

**MINUTES OF MEETING
COUNCIL ON COURT PROCEDURES**

Saturday, December 9, 2006

9:30 a.m.

Room 2

Oregon State Bar

5200 Southwest Meadows Road

Lake Oswego, Oregon

Members Present:

Hon. Richard L. Barron*
Hon. Eric J. Bloch
Benjamin M. Bloom
Eugene H. Buckle
Kathryn H. Clarke
Brooks F. Cooper
Don Corson
Dr. John A. Enbom
Martin E. Hansen
Hon. Daniel L. Harris*
Hon. Robert D. Herndon

Hon. Jerry B. Hodson
Hon. Lauren S. Holland
Hon. Rodger J. Isaacson
Hon. Rives Kistler
Leslie W. O'Leary
Alexander D. Libmann
Connie E. McKelvey
Shelley D. Russell
Hon. David Schuman
David F. Sugerman
John L. Svoboda
Hon. Locke A. Williams

*Present by teleconference

Members Absent:

None

Guests:

Phil Goldsmith
Spencer M. Neal
Nancie K. Potter
Jason Reynolds
Kenneth Sherman, Jr.
N. Robert Stoll

Also present were Mark A. Peterson, Executive Director, and Tresa G. Cavanaugh, assistant to Mark A. Peterson.

Agenda Item 1: Call to order. Ms. McKelvey called the meeting to order at 9:30 a.m.

Agenda Item 2: Approval of minutes (Ms. McKelvey). Noting two corrections upon motion duly moved and seconded, the Council unanimously approved the minutes for the meeting held on September 9, 2006.

Agenda Item 3: Final Report on the progress of the House and Senate judiciary committees' work group on the future of the Council (Ms. Clarke). Ms. Clarke distributed copies of the final report of the House and Senate judiciary committees' work group's recommendation for the future of the Council on Court Procedures. Justice Kistler, Judge Bloch, Judge Herndon, and Ms. Clarke served on the work group which recommended increased funding for the Council and having the Oregon Judicial Department provide financial administrative services for the Council.

Agenda Item 4: Report on hearing before House and Senate judiciary committees. Ms. McKelvey reported that she and Justice Kistler appeared before the House and Senate judiciary committees to support the report of the work group and to answer any questions or concerns of the judiciary committees. They were very well received and the members of the committees expressed their appreciation for the work of the Council.

Agenda Item 5: Report of the Council's budget request for 2007-2009. Prof. Peterson reported that the Council was included in the Governor's Recommended Budget at \$115,646 from General Funds and \$8,000 from Other Funds (the Oregon State Bar). This is an improvement over the \$10,000 in General Funds allocated for 2005-2007. The legislative budgetary process in the coming months will determine what funds are allocated to the Council.

Agenda Item 6: Report on the E-Filing Task Force. Judge Holland deferred to Mr. Cooper who advised that the Task Force's recommendation will be before the Legislature. There was discussion that the Council should have been involved much earlier in the Task Force's work to better assess the proposed changes to the rules as well as the transition from "paper" to "document" in conceptualizing the proposed changes. The Council will coordinate with the E-Filing Task Force in the future.

Agenda Item 7: Report on the Oregon Law Commission's Proposed Amendments to ORCP 47.

Ms. Clarke reported that the Oregon Law Commission proposed an amendment to ORCP 47 from "summary judgment" to "summary determination" in an attempt to be consistent with the Commission's earlier overhaul of judgments. There was concern whether summary determination already has an accepted meaning in probate practice.

Agenda Item 8: Action Items:

Promulgating Published Amendments.

- A. Amendments to ORCP 7 were moved and seconded and received 22 votes in favor and none against.
- B. Amendments to ORCP 8 were moved and seconded and received 22 votes in favor and none against.
- C. ORCP 9. The Council considered written comments by Carson Bowler and Jonathan M. Hoffman and amendments to ORCP 9 were moved and seconded and received 21 votes in favor and none against.

- D. ORCP 32F and N. The Council considered written comments by Eric A. Lindenauer; Nancie K. Potter; and Kenneth Sherman, Jr. as well as oral comments from Phil Goldsmith, Robert C. Joondeph, Spencer M. Neal, Nancie K. Potter, Jason Reynolds, Kenneth Sherman, Jr., and N. Robert Stoll. Amendments to ORCP 32F and N were moved and seconded and received 21 votes in favor, 2 abstentions, and no votes against the amendments.
- E. ORCP 43B. The council considered written comments from Carson Bowler, Jonathan M. Hoffman, and Debra E. Velure, and amendments to ORCP 43B were moved and seconded and received 20 votes in favor and none against.
- F. Amendments to ORCP 55F(3) were moved and seconded and received 22 votes in favor and none against.
- G. Amendments to ORCP 63D were moved and seconded and received 22 votes in favor and none against.
- H. Amendments to ORCP 64F were moved and seconded and received 22 votes in favor and none against.
- I. Amendments to ORCP 69B were moved and seconded and received 21 votes in favor and none against.

Agenda Item 9: Annual Elections of officers. Ms. McKelvey was nominated to serve a second term as chair of the Council and, upon receiving a second, Ms. McKelvey was elected by acclamation. Mr. Corson was nominated to serve a second term as vice chair and, upon receiving a second, Mr. Corson was elected by acclamation.

Agenda Item 10: Election of Legislative Advisory Committee. Justice Kistler and Judge Herndon were nominated and seconded and elected by acclamation. Ms. McKelvey and Mr. Corson were nominated and seconded and elected by acclamation. Dr. Enbom was nominated and seconded and elected by acclamation.

Agenda Item 11: Old Business. Changes to ORCP 63 were suggested for the next biennium. There was no further old business.

Agenda Item 12: New Business. There was no new business.

Agenda Item 13: Adjournment. The meeting was adjourned.