

RESOLUTION 2006-18

A RESOLUTION REQUESTING THE RECERTIFICATION OF THE TOOELE VALLEY PRECINCT AND WENDOVER PRECINCT JUSTICE COURTS

WHEREAS, Utah Code Annotated 78-5-139(2) requires that justice courts be certified at the end of each four-year term; and

WHEREAS, the terms of the Tooele Valley and Wendover precinct justice courts expire on the 31st day of December 2006; and

WHEREAS, the members of the Tooele County Commission have received an opinion letter from Douglas J. Ahlstrom, County Attorney, which sets forth the requirements for the operation of justice courts and the feasibility of continuing to maintain the same; and

WHEREAS, the members of the Tooele County Commission have determined that it is in the best interests of Tooele County to continue to provide for the two county justice courts.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Tooele County, through its duly authorized representatives, hereby requests recertification of the Tooele Valley and Wendover precinct justice courts by the Justice Courts Standards Committee and the Utah Judicial Council.

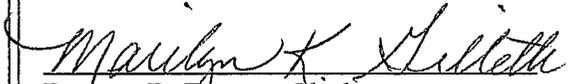
2. The Tooele County Commission hereby affirms its willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the Tooele Valley and Wendover precinct justice courts for the next four-year term of court, except as to any requirements that may be waived by the Utah Judicial Council.

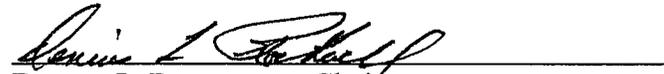
RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS of Tooele County, State of Utah, this 10th day of October 2006.

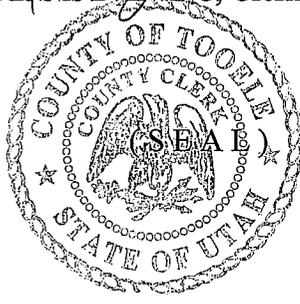
Res. 2006-18

ATTEST:

TOOELE COUNTY LEGISLATIVE BODY


DENNIS D. EWING, Clerk


DENNIS L. ROCKWELL, Chairman



Marilyn K. Gillette
Chief Deputy Clerk

Commissioner Rockwell voted aye
Commissioner Lawrence voted aye
Commissioner Johnson voted aye

APPROVED AS TO FORM:


DOUGLAS J. AHLSTROM
Tooele County Attorney

OFFICE OF THE
TOOELE COUNTY ATTORNEY
47 SOUTH MAIN, TOOELE, UTAH 84074



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October 10, 2006

Tooele County Commission
47 South Main Street
Tooele, UT 84074

Re: Requirements for the Operation of Justice Courts in Tooele County

Dear Commissioners:

Pursuant to the requirements of the State Judicial Council, this letter is for the purpose of advising you of all of the requirements for the operation of justice courts within the boundaries of Tooele County and the feasibility of maintaining the existing justice courts.

Statutes of the State of Utah require that certain standards be met in the operation of justice courts. These statutory requirements include:

1. All official court business shall be conducted in a courtroom or office located in a public facility which is conducive and appropriate to the administration of justice (Utah Code Ann. 78-5-108(1)).
2. Each court shall be open and judicial business shall be transacted every day except as provided by law (78-5-108(3)), although the judge is not required to be present during all hours that the court is open.
3. The hours that the courts are open shall be posted conspicuously at the courts and in local public buildings (78-5-108(5)).
4. The judges and the clerks of the courts shall attend the courts at regularly scheduled times (78-5-108(6)).
5. The entity creating the justice courts shall provide and compensate a judge and clerical personnel to conduct the business of the courts (78-5-128 and 78-5-110).

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6. The entity creating justice courts shall assume the expenses of travel, meals, and lodging for the judges of those courts to attend education and training seminars conducted by the Judicial Council (78-5-127(2)(b)).
7. The entity creating a justice court assumes the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (78-5-110(4)).
8. The entity creating justice court shall provide sufficient staff public prosecutors to attend the courts and perform the duties of prosecution (78-5-111(1)).
9. The entity creating courts shall provide adequate funding for the costs of defense for persons charged with a public offense who are determined by the courts to be indigent under Title 77, Chapter 32 (78-5-111).
10. The entity creating the courts shall provide sufficient local peace officers to attend court when required and provide security for the courts (78-5-111).
11. Witnesses and jury fees as required by law shall be paid by the entity which creates the courts.
12. Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (78-5-135 and 78-5-126).
13. Every entity creating a court shall pay the judge of that court a fixed compensation (78-5-128).
14. Court shall be held within the jurisdiction of the court, except as provided by law (78-5-107).
15. The entity creating the courts shall provide and keep current for each justice court in its jurisdiction a copy of the motor vehicle laws of Utah, appropriate copies of the Utah Code, the justice court manual, State laws affecting local governments, local ordinances, and other legal reference materials as determined to be necessary by the judge (78-5-109).
16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78-5-130.

In addition to those requirements which are directly imposed by statute, the Judicial Council has promulgated the following minimum requirements for the recertification of justice courts:

1. That the courts be opened for at least five days per week or no less than four days per week for at least 11 hours per day (Section 78-5-108).
2. That the judge be available to attend court and conduct court business as needed.
3. That the minimum furnishings for a courtroom include desk and chair for the judge (on a 6 inch riser), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations and an appropriate area or room for victims and witnesses which is separate from the public.
4. A judicial robe, gavel, current bail schedules, a copy of the Code or Judicial Administration and necessary forms and supplies.
5. Office space for the judge and clerk (under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk for a clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a typewriter or word processor and access to a copy machine.
6. A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.
7. The entity must have at least one peace officer (which may be contracted).
8. A court security plan must be submitted consistent with C.J.A. Rule 3-414.
9. Each court must have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety.
10. Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in number 9 above.

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Having worked directly with the two justice courts in Tooele County and having reviewed the above-referenced requirements, the case load, the financial and physical requirements of the courts, it is my opinion that it is feasible for Tooele County to continue operating its two justice courts. It is my recommendation that Tooele County maintain its existing Tooele and Wendover Justice Courts and apply for recertification to the State Judicial Council.

If you have any questions regarding these requirements or my recommendation, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Douglas J. Ahlstrom".

DOUGLAS J. AHLSTROM

Tooele County Attorney

DJA:rp