

MINUTES OF THE MEEETING OF THE WISCONSIN JUDICIAL COUNCIL
MADISON, WISCONSIN
May 16, 2008

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

MEMBERS PRESENT: Honorable Ann Walsh Bradley, Michael R. Christopher, Catherine A. La Fleur, Kathleen E. Grant, Beth E. Hanan, Vice-Chair; Representative Bill Kramer, Professor David E. Schultz, Marla J. Stephens, Chair; A. John Voelker, Honorable Mary K. Wagner, Greg M. Weber, Honorable Ted E. Wedemeyer, Jr.

MEMBERS EXCUSED: Allan M. Foeckler, Honorable Michael Gableman, Professor Jay Grenig, Honorable Edward E. Leineweber, Robert L. McCracken, Stephen R. Miller, Kathleen Anne Pakes, Senator Lena Taylor, Honorable Maxine A. White.

OTHERS PRESENT: April M. Southwick, Bob Nelson, Madu Enwemnw, Nancy Rottier.

I. Call to Order and Roll Call

Chair Stephens called the meeting to order at 9:45 a.m. Chair Stephens introduced Madu Enwemnw, Senator Lena Taylor's aide; Nancy Rottier, the Supreme Court's Legislative Liaison, and Bob Nelson, a drafting attorney with the Legislative Reference Bureau.

II. Introduction of April Southwick, Staff Attorney; Transition Report

Chair Stephens introduced April Southwick, the newly hired Judicial Council Staff Attorney, and asked each council member to briefly introduce themselves.

III. Approval of April 18, 2008 Minutes

Vice-Chair Hanan distributed copies of the minutes from the April 18, 2008 closed meeting.

MOTION: Kathleen Grant moved, seconded by Chair Stephens to approve the minutes of the April 18, 2008 meeting.

The motion passed unanimously without discussion.

IV. Appointment of Nominating Committee

MOTION: Hon. Mary K. Wagner moved, seconded by Catherine La Fleur, to appoint Hon. Ted Wedemeyer, Kathleen Grant, Greg Weber, and Hon. Maxine White to a committee charged with nominating candidates for chair and vice-chair of the Judicial Council at the June meeting.

The motion passed unanimously without discussion. Chairperson Stephens asked Judge Wedemeyer to chair and convene the committee.

V. Discussion of Municipal Court Bill Draft LRB 2894/1

Hon. Ann Walsh Bradley announced that she will abstain from the Council's review of the bill. Hon. Mary K. Wagner volunteered to replace her on the sub-group assigned to review those portions of the proposed bill addressing judges. Catherine La Fleur volunteered to fill Hon. Mary K. Wagner's place in the sub-group assigned to review those portions of the proposed bill addressing dispositions. Bob Nelson, the drafter of Municipal Court Bill Draft LRB 2894/1, circulated a written summary of the drafting requests and explained that it's originated from the Municipal Judges' Association as a result of their desire to make municipal courts similar to other state courts. John Voelker indicated that the Supreme Court Policy and Planning Advisory Committee (PPAC) created a sub-committee to review municipal court issues and that a few of the bill proposals reflect their recommendations.

Hon. Ann Walsh Bradley initiated a discussion regarding the Judicial Council's role in reviewing the proposed bill. Chair Stephens clarified that the Council would review the proposed bill to provide verbal feedback to Senator Taylor. Michael Christopher inquired as to whether the Council would be performing a technical review only, or whether the review would also address policy concerns. After discussion, the Council concluded by consensus that they would conduct a technical review of the proposal, identifying potential policy concerns, but that they would generally avoid taking a position or making recommendations on matters of policy.

Chair Stephens made an announcement that the Senate Judiciary Committee will hold an informational hearing on the draft bill on May 28, 2008 at 10:00 a.m. in Room 411 South, State Capitol. All Council members were invited to attend.

Hon. Mary K. Wagner suggested that the Council obtain additional information from the PPAC sub-committee addressing municipal court issues. Attorney Southwick was instructed to obtain copies of their minutes.

Representative Kramer inquired if the Council was acting within its authority in reviewing the proposed bill. Chair Stephens responded in the affirmative, explaining that the Council is tasked with reviewing court procedural issues upon request from all branches of government and/or citizens, citing Wis. Stat. § 758.13 (2). Professor Schultz added that the creation of Wis. Stat. Chapter 800, Municipal Court Procedure, in 1977 was a Judicial Council project.

The consensus was that the sub-groups assigned to address the various topics within the proposed bill were not yet prepared to offer their comments, but would present their reports at the June meeting. John Voelker, Hon. Mary K. Wagner, Professor Schultz,

Catherine La Fleur and Greg Weber were tasked with forwarding a written preview of their respective group's report to Attorney Southwick no later than June 15, 2008.

VI. Discussion of Request to Review Chapter SCR 81 – Compensation of Court-Appointed Attorneys

Catherine La Fleur reported that she has recruited committee members to begin review of this issue.

VII. Committee Reports

A. Appellate Procedure

Chair Stephens reported that the petition regarding citation to unpublished opinions is pending before the Supreme Court, and now has the support of the Appellate Section of the State Bar. Vice-Chair Hanan stated that the Litigation Section of the State Bar is also preparing to comment on the issue. Attorney Southwick was directed to prepare a memorandum to the Supreme Court in support of the petition.

Chair Stephens reported that the committee will meet following the Judicial Council meeting today to continue discussing proposed changes to the rules governing the preparation and use of pre-sentence investigation reports.

B. Criminal Procedure

Professor Schultz announced that he has begun his review of the draft bill prepared by Robin Ryan, Legislative Reference Bureau, regarding proposed revisions to the Criminal Procedure Code.

C. Evidence and Civil Procedure

Vice-Chair Hanan announced that the Supreme Court has approved the Council's submission regarding changes to the rules for out-of-state depositions. The committee is also continuing its work on rules regarding electronic discovery, which will essentially mirror the federal rules.

VIII. Other Business

Chair Stephens announced that the Council has received the State Justice Institute grant check to pay for the study conducted by the National Center for State Courts.

Chair Stephens and Hon. Mary K. Wagner discussed gift ideas to express the Council's appreciation for the assistance provided by Laury Bussan and Jim Alexander. Attorney Southwick was asked to visit Bob Nelson's office to view a gift idea suggested by him.

Council members were reminded that the annual breakfast for present and past members of the Judicial Council will be held on June 20, 2008 at 8:30 a.m.

IX. Adjournment

The Council adjourned by consensus at 11:00 a.m.