

**MINUTES OF THE MEETING OF THE JUDICIAL COUNCIL
MADISON, WISCONSIN
March 28, 2008**

The Judicial Council met at 9:30 a.m., Room 328 NW, State Capitol, Madison, Wisconsin.

MEMBERS PRESENT: Marla J. Stephens, Chair; Michael R. Christopher, Allan M. Foeckler, Prof. Jay E. Grenig, Beth E. Hanan, Vice-Chair; Catherine A. La Fleur, Hon. Edward E. Leineweber, Robert L. McCracken, Stephen R. Miller, Kathleen A. Pakes, Prof. David E. Schultz, A. John Voelker, Hon. Mary Kay Wagner, Hon. Maxine A. White.

MEMBERS EXCUSED: Hon. Ann Walsh Bradley, Hon. Michael J. Gableman, Kathleen E. Grant, Rep. Bill Kramer, Sen. Lena Taylor, Greg M. Weber, Hon. Ted E. Wedemeyer, Jr.

OTHERS PRESENT: Assistant Attorney General Aaron O'Neill, Eric Peterson.

I. Call to Order and Roll Call

Chairperson Stephens called the meeting to order at 9:30 a.m. She introduced Eric Peterson and Aaron O'Neill as attending from the offices of members Sen. Taylor and Greg M. Weber, respectively.

II. Approval of Minutes of February 15, 2008 meeting

The minutes of the February 15, 2008 meeting were approved by consensus.

III. Approval of March 14, 2008 Open Meeting Minutes

The minutes of March 14, 2008 open meeting were approved by consensus.

IV. Judicial Council Progress Report

The Chairperson noted that the minutes of the February Council meeting reflect the status of the process to hire a staff attorney for the Council.

With regarding to other aspects of the transition, Chairperson Stephens reported that a lease on an office on the eighth floor of the Tenney Building, 110 E. Main St., Madison, is expected to be signed shortly. Many other state offices are in that building, including the Judicial Commission, the Office of Management Services for the Supreme Court and the Clerk of Courts for the Court of Appeals and Supreme Court. A build-out of the space, which is already wired for internet access, is anticipated to be completed this fiscal year. The court's Purchasing & Facilities Officer, Dave Korenic, also will

assist by proposing a furniture and equipment package for the staff attorney's office.

V. **Committee Reports**

Appellate Procedure – Marla Stephens provided the report in the absence of committee chair Judge Wedemeyer. The committee has not met since the last committee report. The meeting set for March 28 has been cancelled, as the reporter for the committee was unable to attend. The next scheduled meeting of the committee is April 15, 2008, at the Court of Appeals office in Milwaukee, at 9:30 a.m. The committee will resume its work on rules concerning presentence investigation reports.

With regard to legislative activity on SB 418, 419 and 420, all matters relating to appellate procedure, Eric Peterson distributed the bill history on each. He reported that the Assembly did not take up any of these bills after referring them to committee. SB 418 and 419 were referred to the Assembly Committee on Judiciary and Ethics, SB 420 was referred to the Assembly Committee on Corrections and the Courts. Mr. Peterson reported that the bills received favorable recognition in the Senate, and that the Attorney General and Department of Justice were on record as being in favor of all three bills. He suggested that perhaps members of the Council could take the lead in promoting the bills during the next legislative session. He reported that Sen. Glen Grothman was willing to sign on to all three bills and move them forward. Senator Taylor hopes to re-introduce these bills much earlier in the next legislative session. Chairperson Stephens expressed the gratitude of the Council for the efforts of Sen. Taylor's office, which brought these three bills the closest thus far to enactment.

Mr. Peterson also addressed the fact that the Governor is expected to sign a budget repair bill fairly soon, and the timing of that could affect funds which have not yet been encumbered, such as leases, particularly in light of DOA's lapsing authority. He also noted that Sen. Taylor's office may request the assistance of the Council with regarding to legislation affecting municipal courts, expected to be introduced in January, 2009. John Voelker reported that the Committee of Chief Judges is also interested in that issue, which is being spearheaded by the Municipal Judges Association.

Evidence and Civil Procedure – Committee chairperson Judge Leineweber reported that the committee had met after the last full Council meeting, with great participation on its current project to study potential changes to Wisconsin rules of discovery to provide guidance for discovery of electronically stored information. The committee has generally looked at the topic, and conducted a brief survey of what rules have been developed in other jurisdictions. The group has also identified stakeholders to review an eventual

draft rules proposal. Professor Grenig has developed a first draft of proposed changes, which the committee will begin to discuss at today's meeting.

VI. Other Business

PPAC update – Judge Leineweber reported that the last Council meeting coincided with the end of the comment period on the video-conferencing rules proposal. The committee expects that the supreme court will take up the proposal some time this spring.

VII. Adjournment

MOTION: Michael Christopher made a motion to adjourn to closed session pursuant to Wis. Stat. § 19.85(1)(c), to consider the employment and compensation of a public employee over which the Council has jurisdiction or exercises responsibility, seconded by Allan Foeckler, that the Council adjourn its open meeting and convene in closed session.

Motion passed unanimously.

The Council briefly resumed its open meeting at 10:50 a.m., following adjournment of the closed meeting. The next meeting of the Judicial Council will be held on Friday, April 18, 2008, at 9:30 a.m., in Room 328 NW, State Capitol, Madison, Wisconsin.