

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 captured live captioning, formatted and unedited, of the last meeting. The official record of each meeting, the meeting minutes, is 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 standby for real time captions.

>> Good afternoon. This is the public business meeting of the Judicial Council for California for Thursday August 20, 2015. And the meeting is now in session. This is the start of a two-day session. We will adjourn this afternoon at approximately 3:45 p.m. for our Distinguished Service Award ceremony and reconvene tomorrow morning at 10:30 for the second part of our public business meeting agenda.

>> Yesterday I was reviewing the impressive nominations we received this year for the Judicial Council's advisory bodies, and I was encouraged to see the wealth of talent within California's judicial branch willing to volunteer their time and expertise to serve on many committees, to serve the cause of justice. As you know these advisory committees give proposed recommendations to the Judicial Council for our vote. These committees come at these nominees are willing to take on what amounts as you all know to a second job, to support the ongoing evolution of the judicial branch of government to improve judicial administration and ultimately to be responsive to people for access to justice needs of all Californians. This time every year however also brings mixed emotions for me because, as you know, just as we welcome new and enthusiastic Judicial Council members in September, many of whom are here now, we must also say farewell to our still enthusiastic colleagues who are wiser now, who have more exposure to statewide issues, whose service on the Judicial Council is coming to a close. We had an opportunity at lunch to share our appreciation for them but I'd like to take a moment for now to publicly acknowledge them and to personally thank them for their service and dedication over these many years. Dr. Jonas Salk once said, "I feel that the greatest reward for doing is the opportunity to do more." And it's clear by these departing members, for they came here and I know what they will do more in the future, not to mention the plans we have for them and that will be true.

>> I think this could be a good model for what service on the Judicial Council means. It is an opportunity to do more. It is an opportunity to serve the cause of justice and the people of California in another meaningful way outside of our work in a courtroom or outside of our work in a law office or in an executive office in a courthouse. The 1925 ballot measure that created the Judicial Council stated the context and the need for this Judicial Council. The ballot measure described and established the foundations for the mandate, the role, the responsibilities, the constituent process we undertake when we swear our oath to serve on the Judicial Council. And some examples from that measure are as meaningful today as they were 1925. With the Judicial

Council, when anything goes wrong, any judge or lawyer or litigant or other citizen will know with whom to make complaint. And it will be the duty of council to propose a remedy. And again this year, I think we've shown that willingness to act, to propose a remedy. As you recall, this year we got a new rule of court for traffic infractions against much of the work we do by meetings in person. And in December we will also meet to review and approve Judicial Council sponsoring legislation that is to recommend to the Legislature any change we feel is required for equal access to justice. And on an ongoing basis we are all charged with the duty of seeing that justice is properly administered in California.

>> We have numerous examples of our actions in the area of administration of justice for our revisions of rules and forms that make their way into the California Rules of Court, that grows more important every year or so it seems: actions on budget issues and our efforts involving access. All of these elements and initiatives are part of ongoing work for the judicial branch that have evolved over time. And we as Judicial Council members are responsible. It is our business and duty to propose a remedy. Each of you in the Judicial Council relies on the knowledge and service of hundreds of justices, judges, commissioners, lawyers, corporate officials, attorneys, and justice system partners to do our work and accomplish the goals and objectives that California expects. As you know it's a volunteer proposition to serve the goal of equal access to justice for all in our courts. Not only do our internal Judicial Council bodies, our advisory committees, task forces, and working groups serve this access, it's all with the support of our Judicial Council staff, a very hard working group with individuals who bring historical expertise to all of our projects. I'm very pleased to offer my very deep gratitude and the council's gratitude to these public servants who have done their duty to the council in addition to their day job and without compensation. I'd like to publicly recognize the following members. Having served five years on council I recognize Presiding Judge Jim Herman; after having served four years, Judge David De Alba and Judge David Rosenberg; having served three years on council, Judge James Brandlin and Judge Morris Jacobson, who unfortunately cannot be with us today, and I believe this is the only meeting he had ever missed in his three years on council; Mr. James Fox and Ms. Mary Beth Todd; and, after serving a one-year term on council as president of the California Judges Association, Judge Joan Weber. I believe every single person can attest to the hard work they put in, in trying to bring to California equal access to justice. Judge Jacobson in his e-mail put it best when he wrote, "It's been my honor and pleasure to serve with you all. I've learned very much. I have benefited so much from working and socializing with the collection of brilliant minds that make up the Judicial Council." I concur and I know we all wish each other well, and I know Judge Jacobson is going on to become the presiding judge of Alameda County. As you know, as a small token of our appreciation and a symbol of the importance of the work you do, you all have your copy of the Federalist papers that will ring ever truer as you read the different quotes from those books. I have often quoted from the Federalist Papers number 22 and Alexander Hamilton especially when I've been in the Legislature advocating for the judicial branch and that is [Indiscernible] without the courts to expand and define their true meaning in operation. As we all know around this table, it is critical for our form of constitutional democracy that our courts play their role alongside our sister branches and partner in government on behalf of the people of California. Thank you all to your service for the people of California,

to the cause of justice in the new roles you will assume when you leave council, which will benefit not only your court but your court users and the public.

>> I became chair of the Judicial Council of California almost five years ago. Staff have prepared a timeline of our actions and accomplishments on the council during that time frame. In your spare time we encourage you to review the timeline. Reviewing the timeline is exhausting and it will remind you of the work you've done and the effort that went into the accomplishments and milestones and changes. It's entitled, "Reforms in Progress in Challenging Times." Seven new incoming council members are joining us today, we welcome you. We look forward to your talent, expertise, and enthusiasm, and we will await you officially at your next council meeting in October. Thank you in advance for your service.

>> The first item on our agenda is the approval of the minutes. This is the approval of the minutes of our July 28 phone meeting. I will entertain a motion for adoption.

>> Rosenberg, I move the minutes for adoption.

>> Second.

>> All in favor of approving the minutes, minutes are approved. Our first item for discussion and action this afternoon is for trial court facility modifications and maintenance and comes to us as I said in three parts. We have presenters for all three parts. I welcome all of our presenters and ask you to introduce yourselves. For those listening on audiocast, please proceed.

>> David Power, Trial Court Facility Modification Advisory Committee.

>> Judge William Highberger from the Superior Court of Los Angeles County, vice-chair of the same committee.

>> Curt Soderlund, Chief Administrative Officer, Judicial Council.

>> Patrick McGrath.

>> Thank you, welcome.

>> Before we review the slides, this is my last presentation before the council on behalf of the advisory committee. I want to take this opportunity to thank all the staff at the office of Judicial Council for their assistance regarding council presentations to the advisory committee. Their assistance is truly helpful. I thank the Judicial Council for this opportunity to present the advisory committee report on item 1A., item 1B, and item 1C.

>> This building is maintained by the General Services, not by us.

>> I think this works better. The committee reports on item 1A, the five-year master plan; item 1B, budget allocations; and item 1C, budget requests for fiscal year 2016–2017. The Trial Court Facility Modification Advisory Committee provides ongoing oversight of the judicial branch program that manages operations and maintenance of existing facilities, facility modifications, noncapital-related real estate transactions, energy management, and environmental management and sustainability throughout the state. This slide reflects the judicial branch has about 20 million square feet of facilities under management which is approximately equivalent of three Pentagon buildings or the UCLA campus. The challenge for the real estate program is our facilities are spread throughout the state with many in relatively remote locations. The deferred maintenance report was first released to the Department of Finance last year as requested in budget letter 14-20. That document, specified as the deferred maintenance report, has the building name or location, the potential cost repair, and prioritization of the projects. The deferred maintenance report submitted to you conforms to these requirements. The judicial branch list includes 2,818 identified projects. The total cost of these projects has a rough order of magnitude of approximately \$2.1 billion and the Judicial Council's share of the project cost is estimated at \$1.6 billion. The staff prioritizes based on the following factors, which include facilities closed and scheduled for surplus or facilities applying for surplus due to the construction of the new facility and were not included on the list. The advisory committee provided input to staff on the prioritization of building systems; for example, a roof system has a higher priority than HVAC or interior finishes. The facility condition index of the buildings were considered in the ranking. The facility condition index basically is the ratio between the value of building and the cost of repair. This analysis resulted in a higher priority for those buildings in the worst condition. The higher the FCI number, the worst the condition of the building. The trial courts were provided with the opportunity for input through the Trial Court Presiding Judges Advisory Committee and no objections were received. The report was released for public comment and no public comment was received. The report was reviewed and approved by the Trial Court Facility Modification Advisory Committee. This document if approved will be included with the Court Facilities Advisory Committee approved capital outlay budget change proposal along with other council-approved DCPs.

>> Our recommendation requests approval of the deferred maintenance report and to forward these to the Department of Finance. Chief Justice, do you want action on this now or proceed to the end?

>> Proceed to the end.

>> With regard to item 1B, the budget allocations for statewide trial court facility modifications and planning, the advisory committee requests the council approve allocations of the \$65 million authorized by the Legislature for statewide facility modifications, \$10 million for priority one FM's: priority one FM's are the emergency repairs and that's 15% of the total \$48.1 million for priorities two through six FM's, for plan facility modifications which is 5% of the total in \$4 million for statewide facility modification planning, which is 6% of the total. The committee hopes that additional general fund money in FY 2016–2017 will be obtained for fund 3066, the

court facilities trust fund which pays for utilities, leases, and insurance in routine and preventative maintenance. There's not enough money for facility modifications for routine maintenance, which results in a run to failure response. Running systems to failure increases the remediation costs. Additional concerns include the increasing cost to service new larger buildings online for completion and the need to maintain buildings taken off the replacement list.

>> Again the advisory committee recommends the allocations of the \$65 million appropriated for facility modifications. I would help pass this to Vice-chair Bill Highberger.

>> Thanks, David. Met with the Chief and others, this is a good news/bad news report. We will start with good news. One of the things we are proud of what we accomplished in the last several years is we started to put some real dollars into energy conservation primarily in electricity, and looking at years ahead. We have done 34 energy efficiency projects in the last three years. We spent that \$2.9 million and always a meeting you dollars a year in avoided expense. In the coming fiscal year we intend to devote approximately \$2 million. We have been going after the low hanging fruit so the earliest projects and the first projects you do are the ones that give you the best bang for the buck. An example is the [Indiscernible] Courthouse in Fresno. We did some improvements; the total cost was about \$60,000 in reduced electric usage by about one quarter. We know there is a lot of potential to continue to do this. Utilities around the state often help with consulting which is viable in its own right and certain utility districts they would subsidize with the rebate in some of the changes and improvements that can be made.

>> Another thing we are pleased to happen at the last year is see Sierra County get the roof, windows, and walls replaced and refurbished. The cost was about \$416,000. There was a \$23 million project off the rest to build a new courthouse in Downeyville, which was necessarily canceled when economic reality struck. The Court Facilities Advisory Committee called the working group and asked this to be handled despite the problems in Sierra County. And that is what we did for the branch. We are pleased with this. It was a struggle because the county, which owns half the building because the sheriff station sits in the first floor, is broke. They didn't have the money and we gave them a payment plan where they will give us the maintenance services and that process of giving us free services over the next nine years will pay for their share of the \$400,000. The Chief may remember that presiding judge [Indiscernible] a thank you letter where it said this is the first time they had been in a watertight building for years. We are really pleased that we solved the real problems and are giving them a courthouse that has got another generation to go if not longer.

>> Now we turn to the bad news. The bad news is the yellow on the bottom of the chart, the yellow is the new courts. If you have come online. We are going to have a tripling of this area at the bottom of the chart by the end of the next fiscal year because new projects have just come online and new projects under construction will come online, and basically we will have a tripling of the new square footage we have to maintain as compared to 12 months ago. These buildings will have LED awards for being energy efficient but because of the needs of the public they are larger than the buildings they replaced. San Bernardino had a huge need for bigger

capacity. It's a new big building replacing nothing. In San Diego, they have that population growth. Bigger buildings have bigger electric bills. Fancy elevators and HVAC security are expensive to maintain. You can ignore your car for 12 months if you want to, but you can't ignore a complicated public building; that costs money. We haven't gotten rid of much of our existing inventory. We get rid of a building here and there. But in the grand scheme of things we are using and keep using the buildings in red. That is the 90-plus% portfolio that is old and inherited. On top in the green we have closed courthouses and we previously presented the presiding judges the horrible problem: we are having a huge problem getting rid of old buildings. We have two courthouses in [Indiscernible] we don't use and we've got courthouses around the state and can't get rid of them. It is beyond the work of the council today to fix that problem but somehow we have to figure out how to get rid of the closed courthouses if there is no plan to get back in.

>> I left [Indiscernible] many if you have been [Indiscernible] I taped onto with the most current data so he would know. [Indiscernible]. It's a complicated slide but some of you have seen it. Let me take a moment to explain it and then I will give you an opportunity to explain things. In the bottom in the green you see the money we spent for routine maintenance and we're going to spend more time talking about this in a minute. Routine maintenance is elevator inspection, cutting the grass, removing the snow. It is responding to a clogged toilet request. Replacing a light bulb. All of those things that go under the category of routine maintenance. We are spending about \$60 million if I read the number in the right-hand column. \$50 million. What is in great is the money we get from major systems upgrades which goes by the term of facilities modifications. Facilities modifications is jargon for something like a roof replacement or an elevator overhaul or a clogged toilet, and the toilet overflows and you have water leaking over the building, and you've got a mitigation as a result of vandalism. It is the removal of graffiti. We have gotten a work order to replace windows that have been etched by graffiti at a courthouse so this is an accumulated graffiti program: \$160,000. Redoing the roof and the windows at Sierra Downeyville, we have \$60 million this year. That is what we have where we can spend. The red, by way of example in the fiscal year, we just closed out [Indiscernible] that is how much more money we need to do routine maintenance to a proper level. We basically don't wash windows. At the end of the last fiscal year we see what we could learn from the queue experiments and we learned some stuff. Basically we don't have money to wash windows. You have the beautiful new courthouse and no foreseeable plan to wash the windows. They probably have good—we don't have the money to hire a window washer. If you don't wash the windows my understanding is you are jeopardizing the long-term integrity and validity of the windows system but we don't have the money to do that. We don't have the money for landscaping or routine maintenance. We do what is legally required and not much more. The red sliver that says 12 billion dollars, that is how much more we need for these big projects. If we were to just meet industry standards to spend I believe 2% of the portfolio value every year to keep you refreshed. If we did that we could tell you the buildings weren't getting any sicker. After all these years, David has been on this committee seven years, and under our watch our courthouses are getting sicker. We cannot tell you we're keeping them at the same level they are. The buildings are getting sicker. The one thing we can say is we are spending the money we

have on all the most important systems for safety and reliability and not cosmetics. We haven't painted the exterior of any courthouse on my watch that I know of. [Indiscernible] or water damage from a pipe burst. If you want to dignify a temple of justice for people to do their business, it would help to paint the courthouse every five or 10 years and we don't have the money for that. The big yellow line is basically the deferred maintenance budget. If you really wanted to try to take these worn-out courthouses and make them back in proper running condition, this is how much extra you pay to heal the patient. It doesn't mean a building without a modern life safety system gets one, it's just to try to get the building to it as constructed design by trying to get the systems up to date. The next slide is almost the same.

>> What is different is you see the green line that emerged, which completes the mouse pad and this is the growth of our square footage. On the left-hand column when we had hardly any square footage pending we were good. We had money before we took over the space. When we only had, life was good. David remembers being on the committee. We had hardly any buildings. With adequate staff, we could do a fine job of maintaining the Larson Justice Center. In LA County, arrangements were made that LA County would continue maintenance for a lot of the portfolio for the first two and a half years of the transfer of the title. It transferred efficiently but the county ran it like the good old days. [Indiscernible] didn't really have to maintain the LA courthouses until basically the end of fiscal year (June 2012) when finally the [Indiscernible] was a state responsibility. That is why our problems are rising and the longer you have to deal with the building, the longer you find out about the problems. That is one reason why the yellow line is growing. A typical situation was the county, especially when they knew they were going to get rid of the building, stopped spending big dollars on maintenance. Many of these medium and large courthouses have air conditioning systems that involve two cooling towers on the roof and two chillers which are some kind of a gas-based cooling system but then eventually produces chilled water and the chilled water goes through the building. Many counties would give us a building with one working chiller and one not working. 340 days of the year it might work but it isn't the proper way to do it because you can't take the one chiller out of service to maintain it. We inherited all of these essentially functionally damaged courthouses with things like that.

>> Staffing. We got the facilities modifications budget a couple of years ago and that helped a lot. The problem is we haven't had the staffing to match the budget. When you are trying to buy construction, you have got to have technical people to specify what you want done and to supervise the work of the contractor and before you pay the bill to make sure of what you got before you write the check. Without the right amount of technical staff we have tens of thousands of dollars of encumbered funds for elevator overhauls, roof repairs, and all sorts of things that are not proceeding simply for want of technical staff. We can't take somebody on the transfer and tell them to manage construction. The nature of the work is fundamentally different. When the [Indiscernible] you would see the Department of Finance is authorized something like 74 positions to work in this function and we have never had 74 field positions. For while we had some tabs on top of full-time employees and in 2011 and 2012 we got at most 267 and then it went down. Now we don't have any tabs and now it has gone back up a little bit. It shows you how much work there is. It is unconscionable for the people that come to our courthouses that we

have tens of millions of dollars in a cash account waiting to be spent but for want of technical staff we can't spend it.

>> This slide is the same slide. Because of additional data the red line got pushed down in the page. What you are seeing with the green line and white line is a reminder of the square footage group. We had this radical increase in square footage. The gray line shows basically what the budget to be spent for the accumulation of facilities modification and maintenance is. You will see how the budget popped out [Indiscernible]. Basically, the staff that was adequate in 2008 in 2009 is not adequate now. The good news is we have tried to make this point repeatedly and I think we have communicated and order requisitions to hire people. I believe [Indiscernible] recognized this is going to be a need, so we can work off this portfolio of legitimate unfunded facilities so we can move ahead.

>> This shows the backlog: how many millions of dollars of fund facilities modifications are on hold-up because of lack of technical staff. It peaked at something like \$900,000 this year but it shouldn't be \$7 million let alone \$19 million. We have to get these people hired. There are all sorts of reasons why skilled people leave, that this is not a workforce that is going to be with us forever. One other thing that has happened is in addition to the \$65 million of facilities modification funded with state money, local courts are able to do what are called quick funded requests. What courts do to the one-time reserve phenomenon has end-of-the-year money that needs to be spent, it can be spent on technology or furniture. The other thing we spend it on is court-funded improvements to buildings. At the end of the last fiscal year [Indiscernible] it's the same people who have to do all of this work, that have to get the work done and because of the Department of Finance requirements they have to get the court to jump the line for those reasons.

>> I'm now going to talk about our big problem of funding routine maintenance and utilities as well as insurance in basis. This building maintenance has two buckets of money. Facilities modifications come out of SB 47 [Indiscernible]. Operations and maintenance doesn't come at all from there. Instead, it comes from a bundle of dollars that was the conception of Chief Justice George. This is where the money comes from to fund operations and maintenance in the broad sense of the term. The yellow bars on the bottom are called CFP or County Facility Payments. If you like [Indiscernible] for the 53 counties that transferred courthouses, one of the negotiations were how much the county would pay to the judicial branch in perpetuity call the CFP, a fixed absolute dollars sum subject to the depreciation of U.S. currency over time and that would be what they would have to pay to the courthouse and be done with the business of maintaining courthouses in those counties. They were one of the negotiations. It was financing -- not what they were now [Indiscernible] in return for nothing and one of the reasons why it was attractive to the counties to transfer the buildings is they got out of the headache of maintaining the courthouses for less than the real cost of maintaining the courthouses. This number is fixed. We have a few courthouses where the county is finally moving into a new building which is judicial branch-built and they will write the CFP check. There is a little movement in the money but the basic point this is locked is true at the aggregate level. The bar in the middle is the random of the revenue we get. We rent a few buildings for good money. We get parking lot fees and night court



fees. The number at the top in light blue which is the \$8 million and change for the last fiscal year is what we get from the general fund. The concept was the general fund was going to contribute as much as was needed to make up the difference.[Indiscernible] inflation in anything like utility expenses, [Indiscernible] the Legislature would just add money from the general fund to make up the difference. It hasn't happened.

>> This is where the money goes. Operations and maintenance covers four important but different kinds of things. The yellow on the bottom is utility bills. I mentioned trying to curb the growth of utility spending but the truth is utility bills are going up. The thin sliver in the middle is insurance. We buy little or no insurance. The next bar which is the darker blue is what we pay for leases.[Indiscernible]. The top bar is mathematically what is left. That is how we get to that number. It is just what is left and that is what funds routine maintenance. That is the elevator inspections, the changing of light bulbs, and that kind of stuff.

>> In the last several years there has been a seesaw pattern where the revenues versus expenses, sometimes revenue at its exact spends and sometimes it goes the other way and a bit of a reserve left over in the bank which saved us until now. [Indiscernible] overspent in terms of revenue by several million dollars. The car's going off the cliff into the water because in fiscal 2016–2017, we're going to be about \$6 million short of what the reserves would cover in trying to fund [Indiscernible] if we don't find a way to cover that \$6 million we will not be able to pay our utility bills or do enough routine maintenance. The solution is we need more money in the next fiscal year. I do recognize revenue for basic court operations. We do need more money to open more court rooms. Subject only to that, this to this council should be seen as one of your most important priorities. There are a bunch of BCP's we're going to show in a moment. This will take us to item 1C. We have six proposals. These are in your materials for today. Five come from the general fund, one is a one-off and should be a no-brainer. The first is for basic operations and maintenance. We would like an augmentation of 27 points, \$6 million, to basically cover leases, utilities, routine maintenance, and the like. The second is to get general fund money to make up the gap in the facilities modification [Indiscernible]. The third is a separate request for additional facilities money, really just to reflect new courthouses. We have a lot of other new courthouses open. They didn't get additional funds but we were told the Department of Finance may not be sympathetic to giving us money. We have endured without the augmentation. We are going to get San Diego and Stockton in the future and that the theory is the augmentation limited to this may be more agreeable to the Department of Finance. The next is risk management. The next category is security. This is a sticky contention. There used to be money that came out of the [Indiscernible] fund [Background Noise] and for the counties that found a way to get to this bucket of money there was a way to make improvements and the way to maintain what would have been done. Many counties didn't know to go to [Indiscernible] to get this assistance. The question about security [Indiscernible] people showing up and asking us to take money we thought was for roof repairs and elevator overhauls and fix security systems. [Indiscernible] no other place in the state budget to even do it but we recognize there needs to be more money if we are going to do anything that would allow people to level off the worst of the courthouse conditions and maintain the systems in place. The last is very different. One office is a bit like

Sierra. The [Indiscernible] courthouse in Alameda County is listed as a [Indiscernible] project but only for \$3.5 million. What was originally presented to be a capital project [Indiscernible] finally the LA court working with the Judicial Council facilities staff realized if we would finish out [Indiscernible] for juvenile delinquency work they would work well for juvenile delinquency and that could be done and leaves a little money left [Indiscernible] it finally becomes a serviceable courthouse instead of a disaster. This is your approval to submit [Indiscernible].

>> Curt, did you want to say something?

>> [Indiscernible]

>> Basically we have the items that need your action. We recommend your approval. They accomplish the strategic goal to provide access to justice and all of this year answer to your questions. One final thing is about the seismic risk. I was on CBS-TV to try to explain [Indiscernible] the good news is they shouldn't pancake much in a quake and would have only limited damage. 50% of our courthouses are considered level five buildings and we don't have the money to replace them but there is more of that in the report.

>> Curt, did you want to go before I take questions?

>> [Indiscernible]

>> First of all I'd like to say to Judge Power, and everybody that works on this, we all appreciate how difficult this work is and it's very important work. It's very complex and requires judgment because basically you were in triage mode at all times because of the demands on money that is not there. I have two or three questions: one on page two behind tab 1B on recommendations in the manner in which we should spend the \$65 million dollars, the first category is priority one facility modifications allocation of \$10 million. I just wondered, does that \$10 million cover all priority one needs?

>> We are making a guess about the future. It used to be \$6 million over \$5 million in prior years and it has gotten higher and we are looking from experience. We had an earthquake in Napa this year but in many ways it is the greater familiarity with the LA courts and continuing problems with the buildings in LA; they keep throwing out priority one problems.

>> Okay. So we are not in a situation where we are ignoring priority one problems before we moved to priority two to six problems.

>> We do nothing from three through six.

>> I'm glad you mentioned the seismic failure problems. I know what is on everybody's mind. We have talked about it in the past and will talk about it in the future, but apparently we don't know what to do about it. The money goes into other things and it seems to me just the safety of

the public and everything like that, I know you have probably agonized over answers and going on national television.

>> The answers are not forthcoming. Do you have any thoughts other than how just ...

>> My understanding is staff is going to be able to commence doing seismic studies to get an order of magnitude on what it will cost. That has been made a task for staff. We haven't had a report on it because they have to hire a consultant.

>> That seems to me it would have to resonate with the various legislators if we peer down to a few courthouses in your district and among your constituents, in this condition, in this size of the quake, it's going to fall down or pancake to some degree and people are going to get hurt and there will be all kinds of finger-pointing and then I'm glad we are turning our attention to that. Also on 1C on the BCPs, I just ask because I'm not familiar except for the concepts. Was there any discussion as to whether or not we should ask for all six of those BCPs or we should pick out on the chance for the Department of Finance to say no to pick up one or two in the hopes of increasing the possibility that at least those might be improved?

>> I think for our advisory committee they are in rank of importance. Six doesn't fight for the same funds so we assume it's a no-brainer to be approved. As to the first five which are competing with general fund money I believe that does consider our ranking.

>> [Overlapping/Multiple Speakers]

>> This is Curt Soderlund. On item number three, additional funds, that is a pair back from the prior-year submissions, and we have been trying to restore dollars back to the construction fund supplanted by the general fund to cover the cost of an occupancy of these new buildings so we changed that approach this year but the new is coming online. To that extent you are pointing that out and we did take that approach.

>> There is been some trimming already in these proposals.

>> Thank you all, thank you Chief.

>> Justice Miller?

>> I also want to compliment all of your committee for the work you do and the tireless work you do. I hear from the chair and the vice-chair and the visit to make to the different facilities, and I want to thank you for that. For Judge Powers, I never gave you permission to retire or leave as chair and myself as chair, we will truly miss you because you have done a wonderful job and you should be proud of that and the branch, and the council [Indiscernible].

>> I'd like to move approval for items 1A, 1B, and 1C.

>> Do I hear a second?

>> A second by Judge Nadler. I don't see any answer for discussions or questions.

[Indiscernible] led by Judge Power and by Judge Highberger and the very focused staff of the JC on this issue. I remember I came in the middle of the meeting quite abruptly and the level of attention and what was on the screen and your committee members involvement was striking. Also, you again are working with limited funds and trying to determine, basically you are in an ER and you are trying to triage as someone said the best and the safest way to use the funds we have now. For that balance, I am greatly appreciative. The continuity has been extremely helpful. Thank you. All in favor of the recommendations, please say aye. Thank you very much, all passed. Item number two is also an action item. As you can see, it pertains to judicial branch administration and a report on the California Rules of Court, rule 10.75, in meetings of advisory bodies and I welcome Justice Miller, Judge Rubin, also Pam Reynolds and [Indiscernible]

>> Please proceed.

>> I'm waiting for the PowerPoint. I would try to talk as fast as Judge Highberger.

>> Sorry, Chief.

>> All right, good afternoon Chief and Judicial Council members. Judge Rubin and I are pleased to have the opportunity to make our one-year progress report on the operation of the open meetings rules, and I know it's hard to imagine it's been only one year. The supplemental report of the 2013–2014 budget package directed the council to report annually to the Legislature providing the current text of the council's open meetings rule in advising of any amendments or changes or modifications we may have made. This will be an overview of what we will be providing to the Legislature. Today will be looking at the tools impact and whether any modifications or changes to the open meetings should be undertaken or considered. What I want to stress is the headline or takeaway of this is the rule is working as designed, is making a complete and welcome addition to the more open and transparent approach this Chief and this council have taken over the past four years. The rule achieved its goal of expanding public access, greater openings, transparency, and uniformity procedures for the council's advisory bodies all at the same time protecting judicial ethics and maintaining the committee's effectiveness. Two of the concerns we had as we went through that process. Ethics and maintaining with the committee's do so well. Let's take a look at the numbers and we will focus on those advisory bodies in which there was the greatest interest and as you might expect it turned out to be those who were making budget or spending decisions for resource allocation recommendations and those whose work ends up on the council's discussion agenda most frequently. Here are three examples. The Trial Court Budget Advisory Committee had 16 meetings subject to the rules and all 16 were 100% open to the public. That is what the rule did. Court facilities had eight meetings in the last two subject to the open meetings rule, all eight were open to the public. Court technology had 16 meetings subject to the rule with 100% open to the public. That's a huge change over just a year. When meetings were closed, the chief reasons

were again as you might expect, privacy discussions on specific individuals subject to certain items, labor negotiations, core security, or judicial ethics. When an advisory body closed the meeting the agendas must be published and they must include and did include a brief description of the agenda item and the reason for the closure. Again a couple of examples, close meetings where we discussed advisory committee nominations were personnel matters and the Trial Court Facilities Modification Committee closed meetings where they talked about lease negotiations. To ensure consistent application—and that was one of our primary concerns in the creation of this rule—we wanted there to be consistent applications across all of the committees so after the rules adoption council members and staff provided comprehensive training for advisory body chairs and vice-chairs and for staff. Council staff also developed templates of standard [Indiscernible] that all advisory bodies might use. Also we had consistent uniform practices. Some statistics, the public attended 64% of the open advisory body meetings this past year either listening by phone or attending in person if that was an option. On the other hand, that means 36% of those open advisory body meetings, 56 of 149, had no public attendance. Most advisory body meetings as we know are by videoconference and this is because of the time limit: only written comments are permitted for these meetings where they are by phone or video. For the smaller number of in-person meetings when security measures permitted the public to attend, spoken public comments are also welcome. During this past year, there were in that regard 42 open in-person advisory body meetings and the public have the option of attending in person at 33 of those meetings. In conclusion, our review at the conclusion of the first year after examining the impact of the new open meeting rule: the rule doesn't need any amendments and modifications at this particular time. We recommend the Judicial Council accept this report. The supplemental report again of the 2013–2014 budget package directs the council to report annually to this body providing the current text and any changes or amendments. The letter that is attached to this report would fulfill this annual requirement. That doesn't mean that we will not continue to monitor the impact of the open meeting rule, reporting back to the Judicial Council as appropriate for example of something should arise in the future that may necessitate a change or modification. Lastly I would be remiss if I didn't thank Pam Reynolds and Deborah Morrison, one for all of their help and the time it took us to create this rule but for all the work they put into making sure we have the templates and that the meetings were consistent and there were questions at the meetings that were answered and legal opinions were given to them and for all of the accumulation of data so we could look at the rule and its impact and make the recommendations we do today so thank you very much for that. That completes our report.

>> I want to make sure, Judge Rubin, you weren't hurt because I don't want you to presume you're just another pretty face.

>> [Indiscernible]

>> Thank you. Justice Hull?

>> Thank you, Chief. I certainly agree with the report and the recommendation so it would be inappropriate not to do that but I do note the statistics that we've got are showing that 36% of the

meetings that were open had no public attendance. I still remember the pain we went through [Indiscernible] and I'm not anxious to revisit it. However, I do think if there is some way we can keep track of not only the law statistics but if there is any sort of a trend or an identification of meetings with the public or simply advisory committees that the public has little or no interest in that we should at least keep that in mind. I know it's a [Indiscernible] a rule on open meetings in place to begin to constrict that rule but I am mindful of the back of whether piecemeal -- if we somehow can discern that staff cost is not necessary I think we would be wise to try to figure that out that. Thank you, Chief.

>> Those are certainly things we can look at and when we report back in a year we can give you two years of statistics. I think that's why we focused on those three committees where the most attention was paid and again you see it relates to budget.

>> Thank you. [Indiscernible]

>> Thank you, Chief. It should be noted that last year, while we were discussing this rule change, that after 90 years of the branch under the Judicial Council's leadership of existence that there is a lot of discussion and concern about this rule. It appears all of the concerns that were aired appear to be more mythological than anything else, that they didn't materialize. I stress this because a lot of my brothers and sisters in the trenches were naysayers and indicated this was going to be problematic for the branch. It was going to create enormous problems and stifle discussion, etc.. In the end, FDR was right: the only thing we have to fear is fear itself and this worked out to be a marvelous vehicle for transparency and it was consistent with what the Chief has brought into her administration which was transparency, accountability, and efficiency. I am quite glad to be the person to move to accept this report and I'm equally glad that the concerns that were echoed in the long hours of our meetings did not materialize so this is another bold step for the branch and I think we should revel in the transparency in the new way of doing business and government so I want to applaud the Chief for taking another leap of faith and taking us [Indiscernible]. I was going to say no man but as [Indiscernible] no one has gone before and bring us into the 21st century. Well done and thank you for the report. Very good news and glad to hear this should allay all of our fears and that we are on the right path and having the right direction and bringing consistency to all the branches of government.

>> Thank you Judge McCabe and your motion has been noted.

>> Judge Rosenberg?

>> I'd be happy to second that motion. Open meetings are common, obviously in local government and in the legislative branch and the executive branch, but they are quite uncommon in the judicial branch so this is a brave new world we have entered into and I do commend everyone who has worked on this: the Chief whose vision this is part of and this council for moving forward. I do have a technical question, and that is how are we tracking public participation? How are we assured that we are in fact tracking that public participation? If a

member of the public attends but doesn't say anything, is that still counted as public attendance? If the press is there, is that counted as public attendance? They're kind of mundane questions but I want to be assured of how we are tracking public attendance.

>> I think that's a great question. What we have known at each meeting, to be there for business purposes. We know how many lines should be open. The telephone meetings are the most common type. What we are able to track is how many beyond that number are actually open and that gives us our public attendance numbers. There may be some limitations to identify that as purely public versus somebody that needs to be there for the judge or presentation to assist but at this point we think it is a good public number. As Justice Miller said, as we track the second [Indiscernible] put more information together about that.

>> The other thing to answer your question: it would be anybody who is on a telephone conference call and has called in beyond those advisory body members. And if it is an in-person meeting it would be, again it is not a count you look at it and say the public was there at the meeting, so it is a yes or no type of thing.

>> Thank you. I have a motion and a second. Let me say it seems like the year went by quickly. What didn't go by quickly was the preparation of this rule. I commend the council and the committee that put this together because I remember reviewing multiple drafts of this and the concern and quite a bit of work by the council went into studying, scrutinizing, looking at the exceptions, trying to carve out what we knew at the time was going to be one of the most open meeting rules for a judiciary. This council got it done. As you recall, it wasn't all cupcakes and lemonade when it came around but I'm happy to see that its results have been positive and we didn't have the negative impact that we might have, with the chilling effect of the robust discussions of other issues. Judge Rubin?

>> I want to dovetail off that and off Judge McCabe's comment. We want to thank everyone who stuck with this and continue to go to the meetings and put out the work. They were fearful [Indiscernible] to do really good work under the new open rule. [Indiscernible]

>> All in favor of the recommendation which is to accept the report and direct council staff to submit -- the appropriate committee, please say aye. Any opposed or abstentions? Thank you, motion carries.

>> [Applause]

>> For item 3, it is an action item. It is the implementation of a core technology governance and strategic plan. We welcome Judge Jim Herman for his last presentation as Judicial Council Technology Committee chair and Judge David De Alba, vice-chair of the same committee.

>> Chief and members of the council, Judge De Alba, the vice-chair, and I are presenting on the recommendation to amend California Rules of Court 10.16 and 10.53. These rules govern the

Technology Committee and the committee now known as Court Technology Advisory Committee that under a change in the rules will become the Information Technology Advisory Committee and this really is kind of the capstone of the whole strategic planning effort in terms of aligning the work of JCTC and soon to be [Indiscernible] with the strategic and tactical plans. And just by way of background, we are following the 2012 Technology Summit, the legislative and executive branches made it clear that new technology funding would not be made available until the council had approved a governance and funding model as well as a strategic plan for technology. The Technology Planning Task Force worked diligently on this effort. Robert Young, CIO from Santa Clara Superior Court, served as project manager and [Indiscernible] served as the lead on the governance track. Judge Marsha Slough, council member, led the funding track and leading the strategic plan track was [Indiscernible] previously CEO in Fresno and now deputy court administrator with the Fifth District Court of Appeal. [Indiscernible] played a key role in this TJ planning track and [Indiscernible] was a strong participant in the governance track. The work of the task force was divided into the three tracks of government funding in strategic planning with 14 members of the committee who were assisted by a total of 41 representatives from 19 trial courts, three appellate districts and three attorneys affiliated with the State Bar, as well as Judicial Council staff. It was tactical planning from the grassroots up. I want to take this time again to thank all of the task force members and participants and at this point I would turn it over to Judge De Alba, who will give some of the details in the changes in rules 10.16 and 10.53.

>> Thank you. Chief and members of the council, I'm here to provide some background to I hope something that's beginning to sound a little familiar. Last fall, you may recall the council adopted the new Technology Planning Task Force's Court Technology Governance and Strategic Plan. Among the task force's recommendations were revising some of the roles and responsibilities of the Technology Committee and the Court Technology Advisory Committee. Some key updates to the rule that we are bringing to you today include new provisions for [Indiscernible] technology policies for the branch. The strategic and tactical technology plans themselves, [Indiscernible] relationships with other committees and advisory bodies of the council, and oversight and executive sponsorship technology initiatives. In other words, more close examination and, as the rule says, oversight of these various initiatives. To recognize CTAC, the task force also recommended changing the name to the Information Technology Committee and other key changes the rule offers in authorizing ITC to be involved in this sponsorship of branchwide technology initiatives and amending the membership of these various work streams and groups and the various selection criteria for these various initiatives. Implementing the recommendations we are talking about required amending rules of court 10.16 and 10.53, which govern our technology, the council's Technology Committee, and the Court Technology Advisory Committee respectively. Since the council adopted the Court Technology Governance and Strategic Plan, our Technology Committee and the CTAC chairs have worked closely with the council and staff to develop the language and verbiage and propose amendments we are talking about. These various updates have been carefully vetted among our interested and affected parties. The draft rules that we will propose were circulated not only to the various committee members for review and recommendation but also circulated for comments from the



public and other advisory committees. Our committee, the Judicial Council Technology Committee, has given careful consideration for all of these various recommendations that have been received and, where appropriate, has made revisions to these proposed amendments. The final step included, as I said, review by our committee and [Indiscernible], so thank you for considering the proposal. I know Judge Herman has the final comment.

>> The change from CTAC to ITC is not merely cosmetic, it is to make it clear that information technology specifically is focused on technology in the broad sense of the word and actually the work stream sort of structure that ITC has been using has been very effective. There are two work streams in force now that will be of immense value branchwide and one is working on data exchange among 13 state-level justice partners who are all aboard in terms of how they exchange data, not only with the courts but broadly and secondly, an e-filing work stream to establish statewide standards for operation standards and technology standards for e-filing given now that we've gotten something like 35 courts that have either deployed case manager systems or in contractor progress in doing the same so we can speak the same language and all have access among the courts that are online on case management systems. I'd like to again thank the judicial branch stakeholders, the Technology Planning Task Force, the JCTC, the Court Information Technology Forum, and the judicial staff who are dedicated, and everyone who participated in the public comment process for helping to update the rule of court which formalizes the recommendations from the Court Technology Governance and Strategic Plan. At this point, any questions or comments? Chief, this is an action item.

>> Thank you. Judge Nadler?

>> Chief, at this time I move to amend rules 10.16 and 10.53 throughout the recommendation.

>> Thank you, Judge Nadler.

>> Second.

>> Second by Justice Chin. All in favor of the recommendations, say aye. All opposed. Any abstentions? Thank you and again thank you, very much.

>> You are welcome, Chief.

>> This concludes our audiocast of the agenda items for today's meeting. After a short break, we will reconvene downstairs in the lower level in the conference center auditorium. This year for the Distinguished Service Award, we're doing something a little different so I ask you all to please be down there by 4:00 so we can take council pictures with the awardees and at 5:00 p.m. the Distinguished Service Award presentation will begin in the auditorium and we will reconvene here tomorrow at 10:30 a.m. for our business meeting, but as you know we have an 8:30 closed session in the same room. The meeting is adjourned.

>> [Event Concluded]