

JUDICIAL ADVISORY BOARD MINUTES

March 6, 2013

The Judicial Advisory Board of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on March 6, 2013 at 5:48 p.m.

BOARD PRESENT

Peter Lesar
Kate Ali'varius
Phillip Austin
David Brooks
Margaret Downie
Robin Harris
Teresa Sanders

BOARD ABSENT

None

STAFF PRESENT

Michael Claspell
Christy Trevino
Matt Tafoya
Paul Thomas

1. Approve minutes from the February 4, 2013 Board meeting.

It was moved by Boardmember Ali'varius, seconded by Boardmember Harris, that the minutes from the February 4, 2013 Board meeting be approved.

Chairman Lesar declared the motion carried unanimously.

2. Conduct a public hearing to receive comments on the reappointment of Magistrate Victor Ortiz.

Chairman Lesar declared the public hearing open at 5:48 p.m. for the purpose of receiving comments on the reappointment of Magistrate Victor Ortiz.

Chairman Lesar stated that Court Administrator Paul Thomas has requested that the remarks he makes during the public hearing of Magistrate Victor Ortiz also apply to Magistrates Karl Eppich and Valerye Boyer-Wells.

Mr. Thomas commented that in recent years, the Mesa Municipal Court's achievements are directly related to the following: 1.) A highly skilled and motivated staff; 2.) Leadership willing to take a risk on cutting-edge processes; and 3.) A bench that is supportive, available and willing to contribute to change.

Mr. Thomas indicated that more often than not, the well-defined judicial role of judges makes it difficult for them to be a part of the Court's undefined administration when solutions must be sought without the clarity of written law or the Rules of Procedure. He remarked that such is not the case at the Mesa Municipal Court and said that the three magistrates under consideration tonight have all been available at any time and for any reason to assist him and the entire Court staff with the challenges of administering a very complex organization.

Mr. Thomas, in addition, noted that the Mesa Municipal Court has gained a national reputation for innovation and cutting-edge processes. He said that it also possesses the very rare characteristic of institutional courage and added that staff operates without any fear in considering a new process or an "out of the box" idea.

Mr. Thomas further commented that his support for Magistrates Victor Ortiz, Karl Eppich and Valerye Boyer-Wells should be viewed as an affirmation of their direct contributions to the many stunning successes the Court has achieved in recent years. He urged that the Board maintain the extraordinary blend of individuals at the Court by recommending their reappointments tonight.

Chairman Lesar thanked Mr. Thomas for his input.

Presiding Magistrate Matt Tafoya addressed the Board and commended Magistrate Ortiz as a hardworking and skilled jurist who is willing to assist other judges whenever necessary. He urged the Board to recommend the reappointment of Magistrate Ortiz to the Mesa Municipal Court.

Chairman Lesar expressed appreciation to Presiding Magistrate Tafoya for his comments.

Chairman Lesar stated that there being no further citizens wishing to address the Board, he declared the public hearing closed.

3. Interview Magistrate Victor Ortiz for reappointment.

The members of the Judicial Advisory Board posed selected interview questions to Magistrate Ortiz.

Chairman Lesar thanked Magistrate Ortiz for his input.

4. Conduct a public hearing to receive comments on the reappointment of Magistrate Karl Eppich.

Chairman Lesar declared the public hearing open at 6:24 p.m. for the purpose of receiving comments on the reappointment of Magistrate Karl Eppich.

Presiding Magistrate Matt Tafoya stated that he was honored to recommend the reappointment of Magistrate Karl Eppich. He commented that not only has Magistrate Eppich contributed to the success of the Mesa Municipal Court through his knowledge and helpfulness, but he is also very mature and responsible as a judge. He noted that Magistrate Eppich is considered a "go to person" for staff, the administrators and other judges and regarded as a fair and professional jurist by attorneys and defendants alike.

Presiding Magistrate Tafoya urged that the Board recommend Magistrate Eppich's reappointment to the Mesa Municipal Court.

Chairman Lesar thanked Presiding Magistrate Tafoya for his remarks.

Chairman Lesar stated that there being no further citizens wishing to address the Board, he declared the public hearing closed.

5. Interview Magistrate Karl Eppich for reappointment.

The members of the Judicial Advisory Board posed selected interview questions to Magistrate Eppich.

Chairman Lesar thanked Magistrate Eppich for his input.

6. Conduct a public hearing to receive comments on the reappointment of Magistrate Valerye Boyer-Wells.

Chairman Lesar declared the public hearing open at 7:11 p.m. for the purpose of receiving comments on the reappointment of Magistrate Valerye Boyer-Wells.

Presiding Magistrate Matt Tafoya recommended the reappointment of Magistrate Valerye Boyer-Wells and said that she has contributed to the success of the Mesa Municipal Court. He pointed out that Magistrate Boyer-Wells is a professional, conscientious and ethical judge who exhibits a positive attitude and takes her work "very seriously." He remarked that Magistrate Boyer-Wells continues to work on self-improvement with respect to her Court calendar and also practices good case management.

Presiding Magistrate Tafoya urged the Board to recommend Magistrate Boyer-Wells' reappointment to the Mesa Municipal Court.

Chairman Lesar thanked Presiding Magistrate Tafoya for his comments.

Chairman Lesar stated that there being no further citizens wishing to address the Board, he declared the public hearing closed.

7. Interview Magistrate Valerye Boyer-Wells for reappointment.

The members of the Judicial Advisory Board posed selected interview questions to Magistrate Boyer-Wells.

Chairman Lesar thanked Magistrate Boyer-Wells for her input

8. Convene an Executive Session.

It was moved by Boardmember Ali'varius, seconded by Boardmember Brooks, that an Executive Session be convened at 8:04 p.m. to discuss the reappointments of Magistrates Victor Ortiz, Karl Eppich and Valerye Boyer-Wells.

Chairman Lesar declared the motion carried unanimously.

- a. Discussion or consideration of employment, assignment, appointment, promotion or resignation of a public officer, appointee or employee of the City. (A.R.S. § 38-431.03A (1))
 1. Reappointment items for Magistrate Ortiz
 2. Reappointment items for Magistrate Eppich
 3. Reappointment items for Magistrate Boyer-Wells

(At 9:30 p.m., the Board adjourned the Executive Session and reconvened their regular meeting.)

9. Discuss and make recommendations to the City Council on the reappointment of Magistrate Victor Ortiz for a four-year term, Magistrate Karl Eppich for a four-year term and Magistrate Valerye Boyer-Wells for a four-year term.

Chairman Lesar expressed appreciation to Presiding Magistrate Tafoya, Mr. Thomas and Magistrates Ortiz, Eppich and Boyer-Wells for their participation and patience this evening. He asked that each of the magistrates come forward when the Board makes their recommendations to the City Council regarding their respective reappointments.

Chairman Lesar invited Magistrate Ortiz to come forward.

It was moved by Boardmember Austin, seconded by Boardmember Ali'varius, that Magistrate Victor Ortiz be reappointed for a four-year term.

Chairman Lesar stated that he would like to open up the matter for discussion.

Boardmember Austin thanked the applicants, Court administrators and City staff who assisted the Board during the reappointment process.

Boardmember Austin briefly highlighted various reasons for supporting the motion which include, but are not limited to, the following: Magistrate Ortiz has been a dedicated jurist for 16 years; the reference checks revealed that working with Magistrate Ortiz has been a positive experience; the survey results reflected that his ratings were at or above those of the other magistrates in 2012 and previous years; that various Boardmembers who visited Magistrate Ortiz's courtroom had favorable experiences; and Magistrate Ortiz provided insightful responses to the Board's interview questions.

Boardmember Ali'varius remarked that although technology plays a major role in the courtroom and serves an important purpose, it does encumber a judge's ability to focus on the parties appearing in front of him or her. She noted that she was appreciative of Magistrate Ortiz's comment during his interview that it was imperative that a judge makes visual contact with the parties to ensure that they are aware of their legal rights. She added that during a visit to Magistrate Ortiz's courtroom, she observed that he was very respectful of the parties and thanked him for his service to the community.

Chairman Lesar indicated that when he visited Magistrate Ortiz's courtroom, he found it to be run in an orderly and efficient manner. He said that Magistrate Ortiz's experience and knowledge of the law is an asset to the Mesa Municipal Court and further noted that when he is on the bench, he has the ability to articulate "the expectations of the proceedings."

Chairman Lesar called for the vote.

Chairman Lesar declared the motion carried unanimously and congratulated Magistrate Ortiz on his reappointment.

Chairman Lesar asked Magistrate Eppich to come forward.

It was moved by Boardmember Brooks, seconded by Boardmember Harris, that Magistrate Karl Eppich be reappointed for a four-year term.

Chairman Lesar opened up the item for discussion.

Boardmember Brooks commented that in his opinion, Magistrate Eppich's interview/discussion with the Board was outstanding. He explained that he would support Magistrate Eppich's reappointment due to his years of experience, positive reference checks and his involvement as a mentor to the limited jurisdiction court judges. He remarked, in addition, that Magistrate Eppich's work with those judges throughout Arizona has brought and will continue to bring valuable information to the City of Mesa. He said that Magistrate Eppich's survey results were at or above the norm and added that the comments were also positive.

Chairman Lesar commended Magistrate Eppich for his contributions outside the courtroom and noted that he was an asset to the legal system and the City of Mesa. He pointed out that during a recent visit to Magistrate Eppich's courtroom, he displayed patience, clarity in his explanations and "clear fairness" about the proceedings to the party who was appearing in front of him.

Boardmember Harris said that it was clear from the survey results that Magistrate Eppich performs his job exceptionally well. He noted that he was also impressed with Magistrate Eppich's willingness to reach out and help others "do better" which, in his opinion, is the mark of a great public servant and a credit to his profession.

Chairman Lesar called for the vote.

Chairman Lesar declared the motion carried unanimously and congratulated Magistrate Eppich on his reappointment.

Chairman Lesar invited Magistrate Boyer-Wells to come forward.

It was moved by Boardmember Downie, seconded by Boardmember Sanders, that Magistrate Valerye Boyer-Wells be reappointed for a four-year term.

Chairman Lesar opened up the matter for discussion.

Boardmember Downie remarked that in conducting Magistrate Boyer-Wells' reference checks, the feedback she received included, among other things, that she was a hard worker, a team

player, willing to help others and approachable. She said that Magistrate Boyer-Wells is still relatively new to the bench and had acknowledged that there is a “steep learning curve.”

Boardmember Downie noted that Magistrate Boyer-Wells would probably like to see her survey scores a bit higher and said that the Board would too. She pointed out that there were not nearly as many surveys sent out on Magistrate Boyer-Wells as there were for the other two magistrates in this cycle. She stated, moreover, that whereas they received 53 and 47 responses from lawyers, she only received 19. She questioned some of the statistical viability of the comments and indicated that if only 19 responses were received, one or two bad comments will decrease the numeric score. She added that Magistrate Boyer-Wells shared a number of challenging personal situations that occurred during the last cycle.

Boardmember Downie remarked that Magistrate Boyer-Wells’ enthusiasm for the job and her willingness to look at this as a learning opportunity will cause the next cycle to be even better.

Boardmember Downie, in addition, commented that one of the statistics that was inconsistent with the low score was that Magistrate Boyer-Wells received very few “Notices of Change of Judge,” which does not suggest a judge who does not know the law that lawyers “want to escape from.” She said that she could not quite “square” that statistic with some of the others and suggested that perhaps it could be related to perception and not reality. She added that when a judge has an area of challenge, it might be helpful to seek out the assistance of someone who scored well in that area and observe that person’s demeanor in the courtroom. She further suggested that it might be appropriate for the judge to ask a trusted colleague to observe him or her on the bench and offer candid feedback.

Boardmember Downie further indicated that Magistrate Boyer-Wells appears to have good people skills when she is comfortable and relaxed, including good eye contact, being confident, very engaging and not halting. She noted that a lot about being a judge is about “being comfortable in your own skin” in the courtroom. She stated the opinion that Magistrate Boyer-Wells has great potential in this role and added that the next cycle will probably be her best in the sense that she has gotten a lot of the learning curve out of the way.

Boardmember Downie noted that the comments Magistrate Boyer-Wells made with respect to case management persuaded her that her next cycle scores could be better in that area. She recognized that Magistrate Boyer-Wells has a good understanding of balancing case management and not burdening staff too much. She concluded her comments by stating that she was pleased to recommend Magistrate Boyer-Wells for reappointment and added that she would hope Magistrate Boyer-Wells would take the Board’s comments to heart, but not too personally.

Boardmember Brooks expressed support for the motion, but said he would like to offer a few comments. He stated that the statistics the Board received did not suggest that Magistrate Boyer-Wells had improved from the prior cycle, even though she responded during her interview that she believed she had. He noted that he did not doubt her answer and perhaps she had, in fact, improved.

Boardmember Brooks pointed out that there were comments from staff members that would suggest Magistrate Boyer-Wells is a workaholic and not sensitive enough to staff time, but questioned whether such responses could have come from staff members who were “grumpy”

the day they filled out the survey. He said, nevertheless, that was a piece of data that the Board reviewed and took into consideration in making their decision. He added that the Board would strongly encourage Magistrate Boyer-Wells to focus a little more on case administrative functions, administrative skills and perhaps take continuing judicial education classes in those areas.

Boardmember Brooks remarked that in terms of Magistrate Boyer-Wells' knowledge of the law, he concurred that the surveys are not completely inclusive. He urged that she continue her efforts to be "up on the law" and confident in her communication about it among those in the courtroom.

Boardmember Brooks, in addition, commented that with regard to Magistrate Boyer-Wells' interview, sometimes she was flawless and at other times halting. He said that if that occurs in the courtroom, it might impact an individual's perception of her. He noted that the Board recognized that today has been a long day for Magistrate Boyer-Wells and all of them. He suggested that Magistrate Boyer-Wells work on her responsiveness and delivery in the courtroom, which will likely help the parties have a sense of assurance that she knows what she is doing and provides justice in an equitable manner.

Boardmember Brooks concluded his remarks by stating that the Board appreciates Magistrate Boyer-Wells' service to the community and were sorry for the losses and struggles that she has experienced during this last cycle. He added that he would hope Magistrate Boyer-Wells would take the Board's comments as constructive criticism and continue to improve personally and as a judge.

Chairman Lesar commented that Magistrate Boyer-Wells is a passionate individual and said that he appreciated that she is "always on duty" as a judge and as a representative of the City of Mesa. He indicated that he also sensed a great importance of fairness, sincerity and accuracy about what she does for the benefit of the parties that appear before her. He added that although technology may be something that Magistrate Boyer-Wells struggles with, the Board was confident that she will overcome those technology issues while continuing to make the parties that appear before her the key focus of her attention.

Chairman Lesar called for the vote.

Chairman Lesar declared the motion carried unanimously and congratulated Magistrate Boyer-Wells on her reappointment.

Chairman Lesar clarified that what the Board put forward is a recommendation to the City Council on the reappointment of the above-listed magistrates. He stated that along with the Board's recommendations, the City Council will review other documents that were provided to the Board.

In response to a question from Chairman Lesar, Deputy City Clerk Michael Claspell clarified that if the City Council has questions for any of the applicants, they may be contacted. He said that if the City Council chooses not to ask questions, the three reappointments would be approved at a future City Council meeting prior to the expiration of the magistrates' terms.

10. Scheduling of meetings and general information:

Next meeting:

April 29, 2013, 7:45 a.m.
Lower Level Council Chambers
57 East 1st Street

Chairman Lesar stated that the next meeting of the Judicial Advisory Board would be held on Monday, April 29, 2013, at 7:45 a.m. in the Lower Level Council Chambers.

11. Adjournment.

It was moved by Boardmember Austin, seconded by Boardmember Brooks, that the meeting of the Judicial Advisory Board be adjourned at 9:53 p.m.

Chairman Lesar declared the motion carried unanimously.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Judicial Advisory Board meeting of the City of Mesa, Arizona, held on the 6th day of March 2013. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, INTERIM CITY CLERK

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