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Minutes of December 16, 2021 CCOC Executive Council Meeting

The Executive Council of the Florida Clerks of Courts Operations Corporation (CCOC) held a meeting via WebEx on December 16, 2021. The agenda and materials were distributed in advance of the meeting and posted on the CCOC website.

Call to Order and Invocation

The December 16, 2021 meeting was called to order by Executive Council Chair JD Peacock at approximately 9:03 AM. Chair Peacock announced that the major purpose of the meeting was to initiate new contracts for the CCOC office as most of the current contracts will expire at the end of the calendar year. A couple of reports will also be presented. Chair Peacock asked Clerk Crawford to provide an invocation.

Roll Call

Secretary/Treasurer Tiffany Moore-Russell called the roll. Council members present online were Chair Peacock, Vice-Chair Jeff Smith, Secretary/Treasurer Tiffany Moore-Russell, Clerk Stacy Butterfield, Clerk John Crawford, Clerk Todd Newton, Clerk Laura Roth, Clerk Harvey Ruvin, Judge Ronald Ficarrotta, Clerk Nikki Alvarez-Sowles, and Clerk Ken Burke. None were absent. Clerk Russell announced there was a quorum.

1. Agenda Item 1 – Agenda Approval

Chair Peacock introduced the agenda as presented. Chair Peacock stated that in section “Other Business” he will briefly talk about the preparation of the annual report, as well as a brief update on the e-notify project. Clerk Burke noted that he also wanted to bring up an item for discussion in “Other Business.”

The agenda was approved and adopted by consent.

2. Agenda Item 2 – Approve Minutes from 08/11/21 Meeting

Chair Peacock called on Clerk Russell to present the minutes from the August 11, 2021 Council meeting.

Clerk Russell made a motion to approve the minutes of 8/11/21 meeting as presented. Clerk Ruvin seconded. The minutes were adopted by consent.

3. Agenda Item 3 – CCOC Office Treasurer’s Report CFY 20-21 & CFY 21-22

Clerk Russell began by thanking Executive Director, John Dew, and his financial staff at CCOC. Clerk Russell stated that the 2020-21 fiscal year ended only utilizing 82% of budget. This information is in the meeting packet. Starting out this fiscal year, with one month of expenditure data, the CCOC has only expended about \$78,000 which is 4% of the projected budget for 2021-22. Clerk Russell noted that the report is just for informational purposes. There were no questions from the Council.

4. Agenda Item 4 – CCOC Contracts

Chair Peacock called on Mr. Dew to lead the next agenda item which involves the use of contract services for the CCOC office. Mr. Dew pointed out that the CCOC currently has eight contracts to support the office that will expire at the end of December for such services as Clerk Education; janitorial; internal and external auditing; website hosting and maintenance; compliance services; IT services; and copier and lease services. He noted that the CCOC went through a process that follows State guidelines. He directed the Council to page 12 of the meeting packet which provides details on the current annual cost of the eight contracts, the proposed cost for the new contracts, and the vendors recommended to receive a contract for the services. Mr. Dew also pointed out a link on page 12 that provides all background information including the current contract we have for services that expire on December 31st, the request for quote documents sent out to vendors, and their received quotes. Those quotes were reviewed by CCOC staff along with Treasurer Clerk Russell.

In addition, he noted that there were three contracts that had already been signed by CCOC leadership due to the timing of when those contracts expired, and he asked the Council to ratify leadership’s position of approving those contracts. Chair Peacock opened the floor for questions.

Clerk Newton asked for clarification on why the chart on page 12 showed the estimated costs of the new contract for Compliance Services as \$72,030 but the proposed annual maximum on the chart showed only \$59,500. Mr. Dew explained Compliance Services in their bid was seeking to add to the previous contract they have with CCOC two new services they have not done in the past. One was to have them look at “Best Practices of Compliance” and the other was to look at the “Return of Investment in Compliance Services.” After reviewing the two added items, Mr. Dew stated that these are items that CCOC staff could do in-house if this was something the Council wanted done. Therefore, the new contract for compliance services would only continue to provide the same services as before.

Clerk Burke asked if CCOC staff are considered FRS employees. Mr. Dew responded they are considered FRS employees as this was written into the statutes that created the Corporation. Clerk Burke went on to inquire whether they were considered State employees. Mr. Dew replied that they were not. Clerk Burke also asked what HR services specifically would be provided by The Krizner Group. Mr. Dew explained they are on retainer in case there is an HR issue. They conduct an audit annually of the

CCOC office to ensure the CCOC is providing HR education to its staff and following HR rules.

Clerk Smith asked about the IT Services contract and if such services could be provided to the CCOC by the FCCC. Mr. Dew explained that this was not a large volume contract and that a contractor would be responsible to provide services related to the CCOC's computers, parts, and server. This vendor makes sure that all computers and servers are up to date and are working, and that CCOC's cloud service is backed up. IT Services ensures equipment and software is installed correctly.

Chair Peacock commented on the Clerk Education contract because the quote for services from the FCCC in the future is higher than what we have paid in the past. Included in the cost is an increase to have the Association provide staff to manage all our WebEx and virtual meetings so we can have consistency in the process and the CCOC staff can focus on the policy issues. The CCOC recognized that it would need a consistent process and platform because of the increase in virtual meetings due to Covid. FCCC provides hosting and managing the people on the call. That consistency across both the Association meeting, as well as the CCOC meeting really has been beneficial, as well as the continuing education and training. Chair Peacock believes the CCOC is getting a good product from the Association.

Chair Peacock opened the floor for a motion to adopt the contracts as provided in addition to the contracts noted earlier that were already signed.

Motion to adopt the eight contracts as provided, as well as adopt the contracts that were signed with the Krizner Group, DFS, and Brenda Sorensen. Clerk Butterfield made the motion and Clerk Newton seconded. The motion was adopted.

5. Agenda Item 5 – Process for Review and Recommendation for Indigency Forms

Chair Peacock introduced the next agenda item which is the Process for Review and Recommendation for Indigency Forms. Chair Peacock stated it is a collaboration with the FCCC and CCOC. Chair Peacock said that we are required to adopt the forms and forward them as a recommendation to the Supreme Court to be adopted. Clerk Roth mentioned that the Indigent form was presented to the PIE committee. The forms were thoroughly reviewed. The forms first went over to FCCC Best Practices Committee where “legal eagles” – a ton of attorneys – poured over them. Clerk Timmann had some concern about a suit that was filed so the PIE committee took that into consideration. The forms were discussed and lots of changes were made at the PIE committee. Clerk Roth stated that this was by no means any kind of rubber stamping and that the forms look the best and most consistent between the form types than they ever have.

Chair Peacock opened the floor to discussion on the forms, and the recommendation to the Supreme Court. Clerk Alvarez-Sowles brought up an issue regarding the signature of the individual which is in the middle of the form as opposed to the end of

the form. Clerk Alvarez-Sowles asked if there was any special consideration for this. Chair Peacock asked Jason Welty to present an explanation. Mr. Welty said that this issue was brought to our attention at CCOC by someone in the Legislature. There is research out there that suggests that if you sign before you make all your declarations there is a lesser likelihood of untruthfulness. That was the justification for putting the signature at the top rather than the bottom.

Clerk Smith posed two questions regarding the regular Civil Indigent Form and the Dependency and Termination of Parental Rights form. The first question is why on the Dependency and Termination of Parental Rights is question #2 “Annual Total Income” then over on the regular Civil form we don’t have that it just reads Annual net income. Mr. Welty explained that CCOC worked with DCF and their Deputy Secretary, as well as the Director of Children’s and Legal Services. Those entities informed CCOC that one of the things that they can use this form is Annual Total Income. This will allow them to pull more dollars down from Title IV-E. One of the things that the Feds require is annual income and gross income, whereas statute only requires these forms to have net income. Therefore, the CCOC included annual income on the Termination of Parental Rights form. CCOC also included (SSI) Supplemental Security Income and Supplemental Security Income for children on this form because that is another requirement that the Federal government has for DCF in looking at total income. There is one other change that made for DCF which is “Other Income not on the List.” Clerk Smith also asked about section that reads “I have assets” the items here are jumbled between the two forms. Mr. Welty stated that it was simply a formatting issue. He also stated that the PIE committee has asked CCOC to get this form on one page.

Clerk Kinzel stated that she thought Clerk Alvarez-Sowles had a very important point, because legally, she believes what you are attesting to usually precedes your signature of attestation. She felt it gives little recourse should a county find that the individual is lying. Clerk Kinzel believes that the CCOC should go with the legal methodology on signatory and attestation. Clerk Kinzel also stated that as Clerk Smith noted regarding the multiple forms, the boxes are in different locations due to formatting issues. It would be so much easier if all these forms were consistent, same, and simplified. Clerk Kinzel also noted the reference to other household, and asking how many people are in the household, and feels the income should say household income.

Chair Peacock mentioned that Clerk Miller in the chat wrote that she did not like having the signature in the middle of the form. Chair Peacock added to the commentary by saying that he can’t remember the last time somebody has been held in contempt for lying on these forms. Clerk Kinzel added that in Collier County, if they find someone lying, they take action. Clerk Burke asked if there were any considerations to include on this form the question, “Are you represented by private counsel and is that counsel being paid by Non-Legal Services Counsel?” Clerk Burke stated that they see individuals that can pay for a private attorney but cannot pay the filing fees. Clerk Roth stated that there was some development around whether that

can be held against them or considered; however, that's not relevant on the form anymore. Clerk Burke noted that it appears on the Criminal Indigent Form and Termination of Parental Rights Form but not on the Civil Indigent Form. Clerk Roth stated that there are differences between the forms because its coming from different statutes and different requirements. Clerk Burke stated this issue is a timely conversation and possibly Judge Ficarrotta can weigh in on this issue. Judge Ficarrotta weighed in on the issue by stating that to the best of his recollection it is up to each individual judge. He would be happy to discuss with his other Chief Judges to bring this issue to their attention and communicate to their judges the seriousness of this issue.

Clerk Roth was asked by Chair Peacock to pursue it in the future and to look into the related ministerial role of what Clerks can actually authorize. Clerk Roth responded that there is already a permissiveness in the current governing statutes and will look into this issue and address further. Clerk Burke pointed out that post determination is done at the very beginning of the process. A judge has determined that indeed there are assets that they can then impose the filing fee as part of the final judgment. Chair Peacock asked General Counsel on the call to weigh in on this topic. Rob Boyd explained what went into creating these forms. There were 18 different committees from Legal Aid, Prosecutors, Florida Bar, Public Defenders all submitting their changes. The changes were so drastic that in some cases they could not work together, namely the \$25 filing fee. Legal Aid wanted that removed but we can't because it is pursuant to statute.

Clerk Butterfield wanted to follow up on the summarization because Clerk Roth is correct. Clerk Butterfield stated this has gone back and forth through the years as to whether clerks do ministerial or not. Part of the issue is the workload that it has created regarding the requirement to go out and search property records and titles to cars. Clerk Butterfield also commented on Clerk Burke's comment regarding post determination where a judge has determined that indeed there are assets, and yet the Plaintiff and Defendant both file indigent forms seemingly to avoid paying the filing fees.

Chair Peacock noted that there is great conversation regarding this issue and has notated that we still have the pursuit of some more broad conversations related to this topic. He stated that the CCOC will work with our Legislative Committee so they can dig a little deeper on some solutions to work toward. Chair Peacock asked Council members if they are ready to make a motion to move forward or if there a motion related to the form. Clerk Alvarez-Sowles remarked that on the form itself above the signature, regarding the Attestation Clause, that she was in agreement with the language used on the form. Chair Peacock stated that he was ready to make a motion to take the form back to the PIE Committee for further review and revisions. Chair Peacock stated that there is no specific timeline so long as the CCOC was working towards the goal. Chair Peacock asked Mr. Welty to confirm. Mr. Welty stated that Chair Peacock was correct. He also stated that as discussions were going on he has been able to re-arrange the form so that the asset section on all three forms are

identical. As to the issue of language that Clerk Alvarez-Sowles has raised, that language is currently on Civil and Termination of Rights. The language is only a little bit different on the Criminal forms. Mr. Welty stated that the revision to the forms could be made during the meeting to make all forms the same. Chair Peacock asked the Council Members given the recommendation from Clerk Alvarez-Sowles, as well as the technical changes that we have already talked through, and that which Mr. Welty has indicated that Council can adopt as part of the recommendation today if there were no other issues. Clerk Roth stated there was only one issue that jumped out at her regarding whether some forms ask if they are represented by Attorney and some forms don't. Clerk Roth stated that this issue needed more attention, and Council members should take a minute to look into and make sure. Mr. Welty noted that while we were on the call, he revised the forms to take into consideration the recommendations made. Chair Peacock recommended to the Council to adopt the provided forms with the technical changes stated, as well as the Attestation Language that Clerk Alvarez-Sowles highlighted. Chair Peacock sought a motion.

Clerk Butterfield made the motion to approve the form as revised during the meeting and Clerk Alvarez-Sowles seconded the motion. Motion was adopted unanimously.

6. Agenda Item 6 – Review and Approve CCOC Educational Assistance Program

Chair Peacock turned the meeting over to Mr. Dew to go over the CCOC Educational Assistance Program. Mr. Dew stated that the information can be found on page 21 of the meeting packet. He indicated that the State of Florida provides as a benefit, tuition reimbursement for State employees.

CCOC is not considered a State Agency, therefore CCOC employees are not eligible to receive this benefit. In order to support the recruitment of staff, as well as, to retain staff, it is essential that the CCOC offer tuition assistance as part of our employment package. Mr. Dew reviewed several Clerk's office education assistance plans and spoke with several Clerks around Florida to learn how they provide tuition reimbursement. The attached proposed CCOC Education Assistance Program provides employees reimbursement of \$1,500 per fiscal year for undergraduate and \$4,500 per fiscal year for graduate level programs. Mr. Dew believes that this is the best way for CCOC to attract and retain employees. He mentioned that currently three out of eight staff members are taking college classes right now. He appreciates that their involvement in college courses brings innovative ideas to the office that they share.

Mr. Dew mentioned that CCOC has sufficient budget authority for this program. Chair Peacock opened the floor to all Council members to ask if they had questions or comments. Clerk Alvarez-Sowles stated that after reading through it there was some issues with the language matching from one section to the next. Mr. Dew said he would work with Clerk Alvarez-Sowles to clarify language to make sure that it all matches. On the last item mentioned CCOC originally looked at the idea of having employees stay with the CCOC for a year after being reimbursed but the State does not have that in their process so from that prospective it was very hard for Mr. Dew to

include that. Chair Peacock asked Clerk Alvarez-Sowles if she was willing to work with Mr. Dew on the few policy comments that she had pointed out earlier. Clerk Alvarez-Sowles stated that she would.

Chair Peacock entertained a motion to adopt the program as presented with the authority for Mr. Dew to work with Clerk Alvarez-Sowles to clean up some of the policy language.

Clerk Russell moved to approve the CCOC Educational Assistance Program with minor clarifications to be worked out with Clerk Alvarez-Sowles. Clerk Alvarez-Sowles seconded the motion. Motion adopted unanimously.

7. Agenda Item 7 – Committee Updates

Chair Peacock turned the meeting over to Griffin Kolchakian, CCOC Budget & Communications Director to present any updates concerning the Budget Committee. Mr. Kolchakian stated that the Budget Committee held its first meeting in the new county fiscal year on November 30, 2021. Mr. Kolchakian reported that the committee discussed budget items for the upcoming legislative session, the settle-up process, and established a 2022 committee workplan. Further, three new workgroups will be established to review specific items related to the budget development process. All those related documents were sent out to the Clerks last month. The next two committee meetings have been set, including a virtual meeting on Thursday, January 20, 2022, and an in-person in Orlando Wednesday, February 9, 2022. Mr. Kolchakian reported that so far, this fiscal year, clerks have brought in more revenues than the REC projection and the expenditures data that is available indicates we are under the 1/12th of the budget. The CCOC will continue to track this and update the Budget Committee as the year progresses.

Chair Peacock thanked Griffin and called on the Chair of the Budget Committee, Clerk Russell, to provide her input. Clerk Russell stated that Mr. Kolchakian covered the first meeting very well. She also expressed her thanks to CCOC staff for all they did in conducting the budget workshop right before Thanksgiving. This was well attended, and Clerk Russell wanted to acknowledge the event for those Council members who may not have been able to attend. Chair Peacock stated that Rafael Ali-Lozano is the new team member on the budget team. Mr. Lozano is a budget manager at CCOC and has taken over the role that Marleni Bruner had been fulfilling, as she will transition to a new role. Chair Peacock welcomed Mr. Lozano.

Chair Peacock mentioned to the Council members that there is a report from the PIE Committee which is included in the meeting packet. Chair Peacock asked Clerk Roth if she had any further commentary to make with regarding the report. Clerk Roth stated that the report is straight forward unless anyone had any questions or comments to make. There were no questions.

Chair Peacock informed everyone that there was no report from the Legislative Committee, but they were working in preparation for the 2022 Legislative Session.

Chair Peacock discussed and described the status of the E-notify program project that Courts and the Clerks have worked together on to help assure individuals are notified of court hearings. He said it's been a great partnership with the courts in the process and has been a great tool. His understanding is the program is expected to be funded again in 2022 and that we are making progress in the types of court divisions that will be using E-notify.

8. Agenda Item 8 – Status of CCOC Data Management Process

Chair Peacock called on Mr. Welty to give a brief update on this issue. Mr. Welty first began by thanking everyone on the call both from the clerk's offices, as well as partners in the Legislature and Governors' office. Mr. Welty reported that the CCOC has been working on this project for approximately 18 months, during which Covid derailed some of the progress that CCOC had made. CCOC has been looking at various software for data management that would help CCOC staff as well as clerk staff statewide. Mr. Welty went on to say that within the next month or so, CCOC hopes to put out a competitive procurement for a consultant who can help the CCOC in writing the technical scope and specifications of the Data Management software the CCOC is looking for. The CCOC team, Ms. Bruner, Mr. Kolchakian, Mr. Dew, and Mr. Welty, have met with many vendors and companies to see what is out there and what would work for clerks. Chair Peacock thanked Mr. Welty for his update and opened the floor to Council members for any questions or comments. There were none.

9. Agenda Item 9 – Other Business

Chair Peacock first presented and discussed the CCOC Annual Report. The theme will be similar to the themes you have heard on the legislative calls. He said the CCOC will try to get the report out to the Council members prior to submitting it to the Legislature to meet the deadline. There is still work to do, as well as some challenges that we have from a funding standpoint. The Annual Report is due annually by January 1.

In another item under other business, Clerk Burke asked about the status of CCOC employees working from home and what is the mandate to work in the office. Mr. Dew responded that CCOC employees can work two days at home and three days at the office. This process seems to be working fine with his CCOC staff. Clerk Burke asked if there were written policies in place for working from home. Mr. Dew answered that the CCOC does not have any formal written policies for working from home, but he has set informal requirements each employee must follow. Mr. Dew asked Clerk Burke if he had anything that he could share with him that would be beneficial as a draft policy to review. Clerk Burke stated that CCOC should reach out to their HR contract vendor and invite them to provide us with guidelines for a government entity regarding a working from home policy. Clerk Burke believes that we do have to pay some attention as to how we monitor working from home from the management point of view. He also requested that this issue be placed on the

agenda for the next Council meeting in March. Chair Peacock said we could add the issue to next Council meeting's agenda and ask Mr. Dew to bring back a policy.

Chair Peacock opened the floor for any other questions. Clerk Alvarez-Sowles stated that during the last Council meeting Clerk Kinzel discussed that when we are looking at expenditures, we should look at more factors than just the Clerk's weighted caseloads. Clerk Alvarez-Sowles asked Chair Peacock whether he wanted to ask one of the committees to head up a workgroup on those items. For example, the budget committee already has a workgroup that they created to look at the cost of living as an additional factor as well as other factors such as having multiple court locations within a county. Another issue could be to examine court-related expenditures regardless of where the revenues are coming from. If counties are going to be compared to one another, and some clerks are utilizing or obtaining revenues from county or recording revenue to pay for court-related expenditures, it's not an apples-to-apples comparison. In order to have that transparency, the CCOC should look at expenditures regardless of revenue sources, as long as, those expenditures are listed in s. 28.35, F.S. where it lists all the things that we are allowed to use that money for. Chair Peacock stated those were good comments.

Chair Peacock said that during a recent visit and discussion with the new Clerks, he informed them that Clerks must show on their CCOC budget revenues from other sources. The Budget Committee historically has not been supportive requiring clerks to show their entire operations of court and non-court. The committee historically tends to shy away from requiring that information although statutorily the CCOC has the statutory authority to ask clerks to provide every operational revenue for their office. Chair Peacock said he does believe clerk have to show for a transparency perspective any revenues used to supplement the court-related operations of a Clerk's office. This way CCOC can measure one Clerk's office against another's which is statutorily required. Clerk Kinzel thanked Chair Peacock for bringing this issue up and offered to serve on any volunteer subgroup. Clerk Kinzel stated that her office does not attempt to use any other local money because the courts are supposed to be funded by the State. Clerk Kinzel noted that if her office could keep the revenues they earn, they could do more.

Chair Peacock thanked everyone for their comments and asked if there were any other questions or comments. No further comments from Clerks were made. No public comments were made.

With no further action from the Council, Chair Peacock adjourned the meeting at 11:00 AM.
