

**UTAH PROSECUTION COUNCIL**  
**Wednesday, April 9, 2014**  
**Salt Lake District Attorney's Office**  
**111 East Broadway - 4<sup>th</sup> Floor**  
**Salt Lake City, Utah**

**APPROVED MINUTES**

- UPC : Stephen Foote, Chair, Duchesne County Attorney  
Robert (Bob) Church, Chair-elect, Assistant Orem City Prosecutor  
Jann Farris, Morgan County Attorney  
Steven Garside, Assistant Layton City Attorney  
Sim Gill, Salt Lake District Attorney  
Barry Huntington, Garfield County Attorney  
Scott Reed, Chief Deputy Attorney General (*designee of Attorney General Sean Reyes*)  
Kelly Sparks, Deputy Director of P.O.S.T (*designee of Commissioner Keith Squires*)  
Scott Sweat, Wasatch County Attorney  
CeCelia Zarbock, UPAA Chair, Provo City Attorney's Office
- EXCUSED: Sean Reyes, Utah Attorney General  
Commissioner Lance Davenport, Utah Department of Public Safety
- UPC Mark Nash, Director  
STAFF: Edward Berkovich, Staff Attorney  
Marilyn Jaspersen, Training Coordinator  
Donna Kelly, Staff Attorney  
Ronald Weight, IT Director
- GUESTS: Paul Bitmann, Cedar City Attorney  
Paul Boyden, Executive Director, SWAP  
David Brickey, Summit County Attorney  
David Wilde, Deputy Salt Lake District Attorney  
Jeff Buhman, Utah County Attorney  
Robert Cosson, Assistant St. George City Attorney  
Jared Eldridge, Juab County Attorney  
Doug Hogan, Tooele County Attorney  
John Huber, Assistant United States Attorney  
Brody Keisel, San Pete County Attorney  
Dee Smith, Weber County Attorney  
G. Mark Thomas, Uintah County Attorney  
Ryan Robinson, Chief Prosecutor, West Valley City  
Adam Trupp, Chief Counsel, Utah Association of Counties  
Kelly Wright, Deputy Salt Lake District Attorney

**I. WELCOME AND APPROVAL OF THE JANUARY 10, 2014 MEETING MINUTES**

- A. The Council members were welcomed and the meeting convened.
- B. Jann Farris moved to approve the minutes from January 10, 2014, seconded by Sim Gill. The motion passed unanimously.

**II. TRANSITION**

At the January 10, 2014 meeting, Mark Nash announced that he planned to retire effective May 1, 2014. An executive session was convened where the Council put into motion the process of finding Mark's successor. Pursuant to Section 67-5a-6 provides: "(1) The Council shall appoint a director." Subsequently, after weeks of going through the hiring process and interviewing many qualified applicants, the Council offered the position to Robert (Bob) Church which he accepted.

- A. Introduction of new UPC member Paul Bittman:  
Since Robert (Bob) Church's ascension to be the new UPC Director, nominations were open to replace him. Steve Garside nominated Paul Bittman, Cedar City Attorney to fill the vacancy left by Bob and be a new member of Utah Prosecution Council. The nomination was seconded by Sim Gill. The nomination passed unanimously.
- B. Introduction of new UPC Director Bob Church:  
The Council welcomed Bob Church as the new UPC Director. His first day on the job will be April 14, 2014.
- C. Review of the transition process and Bob discussing his plans for the next few weeks:  
Mark Nash will spend two and one half weeks with Bob explaining the budget and answering any questions he may have. In addressing the budget shortfall due to the low surcharge receipts, Bob would like to explore revenue sources such as the bail schedule, seek an increase in legislative appropriations and he welcomed suggestions the Council may offer. Bob would like to improve UPC's technologizing methods. He would also like to determine where UPC could improve in delivering training either in the current conference formats or regional training.
- D. Election of new UPC Chair-elect. (Pursuant to the rotation schedule, it should be a city representative.):  
Pursuant to §67-5a-2(5), "The council shall elect by a majority vote one of its members as chair at its first meeting and then annually." Many years ago the Council adopted three resolutions, never memorialized in statute:
  - 1. A person elected as UPC Chair should serve for two years;
  - 2. Creation of the position of Vice-Chair / Chair Elect, with the intent that the Chair Elect would succeed to the office of Chair upon the end of the previous Chair's term; and
  - 3. Rotation of the chair so the chair will be held by a member from a large county, followed by a small county, followed by a city.

As of the January 2014 meeting, Stephen Foote was elected as UPC Chair and Bob Church was elected as the Vice-Chair / Chair Elect. Bob, having accepted the position as Director of UPC and in keeping with the rotation schedule, it should be a city representative. Sim Gill nominated Steve Garside, Layton City Attorney as the new UPC Vice-chair/Chair elect. The nomination was seconded by Paul Bittman. The nomination passed unanimously.

**III. PRESENTATION REGARDING THE STUDY CURRENTLY BEING UNDERTAKEN BY THE 6<sup>TH</sup> AMENDMENT CENTER**

Kelly Wright reported that two representatives from The Sixth Amendment Center are currently conducting a Sixth Amendment Indigent Defense Review in Utah. The study looks at Justice Courts practices, contract practices, county attorneys practices and how cities get notified, etc. To date, five out of 10 counties have been surveyed. Kelly wanted to make municipal attorneys aware and that they will have an opportunity to give input at an upcoming meeting. It was suggested that Ryan Robinson of West Valley City and Robert Cosson, St. George City be involved in those meetings.

**IV. FINANCIAL REPORT:**

Mark Nash made the following financial report. Additional information is included in the Director's Summary.

A. FY14, year to date:

1. Surcharge report:

a. The surcharge report includes receipts through to March. The hoped for spring increase was good with an approximate increase of \$20,000 over the past two months. If this trend continues, UPC may end up in good shape at year end. Projected through the end of the fiscal year, UPC surcharge receipts would be down about \$40,000 from budget. Overall the budget is in good shape but receipts will be closely watched.

2. PIMS User Fee Income Report: Mark Nash distributed detailed deposit report covering PIMS user fee payments totaling \$12,590 through April 1<sup>st</sup>. Mark indicated that Ron has been directed to use the funds exclusively for PIMS such as fixing problems. Mark recommended that next year's budget reflect that PIMS be separated out as its own enterprise and only those funds be dedicated and used for PIMS projects.

3. Detailed Expenditure Report: Mark Nash distributed detailed expenditure reports covering the months of December 2013 to February 2014 and invited questions. Hearing none, he moved to the next item.

4. Budget Comparison Report: Mark Nash explained the report includes information through the February 2014.

a. Income: With 66.6% of the fiscal year having passed, UPC has realized:

- (1) 58.6% of budgeted surcharge income;
- (2) 60.4% of total budgeted income;
- (3) 45.1% of budgeted income from conference registration fees (Spring Conference is budgeted to pay about half of the annual registration fee receipts);
- (4) 60.4% of grant budgeted grant reimbursement payments;
- (5) \$12,590 in PIMS user fee payments; which all adds up to;
- (6) 60.5% of total budgeted income.

b. Expenses: With 66.6% of the fiscal year having passed, UPC has expended:

- (1) 69.1% of its budgeted training budget;
- (2) 89% of budgeted Council and Committee expenses;
- (3) 51% of budgeted current expenses;
- (4) 40.2% of budgeted data management expenses;

- (5) 54.9% of budgeted out-of-state travel;
- (6) 62.7% of budgeted personnel;
- (7) 0.0% of budgeted unusual prosecution expenses;
- (8) 100% of the UPAA appropriation; which adds up to;
- (9) 56.3% of total budgeted expenses and a net income of \$40,134.25.

c. FY14 to year end: the only large items remaining to be paid are Spring Conference, Personnel Expenses and Administrative Fees. If there are sufficient funds, payment of Unusual Prosecution Expense Reimbursements can be made. At this point, unless there is an increase in surcharge income during the last four months of the fiscal year, it will be very close whether UPC will end the year with any surplus. Barry Huntington moved to authorize Mark to send letters to county and district attorneys encouraging them to submit their Unusual Prosecution Expense reimbursement requests. The letter will indicate that if at the end of the year, the surcharge income is such that payment of the reimbursement requests is financially difficult or impossible, the Council may, in accordance with Section 67-5a-1 of the Utah Code may; a) pay only a percentage of requested reimbursement amounts, or b) decline to pay any reimbursement requests. Sim Gill seconded the motion, which passed unanimously.

B. FY15:

1. Appropriation:

Given the past two years' experience, the FY15 appropriation from the surcharge fund may not amount to \$550,000 as apposed to reaching \$603,400, or 3% of the total revenue generated by the surcharge fund as collected in prior years.

2. PIMS User Fee:

After considerable discussion, Steve Garside made the motion to set the PIMS user fee for the state's 2014-15 fiscal year at \$206 per user. Barry Huntington seconded the and motion passed unanimously. A user is defined as anyone in the office who has PIMS on his or her computer as well as any attorney whose criminal work is prepared on PIMS but who does not otherwise personally use PIMS.

C. Grant Audit Report:

Mark Nash distributed a letter dated March 24, 2014 from Doreen Weyland, Grant Monitor, CCJJ indicating that CCJJ had recently audited the UPC's Sexual Violence Resource Prosecutor grant. This audit resulted in three findings in which UPC had incorrectly requested grant reimbursement. CCJJ requested that UPC reimburse CCJJ in the total amount of \$5,576.56. Details of the findings are included in the Director's Summary. Mark apologized for not catching the problems. He indicated that he has discussed this matter with his staff to make sure financial errors are not made in future grant reporting.

V. **CASE MANAGEMENT REPORT:** In addition to the in depth report in the Director's Summary, Ronald Weight and Mark Nash gave the following PIMS report.

A. Status Report:

Ron stated that Davis County has had some problems to address. Summit and Utah counties have some technical problems with e-filing that need to be addressed. Given

the incoming User Fee revenue, those issues can now be worked on. Ron was directed to work closely with Bob when preparing the FY15 budget and assess what resources and services will be needed to keep PIMS viable and its realistic viability for the future. Ron mentioned the problem in working with DTS in terms of their response time, the one to two month delays in receiving an invoice from them and the sticker shock upon receiving the bill. Mark indicated that he will set up a meeting with DTS and introduce Bob to them and discuss some of the issues UPC has encountered with them.

Currently, Ron continues to update PIMS to allow e-filing of Informations when requested. The courts still require filing of all other documents electronically, but PIMS isn't able to do that right now. Another reason is that he is working on a project that will enable the e-filing of all documents, not just Informations, regardless of whether an office is using PIMS or another system. Ron has also received information that the courts are working on a new way to e-file and it's unclear how that will affect the PIMS e-file system.

Also, Ron is working on a project to allow e-filing of all court documents through a custom interface. It will be able to use PIMS or a third party system to gather the data and documents to e-file with the courts. It is in the early stages, but appears to be very doable.

B. E-filing: What I've learned from working with Cache County

Given that Cache County has migrated their case management system from to PIMS to New Dawn, they invited Ron to come to their office and observe the move to the new system. Basically, he learned that there are other systems available to what PIMS does and more. It all depends on if the customer wants to pay for the program and its services up front to a third party vendor or through user fees. One thing New Dawn does not do is the e-filing interface. Ron is looking into seeing if he provides that service and will explore an improved method in doing an e-filing interface with the courts. Overall, Ron has been looking at other third-party companies. He indicated that PIMS, currently, is a viable option. It has a life span of five to seven years with the proper funding. The cost of keeping PIMS maintained and going would be much the same as any other third-party vendor. Ron will make an in depth report on all the options and the projected future of PIMS at the next meeting.

In regards to going live on e-filing, Steve Garside suggested that before going live to check with the AOC and the local clerks to make sure everyone is aware of the proper procedures and requirements in order avoid future problems.

**VI. TRAINING COMMITTEE REPORT:** Steve Garside, UPC Training Committee Chair gave the following report.

- A. The Training Committee met March 28, 2014 for its annual spring planning session. The following are the results from the meeting.
- B. The 2014 Spring Conference agenda was reviewed. It will be held at the Sheraton, April 10-11, 2014.
- C. 2014 Fall Prosecutors Training Conference draft agenda: Two remaining sessions were filled under the Fast Track on Thursday, Sept. 11 at 10:50 a.m. which included 1) Larry McDonald of Workmen's Comp Fraud will inform prosecutors on a unique fraud unit, show a brief power point presentation and acquaint prosecutors with what they do and 2) Jim Ingle, Deputy Compact Administrator, Utah Sex and Kidnap Offender Registry, Adult Probation & Parole will inform prosecutors on the Utah Sex Offender Registry and how prosecutors can access and use this resource.
- D. This year the Regional Legislative Updates will be delivered via live webinar from

P.O.S.T.

- E. Steve reviewed upcoming conferences.
1. CJC / DV Conference to be held May 13-15 at the Zermat Resort, Midway. That agenda is set.
  2. UPAA Conference will hold its annual event at the Homestead Resort in Midway, Utah on June 18-20, 2014.
  3. UMPA Summer Conference will be held July 31 - August 1 at the Crystal Inn in Cedar City, Utah.
  4. Basic Prosecutor Course is scheduled to be held on August 18-22 at USU in Logan.
  5. Government Civil Practice Conference is set for October 15-17 in Springdale at the Zion Park Inn.
  6. The County Attorneys Executive Seminar will be held at the Dixie Center in St. George on November 13-14.
  7. Advanced Trial Skills Course is scheduled for Nov. 19-2. The location is yet to be determined. Suggested location was P.O.S.T. or Layton Courtyard Marriott.

Sim Gill moved to hold the 2014 Fall Prosecutors Training Conference at Park City, with Provo and Logan, in that order, as backup sites. Jann Farris seconded the motion and the motion passed unanimously.

- F. Registration Fee clarification for UPC Conferences:  
After a discussion regarding the fee scale of \$40 for support staff and law enforcement, \$75 for public attorneys and \$150 for public attorneys, Sim Gill moved to simplify the fee scale to \$75 for all public employees and \$150 for all private sector employees. The new fee schedule will take effect August 1, 2014. Jann Farris seconded the motion and it passed unanimously.

### **VIII. UPAA REPORT:**

CeCelia Zarbock, UPAA Chair, gave the following report.

- A. The 2014 UPAA Conference agenda is set and the brochure will be published the end of April.
- B. There will be two UPAA Board positions open by the end of June. Recently, Marcy Duke, UPAA Board member accepted another job and Teresa Manzanare's term expires in June and she will not seek for another term. CeCelia welcomed recommendations from the Council to fill those positions.

### **VII. STAFF ATTORNEYS ACTIVITY**

Donna Kelly and Ed Berkovich referred the Council to the in depth SA/DVRP and TSRP reports as outlined in the Director's Summary.

### **X. NEXT MEETING:**

Friday, June 13, 2014

1:00 p.m.

Morgan County (Details to follow)

### **VIII. ADJOURN**