

The Judicial Council of California is the constitutionally created policymaking body of the California courts. The council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts Web site. What follows is a formatted and unedited transcript of the meeting of April 24, 2012. The official record of each meeting, the meeting minutes, are usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts Website at <http://www.courts.ca.gov>.

>> Chair Cantil-Sakauye: Good morning, all. This is the Judicial Meeting of the Business Council of California, for April 24th, 2012. The meeting is now in session. The counsel will hear public comments and internal committee reports. And approve the consent calendar this morning before a short lunch break. We'll then reconvene for our discussion agenda. As you know and as is posted, it included further cost reduction recommendations from the court facilities working group, an audit for the superior court of Mono County, revisions to the judicial branch contracting manual, a funding request from the superior court of El Dorado related to that court's remodeled juvenile facility, and finally, Judge Herman will provide an update on branch technology issues related to our last meeting on CCMS. But first as you know, always some housekeeping matters. I remind council members that our meetings are audio cast live with realtime captioning on the California courts website, and portions of these meetings are also routinely videotaped for later broadcast on CCN California courts news. We've will several online visitors and even greater numbers are the archived audio casts and visitor reports. So for their benefit those reasons, please address each other by name when possible so audio listeners and realtime captioners can follow our discussion.

We have I understand five requests for public comment at this meeting. Including several judicial officers from whom we will hear one of them first. One of our judicial colleagues has asked to speak on item D, the court facilities working group recommendations for reducing costs. And we will invite him to the podium at that point in the meeting when we discuss agenda item D. And we also have members of the public, I understand, interested to speak on that item, and we will call them at that time also.

We further have, as you know, written comments that are included in Judicial Council members materials. Those written comments are posted on the judicial meetings page on the California courts website. There's also a handout of the three name -- the three persons who did submit written comments, name and title, affiliation and topic.

So now I'd like to call on presiding Judge David Warner, superior court of San Joaquin County. Welcome, Judge Warner.

>> Hon. David Warner: Thank you. Chief justice and members of the council, I appreciate the opportunity to address you this morning in a somewhat unusual method during public comments. I'm Dave warner, I'm the presiding judge of San Joaquin County, which has the unfortunate distinction of being the most under-resourced court in the state. For the entire time that the trial court funding has been provided by the State through the JCCA allocation process,

San Joaquin County has been underfunded. The RAS model that was developed by the council allowed us to put some numbers to that and quantify where we were at. This fiscal year we were 37 percent under-resourced until we received emergency funds provided by the council back in December 2011. I need to acknowledge those emergency funds as they have allowed us to keep our doors open, but more importantly, they've allowed us to keep all case types up and running.

We also -- which we were likely to not be able to do -- are doing small claims cases. While they're not being done in a timely fashion, at least they're making their way to court.

As we try to provide a justice system in our county, we struggle to cut expenses to stay within our budget while still providing all the case types that are called for in our system. It's becoming increasingly clear, however, that we're fighting that battle with one hand tied behind our back as we're not addressing the budget allocation issue as is done through the Judicial Council.

We have the ability to control the expense side of our budget, but we have little control over the revenue, more specifically the budget allocation.

Relative to our expenses we continue to look for areas to cut that will not affect our core functions and we look for ways to be more efficient.

Regarding revenues that are outside the budget allocation process, we look for opportunities to enhance those fines and fees that provide some direct increases in the revenue to our County.

We've been working with the court assessment review team to find ways to improve our efficiency and operations. That process will be completed soon and we look forward to receiving the report.

It's clear to me, however, that we will not be able to dig ourselves out of our financial hole simply by being more efficient or raising fees.

We need to have a significant change in the revenue side of our budget to have the appropriate impact. While you may say that this is true for all trial courts, we're not all the same.

It is important to understand that if the state eliminated -- eliminated the 653 million dollars of courts -- of cuts to the judicial branch, if the courts' budget were made whole, San Joaquin County would still be underfunded. And that applies to a few other courts as well.

After years of languishing in a continual state of under-fundedness, if I can use that term, the council put forth a plan to address the issue. For a period of three fiscal years beginning in the year 2005-2006, the council took a portion of cell funding and directed it to the under-resourced courts, including San Joaquin County, that funding known as workload, growth and equity was added to our baseline budget. Consequently we finally started to dig out of that financial funding hole.

Unfortunately even in those good economic year, some of those funds so desperately needed in the under-resourced courts were taken. The legislature was lobbied, and in the second year of that process, directed that the workload, growth and equity fund be cut in half.

We estimate that this move cost San Joaquin County about a million dollars.

And it's cost us a million dollars every year since as it was not added to our baseline budget.

We need your assistance to address this budget allocation issue. What is the plan to fix the structural inequity that exists in funding between trial courts?

I'm here to request that the council address the issue and create a plan. When we were here seeking emergency funds in December, we were asked a question by this council: What's your plan?

And I think that that was an appropriate question to ask.

So I'm now here asking you: What's your plan?

I've been told that this problem cannot be addressed during our unprecedented financial downturn. Why not?

If not now, when? It certainly hasn't been adequately addressed even in the best of financial times.

It's unfair that our court receives revenues that are millions and millions of dollars less to handle the same caseload or the same proportion of caseload as other courts.

I understand that there may be factors to be considered from County to County, but it does not justify these vastly different budget allocations. I realize that many courts are now under-resourced, but for many this is a new problem. It's not a new problem for San Joaquin County, we've been under-resourced every year I've been on the bench, over 14 years.

When we sought emergency funding, we were asked whether or not we would be back next year for more emergency funding. The answer is yes, until that structural allocation problem is fixed.

It's important to point out that if legislation passes, it provides for historical funding to be maintained by the trial courts, the underfunding of San Joaquin County will be locked into place. We frequently hear concerns from others in the court system that what is happening to our County is unfair, and that something needs to be done.

But year after year we end up in the same position: On the bottom.

I do understand that you have many difficult issues to address on behalf of the entire branch. Having said that, I want to stress how important it is that you address this issue, and I urge you to put a plan in place that will address the inequitable funding allocations between the trial courts.

And again, I appreciate the opportunity to be here to address you today.

Thank you.

>> Chair Cantil-Sakauye: Thank you presiding Judge Warner.

Yes?

>> The RAS model allocation is coming back to the council when, Jody?

>> I believe it will be June or July. Later this summer.

>> Chair Cantil-Sakauye: Thank you, Judge So. And while there are other speakers, as you can see on the public comment, those other speakers I understand including one of our

colleagues has asked to reserve their time until that matter is taken up on the agenda, and that's item D.

So on our agenda the next matter of order is the approval of minutes, and we're looking at minutes from two of our meetings and the other of March 27th.

Mariam?

>> MARIAM KRINSKY: Yes, actually the -- the March 27th meeting, I was present but by phone. So that should be modified.

>> Chair Cantil-Sakauye: Thank you. We'll take that correction. I appreciate that.

Any other corrections to the minutes? And if not, may I hear a motion?

Judge So moved approval, second by Judge Moss and a second somewhere on the left side. Miriam Krinsky.

All in favor of approving the minutes of February 28th and March 27th?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Motion carries.

Next comes the reporting of activities since our last meeting. Starts with the chief justice's report.

First I want to begin by thanking council once again for revising the busy schedules to accommodate our special session on March 27, focusing on CCMS. This full day meeting provided the opportunity to thoroughly review and discuss options for the statewide court case management system in the context of our reduced resources. Your unanimous decision to halt deployment and implementation of CCMS 4 I know was difficult for all, and it was also bold. Our action has, as you've read, provoked commentary on all sides of the issue not only in California but nationally. Our responsibilities to improve efficiency in the courts and public safety statewide are still very much with us. And perhaps are an even more urgent priority for us now.

So we are thankful for the work of Judge Herman and Justice Bruiniers and the CCMS internal committee members as they evaluate the alternatives to statewide deployment of CCMS V 4. I understand the committee will come back to the council at future meetings with new strategies, technologies and a new government structure as well as near future -- attorneys, justice partners and the public. And I know that that process is collaborative with input from the courts.

I also want to acknowledge two departures from the council, one immediate, that is Judge Sharon Waters, and the other upcoming, that is Britts Ulrich. Several weeks ago I did receive a very kind letter from Sharon Waters, Judge Waters, informing me of her decision to leave the council for personal reasons. As all of us know, Judge Waters has a long history of service to the

council, to the courts and she's made many significant contributions to the administration of justice.

She most recently served as a member of the executive and planning committee. We will miss her and her good humor.

Our advisory member, Supreme Court Clerk Fritz Ulrich, announced his retirement last month. Fritz's official retirement date is June 29. So he will be present at our next meeting, and we will acknowledge his service on the council as well as his tremendous 47-year career in the state justice system.

For now, though, please join me in congratulating Fritz on his announcement.

(Applause)

>> Chair Cantil-Sakauye: Now, two of my near-term priorities over the last year have been a comprehensive review of the organization and work of the administrative office of the courts and the search for a new administrative director of the courts. I appointed two committees from Judicial Council and also from the judges at large to assist me in both of these efforts. The strategic evaluation committee I understand completed much of its extensive fact collecting and interviews and surveys and research in January and is now preparing its final report and recommendations. We expect those to be submitted to executive and planning over the next possibly four to six weeks.

I will ask Justice Miller to provide a brief update on his conversations with the co-chairs of the SEC, assistant presiding Judge Charles Wakam of the superior court of the Plaster County and Brian McKay of the superior court of Merced County. Also the search committee has been very active. I will ask Justice Hull to provide an update on the status search. I once again want to thank Jody Patel to step up to serve as interim administrative director. This is a difficult and challenges time for the AOC as the entire branch. The staff remains on mandatory general furlough, a general salary freeze in effect for three years, a staff has been reduced through two rounds of voluntary separation agreements. And I know layoffs are pending.

Join me in thanking Jody and interim deputy administration director Curt Soderland for their commitment and willingness to make tough decisions and to step up this last year. Thank you.

(Applause)

>> Chair Cantil-Sakauye: And we will hear more about what's happening in the AOC from Jody when she presents her report.

Since our February meeting like many of you I have had a full schedule of meetings with court leaders and legislatures and -- as well as appearances at public forums and before various bar organizations, and I'm always gratified to see so many Judicial Council members present at those organizations and in those meetings. I'll mention a few. On March 19 I gave my first state of the judiciary address to a joint session of the legislature. This was an opportunity to share our

priorities and our achievements with the legislature, let them know a little bit about the history of the branch that's so important as we make decisions in the future, and also once again to make the case for adequate funding. I want to thank my colleagues on the Supreme Court on the council and in the courts for attending that session. Your presence there for my inaugural judiciary address and your conversations with legislative members before and after the state of the judiciary were welcome.

Earlier in the month I had the pleasure of joining the chief justices of New York, Massachusetts, Texas, Indiana, and other states for the 15th annual Lehman colloquium at Yale law school. The topic of the lectures was nationally accessing justice, rationing law. I spoke at the opening session on the challenges of ensuring court services with reduced resources, and also California's Sargent Shriver civil council act, our pilot project known as the civil Gideon which garnered a lot of interest from other states about what California is doing. The only other state doing something similar is New York. Two weeks later I was in New York at the invitation of former chief just Judith Kay for an important conference called the national leadership on school justice partnerships, keeping kids in school and out of court.

I thank Mariam Krinsky for all of your assistance in this information gathering and bringing me up to speed on the issues facing education and children and suspension and expulsion in California. The California delegation included justice Dick Huffman, Judge Stacey Buleary of the superior court of Sacramento County, Judge Richard Blake of the Hoopa Valley Tribal Court, and Jeanie Orpeza of the department of education among others.

The ideas and information shared at the conference were extremely relevant, very interesting and surprising in many ways. And I think it will help shape some of our efforts as we move forward looking at juvenile justice and civics education.

I also had the opportunity to address the annual conference of California appellate defense counsel at their meeting in Berkeley. I welcomed judges participating in the 2012 supervising judges institute here in the conference center.

In early April I traveled to Bakersfield to address the county bar association and members of the bar in neighboring Counties. That's Eddie Mathias' old stomping ground. It was wonderful to be there.

I left Bakersfield to drive to Los Angeles where I attended the Friends of the Los Angeles County Law Library Gala and received that organization's beacon of justice award. Legislative hearings last week on the effect of budget cuts on the public's access to justice were proceeded by a press conference on the steps of the capital. Many of you were there. I thank you for being there.

As you know the event was organized by our counsel, colleague and chair of the senate judiciary committee, Senator Noreen Evans. I along with Judicial Council members joined Senator Evans, Senator Lonnie Hancock, California bar president Lon Streeter, Attorneys David Olson and David Boys and others for making the case for adequate funding for the courts.

Following the hearing I spoke at a reception sponsored by the Sacramento bar association. I was invited to participate in the distinguished speaker series at the Rand Corporation last week in

Santa Monica, and I had the opportunity to speak with researchers there about their work on justice related issues in California and around the country including their interest and their devotion of a researcher to criminal alignment -- realignment in California.

I look forward to finding any way we can collaborate with them on making that a more efficient and useful and streamlined system for the courts and for the public.

Finally last Thursday, Justice Miller and I and -- attended the desert bar luncheon in Palm Desert where I delivered remarks and took questions from the attorneys, that was very pleasant.

Law day event in the capital is coming. So I'd like to extend an invitation to anyone who is able to join me for Law Day 2012 at constitution wall in Sacramento on May 8th. This is the first of what I hope will be an annual official commemoration of law day by branch leaders in California. The theme for law day this year is no courts, no justice, no freedom, recognition by the American bar association of the funding crisis for courts nationally in nearly every state.

And at that event I will present the chief justices award for exemplary service and leadership to the open courts coalition for its outstanding service to the judicial branch during the funding crisis. Details about the events are on the California court website.

That brings me up to yesterday, where we had the PJ meeting. Finally that involved PJ's meeting with different judges. And I want to say yesterday Justice Miller, Justice Hull, Judge Bob Moss and I joined Judge Rosenberg, chair of the advisory committee, and several other presiding judges for a meeting. We discussed some of the issues that came up -- have come up throughout the year. I also -- happy that presiding -- or the president of state bar association and a member of this council, Judge David Ruben was also present, alliance members also attended. It wasn't a committee meeting, but it was meant to be a more informal conversation amongst judges and council leaders. And it was moderated by Justice Tony Klein.

And as you know, I and many of you have many, many meetings with court leaders each week on many topics. But this session was the subject of several news reports and commentaries; I normally wouldn't report on them. But I will say that yesterday's session was positive, it was productive. And I think we have many court leaders who care deeply about the future of the courts, and we have much to talk about in the future with them, and it will be very exciting.

I appreciate that presiding Judge Lori Earl and Judge Rosenberg invited me and the Judicial Council members to come to that meeting to listen to the concerns. And I think that we look forward to more discussions with the presiding judges on topics of interest of governance to all of us.

That concludes the chief justice's report; and I will turn it over to Jody Patel for the administrative director's report.

>> Jody Patel: Thank you, Chief. Good morning. My written report which you have in front of you provides an update since the February judicial Council meeting on the various activities that the AOC has been engaged in to further the council's goals and priorities for the judicial branch. But I want to highlight just a couple of issues.

Following last Monday's joint senate committee hearing on the impact of budget reductions on access to justice, the senate budget and fiscal review subcommittees sub5 convened for a hearing last Thursday on the judicial branch budget. Curt Soderland and Zlatko Theodorovic testified at this hearing. Zlatko addressed the council's budget proposal that in part seeks the restoration of the 100 million dollar general fund reduction to the branch.

The LAO presented a summary of its recommendations, which I believe all of the council members have seen.

To which Curt responded, including LAO's recommendation that the legislature reject the governor's proposed budget bill language that would permit the council to allocate budget reductions and allow the legislature to establish its own funding priorities for the judicial branch. As well as options for addressing ongoing budget reductions including trial court balances.

The subcommittee held open the items on the judicial branch budget as the funding plan gets further developed. It did take an action on requesting a report prior to the May revised report detailing operational efficiencies systemwide or court specific, implemented by the branch. We already have some of this information, which Olga is taking the lead on working with the presiding judges and court executive officers which -- and which we've been using in our advocacy efforts. And we will be working with court leadership to refine and add detail for that report.

The subcommittee also asked for the Judicial Council to report back on existing differentials in the funding levels of trial courts and for a report on the termination of the CCMS project.

Directly related to the issues of operational efficiencies I also want to share with you a little bit about the restructuring efforts underway here at the AOC.

During the past 60 days we've accelerated our restructuring efforts in order to ensure that we can meet some of the budget reductions that AOC will be facing for the 12th-13th fiscal years. And our focus is on four key but overlapping areas as an executive team that we've been working on.

First is managing the budget reductions for the upcoming fiscal year, secondly, confirming core priorities and activities for the AOC in an environment of reduced resources. Third is identifying programs and services that should and could be realigned or eliminated; and lastly, identifying associated employee positions that will need to be realigned or eliminated through layoffs.

In terms of addressing budget reductions we are in the middle of implementing -- and the chief mentioned this -- a second round of our voluntary separation incentive program. The first cycle implemented in the last quarter of 2011 allowed us to reduce our work force by 26 regular employees. We will have our final numbers on the second round of our VSIP program in -- by the end of May. And I will be able to report to the council on the actual number of reduced employees at the June meeting.

As the chief mentioned, we will also have layoffs. Right now we are anticipating doing this in phases based on funds we will need available as we do leave payouts in a phase kind of an

approach. Layoffs have always been a last resort for the AOC as it has been for the trial court and other judicial branch entities, but now it appears that layoffs will be a necessity for the AOC.

We have shared this information with staff about two weeks ago; and like those courts that have already had or will have layoffs, we understand the hard reality for colleagues who will lose their livelihoods as well as the detrimental impact that the reduced workforce will have on AOC programs and services. As we work through this realignment process, programs and service priorities and any associated reductions, they will be discussed with the chief justice as well as with you, the council.

In addition, we will seek input from trial and appellate court leaders on issues where courts will be most directly affected. We are conscious that you will receive recommendations from the strategic evaluation committee sometime in the near future, as the chief indicated, but the AOC does need to move forward with its own internal process so that the agency can be best positioned to meet its anticipated budget reductions come July 1.

Finally, during these challenging times for the courts and the AOC, really underscores the valuable contributions of the dedicated and experienced professionals who serve the judicial branch of government. This morning I want to, in partnership with the chief, recognize an AOC professional who at the end of this week is retiring from service to the branch, the Judicial Council, the AOC, and the people of California after 37 years.

Michael Fisher, senior attorney with our office of general counsel, is the AOC's longest-serving employee. Since 1975 Michael has served five chief justices, all four administrative directors, and three general counsels. He has made important contributions in the evolution of the judicial branch and the AOC. For many years he has served as staff to the family and juvenile law advisory committee and led -- and been lead staff to the family law subcommittee. Working on significant statewide issues such as domestic violence prevention and the duties of children's council and family law matters, he helped draft key legislation in court facilities, he's also contributed to a host of other complex legal issues of importance to the branch, such as the consolidation and reorganization of California's former justice and municipal courts, judicial branch governance, branch fiscal management, statewide sentencing practices, judicial benefits, and public access to court budget and administrative decision-making.

I'm told that a review of our record shows that Michael has authored or co-authored roughly 65 reports to the Judicial Council on these and many other issues.

Michael, on behalf of your AOC colleagues, we want to thank you for your service to the AOC and the judicial branch and the citizens of California.

We will miss you very much; but we wish you the very, very best in your retirement.

And before I invite Michael to receive a resolution from the chief justice recognizing his significant service and contributions, chief, I believe you wanted to make a few comments.

>> Chair Cantil-Sakauye: Thank you, I do.

It's hard to say what a great loss it is to the administration of justice given your wealth of experience and service to the -- so many chiefs and administrative directors. You really are a

time capsule in many respects of the history and evolution. And I hope that before you go, you come by to see me personally so we can have an exit interview and I can learn what I can in the capsule, the 37 years you've served.

I know that I am familiar with your reports, not only as chief, but as a Judicial Council member, and when I would read matters of interest relating to council action when I was an appellate court justice. Your name on the byline and the author of these reports, Michael Fisher, I think known to many and all of us. It is a great loss and I wish you much luck and pleasure in your next chapter. It can never and as enjoyable as Judicial Council has been since 1975, however, but you will always have a friend here. I ask you to step up so you may receive a small token of our gratitude.

(Applause)

>> Chair Cantil-Sakauye: Please say a few words.

>> Michael Fisher: Thank you, chief. And thank you, members of the council.

It has been my great honor to have served this body for nearly 37 years.

As you know, that's the role of the AOC. I am proud to be part of your staff, and I know we do our job well.

I'd also like to acknowledge Mary Roberts, probably the best boss anyone has ever had.

When I came to the AOC, there were fewer than 35 people employed here.

As the council's responsibilities have grown astronomically, the AOC has also grown.

Usually at a slower rate, to help carry out those responsibilities.

As we now face significant cuts, grant-wise, and reexamination as to what the council and the AOC should be doing going forward, I'm sure that the council will continue to make the difficult and correct judgments in this regard.

I am lucky to have worked at the AOC. I passionately believe in the importance of the justice system, the AOC, as your staff, helps you to improve the quality of justice provided to our ultimate clients, the people of California.

During my tenure at the AOC I have often appeared before the council and am one of the relatively few number of AOC staff who are known to you. For every one of me, there are many more individuals at the AOC that support our work for you.

These individuals are as important, if not more so, than those of us you know. So while you honor me with recognition today, I can only accept this on behalf of all members of the AOC. For it would not have happened without them.

Thank you.

(Applause)

>> Chair Cantil-Sakauye: Please come forward so we may present you with the resolution.

Thank you.

(Applause)

>> Chair Cantil-Sakauye: Next we'll hear report from PCLC, justice Baxter.

>> Hon. Marvin Baxter: Thank you, chief. The policy committee met twice since the last Judicial Council meeting, taking positions on behalf of the Judicial Council on 11 separate pieces of legislation.

On March 15th the policy committee acted to oppose assembly Bill 1709 relating to jury trials in juvenile delinquency matters, and also opposed AB1444, AB2163, and senate Bill 1214; all dealing with expedited judicial review in Sequa cases. The policy committee also approved circulation for public comment of a legislative proposal from the criminal law advisory committee regarding uniform procedures governing the various forms of supervision resulting from criminal justice realignment.

On April 12th the policy committee acted to support AB1337 relating to service of notice in a parentage proceeding where a parent is deceased, and also assembly Bill 2365 which expressly permits the Court to consider a parent's continual or habitual use of prescription drugs in custody determinations.

The policy committee also acted to support senate Bill 1048 dealing with the authority of juvenile courts to join a governmental agency to an action, and oppose SB 1124 concerning reimbursement of incarceration costs by defendant, senate bill 1206 relating to child abduction and imposing obligations on the Court to secure passports in large numbers of cases and take actions best left to parents and other entities.

The policy committee also took an opposed position on AB 2501 requiring the relocation of the Supreme Court, the AOC and other state entities under the direction of a constitutional officer to the Sacramento metropolitan area.

At that meeting the committee took a multi part position on AB 2076 relating to official court reporter fees and how they are assessed and distributed.

And finally, a legislative proposal from the criminal law advisory committee regarding inter-county probation transfers was approved for circulation.

Also as mentioned by the chief justice, the chief justice delivered her first state of the judiciary address to a joint session of the legislature, the chief's address was immediately followed by a meet and greet with legislators and guests. And in addition, the bench-bar coalition's day in Sacramento occurred the same day.

When bench and bar leaders met with legislators on issues of critical importance to the judicial branch, they met and discussed issues including budget and court construction funding.

Finally, our two Judicial Council sponsored proposals have been introduced, assembly bill 2683 and senate Bill 1574 by the respective judiciary committees. These are technical bills dealing with electronic discovery and forms for claimants and decedent's estates.

The office of governmental affairs is also in the process of scheduling liaison meetings with the chief justice, and those meetings will take place with leaders of groups very important to the judicial branch.

Early in May the meetings will include meetings with the state bar leadership and also with the consumer attorneys.

And as you were recently informed, this Thursday the policy committee will be meeting to consider for Judicial Council's sponsorship proposals relating to operational efficiencies, cost savings, and new revenue to be part of our budget approach.

And any of you are welcome -- you're all welcome to be on that call, that conference call that will be taking place this Thursday.

So I will keep you informed of the progress of these proposals. The council's sponsored legislation and other bills of interest to the judicial branch. And that completes my report.

>> Chair Cantil-Sakauye: Thank you Justice Baxter. Any questions about the PCLC report? Thank you.

Next we'll hear from justice Miller. E and P.

>> Hon. Douglas Miller: Thank you, chief. Since February 28th the committee has met six times either by telephone or e-mail. And the course of those meetings the committee set the agendas for the special council meeting on March 27th to make decisions on deployment of the California case management system and also we discussed the agenda for today's April business meeting.

At the current E and P is beginning the process to evaluate the nominations for the Judicial Council and we hope to have those reviewed and provided to the chief justice as soon as possible.

And as the chief justice indicated, we are anxiously awaiting the report of the SEC committee, this committee was formed approximately a year ago to study and make recommendations about the AOC and its operations. When E and P receives that, we will review that and have that presented with our recommendations to the Council at our June meeting. Also the two co-chairs will make a report at the June meeting on their formal findings and recommendations. And again, we are expecting that at our June meeting.

And then lastly, if I can take just a moment, chief, as everyone knows, we formed liaisons with Judicial Council members who are judicial officers and have assigned them to individual courts, some multiple courts at different places throughout California. And we've had a number of our Judicial Council members visit their courts. And we'd like to see if they would be willing just to give us a short report. So if I could start with Judge Moss and then Judge Yew, Judge O'Malley, and then Justice Ashmann-Gerst.

>> Hon. Ashmann-Gerst: Thank you, Justice Miller. On April 13th I visited my liaison court in yo County, has a population of 18,000 people. There are two principal courthouses, one

in the city of independence and one in the city of bishop. I met with the two judges of that County, Dean stout, Judge Dean stout and judge Brian lamb. Also their CEO and assistant CEO. We first went to their independence facility, which is a historic building built in 1929. As you might expect, the conditions there in my estimation are deplorable. The staff is -- nobody has their own office. The staff is crammed into small, poorly ventilated offices. There's no perimeter security in the building. They have the machines there for perimeter security, but no one to man them. They have no elevator in the two-story building, which is okay to walk up stairs, but not when you're carrying all the paper files they have to carry around.

One courtroom on the ground floor, the judge has to walk through a public hall to get into the courtroom because there's only one door to the courtroom.

He has to walk past the in custody defendants and up the aisle to his bench. The room has windows all the way around with glass that isn't even safety glass. So someone could throw a brick or something worse through any one of those windows. So security is a big problem.

We traveled then to bishop where they do have a more modern facility. It's actually a building owned by the city. And the court leases one courtroom there. The judges have -- they share space for a chambers. The CEO is principally there -- she does not have her own office. She has to share that with somebody else. Again, the staff is crammed into very small spaces. Despite all these hardships, the people, the judges and the staff are extremely supportive of the council. Very appreciative of the AOC and all the efforts the AOC has made to help them. They cannot afford a human resources department like a large court like mine has or a general counsel that a large court like mine has. They rely on the AOC for these services and they're very, very pleased with the service they get from the AOC. And judges stout and lamb, I'm happy to report, are very appreciative. Obviously the big issue for this court is facilities. They are in dire need of better facilities. And I encourage all council members who are liaisons to do what I did and travel to your court and see what's out there.

Thank you.

>> Thank you, Judge Yew?

>> There's some themes from what Judge Moss said that will play out in what I report. I met with my three liaison courts. They're Monterey, San Bonito and Santa Cruz. I met with the PJs and court execs and where possible also the eight PJs much we had good conversations about questions that they had for the council. And then also I heard about concerns from these courts. So \$1 theme is there are concerns about cuts at the AOC. The office of general counsel, the HR department here at the AOC have really been able to serve the smaller courts. The smaller courts do not have funds to provide those services for themselves. And would actually cost way more and be inefficient if they could not access those services through the AOC.

Also IT support. These courts express concern about anticipated courts at the AOC. And they're already experiencing some decrease in service. They've noticed some sort of lag time and responding and that may be related to some vacancies and furloughs. Another program that was

appreciated by these courts is the assigned judges program. I met with the full bench at San Bonito, two Judges and they said without that assigned court judges program they would have difficulty meeting the needs of the litigants who come into the courts.

Another program that was lauded was the regional offices. The regional offices have been a boon to this court, smaller courts, and they feel that they've gotten a lot of individualized attention. And they've noticed some decrease in services recently.

In talking, we realize that there are some really unique issues that smaller courts face. And that it would be useful possibly for council members who represent the interests of all the courts in the state to hear from them. So they would be willing to come and make a presentation at a nonbusiness meeting to provide some information and some perspective from a smaller court's point of view.

The courts as Judge Moss reported are very concerned about the facilities. They, as -- as previously you heard, have security issues, in custodies moving through public hallways, courtrooms that do not have bullet proof glass, and just litigants who are traveling great distances to have their matters heard. So there's really quite a concern about court facilities.

In addition there's some concern about courts spending their resources responding to legislative mandated reporting where the -- that branch is suffering budget cuts. And I think we read last week in the E-news that was either the legislative branch or executive branch are looking at reports to the legislature and they're talking about reports about kangaroos and how many kangaroos are sold in Australia. We're wondering if maybe courts themselves can work with the legislature and suspend some mandated reporting in this time when resources are so thin. One thing that came out of our meeting was that I'm in Santa Clara, so we're very close to Monterey and San Bonito and Santa Cruz and we're looking at coordinating geographically and collaborating with each other. And we have a meeting set up in early may so that all our courts can get together and work on some common goals.

I wanted to thank the AOC staff, which was extraordinarily responsive in helping me prepare with my meetings for my liaison courts. You know, Nancy spare row, Jody, curt, Peter Allen were able to help me respond to questions that I received in advance or respond afterwards. In fact, I know many of these people actually called the court the day after I returned from the liaison meeting and responded to some of the court execs and the PJ's questions. And I was -- I never been to some of these courts as a judge. I have been there as a lawyer. So I never got the inside view.

And it was really very impressive to have the opportunity to meet with these court execs. They're dedicated, hard working, well informed people, they're responding to me by e-mail after hours. They listen to these broadcasts of the meetings. And they're just really people who have put their whole career and all their energy into their jobs. And they're looking toward the future. They're really trying to save money, plan for their court's needs for the future and be responsive.

And also I lastly wanted to report that I was present when the Santa Clara liaison, Judge O'Malley came and met with our bench and she did a great job. People on my bench were very impressed with her report. And I think she did the council proud. I receive feedback from my

liaison courts that they were very appreciative of having this liaison program. And to a person they were really very appreciative of the chief and her openness and her support of the courts. So thank you for letting me participate.

>> Thank you Judge Yew. Judge O'Malley?

>> Thank you, Judge Yew.

>> You're welcome Judge O'Malley.

>> It was my absolute pleasure to meet with the Santa Clara court. They have a monthly meeting where they invite all judges on the bench to attend. And I'm happy to say it was a very good turnout. I was the first matter on the agenda. And it gave me an opportunity to again -- I followed Judge Yew's lead with regard to e-mailing their presiding judge, Judge Loftus, beforehand to say, you know, are there specific issues or questions that your members would like me to be able to address once I get there. And he did forward me four very pointed questions that were of concern to the court.

So I had an opportunity to address those. And I hate to sound like a broken record, but it was facilities. Number one. They have a courthouse project, 1407, that's in the making. Santa Clara has always been a very progressive court with regard to its programs for just court users, as well as court administration. So it's always been a leader. And I know that because my court has adopted many of the programs that Santa Clara court has initiated. And it's done very well by my court.

And so I was very happy to go meet with them. And want to thank them personally for all the innovative initiatives and programs that they've started that my court and myself and my judges on my court have been able to take advantage of.

But the courthouse project, they're consolidating into one courthouse several different division, of which several of these divisions are in leased facilities, warehouses, store shops, regular buildings that are in no way or fashion designed to accommodate court business. Some of these, you know, handle in custodies and -- you know, it's like walking into, you know, a department store. Basically to handle your court business.

And there really have not been very many modifications but to add places for people to sit in an audience and a makeshift bench for the court to be able to handle the business. So they are in desperate need of consolidating all these different leases that are spread throughout the county into a very well planned and organized court facility downtown. And this would house juvenile and family, court admin and other things. So that court users would be able to, you know, go through their court day much more efficiently as well as staff. It's very much needed. So they were very concerned about funds being available for them to be able to get out of all these leases, which is a waste of efficiency and money. And also safety issues.

So they were concerned about that. And asked several questions and discussed that. And they were on the list for Justice Hill's committee to kind of reassess -- not reassess, but to look at reducing costs. And so they were willing to do that. But also concerned about that as well.

They have also asked several questions about the budget cuts, what the council is doing to address those and to assist them.

In meeting their cuts. That are coming their way. And also they were concerned about -- again, cuts to the AOC and how this is going to affect services that their courts use. So they're very independent court, but I gather that they also use the services of the AOC. And so they were concerned about -- of those, what would be available for them. Given the cuts that the AOC is facing.

They also received an update from me about all the different committees, chief, that you have enacted with regard to looking at the way we operate, the governance and so forth with regard to the council, the SEC, some of them were unfamiliar with the work of the SEC and knowing that that report was coming out in June. And so they were interested to hear that.

Again, I hope to attend future monthly meetings that they have to keep them updated, to keep them informed and to, again, answer any questions that they have. And it was very productive and helpful meeting. It was my absolute pleasure to be able to do that. I congratulate you for having the idea to be able to reach out. And this type of a program. And I thank you for that.

>> Thank you. Justice Ashmann-Gerst?

>> Thank you, Doug. I'm happy to report back on two of my visits. Actually I did a very informal visit of -- at Mono County. I happened to be at mammoth.

(Laughter)

>> I wandered in. I know Stan Eller who is the current PJ and I wandered in to see their new building. They have a brand-new state of the art building in mammoth that they are thrilled and delighted with. Previously they were on the third floor of a strip mall in a shopping area above the Japanese restaurant. And now they have their own building with just outstanding security. Got a grand tour by -- from one of the bailiffs who was just thrilled with the way the lockups are, the video, the courtrooms. So they're really just delighted with that.

I did not get up to the Bridgeport court, which apparently is completely different situation. Where totally insecure and the bailiff was saying that he -- every time they have to go up to Bridgeport, it just really frightens him. Because security is so bad up there.

The two -- there are two judges in Mono, and they travel back and forth between Bridgeport and mammoth, taking turns doing the calendars.

My visit most recently was to the Ventura superior court. And I met there with the PJ, Vince O'Neil, Brian Beck, two prior PJs, their executive committee, Mike planet and several of their other staff people.

I had e-mailed them in advance and said do you have any issues that you would like me to cover?

I didn't hear back from them. So when I opened the meeting, I said do you want to talk about the value of the AOC, the role of RUPRO, the issue -- floating around with the trial courts about reimbursement for dependency counsel. They want to talk about that, the issue of court reporters, technology. And I opened it up. Their main concern, focus about budget. And budget restoration and how do they plan not knowing what's going to happen. And just how difficult it can be not knowing what your budget's going to from year to year. They're troubled because they have to shut down their CME courthouse, you're going to bring in two civil courts from CME which is going to be a huge inconvenience to the public. They've taken the court reporters out of civil, laying off their part time reporters. They -- their -- their civil judges are concerned that not having reporters available likely will result in delays of civil trial, which has been interesting perception. Lawyers not realizing what the situation is, trying to get court reporters. Can they -- are they certified, those kinds of issues that they're going to have to deal with in the very near future. They were also disappointed of course that CCMS was terminated. They were -- we know Mike planet, who is their exec, has been very much in the forefront of technology. However, they're totally integrated with CGIS, and they're not going to be looking for a case management system.

That -- its satisfy a medium size court, 26 current judges. Very supportive of the AOC. And very supportive of the work currently being done particularly by Jody and her staff.

Ventura, like the other courts, relies on and gets very good service from the AOC. They're concerned that reductions are going to result in decreased service. They point out that what the service they get from litigation management, from OGC, they use a tech center for technology. They get value from OGA. They rely on CEDRA for training, they couldn't say enough about the training programs that CEDRA puts on because their size, they're not capable of putting on the same kind of programs themselves.

They pointed out that the AOC gives them support with their self-help center, with their pro tem training. And they noted that Ventura works collaboratively with the AOC and by the same token their judges all give back to the AOC. When you look at the list which was provided to me by staff, all of their judges and their staff people, all the various committees and advisory committees and counsel that they have been involved in. So it's been very much a two-way street with Ventura. I thought it was a great meeting. I told them I would come back in the fall and encourage them to feel free to contact me at any time. I just agree with everybody else, Doug, that this is a really important and worthwhile project. And I really appreciated the opportunity to participate in it.

>> Well, I want to thank each of you for your visits and especially though for your report back to myself and to Jody and to Nancy spare row about what in essence it was that you found your near visit, but especially the suggestions that you had about concerns or ideas of ways that we can better interact with the trial courts. That's really the main benefit of this program is to

make sure that we hear and we listen and we bring that back to Jody to make sure it's effectuated. So I did want to indicate that I have an upcoming visit to one of my courts, San Diego on May 7th. I'm also assigned to Los Angeles and I have been meeting and talking regularly with presiding Judge Lee Edmond and assistant presiding David Wesley. I appreciate both of them keeping me informed about the unfortunate cuts that they've had to make and -- in their court and letting me be involved in talking to them about that process.

And then I just wanted to lastly say that I encourage all of you to please -- to make your visits if you need assistance in arranging for them on setting them up or anything like that. You can contact myself or Jody or Nancy spare row and they will make sure that we have those arrangements set. And also any materials that you need, please contact Nancy Sparrow and with her team and with Curt Child and anyone else they will put those together for you. And then -- as I want to do and -- to talk to long, I did want to say one last thing, and that is again to echo what the chief indicated with regard to the meeting that we had yesterday with the PJs and also to report back that it was a very good meeting, a very effective meeting. There were some great ideas and suggestions and concerns that were raised. And that the chief has indicated that the chair of E and P that I can move ahead with talking to the presiding judges with Judge David Rosenberg as chair of the presiding judges committee and we have done that this morning and will be talking about a process. And I've been talking with presiding Judge Lori Earl about what we do and how we move Ford. That's our report; and thank you, Chief.

>> Chair Cantil-Sakauye: Any questions about the E and P report?
It was very illuminating. Thank you. Justice Hull, for RUPRO.

>> HON. HULL: Thank you, chief. With your permission I'd like to give you the report of the rules and projects committee first and make a few comments to bring you up to date on the search for a new director of the administrative office. The rules and project committee has met three times since the February 28th judicial counsel meeting. On March 15th RUPRO met by telephone to review three proposals it circulated for comment. RUPRO recommends approval of these propose 578s which are item A 1, A 2 and A 4 on today's consent agenda. Item A 1 is a rule proposal to implement recently I am acted legislation, establishing expedited casing of -- in the court of appeal. RUPRO recommended this item be on the consent agenda, members of RUPRO thought it was port to note several things about this particular item. First of all, the underlying legislation, AB 900 entitled, quote, the jobs and economic improvement through environmental leadership act of 2011 is not uncontroversial. It made significant changes in the procedures for review of the cases covered under the act, including moving initial review from the superior court to the court of appeal. Thereby eliminating the right to appeal in these cases. Secondly, this legislation was developed during the last week of 2011 -- of the 2011 legislative session and it moved through the legislative process very, very quickly. The Judicial Council did not take a position on AB900 because of the speed with which the bill moved through the legislature. The proposed rules to implement this legislation were initially drafted by a working

group that included judicial officers, court staff, and attorneys with experience handling SEQUA cases, this working group, the appellate advisory committee and RUPRO all spent considerable amount of time on this proposal including in particular on determining whether the rule or its accompanying advisory comment should address the court's authority to summarily deny petitions filed under this act.

Secondly, in response to a referral from the council, RUPRO also determined the appropriate advisory committee or task force to review and make recommendations concerning ethics standards for neutral arbitrators in contractual arbitration, an issue that we recall from recent council meetings. RUPRO referred the proposal to the civil and small claims advisory committee with the recommendation that it create a working group that includes individuals with experience and expertise in the area of contractual arbitration and the proviso that meetings be held in a matter -- in a manner as not to incur travel expenses. RUPRO has also since the last meeting reviewed and approved changing to the invitation to comment form. In response to helpful recommendations from the trial court presiding judges advisory committee and the court executives advisory committee, RUPRO decided to make the following changes. Number one, an executive summary that includes the origin of the proposal so that courts and commentators will be able to get a quick overview of the proposal and whether it has been proposed in response to legislation or otherwise.

And number two, a new section containing questions for courts such as will the proposal provide cost savings, what are the implementation requirements for courts, and how well would this proposal work in courts much different sizes?

The answers to these questions will assist the advisory committee's in providing the Judicial Council with more information about the costs and operational impacts of a proposal.

On March 28th RUPRO met by telephone to review two proposals, one of which circulated for public comment during the winter rule cycle. The other proposal makes miscellaneous technical changing to 9 family law rules. RUPRO recommends approval of these items A 3 and A 5. RUPRO members met by video conference on April 11 to consider 27 proposals, the circulate for public comment in the spring 2012 rule cycle. All of which were approved for circulation. These proposals are posted for public comment through June 15th. The number of proposals I think we should know that RUPRO approved to circulate for comments this year is less than half of the number of proposals it circulated for public comment last year. In response to concerns expressed by courts and recommendations -- and the recommendations of the trial court presiding judges advisory committee and the court executives advisory committee RUPRO has made changes to the rule making process to lessen the burden on courts. Both with review of proposals circulated for comment and with implementation. As we go forward this year we will be reviewing many other rule making proposals or amendments to our rule making procedures to continue this effort.

Some of the changes this year resulted in fewer rule proposals this cycle. RUPRO would like to thank the trial court presiding judges and court executives advisory committee for their

thoughtful recommendations. And thank all advisory committees for implementing the changes that were requested.

Following public circulation and further review by the advisory committees and RUPRO, these proposals are expected to come before the council at the October 2012 business meeting.

Chief, regarding our efforts at identifying and hiring a new director, permanent director for the administrative office, ago I think all of us recall, we began this effort last fall. And retained a national search firm, Ralph Anderson and associates, and the principal of that firm, Robert Berg has been working very strenuously towards identifying and making a national search, literally, for a new director of and identifying qualified candidates to present to the committee which I chair which in turn we will present to the council. The first effort in that -- or the first step in that effort was to prepare a brochure and application that was fully informative and accurate. And I'm happy to say that the committee, that the chief formed to look for a new director, was very engaged in that effort. And I think we came forward along with Mr. Berg's help with a brochure and application form that met those needs.

Because of in part the holidays and in part the press of events on all of our time, the brochure was not in a position where we could send it out until I believe it was early March. It did go out at that time. The close of the application period is April 27th. Later this week. In a recent conversation I had with Mr. Berg, he has confirmed that he has -- he in fact made a national search. He has talked to people all over the country. In particular he would like to acknowledge the help that he has had in this search from Miss Mary McQueen at the national center for state courts, but he also wants to know that he has had help from many people across the country. He tells me that he has identified a number of qualified candidates, that he thinks the committee should consider, and we intend at this point to begin the interviews, the committee intends to begin the interviews of these identified persons in mid May. We still have some optimism, beyond some optimism. I don't see any reason at this point why we will not be in a position to present to the council for its consideration a candidate or candidates for the position of permanent director at the June council meeting.

If there are any questions, chief, or comments, I'd be more than happy to hear them.

>> Chair Cantil-Sakauye: Thank you, justice Hull. Any questions or comments? Seeing none I would call on Judge Herman for the interim CMS report.

>> Thank you, chief. We have sort of been functioning under the working title of internal committee on technology with the idea that we are going to at some point adjust the name given the council's decision back on March 27th. Someone on the committee -- not to disclose any secrets, but someone on the committee, I believe the initials were IK, pointed out that internal committee on technology, the acronym would be ICOT. And if we used a small I in front of the ICOT, Mary Roberts would probably get a cease and desist letter from Apple Corporation. Though it may do some rethinking on that. In any event, since the last council meeting on February 28th our committee has met twice. Once on March 19th, a joint meeting with

executive and planning and preparation for the March 27th CCES focus. Special meeting. And then in person yesterday April 23rd.

And I will defer until our discussion this afternoon sort of the contents of that meeting and some of the items that were discussed and some of the presentations that were made.

In addition, I -- just incredibly impressed that staff led bring Jody Patel, Curt Soderland, and Mark Disman and Liz Butler have hit the ground running in terms of refining the work plan timelines and costs for decommissioning CCMS and leveraging CCMS before it's been a -- a great effort. Our vice chair, justice Judith Ashmann-Gerst, Ira Kaufman, former vice chair and myself met weekly by teleconference with justice Miller as chair of E and P and justice Hull as chair of RUPRO and a couple other E and P members to be kept up to speed by staff on exactly where their effort is going forward. Also the chair, I have teleconferenced with CACT to get their input in order to develop a go forward vision and road map on their thoughts about where we go post CCMS with technology. Allen Carlson, who's chair, provided us with a report that I'll also share the details of this afternoon.

I'd also attended and made a presentation by teleconference to the trial court presiding judges advisory committee. Again, we have input from their liaison which I will discuss this afternoon. Last Friday I met with the -- the court information technology forum, a group of CIOs from throughout the state. It was a very instructional two-hour meeting on trial court as they describe themselves, they are ground level. Their thoughts on the future of court technology. And again, I will defer further discussion of that until this afternoon.

So that's what the committee and -- has been up to since the council's direction on March 24th. I look forward to a presentation where we'll go over what the -- what the work plan is (27th) go forward. Thank you, chief.

>> Chair Cantil-Sakauye: Thank you, Judge Herman. Any questions or comments regarding the report?

We look forward to more detail later this afternoon.

>> I would mention just one more reach out, one of my liaison courts is San Luis Obispo and I have been in communication with Judge Barbara there, their presiding Judge as well as their CEO on the specific direction from the council regarding how we're going to work with San Luis Obispo go forward in terms of their case management needs.

>> Chair Cantil-Sakauye: Appreciate that update about what's happening with San Luis Obispo. This brings us on our agenda to the consent calendar. Having heard no request to move any of the items on our consent agenda to the discussion agenda, we approve these proposals and recommendations. As you know, the executive and planning committee places items on the consent calendar in consideration of council meeting time. Placement on the consent agenda in no way reflects the significance of the item on the agenda. Prior to the meeting any council member may request that an item be moved to the discussion agenda. As I indicated earlier that

did not occur here. So consent agenda items A 1 through A 5 and B and C are approved.

(The meeting will begin shortly.)

>> Before we get to D in the presentation by Justice Hill and Justice Jeffrey Johnson, welcome. We have public comments that I alluded to earlier on this item. We would first like to call for public comment then on Judge David Lambe.

>> Good afternoon, I'm Judge David Lampe, speaking on behalf of the California Alliance of Judges. All of the members of the Judicial Council thank you for this opportunity to address agenda item D.

In July 2011 the chief justice appointed a new committee, the court facilities working group to oversee the judicial branch capital improvement program and further appointed Justice Hill as chair. I have privately offered my condolences to Justice Hill for that appointment. Justice Johnson leads the committee's cost reduction program. And we support the committee's recommendation to reassess construction projects as they will report to you this afternoon.

We also urge that all projects must be -- if not fully -- at least generally reassessed in light of the current budget crisis. The alliance also suggests that the council adopt an immediate temporary suspension of construction contracting and projects until the budget picture becomes more clear.

State revenue right now is lower than projected. We all need to see the May revised -- looking on that with some trepidation. Our group's suggestions in Sacramento make it apparent that the legislature may authorize that some portion of the construction funds may be authorized to mitigate the devastation we are seeing in our operating budgets. And we do recognize -- fully recognize the need for secure, well-maintained facilities. And we do not minimize the state of disrepair and inadequacy in many state courthouses.

While we are urging those that at this time we must preserve maximum flexibility, and we should not encumber or commit funds now without knowing the total budget picture.

Finally, we also propose that an investigation and reassessment of all projects be undertaken by outside experts.

We realize that this would be an added cost. However, we believe that Justice Hill's committee would benefit from an independent review and report.

The reported high cost of construction has met with skepticism from judges, legislators and the public. We all have acknowledged that there were mistakes made with the CCMS project, including the lack of early cost benefit analysis. And those mistakes caused an excoriating report by the auditor. No one wants to look back -- criticism of construction management. During the pause reassessment would help all concerned that we are doing everything possible to maximize scarce public resources. I want to thank you for your thoughtful consideration.

>> Thank you Judge Lampe.

Next we'll hear from Mr. Robert Bergman, city council member and judge pro tem.

>> Mr. Robert Bergman: Good afternoon, Chief Justice, members of the council. I have come here with a narrow purpose and I wanted to come down to your meeting to emphasize how critical it is to our small town to keep a new courthouse location on its current site. And I recognize that we're -- our project is one of the 13 that's subject to reassessment. And in that process I think it's very important to know that our community has come together with a -- with the singular focus on this site, because moving elsewhere with any fashion of a project would really devastate downtown. But directly on point is we formed -- when this project started three years ago, roughly -- we formed a committee, and on the committee are contractors and sophisticated and experienced architects, our city engineer and staff. We've all worked together to evaluate what a theoretical project could be.

And the numbers that we've come up with is we believe that is smartly sized project that meets all the requirements can in fact be built where it needs to be built for between 35 and 38 million dollars less than the original budget. Which is some 35 to 40 percent reduction.

And in light of that, if in fact in the reassessment process the project is going to go forward, those numbers seem to work very well.

And I'm not just here speaking for the city council. But I also carry with it the full and -- support of our board of supervisors, also our court, our presiding Judge, Tom Anderson and I, speak quite often about this. I'm bringing his message down along with the community, Chamber of Commerce, Economic Resources Council, all the usual suspects, to say we are together. Because there's been some confusion in the background I think at the administrative office of the courts level believing there's significant dissent in our community. And that's sort of -- made things an issue.

And I just -- I'm here to tell you that it's that important to us to be here and thank you for the opportunity.

>> Thank you, Mr. Bergman. Next we will hear from Mr. Merrell Schexnydre, president and CEO.

>> Mr. Merrell Schexnydre: Good afternoon, Chief Justice, associate justices and administrators. Thank you for the opportunity to represent our proposal. I represent a consortium, labor, construction, financial and developers here in California that would love to assist the AOC in its venture to complete its facilities.

We have spent quite a bit of time looking at various models that might work for the AOC. And we've come to the conclusion that where you deem necessary, we would love to fulfill your need to do lease options. We have determined that lease options would benefit the AOC by limiting the outlay of capital. You would not have to put up capital to make lease options work. There are some facilities that you -- determine you would like to do lease options are.

Give you a great deal of flexibility in that you would be able to determine when and how and where you want to do these facilities. Accelerate your project completion.

Quicker site resolution, no need for asset substitutions which is part of the bond process when you do leasehold bonding. This can become problematic, especially in light of the state budget's restrictions and requirements.

And lastly, risk management. We will be able to share the risk with the AOC and with the state of California in had putting projects together that would benefit you, in a timely manner, when you need it.

We have submitted proposals to various -- to Justice Hill. And look forward to at some point in time when you have made a determination, to do lease options, that we be given an opportunity to present our ideas. We believe that our -- our financial model approaches the same cost as you would have to incur should you do these by bond financing.

And it would provide a bridge between construction and takeout which is an impediment to you getting your projects done now.

Thank you.

>> Chair Cantil-Sakauye: Thank you. Thank you, Mr. Merrell Schexnydre. Next we'll hear from Mr. Michael Keeley.

Michael Keeley: Thank you so much for allowing me to be here today. To follow up on what Mr. Merrell Schexnydre was saying earlier. Imagine having a home built with no money down, lease payments in which you could exercise the right to purchase that home at any time within the next 30 years.

No money up, built to your specs, and you can purchase at prevailing rates at any time within 30 years. I wouldn't have to think too hard about that. It's something to me that would be a natural.

I took pleasure in reading the report authored by Justice Hill's subcommittee, Justice Lucas and want to thank -- Jefferson swell for the input and direction. We have had the opportunity to meet with stakeholders in Sacramento. That's where we're located. And every one of them to a tee has endorsed the idea going forward. But the cost and resource allocation -- there's a gap, a void as you probably know.

Fortunately right now money is at an all-time low. If you're going to borrow money, now is the time to do it if you're able to do it. But the financial rating and capability of the state right now is so questionable that they may not be able to get the type of rates that can generate this magnitude development and particularly with relevance to the private sector and being able to serve as liaisons for that relationship.

So I would urge you to strongly consider working with the private sector. We may not have all the answers, but perhaps we can give a perspective in terms of financing, in terms of creating options that were not considered or perhaps should be given further consideration.

Thank you so much for your time.

>> Chair Cantil-Sakauye: Thank you, Mr. Keeley. At this time we'll hear the presentation. Thank you administrative Justice presiding Hill.

>> Hon. Brad Hill: Good afternoon, chief. Members of the council. I very much appreciate the opportunity this afternoon to be with you again to report on our efforts with respect to the 1407 court construction program. This has been, as you undoubtedly are aware, a daunting task. Many tough decisions have been made, and many tough decisions will have to be made over the coming months.

We are not unaware of the angst that our decisions have caused and will continue to cause many of our fellow courts and their communities.

We simply hope that they will understand that in this economic climate, many tough and often untenable choices have to be made and they have to be made now.

As you have seen from the public comments, both written and oral, they're concerned and passionate views on either side. I wanted to thank Judge Lampe for taking the time to be with us and to offer his comments about the program and where we're going.

On the one hand, for those who are urging that we shut down our court construction program, either temporarily or permanently, we and they will need to be ready to explain to the public why we have taken this approach.

If indeed there's a security breach caused by inadequate facilities resulting in injuries or death to the public, or court staff, we need to have an explanation. Or if there's an earthquake that pancakes one of our seismically insufficient buildings, we have to have a good explanation for why we made these decisions today or in the future.

We also have to explain the disabled -- to disabled individuals who have excruciating difficulty in courthouse after courthouse across our state getting in and having their cases heard, and having their case heard in a manner that is dignified to them and to the other parties.

We have to be prepared to answer those questions. And there are no easy answers to any of them.

Unfortunately, California has a sorry history of at times ignoring critical infrastructure needs in order to cover short-term operating goals. Now, that is something that we have to think about as we look forward.

That's one side of the coin.

The other side of the coin is that obviously it's a new day. A new economic climate. We understand fully that there has to be a balance.

Business as usual is no longer the order of the day now, and it can't be at any point in the future.

In this economic crisis, with no end in sight, it simply can't be.

While we proceed with the most critically needed courthouses that we intend to move forward with, we need to take a very close look at every project to determine that when we're able to build them, they're built efficiently and very economically.

And if they can't be built economically, they shouldn't be built. They should be cancelled. Pure and simple.

As you know, since 2009 more than 1.1 billion dollars in funding collected from judicial branch fees -- not the general fund -- judicial branch fees and designated by the legislature for court facilities has been borrowed, swept to the general fund, or redirected to court operations.

That's 1.1 billion dollars to date.

The construction program has been doing its share, and undoubtedly will continue to do its share to help our courts with their immediate needs.

But I'm sure that in the scheme of things we need to make very clear that it needs to be a balanced approach and equitable approach and that not all eyes turn to the construction program whenever there's a shortfall in some other area.

When we created the courthouse cost reduction subcommittee of our working group, I told most of you last December that the name said it all. It wasn't the courthouse review or the cost of review, it was the courthouse cost reduction subcommittee.

Its mandate was to take a close look at every SB1407 courthouse project in the state and the significant -- to significantly reduce the costs where possible. With the understanding that some of these projects are too far along to make dramatic measures of shall we say cost cutting. But for those that were at the beginning stages, site acquisition, preliminary plans, where we really have an opportunity to cut the costs, we needed to do it and do it now.

And under the very able leadership of Justice Jeff Johnson, who is chairing that subcommittee, they are doing just that. And in a few minutes I'll ask him to review some of those goals, some of the proposals have for you today. And again, with your understanding that it's an ongoing process. We understand that we had many courts across the state who have been working for years on their courthouse projects. And this is turning things to a certain extent for them upside down.

We ask for their indulgence. But it's something that obviously we feel needs to be done, and it needs to be done not only as a short-term bridge, but it needs to be a change in policy and direction are, and we will be proposing that at this time which Justice Johnson.

>> Hon. Jeffrey Johnson: Chief, members of the Judicial Council. Thank you for this opportunity to address you.

My subcommittee, the courthouse cost reduction subcommittee of the court facilities working group, has met twice since early February to review how we can substantially reduce the cost of the SB 1407 program. Our subcommittee is composed of judges and court administrators as well as experts in the fields of design and construction.

We have learned a great deal in this process.

In these times of ongoing budget cuts, our goal is to maximize savings so we can stand before you and the people of California and say the SB 1407 program is being delivered cost effectively.

We have A, looked at how projects were originally estimated, B, considered lower cost construction methodologies such as tilt up construction; C, discussed dozens of other ways to reduce building sizes and costs, and D, reviewed every single SB 1407 project. In reviewing the SB 1407 projects, we looked at whether or not every planned courtroom is needed because the number of courtrooms is the key driver in building size.

We also looked at whether or not leasing space or renovating the existing building should be examined to meet the very real needs of the court for a safe, secure and functional courthouse.

The report before you is the result of our analysis.

We recommend to you a 2-pronged approach bolstered by cost reduction, principles and a process for making technical adjustments to the design standards. First we recommended taking a very hard look at 13 projects, totaling 1.1 billion in project cost that we recommend be reassessed.

We want to examine fundamental aspects of these 13 projects. For some of these projects we need to confirm the number of courtrooms, ago I said, the key driver to building size.

For some projects, we need to thoroughly study renovation of the existing building. For others we need to explore if there is a more cost effective leasing alternative.

We have not set a requirement for how long the reassessment should take. Each of these 13 projects is unique and some projects will require more time to reassess than others.

Now I suspect you are wondering if reassessment ultimately will mean recommendation of project cancellations to this council. So I'll address this now.

First it takes time to act responsibly. Takes time to make sound fiscal decisions. The next months our work will involve prioritizing projects based on the needs of the communities, availability and viability of cost reduction options and cooperation of the local courts and communities. Projects do not identify substantial cost reductions will be reviewed for possible cancellation.

Which is an ultimately a decision for this Judicial Council.

We're taking our charge to reduce project cost very seriously. We all know the greatest savings come from cancelling projects altogether.

The second prong of our two-prong recommendation is to allow 24 projects to move forward under the reduced cost now category.

As long as they meet or exceed minimum cost reduction percentages. The minimum reductions we recommend are from two to 10 percent or more, depending on project type and where the project is in the development process.

These reductions are to halt construction costs of the project, the bricks and the mortar. I want to emphasize that the minimum cost reduction percentages are in addition to the 4 percent mandated by the council in December of last year.

Therefore the recommended 2 percent reduction to renovation projects transforms the 4 percent previously mandated reduction into a 6 percent reduction compared to how the hard construction costs of these projects were originally budgeted.

Likewise the 10 percent reductions to projects in the -- acquisition phase means we're talking about a 14 percent or more reduction compared to the perspective original hard construction costs.

We're confident the minimum cost reductions and more can be achieved without compromising safety, security, building performance or court operations. We will have functional, safe and cost effective buildings. On the front end when they are built. But on the back end when they are operating.

One special category of projects is recommended. These are called the cost reduction demonstration projects. And these projects are in the early stage of design or soon to be in design, and we recommend that they can achieve cost reductions much higher than a total of 14 percent. That's the 4 plus 10 percent that we talked about.

These projects must identify all possible ways to reduce costs in order to proceed. These projects will set the benchmark for the smaller projects still in acquisition.

One other important recommendation I want to highlight is that we recommend that courthouse cost reduction subcommittee be given responsibility to oversee and have direct implementation authority for ensuring that the costs of SB 1407 projects are reduced substantially. I welcome this challenge. Make sure that I will take this responsibility very seriously. This concludes my presentation. I will turn it back to Justice Hill.

>> Hon. Brad Hill: Thank you very much, Justice Johnson. At this time we have a very brief video highlight of some of the courts around the state that have serious challenges they are facing with respect to their facility needs. We'll turn it over to that and then I have some concluding comments.

(Video.)

>> As many of 1,000 people descend on the Porterville courthouse every day. 20 parks places. And the hall ways are jammed with jurors, witnesses, custodies, Judges. 200 people try to squeeze into a courtroom built for 60. Clerks are elbow to elbow. The air conditioning doesn't work. And storage is nonexistent.

In Woodland the courthouse was built in 1917 for Rolo County's population, 25,000. Now there are 200,000. Making 400,000 court visits a year. With no air conditioning for the Valley heat. Services are scattered in 7 locations.

Including the holding area for inmates across the street. A daily parade headed for the public hallways, literally stopping traffic.

>> Not a pretty picture.

>> The Long Beach courthouse is peeling paint everywhere, water damage, mildew, chunks of the ceiling falling down. They have a disgusting problem with rats in the courtroom. The

four-legged kind. One morning they caught 7 in traps.

>> The stench is really bad. I'm the first one in the morning. So I smell --

>> In Susanville -- the 1917 courthouse is seriously impractical for modern use. No jury assembly rooms, small courtrooms, inmates nixing with everyone else. Wheelchair users have to conduct their business in the lobby.

>> I'm sure they feel a bill humiliated to be there in the public.

>> The banning courthouse in Riverside County was built in the '50s.

>> Heating is a problem. Air conditioning is a problem. The smells are a problem. I know that there's asbestos in this building.

>> Staff are squished in like sardines, especially tight in customer service areas.

In 1958 they built this addition to the historic San Bernardino courthouse, more than 112,000 people each month crowd in with incredibly long lines snaking through corridors. They no longer make parts for these ancient holding cells. When inmates are due in court, deputies have to clear the hallways.

>> Thank you very much, ladies and gentlemen.

>> The 1894 courthouse in willows, Glen County, is still in daily use with serious seismic issues. 3 additions were tacked on in the 1940s. Here too everyone mixes in together.

>> The security is a nightmare here.

>> Every space does double, triple duty. This is an interview room, a storage room and a place for kids. Staff work space, impossibly tight and inefficient.

At the justice center in Oakland, one weekend a few years ago a very large old water heater on the roof burst. So much damage, the Alameda court abandoned the building.

Downtown San Diego is a sprawling complex of horrors. There is literally an active earthquake fault directly beneath the north tower. Security is grossly inadequate, there are too many doors to secure. And street traffic passing beneath the complex in 2 places.

There's asbestos everywhere. The buildings are out of code for ADA, fire protection and suppression, and there's a serious shortage of public restrooms.

The San Joaquin courthouse in stock Stan build in the '60s is way too small and falling apart. Neglected by the County for decades. These and other California courthouses will all benefit by

the judicial branch's commitment to responsible stewardship. (End of video.)

>> Hon. Brad Hill: Highlights of some of the problems that we face around the state. I would finally point out as Judge Lampe indicated it would be helpful to have an independent consultant look at the program. We are doing that now.

The end of last year, directed by our vice chair, Patricia Lucas, we are engaged in a top to bottom review of OCCM, and we will a report to you by the end of the year as to their findings and any recommendations that we have.

So I just wanted to say that good idea, and we're doing just that.

I stand open for any questions.

>> Chair Cantil-Sakauye: Thank you Justice Hill, thank you Justice Johnson.

Yes, Judge Blackly?

>> Justice Hill, I talked to you about this earlier today, but I really don't want to get into the whole thing right now. One of the items on our agenda today raises issues with me about our construction program. Can we maintain all these new courthouses that we're constructing? To maintain them once we build them?

Do we have a budget for janitorial services that is commensurate with the building program, do we have a budget with security for -- do we have a budget for furniture that is commensurate with the building program?

Or are we going to build courthouses that we can't staff with security, put furniture in, or maintain in the future?

>> Hon. Brad Hill: Maintenance is extremely important. At the last meeting your colleague, Judge Highburger, passionately told all of you what it means to have courthouses that are well maintained. You can have courthouses that you defer maintenance on and what is at one point a leak becomes a multi million dollars flood.

And so it is extremely important. And I agree, Justice Wesley, that we need to make sure we have maintenance budgets that cannot only take care of our existing facilities, but new facilities. And one of the ways that we can do that, hopefully, is if we can say, even we're going to -- I believe save considerable sums of money over the coming years in the building program, I know Judge Highburger said he would like to see that. And you indicated you would like to see some of that money in maintenance and we will make every attempt to do so and make those recommendations to you.

>> Chair Cantil-Sakauye: Judge Rosenberg?

>> I would like to say thank you for all the work that you have done and will do. I think the video and the comments, frankly, from the liaison reports make clear that there are a number of courthouses and courtrooms throughout the state that are substandard. And it needs to be upgraded by having them be standard.

I have two questions. Number one, the cuts that you're looking at are cuts in the hard costs. But there's a substantial amount of cutting, presumably, that can be done in the soft costs. Have you or are you going to look at that?

>> Hon. Brad Hill: We are and we will.

>> Okay. That's succinct.

(Laughter)

>> And number two, and I talked to Justice Hill about this earlier, all the courts that have projects in the works, I believe they understand that there have to be some cuts and reductions. But we can't have cuts and then six months later or a year later have more cuts and then six months later have more cuts. Because when you cut, it often requires retooling, redesign. That costs money. That clearly results in delays.

Let's make the cuts, let's not make 1,000 cuts. We don't want to have the death by 1,000 cuts here.

>> Hon. Brad Hill: We couldn't agree more. And part of it as I indicated before, the difficulty that we've had a little bit is parachuting into the middle of the process. We're trying to look at things in real time, some at the beginning stages, some are at the middle, some are further along. And if in fact there's a project that's further along -- and unfortunately it's just in our opinion too costly -- some of the retrofit or the redesign costs, when in the aggregate you can save 10 times that by maybe building a smarter building -- are decisions that we have to make. But your point is a good one, and that is, courts need some stability. They need to know is this what we're dealing with, or at what point is all of this going to stop?

>> I do have one fear, Chief Justice, that I want to spell out. I think as stewards of money, the people's money, ultimately, we have to be very frugal in how we're approaching this. But my concern is that we save all this money by cutting these courthouses and courtrooms, and then it gets swept by the legislature and the governor, used for some other purpose.

That would be very discouraging and defeating.

>> Chair Cantil-Sakauye: Certainly. Yes, Judge Friedman and then commissioner Alexander.

>> Judge Friedman: To follow up on that point, the video was so powerful. I think any opportunity we have to present it to the legislature would be effective. And hopefully in preventing them from another harmful sweep.

>> Commissioner Alexander: I had a question, I notice some of the methods of trying to reduce costs and Justice Johnson was limiting the number of courtrooms because I know some of them are currently requesting more courtrooms than they have judges assigned. And self-help centers where they have lines out the door where they don't have enough room now.

In the design of these buildings, is there going to be a way that those could be easily renovated to add those things in at a later time? In the design when you're already deciding to cut services that we know we're going to need in the future?

>> Hon. Brad Hill: The -- the saying it makes too much sense for government work sometimes applies to the way standards are dealt with in terms of what we have to comply with.

For instance, the department of finance oftentimes will not allow us to build one more courtroom than we currently have a need for. Even though we might in two years or six months need that courtroom, we can't build it. We are going to be revisiting that with the department of finance because it makes just good sense if in fact we know that we need that courtroom to be able to at least shell it out at this point and then finish it later. So we're approaching them again. Their position in the past has been that they wouldn't approve build-outs like that. But we're going to make that attempt and see if we can do it to save some long-term money. It doesn't make any sense to build an annex when you can fill out -- finish out a courtroom.

>> And I would add that we're going to have a special focus on that in those counties where we know there will be an increase in number of judges in the near time. And that's something that we've looked at as a group and talked with the AOC staff about.

>> Alexander: Some of the recommendations had to do with saving costs, like transporting inmates, video arraignments and closer to jails and those kinds of things. One of the things that I've heard is that those costs are saving money for the sheriff, I'm not sure they're saving as much money for the courts and the money is now going to the courts. Is there a process of negotiating getting those funds back out of the sheriff's budget so we can use them for other purposes?

>> Hon. Brad Hill: I won't be hitting that one up.

(Laughter)

>> Hon. Brad Hill: But it's certainly an area where costs could be saved. Can't Judge Rubin?

>> Justice Hill, I'm curious. We have a total of 37 projects on Page 2 listed on your summary. Is there -- can you explain the criteria or point me to where I can read the criteria for how a project became one of the 13 projects that was treated one way and the 24 projects that were treated another way?

>> Hon. Brad Hill: It was a series of conference calls and extended debate by the committee. And it was -- we had initially informed all of the courts that they should submit any and all material to us supporting their projects.

We had reams of material over the years supporting the building of their courthouse. But we told every court that we would appreciate it if they would get us information, update us with respect to anything they wished us to consider, and then we in essence had a very lengthy and vibrant debate as to each and every project.

We started at the top and went through each one. Reviewed which costs savings proposals we thought fit which project; and which projects were more amenable to a total reassessment.

For instance, the Nevada project, it's a 1.2 million dollars project, six courtrooms. There has been some heated debate within Nevada City about the art deco courthouse. And you have heard all of that. But what we were looking at was, was there really a review of the renovation option? Could we instead of 102 million dollars renovate the court for 20 million or 30 million and have a beautiful court that would serve the needs of the citizens and the judges and the public but not cost as much as it costs.

Or is there a lease option?

Or is there another site in Nevada City that would work?

All of those led us to believe that that's a perfect reassessment case. And so the committee agreed, made that recommendation to the full working group, the full working group agreed, and it's now to you for consideration. That was just one example of how we did it. Justice Baxter?

>> Hon. Marvin Baxter: I'd like to commend Justice Hill and Justice Johnson for the work and the committee for a very balanced approach. I think there's really no question that -- that there has to be a reassessment in view of the budget situation that we have. But we really can't lose sight of the fact that 1407 would never have passed had it not been tied to court construction.

And at the time it was passed, we were indebted to the lawyers, the plaintiffs' lawyers, the defense lawyers. We were indebted to the trade unions for the support that they provided in the legislature. There were votes by legislators who were the moat -- the motivation was court construction. That's why 1407 was passed.

Now, I'm sure they would all agree that in view of the current budget situation we have to reconsider, but I think the balanced approach that you are urging does make sense without breaching faith with the various groups that we dealt with at the time 1407 was passed.

Thank you.

>> Chair Cantil-Sakauye: Thank you.

>> Justice Hill, I'm very impressed with the work of the committee. One of the things I'm concerned about -- you touched on it briefly -- was the number of courtrooms that exist versus

the number that may be needed in the future. And I -- I look at one example of a reassessment in Los Angeles County, in Santa Clarita, which I believe is the fastest growing and the growth potential has greatest potential for future growth of anywhere in the County for new home construction.

I'm very familiar with that courthouse. I was there in 1975 or whatever.

It's three -- three judges. And it's way undersized now.

At the same time we've looked to -- I think the method has often been to replace or repair existing courts on existing sites or near existing sites.

I really think we have to look at regional approaches to where we can site a new facility perhaps in a different site, but where it will serve an area that makes geographical sense to the County. Los Angeles is a county that's really in need of that. It had 24 municipal courts, most of those facilities are still in use in varying terms, various terms today.

Glendale, Burbank is 7 miles from Glendale, and Glendale is 7 miles from Pasadena courts. Three courts and -- so I'm pleased you're reassessing Glendale. Building -- just replacing that is -- makes no sense to me.

So -- and if there are opportunities where we could even think about the necessary legislative action or -- to build a courthouse that would be close to a County line that could perhaps seat and serve judges and citizens from both counties in urban areas, I think we need to think about does that make sense. Not just because it's in -- it's in San Bernardino County, it has to be in San Bernardino, while Pomona is just a few miles away to the west. So...

>> Hon. Brad Hill: Thank you, we will definitely be looking at --

>> Chair Cantil-Sakauye: Justice Kaufman.

>> Hon. Ira Kaufman: We build a courthouse -- I would encourage people to take a look at it. The issue in my mind, Justice Hill and Justice Johnson, we had 1732 projects, and originally on the 1407 projects, there's supposed to be 41. If everything went well and we did everything we originally had planned to do, we'd build 58, 60 courthouses over the next five, ten years.

But there are 500 court structures in the state of California. And we're going to have to replace them at some point. And just -- it's going to -- over a long period of time. We need to have a plan how we're going to do that. And getting money past for another 1407 type bill is probably impossible in this time.

But there are other courthouses out there that really do need help and need to be refurbished or replaced over the next ten, 15 years. It's not going to get better, it's going to get worse.

>> Chair Cantil-Sakauye: Any further comment? Or question?

Seems to me that the recommendations that are put before us are put -- items 1 through 3 and 3 had several subparts. Items 4, a -- recommendations 4 and 5, and they be 6, 7 and 8 are broken down in your materials as separate recommendations.

And so just for clarification and to give council the maximum opportunity to ask questions as to each recommendation I will entertain motions to pass or to vet these 8 recommendations in the pattern recommended to you in the materials.

So I'll entertain a motion as to recommendations 1, 2, and 3, and 3 subparts.

>> So moved.

>> Second by David Yamasaki, and Justice Baxter.

Any further comments on 1, 2, 3 and subparts? Hearing none, all those in favor of recommendations say aye.

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Recommendations 1 through 3 and subparts carry.

Taking up recommendations 4 and 5. Hear a motion?

>> So moved.

>> Chair Cantil-Sakauye: Justice Baxter moved. Second, Judge O'Malley. Any further questions? Discussion or comment on recommendations 4 and 5?

Hearing and seeing none, all in favor of recommendations 4 and 5?

(Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Taking recommendation No. 6. Hear a motion?

Thank you, Judge O'Malley. Second judge Moss. Any further discussion on recommendation 6?

All in favor?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Matter carries.

Recommendation No. 7.

>> I have a question.

>> No. 7, I didn't understand 7. Is that the courts will come to this committee and basically they will have the authority to approve or not?

I didn't know where the authority -- did the authority rest in this committee, subcommittee, your committee or the Judicial Council.

>> Hon. Brad Hill: With respect to the -- authority delegation of cost reduction oversight.

>> Chair Cantil-Sakauye: Recommendation No. 7.

>> Hon. Brad Hill: That goes to the day to day oversight --

>> That's Justice Johnson.

>> The day to day oversight of the cost reduction effort. And we've -- once we've gotten our mandate from this council, that subcommittee would make sure that each project is adhering to those mandates. In the event there's something -- something like a cancellation, it would obviously have to come back to this committee. We're not talking about doing anything other than just day to day oversight and obviously reporting to this committee with regard to our progress.

>> We thought it important to have judges involved in the process. Big decisions are being made with respect to design standards and cost reductions. And whether cost reductions have been met. And we felt that the courthouse cost reduction committee, subcommittee, would be the best conduit for that while working with all of the affected courts.

>> I make a motion to approve.

>> Chair Cantil-Sakauye: Justice Miller moves to approve. Judge Jackson seconds. And this is recommendation No. 7. Any further discussion?

>> I just had a question on that as well. Because it refers to all of the above recommendations -- and I understand that, you know, it's intended to sort of not immerse the council in the minutiae of these sorts of things, but obviously the reassessments could well result in differences of opinion as between the committee and the courts themselves. How dramatic a reassessment, how dramatic a change going forward in terms of modification of the project.

So I'm just wondering whether there's some way to add some clarity that clearly understood from Justice Johnson that if a project is to be scrapped, it would come before the Council. But short of a project being scrapped, if there's to be a major reduction that that court disagrees with, if there's a difference of opinion, I would presume that that also would come to the Council and is there any way to just add some clarity to that?

>> Hon. Brad Hill: We will definitely get back to you on those. And we were looking at -- at more almost ministerial kinds of decisions in terms of cost cutting goals. But if in fact we're saying instead of building out a courthouse, that you would expect to get, we're now going down a renovation path, that is something that if -- number one, we're going to come back to you anyway. Whether the court says we're fine with it or not. It's something that you will be passing on at an upcoming meeting. If that's one of the approaches.

>> Chair Cantil-Sakauye: Judge Kaufman?

>> Hon. Ira Kaufman: I'm not sure I disagree with you, I'm just confused. If the court says we need 10 courtrooms and your committee said you need 9, who is the final arbiter of that?

>> Hon. Brad Hill: I think that we would probably -- I mean obviously if there's a disagreement, and if the court wishes to come to the council, nothing would preclude them from coming. Certainly I think that we'll be able to work out most of those situations because again, it's numbers driven, it's -- the numbers are before the department of finance. And so it's not a situation where the numbers are different for what they have versus what we have.

So -- and the final arbiter on those decisions is department of finance.

So they would be telling us how many courtrooms we can build.

>> So if you want, Miriam, my motion can be to adopt recommendation No. 7 with the understanding as indicated that this is merely providing you the authority to oversee the cost-cutting measures. And if there arises some dispute or change in that, then it would go back to your committee with the recommendation of the council.

>> Hon. Brad Hill: Absolutely. That's our intention.

>> I'll second that.

>> Chair Cantil-Sakauye: Okay. I have Justice Miller's amended motion and seconded by Justice Kaufman -- any further discussion on recommendation 7 as amended?

All in favor?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Motion carries.

Recommendation No. 8.

Do I hear a motion?

>> So moved.

>> Chair Cantil-Sakauye: Judge O'Malley. Second judge -- any further comment or question regarding recommendation No. 8?

Hearing none, all in favor?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Recommendation No. 8 carries. Thank you, Justice Hill, and Justice Johnson. I know how much work this is -- and I only get the summary of the work that you and your committees are doing. And I speak for all of council when I say how grateful we are that you are overseeing this very important program and that you are seeking the expert oversight that will help this program move forward carefully but deliberately. And with full disclosure information to the Judicial Council thank you.

(Applause)

>> Hon. Brad Hill: And thank you all.

>> Chair Cantil-Sakauye: Will assemble the panel then for item E on our agenda. Welcome Justice O'Leary, and Mr. Hector Gonzalez, the Superior --

>> Hon. Kathleen O'Leary: I'm here as the chief indicated on behalf of the advisory committee on financial accountability and efficiency for the judicial branch. We shorten that to the A&E committee. The first is to review all audit reports for the judicial branch. We recommend to the council the audits after we've reviewed them. And in making those recommendations to the council we make recommendations on individual or systemic issues for the council's consideration at the time it receives and considers the audit report. One of the decisions of the committee must make before submitting the audit to the council for its consideration is whether we will be recommending that it would go on the council's consent agenda or on the discussion agenda.

In making that decision there are certain general characteristics we review. Those that would favor a consent agenda recommendation include such things as the lack of high risk, major -- nature of issues, whether there are repeat issues and a number of other criteria.

In making a recommendation for whether an item should go on the discussion agenda, some of the general characteristics we would consider would be a report for example with an individual issue that we think is particularly significant, or a combination of characteristics or issues that could result in a diminished public confidence in the court's ability to account for or manage public and fiduciary funds.

In this particular case the Mono County audit -- we recommend this be placed on the council's discussion agenda because of an individual issue.

General concerns with respect to the Mono Superior Court audit report including numerous issues identified in the audit that were classified as high risk areas. 8 repeat issues from the last audit, extended time and efforts of the committee. And also on behalf of staff with committee members, to allow the court to provide it's perspective and situation in correcting the identified issues. One of our concerns also was that the cost was not taking full advantage of the available automated fiscal and accounting tools to improve controls. Specific concerns included the significant lack of control on procurement, contracting and expenditure processes.

Use of court funds for a significant non-allowable expenditure.

Fund balance accounting practices not adhered to.

Excess amounts held at County for payroll. In this case it was 7 months.

Issues relating to controls over identifying, recording and monitoring trust monies. And there was also a concern that delinquent collections have significantly increased.

To address in greater detail -- and really the person with the expertise on the audits is Mr. John Judnick, the senior manager of the internal audit services. I'm going to turn it over to him for the details.

>> John Judnick: Thank you, Justice. Good afternoon chief, council members much we have Mr. Hector Gonzalez on the line. My discussion and present the court's perspective concerning the audit. And after his commentary we will recommend the acceptance by the council of the audit report.

Mono Superior Court -- I think we heard this morning from the council liaison concerning Mono Superior Court and her visit, is an extra small court. Two judges, no SGOs, 13 and a half staff members, has two locations. Mammoth Lakes and Bridgeport, where Bridgeport holds criminal sessions two days a week. I have details on filings from 09-10 where you can see the bulk of the filings are on the criminal side. Budget is approximately 2.6 million dollars with personal services, 1.57 million. The bottom of the slide, I talk about the fund balance as of the recent day -- fund balance was 2.1 million with approximately 1.1 million in assigned category which means the court designation.

The issues from the audit report that was available for your reading, concerning 73 reportable issues with 8 repeats as indicated previously by Justice O'Leary, and those monies are in trust control -- and a number of other areas.

The status of the issues that the -- at the issuance of the audit report were 22 reported as corrected, and 50 were incomplete or considered incomplete.

One thing I'll state about this is that the courts during the last year moved into its new mammoth court facility. As part of that movement, it corrected by going into the new facility a number of the issues that affected it in its old facility in terms of cashiering drawers where cashiers were sharing drawers and a number of other issues. The timing as such with the audit we also recognize and I believe Mr. Hector Gonzalez will talk about the benefit of moving into that facility in terms of additional and better controls that the court was allowed by that new facility.

The management summary of our audit report talks about a number of areas where we felt concern. And our repeat issues from the prior area in many of these cases. Some of these are systemic, which will be a slide later on in my presentation. The first area talks about trust monies. And the control over trust money in terms of reconciling and knowing what you have in terms of trust monies that are under the fiduciary responsibility of the court.

Bank account management practices where the court was not properly segregating the duties of court personnel. Automated fiscal and accounting tools. The usage of Phoenix to assist the court in terms of segregation duties and better control as opposed to relying on Excel spreadsheets and some of the other tools that the court had. It has Phoenix to provide that opportunity to properly control and -- the monies and properly segregate the duties of the court. Court fiscal records incorrectly categorized. That deals with how they accounted for their fund balance monies, how they properly accounted for the monies, and which funds they should go to. And the payroll item with the County where the report indicated that it -- the court had \$700,000 to cover payroll on deposit with the County.

Excessive amount and the court is correcting that.

And then a major area is the procurement contracting and expenditure controls where there was general noncompliance in terms of documentation being obtained, approvals over expenditures, and invoices, not being properly controlled and approved. The one item that is noted in this report is unallowable expenditure of court funds for a retirement party.

That occurred. We reported on it. It's a little over 3500 dollars. And the monies were repaid to the court.

Additionally we had some standard issues in terms of inadequate cash handling practices concerning manual receipts, which is a high issue of exposure on most of our courts. This resulted in numerous defaultations over the last several years. Shared cash drawers which I mentioned earlier, the movement into the new court facility has corrected some of those issues. No opening oversight, segregation of duties, access controls to DMV in terms of password controls and the access of individuals.

Revenue distribution inaccuracies is a systemic issue on the part of our courts. And we are addressing that, at least in audit services will be assisting the court in the coming months by my visiting them and walking through some of these distribution issues which over the last -- I guess ten years or so in our court system, have become extremely complicated and difficult for the courts to keep on top of and to avoid penalties.

And this particular case hopefully with some assistance, we will be able to address that and mitigate penalties the court may have by the office of state controllers. We had -- in terms of access to the systems. Prior court exec had unlimited access to assist in correcting the system that he developed for the court. And so he retired and had remote access into that system to help the court correct matters.

You can mitigate those controls and the court has now concurred with that. And it's mitigating that control for unallowable -- for that access that individual had.

And we have other areas as is typical of most of our audit reports. But that in summary is the management summary and the major issues from the audit.

As just sis Kathleen O'Leary indicated earlier we identified systemic issues which are fairly typical for audit reports and -- for internal services and the courts. Those areas on the report are funding accounting, the standard cash collections area, information systems, the revenue distribution area, contracts that exist with the County or in this case are not sufficient nor current, and -- or probably our biggest concern is the accounts payable area and the expenditure for controllable invoices and appropriate approval of expenditures.

After Mr. Hector Gonzalez's presentation we will be recommending this report be accepted by the council and posted on the website. And I believe Mr. Gonzales is on the line.

>> Hector Gonzalez: Yes. I am. John. Can everyone hear me?

>> Chair Cantil-Sakauye: Very good.

>> Hector Gonzalez: I've come from a family of six. Five girls and two boys. I know how to make myself be projected loudly. So hopefully you'll hear me. I want to make you be aware that Judge Eller is here present. As well as the fiscal director, George Savage but I'm going to be obviously making the presentation for the court. And I guess I'd like to start by saying that the -- the first point I think that's important to keep in mind -- and John alluded to this -- is that this audit covers a period of time where there was great challenge and transition for our court.

I -- the period that's covered has only probably about six to eight months under my watch. The majority of this audit period covers my predecessor. And the same is true for our presiding judge. Most of this audit I think covers a period before our current presiding Judge, Stan Eller was holding his presiding judgeship. Nevertheless, that does not mean we don't take responsibility. The other thing that's important to note is we bring a new attitude to what we intend to do. Which is we do see the value of taking the guidance of the AOC and the recommendations and the -- both mandates and requirements seriously and will make every effort to comply.

And despite these challenges, we do believe that this audit, particularly for me as a new CEO, was a particularly valuable way of getting an accelerated familiarity with the operational aspects of my court that would have been difficult to obtain so quickly any other way.

So we actually do see this as a benefit. It's a benefit that hurts, nevertheless. And that actually is necessary, I think, for change to occur. It -- I think there is a requirement here for us to look at long standing practices and the way we used to do things, felt comfortable with, given the size of our court, which is our challenge. We don't have enough people, we don't have enough resources to do what ideally would be the standard in all circumstances. But that clearly does not relieve us of the responsibility to make the good faith effort and all due diligence, everything we can to comply. And I think John has alluded, we are attempting to do that, I think, very faithfully and have already satisfied nearly one third of the issues that have been addressed

in our -- and are continuing to work through them. In fact, I have a big Excel spreadsheet where every single one of them is noted and I'm checking them off as we proceed and get them implemented.

I just -- at this point I would like to address specifically what are probably some of the more substantive issues that were found. And I look at those substantive issues -- I have four of them. I didn't want to belabor -- and because of the amount of time. But I'm going to address any of the others that you may have questions on. But clearly I wanted to talk about the controls over procurement and contracting expenditures. No. 2, the issues regarding distribution, fines and fees. No. 3, the trust fund monitoring and recording issue also our issue having to do with invoicing and approvals.

And then finally, address the judge's retirement party expenditure. So let me proceed through those.

First in regards to the procurement contracting of expenditures, this is clearly an area where the size of our court really makes it a challenge for us to be able to do the segregation of duties that clearly is needed. But I give credit to John in that he not only tells you what to do, but he also helps you find a way to do it. And he made us aware of a new program available under Phoenix which is called the virtual buyer program, which would virtualize some of the these duties and make it easier for a court of our size to be able to satisfy the THIN manual as well as use Phoenix effectively. We're going to be meeting after this presentation among our staff to go through the procurement steps that we're going to take to work through the virtual buyer program.

Secondly, I'm -- moving to the next item, which is the distribution of fines and fees. Which is not only a systemic problem for many courts, but I think a very particularly serious problem for small courts that have difficulty getting the technical assistance and the sophisticated calculation formulas necessary to keep current with the changes that keep hitting us with calculations and formulas. And I know for our court this is obviously been a problem that even the state comptroller has brought to our attention. And to the point where we've had to pay penalties. And any time -- particularly in these times that a court has to pay unnecessarily for something, that is a big red flag.

And I know I search for a systems and resources and found that there weren't really too many people out there that could help us. Our own vender for our case management system was at a loss to figure out how to improve our distribution formulas and keep them current. In addition, we reached out to other courts who have similar case management systems. Because that's the added layer of complication here is the manner -- what case management system you use, can make your calculation formulas difficult to maintain, change and update.

And trying to find other courts of similar size with similar CMS's who have found a way to cut down their error rate, we've got a little bit of assistance, but it's kind of hard to ask sister courts to give up too much of their time on this. And I'm still hoping that at some point John is going to provide I think the biggest point of assistance. The starting point, which is a complete review and audit of our formula's processes when it comes to distributions, fines and fees to give

us a starting point of with a we are doing wrong so that we can find the assistance. And if need be, I know our court is committed to hiring a consultant if that is the way we need to get assistance. If we can avoid the cost, but if the only way we can get that help is to invest to get it, that's clearly well worth it, given the potential risk it provides to our court in penalty assessments and noncompliance.

So you can see we take that issue very seriously.

The next is the trust fund identification recording and monitoring. This is in a consequence of a small court who tries to find efficiencies by combining -- by combining task, duties and costs. What we have done here is unlike what would be -- and I'm going to probably simplify this or over simplify -- rather than what would be considered the standard approach of having our trust fund account separated between the account that holds and the account that we draw checks from, we've combined those accounts to -- into a single account where we receive our criminal traffic trust monies, and then we pay out of that same fund our criminal trust fund monies.

And we can reconcile up to a point. The point that we can't reconcile is that we have an indeterminate amount of stale criminal trust fines and fees that have been in that account for many years. Well past any -- any current employee's tenure here. And what we needed to do -- which is the value of the audit -- was to realize that we have to make the effort to go in there, identify those stale trust monies, age them, and then find the case information and get determination made with the assistance of our judges, the County and the DA's office on how we will resolve the outstanding matter that that money was being held for in that trust, which can be now 20, 15, or even 10 years.

So that's what we're already doing. In fact, that's another meeting we're going to have very shortly. We've identified some trust monies, we're already starting the process, and we're working them through individually as to determine how we will proceed with them.

And then next I wanted to talk about the issue of the -- of invoice review, approvals and such. Some of which were I think categorized in two manners. There were those that I would call incidences that were -- occurred I guess as a result of some slip or something falls through the cracks. Someone just didn't get the -- the CEO's signature for travel reimbursement. Those I recall -- those inadvertent split bids. But they were also some systemic problems that were brought out that weren't inadvertent. And those I do appreciate finding out through the audit. And that had to do with our failure to have CEO review and signoff on a number of important services and contracts that we were getting invoices and charged for. Primarily interpreters, court reporters, mediators, the -- our child -- a child custody evaluator, those were not being systematically reviewed by the CEO and signed off on. And that -- when it was brought to my attention by the audit, we immediately changed. We didn't even wait for any finding. And we implemented required CEO sign off on all those invoices. So they no longer proceed on with the signature of a clerk or the operations manager.

Finally, I want to address the judicial retirement party which I take full responsibility for. It occurred within the first few months of my starting here. It occurred -- judge was going to retire, which was a big shock, given that I just started the job and I worked while he was still presiding

judge, actually, with a committee of his family members and prominent people in the legal community to plan his retirement party. The court was sitting at the table with me being the representative. And there was a point where there was a need to make a commitment to hold the setting, the venue, the retirement party, which was a local hotel. No one had the ability to come up with the immediate funds. So I made the individual decision on my own -- since I couldn't go to that presiding judge at the time -- and I did not advise Judge Eller of this at that time or even later, which I probably should have. I then committed the Court to cover the -- the expense necessary to hold the venue.

With the expectation I thought that others would then come through and provide reimbursement to the court.

Now, what occurred, though, is months later as -- as the event occurred and the -- things got forgotten, I did not follow through and make sure that that commitment to reimburse the court or to pay before the court had incurred the cost had been done. And that was on me. The only thing I can say is at that point I started to become totally obsessed with the construction of the new courthouse since I -- given the size of the court, I was the project manager and on site on the new construction here almost on a daily basis.

But I offer that not as an excuse, but just as an explanation of why I -- I literally dropped the ball on that.

I did not -- I did not go back and make that occur in terms of getting that covered by those folks at the table as we discussed this event and be planned. So as is indicated, the court has now been completely reimbursed. I personally reimbursed the court myself, feeling that the obligation was on me to make sure that this hadn't occurred. I felt the obligation to make that payment directly.

And I think clearly a lesson learned on my part. And I think -- Judge Eller and I discussed his retirement. All we're going to do is buy a couple kegs of beer and go to the park across the street from the courthouse and have the party there. I think our court has learned our lesson when it comes to retirement parties.

And that is the end of my presentation and I am open to any question.

>> Chair Cantil-Sakauye: Kim Turner.

>> Ms. Kim Turner: Thank you, chief. I wanted to say I was gratified that -- to hear Mr. Hector Gonzalez say that audits are important and the theme over the years at council with respect to how courts can use these as ways to improve process the, as way toss really walk through the thin manual periodically. And -- but I also want to stress the fact that the audits themselves are not enough. That John's group goes in and looks at specific things truly on an audit program. It does not look at all the other places where internal controls could be strengthened that don't have a financial or monetary or some other hook that would bring them back to the financial program. So just as an opportunity, this -- having an audit as a way to also sort of kick start a program of looking at all of the business processes, this whole business

process reengineering program that we've talked about at council, this is an opportunity to kind of kick that into gear and look at other things at the court. I also wanted to just say that now -- I don't know how many audit reports we have out on the California courts website, John, is it something like ten?

>> John Judnick: 20.

>> Ms. Kim Turner: 20 already.

These are tools all courts -- these audit reports, the findings -- it's not like they're magic in one court and completely different in another. These are places where courts can go to say what are the things that they're finding in Mono, or Marin, or Santa Clara, or -- and we all have similar issues. And these are ways for us to go in and get out in front of a cash handling issue or trust reconciliation issue or whatever it may be. To ensure that we're doing all we can to be prepared for the next audit that comes through the door. Those are great resources. And they're public resources. They're available to all of us. And John even puts out the 10 heavy hitter issues every year. I don't know what your document is called. I know at least once a year we get a list of the things that you find most often in every court.

So as CEOs and judicial leaders, we need to be heads up about all of that.

And finally, in Mono's case in particular, I know that there are trust reconciliation issues and issues with the distributions and so forth. But I also see that Mono does have a healthy fund balance, was it 2 million dollars or something in reserve?

So I think this is a place where if you have -- if you don't have the internal resources to deal with some of these issues, you have a few monetary resources to buy some additional help. Researching old trust funds and who gets what and where the money goes, it is time consuming and probably not any part of anybody's day job. Once it's cleaned up, it's easy. But getting it there is tough. These are my comments.

>> You identified an enormous issue that all courts, be they small or large in the distribution of fines. It is an extremely complicated process that every court has to go through every year as these things are amended. Based on changes in legislation and such.

And so we are -- I'm -- -- a group of court execs that are looking at solutions to try to simplify that process. Hopefully we can offer some approaches that might be particularly helpful for everybody in trying to simplify this exercise that we have to do every year.

>> Chair Cantil-Sakauye: Thank you David.
Justice Miller?

>> Hon. Douglas Miller: I make a motion to accept the audit.

>> Chair Cantil-Sakauye: Justice --

>> Before we do that, I wanted to say -- Stan Eller and to Hector, the two of you don't know that I gave a brief -- very brief report earlier today about my spur of the moment visit to your new courthouse. I want to thank Judge Eller for the hospitality he showed me, I plan on coming back and spending some time. And I talked about the new courthouse and how outstanding it is. How nice your bailiffs were given the grand tour of the place. And Hector, I'm sorry you got stuck for the bill of Ed's retirement party. I was there. You did a great job. And I look forward to seeing you again.

(Laughter)

>> Hector Gonzalez: Thank you, justice. I appreciate that.

>> Chair Cantil-Sakauye: Judge Rosenberg?

>> Second Justice Miller's motion.

>> Chair Cantil-Sakauye: Any further discussion on the audit report or whether we should accept the report?

Hearing no further comment, all in favor?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Unopposed. Motion carries. Thank you Mr. Gonzales, thank you John and justice O'Leary, a helpful audit with a cautionary tale for all of us.

>> Hector Gonzalez: Thank you, chief.

>> Chair Cantil-Sakauye: Welcome. This is an action item. Judicial branch administration, judicial branch contracting manual.

>> Good afternoon, Chief Justice, members of the council, Jodi and Curt. Exactly 13 months ago to this day the legislature enacted the California judicial branch contract law. Since that date we have been before you now this will be the third time to address one of the requirements of the law which is that the council adopt and publish a judicial branch contracting manual. That all of the covered judicial branch entities, being the council, the AOC, all of the courts at the trial and appellate levels and the habeas corpus resource level file. What we're going to do today as soon as we get this PowerPoint up and working is quickly run through what we'll cover. Next slide,

please. We're going to recap the prior Judicial Council action with regard to the judicial branch contracting manual and the direction that staff was given, and explain the significant revisions and rationale for those revisions that are before you today for adoption. And then then the recommendation, which is to adopt those revisions and direct staff to return in the future, a date certain, with any additional proposed revisions.

I think by virtue of the number of times we have been before you, you can get a sense of the momentous change wrought by the California judicial branch contract law on how the judicial branch entities must go about their contracting and procurement business.

The new law establishes a new part to the public contract code that requires judicial branch entities to comply with the public contract code provisions that are applicable to state agencies and departments. With regard to procurement of goods and services including a -- IT, goods and services. With one significant exception, and that would be trial court construction.

Prior council action, the first action was in August of 2011 where the council adopted the manual to take effect on October 1, 2011 which was the operative date of the new substantive requirements of the law. We put that manual in place very quickly with the assistance of a working group come prizing representatives of the trial courts, the appellate courts, and the HCRC. We knew at the time we did it that this was the first version would have to be revised but the alternative of not having in place a manual as of October 1 would have been that all of the judicial branch entities would have been subject to the state administrative manual and the state contracting manual that would not have been a good thing.

The council directed staff to report back and -- in December with further proposed revisions. We did that, we're back here on December 13th at the business meeting. Proposed for adoption revisions is to the introduction chapter of the manual with regard to use of language, words signifying mandatory and discretionary actions. Because that particular part of the manual had proven to be just in the first couple months of use very problematic. With ongoing efforts in working with the working group, the council was presented with some significant revisions. Those were adopted and we were directed to come back in April with comprehensive proposed revisions to the manual. The AOC team led by Evan and his group of transactional attorneys worked very closely with the expanded working group to further revise the manual almost in toto, I say almost in toto, there's one chapter that we simply could not tackle and that's chapter 6 leveraged procurements, we will address that later. Woo he came up with comprehensive provisions that came out for comment in February and March of this year. And in the public comment materials we asked specific questions, we asked is the information in the manual presented in a clear and understandable way. Would the content work from a court operations perspective. Is the information and the requirements and the suggestions, is all of that stuff user friendly and would it work for all courts irrespective of their size? And are there any material omissions in the manual.

The comments received were significant. All of the comments came from the trial courts and they were fairly negative in their response to what we had revised.

The comments in summary form are as follows: That the proposed revisions were -- were more onerous than the version of the manual that the council had initially adopted in that in part came from our attempt, which turned out not to be a good idea, to overlay requirements from the trial court financial policies and procedures manual onto the judicial branch contracting manual. Another significant area of concern expressed by the Courts in the comments were that the content of the manual seemed to erode local court control in a manner that was not necessary nor appropriate; and that we had taken too literal a view of -- of the requirement that the provisions in the manual be, quote, substantially similar to provisions in the state administrative manual and the state contracting manual. The Courts pointing out, appropriately so, that substantially similar doesn't mean the same.

And that the suggestion made by many of the comments courts, that we ought to distill to basic objectives what SAM, the state manual. Administrative manual, the state contracting manual are attempting to accomplish, but not specific provisions incorporating those into the judicial branch contracting manual.

We took those comments to heart. And worked very hard on further revisions to the manual. And looking at the introduction as the very first place where not just those who must follow the manual, but those who will audit courts and other entities for their compliance with the law would look -- that would be the introduction. We rewrote significantly language in the introduction to emphasize that the manual is intended to support and promote the legislative intent underlying the public contract code, one of the legislative intents, which is to promote efficiency in contracting activities; while still providing for robust competition in procurement and contracting in the public sector.

We also focused in the introduction in putting new language that recognized where the trial courts, the decentralized management of the trial courts and the significant role and responsibility of presiding judges and court executive officers with regard to procurement and contracting. That's new language in the introduction of the manual.

The introduction also acknowledges -- one of the things that made it so difficult for us in creating the judicial branch contracting manual and trying to honor the legislative requirement to have provisions substantially similar to the state administrative manual and the state contracting manual is that those two documents are developed and applied for the executive branch entities that have DGS playing a major role and having a tremendous amount of authority to waive any other requirements in those manuals, and how that structure is simply not applicable to the judicial branch if for no other reason -- and there are other reasons -- that the public contract code at section 19207 specifically says that the DGS does not play a role with regard to judicial branch contracting. So what we undid in our new version that is before you is to make sure that the -- that what may sound like requirements in the state administrative manual and the state contracting manual, all of which can be waived by DGS, don't become requirements on the judicial branch entities without any waiving capability.

In instead, what we did -- before I go on to that, the second bullet point there observes that the state administrative manual and the state contracting manual and the policies and processes

found in those documents have been found by others who have critiqued those materials, including other government body, as being outdated, ineffective and costly.

And again, it did not seem appropriate to take all of that and import it onto the judicial branch, especially given the explicit legislative intent that public contract law should be efficient and the product of the best of modern practice and research.

So it just seemed like we needed to have a very clear change in direction, and that is what's reflected in the revised manual that's before you.

Where the public contract code has requirements, all of those requirements are maintained.

Where the state administrative manual or the state contracting manual addresses issues and has -- the concepts that are at the heart of the provisions in those manuals have been distilled so that we can implement the essential objectives and legislative intent without tying the hands of the Courts and other judicial branch entities unnecessarily with specific requirements that are not based in statute.

A key provision in the revised introduction is before you. I want you to -- as a flavor of how we've reshaped the manual.

The paragraph from the manual that we've extracted reads as follows: Under the decentralized management system of the judicial branch the purchasing authority of the Superior Court is vested in the presiding judge. To meet the unique needs of the Court and ultimately achieve the goals set forth in public contract code 100 to 102, which are the legislative intent sections, each presiding judge has the authority to vary the Court's application of any non-mandatory business or accounting practice set forth in this manual.

That provision acknowledges that the presiding judge has the authority to vary the terms of non-mandatory requirements in the manual. The introduction goes further and recommends that if a presiding judge of a Court does so, that that change should be reflected in the Court's local contracting manual.

Other revisions include removing various constraints on negotiations that were in the draft that went out for public comment; having a higher threshold for use of RFQs, requests for qualifications or requests for quotes, removing lower thresholds for RFQs for IT services, providing more flexibility for advanced payments but with very clear guidance in that regard; and removing a number of things that had been proposed as musts, meaning mandatory, where they were not grounded in a statutory requirement.

The involvement of the working group which was expanded -- originally I think we had 11 trial court reps and it grew to on paper about 20 and then continuing with our appellate court representative and HCRC. The working group whole-heartedly concurred with our -- what was referred to as a better focused approach as reflected in the revised introduction and then throughout the other chapters of the manual.

We reviewed with the Court executives advisory committee and the council of Court executives the new approach at their April 5th meeting. We suggested at that time that SIAK consider having a standing working group to deal with judicial branch contract law implementation issues, because this is a new area of activity that will affect the courts until the

law is changed, if ever. And there are a number of issues that will continue to arise, not just with regard to the manual -- although there will no doubt be future need to review and revise the manual as law evolves and as experience is gained -- but there are also other issues related to the implementation of the law including the upcoming audits by the bureau of state audits, including continuing to develop the tools to assist courts in implementing the various requirements of the law. And so that suggestion is being considered by CIAK at this time.

The recommendations that we have before you today are two; that the proposed revisions to the judicial branch contract manual be adopted effective today, and secondly, that you direct AOC to report back to the council in August about further revisions to the judicial branch contract manual with regard to, for example, chapter 6, which we did not -- could not get to in time for today's meeting.

We have a proposed timeline for the activities from today forward. The -- we would put out -- or recommending that we put out for public comment the revisions that the -- if the council adopts the revised manual, to put those out for public comment along with any chapter 6 revisions, because the version that is before you now is so substantively different from what was out for public comment in February and March.

We thought it would be a good idea to put that out and have it have broad readership. And then come back in August with proposed revisions to chapter 6 and if there are any other necessary or desired revisions to the other chapters, to have that also come back in August and if appropriate, to have that on the consent agenda, unless there's some specific reason why it needs to be on the discussion agenda.

So that is our presentation with the specific recommendations and the timeline.

>> Chair Cantil-Sakauye: Thank you, Mary. Justice Hull?

>> Hon. Harry Hull: Thank you, chief, Ms. Roberts towards the last portion of your presentation I especially appreciated the point made about giving authority to the local courts through their PJs to -- this is not a term of art -- but to adjust certain requirements in the manual that were considered nonmandatory.

We all know -- all of us on the council and a lot of us, most of us in the branch know -- that one of the handful of really critical issues facing the council and the branch and the AOC now is the proper balance between AOC centralized and council centralized requirements which have their benefits in appropriate case and local autonomy so the local courts, the 58 superior courts can serve their communities in the best way possible according to their community's needs. And particularly was taken with that. And I just wanted to say that I personally think that's certainly a step in a very good direction. Thank you.

>> Ms. Roberts. Thank you.

>> Chair Cantil-Sakauye: Kim Turner.

>> Kim Turner: I want to whole-heartedly endorse this approach. I think it's brilliant, it's needed and the courts will feel the relief immediately if we pass this today.

But I have one lingering concern, and that is presumably the BSA has not seen the draft revisions to the judicial branch contracting manual yet, although they will certainly be able to see them when it goes out for public comment.

Do you have any concern that the BSA, which will be the organization auditing -- you know, all of these courts, will take a different view of what the legislative intent was and will -- I mean I know that you're trying to sort of tee it up in the introduction, but is there a concern that they won't see it the way we see it? And that we will end up, you know, with a really hypercritical bureau of state audits report on our program right out of the gate?

>> Ms. Mary Roberts: Let me answer this in a round about way at first, going back to the initial version of the manual that we had out for public comment last summer. We had some discussion with BSA about whether they will any interest in being involved in the development of the manual. Wasn't put to them quite like that. And the answer was basically no. You know, get it done and then they'll essentially audit to it.

Now, that having been said, who knows in terms of what they will do when the audits begin. But the -- under the statute, what BSA is supposed to do is not audit the manual per se, they're supposed to audit the implementation of the law. That's kind of written large. And -- but it's hard to predict, to be candid. But I think the approach that's reflected in the revised manual is a sound and reasonable approach.

That does have basis in not just the -- the specific language of the California judicial branch contract law, but in the very first provisions of the public contract code where the legislative intent is articulated.

And the intent is to have the robust competition and the manual does that.

Because in part, the PCC has requirements with regard to competition that are there, even though they are onerous, courts won't like it, you know, they -- it's a new way of doing business -- but we did not vary the statutory requirement. So I think we're good on that point. But then the other stated objective is efficiency. And so unless the -- you know, the BSA takes a view that somehow we're not being efficient and that somehow with this approach that the principles of competitive bidding are somehow being disregarded or somehow it's an open door to favoritism for some potential vendors or others, I don't think that the BSA should have a reasoned basis for disagreeing with this approach.

>> Chair Cantil-Sakauye: Justice Baxter?

>> Hon. Marvin Baxter: Yes, I commend you on the proposed changes and I move approval.

>> Chair Cantil-Sakauye: Thank you. Do I hear a second?
Second by justice Miller. Any further comment regarding this recommendation?
All in favor?

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Thank you. Motion carried as to items 1 and 2. Thank you. Thank you Mary, thank you Evan.

Think that we're having this discussion about skipping our 15-minute break so that we can perhaps continue with our agenda since we had planned for this meeting to close a little sooner than what it might in fact be. So if you need to, please feel free of course, as always, to step out. But we're going to continue and not take the 15-minute break. And we will move to our next -- G, which is trial court allocation, operational and security funding for El Dorado superior court's remodeled juvenile facility. It's an action item, and we welcome presiding Judge Suzanne Kingsbury as well as Zlatko Theodorovic.

>> Zlatko Theodorovic: Good afternoon, chief, members of the council.

Bringing before you an issue related to funding a new remodeled juvenile facility in El Dorado Superior Court. Previous council action -- walk through the history of this type of particular adjustment, in 2005-6 through 9-10. Council approved using funds to adjust cost, renew or transferring facilities. In your report you can see all the funds that have been previously distributed, quite lengthy. A number of courts getting funds for new or transferring facilities. Courts submitted surveys indicating their costs for facilities that would be ready within three months after the end of the fiscal year for which the request and approval was made.

Staff would review the requests and in -- in October of '08 the council approved approximately \$170,000 in one time and 180,000 in ongoing funding for El Dorado's juvenile facility, which would include a number of facilities, courtrooms, support staff and administrative offices.

Since then the Court had requested the -- of the administrative office of courts whether or not the funds would still be available because they're aware of some delays in construction in the incompleteness of the project and in March they were told that the funds would be available beyond the March -- the June '09 period. Again, the court asked in August of '10 and again staff reassured them that funds would be available. But in the November '11, the Court again asked would the funds be available, and at that time the staff recognized and realized that the timing for allocation of the funds had actually expired. And the Court was notified at that time.

The Court clearly was under the impression that the funds would be available at the time of the opening of the new facility. But since the timing had passed for allocation, we had indicated to the Court that we would have to resubmit the request to the council. So this in essence is an

old request that due to delays in the completion of the remodel this is before you because we do not want -- no longer have the authority to allocate the funds.

So in terms of the new request, the Court has had some design changes since the original submittal, combining some -- the juvenile delinquency, dependency and traffic courts but won't have administrative office courts in the facility.

There have been some costs added or deleted, some as -- naturally since the time has passed there's been some costs that have increased and decreased. With respect to any security funding, OERS has found some funds within its budget to manage the costs of those that are no longer needed from the original request.

It's important to note that when allocations were provided initially, there was a process in which staff would go through the request so it wasn't always in a -- a matter of approval and ultimate approval and allocation of the exact amount. That's why you see in your report there are differences between what was approved and what was allocated. And in some cases there were court who is initially had an approval amount but never did come forward and ask for the actual funds.

So this slide just shows you what process staff had gone through to look at the requests.

Next slide.

So we did work collaboratively with the Court to review the report and get comments on what the implications would be in terms of different options that were pursued, what it would mean to the Court if the funds weren't approved, and what they have done in terms of budgetary issues over the past several years. They did provide a handout to outline the timeline as to the project delays and explanations there. And Judge Kingsbury's here to answer questions on that and make a presentation:

But as you can see, the Court like many others has done, you know, everything that it can to manage within its budget the approximately 13 million -- or 11 million dollars they have had budget cuts, they've held positions vacant. There are staffing reductions like all of the courts.

So in their case if they have to pay for these facility improvements, they would be looking at further types of reductions in operations at the court.

The furnishings and services as you see are working with our staff did reduce the cost of some of the components. And overall they are -- they are requesting \$31,000 less than what was originally approved.

So the -- we provide you four different options for your consideration. One would be to approve the request as submitted by the Court. Approve the modified request, which is consistent with the approach that staff had taken previously with other requests.

One is -- the third is to only approve an ongoing funding request rather than the one-year, one-time costs. And the fourth option is to provide no funding at this time.

So ultimately this is an issue of delays in the project as well as the Court's impression that the funds would still be available and we're coming back to the council for consideration of what was already approved funds.

And if Judge Kingsbury has some comments.

>> Hon. Suzanne Kingsbury: I can -- I think that our Court executive officer is on the line to answer any specific detailed questions about budget and that sort of thing. But I can tell you, like many small courts, we have a multitude of small facilities that are scattered throughout a fairly small geographic region on the west end of our county. And when we went through the process of having the Court consolidate, we had some space up in south Lake Tahoe that was originally used for a traffic and small claims court that was separate and apart from our courthouse there. And we didn't really need the space up there. We needed it on the west end of the county where one of the courts that is in the 1407 hopper, and we desperately need to have a new facilities where we can have some overall efficiencies. When I was watching the video of the different court projects, certainly our facilities could have fit right up in there with the best of them.

We currently hold our juvenile court sessions at our old historic courthouse in Placerville, it's a facility that's over 100 years old. It recently went for three months without a functional elevator. Juveniles are brought in in full view of a state highway. We don't have a sally port, we don't have a holding facility. They're brought in the back door. The press people who present a security risk can be out there when these kids are transported. They're brought into the public hallway, taken up the public elevator, brought into the courthouse in full view of the world.

And this has been going on for a long time.

And when this project was approved, we were able to get some space adjacent to our juvenile hall where the children would no longer have to be transported by van from the juvenile hall to the courthouse, they could literally just walk up a flight of stairs to go to court. So there were some cost savings obviously to the County there. And it gave us a dedicated facilities where we could have all of our juvenile dependency, all of our juvenile delinquency and all of our juvenile traffic combined in one place. Right now the traffic is held at a separate facility which is mixed use, it has no perimeter security associated with the traffic court piece of that, and -- so back in 2010 when we had a commissioner position that was vacant convert to a judgeship, in line with the prospects for this facility we had the opportunity to combine these functions, to deal with these ongoing security risks and privacy risks to the juveniles, and have a judge that would be dedicated to that function.

Right now that judge hasn't -- he doesn't have a chambers, he has an office that's sort of interspersed with our court executive team. He doesn't have any adequate place to meet with people.

And we made some decisions, frankly, relying on the fact, again and again and again, that this money was going to be delivered to our court. And if you look at the presentation that was provided by the finance division, you'll see a two-page list of other courts and other projects who had been approved. Had there not been the delays in moving this project forward -- and there's lots of different reasons, most of which were not the fault of the court, we wouldn't be here before you asking you to approve extending this financing. It would have been a done deal just

like every other court that's listed within the -- I don't know what page numbers they are, but -- thank you -- attachment B to the letter that was presented for you.

So I'm happy to answer any questions.

>> Chair Cantil-Sakauye: Thank you. Justice Miller?

>> Hon. Douglas Miller: Zlatko, where would this money have come from before if it had been distributed to the court?

>> Zlatko Theodorovic: It would have come and would come now from the trust fund.

>> Hon. Douglas Miller: No, no. Before, though. All the other funding that was made under this program.

>> Zlatko Theodorovic: The increases that were -- would have been SAL, increases that prosecute provided to the branch. The state appropriations limit funds, increases that would have gone to the trust fund would have been available for distribution for this process.

>> Hon. Douglas Miller: And so the funding that's being asked for now is from a different pocket.

>> Zlatko Theodorovic: Well, it's still -- the -- SAL went into the trust fund and there it was distributed much these funds would still come from the trust fund but SAL did not continue. So now it just comes from the trust fund available resources.

>> Hon. Douglas Miller: And then, Judge Kingsbury, if it's not approved, what -- what happens in the court?

>> Hon. Suzanne Kingsbury: Well, the -- the court project, you know, they've been working on getting it up and running. We heard -- I don't know, January, February, May -- we have a pool at the court which we keep having to cancel and start over because the dates keep passing. We're hoping --

>> Hon. Douglas Miller: Is it up to \$200,000, the pool?

(Laughter)

>> Hon. Suzanne Kingsbury: If we had that money, that might work. But no. So we would -- we would like -- like anybody else, we'd have to take it out of our fund balance. And it's -- I was somewhat surprised to hear how much Mono County has in their

balance. Ours is significantly less and it would take about 25 percent of our fund balance for the one-time cost and then we'd have to meet the ongoing cost. And then you know at the end of the day, we relied on the representations of the --

>> Hon. Douglas Miller: I understand.

>> Hon. Suzanne Kingsbury: AOC that this month any was forthcoming.

>> Hon. Douglas Miller: I understand that. And then if it's only one time -- so in essence portions of it is for kind of physical type goods --

>> Hon. Suzanne Kingsbury: Right.

>> Hon. Douglas Miller: And the second portion is for the ongoing with regards to the security costs it appears.

>> Hon. Suzanne Kingsbury: Sure.

>> Hon. Douglas Miller: What are you going to do the following year when you don't get that money?

>> Hon. Suzanne Kingsbury: We're just -- you know, we're going to have to make cuts in other places.

>> Hon. Douglas Miller: And if you weren't to get it this year, would that mean you would close that facility or -- or --

>> Hon. Suzanne Kingsbury: We -- we can't. We are not in the same position that other courts are in. We have no extra courtrooms at all. And right now we're relying essentially on the largesse of the county to let us use a planning department hearing room, which is this big commodious room that is really not appropriate for court proceedings and we hold traffic there, we hold juvenile traffic there. And when our elevator wasn't working we had to have the juvenile proceedings there. And we cannot -- we're going to have to suck up the money and -- and --

>> Hon. Douglas Miller: All right. That's all I had.

>> Chair Cantil-Sakauye: Judge Wesley?

>> Hon. David Wesley: I want to get back to Justice Miller's first question which was about the SAL. So when this was done, there were certain requirements put on courts. And that is that they had to get the funding within a certain period of time so that the SAL adjustment would cover.

>> Zlatko Theodorovic: Correct.

>> Hon. David Wesley: And so if -- if they didn't get it in in time, if any other court didn't get it in in time, the SAL adjustment wouldn't cover it, they wouldn't get the money, because that was the requirement.

>> Zlatko Theodorovic: Correct.

>> Hon. David Wesley: So this court had to get the money in by 2009 -- had to get the project completed by 2009 in order to avail themselves of the SAL program, which no longer exists. Am I right?

>> Zlatko Theodorovic: I believe that's the timing; right?

>> Three months after the --

>> Hon. David Wesley: Within three months of that date. Okay.
So -- so what is your -- you have 1.3 million dollars in reserve?
What is that as a percentage of your total budget?

>> Hon. Suzanne Kingsbury: Our total budget -- and -- Tonya, are you on the line?

>> Tonya: Yes, I am.

>> Hon. Suzanne Kingsbury: What's the total budget at this moment? I don't have that figure in front of me. .

>> Tonya: Our total operating budget is 12 million 203,118.

(Chuckling)

>> Roughly.

>> Hon. Suzanne Kingsbury: Rough figure.

>> Tonya: I'm not good in the rough category.

>> Hon. David Wesley: I'm not good in the math category which is why Tonya is on the phone. Wednesday wedge am I correct, then, what you're requesting then is rather than your court spend any more of its review, that the AOC pay for juvenile courtroom furnishings, meeting conference room furnishings, file cabinets, waiting room seating, clerk and court reporter station furnishings, and -- and then in addition to all of that ongoing security costs that are not included in your security budget. Am I correct?

>> Hon. Suzanne Kingsbury: Yes.

>> Hon. David Wesley: All right. Well, thank you very much. I -- that answers my questions. I have a comment later on.

>> Chair Cantil-Sakauye: Judge O'Malley.

>> Hon. Mary Ann O'Malley: So I have a question, with regard to the misinformation that this Court has received over a course of a period of years, has that been resolved?

So in the future, I know that there might be some people on this council that are thinking if we grant this money we're going to open the flood gates to every other Court that's going to come in and say I was promised something or I need this or that. Is that an I shall issue hire?

>> Zlatko Theodorovic: First as I understand, I've talked to staff about any other possible issues out there and this is the only one that we're aware of where there was an ongoing -- in the effort and spirit to assist the court given that they were trying to -- they were having struggles getting their facility completed, staff I think were trying to be helpful. So that's one problem.

It's a good thing. But they didn't really have the authority to -- to sort of exceed the time limits that the council had established. And so like I said, talking to staff, there are no more courts, we -- we looked at every process that existed, said have you made any commitments of -- to any court where they expect now that they will come in. And so the answer has been no.

>> Okay. So we're not expecting flood gate --

>> Zlatko Theodorovic: No. Further more if there's any discussion of commitment time, it must come to me to see whether or not we even have such authority. And since I've been here, everything that I've wanted to do I've come to the council. So it would be my standard operating procedures that we come to the council for everything. Obama.

>> Hon. Mary Ann O'Malley: Judge Suzanne Kingsbury, and I have great respect for you, I have known how you run four -- respect for you and how you run your court, I have know

known you for years and know that you do a fiscally responsible job in doing that. And would have made different choices had you gotten different information, I know that just from our conversations. And I know you would have. My question is also on the security, what -- what's -- what's the kind of relationship -- is it your sheriff that has your security and what kind of -- how is that handled with your court?

>> Hon. Suzanne Kingsbury: Our security is covered strictly by the sheriff. We don't have any civilian court attendance or court employed court attendants. Our sheriff has done, like in many jurisdiction, a mix of full-time deputies, coupled with retired and new annuitants who filled in. The sheriff is now making a move to having -- I'm not sure the exact title -- court security officers, attendant who is have a lesser being in terms of not being full law enforcement officers. They'll have 832 powers. And that was mainly because they had some difficulty getting retired annuitants at certain periods of time. And it's my understanding that the security costs relate to perimeter security and it would be the court's responsibility.

>> Hon. Mary Ann O'Malley: The 164 is exactly what type of security?

>> Perimeter.

>> Hon. Suzanne Kingsbury: Perimeter.

>> Hon. Mary Ann O'Malley: For the juvenile facility. And is that full sworn officer u do we know that or is that the sheriff's decision?

>> Hon. Suzanne Kingsbury: Once the sheriff gets his folks on board it's my understanding it's his intentions that the primary perimeter security costs and duties will be care rified out by these folks that are at a level below a deputy sheriff, much like other jurisdictions.

>> Hon. Mary Ann O'Malley: And does your sheriff, is he -- for all the other court security cost, is that in his budget, or is it still within --

>> Hon. Suzanne Kingsbury: Right. It's in his budget.

>> Hon. Mary Ann O'Malley: So is there a possibility that within a year or two that this -- this cost also would be something that would be absorbed in his budget, his or her budget? As opposed to the court or our donating the ongoing costs?

>> Zlatko Theodorovic: I think it would just be subject to the negotiation with the sheriff. I mean security realignment in theory has some --

>> Hon. Mary Ann O'Malley: Is that something Judge Kingsbury that your court would actively look at with regard to alleviating this cost in the future?

>> Hon. Suzanne Kingsbury: Absolutely. Absolutely. And I just would like to make a brief comment in response to what Judge Wesley had to say, and that is that a lot of the delays that -- first of all, had this been completed in the fashion that we'd expected, I wouldn't be here. You know, the funding would be there and -- and just like everybody else who had funding approved in this process.

And this project started out -- is taking some time with the equity exchange and then initially the county was going to do the actual retrofit to the facilities since it belongs to the County. And then there were discussions about that.

It ultimately moved to the state doing it. But it's not as if the time frame for getting this project done in terms of the construction and that sort of thing is anything that the Court had an ability to control whatsoever.

>> Chair Cantil-Sakauye: David, did you have a comment?

>> David: I had a question. I couldn't tell from the tables that you provided, Zlatko, whether any of the monies that were distributed represented ongoing security expenses or if it was just one time allocations.

>> Zlatko Theodorovic: I --

>> The green tables did. The green sheets do. Show ongoing costs to all the different courts.

>> Zlatko Theodorovic: You need to get a magnifying glass I think for --

>> Yeah, but it does show ongoing costs.

>> Hon. Suzanne Kingsbury: I think it's 2 point type or something.

>> Zlatko Theodorovic: There are a number that did get ongoing funding. For example in 78 there was 1.9 million dollars in ongoing security funds. \$1 million is ultimately distributed. There was a -- so there's ongoing -- there's a JC approved but what distributed what was approved. And so this shows ongoing funds.

>> Thank you.

>> Chair Cantil-Sakauye: Justice Hull?

>> Hon. Hull: Actually, Judge Kingsbury anticipated my questioning on some of the delays that built off Judge Wesley's question and I feel for my purposes the answer was adequate. Thank you.

>> Chair Cantil-Sakauye: Thank you, Judge Hull.

>> I have a motion and I would move approval of the hard costs of \$81,128. I think all of our courts have ongoing costs issues about security costs, and I think if necessary we can revisit that later. And I understand the equities involved and -- that's why I'm making the motion.

>> Chair Cantil-Sakauye: Yeah --

>> It's a modified 2.

>> It's a modification of 2.

>> Second it.

>> Chair Cantil-Sakauye: Wait a minute. Wait a minute. So we have a motion for hard costs for one-time funds of \$81,128. It's not any of the options, it's a modification of option 2. So I'm going to just call it option 5, because it's not on there.

And I know, Kim, you wanted to speak to this. And Judge Wesley you already seconded it.

>> Hon. David Wesley: I seconded it and I do want to speak to it also.

>> Chair Cantil-Sakauye: And after Kim Turner.

>> MS. Kim Turner: I want today go further with what Judge O'Malley had to say because one of the things that was of concern to me was the idea that we commit -- that council would commit funding to a court security expense ongoing and into the future when the -- the whole landscape of how we pay for court security has completely changed in the last year. And the -- the -- so I don't know -- I know that Zlatko has had conversations with department of finance and with CSSA. There's ongoing discussions about what to do about funding short-falls and court security and what sheriffs took on and did they have enough money and on and on and on.

But I don't think that funding \$164,000 and change in the court security line item and then committing the funds in perpetuity to a court security line item is really in the best interests of the council or the best interests of where we're kind of headed as a branch.

We're not funding court security in other places anymore. So that's my comment.

>> Chair Cantil-Sakauye: Judge Wesley?

>> Hon. David Wesley: My comment is this: I find -- I was very troubled by this. And not because of your court or your leadership of the court. That had nothing to do with it. What troubles me about this report is, one, that you got the wrong information. I find that extremely troubling. Because this was -- this was all predicated on SAL. And when SAL disappeared, somebody should have been aware of that and you should have been told. But I also say that your court should have been aware of it. I mean, I would hope that the presiding judges now are -- when something is passed by the council, look at what the council passed and the limitations they put on it. That council put a limitation on this, that it had to happen by 2009. And so the Court should have been aware of it, even if they were getting bad advice from the AOC. So I'm troubled by both.

In addition, I worry that -- and this is why I raised it with justice Hill -- that this raises a broader issue. For building new courthouses, and on those new courthouses we have additional entries and exits and every one of those entries and exits needs security. And if we're building in security costs, we're building in more courtroom, that means more maintenance. We're building in more courtrooms, which means more furniture.

Who's going to pay for all this?

And on the new courts, I don't think it's built into their budgets. And so is this a precursor to what the council -- I'm not going to be on the council after October, but is this a precursor to what's going to happen.

Is every court that gets a new courthouse going to be coming before this council and saying I need additional money for security, I don't know how I'm supposed to get that, I need money for furniture, I need additional money for maintenance. I think it raises very troubling issues. I talked to justice Hill about it, he told me they're going to look into this as part of their committee. He doesn't know if it's been looked into, but he will.

And I found the whole report very troubling. I seconded the motion because I think you should get enough to open that facility. But I think that security is -- is a problem for your court to resolve and not for the council to resolve at this time.

>> Hon. Suzanne Kingsbury: And with respect to -- Judge Wesley, obviously we knew what the council's decision was, and that was part of reason that we followed up with our inquiry, and we were repeatedly assured that the funding was there. And had your court been in the same situation, I would -- I would suggest you might have operated in the same way.

I mean, I -- I can tell you a time that I was on the council when certain representations were made about court security funding for LA. And there was a shortfall. And we had an emergency circulating order that dealt with court security stop gap funding for LA and different courts. It happens.

>> Hon. David Wesley: I'm not saying it doesn't. I'm saying it's very troubling to me that you get the wrong information when you try to rely on that information. So --

>> Chair Cantil-Sakauye: Judge Mary Ann O'Malley?

>> Hon. Mary Ann O'Malley: Whether it's wrong information, my concern is it's not going to happen again. Wrong information happens within a court, when a court all of a sudden makes astronomical errors with regard to its own financing and mistakes it makes internally. We've been responsible for those. And with the AOC it's no different from the mistakes that a court may make. Doesn't look like it's going to happen again.

So here's my question, Judge Kingsbury. You've got an annual budget of 12 million and 1.3 is not a huge fund balance for that type of a --

>> Hon. Suzanne Kingsbury: It's not.

>> Hon. Mary Ann O'Malley: Believe you me, I know. That's not a large fund balance and you have to have certain of that designated to payroll as restriction pursuant to the AOC and the demands or what's required of us.

I need to ask you to take on at least this first year knowing the cuts that you have coming and what you're going through now.

What is going to happen to your court soaking up this 164,000 in security costs?

>> Hon. Suzanne Kingsbury: We're going to be facing -- I mean, we -- I've already said we can't close a courtroom. We don't have that capability. We're looking at furloughs, conceivably we could be looking at layoffs. Obviously delays in trials. And --

>> Hon. Mary Ann O'Malley: So picking up this part of what this council is at least in a motion contemplating on not giving you is going to directly affect your court operations.

>> Hon. Suzanne Kingsbury: Absolutely.

>> Hon. Mary Ann O'Malley: And your service and access to the public.

>> Hon. Suzanne Kingsbury: Absolutely. And I'll just tell you that for a small court, we've been significantly hammered with big cases, high profile cases. I mean, we had the Garito case,

the Jaycee Dugard case, I as myself as a P J which wouldn't happen in a larger jurisdiction, am handling the case of an individual being charged as a serial murder, we have many, many homicide case -- I mean, big -- not low level homicides, but I mean big death penalty cases. And multiple murder cases in our jurisdiction. And these are things we have no control over.

>> Chair Cantil-Sakauye: Judge Kingsbury would you hesitate in any way to come back to the council in a year's time to let us know what you're doing with regard to not having the council pay for ongoing security costs if we were to pick those up for one year's time?

>> Hon. Suzanne Kingsbury: Well, certainly I would do whatever you asked of me. I certainly would request that you consider modifying your motion and at least cover the first year. I'm happy to go with Zlatko or anybody else to the let's say it your to whoever I need to --

>> Our your sheriff.

>> Hon. Suzanne Kingsbury: The sheriff, to figure something else out. But you know, it's just -- it is what it is.

>> I would urge people to adopt 2 not modified.

>> I'll call the motion.

>> Chair Cantil-Sakauye: Well, wait --

>> With a review in the year.

>> Chair Cantil-Sakauye: There's a substitute motion to take option 2 by Judge O'Malley.

>> Hon. Mary Ann O'Malley: With review in a year with Judge Kingsbury and Zlatko with regard to the security funding, but to give them the funds for this year.

>> Hon. Suzanne Kingsbury: Are you just saying the security for one year?

>> Hon. Mary Ann O'Malley: Yes.

>> Hon. Suzanne Kingsbury: Versus ongoing.

>> Hon. Mary Ann O'Malley: Right. Option 2 for one year.

>> I'll second ma motion by Judge O'Malley.

>> Chair Cantil-Sakauye: In seconding it I knew that you also had your hand raise to weigh in. Did you want to say anything further?

>> Yes, thanks, chief. I want to talk a little bit prospectively sort of addressing what Judge Wesley said. You know, talking to one of my liaison courts they have a courthouse under construction and they're save nothing their fund balance for the future when they have a holding cell and there will be security costs that they don't have currently. And I want us just to be mindful of the fact that those fund balances are really very important to courts. Because otherwise they might find themselves in situations where they have courthouses and no way to fund the security and then they'll have to come to us and ask for assistance. It's sort of a prospective issue for us.

>> Chair Cantil-Sakauye: Can I get clarification, Judge O'Malley?

It's option 2, but you said with review in a year. Does that mean option 2 is \$176,384 one time? Or do you want to keep it in the language of option 2?

>> Hon. Mary Ann O'Malley: One time.

>> Chair Cantil-Sakauye: Okay.

>> Chief, if I may --

>> 2-A.

>> Chair Cantil-Sakauye: 2 A, thank you.

>> If I may, chief.

>> Chair Cantil-Sakauye: Yes.

>> The 176 then would be what would be provided for the 12-13 fiscal year and 81,000 would be for this year to make the payments for the one-time costs.

>> Chair Cantil-Sakauye: Correct.

>> It is a total of 25781 for one time this year and 176 for 12-13 for them to pay on the one-time basis.

>> Chair Cantil-Sakauye: Let me call it -- let me clarify it. The substitution motion is for option 2-A which says distribute a total of \$257,512, 81,128 in one time fiscal year 11-12 and 176,384 in one time or fiscal year 12-13 with a review coming back to this court in fiscal year 11-12?

>> Hon. Mary Ann O'Malley: Correct.

>> I have a question.

>> Chair Cantil-Sakauye: I mean 12-13.
Justice Miller?

>> Hon. Douglas Miller: We're then voting on this motion is to bind us in the budget for next year.

>> Uh-huh.

>> This is when those costs would be effectively incurred. They won't be spending the 176 in 11-12, they'll be spending it in 12-13.

>> Chair Cantil-Sakauye: For the substitute motion before I have Jody take a roll call vote, any further discussion?
Miriam?

>> I just have a question. We could always decide for 12-13 to do this when we're looking at 12-13, right?
I --

>> For emergency funding.

>> Miriam: Or emergency -- I think there may be -- well be merit in 12-13 for the council to make this accommodation but I'm not sure that we need today to make that decision.

>> They have the plan, at a PJ, you can't wait until the last minute for that type of an expenditure.

>> Chair Cantil-Sakauye: Under option No. 5 they still have -- depending on how substitute motion 2-A goes, under option 5 with the one-time cost they still have an opportunity to come back in fiscal year 12-13 for the 100 and --

>> Could I ask --

>> If Judge Wesley would be willing I assume we need to vote first on 2-A since it's a substitute motion but just so I can consider how I feel on 2-A if Judge Wesley is willing for 5 to make it 5-A, which is we decide to do it this we are with -- with an agreement that it would come back to the council to then consider as to 12-13 whether there would be an allocation in 12-13.

>> It was my motion, so how about if I modify that -- sorry, Judge Wesley.

>> Hon. David Wesley: It is your motion. I'm looking at the rules here trying to figure out --

>> I'm leaving that up to David in a second.

>> The maker of the motion can always accept a friendly amendment. And if the seconder of the motion agree, that becomes the new motion.

>> Okay. What if we -- we adopted what I originally indicated the \$81,000 for the current kind of physical cost, and then we asked the trial court budget working group, since this is money coming out of next year to make a recommendation to us. We can accept that or reject it when we deal with the budget at that time.

>> I'm just looking for there to be a place holder for that issue sort of to remain live.

>> Hon. David Wesley: So I would accept that, that we --

>> What are we voting for?

>> Oh, you made the motion.

(Laughter)

>> Yeah.

>> But I think we need to -- I think we need to vote on the substantive motion first.

>> No matter what you do, you vote on the substitute motion first.

>> This we know by now.

>> I think some of us by trying to decide on the substitute motion want to make sure that we understand the original motion.

>> See, I think that's -- that's --

>> And the friendly amendment to the original --

>> That's ultimately fair that it go back to the trial court budget working group and so it is live. I mean, it's clearly one of the things that needs to be considered.

>> Chair Cantil-Sakauye: Judge O'Malley?

>> Hon. Mary Ann O'Malley: So Zlatko and Judge Kingsbury how is this going to work for you to not know about the security funding until the next trial court budget working group meeting in your plan with regard to layoffs that need to be made or furloughs that need to be planned or things that need to be laid out in the future so that if you're denied, you're not going to be stuck in the mud.

>> Hon. Suzanne Kingsbury: We have to proceed like we're not going to get the money, obviously.

>> We have a meeting on Monday, so we can put this up for discussion that day. In terms of having some early action on it.

>> So that trial court budget working group will be able to get the materials and be able to know what their situation is and make a decision by Monday?

>> We can manipulate the report that we already have in terms of many of the members of the council are already on the budget working group, would be familiar with --

>> Chair Cantil-Sakauye: Judge Kingsbury, your thoughts.

>> Hon. Suzanne Kingsbury: You don't want to hear my thoughts.

>> Chair Cantil-Sakauye: I do. I really do.

>> Hon. Suzanne Kingsbury: No, you don't.

>> Chair Cantil-Sakauye: Let me hear from Angela's thoughts.

>> It just seems to me that option five, another way of saying what it's doing is it's giving the 81,000 now without prejudice to us giving them more after getting informed input from the trial court budget working group. And it doesn't necessarily have to wait a whole year before we get that input.

>> Chair Cantil-Sakauye: Thank you. And Mark Robinson.

>> Mark: Well, I didn't really raise my hand, but I --

(Laughter)

>> Mark: I have my thoughts on this. I actually, you know, in business we -- we -- these deals where you say well we'll give you this now but maybe next year, you know -- but lot of times next year never comes.

>> Well, the year comes, but --

>> It Mark: It comes, but the thoughts don't come next year. From what I'm hearing here, was some sort of a commitment. And we've changed the -- this AOC situation I think in the last few months. It's been amazing for me. But I got to say, I'm compassionate to what's going on here. And I like -- I don't know which one it is, I think it's 2-A.

>> Chair Cantil-Sakauye: Yes.

>> So do I.

>> Chair Cantil-Sakauye: Thank you. Judge Yew.

>> The reason why I seconded Judge O'Malley's 2-A, is because we're all human, we all make mistakes. The last -- just my term on the council, which will also end in October, has really taught my that it's important to be flexible and to be humane and understanding that mistakes are made. And representations are made: The other thing that I learned here on my term in the council is so much of what we're doing is not trust, and it's difficult for me if representations were made to a court where they relied on them, whether they should have or not, they did; and to -- and to be a partaker of a breach of trust. And so that's why I'm supporting 2-A.

>> Chair Cantil-Sakauye: Any more comment?

>> Hon. Suzanne Kingsbury: I would like to say something.

>> Chair Cantil-Sakauye: Certainly.

>> Hon. Suzanne Kingsbury: The PG version of my thoughts are a deal is a deal.

(Chuckling)

>> Chair Cantil-Sakauye: Thank you.

>> Hon. Suzanne Kingsbury: I'm a person of my word, I expect the council and the AOC to be people of their words.

>> Chair Cantil-Sakauye: Edith Matthai?

>> Edith: I certainly understand that and can understand how -- put it this way, I in normal circumstances would 100 percent agree with that concept. But I'm not so sure that we are now in normal circumstances. And there -- I think the promises of funding to our entire branch that we should have -- have not been lived up to. Unfortunately I believe every court in the state has the difficulty of the uncertainty and the situation that the funding that they're going to have is not what they expected to have.

We don't now know what's going to happen for next year's budget. We don't know what the May revise will be. We don't know what will happen in the future. And so I personally am very concerned about making any commitment for any future monies until we have a better understanding of what all the demands are going to be for whatever unfortunately limited funds we may have. That's not pretty. It's not, quote-unquote, right, but I fear that it's reality. So for that reason I would be in favor of the one-time funding at the \$81,000 level that was spoken of.

>> Chair Cantil-Sakauye: Thank you.

>> I don't remember what number that is.

>> Chair Cantil-Sakauye: Yes. 5. Angela, then Miriam.

>> Angela: Edith said what I would have said.

>> Chair Cantil-Sakauye: Miriam?

>> Miriam: I have a question. Because I appreciate the comments that were made. And I do think this is a really an unfortunate circumstance.

If we were able to get it through the trial court budget working group and it could come back in June, I mean, I'm just thinking it would be helpful to have them weigh in.

Would that be something that -- I understand the quandary that you're in and the need to plan. But if we could get their input and given the fact that, you know, there was a part of this that was based on misinformation, a big part of it, would June be equally catastrophic in terms of planning and so on?

I frankly would just like another couple months to get some input and to be able to hear where we are after May revise as we're looking at the numbers, you know, in June.

And so I'm wondering if maybe that's a way to kind of compromise and not thrill you down the river but still get some time pour planning.

>> Chair Cantil-Sakauye: Justice Hull and Judge Jackson.

>> Hon. Harry Hull: All the issues I heard on this issue are very thoughtful. And it's a close call in my estimation.

But -- and I'll further say I've never been a presiding judge. I don't come from that -- that perspective.

On the other hand, we are talking both formally and informally to courts who are all distressed in their funding about plan ahead, plan ahead, plan ahead.

And frankly, I'm sympathetic to Judge O'Malley's point and Judge Yew's point and other points u I don't see how El Dorado county can plan ahead if they don't know if they're going to have the funds to operate the courthouse that we or the facilities that we're authorizing.

So I recognize as Justice Miller's concern was that to some indirect way we may be burdening next year's budget. I also recognize, as Miriam just said, that we are also uncertainty as to exactly what money we'll have.

And given my positions in the past on other requests for money from other courts, I think I have been taking a rather hard line. But on balance, I don't know how we can give them half a loaf here.

>> I agree.

>> Chair Cantil-Sakauye: Judge Jackson.

>> Judge Jackson: I also agree. We played a deal and I believe we should live up to it. And this is the whole point of the direction that the council is going in. Also just to address the issue of whether or not the trial court budget committee could come up with something for June, I doubt it very seriously in view they have to look at the whole 2012-13 budget. So I don't want to put that on them and giving this false sense of hope that we can address this in June when realistically they cannot.

>> Chair Cantil-Sakauye: Fritz, then Judge Rosenberg.

>> Fritz: I would say this discussion wouldn't be had if the mistake hadn't been made in 2009. To protract this, to run this out even longer, is just to me beyond the pale. Finish it up, pass 2-A and let's get on with it. The trial court budget working group has got much bigger issues to deal with than worrying about this 176 --

>> Chair Cantil-Sakauye: Judge Rosenberg, then Commissioner Alexander.

>> I am on the working group, in fact I guess I'm co-chair now. There ear nose with a that the trial court working group will be able to address this issue. We're going to be looking at macro issues. This is a call that the judicial council has to make. It's an owe.

A fish or cut bait. You're not going to get any help from the trial court working group.

>> Where do you stand?

>> Where do I stand? This is one of those occasions where I'm delighted not to have a vote.

(Laughter)

>> But you know, I'm -- since I'm asked, on balance I have to support in this one case my fellow PJ, because of the commitments that were made. It's one of those equity calls.

>> Chair Cantil-Sakauye: Commissioner Alexander?

>> Hon.. Sue Alexander: I was wondering if there's money from a different source. Is there still none any left in the emergency fund?

>> It doesn't qualify for our --

>> Doesn't qualify.

>> That's why it doesn't work.

>> Hon. Sue Alexander: Okay.

>> Chair Cantil-Sakauye: Judge Dee Alba and then Judge Kaufman.

>> Unlike Judge Rosenberg on this occasion I wish I had a vote and I would vote to appropriate the money that Judge Kingsbury's asked for on the one time basis, the 2-A option. I have a -- I have a hard time believing that we're even talking about compromising security.

So I wish I could vote for it. I would urge 2-A pass.

>> Chair Cantil-Sakauye: Judge Kaufman?

>> Hon. Ira Kaufman: I work with Judge Kingsbury as a PJ for 14 years until I got on the council. And she's probably one of the most savvy PJs I've ever worked with. Susan, you made a deal, you thought you had a deal, and you're asking us to fulfill the obligation. Is that correct?

>> Hon. Suzanne Kingsbury: Yes.

>> Hon. Ira Kaufman: Quite honestly if Susan can be fooled or make a mistake, it can happen to any of us and I think we should pay the money and maybe we made a bad deal, but let's move on.

>> Here-here.

>> Chair Cantil-Sakauye: At this time I'm going to have Jody do a roll call vote on the substitute motion 2-A.

>> Judge Yew?

>> I'm used to going last.

(Laughter)

>> I just pinched her.

(Laughter)

>> Reverse alphabetical order.

>> Chair Cantil-Sakauye: She's an aye.

>> Aye?

>> Wesley?

>> No.

>> So.

>> No.

>> Mark Robinson.

>> Aye.

>> O'Malley.

>> Aye.

>> Justice Miller.

>> No.

>> Edith Matthai.

>> No.

>> Miriam Krinsky.

>> Aye.

>> Judge Kaufman.

>> Aye.

>> Judge Jackson.

>> Aye.

>> Justice Hull.

>> Aye.

>> Justice Herman kick.

>> Aye.

>> Judge Elias?

>> No.

>> Angela Davis?

>> Very close call, but no.

>> Justice Baxter.

>> Hon. Marvin Baxter: Aye.

>> Justice Ashmann-Gerst.

>> No.

>> Everyone vote?

>> Being pretty close.

>> 9-7. Motion passes.

>> No, we need 11. We need 11.

>> Chair Cantil-Sakauye: Is everyone here?
Even if I cast a vote --

>> You're not going to get to it.

>> We have three absent.

>> Judge Baker.

>> Baker.

>> Yes.

>> And the legislators.

>> We have 3. So.

>> Chair Cantil-Sakauye: So the motion fails.

>> Yep, it does. 9-11.

>> Chair Cantil-Sakauye: So now we vote on option No. 5, knowing that 2-A has failed.
Roll call vote on option 5.

>> Okay. I'm going to start backwards again.

>> Okay.

>> No.

>> Wesley.

>> Yes --

>>Way, Judge Yew.

>> Could somebody restate.

>> Option No. 5 is a -- ordering -- or providing \$81,128 in fiscal year 11-12 as a one time hard cost, period.

>> If it doesn't pass, then they have get nothing.

>> Chair Cantil-Sakauye: It doesn't pass then I think there needs to be --

>> Have had a new motion.

>> But it hasn't not yet passed. So we're going to take the vote.

(Chuckling)

>> Judge Yew.

>> No.

>> Judge Wesley.

>> Hon. David Wesley: Yes.

>> Judge So?

>> Yes.

>> Mark Robinson?

>> Yes for now.

(Laughter)

>> Judge O'Malley?

>> Hon. Mary Ann O'Malley: No.

>> Justice Miller?

>> Hon. Douglas Miller: Yes.

>> Edith Matthai?

>> Yes.

>> Miriam Krinsky?

>> Yes.

>> Judge Kaufman?

>> Hon. Ira Kaufman: No.

>> Judge Jackson?

>> No.

>> Justice Hull?

>> No.

>> Justice Herman?

>> No.

>> Judge Elias?

>> Yes.

>> Angela Davis?

>> Yes.

>> Justice Baxter?

>> Hon. Marvin Baxter: No.

>> Justice Ashmann-Gerst?

>> No.

>> Chair Cantil-Sakauye: Only got 9. 9-7 again. So...

>> Could we take a 15-minute break now?

(Chuckling)

>> Can we reach a middle ground number, maybe possibly, is that a consideration for the no's?

>> By the rules of this body we said we need 11 votes so another motion would be in order.

>> Chair Cantil-Sakauye: And our options are stated or even alternate options in terms of one-time -- well, the issue does not seem to be the one-time funding of 81,828. The issue is I am packing fiscal year 12-13 with any -- even one-time Orion going funds.

>> I'll make an alternate motion that we -- me.

(Chuckling)

>> Thank you Judge Elias.

>> That we split it with regard to the security cost. There was a mistake made by everybody. The budget situation is so much different than now that it was in 2009. Everybody has uncertainty. And that we all -- that we resolve this, that we give them 81,000 and half of the security money as a one-time payment for security.

>> I'll second that.

>> Chair Cantil-Sakauye: It's a half -- security is \$164,624. And half of that you're saying.

>> Half of the 176.

>> There it is.

>> Plus the 81.

>> Question, chief.

>> Chair Cantil-Sakauye: Yes?
Judge O'Malley?

>> Hon. Mary Ann O'Malley: Judge Kingsbury, how is this going to help you if we get laugh of it?

Again, with regard to planning as a PJ and with regard to -- so is it now half of the layoffs that you would contemplate not getting any?

I mean, do --

>> Hon. Suzanne Kingsbury: You know, half -- half a loaf is better than none.

>> Yeah.

>> But it still will result in furloughs, as opposed to just -- you know, is this something that you could get out of, you know, fund balance temporarily for this? As opposed to operations.

>> Hon. Suzanne Kingsbury: Well -- the -- the problem with fund balance as everybody knows, it's a one-time deal and then it's gone. And we already have what we consider to be a very modest fund balance for the size of our court.

I mean, you know, we're -- we're not a politically powerful court, we're just a little court in the mountains. And you know, we -- we cut costs where we can. I mean, everything that I do as a PJ, all the travel within the County and that sort of thing, I don't charge my court for that at all. Don't do it. I eat it.

>> Yeah.

>> So you want to keep your fund balance because it's not that much. So it would result in just still furloughs, other operational costs that would impact, again, court services and access to the public.

>> Hon. Suzanne Kingsbury: Yeah. And you know, our -- part of our problem is we don't have the same ability to generate efficiencies as courts that are in one geographic location. We can't move people from place to place. I mean, it's -- my courthouse is a mountain pass and hour, hour and a half away from the next closest courthouse. I mean we just -- we just don't have the capability of shutting something down. I mean, we're -- the only thing that we have where we can really cut costs is personnel. Just like everybody else.

>> Thank you.

>> Chair Cantil-Sakauye: Judge Friedman?

>> Thank you, chief. I'm move that the suggestion that Judge Elias made be adopted by this council. I think everyone wants to help this court. Some of us believe that the court needed more help than is now possible given how the votes were cast. But this is our only option to be able to do it. And I think that we need to get on and give them at least something -- indication from this council -- and I hope that there will be a unanimous vote in favor of the motion.

>> Chair Cantil-Sakauye: Thank you. I have Judge Elias making the motion, I have Judge Miller seconding it and Justice Hull you wish to speak to it as well?

>> Hon Harry Hull: I had a question. It arises from the questions Judge O'Malley asked Judge Kingsbury, if this motion passes and you get half of these additional costs, you've suggested that there are going to have to be layoffs and other cut backs in other areas.

>> Hon. Suzanne Kingsbury: Absolutely.

>> Hon. Harry Hull: I take it those would have to begin essentially tomorrow without the money you need.

>> Hon. Suzanne Kingsbury: Yes. Yes. And -- I've hesitated whether to say this, and -- you know, I -- this is difficult for me being on the SEC to come to you and beg for money. Because you know, we're in the process of writing this report, and it just -- it making me really uncomfortable to come and beg for money to run our court, because I know that there's going to be people out there in the world that are going to think, you know, if you give money, it's because of my role on the SEC. I mean, you -- you have no idea how uncomfortable it makes me be to sit here and to be in this position. Not to mention the impact on the court, which obviously is significant. But this is very, very troubling for me to have to do this. And I think it's troubling to have the council make representation, have the AOC make representations, and then renege on those representations. Because every court sitting around here could be in the same position we're in.

>> Chair Cantil-Sakauye: Any further discussion before we take the vote?

>> Is there any reason why somebody can't ask for a revote on another motion?

(Chuckling)

>> Chair Cantil-Sakauye: We have this before us, option No. 6. And it comes down to the one time cost, 81,128, and half of security cost which comes to the amount of 88,192 for total of one time funding of \$169,320. So all -- going to do a roll call vote.

>> Judge Yew?

>> So Judge Kingsbury, I've also worked with you and I have utmost respect for you. I hadn't even remembered that you're on the SEC, and I just cast my vote for 2-A because I felt it was the right thing to do. I think that we do need to move forward and I am going to support this. So I vote yes.

>> Just Wesley?

>> Hon. David Wesley: Yes.

>> Justice So?

>> Hon.. Kenneth So: Yes.

>> Mark Robinson?

>> Yes.

>> Judge O'Malley?

>> I'm sorry, Susan. Yes.

>> Justice Miller?

>> Hon. Douglas Miller: Yes.

>> Edith Matthai.

>> Yes.

>> Miriam Krinsky?

>> Yes.

>> Judge Kaufman?

>> Hon. Ira Kaufman: No.

>> Judge Jackson?

>> No.

>> Justice Hull.

>> Hon. Harry Hull: Yes.

>> Judge Herman?

>> Yes.

>> Judge Elias.

>> Yes.

>> With reservation.

>> Angela Davis?

>> Yes.

>> Justice Baxter?

>> Hon. Marvin Baxter: Yes.

>> Justice Ashmann-Gerst.

>> Yes.

>> 14.

>> Chair Cantil-Sakauye: Matter passes.

We have a brief matter that Judge Herman will speak to regarding our computer technology vision.

>> Hon. James Herman: It actually is a 20 minute matter, unfortunately it began at 20 to and it's now over -- and -- and I've talked around and I think we're going to waive our oral report at this time since it's not an action item in the interest of getting everyone here to the airports. I would like to say that I -- I think from all reports our committee meeting yesterday was very robust and productive. And I particularly want to acknowledge the fact that Judge Loftus, who has a survey going out to the PJs attended the meeting and told us about the survey and will report on it, survey that originated with Judge O'Malley with the help of Curt Sutherland and staff also went out from the committee. And also we heard a report from SIAK from substantial thinking that they've done in terms of what should go forward on technology vision, branch wide, what should be local and the gray areas that they need to drill down into and discuss. Finally, it was a -- a very interesting and provocative presentation by the court IT forum that meets quarterly and is a selection of IT officers, chief officers from throughout the state. We will be working closely with them, go forward not only in the near term issues of leverage of CCSB 4, but also an ongoing vision and governance. And finally thanks so much to staff and Curt and the operational plan that's been presented. We'll circulate all of these -- all of the documents at that we went over yesterday with the -- both the guests from the council, the guests from outside and the committee in writing to the entire council. Thank you.

>> Chair Cantil-Sakauye: Thank you. Change you for your work on this Judge Herman and your continued work on that. That concludes our agenda. But I do want to conclude as we do in

respect of deceased judicial officers, retired. But I did want to say before I get there that we do wish judicial council member Judge Steven baker a speedy recovery. He couldn't attend here today. We understand he's on the uptick and all is well. We do conclude with remembrance of our judicial colleagues recently deceased and they are:

- Hon. Charles E. Aguilar (Ret.), Superior Court of California, County of Stanislaus
- Hon. Frank Cliff (Ret.), Superior Court of California, County of Santa Clara
- Hon. Robert M. Falasco, Superior Court of California, County of Merced
- Hon. John F. Kraetzer (Ret.), Superior Court of California, County of Alameda
- Hon. Joseph Murphy (Ret.), Superior Court of California, County of Sonoma
- Hon. Ralph Nutter (Ret.), Superior Court of California, County of Los Angeles
- Hon. Rex Sater (Ret.), Superior Court of California, County of Sonoma
- Hon. Eric Wyatt (Ret.), Superior Court of California, County of Madera
- Hon. Raymond F. Zvetina (Ret.), Superior Court of California, County of San Diego

...all retired from the bench, and we honor them for their service to the court and to the cause of justice.

Thank you for your time again, interest today. I see no one wishes to be heard?
Thank you all, safe trip.

>> Thank you.

>> Thank you, Chief.