

Minutes
June 22 and 23, 2001
Board of Judicial Policy and Administration

The June 22 and 23, 2001 meeting of the Board of Judicial Policy and Administration was held in Douglas, Wyoming in the District Court Jury Room in the Converse County Courthouse. Chief Justice Larry Lehman, Justice Bart Voigt, Justice William Hill, Judge Gary Hartman, Judge Jeffrey Donnell, Judge Keith Kautz, Judge Rob Denhardt, Judge Wade Waldrip, Judge Frank Zebre, and Judge Scott Cole attended. Judge Ed Grant who will be a Board member effective July 1, 2001 also attended and Judge Bob Skar was present for a period during the afternoon of June 22, 2001. In addition, Holly Hansen and Linda Burke attended, Joann Stockdale was present on the morning of June 23, 2001, and John Burman participated by telephone on the afternoon of June 22, 2001.

The meeting was called to order at 1:00 PM on June 22, 2001.

- A. The Board welcomed Judge Keith Kautz and Judge Ed Grant as new Board members.
- B. Approval of May 29 and 31, 2001 Conference Call Minutes. Judge Donnell moved and Judge Zebre seconded a motion to approve the May 29 and 31, 2001 minutes. Motion carried unanimously.
- C. Transition Plan for Justice of the Peace Court Counties.
 1. Report on Meetings with County Commissioners. Judge Donnell reported on the meetings with Crook, Weston, Niobrara, and Platte counties and Judge Hartman reported on Johnson, Teton, and Washakie counties. Judge Hartman advised that Johnson, Teton, and Washakie counties are probably planning to opt in to the circuit court system.
 2. Discussion of Judge/Magistrate Issues. A discussion followed concerning the placement of a full time circuit judge in Teton County and the desire to maintain a full time schedule for Judge Crow. The Board also discussed the possibility of Judge Dennis Meier becoming the magistrate in Niobrara County and the problems with performance of duties in his private law office and the potential conflict with his secretary working for the firm and for the State. Justice Hill moved and Judge Donnell seconded a motion to notify Niobrara County that if Niobrara opts in to the circuit court system and Judge Meier becomes the magistrate, then Becky Craig would be hired on a contractual basis for the circuit court. Motion carried unanimously.

Judge Denhardt moved and Judge Zebre seconded a motion to place a full time circuit judge in Jackson. The motion carried 8 to 2. Judges Kautz and Donnell voted no.

The Board proposed the following resolution:

For the purpose of considering the necessity of full time magistrates within a circuit and from the effective date of this resolution, it is the policy of the Board of Judicial Policy and Administration that when circuit court vacancies are declared, the Board of Judicial Policy and Administration shall review where the residence of the replacement Judge shall be located with the circuit.

Judge Donnell moved and Judge Denhardt seconded the motion to pass the resolution. Motion carried unanimously.

3. Hot Springs, Washakie, and Big Horn. Judge Zebre mentioned a conversation with Judge Waters in which Judge Waters offered to help out in Basin and Worland after he becomes more comfortable with his new position.

After discussion, Judge Denhardt moved and Judge Hartman seconded a motion to place a full time magistrate in Worland. After input from Judge Skar, it was determined that Judge Skar would most likely spend two days per week in Worland. Consequently, the amount recommended in the budget would be adjusted accordingly. Motion carried unanimously.

4. Budget. Joann Stockdale reported on the proposed 2002-2003 budget. She estimated that if all seven justice of the peace counties opted in to the circuit court system, the cost for eighteen months would be approximately \$1.8 to \$2 million dollars. This range would cover the costs of the magistrates and staff, but not the new judges. The Appropriations Committee asked the Board to present its budget at their meeting in August. Judge Hartman suggested the term "Judicial Branch Budget" rather than the "Board Budget."

In addition, Joann Stockdale informed the Board that the State Budget Office is going to implement a new software system for the 2003-2004 Biennium Budget. When the new system is in place, the Executive Branch Budget Office will no longer generate the budget request forms that are submitted to the Legislature; these will have to be done in-house. Stockdale also told the Board that in so far as the District Courts are concerned, she is willing to

generate the forms. As an alternative, the District Court staff will have to complete training and prepare the forms themselves.

- D. Mileage Reimbursement. The Board debated at length the considerations for paying mileage to judges who do not reside in the designated court site. Judge Skar described his situation with living in Thermopolis and being paid mileage from Basin. Judge Skar said he plans to continue to live in Thermopolis and assured the Board that mileage was not a big issue. Holly Hansen explained that a car was requested in the previous budget and would be available for Judge Skar's use. The Board explored the difference in costs to the State beginning July, 2001, by Judge Skar being provided a state vehicle compared to driving his own vehicle. The Board agreed that policies should be established to avoid future problems each time a judge or magistrate is appointed. At this time, Judge Donnell moved and Justice Voigt seconded a motion to withhold the state vehicle from Judge Skar until the Board established a general vehicle policy. The motion carried with a 6 to 4 vote with Judges Waldrip, Zebre, Denhardt, and Cole dissenting.

The Board further proposed the following resolution:

Upon a vacancy being filled in any court, it is the policy of the Board of Judicial Policy and Administration that the court location determined by the Board of Judicial Policy and Administration or by statute will be declared the "home" court for the purpose of calculating mileage reimbursement.

Judge Donnell moved and Judge Denhardt seconded the motion to pass the resolution. Motion carried unanimously.

Judge Donnell proposed the following resolution:

If a judiciary branch employee, board, or commission member chooses to live in a location other than the designated court site, mileage shall be paid on the lesser of the actual mileage from the residence to the duty assignment or from the court site to the duty assignment.

Judge Donnell moved and Judge Hill seconded the motion to pass the resolution. Motion carried unanimously.

The Board agreed that Judge Skar would continue to receive the mileage reimbursement he is currently receiving until July 1, 2002. If Washakie County decides to opt in to the circuit court system, paid mileage will then be calculated from Worland beginning July 1, 2002. Judge Denhardt moved and Judge Kautz seconded the above motion. The motion carried

by a 9 to 1 vote, with Chief Justice Lehman casting the one vote against the motion.

** (See L.4. under Other Matters for Reconsideration of Washakie County “Home Court.”

E. Proposed Magistrate Legislation. Judge Waldrip moved and Judge Zebre seconded a motion to approve the amendments to the magistrate bill as described by Judge Denhardt. A copy of the proposed amendments is attached to these minutes. Motion carried unanimously.

The meeting adjourned for the day at 5:00 PM on June 22, 2001.

The Board called the second day of their meeting to order at 7:30 am, June 23, 2001.

F. First Year Critique of the Board. Board members briefly critiqued their experiences serving on the Board. Members agreed it has been a learning experience and a positive step for the judiciary of Wyoming. Suggestions for improvement included: regularly scheduled conference calls between Board meetings, improved communication concerning the Board and its meetings, and movement of meetings around the state.

G. Final Adoption of Board Procedures. Judge Donnell moved and Judge Kautz seconded a motion to approve the Rules and Procedures Governing the Board of Judicial Policy and Administration subject to the attached proposed changes*. Motion carried unanimously.

H. Proposed Rule Change – Donnell/Burman Request. John Burman reported to the Board by telephone. He explained the proposed amendments to the Uniform Rules for application in domestic cases. He discussed the need for improvement in the current Guardian Ad Litem system and suggested giving other choices to the Court such as eliminating the Guardian Ad Litem and appointing an attorney to guard the best interests of children or appointing a health professional as an expert. The Board suggested consideration of initial disclosures, requirements for protective orders, and running criminal checks. Burman will communicate with Holly Hansen about appearing in person at the September Board meeting with a revision of the proposed rules.

I. Circuit Court Issues.

1. Preemptory Disqualification. The Board took no action.

2. Judicial Retirement. The Board agreed that they must have some numbers to review before making a decision on judicial retirement.
3. Fees. The Board appointed Judges Denhardt, Zebre, and Waldrip to form a committee involving the circuit judges and clerks to review the consistency of fees charged in various circuit courts and to present a plan for a uniform schedule of fees.
4. Disposing of Fines and Costs on Old Bench Warrants. The Board recommended that the committee formed to study uniform fees for circuit courts also evaluate the fines and costs on Bench Warrants.
5. Audit Issues. The Board discussed and agreed that repayment of restitution received by Courts should be paid out whenever at least \$25.00 has been collected rather than holding the money until the entire restitution has been collected. In addition, the Board agreed that the Internal Auditor, Don Merriam, should report directly to the Board, rather than the Chief Justice. Judge Donnell moved and Judge Denhardt seconded the motions. Motions carried unanimously.

J. Committee Reports.

1. JTTF – Holly Hansen. Holly Hansen reported on the progress of the Judicial Technology Task Force and its establishment of a local group of clerks, law enforcement, and technology representatives meeting on a regular basis in Buffalo and Sheridan. The Albany County rollover project is continuing to work with JSI to make adjustments to the software program being tested in Laramie.
2. CACC – Chief Justice Lehman.
 - a. Tony Wendtland Letter and Guidelines to Clerks. Chief Justice Lehman asked the Board to review the proposed guidelines and forward any suggestions to him or to Leigh Anne Manlove of the Wyoming State Bar.
 - b. Forms and Rules on Website. The Chief advised the Board that the drafts of forms and rules concerning pro se litigants are now posted on the Supreme Court website and the CACC has requested comments from attorneys, judges, and clerks.
 - c. Visits Around the State. The Chief described the CACC's plan to travel around the state presenting information to attorneys, judges, and clerks about the work of the CACC and the request for support and input.
 - d. CACC Speaker at Pro Bono Bar meeting lunch, September. The Chief explained that the CACC

plans to kick off its visits around the state at this meeting.

3. Judicial Salary Committee – Judge Hartman. Judge Waldrip moved and Justice Hill seconded a motion to ask the Legislature for an increase in the salaries for circuit court judges from 75% to 80% of the salaries of the Supreme Court Justices. Motion carried with Judge Kautz voting no.

K. Schedule of Future Meetings.

1. Joint Interim Judiciary Committee Meeting June 29 in Riverton. Judge Denhardt and possibly Judge Donnell will attend the meeting in Riverton.
2. February 11 and 12, 2002 in Cheyenne. The Board will hold a meeting in Cheyenne on the afternoon of February 11, 2002 after the Legislative Breakfast and the opening of the Legislature. The meeting will continue all day on February 23, 2002.
3. Schedule Board Meetings for 2002. Holly Hansen agreed to send out a proposal for a schedule of Board meetings in 2002. The Board also set regularly scheduled conference calls for the second Tuesday of each month, beginning with July 10, 2001 at 7:30 am.

L. Other Matters.

1. Supervision of Court when no Circuit Court Judge. The Board agreed to discuss this issue at the next meeting of the Board. Holly Hansen asked that Board members send her their thoughts on this matter for a position statement to add to the next agenda.
2. Magistrate Retirement. The Board decided to add to its next agenda whether magistrates should participate in the State Retirement System or the Judicial Retirement System.
3. Judge Hartman Plaque. The Board presented Judge Hartman a plaque for his outstanding service to the Board of Judicial Policy and Administration.
- **4. Reconsideration of Washakie County “Home Court.” Chief Justice Lehman asked the Board to revisit the issue of Big Horn, Hot Springs, and Washakie circuit court. After discussion, the Board reconsidered its previous decision. The Board confirmed Basin as the “home court” for mileage calculation purposes and declined to speculate if any change might be called for should Washakie County decide to join the circuit court system.

- M. Executive Session. The Board met in an executive session to discuss personnel matters.
- N. Adjournment. The Board adjourned its meeting at 10:40 am on June 23, 2001.