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HOUSE APPOINTEE

JOHN DEW
EXECUTIVE DIRECTOR

FIRM OF BOYD AND DURANT
GENERAL COUNSEL

2560-102 BARRINGTON CIRCLE | TALLAHASSEE, FLORIDA 32308 | PHONE 850.386.2223 | FAX 850.386.2224 | WWW.FLCCOC.ORG

Minutes of August 11, 2021 CCOC Emergency Executive Council Meeting

Approved by the Executive Council at their meeting on 12/16/21.

The Executive Council of the Clerk of Courts Operation Corporation (CCOC) held an Emergency meeting via WebEx on August 11, 2021. An agenda and materials were distributed in advance of the meeting and posted on the CCOC website

Call to Order and Invocation

The August 11, 2021 meeting of the Executive Council of the CCOC was called to order by Executive Council Chair JD Peacock at approximately 10:00 AM. He announced to Council members that the meeting would only have one item on the agenda to discuss, and that would be the recommendations from the Budget Committee on the CFY 2021-22 Clerk's court-related budgets. Chair Peacock asked Clerk John Crawford to provide an invocation. Clerk John Crawford cited Ralph Waldo Emerson, "Cultivate the habit of being grateful for every good thing that comes to you and to give thanks continuously and because all things have contributed to your advancement you should include all things in your gratitude."

Roll Call

Secretary/Treasurer Tiffany Moore-Russell called the roll. Council members present online via WebEx were Chair JD Peacock, Vice-Chair Jeff Smith, Secretary/Treasurer Tiffany Moore-Russell, Clerk Stacy Butterfield, Clerk John Crawford, Clerk Todd Newton, Clerk Laura Roth, Clerk Harvey Ruvini, Judge Ronald Ficarrotta, Clerk Nikki Alvarez-Sowles, and Clerk Ken Burke. Clerk Moore-Russell announced there was a quorum.

1. Agenda Item 1 – Approve Agenda

Chair Peacock requested a motion to adopt the agenda as presented, which is the single topic of the Budget Committee recommendations to the Council and the minutes of the previous meeting.

A motion was made to approve the agenda by Clerk Butterfield and seconded by Clerk Alvarez-Sowles. The motion was adopted unanimously.

2. Agenda Item 2 – Approve Minutes from 6/28/21 meeting

Clerk Moore-Russell stated to Council members that she was not aware of any changes to the minutes of the 6/28/21 meeting.

Clerk Moore-Russell made a motion to approve minutes as presented and seconded by Clerk Ruvin. The minutes were adopted by consent.

3. Agenda Item 3 – Budget Committee Recommendation for CFY 2021-22 Budget

Chair Peacock provided a brief introduction and then turned it over to Griffin Kolchakian, CCOC Budget and Communications Director, to explain and provide an overview of how the Budget Committee came up with the recommended CFY 2021-22 Clerks' court-related budget. Griffin shared the spreadsheet on screen with Committee members. He discussed and explained the different columns added. Column "H" – Approved Statewide Issues; Column "K" – Approved Funding Requests; Column "N" – \$2.1M Restore Reduction from held harmless counties in CFY 2020-21; Column "O" – Across the Board 40%; Column "S" – Weighted Cases Distribution 60%; Column "V" shows the CFY 2021-22 Revenue-Limited Budget of \$444.9M. The final step to determine the recommended budget was to implement a cap for any county to not receive more than their Needs-Based Budget request amount. The Budget Committee agreed to add the 3% salary increase that was removed for the fiscally constrained counties last year shown in Column "X". Column "Z" shows counties that would receive more than what they asked for and were therefore capped. The total was 18 counties with a total amount of \$77 thousand dollars to be allocated to the newly created Reserve Fund. Column AA \$444.8M is the final suggested and proposed budget. Chair Peacock then opened up the floor to Council members for questions on the recommendation.

A motion was made by Clerk Butterfield to move forward the recommendation of the Budget Committee and seconded by Vice-Chair Smith.

Chair Peacock opened up the floor to Council members for debate on the motion. Clerk Moore-Russell wanted to acknowledge that she had sent every Council member a formal letter protest on behalf of Orange County Clerk of Courts Office. Orange County is being over assessed in the State of the CCOC Trust Fund which is impacting operations. The proposed budget model does not take into consideration where the case load is happening. According to Mike Murphy, Finance Officer in Orange County, they are projected to contribute \$9M to the Trust Fund. Clerk Moore-Russell wants her formal protest noted on the record specifically that Orange County is over funding into the trust fund at a risk of hurting Orange County operations locally. She stated that she will be voting against the motion today. Chair Peacock noted for the record that all the Council members have received the letter mentioned by Clerk Moore-Russell. The letter will be adopted as part of the record for the minutes, and CCOC staff was directed to send out that letter to the normal distribution to Clerks and Clerk Finance.

Clerk Alvarez-Sowles commented that she understands and supports Clerk Moore-Russell's decision to vote against the motion today. She expressed concern about the methodology used. She also voiced a concern with regards to budget numbers submitted by Clerks (CFY 2019-20) versus budget numbers for (CFY 2020-21) utilized to prepare the current budget recommendation. Clerk Roth asked Clerk Alvarez-Sowles to clarify what part of the methodology changing late in the game she specifically was referring to. Chair Peacock interjected to explain that the methodology used by the Budget Committee was how we did the Revenue Limitation, not how we generated the appropriate funding level.

Clerk Roth also expressed her concerns and frustrations with the same issues year after year. She would like to see a data driven case formula that can be applied with confidence in order to get the real dollar amount of how much it costs the Clerks to process cases. Vice-Chair Smith expressed his concerns about using only 100% weighted cases caseload as not the accurate way to proceed. Weighted cases vs. cost of cases are two very different things in his opinion.

Clerk Butterfield said she will support the motion at hand and the Budget Committee recommendation. She wanted the record to reflect the following issues: All Clerks offices are operating with less money and limited by revenue to run Clerks' offices appropriately. Great strides have been made in the Budget Committee in refining the process and improving the process. Case counting audits and case weighting are huge factors that have moved Clerks forward. Clerk Butterfield also went on to explain that all Clerks were instructed to prepare a Needs-Based Budget based on their needs required to operate their office. Clerk Butterfield also spoke about the revenue generated and 100% weighted cases. Although it represents a good bit about workload, it is not the end all. From the revenue side of the Clerks' perspective, the Clerks do not control that, there is only one thing with revenue that the Clerks control and that is the compliance and collection efforts. For those counties that generate more revenue that goes into the Trust Fund, the revenue is State revenue that by design and per statute goes to a collective pool. In the future in refining this allocation process, she recommended that Clerks focus on the expenditure side. She said she is all for continuing to improve our model and of using more of the efforts we have put into the weighted cases and the case counting at the top of the model.

Clerk Newton agreed with Clerk Butterfield's comments. Clerk Moore-Russell clarified that Orange County never proposed using weighted cases to allocate 100% of their budget. Orange County's dissent was with regards to Column "S." Vice-Chair Smith debated the fact that the revenue is not under the Clerk's control, but it is set by the legislature. OSCA consistently considers the cases that the County must oversee as their cases and the revenue generated is not the Clerk's revenue, it is the State's revenue that they have thrown to Clerks to divide up amongst each other in a format and model that doesn't work. Clerks must figure out something in addition to weighted cases because that alone is not going to be the solution to the problem.

Clerk Smith stated that these cases are State revenue like Clerk Butterfield pointed out, and the State has given the Clerks the dubious honor to cap us at whatever the State says the revenue is going to be and then it is up to the Clerks to divide that up amongst the 67 Clerks. Invariably, there is not going to be an equitable way to do that under this format, so Clerk Smith hopes that the Legislative committees of the CCOC and FCCC are working strenuously to fix this issue.

Clerk Alvarez-Sowles commented that we do have to look at expenditures. Every county has their specific expenses. There are revenues that are not on any of the sheets presented which is revenue that comes from general revenue that help the county Clerk with courts so not all counties are on an even playing field when we are not able to see all the revenue coming in and we don't know all of our expenditures, as it is specific to each Clerk's office. Clerk Alvarez-Sowles discussed the issue regarding the change in the methodology that was used to come up with this year's budget. Clerk Alvarez-Sowles believes that the original instructions from the Budget Committee was the approved CFY 2019-20 budget. That budget was at \$446M which is really close to where we needed to be this year. Chair Peacock weighed in and commented that at the end of the day we are carving up a bucket of money where 67 county Clerks partake of, and we hold ourselves accountable to that. He is a big believer of measuring the outcomes (weighted cases). Some good work has been done in the past where the cases are weighed and now, we are in the middle of making sure that the case counting is done correctly and that everyone is counting the same way. He agreed that these two components need improvement. The output is the measurement of how much it costs us to do the work, and then from that point figuring out the anomalies between the different counties. The only way we are going to move forward is by measuring our expenditures. Continuing to move incrementally to get this model correct over the next few years. Chair Peacock opened the floor to Clerks on the call.

Chair Peacock mentioned that Clerk Kinzel of Collier County sent a communication to the Council Members this morning which will be included in the record. Clerk Kinzel thanked all for the work done. Clerk Kinzel expressed disagreement with Clerk Butterfield and Clerk Newton. The requested letter that was received by Clerks referred to the budget request that had been developed in the prior year as Clerk Alvarez-Sowles has stated. Clerk Kinzel's letter to the CCOC states that the statutory requirement is that each Clerk submit a balanced budget. Clerk Kinzel understands the issues with some of the other Clerks offices that don't generate enough revenues to sustain their operations, but Clerk Kinzel believes if we continue to cover those kinds of crisis by redistributing funds, we all suffer and we will never get the attention necessary to properly fund the Clerks.

Clerk Kinzel commented on weighted cases. The statute requires that you consider the costs for the budget, yet we have never done that. Clerk Kinzel asked what the formula was for weighted cases. All of the different nuances in each of the Clerks' offices have never been vetted. Clerk Kinzel takes exception to the continued use of "State Revenue." The State gets a cut of those fines and fees. There is a specific

allocation in the statute of what the Clerks get. Clerk Kinzel takes exception to keep repeating that this is State revenue. Clerks' offices are cut and hurting, and the crisis exists without making it known to the Legislature. She would like to articulate this level of a crisis to the legislature.

Chair Peacock had a rebuttal to Clerk Kinzel's comment and asked that Clerk Kinzel have a conversation with Clerk Green related to how the case weighting came about when she was Chair of the PIE Committee. Clerk Colonnese sympathizes with the issues being expressed. She stated that, proportionally speaking, all counties are taking a hit, some bigger than others because of the nature of the population and the revenue intake. Article V is what caused this problem. Clerks have known for ten years that our model is broken but Article V recognized the disparities around the State, and this is what was born out of it, and this is what we are stuck with now. Every year we are asked for a Needs-Based Budget so that we can track our expenses and show our disparities.

Chair Peacock opened up the floor again to the Council members for one final comment or debate. Hearing none, he reminded Council members of the motion from Clerk Butterfield to adopt the budget as recommended by the Budget Committee and was seconded by Vice-Chair Smith. Chair Peacock call the question on the motion on the floor.

Motion was adopted with one in dissent.

4. Agenda Item 4 – Other Business

Chair Peacock announced that he currently is not anticipating having a Council meeting at the Fall Conference. Looking at the business that may be needed there does not seem to be sufficient need to hold a meeting unless this changes. The next meeting of the Executive Council will probably be in early December related to CCOC contracts and any other business that may come up.

Chair Peacock announced that there will be a communication which will go out for any Clerks interested in serving on a committee. Chair Peacock and John Dew, CCOC Executive Director, are working through the committee chairs. Chair Peacock asked Mr. Dew if he had any comments for the good of the Council and he responded that he did not.

Clerk Butterfield thanked the Council members and Budget Committee members and all the Clerks. Due to the work that has gone forth from the Legislative perspective, the Legislature has been able to recognize the position of the Clerks and are willing to assist the structural changes that happened this year. If the Clerks can provide the data that is needed to continue to improve our model, then it can be used for more allocations.

Clerk Alvarez-Sowles commented that she is a planner and asked Chair Peacock if the December Council meeting could be scheduled soon so that it could be placed on calendars as December is the time of year when there are a lot of events going on. Chair Peacock responded by saying that he will share a date once he has had the opportunity to speak with the FCCC about possibly scheduling the December meeting in conjunction with a FCCC Board of Directors meeting.

Clerk Kinzel commented that she is sympathetic to all Clerks, as well as, to the Judges as all are struggling for money. Clerk Kinzel hopes that her comments are intended to be taken by the other Clerks to be very constructive on how we start to fix it for everyone. Chair Peacock thanked Clerk Kinzel.

Chair Peacock opened up the floor to other Clerks on the call. Hearing none, the floor was opened to anyone on the call that wished to make a comment to the Council. Hearing none, Chair Peacock adjourned the meeting at 11:00 AM.