead of the actual numbers. He also stated if there would be another Executive Council meeting there would be at least one Budget Committee meeting in the interim. Clerk Peacock states that the Council is not being asked to vote on the formula. Clerk Cooney also asked if a date would be set for everyone to reduce or freeze their expenditures as much as possible in preparation for a potential reduction. As we move forward Jason will apply a 10% reduction to May revenues. As the data comes in, we may have to change that assumption. Clerk Peacock is asking that based on the current assumptions, to approve a distribution from the trust fund that we anticipate will keep everyone sufficient in cash flow until the July. Clerk Peacock feels that during this emergency time things are moving too fast to move each step through the Budget Committee prior to the Executive Council.

Clerk Peacock stated that we have a budget cycle we need to get back into for the next fiscal year. He intends to have a Budget Committee meeting via WebEx by mid-May, around the week of May 18<sup>th</sup> to discuss next year's budget. There are a lot of moving targets when decisions are made and when that budget gets here. We have to make decisions before a special session as it doesn't appear that will happen before July.

Clerk Kinsaul is also seeing reduced reviews and sees the formula and idea and things the other counties may need distributions. Clerk Peacock agreed that if we see numbers drastically change, we can make adjustments. He also stated that Jason would solicit feedback from Clerks and their finance staff if they see things going different than this calculation shows. If you need to, reach out to Jason so he can incorporate that into the projection for your county.

Clerk Colonnese asked if the dire message is being communicated to our partners and higher authorities, to which Clerk Peacock responded that yes, it is part of the broader conversation being had with our advocacy team. Clerk Butterfield agreed that this type of data that we were waiting on and need to have in those conversations. When you state that your revenues have dropped off, the natural question is "by how much?" Clerk Butterfield stated that the more information they have, the better. She stated that while she hears the comments, she thinks we need to engage the Budget Committee when we are talking about allocations to Clerks moving forward, whether July or next year, but this is an adjustment of the distribution for May and we will have another opportunity to deal with June. This is an emergency situation and the numbers are needed to DOR today. She also stated that when everything begins to open up, the funding source may not pick up due to the nature of the funding model, but the workload will.

Clerk Colonnese's second point was that if no assistance comes in that we basically grind to a halt and Clerk Peacock confirmed that is correct. The current goal of the decision today is to get to July 1.

Clerk Malloy had a question regarding the \$10 M that had to go back to the state and a clarification on the previous direction on the positions vacant for 180-day being eliminated. He also wanted to know if Clerks would be penalized for shifting positions elsewhere in their

budget. Clerk Peacock stated that the 180-day vacancy is part of the Base Budget for CFY 2020-21 so when the Budget Committee meets in May, they can discuss that topic because they already voted to remove that from the base budget. Clerk Peacock asked that he track that information so should funding become available they can be paid back. Clerk Malloy would also be interested in hearing ideas on how others are reducing costs.

Jason Welty addressed the question about the trust fund. He has received many comments on who have three payrolls in April. The extra expenditures can be adjusted with the distribution for June to make sure they can get to the July 1 date. We still have some limited flexibility but if we can get those numbers updated for June distribution.

Clerk Burke thanked Clerk Peacock for his work on this. Clerk Burke stated that everyone is on a hiring freeze. The thought of furloughs or laying off staff is counter production to once the courts get back to full operation. Pinellas County had 3,000 small claims cases that are in the hopper and need to be heard. They have been asked to hold off on suspending licenses and extend payments, but they will have 16,000 cases once that is lifted. The demand on his staff and the Judges once jury trials resume will be great, not to mention evictions which will then become a commerce question. Will the Clerks be a bottle neck on the system because we don't have revenues to operate? He asked if Judge Ficarrotta could address the Trail Court Budget Commission (TCBC) as partners.

Judge Ficarrotta indicated that there are a limited number of trials that can still continue. Then when you bring juries back in some will be leery coming back into enclosed spaces and some have been out of work and coming in will be a hardship. Criminal trials will be the focus and civil will take a back seat for a while. He will bring it up to the TCBC Executive Committee tomorrow and at the full meeting in June. Courts are as essential as essential can be and the Courts can't do their job without the Clerks. Clerk Burke asked if the CCOC could give a report to the TCBC on our dire funding situation and how it works. Judge Ficarrotta said he would pass the request on to the Chair of the TCBC and get back to Clerk Peacock and John Dew.

Clerk Peacock asked if anyone had any further questions, to which no one did. Clerk Butterfield motioned that the distribution for the month of May be adjusted as presented in the spreadsheet. Clerk Smith seconded the motion. With no debate the motion was approved unanimously.

Clerk Peacock said that he would get some dates out to plan the next Budget Committee meeting. We won't be able to meet in person, but it will be a WebEx that will capture the debate amongst the committee members. He asked Budget Committee members to get agenda items to Marleni or Jason so that we can have backup or supporting information available.

Clerk Peacock thanked everyone for their time and attendance. John Dew thanked all the Council and Clerks involved in the call.

Jason asked that everyone with an extra payroll in May needs to get that information to him today so that he can update the spreadsheet for going into June and going into July. These

are working documents, and everyone needs to monitor it, if you see issues get those turned in immediately. As you know your numbers get them in as quickly as possible.

Clerk Peacock adjourned the meeting at approximately 4:30 PM.