

# **COMMISSION ON APPELLATE COURT APPOINTMENTS**

## **MINUTES**

**July 15, 2013**

**PRESENT:** Chief Justice Rebecca White Berch, Chair; Doug Cole; Joseph Cuffari; J.W. Harris; Linda Martin; Paul Senseman; Phillip Townsend; Tom Taylor; Jill Harrison, William Ekstrom; Mick Rusing; Ted Schmidt

**ABSENT:** Carey Dobson; James Hartdegen; Charie Wallace

Chief Justice Berch called the meeting to order at 10:00 a.m. to interview candidates for the vacancy created on Division One of the Arizona Court of Appeals due to the retirement of Judge Philip Hall.

### **Public Comment**

Chief Justice Berch called for comment from the public on the applicants. She advised the speakers that they would have three minutes to comment and asked that they do not repeat sentiment related by previous speakers for the same applicant.

Robert Pecharich spoke on behalf of Judge Kenton Jones.  
Stephen Moss spoke on behalf of Kenneth Moyer.

### **Approval of December 19, 2012 and June 17, 2013 Minutes**

Chief Justice Berch asked if any member wished to submit changes or additions to the draft minutes of the December 19, 2012 interview meeting, the June 17, 2013 screening meeting, and the June 17, 2013 Independent Redistricting Commission interview meeting. It was moved that the minutes be approved as submitted. The motion was seconded and passed unanimously.

### **Selection of Interview Questions**

At 10:12 a.m. it was moved that the Commission go into executive session to select the questions to be asked of all candidates. The motion was seconded and passed unanimously.

At 10:42 a.m. the Commission returned to public session, Chief Justice Berch asked audience members not to reveal the questions being asked of candidates to candidates interviewing later in the schedule, in fairness to all candidates.

## **Disqualifications and Disclosures**

Chief Justice Berch asked the Commission members if there were any additional disqualifications and/or disclosures since the application screening meeting on June 17.

Philip Townsend disclosed that he knows John Plante and worked with Kenton Jones about 11 years ago.

Ted Schmidt disclosed he has a pending case with Kenton Jones and he attended law school with John Plante.

Bill Ekstrom disclosed that he knows Mark Sippel.

Tom Taylor disclosed he knows Kenton Jones and Elizabeth McFarland.

Chief Justice Berch disclosed she knows Mark Moran and was Kenton Jones' teacher in law school. She also disclosed she knows the rest of the applicants through prior applications.

## **Investigation Reports**

Chief Justice Berch reminded members that sensitive information can be discussed in executive session upon motion and approval by two-thirds of the members in attendance, but encouraged the Commission to conduct as much of its discussion in public session as possible and to hold any items for executive session until the end of the discussion in public session. The Commission then discussed the results of its due diligence investigations of the candidates.

At 11:17 a.m. it was moved that the commission go in executive session to further discuss questions to be asked to all candidates. The motion was seconded and passed unanimously.

At 11:27 a.m. the Commission returned to public session.

## **Interviews of Applicants**

From 11:30 a.m. to 12:30 p.m., the Commission interviewed Mark Sippel and Elizabeth McFarland.

At 12:30 p.m. the Commission recessed for lunch.

From 1:30 p.m. to 3:30 p.m., the Commission interviewed Kenton Jones, John Plante, Kenneth Moyer, and Mark Moran.

## Discussion of Applicants and Interviews

The Commission discussed the applicants' qualifications and the interviews.

## Voting on Nominations

It was suggested that the commission members conduct a non-binding straw poll to determine the interest in each candidate. The results of the straw poll were:

Kenton Jones – 8  
Elizabeth McFarland – 9  
Mark Moran – 11  
Kenneth Moyer – 11  
John Plante – 3  
Mark Sippel – 0

The Commission discussed the results of the straw poll and Chief Justice Berch opened the floor to motions for a nomination list.

Mick Rusing moved that the commission submit the first four candidates to the governor. The motion was seconded.

Tom Taylor moved that the commission only submit the three most qualified candidates to the Governor. This motion was not seconded.

The Commission discussed the results of the vote and Mick Rusing moved that a nomination list consisting of **Kenton Jones, Elizabeth McFarland, Mark Moran, and Kenneth Moyer** be approved as the final nomination list for submission to Governor. The motion was seconded and passed by a vote of 10-1-1 with Chief Justice Berch abstaining.

It was then moved that the meeting be adjourned. The motion was seconded and passed unanimously.

Respectfully Submitted,

Doug Cole  
Commission Secretary