

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 website. What follows is a formatted and unedited transcript of the last meeting. 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 [www.courts.ca.gov](http://www.courts.ca.gov).

>> Please stand by for real-time captions.

>> The meeting will begin shortly.

>> This is the public meeting of the Judicial Council of California for Friday, August 26, 2016. This is the continuation of the Judicial Council meeting. I have heard sounds on the phone. Can you indicate who is listening on the line?

>> We have with us today incoming council members, Jeffrey Barton and Audra Ibarra. We thank them for being here in anticipation of their responsibility soon to occur. Last night, the Judicial Council and our partners at our annual awards ceremony, the Distinguished Service Awards—our partners being California Judges Association President Taylor as well as the State Bar President Dave Pasternak and the Commission on Access to Justice—gathered here in San Francisco to recognize judges and court executives we are all proud to call colleagues. These awards honored Judge Maria Hernandez and Alan Carlson, both from Orange County Superior Court, and Mr. Robert Oyung from Santa Clara Superior Court. All of them exemplify the leadership, strength, and dedicated service that have not only improved the administration of justice in their local courts but also statewide for every Californian. With our partners as I have described, we also honor two judges who have demonstrated a very long-term commitment to improving access to justice in our courts for the most needy. They have significantly improved access for low- and moderate-income Californians. These names will be familiar to many: Judge Julia Kelety from the Superior Court of San Diego County and Judge Colleen Toy White from the Ventura Superior Court. I believe that it is important to recognize that talent and dedication to access to justice exists within our judicial system. Sharing the excellence inspires us and also motivates us. We celebrate their accomplishments and commitment because it causes us to strive to do more and because they do this in addition to their day job. It also motivates another generation to push themselves to occupy those leadership seats in the future.

>> Earlier this month I appointed 49 new members to our standing advisory bodies. Those bodies and those committees help to track and resolve the issues that eventually percolate up to the Judicial Council. These 49 new appointments add to the pool of over 500 judicial officers, court professionals, and justice system partners who volunteer their time so that it enables this council to be as efficient and informed and as effective as possible when we make decisions about policy and rule making for the entire judicial branch. We appreciate the nominations and the volunteerism for what is a second job.

>> The nominees for our awards and volunteers for these advisory bodies make me believe that justice is in safe hands. However, this time of year brings mixed emotions for me and for council. Our newly appointed and reappointed Judicial Council members have been at our recent meetings and our new members have received their orientation. They are ready for the September transition to occupy the seats here around the council table. We all know that this cycle means we have to say so long and farewell to some current colleagues. We had an opportunity last night to personally share our appreciation for our departing members. I would like to take a moment from our agenda now to publicly acknowledge them and to personally thank them for their years of service, for their words of wisdom, for moving us along, for their dedication, for reading all these binders and asking important questions as we move toward deciding policy. Council members come together like a team and to borrow a description from civics, when we talked about TEAM, it means together everyone achieves more. That is absolutely true about membership on council. Through its discourse, process with staff and input from the public, we have been able to achieve a great deal. Our achievements manifest themselves as improvements to people who use our courts. I would like to remind all of us before I name these five people, that we are focused not just on the new policies and rules and efficiency, but always fairness and always equal access in our justice system. I remind us all that many years ago, the Legislature proposed, and the people overwhelmingly approved, a constitutional amendment that created the Judicial Council in 1927. It bears repeating what our task is. We are charged with the duty of seeing that justice is being properly administered in California. The California of 1927 is not the California of 2016, but the task remains the same. I know that when we all swear our oaths, we take that duty very seriously. I am pleased to offer my gratitude and council's gratitude to our five dedicated public servants who, in addition to their day jobs, have improved access to justice. Having served four years on council, let me say so long but see you around because, it's like the Hotel California, you may check out any time but you may never leave: Presiding Judge Bryan McCabe and Assistant Presiding Judge Charles Wachob. [applause] I want to thank them not only for their pivotal roles on Judicial Council these last four years of change and transition but also because, for many who may not remember, they served as chair and vice-chair on the SEC, the Strategic Evaluation Committee, where they dedicated hours and hours of work with many others to produce a report that helped us become more efficient and improve our operations. Ultimately, it led to our Judicial Council directives and reforms. Also now, having served three years on council, I want to thank Mr. Mark Bonino and also Mr. Frank McGuire. They have provided invaluable, wise counsel and insights different necessarily from the judge's perspective. They will be sorely missed. We know where you are and we hope that we can continue to rely on your good counsel and your volunteerism in future initiatives for the Judicial Council in the future. Thank you. [applause]

>> After serving his one-year term, which was a déjà vu of his one-year term before on council as president of the California Judges Association, I want to express my deep gratitude for Eric Taylor. A judge out of Los Angeles with a busy docket but who also managed to lead the largest volunteer judge association in California. Not an easy task. A very successful year with lots of challenges. Thank you for being a partner. Thank you for being a voice that added to the deliberations and showed us the other side of issues. Thank you Judge Taylor.

>> All of you will find at your seats a copy of the Federalist Papers. I want to tell you that this is our traditional parting gift. It also stands to symbolize the fact that the law is a dead letter without the courts to enforce them. I also want to take this opportunity to also provide you with a book that is hot off the press. It is called Constitutional Governance and Judicial Power: The History of the California Supreme Court. It is a book that has just been released. It has been published in the California Supreme Court Historical Society. What it is, is a look at California's changing world through the eyes of court cases, court characters, court leaders. It has chapters about different judges. It talks about the evolution of California that has made California a leader in the nation for many, many years. We offer these to you as a parting gift to our members from Judicial Council. Before I conclude, I want to say one more thing. I would like to take a moment to recognize and thank one of our council members for his day job. I have already thanked him for his work on Judicial Council, but I also want to thank Frank McGuire. Frank has served with me on the Judicial Council since 2013, but he has served with myself and Justice Chin and our colleagues on the Supreme Court since 2012. Justice Frank will transition off council in September. He has also announced his retirement from the court at the end of September. He is the 26th court administrator and clerk of the Supreme Court. Frank not only brought a keen legal mind but he was one of the first lawyers to hold this position. He brought that to the work of the court and he also brought his undergrad training as an industrial engineer out of Stanford to the court's operations and processes. He has instituted improvements in how we handle petitions, how we respond to certain letters and orders of interested parties. How we handle expedited cases, E-submissions and planning for e-filing that is soon to come our way. He has been instrumental in the court's outreach program both in-house and when the court has traveled to law schools and to other courts. When I said that we ought to live webcast the court's oral argument sessions in the Supreme Court agreed unanimously, Frank made it happen. Not only in English but also in Spanish. Frank, I could go on and on but we will find another opportunity to apply the work you have done on behalf of the many years you have served the judiciary. Thank you, Frank, for all that you have done for council, the court, for me and for our friendship. Thank you. [applause]

>> If I could just take a brief moment of personal privilege to respond. First of all, thank you, Chief for the promotion to Justice Frank. [laughter]

>> Well, it always felt like that. [laughter]

>> I could not have been more honored and privileged to serve on this council for the past three years and to have served four-plus years as the court administrator of the court of California. This is a very bittersweet moment for me personally. I am looking forward to the next stage of my life and to retirement. I would just like to end that by saying that the branch cannot be in better hands under the steady, tireless and visionary leadership that you have exhibited throughout the branch here on council, at the court, and in everything in all that you do and I thank you for that.

>> Best wishes to you and Trevor in your future joys. Thank you. [applause] I have your book.

>> Our first item of business is the approval of the minutes of July 29. After you have had an opportunity to consider them, I will entertain a move to adopt.

>> So moved.

>> Second.

>> All in favor say aye?

>> Aye.

>> Minutes are approved. Thank you.

>> First on our agenda is our regular report as Chief to the council summarizing my engagements since our last meeting July 29 with many of you, thank you for being there. In San Jose, I attended the 2016 Bernie Witkin Judicial College. We have some 88 new judicial officers who were present for their two-week mandatory training. The college is a major undertaking and I want to congratulate Judge Theodore Weathers, who is the dean and chair of the Governing Committee of the Center for Judicial Education and Research, as well as Associate Dean Judge Pat Lucas and all of the jurists who acted as seminar leaders and faculty, including Judge Taylor, who I know is a seminar leader at the college. And of course, Dr. Cowdrey and her staff for supporting the college.

>> I spoke at a luncheon in the very first week -- they were brand-new -- they were at their tables -- it was early morning. I want to tell you about the enthusiasm and the interest and the collegiality that is already forming with the 88 new judges. I shared my own experience in judges college some 26 years ago and as a new judge and a little of the branch history that they are becoming part of and that will be part of their pedigree, and also discussed some issues that Judicial Council is working on about budget and Access 3D and becoming eventually involved in the work of council. One of the courses that is taught at the college is spoken-language interpreters, which has been offered for over 20 years. It has been updated with content that is recommended in the Judicial Council-approved Language Access Plan. In San Francisco, I had the honor of delivering the keynote address the general assembly of the American Bar Association's annual meeting. I was happy to see so many judicial leaders as well as lawyers in the ABA. I shared an overview of California's diverse population and judicial system structure with this national audience. Also, the impact of a majority-minority population with a limited English proficiency and a language other than English being spoken at home and the impact of that on a justice system that seeks to provide access to justice to all. I took the opportunity to ask the lawyers that were present to continue to be a voice for change and to be a voice of peacemaking to calm the voices and bring people together to have a discourse that will move us along and progress. I asked them to know their strength and to use it. Just recently, I participated in two video projects. The first was for the Foundation for Democracy and Justice. They are a group of legal professionals. Their mission is to strengthen California's understanding of the three branches of government but also and more important to me and my involvement is that

they have a particular emphasis on explaining and having people understand the importance of a strong, independent and impartial judiciary. For the California Humanities Project, I participated in a video to help celebrate the nonprofit's 40th anniversary of promoting humanities in California in order to create a state of open-mindedness. Along with STEM, the idea that the humanities and the study of it will help make for a well-rounded person in California able to confront the challenges of such a diverse and populous state. That concludes my report. I will now turn it over to our Administrative Director Martin Hoshino for his report.

>> Thank you, Chief. Bonjour, members. Here, in your pocket of materials, the usual written report is there. It is shorter than usual owing to the shorter interval between the last meeting and this one. I have a couple of things to highlight and make the members aware. The Resource Assessment Study for which you all had a briefing in the public education session yesterday, the field work is underway in some of the courts in order to provide an update for that study which will lead to an update eventually to the allocation model that you also heard about yesterday. The other thing is that the traffic fines and fees work that is occurring, Legal Services is providing assistance to a number of courts in that area. The staff recently presented to the Rules and Projects Committee and started to circulate for public comment a number of rule changes that this council actually initiated by delegating more tasks to the lower committees in this area.

>> There are proposals that are circulating regarding improving notice and opportunities to be heard, ability to be paid, installment plans, community service and the like. I wanted to make the members aware of that. Also, a fair amount of staff work occurring in the construction program for which you will have a longer report from Justice Hill later in your agenda. The last thing in terms of awareness, where we are in terms of legislation. We are in the last waning days of a two-year session. Judge So may talk about this more in his particular report but to remind folks that most everyone had received a report from the Governmental Affairs Office about some of the activities. Those reports are also on our public website. We began the month of August tracking a lot of bills but in particular tracking 12 bills that we else had potential significant fiscal impacts or effects on our court operations. Most of those were ultimately held in the appropriation committees in the Legislature in the list that we are tracking is now down to four. I want to take a minute to explain because I don't want the public to have the wrong impression about why it is that we pay so much attention to this. It is not just about dollars. There is more to the story than just having fiscal challenges in the branch. The reason why we work so hard to either amend or alter the legislation in this area is about a balance act between all of our operations and our services.

>> It means that without appropriate funding, it means that our courts are having to make choices about other vital services that are there. It is not just necessarily about the dollars. It is about the limited amount of resources that are available to still function. If a new mandate or new responsibility is passed on to the courts and it is not appropriately funded, then the net result is that something else has to give somewhere in the system because of the finite world that we operate in. I just wanted to make it clear that we are not always about the dollars. There is something behind it. There is the deprivation or the delays that might occur in the world of civil,

juvenile, and family matters and criminal proceedings. I think it is important to keep putting that in context because we are spending a lot of time and a lot of focus just on the fiscal impact of many of these particular bills.

>> The last awareness issue is this fines/fees formula which we have been talking about for quite some time. We will continue to have focus. We expect that there may be some engagement on this issue next year with the Legislature and/or the administration. I would also let you know that very soon the National Conference of State Court Administrators, which is the national organization that I sit on with my peers, is very close to releasing a report on this particular area that seeks to provide a set of principles but also some practical guidance for courts throughout the nation and here in California on how to manage obligations -- legal and financial -- that are imposed on its citizens and it will connect with this particular issue and hopefully it will provide some advice, when it becomes available, because we are about to vote on it. We will make sure it is available to our courts also. After the session ends with the Legislature, which will be this next Wednesday, you can expect that Governmental Affairs will provide a report on the final actions that occur there. Then, we will also track them, because it will set in motion a 30-day clock for the Governor to sign or veto bills or let them stand and become law by the natural effect and operation of the 30-day clock. With that, I conclude my report.

>> I also want to take an opportunity to welcome Judge Gordon on the line. Good morning. Thank you for joining us by phone.

>> Good morning. Thank you so much.

>> Next we will hear from internal committee presentations. We call on Justice Doug Miller from E & P.

>> My full written report will be posted online. Earlier this summer the Executive and Planning Committee met to review hundreds and hundreds of nominations for our advisory boards. One of the tasks of the Executive and Planning Committee under our Rules of Court is to recommend candidates to the Chief Justice for appointment to the Judicial Council and its advisory bodies. The Judicial Council relies on the knowledge and service of more than 500 justices, judge commissioners, referees, court professionals, attorneys and justice system partners to volunteer their time to serve on the council, its internal and advisory committees, task forces and working groups, all with the support, resources and expertise of our excellent Judicial Council staff. These advisory bodies keep the council aware of the issues and concerns confronting the judicial branch, as well as solutions and appropriate responses. The council has advisory groups looking at issues such as jury instructions, family law, collaborative justice, court facilities, technology and much, much more. This year, we were recruiting for vacancies for 22 of our advisory bodies. We reviewed 512 applications, keeping in mind the Chief's emphasis in ensuring diversity, experience, gender, ethnic background and geography. We forwarded our recommendations to the Chief Justice and in August she announced 49 new appointments to the council's advisory bodies. We welcome their participation and their many viewpoints and again we thank them for their time and their service. And Chief, that concludes my report.

>> Thank you Justice Miller. Next we will hear from Judge So from Policy Coordination Liaison Committee.

>> Our committee has been quite active, since this is towards the end of the legislative session. I would like to thank them for always being on time and always being prepared because sometimes we have to call a meeting on short notice so that the committee can take a position on behalf of the council. I am pleased to report that a new resource has been adopted. We have a summary of all the PCLC actions that have been taken and that is in a chart now available on the committee's webpage on the courts website. The summary chart is updated after each PCLC meeting and includes bill number, description and all of the PCLC action. I will not describe all of the actions that the committee has taken. We have dealt with flash incarceration, forfeiture and drug offenses, human trafficking, electronic court transcripts and we have taken positions on behalf of the council. This is all exciting. The fact that there may be a bill which allows court transcripts to be transferred to the appellate court is very helpful to everybody. One of the positions that we dealt with in Senate Bill 881 -- and as Martin has indicated -- we have had to balance our position, knowing that this was going to affect how our courts are funded. As Martin indicated, that also means describing and dealing with services that might not be able to be provided to the public, so this is a dance. It is a tightrope that we are walking on your behalf so that we can provide input to the Legislature so that ultimately the citizens of California will be well served.

>> I am glad to report that I think that that bill is in a position where it will not substantially hurt our court family. As Martin has indicated, the last day for each house to pass bills is August 31. The Governor will have until September 30 to sign or veto those bills, and we will be talking with you and we will be coming back and reporting on all of those bills, and we are getting ready now for the next legislative session. Chief, that concludes my report.

>> Next we will hear from Rules and Projects and I call on Vice-Chair Judge Brian Back for that report.

>> Since the June 26 Judicial Council meeting, the Rules and Projects Committee met once and communicated by e-mail on one matter. On August 6, RUPRO met by telephone to consider two items that had been circulated for comment, and a request from the Civil and Small Claims Advisory Committee to amend its annual agenda, and a request to circulate three proposals on a special cycle, and one informational item. RUPRO approved circulation for comment on the three proposals, which after review of comments by the proponent advisory committees and RUPRO, are expected to come before the council at the October business meeting. RUPRO also approved amendment of the annual agenda for the Civil and Small Claims Advisory Committee and recommends council approval of the two proposals that circulated for comment, items 16-132 and 16-152 on today's consent agenda. We communicated by e-mail on August 10 to recommend approval of a proposal to amend rule 10.804 on superior court financial policies and procedures. This proposal circulated during the spring comment cycle and is recommended for approval at today's meeting. It is item 16-150 on the consent agenda.

>> Next we will hear from the Judicial Council Technology Committee, Justice Marsha Slough, chair.

>> Thank you and good morning. JCTC has had three meetings. Two by telephone conference and one in-person meeting since I last reported. We have the subgroup working diligently on the Sustain Justice Edition court budget change proposal. We have some of our IT staff members who have been pulling all-nighters, gathering the data, getting the reports ready and moving forward which will really assist those small courts in being able to move to modern case management systems. I just want to say up front thank you to all of the IT staff for all of the good hard work that you are doing on behalf of those courts that desperately need that help. The Information Technology Committee has met twice. They get briefings regarding the progress of all of the work streams that were referenced yesterday during the presentation. I won't go into each individual work stream. I will simply say that those are effectively addressing the technology issues which are consistent with the Access 3D initiative. I attended the National Association of Court Management, which was held in Pittsburgh in July. Judge Buckley was also present at that conference in his role with the Los Angeles Superior Court. There were a lot of really good technology presentations at that conference. One, in fact, was presented by the CIO from Los Angeles, Mr. Snorri Ogata, who presented on IT governance. Also, Heather Pettit, the CIO for Contra Costa, presented on the topic of improving courts' presentations through information technology. In fact, at that meeting, they offer awards for the top 10 technology initiatives in the country and actually in the world. Los Angeles won second place for their avatar, Gina. Congratulations.

>> Gina is very upset. She wanted to be No. 1. [laughter]

>> I can tell you that, knowing who won first place, and I congratulate them -- Gina should have won first place. [laughter] In addition, Judge Buckley and I had the opportunity to present at the most recent Court Executive Advisory Committee. We discussed with them what is going on in technology as far as our perspective, but more importantly we wanted to hear from them, in what their perspective and needs are as it relates to branchwide technology and what we can do to partner better in the coming years. On July 27, we had a JCTC meeting where we received updates on the V3 budget change proposal, which was successful in the Governor's budget this year. We also had updates from Jake Chatters and his progress -- the Placer court hosting consortium -- they are taking over some of the hosting duties from the branch IT staff and Jake and his court are really stepping up to help some of the small courts by hosting their data. What is it called, data exchange system?

>> Network.

>> Thank you. At yesterday's JCTC meeting, we approved various proposed rules of court changes dealing with e-filing, e-services, and we also approved going forward with a hopeful legislative proposal to authorize permissive e-filing and e-service in criminal proceedings as well. I will conclude my report by saying a great thanks and acknowledgment to Justice Bruiniers. Justice Bruiniers has served on ITAC and was probably called something else before it



was called that. He has been on that committee since 1999. I asked him yesterday if he ever dreamed in 1999 that we would be talking about e-filing back then. He said no. Back then we were worried about the Y2K bug. That is what they were dealing with back then. He has been the chair of ITAC since 2012. He will be stepping down as its chair and really, we owe him a great deal of gratitude and thanks for all of the long, hard, tiring work that he has done. We have made much progress thanks to him. Taking over as chair will be Judge Sheila Hanson of Orange County. She has been a member of ITAC for several years and she will do a great job attempting to fill his shoes. The new vice-chair will be Justice Louis Mauro. Chief, I want to close by also thanking Mr. Bonino. He has served on JCTC during my tenure on this committee and he always brings a perspective that is so needed to our table during our meetings. He brings the outside perspective. Sometimes we get myopic and we only look at it through our own lens. Hearing from someone who is a lawyer, who practices, who uses our services, who needs our services and who wants our services improved for him and his clients, it has proven to be a great benefit to us and I thank you very much for helping us. I wish you the very best. That concludes my report.

>> Thank you Justice Slough. Now we will hear the first-ever committee report from our Judicial Branch Budget Committee Chair Judge David Rubin.

>> Thank you. This is the first report of the council -- I will start again. Thank you, Chief. Thank you council members. This is the first report of the council's new Judicial Branch Budget Committee. By way of brief background, the Chief announced the creation of this committee and its membership roster at the July 29 council meeting. As the Chief then explained, the committee's charge is to administer the \$10 million branch emergency fund, \$25 million court innovations grant, coordinate judicial branch budget change proposals that go to the Department of Finance, and any other budget tasks assigned to the committee. The committee membership, besides me, is Justice Jim Humes, who serves as our vice-chair, Judge Marla Anderson, Judge Jeff Barton, Judge Kyle Brodie, Judge Gary Nadler, Judge Dean Stout, Ms. Audra Ibarra, attorney, and Butte County CEO Ms. Kimberly Flener. Our counsel staff support is provided by the very able Lucy Fogarty.

>> This is a hard-working, committed group of council members who have met twice in person for educational and orientation sessions since July 29. The committee members view their task from a branch-wide perspective mirroring the approach of this body. Through our work, we will seek to promote the efficient, fiscally prudent, effective, and fair allocation of limited resources, reflecting our branch's overall statewide interests. On a personal note, I want to thank the members and staff for their willingness to devote so much of their time to this effort so quickly. Chief and council members, all of us on the budget committee look forward to working on the important matters we have been assigned. Thank you for the opportunity to participate in this project. That concludes my report.

>> Thank you Judge Rubin. The next two items on our agenda are the liaison reports and the public comment. I turn those agenda items over to Justice Miller.

>> Thank you, Chief. Our one liaison report will be from Judge Brian McCabe of El Dorado.

>> First, good morning, Chief and council. Thank you, Cyrus Ip, for the many times that you have provided great IT service. He is the wizard behind the curtain. This is the liaison report for a visit to the El Dorado Superior Court on August 17, 2016. El Dorado County is located in the historic Sierra Nevada Gold Country and is due east and adjacent to Sacramento County. It is one of the original 27 counties of the state of California created by official act in 1850. The current population is approximately 184,000 people. El Dorado is Spanish for The Golden.

>> A few pictures of El Dorado County. First, this is the historic downtown Placerville. Here is beautiful Lake Tahoe. El Dorado encompasses the foothills in the west and abuts the state of Nevada near Lake Tahoe to the east. The presiding judge is Suzanne Kingsbury. The CEO is Tania Ugrin-Capobianco. The El Dorado Superior Court presently consists of eight judges and one commissioner. Fiscally, El Dorado has an authorized budget of \$9,157,962. It is a court that does not benefit from the application of the WAFM formula. Staffing has been relatively maintained. In fiscal 2010-11, the schedule 7A was 88 filled, 11.5 vacant and a total of 99.5 compared to the current fiscal year numbers of 75.6 filled, 22.9 vacant for a total of 98.5. The caseload for the last year was 17,729. The court system consists of five facilities which are grouped into three general areas in the county. One in Cameron Park, where the red star is to the left, three in Placerville area and one in South Lake Tahoe. The westerly most facility is located in Cameron Park and is comprised of two departments handling 70% of the county's civil unlimited in addition to the civil limited small claims and unlawful detainers. Space is limited and facility design is not conducive to courthouse security needs. The entrance to the courthouse, where customers pass through the security, use the court computer for searches and interact with court staff at the clerk's office window, also acts each week as a makeshift jury assembly room. Approximately 14 miles away from the Cameron Park courthouse is the juvenile courthouse complex near the county government center in Placerville where the red star shows on that map. The county probation traded the facility to the court. El Dorado has a unified juvenile court handling dependency and delinquency cases in the same facility and courtroom, as well as probate. The facility is sturdy in construction, however lacking in overall usable judiciary space. Its design did not contemplate its use as a courthouse for use by the public, adult in-custody transportation, etc. There are no adult holding cells or interview rooms. A research attorney's office is used instead. The courtroom is narrow and intimate in space. The next facility is approximately 100 yards away and is a county-owned and shared facility. High-volume criminal arraignments, pretrials and traffic cases are handled here in the single courtroom located in the basement. Court administration is located here also. On the main floor, court customers must use a courtesy phone to contact court administrative staff, who then appear and interact with the public. The TV show Get Smart's beginning came to mind when I appeared in that courtroom. The county and court areas of use are unmarked and undivided. County to the left, the files on the right are the court's. Some areas of the court areas the county's. The closest cubicle is the court. Those in the surrounding area are the county. Thankfully, they coexist and get along. The facility has two small holding cells, yet it has ADA issues along with various security needs. About 3 miles away is where the historic courthouse is located in downtown Placerville. The

photo shows the courthouse when it was under construction in 1912. It was commissioned in 1913. Here is how it looks today. There are four courtrooms handling criminal and family law, including Family Court services in the basement. The grand old building has seen its day. It is plagued with seismic, ADA, environmental, functionality and severe security issues. Parking is open to the public. In 1962, engineering consultants noted serious structural deficiencies and recommended the building be abandoned. The county elected to remodel, to repair sagging floors, etc. The building was rededicated in 1971. Unfortunately, asbestos products were used to remodel. The airflow is limited and requires running an endless number of window-mounted air conditioners in the summer or opening windows in the winter to allow fresh air in to move the stagnant, musty air. The water is lead laced and thus non-potable because the old pipes were made out of lead. Repairs are not attempted because the walls have asbestos. The temperamental elevator usually works, although it was broken for three months not long ago. It was repaired, yet a deputy was trapped two weeks ago when it decided to quit working. Disabled litigants and staff had to be carried upstairs. The family law court room has line-of-sight issues, not to mention the windows overlooking the highway and developed hillside. In-custodies for criminal court unfortunately are routinely are marched out to the elevator and by members of the public, including children awaiting interview by Family Court services mediators. There is no secure sally port, holding cells, interview rooms, or jury assembly room. The last facility is located approximately 60 miles from Placerville in South Lake Tahoe. Four courtrooms are handling all case types. It has security issues including open parking to the public. Notably, the court experiences the four seasons and its corresponding elements. It also has encounters from time to time with bears, as shown in this picture, preparing to dumpster dive. Along with raccoons, coyotes, marmots, rats, lizards and that's just to name a few. These nature challenges produce hazards, inconveniences and interesting stories. Although El Dorado is in the acquisition phase for a new courthouse and based on the current circumstances resulting in scarce construction funds to the branch, it is anticipated they will not be able to proceed beyond the current phase, nor complete construction of new courthouse, any time in the near future. Nonetheless, staff morale appears to be high, and I sensed a true Olympian-style team effort underway to perform the work of the judiciary for the people of El Dorado County. Access to justice being provided the best way possible given the various location and building challenges. The hospitality extended to me was first rate of the judges, court administration staff and court security. Bravo, El Dorado County Superior Court. This concludes my presentation and a copy of this written report and PowerPoint have been lodged with the council. Thank you, Chief.

>> Thank you Judge McCabe. It is an honor for your last service to provide that liaison report and thank you. Next will be general public comment. Again, for those who are here for general comment, we appreciate the time and effort you have made and look forward to hearing your comments. Please remember these are comments related to general judicial administration. We are not an adjudicatory body. We can't make a decision on individual cases. We ask you to please to refrain from speaking about your facts and your individual case or the parties or attorneys or judges involved. If you bring it up, I will ask you to move on to the next area. Our first individual today is Maryanne Cunningham, who is on the phone. We will make that dial-in information. Right now, it is three minutes each. I will give you a warning at 30 seconds.

>> Go ahead, Maryanne.

>> I would like to thank the council and honorable members present today for allowing me to speak. I realize that your time is very valuable and I appreciate the courtesy. My primary goal and objective is to ask this honorable council to consider having meetings in the future to review ADA policy 25 years after the law to review where it stands in terms of access to our courts. When I see the disability act, I think of equal access under the law and dignity and respect for every person who has a matter before the court. Under California policy, it is based that the courts ensure that persons with disabilities have equal and full access to the system and the judicial court prides itself on this commitment. Unfortunately, there are court houses that do not meet the ADA standards for accessible design and they are not compliant. For example, the San Francisco Civic Center courthouse has barriers from the door and throughout the courthouse. My questions today is to put forward is, what would happen if a specific court building is not compliant that took occupancy after 1992? What happens if there is no judicial officer to speak with on this matter, or if the ADA coordinators are untrained in the ADA laws? I am interested in seeing reasonable ADA accommodations be consistent and that the practice be equal throughout the court system. I understand that court houses are older, but most of the ones that I am speaking to took occupancy after the law was made. I won't go into any specifics. I don't want to take your time in doing that, but I do believe that in the case of the San Francisco civic courthouse, they know they are not compliant. Recently, in the past, San Francisco fire drill was announced and they had advance notice and they stopped all persons with disabilities at the door that had business with the court. We had to wait until the fire drill was completed, which was 90 minutes later. I come before this court respectfully requesting that the council look into the practice to make sure that all court houses and all ADA coordinators are following the spirit and intent of the law and that the court houses are compliant and if not, reasonable accommodations be made for persons that need access.

>> 30 seconds.

>> Thank you. I don't want to take any more of your time today. I just wanted to share that one point and ask that the body consider having this matter on an agenda now that it is past the 25th anniversary to ensure that it meets the spirit and intent of the law.

>> Thank you very much. I encourage you to go to our webpage and watch the rest of the meeting. Thank you very much.

>> Next is Roberta Fitzpatrick. If I could have Thomas Portue, and I apologize if I did not say that correctly, come to the gate and be available to speak next. Good morning.

>> Good morning. Chief Justice and members of the council, I am Roberta Fitzpatrick from Santa Clara County. My younger brother Jim, the third born in our family, was found dead in his apartment on July 15. He was a Vietnam veteran, decorated for saving lives under fire. He was also treated to many showers of the infamous herbicide Agent Orange. You are probably wondering what all that has to do with the administration of the courts. It has to do with

dangerous policies, whether decided by the military, the federal government or the Judicial Council. Short-sighted policymakers decided to pour a dangerous herbicide on millions of people including my brother and his army comrades. He and many others suffered the increasingly debilitating effects of Agent Orange. In addition, flashbacks and nightmares plagued him until he died. Your policies, written and unwritten, have facilitated the physical abuse, the sexual abuse and the murders of many children, yet you blindly refuse to examine the consequences of your policies. Your policies also inflict years of suffering on defenseless children and their caring protective parents. My great-nephew, Alesia's brother, as an adult, said to me, we had a good life until they took us away from Mom. To make and execute policies that harm people is immoral. Please have the courage and the integrity to examine your policies, listen to the people you are committed to serve and make substantive changes to really benefit children. Thank you.

>> Thank you. Sorry for your loss. Thomas Portue and Catherine Campbell Raffa.

>> Good morning ladies and gentlemen. I want to thank you all for giving me the opportunity to speak this morning. I hope this is the correct venue for my very short presentation. It is related to judicial accountability primarily. If you will allow me to read this brief two-page statement, I appreciate your time. My name is Thomas Portue. I am speaking here today as a resident of Contra Costa County. I am here because I am deeply concerned about the matter of judicial accountability in California. In November 2004, I submitted a written complaint to the California Commission on Judicial Performance. That report outlined a detailed account of a Contra Costa judge's blatant improprieties and violations of the Judicial Council's Code of Ethics. Over the past 12 years I have written the CJP on numerous occasions requesting a response to my complaint, more than 15 letters in total. All that I received from the CJP was a response letter thanking me for my well-written and well-presented complaint, their response went on to say without further explanation that my complaint was unfounded and therefore closed by the commission. However I am deeply concerned that the judge I complained about has strong political ties to both the CJP and the Judicial Council. These are facts that I can prove, but they have fallen on deaf or partisan ears. In addition to my own ongoing concerns, the national organization known as Judicial Watch has also written director Victoria Sanders on my behalf to express their interest in this matter. Both Judicial Watch and myself were deeply distressed by the commission's lack of transparency, accountability and failure to offer acceptable responses to concerned California citizens. Canon 2 of the California Code of Judicial Ethics states that a judge must avoid all impropriety and even the appearance of impropriety.

>> 30 seconds.

>> A judge must expect to be the subject of constant public scrutiny. It must be said that the CJP must also avoid the appearance of impropriety. They as well should be subject to constant scrutiny. When the commission fails to respond to meritorious complaints under what I perceived to be the cloak of judicial privilege and immunity, there exists far more than a mere appearance of impropriety. My colleagues have recently shed light on the ineffectiveness of the California Commission --

>> Can I have you provide your written comments to us and I will make sure that the rest of it is distributed to all of the council members?

>> Thank you very much.

>> Please hand it to Ms. Jodi Patel right there and we will copy it and have it delivered to all the council members.

>> Thank you so much.

>> Next, Catherine Campbell Raffa, and if I could have Joanne McReynolds next.

>> Good morning. I am Catherine Campbell Raffa. I am from Santa Clara County. I am here to report we have a consistent problem of partial injustice that is being administered in our family courts. I will continue to be a voice until I know that children are safe in our courts. Last month when we were here, Justice Humes talked a lot about funding. This is something I don't spend a lot of time on and I'm sure a lot of you do. I heard that when there is success, that there is less funding. That is concerning to everyone. He talked about the workload allocation methodology. That is 10% of the budget in 2013 going up to 100% of the budget in 2018. This really concerned me because I have become very aware of what is happening in the family courts. I am not sure. Hopefully none of you had to go through. What I am realizing is that the experts that are brought into the court to help learn how to churn these families until these families go bankrupt. It is concerning that things that could be taken care of in the first session -- abused children placed with the abusers, women who want to divorce their husband for various reasons and actually lose their children for no grounds -- because these evaluators are coming in and the judge listens to them, and we understand the timing and why that is helpful to the judge -- what is not helpful is when these evaluators are not actually presenting the truth. I have seen that countless times. It is very concerning. We have a problem here where there is a cottage industry that has been established and they are presenting false evidence. Children who are being sexually abused, physically abused, even emotionally abused are actually being placed with the abuser, taken away from a protective parent. That is very concerning that, if we create more cases -- because these evaluators will continue to be paid, the lawyers will continue to be paid -- that there will be more court cases. I don't want your funding to be for that. I actually want the funding to be for truth and justice. I really ask you to be aware of, when you are doing your budgets, how the churn is happening within the family courts and how we can alleviate that. Thank you.

>> Thank you. Next is Joanne McReynolds and if Connie Valentine could be next. Good morning and welcome.

>> Thank you so much for allowing me this time. My name is Joanne McReynolds. I am from Patterson, California. 261270, 261270, 270.1, 270.5, 270.6, 271.5, 272, 273.1, 273.4, 273.5, 273.6, 273.65, 273.7, 273.75 and finally 263.1 of Joe Sweeney and 1880 of myself. Even though I am standing here before you, I am dead to my sons. If we continue on this path we are all guilty of abating, aiding and abetting of those crimes if we continue to follow and to allow judges to

hide behind their black robes when they are surely guilty of malice against our wonderful state of California. Thank you so much.

>> Next is Connie Valentine and then if I could have Cherie Safapou next. Good morning and welcome.

>> Thank you for hearing me again. I am Connie Valentine from California Protective Parents Association. I want to talk again today about making child physical and sexual safety the first and highest priority in family courts. This is not currently happening statewide, as you know. I would like to give a brief example. A father, convicted felon batterer on probation with a 10-year restraining order of no contact with his children in Contra Costa County because he nearly killed their mother. However in your locality, the judge gave full custody of two toddlers from another relationship to this father. A temporary judge heard the evidence and stayed the order. The other judge gave full custody to the mother, and most recently another temporary judge gave the father full custody, yet, because of the danger to the children, said the children had to go into foster care. This makes no sense. But it happened and I watched it play out. What you have heard about churning cases is happening there Yolo County. This is all despite the fact that we have laws to keep children safe. Young children who spend one night away from their primary caregiver are at risk for developing attachment disorders. This can lead to anger, cognitive language and academic difficulties, and conduct disorder. Foster care not only creates attachment disorders but is rapidly becoming the largest pipeline to child trafficking. Foster care is no place for children particularly when they have decent mothers. Couple those disorders with the fact that since this felon batterer has custody now he may likely end up with full custody of the children. Batterers are highly likely to injure their children as severely as they injured their spouse. He almost killed his previous spouse. These toddlers may not come out alive. If they do, they will be damaged for lifetime. This is just one of a stream of children in danger by family court decisions every day. When such serious system concerns are brought to the board of directors of large companies, they are usually quickly addressed. Chief Justice, you are a mother and you are a daughter. You are a domestic violence specialist. You and the Judicial Council have a responsibility to develop policies to stop this madness. Thank you very much.

>> Thank you. Cherie Safapou and then Judge William Davis. Good morning.

>> Good morning. Ms. Safapou has ceded her time to me as she is feeling ill. My name is Kathleen Russell. We all know that almost daily there is news happening around a certain judge in Santa Clara County. Yesterday was no exception. I would like to remind you that there is a cultural problem in Santa Clara and across the state. The judicial culture in California is minimizing the impacts of violence. You are minimizing the impact of violence in criminal court and in family courts across the state. In the Brock Turner decision and beyond. Moving judges from criminal court to civil court is not going to solve this problem. We need to see more leadership from this body and from the branch to deal with this issue. It is not going to go away. The media is coming. We are working with no less than seven investigative news teams across the country to expose the harm to children and sexual assault survivors throughout the court system. California is not immune to this. A number of those investigative news teams are in this

state. The reason I do this work, I don't have a case in the courts. I have never been a litigant. I don't like a bullying. What we are seeing when we get calls and e-mails every day to our organization is judges and the court appointees are bullying California residents. It is harming families. It is bankrupting families. It is traumatizing sexual assault survivors and it needs to stop. Thank you.

>> Thank you. Judge William Davis?

>> Good morning Chief Justice and honorable members of the Judicial Council. My name is William Davis and I am the presiding judge of Siskiyou County Superior Court. With me is Mary Frances McHugh. The reason that we are here today and providing comments this morning is to bring focus to an issue that merits the Judicial Council's consideration and action and to emphasize by our presence how critically important this issue is to our county and to several other counties. The issue is this. Assuming the council adopts the recommendation the court facilities advisory committee today, the 17 courthouse construction projects in process will be allowed to complete their current pace. But then they will be on indefinite hold which means that without further authorization from this council, the projects that have completed site acquisition will not have the resources to keep their building sites safe and free from blight. By way of background on our project, we fully expected to have started on construction early last month. The report acknowledges that we have all final approvals and we even had bids as of last April. They expired a week ago. We were ready to move forward and expected to do that. We certainly understand the dire circumstances that CFAC has to do with and we are deeply disappointed but our principal concern here today is to address the deterioration of the project sites so there is no further damage to the community, which has already been devastated by the delay of the project at this advanced stage. At least four of the other courthouse projects throughout the state have the same issue. We are aware that capital projects is concerned and is working on tentative plans to deal with the blight mitigation. We hope that you will give him your support in developing the solution to this issue we need to maintain our site so that it is ready when the project restarts. The buildings on the site have been unoccupied for over a year. Utility services have been terminated. The yards are brown. Vegetation is dying. Transients are regularly breaking into and occupying the buildings. We are certainly not the only project in the state that has this problem. I know that as a fact. Shasta County has the same dire issue. We will keep faith with our local communities by preventing further deterioration of our project sites and preserving them for future courthouses. We believe that protecting the status of the sites is in keeping with completing the current phase that we are in. We ask for your support in this regard.

>> That concludes public comment.

>> Thank you. At this time, we will take a 15-minute recess and reconvene at 10:15 AM starting with our consent agenda.

>> [The event is on a 15-minute recess. The session will reconvene at 10:15 AM Pacific Standard Time.



>> Next we have 12 items. They include reports on a court audit, the five-year deferred maintenance master plan, two reports to the Legislature on the meetings of our advisory bodies and trial court allocations and reimbursements, the fourth annual court realignment data report, revisions to criminal jury instructions, court-funded facility requests, small budget maximums, lodging reimbursement rates, amendments to rules relating to the Trial Court Financial Policies and Procedures and Judicial Council staff education, a design-build delivery method and prequalification process for the Hollywood courthouse project, and a policy update for deferrals of conversions to judgeships. As always, we appreciate the many hours of work put in by the advisory committees and the staff supporting the advisory committees that brought these recommendations and these well but it reports to us for consideration. Is there a motion to move the consent agenda?

>> Moved.

>> Second.

>> All in favor? Any abstentions? The consent agenda passes unanimously. Next is our discussion agenda. I invite our presenters to the table to introduce yourselves. This is our item titled Fiscal Year 2017-18 Budget Proposals for Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities, Trial Courts and Habeas Corpus Resource Center. Thank you, Zlatko Theodorovic, for being here. I think Martin, before we start, you have some --

>> What you are about to hear in your materials as well as in the presentation from Mr. Theodorovic is the budget change proposals that we are looking to submit on behalf of the branch's Department of Finance by their particular due date, which is September 2. Similar to last year, what I wanted to do was to talk about how we were able to put a method together to at least rank in some semblance of order for the council before you deliberate or discuss it or talk about it. What happens is a number of committees, up to seven or so, each with their purviews of the budget change proposals that are in their area, work on these budget change proposals and then they are asked to rank them in a priority order according to their particular purview. They do that, but because there are seven committees and there isn't one committee that does that, we take all of that input in from the various committees, and then we are also listening to folks at various times within that branch and within the committees as well as council members. We are also knowing some of the discussions and the history some of these BCPs are not a case of first impression. They have been worked over the course of many years. That experience that we are having with the Department of Finance with the staff level and at the capitol office, executive level, and as well as what has happened previously in legislative and the committee staff and the like, we try to impose our best professional judgment of what it is in order that we can submit a list to you so that you can contemplate that today. We put them in this particular order in this fashion because the only alternative to that that we have thought of is, let's just put 17 without any order in front of this body and then have the body engage in the process of prioritizing them. Many times recommendations come to a starting point, so this is how we have the starting point for the discussion today for how we put the list together.

>> I believe we might have some public comment before I start my comments.

>> Thank you for the reminder. We have David Yamasaki.

>> Thank you very much. Good morning. My comments this morning -- let me first introduce myself. I am David Yamasaki. I am the executive officer for the Superior Court in Santa Clara. Comments this morning relate to this particular item on your agenda. It requests the prioritization of the BCP that are going to be submitted for consideration by the Governor or the Legislature. I am asking that you consider a slightly different approach in the submission of the first listed priority. As a member of the Trial Court Budget Advisory Committee, I supported all of the BCPs as they relate to the trial courts with the exception of the first listed priority. This particular item has three elements. One is for general trial court increases. One contains a provision for funding to support cost-of-living adjustments. The third piece of that would ask that those monies be distributed using workload allocation funding methodology. I oppose this particular item not because I disagreed with the need for additional funding for general increases and funding for cost-of-living adjustments which we had not received for many years, but because they were contained in a single item and that those monies would be distributed using WAFM. As one of the principles that was involved in the development of WAFM, I supported this program. It was the right thing to do. I continue to support it. There are some elements contained in the formula that were not considered at the outset. I wanted to make sure there is an opportunity for me to express one of the issues. That is, in my view, the language contained in BCP 1 would have a pretty significant impact to contributing courts like Santa Clara. As an example, a 2.5% increase in cost-of-living adjustment for our employees would be something on the order of \$1.8 million. Calculated through WAFM, that \$1.8 million gets reduced by almost half, which obviously would be a significant impact to our court and our employees, especially since we have not received any increases for a very long period of time. My proposal for you to consider is to separate out those items, the cost-of-living adjustment with the general trial court increase, and remove any requirement that those monies be distributed through the WAFM formula. If this occurs, I think that the additional time would give us the necessary details to make a more informed decision.

>> Thank you. Next is Joy Ricardo. Three minutes and I will give you a 30-second warning.

>> Thank you and good morning. My name is Joy Ricardo. I am the managing attorney at East Bay Children's Law Office in Oakland, California. I am representing Alameda County. I am also representing our donor counties of the dependency counsel. They include San Francisco, Alameda, Santa Clara, San Joaquin and San Diego. I really appreciate keeping the dependency counsel budget as a priority. As you know, foster youth are some of the most vulnerable members of our population. They deserve to be well represented and have quality representation. The cuts that we are facing this fiscal year and possibly next fiscal year could be very dramatic for our youth and our families. We appreciate the priority that dependency budget is given and we ask that you support the additional funding for dependency counsel for the 2017-2018 fiscal year so that children in foster care do not continue to fall through the cracks and that they can know who their attorneys are so that the parents can be assured that they are being represented in

a quality way, and so that the children know that they have someone that is fighting for them so their voices are not stifled. Thank you.

>> That concludes the public comment.

>> Thank you.

>> I am excited to bring to you the budget change proposals for your consideration for the 2017-18 fiscal year. I will give you a high-level recap so you get a context of what is being proposed for your approval. There are a total of 18 budget change proposals. Of the 18 items, two are representing new issues that have not been before the council. That means primarily the items that you had before you represent the work of this council and prior councils in terms of communicating critical needs for the branch. They represent operational funding, as identified in the first issue. Several technology-related budget change proposals, including a continuation of modernizing our case management systems in our smaller courts as reflected in priority Nos. 2, 6, 12 -- those are all important issues as far as modernizing the branch and helping us become more efficient. We have additional dependency counsel, as was just mentioned. We have additional judicial officers in trial courts and the appellate courts. Facility needs, which you are hearing about earlier and you have heard on multiple occasions, about our critical need for facility funding. Really, these represent the same issue, but I think we were maintaining a focus on our message to the administration of the Legislature and as Martin described, the prioritization process reflect effectively a similar prioritization that was approved by the council last year and forwarded to the Legislature. Even our continued advocacy in the spring, because this will inform us when we go to the Legislature about what our continued branch priorities are. We obviously work hard to get these BCPs approved to the Department of Finance and get them into the government budget as they are most secure in terms of the budget process. We know we made great efforts to get monies put in by the Legislature. Those were a bit more tenuous when you get to the final budget negotiations and the Governor's reviewing what he has proposed previously. Really is working hard to get this. One of the improvements this year as compared to last the presentation of materials was that there are only two items are to be determined. That means that staff worked diligently with the committees. We have gotten this process started earlier so there is a lot of input from all the advisory committees. There is great leadership from there and the members of the committees have been great in deliberations. As Mr. Yamasaki has described there have been sometimes were some of the discussions on some of these BCPs have been a bit contentious. Again, that is part of the robust discussion that we think is important for you to be aware of so that when you consider these for submission and approval that you are aware that we are not just forwarding these issues but there is good discussion by the leadership. I don't know if I need to go through each one of the items unless someone would like me to. Again, I think as I reflected, this has been many reflected -- the prior issues and have been through the committee process and a lot of discussion. I think the report does a good job of presenting that.

>> Thank you. I agree with your assessment. I will ask if council members have any questions. Judge McCabe and then Jake.

>> Zlatko, how would it work in reference to Mr. Yamasaki's comments? What he was asking was that when the BCP goes through for that item, would that money would be held until the spring when the new numbers come in and it is reevaluated?

>> Not to speak on behalf of him, but my interpretation is there is an aspect of the first BCP that's what's identified as the method by which the second component is identified as the funding to be allocated. I think that the position is should we now be determining how the allocation methodology of the resources that the discussion of how they could be distributed would be deferred to a time when the budget is presented. For example, and your last council meeting, you just approved all of the allocations that were included in the budget. To the extent that those resources were included in the budget and allocation methodology this time next year would have been discussed and we could have come back with a method, as opposed to assuming that it is due to WAFM and the reallocation process.

>> It is not necessarily formulaic now? It is subject to discussion by council?

>> I believe that would be the suggestion by Mr. Yamasaki in terms of not committing to a WAFM-based allocation of that particular portion of the funding at this time.

>> Interesting. Okay. Thank you.

>> Continuing on that and to focus our discussion around that, on page 5 of the materials on the very first bullet on the page is the item that I believe that Mr. Yamasaki and Judge McCabe are speaking about. I would like to clarify this one as well. As it currently reads it talks about \$41 million to fund and it continues on. I would like to suggest us looking at that differently. I might suggest a very specific modification to it. Very simply, after the word "fund" in the first sentence, to add "inflationary cost increases" as a small modification. In the second sentence that begins with "this augmentation would" to modify the "would" to a "could." At the very end of the paragraph, there is a sentence that says "the related employee representatives" you can add a clause there for "other inflationary cost increases." Strike the last sentence which discusses the WAFM methodology as the mechanism to allocate this item. The intention of that is to try to make sure that we have a broader approach to this item and recognize that we have cost increases that are related to employees. We have other inflationary increases as well and to give a degree of flexibility. Lastly, to the point of we don't know what it will end up with, to Mr. Yamasaki's point, this may be one where we need to look at it differently, as it does not fall plainly within simply moving the WAFM model ahead. If anyone would like me to walk through those again, I would.

>> Would you walk through them again, one at a time?

>> On the very first beginning, there were \$41 million to fund which stays. Insert "inflationary cost increases."

>> The language of where it says, “the equivalent of a 2.5% cost-of-living increase,” would that be removed?

>> It would remain.

>> The next sentence begins with “this augmentation.” Strike the word “would” and replace it with the word “could.”

>> Following onto the end of that sentence and inserting before the period “or other inflationary cost increases.” And striking the last sentence. If that is a motion, I will second it.

>> Let me ask. Jake, you are making that motion with the amendment. I understand Judge McCabe, you are seconding. Any other discussion on this item?

>> I think yesterday Judge McCabe gave a very eloquent comment on WAFM and our future in terms of moving forward. I think they were very appropriate. At this point, knowing all the uncertainty about future funding, a lot of decisions and consensus building needs to be made, developed within the branch on this particular issue in terms of how WAFM goes forward. This is an important change that would provide very necessary flexibility. Thank you, Jake, for submitting that.

>> I will call on Judge Stout and Justice Humes and then Judge Buckley. I think Mr. Chatters and Judge McCabe have resolved my concern better than I would have. I don’t think the method of allocation is necessary right now to the budget change proposal. I think deferring that is prudent. It does provide the flexibility to the branch that we need at this point in time to adjust. Again, sometimes floors can become ceilings and some of the other issues that have been raised. I appreciate Mr. Chatters. I think they’re all well-reasoned suggestions in all the changes. I would also express appreciation for the increase in prioritization of the court-appointed dependency counsel. I think we are all mindful of Judge Hernandez’s eloquent comments last night at the award ceremony. We appreciate in particular that prioritization amongst all of these other desperate needs.

>> Justice Humes?

>> I was just asking for clarification although I think some of it has been provided. If we approve the proposal as proposed without any modification, does that lock us in to distributing any funds to the WAFM method or not?

>> If the final budget reflects this proposal as submitted to the Department of Finance and forwarded to the Legislature and ultimately then, I think we would have communicated to the Department of Finance and to the Legislature that this is the method by which we would be making such allocations. Through the budget deliberations, there can be amendments and adjustments and reactions from the Department of Finance, assuming they were to put it in. They may modify it recognizing some alternative means for leaving its ability. We are saying here that

we are communicating to the Department of Finance that that is the desired method by the council to distribute these funds.

>> But if we were to amend the proposal that we would be saying to Finance that we want this money but we don't want to tell you now how we will distribute. We need to figure out how to distribute after we get it.

>> We would talk about the different ways and the pros and cons as was discussed here with the staff so they understand the scope and opportunities in the distribution.

>> Thank you. Judge Buckley?

>> I wanted to clarify, is the motion just for item No. 1 rated No. 1 or is the motion accepting the 18 in this order with that change of No. 1?

>> We need a clarification on that. It looks like if it is possible, I would ask to take them altogether with this amendment to 1 rather than one of each 18 piecemeal. I will ask counsel about that. If you are talking about 1, please do but if you are talking about any others, now is the chance.

>> As to No. 1, I thought the comments were eloquent. I agree. I don't know if I agree with the actual conclusion but now is not the time to make that decision. I strongly concur with Mr. Chatters's amendment of No. 1 because I think it gives us the flexibility and let to the decision of allocation with that kind of money be decided at a later time. As to the ranking, especially with the very unfortunate problems that we face and we may decide as to the construction challenges, we have No. 13 and No. 11 are items that deal with the maintenance of our existing buildings. The longer we go with no new building, the longer we go with having to stay in our current buildings. I do not believe anything above Nos. 11 and 13 are not critical but I do suggest that they get up to around No. 7 because we desperately need that money in order to keep the doors open of the existing and many crumbling buildings. If the motion then is for all 18, I would ask for a friendly amendment that 11 and 13 be positioned after No. 7.

>> Any discussion on the friendly amendment? It probably is not considered so friendly -- 8, 9 and 10. [laughter] Justice Humes?

>> I have a question about the prior amendment. My question is with regard to the commitment or non-commitment of the allocation of the money through the WAFM process or not, do you have a sense of whether or not we would be more likely to get the money from Finance if we did or did not include our commitment to WAFM now in this BCP?

>> I don't think so. It will not cloud the discussion, it will inform the discussion. The administration has been fairly supportive of the council having authorities and flexibility to manage resources of the branch.

>> Before I hear from you Jake, Judge Nadler.

>> I would like some clarification of where we are in this motion. I am a little bit confused. I apologize.

>> It is my understanding that Jake has made a motion, but we are still talking about the remainder of the others. There has been an amendment to item No. 1. So far, I have not heard any opposition to item 1 as amended by Jake. What there has been, has been now moving off of clarifying item No. 1 and its amendments. There has been an inquiry by Judge Buckley to move 11 and 12 of the list behind 7.

>> We are going to ask that of Jake in a minute. I was asking for a discussion on the movement. Does that help?

>> Yes. Mr. Chatters, will you let us know if that is part of his motion?

>> Jake, the friendly amendment, to move 11 and 13 behind 7? He can make the motion but we will still have the discussion.

>> So we are not to the friendly part yet?

>> And we are not voting. [laughter]

>> I think that I would amendment motion to make the revisions to item 1. We adopt priorities 1 through 7 and that is the motion and then we can handle the movement of the items up to after No. 7.

>> That is a no right now. [laughter] I realize it is a not yet. I understand you are trying to make this clean. Jake, you have basically said that you have clarified your motion to as No. 1 amended and you are asking to move items 2 through 7, leaving Judge Buckley's ability to make the motion himself. Justice Slough, did you want to be heard?

>> I am not sure where that puts the BCP for the appellate issue. I kind of lost track as to what was moving and what was not moving.

>> It has not been addressed yet. We are only looking at item 1, as amended, up to 7.

>> Thank you.

>> Then I have to ask, Judge McCabe, whether you second this motion by Jake Chatters.

>> I will.

>> [laughter]

>> Are you asking to be heard on this, Justice Miller?

>> I wish David Rosenberg were here. I thought the original motion was to make the changes to one and then just prioritize them as they are there. That would be what we would vote on, and then we would move to the next one. I don't know how you do that, but if a Rosenberg were here he could tell me. I would like to make a motion. We do as Jake said on 1 and we first vote on the way they are prioritized now.

>> Right now, we will split it. The motion is amended No. 1 and items 1 through 7. It does not mean you have to vote for it, it just means that is the motion currently on the floor.

>> Okay. Any more discussion or clarification on that? All in favor of amended No. 1 and items 2 through 7? Any abstentions?

>> 1 through 7 -- 1 as amended, carries. Now, we are faced with the remainder of 8 through 18 and it opened up this to Judge Buckley if he cares to be heard further on.

>> I will make a motion that 8 through 18 would be approved, with the revision that No. 11 and 13 move to the top of that list. So if you would rank them, it would go 11, 13, 8, 9, etc.

>> Okay. There is a second. The motion is 8, 11, 13, 9, 10, 12, 14 through 18. Now, this is up for discussion. I thought maybe Justice Slough wishes to be heard.

>> I do. Thank you. My concern about that particular move is it moves what is presently No. 8 down, which is appellate court judicial workload. I don't mean to be parochial about it but I don't think that the workload for the Courts of Appeal is often addressed -- the need for more appellate court justices, particularly in our division -- and I just would really hate to see it move down the list further at a time when the workload continues to grow, with issues like Proposition 47 and other issues that are coming before us for consideration. That is my only point of personal concern, Chief. Thank you.

>> I understand that. Judge Nadler and Judge Buckley?

>> Chief, I don't think you and I said it in the same way, but I would be more than happy to revise my motion if Judge Rubin is agreeable, given the comments. I had it be 11, 13, 8, 9 etc.

>> That is what I thought you intended.

>> I heard you say 8, 11, 13. Given the comments, I would change my motion so that the order would be 8, 11, 13, 9, 10, etc.

>> So that alleviates Justice Slough's concern.

>> Who seconds?

>> I accept the amendment. Judge Stout, did you wish to be heard?

>> I am happy. Judge Nadler?



>> I would like to speak in support of the motion as amended. We are the stewards of our buildings and for years we have been hearing from our advisory committees about the lack of money to maintain basic services in our courthouses that we have accepted control over, that we have accepted as state-run facilities. I am quite aware personally from my work on the advisory committee that the less we put in to these buildings, the less expense we incur to simply maintain these buildings in their basic state, there will be more damage to these buildings and the less value they will have over time. It is imperative that we maintain at least the basic structure to avoid considerable permanent future damage of these buildings and operations related to that. Thank you, Chief.

>> Justice Miller?

>> I am in support of the amendment also. I want to publicly thank Judge Conklin and his committee. As much as we struggle here with this and discuss it, they do on a regular basis. All of these budgetary items that come to us, since the trial court is the significant and major portion of the budget, are dealt with by them and they do a fabulous job. They worked tirelessly and hard. I just want us all to remember the work of Judge Conklin and his committee.

>> Thank you. So the motion is to renumber the remaining to read 8, 11, 13, 9, 12, 14 through 18. All in favor? Any opposed? Motion carries. Thank you.

>> Chief, if I may, I would assume the recommendations also included the council delegating to the Administrative Director the ability between now and the final submission of the budget change proposals to make any necessary technical adjustments consistent with the direction of the council. As has been past practice, once the confidential BCPs are completed, that they be transmitted to Justice Miller to ensure that that has been the case once we completed our work.

>> Thank you. I know that has been our history and practice but we don't think we technically addressed that. On page 2, you can see No. 8. The language that we have referred to. Is there a motion?

>> I will make a motion.

>> Justice Miller moves and Judge Nadler seconds. Any discussion? All in favor? Any opposed? Any abstentions? Carries unanimously. Thank you.

>> Thank you, Chief.

>> Next, we invite up for the action item Court Facilities Budget Allocations for Statewide Trial Court Facility Modifications and Planning in Fiscal Year 2016-17. I invite the presenters to introduce themselves on the record.

>> Good morning. I am Judge William Highberger from Los Angeles. Enrique Villasana sends his apologies but he was under the weather today and he has worked mightily to help us get our presentation organized. We appreciate his work. I do have with me Brad Boulais from the

Facilities unit and Price Harris from the Facilities unit to help me as I make this presentation to you. My father was a minister. In a church body, you would refer to this as being the building and grounds committee. If you were on the board of a private school or university, it would be the buildings and grants committee. We worry about the existing infrastructure. We have basically two points to make. One of these, I realize, using my church reference, I am preaching to the choir. Since you recognize the importance of advancing the BCPs are the basic routine maintenance of the buildings, we will tell you why you're right -- we will try to be quick about that. There is a consensus action item that we also need your approval on. Then frankly, on this preaching to the choir point, it is an information item because you have just taken the kind of action we would hope you would have taken. The action item that is before you is that we need council approval of how \$65 million is to be spent this year for the more complicated kind of construction work that is called facilities modifications. It is jargon but basically you can think of this as being major repairs and system rehabilitation -- the \$65 million comes from S.B. 1732 and Immediate and Critical Needs Account or ICNA. Although ICNA is very depleted, this much of it is there and is available for these purposes, notwithstanding our desperate circumstances. In addition to the \$65 million that comes from those two revenue sources combined, we have this year the blessing that the Governor's budget included a one-time allocation of general fund money for deferred maintenance for the branch. The governor appropriated a lot of money statewide for deferred maintenance for highways and other state assets but the branch gave us \$45 million. We had, months ago, as part of the BCP process and the communication with the Department of Finance given them our list of what we would buy if you gave us the money. Having given them this list, we are pretty much duty-bound to honor the list. It was our most important worn-out roofs and broken elevators. Now we have the \$45 million. They have a list that we have committed to replace a lot of roofs and elevators that might have had to wait a few more years. That will help us because the extra \$45 million which we can spend over two years takes a little bit of the pressure off of our facilities modification budget. One unique expenditure we are asking your approval for as the facilities modification this year is in the category of planned work, which is mostly just planned major repairs. This is an improvement. Merced, when the county originally built their newest courthouse about 12 years ago, included open, indoor area that would be called a shelled-out courtroom. The hallways are there, the elevators are there, the back hallway is there. The structure, the air-conditioning, the millwork is not there. The hung ceiling is not there. The question is, do we spend the money to build out the courtroom? Yes. We will use money from this account, about \$1.4 million, to build out this courtroom in the existing Merced courthouse because at the moment, the traffic court is conducted in this crummy little leased space that is not suitable for the purpose. Once we build out the new courtroom with capital money, we will have all the operations of the Merced court in this building. I think they have a second building in that town but it will be out of the traffic court. It will be safer because it will be behind proper perimeter security and it is going to make life better and in the long run there will be a good cost-benefit return because we stop paying for a lease. We want to show you some of the things we have bought this year. In terms of major facilities modifications and typical facilities modifications, a major one is in Contra Costa. The exterior roof, walls, windows of the building were leaky. It was over \$2 million. It was done a year ago. Now, we have a watertight courthouse for Contra Costa at the George

Carroll Courthouse. In Los Angeles and elsewhere we have been pressured by the regional air quality management district that many of our inherited backup generators that are absolutely essential for the safe evacuation of buildings -- you must have a backup generator to get members of the public out through the custody elevators and the public elevators -- the backup generators aren't an option for most of our buildings. They are essential. A lot of these were installed decades ago and they don't run clean enough and they are very close to public schools and the air quality management district is on our case requiring us to replace these generators for being too dirty or too close to other vulnerable facilities like schools. This was an example of a change-out of the generator in the San Fernando Courthouse in the San Fernando Valley which was accomplished last year. I would love to tell you, having made these presentations, some of you remember the mousepad, if you have been here long enough. My wife and I bought these five years ago to educate you on this basic message. I would love to tell you that five years later things are getting better. The truth of the matter is after five years of my stewardship, things are getting worse. When you see all the red and yellow on this map, you can see how many of our courthouses as assessed through this data process to see how we compare to privately owned buildings, we have a lot of sick buildings. We have a lot of people in the intensive care unit figuratively speaking. Not a lot of people out running a marathon in terms of the conditions of our courthouses. The rankings that go with this in the PowerPoint here. They vary. We would love to be in something like comprehensive care, not managed care or crisis mode, but unfortunately, a lot of our courts are in crisis mode and managed care. Enrique, who cannot be with us this morning due to his health, said a picture says 1,000 words. We need to explain to the council how our buildings are crumbling. I heard they were crumbling. Bryan McCabe gave a report about the El Dorado courthouse. I bring you now a corbel. One of many sad but true, a plaster corbel that has fallen off their front façade of the Main Street courthouse in Placerville. This thing fell off. This is snow country and frost country. Water penetrates after 102 years and gets into the cracks, freezes. Frozen water expands. You do that for a few seasons and things start falling off. I was told there were five different examples I could have brought to you today that are still in a warehouse. The five that we have aren't all that have fallen off. They now have netting under part of the courthouse. They have a chain-link fence in front of part of the courthouse to try to prevent the risk of these things falling on people's heads because that is the condition of the Main Street courthouse in Placerville. Our facilities committee has an agenda item to approve \$171,000. That is about 90 cents for every resident of El Dorado County if I heard the population right. Just for a project to use epoxy and paint to try to stick together the rest of what is left on the façade of this 102-year-old courthouse so that hopefully no more pieces like this will come crashing down inside or outside the chain-link fence. As you know, this is a courthouse that was to be proceeding in the site acquisition but due to the unfortunate circumstances of the ICNA account, it is in suspense mode like so many other projects. Here is another example.

>> The Stanley Mosk Courthouse in Los Angeles has 100 courtrooms. It is the largest courthouse in the state. It is one of the largest courthouses on the planet. The elevators are about to have their Diamond Jubilee.

>> Now a Diamond Jubilee is good for Elizabeth II the Queen of England but the Diamond Jubilee is not a good thing for your elevator systems. There are vacuum tubes here. The thing that is circled in the red is the handy-dandy mechanics to keep this old thing working all of these years later and it's when he said there was a matchbook from 1967 that was shoved into one of those. It was to keep it from shorting out so the elevator would keep operating. That gives you an example of the kind of machinery that we are working with that in good conscience we should be refreshing and renewing because the Mosk is not a courthouse that we plan to replace. This is one that we plan to use for another 50 years. It is 60 years old now and we have another 50 years to go. Now speaking of the building and grounds committee our problems are getting worse because the last fiscal year that we just closed out of the one we just entered, the yellow on the bottom is the new constructions coming online. Particularly, this year, we are going to bring online the San Jose Family Court, the Stockton court, the San Diego new criminal court, huge buildings and others. Those buildings by themselves are huge and we have more recently taken over the San Bernardino Court and the Contra Costa and the Contra Costa Court is a little further in the rearview mirror. But we are taking over a lot of real estate. It is tripling in the last fiscal years. All of these new big buildings may have a LEED-certified plaque on them for being efficient but these are big modern buildings and have lots of systems that the buildings they replaced don't have and they are big and have to be heated and cooled and run the computers and automation, so these things don't just run on air or from a solar array on the roof. We have to pay Edison or SMUD utility bills to operate these. We are not in the position to say we can't open it because we can't pay the utility bills. How do you explain that to the voters or tax payers. Some of these courthouses are closed as a consequence of being traded out for new facilities and some are closed as a result of various counties including Fresno and Los Angeles closing old justice courts and branch courts. These no longer were affordable in a tightened constraint since our budget got tied up. We basically have been unable to get rid of closed courthouses. We have a project to get a courthouse in San Diego County and that may get legislative approval in the session but our attempt to get rid of courthouses in Fresno has gone nowhere and we have to another counties, both closed, so we really have a problem because a closed courthouse still costs money. We still have to heated and secured and inspected and these are not cost free. So now we turn to the informational side, having to do with our budget. This is fund 36 that you just elevated will address this problem. Thank you for elevating them to be higher on the list. The real messages of being in position Nos. 9 and 10 by health is not enough because if we don't get some chunk of money, particularly \$16 million, we won't be able to continue to pay for our utilities in the next fiscal year and we will also have to cut our currently bad preventative maintenance to no preventative maintenance or stop cutting the grass or otherwise doing landscaping or snow removal because that is all funded by this budget. You'll see this slide again because this is to emphasize the red is the fiscal 2017-18 problem. Here is our revenue for operations maintenance overtime.

>> The yellow bar is the county facility payments. When the branch was able to persuade the counties and the Legislature that the branch would take over from the county's management in custody for the various courthouses, one reason to induce the counties to agree to deed over their property for no money was they would their financial exposure for the maintenance of the

courthouses for all perpetuity. Deals were made looking in the rearview mirror about how much county facility payments used to be in the last five years prior, and that became the reference point for how much the county was going to pay the branch as their payment for county facility payment in perpetuity is no inflation adjustment and no adjustment is in or has come online to deal with population growth. It was a fixed amount of money and it did the job. We got the counties to agree. But the problem is it is a fixed amount with no inflation adjustment and no adjustment for new courthouse is coming online like San Bernardino. It needed a new courthouse and they hardly closed anything because of the growth but it doesn't grow just as a new courthouse comes online. The little brown bar above it is incidental money from like rent, we get a little bit of money when we have a non-department rehabilitation and food service in a courthouse. They get free rent if it that is the case. Night court, if we can lease a courthouse to a film shoot, that goes in that bar. It is a little bit of money but not hardly anything. Then the pale blue gray at the top is the only piece of general fund money currently going into the account. It is \$8.053 million and the problem is it is \$8.053 million that hasn't moved since the fiscal 2010-15. So at one point in prior governor's administration we got a little bit of money for the new judgeships, I believe it was the prior understanding that the deal made with the counties would be backfilled with new general fund money so we can deal with utility rate increases and other things, and memories have faded in the legislature over time and different economic times have caused memories to fade and we have had no more backfill from the legislature in terms of new general fund money.

>> So where does the money go? On the bottom of this chart, which is where the money is spent, the yellow is utilities and the utilities are creeping up. The green mandates for utilities in various parts of the state, with renewable energy in lieu of gas-fired energy. It is making every kilowatt hour more expensive. We have spent millions of dollars with facilities money in the last several years doing the low-hanging fruit of energy efficiency projects with paybacks of some of those less than a year, and many of them two or three year paybacks. We did what we could to find ways to spend one-time capital dollars to get our bills down but then that magic wand doesn't go far especially when your courthouses are coming on line in other places. These are the courthouses that are built or being built that we have to operate. Now the line above it that is a pale white is leases. They have tended to shrink a little bit because if you look into the future as we get out of some leases, so the lease expenses are under control. Between the leases is the utilities is a very thin line that you can hardly see from here that is \$1 million a year we spend on insurance. We don't insure it basically, but their odds do -- circumstances like buildings with sponsor counties with insurance that we have to chip in our part to buy insurance. And the vast majority of circumstances, we are self-insured just like the federal government. Self-insured is a euphemism for being not insured. So the green is what we spend on routine maintenance. That is someone who comes in and changes the light in your courtroom in a moon suit unless it is in San Diego but that actually is charged off as a facilities mod. But if it is a normal lightbulb change where your toilet is stuffed in the ordinary court so that it is overflowing into the courthouse, that is routine maintenance. The guy who has to inspect the boiler and everything else is routine maintenance and who cuts the grass is the same. At the moment, we just spent on routine maintenance what is left. We spend what is left and we have a very inadequate schedule of

preventative maintenance. It is like the guy who keeps his car for 20,000 miles before he changes his oil. We should change the oil more often but practically speaking, you can see what we're really doing is running the car 20,000 miles and then changing the oil.

>> If you compare the revenue in versus the revenue out we have been overspending and the revenue has not been enough. Ever since fiscal 2013-14 we have been spending more than we taken and there have been repeated BCPs like the kind you just considered to the Department of Finance that have fallen on deaf ears and prior fiscal years and we can only hope that this year will be the charm because the BCPs have been before the Department of Finance. The only reason we have survived so far is because we have a carryover cash reserve and that has been a blessing and that maybe in fairness that the Department of Finance has not been up to now willing to treat seriously with these. This year according to our best estimates we're going to spend down the entirety of our last available cash balance of about \$9 million and we will go in the next year with an increased rate of expense -- next fiscal year -- due to these new courthouse is coming on line in various price adjustments for our vendors. The revenue shows no sign of moving up in accordance with it so we are anticipating that we will be \$60 million in the red if none of these BCPs get approved for fiscal 2017-18.

>> So you have done what we have asked you to do, which is to make every effort to get one or both of these BCPs approved, and your action item goes technically back to slides 1 and 2, which is to approve the allocations and I can back up the slide deck if you want to have a slide in front of you of the actual action item that you are asked to approve. We would be pleased to take any questions.

>> Thank you.

>> You have done a very comprehensive job and I would make the motion to approve your committee's recommendation.

>> Second.

>> Second by Judge Taylor. Judge Wachob.

>> I enjoy listening to Judge Highberger because he is not only passionate but knowledgeable. You can tell us how many million square feet of courthouse property there is in the state without having to look at a chart. But he makes a point that I think gets lost and that is the relationship between maintenance and operation costs as it relates to new courthouse construction because when we build new courthouses, we are not just replacing existing square footage, we are adding. And in the enthusiasm to build new courthouses, I think people sometimes overlook the relationship and have to understand that a finite budget for maintenance, which is one of the things you slipped by us there, it has to be spread over a greater amount of square feet and it actually decreases the ability to maintain already existing property, which is already on the critical care triage list. So it is really a conundrum. I don't know how it gets resolved except by

just legislatively. It is a phenomenon that everyone needs to pay attention to, so thank you for your presentation.

>> Pat Kelly.

>> I would just like to say that I have had the pleasure of hearing from Judge Highberger twice this week on this very subject, and you are to be congratulated on your devotion to this and the way you have try to find solutions. Also in the self-interested part, I am one of those who uses those antiquated elevators in the Los Angeles courthouse and I can tell you, they are in really bad shape.

>> Thank you. Seeing no further hands raised, all in favor of the motion please say aye. Any abstentions or nos? Thank you, we appreciate the presentation, Judge Highberger. Thank you.

>> Next is an action matter, Court Facilities: Recommendation on the Active Senate Bill 1407 Capital Projects and I ask the presenters to present themselves.

>> I am Brad Hill, chair of the Court Facilities Advisory Committee, and thank you, Chief and thank you, members of the committee and Mike Courtney, our new director.

>> Welcome.

>> The task that brings me here today is a difficult one and a very challenging one. As I have previously reported to you on more than one occasion, our Court Facilities Advisory Committee has worked very hard this past five years to ensure that we are building safe and secure and accessible court facilities in a very economical fashion. We have created a subcommittee designed specifically to squeeze every penny out of every construction project. The subcommittee is named the Courthouse Cost Reduction Subcommittee and it was tasked with looking at every project and in finding savings wherever they could be found. Court projects returned again and again to that subcommittee until the committee was convinced that every penny that could be saved was saved. The subcommittee made tough, and many times unpopular choices to save money. Believe me, I received more than a few calls over the past couple of years saying enough is enough. Today, the result speak volumes. Over \$345 million has been cut from court facility projects so that this overall capital program could live another day. We knew that if we could get every penny we could out of those existing programs, we could build another courthouse in these challenging times. You will also recall that we have had some very challenging external challenges as well. Our state and nation suffered one of the most, shall we say, dire recessions that we have ever experienced in the past 50 years. And our Legislature and our Governor felt that they needed our help to balance the budget and to keep the state moving forward. To the tune of \$1.4 billion, the funds in our capital program account were swept to the General Fund to keep the state afloat. Now, I say our funds. They really aren't our funds. We were simply and are simply the stewards of that money. As the money collected pursuant to Senate Bill 1407, it is from court users and that money is specifically set aside for court projects. It is collected from fines and fees and from traffic tickets. It is not unlike the tax money that is

collected for roads. That money isn't the Department of Transportation's money. It is the money of the people who pay for good roads. The money that came from court users was to build safe and secure and accessible court facilities. So we the Governor and the Legislature and the judicial branch all promised the court users that if they funded this courthouse cost program, we would provide them with safe courthouses. So we need to obviously work with our friends and our colleagues and the other two branches of government to make sure that the promises that were made to them are kept. Fast-forward to today. Despite everyone's best efforts, despite all of the cost-cutting that we did, we are facing a funding crisis brought on by a myriad of factors. Nationwide, we have seen a significant decrease in fines and fee revenue. It is certainly no different here in California and every county in our state. As we have been reporting the last 14 months, our revenue trend line has been heading in a downward direction, which has been causing us obviously great concern. We told you about this last year and it got worse early this year and it got quite a bit worse late this year. We are not alone. Cities and counties and courts who depend on such revenue are certainly in the same boat. They have all been now and remain extremely concerned. Compounding our concern has been the effect of the recent amnesty program, which was a bad revenue trend line before became a very dire trend line after. This is with the effects of the amnesty have been calculated. Complicating matters even more is the fact that we are not just figuring out how we are going to pay for something next year. We have to figure out if we have the money to make payments over the next 20 years. And if we are wrong, we can't print the money, we can't borrow the money, and we can't sweep the money, and any shortfall of revenue would come directly from all of the courts around this table. It would come from my court. It would come from Judge Buckley's court and from other judges' courts in five years, where all of a sudden now the Department of Finance and the Governor would say it guessed wrong in the capital program and they are now running a deficit and it will now come out of the operating funds of the trial courts. Obviously we can't make the wrong projection. Now, some of you around this table were with me on August 11 in our Court Facilities Advisory Committee meeting where we had over five hours of public testimony, from citizens and presiding judges and from court executives and city and county officials and others talking about the serious needs facing court facilities around the state. Even those of us who have lived with this in the past five or 10 years were struck by the magnitude of the problems reported to us during that five-year program. You heard about the terrible problems facing Los Angeles Superior Court in terms of the physical conditions at the juvenile court and the mental health facility. 15 years ago, as a new Judicial Council member, sitting where you are, we were taken to Los Angeles to look at that mental health facility and the juvenile court because it was in dire straits then --15 years later, now, it has not gotten any better. It is an awful condition and something needs to be done. We also heard on August 11 about the serious security problems facing a number of the courts, which puts members of the public and court staff at great risk. We heard about the level V seismic buildings that would cause severe loss of life if and when, and I emphasize the word when, the next major earthquake hits. We heard about security concerns related to members of the public with victims and witnesses and defendants being forced together in small and unsecure places. We heard as Judge McCabe talked about disabled litigants crawling upstairs or being carried upstairs with courts with no elevators. ADA problems abound in county after county throughout our state. One presiding judge spoke of his court as an



overcrowded deathtrap, with clerks sitting at desks that are shoved in the hallways and closets. Five hours of testimony of story after story of how courts are, in essence, decaying before our eyes, putting our court users and court staff in grave danger.

>> That is just the tip of the iceberg, what I have reported to you. I wish you had been there, some of you were, to hear all of those stories.

>> Add to all of that the partnerships that we have had with all of our cities and counties, and Judge Davis spoke to that earlier, many counties who have contributed tens of millions of dollars to the efforts to build our courthouses, to make the cities and counties ready to accept the courthouses with respect to the infrastructure -- moving people out of the inner core so that they can have a courthouse in their downtown. Now they are faced with blighted areas with no prospect of a courthouse. Siskiyou, for one, talked about contributing tens of millions of dollars, which would've been the equivalent of Los Angeles County contributing \$1 billion. It means the world to their community, and yet now, days before they were going to start construction, they are stopped. So this is what brings me here today. Two requests. One, you ratify our committee's tough choices that are outlined in our report to in essence keep our program on life support while we work to secure that needed funding. And two, to work with us in the courts across our state to convince our friends in the legislative branch and executive branch that now is the time to return the money to the citizens of California who deserve safe, secure, and accessible courthouses, the very courthouses that those citizens have already paid for. Thank you very much.

>> Thank you, Justice Hill, for that compelling report. At this time, open for discussion or remarks. I know that based on your comprehensive review, and your committee meetings, we have all been interested and we have all been watching live and reading. At this time, I know counsel is well aware of the concerns. Any remarks or motions?

>> Chief, I would move that we adopt Justice Hill's recommendations. My concern is, Justice Hill -- first of all I thank you for your dedication to this project over so many years. I am wondering whether or not what you are asking for is enough. The description of the state of our facilities, as Judge Highberger said, is getting worse. But I certainly support the proposals that you recommend and make that motion.

>> I will second the motion also. But I do have a remark, Chief.

>> Judge Taylor?

>> I will second that that has been done. Good job. I want to echo the same sentiment. I have been to probably 40 courthouses this year and I have been to a number 15 years ago and they are in an awful state. We wouldn't live in a building like that because it would be unsafe to our families. I have seen that time and time again, and we really have to do something about it. I think your report and the report of others who testified before you, they are spot on. We have to make this a priority, so I fully support what you are doing.

>> Thank you, Judge Stout.

>> Being in a court on that list, I was in attendance at that August 11 meeting, and again, having, as you said so eloquently, having lived with this for years, it is still shocking. The conditions that put these courts on the Immediate and Critical Needs account list years ago have only gotten worse. I want to join in commending Justice Hill and this committee for doing painful and very difficult work. I certainly support reluctantly support, the recommendations. My heart bleeds because I think many of us know and we heard during public comment the bid expiring, I think, it was last week, and concerns about blight and I just hope we can really be creative to find some remedies. Communities are disappointed. Our credibility, in a sense, is out there that communities spent not only a tremendous amount of money but certain residents relocated to make space for our court facilities. We are facing a huge disappointment in many of our communities and anything we can do to minimize the effect of that in the short term here, I think we really have to be creative about, and I also think it's very critical at this time that we have a concerted effort to reach out to our colleagues, as you mentioned in the other branches, to restore \$1.4 billion or at least otherwise find funding and a stable revenue stream to address these critical needs. But thank you very much for all of your great work.

>> I guess I just want to pile on. Siskiyou is my liaison court, and I visited them last Thursday, a day before the bids expired. There is nothing like climbing up the stairs, and I mean climbing, not walking. It's like walking up a ladder. If you can manage the in-custodies shackled, trying to get up there, it is a lawsuit waiting to happen. I looked at the space between the two courthouses that is unsecured. The windows that were broken into by two yahoos that came in a couple years ago and stole \$3 million worth of gold. They caught them and they didn't get the gold, but they still got access. Those windows are still there and still unsecured. They have a grate that is kind of placed over the window well. I looked at the house that a widow without eminent domain gave to the court in the site acquisition, a house her husband had built and gave to her as a wedding present. I looked at another house that a young couple lived in. Again no eminent domain proceedings. Their first child was born there and they moved out with the wife pregnant with her second child. It goes on and on and on. I looked at the curtain that supposedly protects the juveniles and I looked at the hallway that the in-custodies are paraded down in front of the public and counseling victims and witnesses. The bathrooms that are shared by all, including judicial officers. There is nothing like a personal visit and a personal touch to this stuff. I don't have solutions, except item No. 2 that you are asking us to adopt, whatever we can do to get funds to restore these projects, it is an embarrassment. It is really an embarrassment to walk up to a courthouse and see an elevator sign on the front door that says go around to the back. And when you go around the back, it is not working. How do people get up to the courthouse? Do they get carried up the stairs or crawl up the stairs? It is an embarrassment to go up there and see some of these things.

>> Justice Feng?

>> First of all I want to thank Justice Hill for his tremendous leadership with the Court Facilities Advisory Committee and also I want to give kudos to Justice Johnson for an unenviable task of

sharing the Court Costs Reduction Subcommittee as I was a member of both and what breaks my heart is I listened in on the August 11 meeting. I am very well aware of all of the projects that have gone through since I was a member of those two committees. We have been asked on the Court Costs Reduction Subcommittee not only to trim the fat that the gristle and unfortunately, in some cases, we also had to trim the muscle. And for those of us who have been serving on that subcommittee, we have heard -- courts come to us. They trim down as much as they can. And we asked them to trim more. They still come back and they trimmed more. I am a liaison to Lake County, and Lake County, for those of us, I know Judge Highberger was there, maybe it is not Judge Highberger but [indiscernible] was there. I know Judge Highberger was there. And he was there a few weeks after I visited, and the facilities are atrocious. We always ask the architect and the court and everyone knows this, we are not building palatial courthouses at the federal courts. We need courthouses that are dignified and that are respected by the community. More importantly, without adequate courthouses there is no access to justice. Again I want to thank Justice Hill and Justice Johnson and I just hope we reach out to our sister branches so that these facilities and others can be built and, personally, I am at the Hall of Justice. We are not on any list yet. Justice Hill, I quiver to your remark of when the Big One hits. I certainly don't want to be there when the Big One hits. You have our support, and your dedication in Justice Johnson's group is unsurpassed. Thank you so much.

>> Thank you so much. Justice Humes?

>> Just a question, and that is this. This can't have come as some surprise to the other branches of government. I am just wondering if we have any information about their level of knowledge or their level of action and is anything in the works or do we know or is there legislation proposed or are there any efforts we know about to address this from the other branches?

>> I will add my best answer to that and will defer to Justice Hill. There was a BCP just like the one you voted on earlier today that when over last year that was addressing this issue at that time and that BCP was not successful. There is also the submittal each year of a five-year infrastructure plan, which is a requirement, really statewide, for many departments that have construction needs, and we are no different than that, in that we develop a five-year construction plan and make that available. There is some knowledge and awareness of that. As Justice Hill was talking about, certainly one of the things we are very interested in is having a respectful discussion about decisions that were made, I will call them necessary, perhaps, fiscal policy calls at a particular point in time, which in order to help the state with its overall solvency. But it is fair maybe to come revisit those now that the complexion has changed and certainly the state's overall financial picture has changed. Arguably, we were a very good partner in helping and assisting that, and now our complexion has changed. So we would really like to have that discussion again this year with more earnest and more rigor and more information because our situation is not changing. We are not leveling off in terms of what we are seeing in terms of revenues. It poses a problem, and so we want to have that discussion about that and so there are two parts here. Really it is about earlier fiscal calls that were made for which you can find a rationale for them. Can those and should those be revisited, and then secondly even if we solve

that we still have the issue of the declining revenues, which we are not seeing flat-lining so we are going to have to attack both pieces of that and elements of what I have described were in the previous BCPs. Certainly there has been some discussion and I know they have seen some coverage that has been occurring and if they have not been seen it on the [Indiscernible] we have been sharing it with them. It is the most comprehensive answer that I can give you now.

>> I want to drill down on the past before I hear back from Justice Hill. In 2011-2012 there was as you know a great need with the deficit in the state at all state-funded entities and they all paid a price. Even then we saw the borrowing from the capital construction fund we did leave the branch. At first there was money taken and it went to trial court operations. So we understood that the money in the construction fund would go to keep courts open. That is where some of it went. We also saw as time unfolded, we saw that they became loans and when things hadn't turned around and the recession was getting deeper, then the loans turned into basically not loans and taking because the entire state was in trouble. But we also, at that time, we were quite alarmed and we fought it. We fought because we knew this day would come. We felt that we could actually look at that construction fund and take some money from it and contributed as a whole, as a partner, to the statewide deficit. People around this room are not the same people in 2011 -- some are, some fought this drain from the construction fund. It is not as if it surprised us. We knew it was threatened. What we also didn't see in the future was that filings would just decline rapidly and we didn't see amnesty. So we didn't see the return of the fines and fees that compose the construction fund. So when Martin says there were some concepts that we were aware of, then things changed. But this isn't something -- we knew and we fought against the taking in the concern of being a bulwark against the future years of our buildout. But we find ourselves now in a place where the money has not returned, and we found ourselves in a factually different place where the filings are gone and the amnesty has changed our pocketbook. I say this because some courts have come and have been surprised, or are telling us about buildings that have to be built, that we knew in 2011 when the construction fund was in jeopardy, we had to fight that. At some point, it has now come to the point where the reality has come true. Justice Hill?

>> That is precisely -- and I can't add anything to that, we have been able to limp along doing the cost savings to the committee and others that have allowed us to get to this point, but we are out of money and there is nothing we can do at this point, short of getting that money back so we can proceed, because we have been able to limp along, but those days are over. Now, every court in the state really knows that in order to move forward, we need the return of the money so that we have a viable program. We look forward to working with all of you on this and we thank you for your past support, and now more than ever we need your support moving forward.

>> All in favor to adopt the recommendations please say aye. Any abstentions or nos? Matter carries unanimously. Thank you.

>> Thank you very much. Finally, we conclude today's meeting as we often do with a brief remembrance of our judicial colleagues recently deceased. Judge Ralph W. Dau was still serving on the bench of the Los Angeles Superior Court. These other colleagues who have passed have

retired from the bench: Judge Robert F. Baysinger, San Joaquin County Superior Court; Judge Jacob H. Jager, Superior Court of San Joaquin County; Judge Michael Virga, Sacramento County Municipal Court. We honor them for their service. The next regularly scheduled business meeting will be October 27 and 28 in San Diego. Safe travels. I believe there is lunch to go to in the break room. Thank you for your time and attention.

[Event concluded]