

JUDICIAL ADVISORY BOARD MINUTES

November 19, 1997

The Judicial Advisory Board of the City of Mesa met in the Mesa City Plaza Building, Suite 800, 20 East Main Street, on November 19, 1997, at 8:04 a.m.

COMMITTEE PRESENT

Chairman Marilyn Wilson
Sylvia Garcia-Suttle
James R. Hart II
John Kerr
Ruth V. McGregor
Judith C.R. O'Neill

COMMITTEE ABSENT

Robert D. Myers

STAFF PRESENT

Neal Beets
Denise Bleyle
Linda Crocker
George Forster
Barbara Jones
Ellen Pence
Walter Switzer
Kelly Walsh

STAFF ABSENT

None

COUNCIL PRESENT

Mayor Wayne Brown

OTHERS PRESENT

Bev Hart
James Riggs

Chairman Wilson excused Boardmember Myers from the meeting.

1. Approval of the minutes of the Judicial Advisory Board meeting of September 24, 1997.

It was moved by Vice Chairman Hart, seconded by Boardmember Garcia-Suttle, that the minutes of the September 24, 1997 Judicial Advisory Board meeting be approved.

Chairman Wilson declared the motion carried unanimously by those present.

2. Review revised procedures.

Chairman Wilson encouraged the members of the Committee to provide input relative to the proposed revisions to the Judicial Advisory Board procedures. Chairman Wilson stated that in the absence of any comments and/or questions, it is the consensus of the members of the Board present that the proposed procedures be approved subject to future revisions if deemed necessary and appropriate by the Boardmembers.

3. Discuss and consider items related to the reappointment of Presiding City Magistrate and City Magistrate:

Assistant to the City Manager/Board Liaison Ellen Pence introduced Acting Presiding City Magistrate Walter Switzer and City Magistrate George Forster to the members of the Board.

Ms. Pence referred to a packet of materials distributed to the Board containing copies of the applications for reappointment submitted by Harold Reeb and George Forster. Ms. Pence recommended that the process for reappointment of Presiding City Magistrate Harold Reeb be postponed pending the outcome of a current investigation. Ms. Pence added that the Board is urged to continue the reappointment process for City Magistrate George Forster and noted that a public hearing has been scheduled for December 10, 1997 for the purpose of receiving input relative to the reappointment.

Chairman Wilson stated that it is the consensus of the members of the Board present that the reappointment process for Presiding City Magistrate Harold Reeb be postponed pending the outcome of an investigation which is currently underway and that the Board will continue the reappointment process for City Magistrate George Forster.

a. Review results of survey

In response to a question from Chairman Wilson, City Attorney Neal Beets stated the opinion that it is appropriate for Mr. Riggs, President of Research & Information Specialists, Inc., to discuss and interpret the contents of a survey summary sheet distributed to the members of the Board in open meeting at this time.

James Riggs, the consultant retained by the Board to develop, implement and analyze survey results relative to the performance of Judges Harold Reeb and George Forster, provided the Board with a brief overview of the survey process and survey results received to date.

Mr. Riggs informed the Board that with the exception of a one-week delay in the mailing of litigant/witness surveys, which has been offset by a return deadline extension, the process has proceeded on schedule.

Discussion ensued relative to the fact that approximately 65% of the attorneys and 70% of the jurors surveyed have responded as of this date, the fact that the litigant/witness population is extremely mobile and resulted in the return of approximately 600 undeliverable, non-forwardable surveys (approximately 15% of this group responded) an 85% response rate received from staff; and additional statistics/data relative to the survey.

Mr. Riggs briefly highlighted the contents of a statistical report containing a summary of survey responses received during the initial survey cycle.

In response to a question from Boardmember O'Neill relative to the fact that numbers rather than names have been assigned Judges Reeb and Forster in the summary report, Ms. Pence stated the opinion that the names should be part of the public record. Ms. Pence informed the Board that the name of Judge 97010 is Harold Reeb and the name of Judge 97011 is George Forster.

In response to a question from Boardmember McGregor, Ms. Pence stated that the anonymous comments are part of the public record.

Chairman Wilson stated the opinion that the Board previously decided that anonymous comments would be reviewed by the Board and forwarded to the Judges for self-improvement purposes and would not be made part of the public record.

Boardmember McGregor concurred with Chairman Wilson's comments relative to the release of anonymous comments contained in the surveys.

City Attorney Neal Beets expressed the opinion that the Board decided not to consider the anonymous comments contained in the surveys as part of the evaluation process and that the comments would be forwarded to the Judges for the purpose of self-improvement. Mr. Beets added that the Board may not have addressed or clarified whether the comments would be made part of the public record despite the fact that the Board will not consider the comments as part of the evaluation process. Mr. Beets advised that the Board still has the option of releasing only the statistical data.

In response to a question from Chairman Wilson, Ms. Pence indicated that one set of comments has been distributed to a representative of the media present at the meeting.

Vice Chairman Hart concurred with Chairman Wilson and Boardmember McGregor's comments relative to ensuring that anonymous comments are not made part of the public record.

Boardmember O'Neill informed the Committee that according to the minutes of the August 26, 1997 Judicial Advisory Board meeting, Boardmember Myers recommended that anonymous comments be forwarded to the Judges for self improvement purposes. Boardmember O'Neill stated the opinion that although the members of the Board may have perceived from the previous discussion that anonymous comments would not be part of the public record, this issue may not have been sufficiently clarified and/or stated.

It was moved by Boardmember O'Neill, seconded by Boardmember McGregor, that the anonymous comments be forwarded to the Judges for self-improvement purposes and that the comments not be made part of the public record.

In response to a question from Chairman Wilson relative to whether the Mayor, Councilmembers and City Manager would receive copies of the anonymous comments, Mr. Beets stated the opinion that comments which the Board has determined will not be part of the public record will not be distributed to anyone other than the Board and the Judges.

Boardmember O'Neill commented that members of the public who desire additional information relative to the Judges should be encouraged to attend court sessions and personally observe the Judges' performance. Boardmember O'Neill discussed concerns relative to unverified anonymous results.

Chairman Wilson indicated that she concurred with the motion to restrict the review of anonymous comments to the members of the Board and to submit the comments to the Judges for personal self-improvement purposes.

In response to a comment from Vice Chairman Hart relative to the importance of balancing the credibility of anonymous comments, Mr. Beets expressed the opinion that should the Board decide to consider the anonymous comments, those remarks should be made available to the public. Mr. Beets added that should the Board approve the motion currently on the floor, the comments would not be required to be made part

of the public record. Mr. Beets emphasized that should the comments be used to determine the Judges' reappointment, the remarks should be part of the public record.

Mr. Beets commented that City personnel records, pertaining to employees' academic experience, references, etc., are made available to the public.

Boardmember Kerr indicated that he is opposed to anonymous comments and agreed that unsigned remarks should not be considered by the Board.

Discussion ensued relative to the fact that attorneys would be more likely to respond to requests for comments based on the assurance of anonymity and the fact that although the State Judicial Performance Review Board and Judges review anonymous comments, they do not include them as part of the public record.

In response to a question from Chairman Wilson, Mr. Beets stated the opinion that the Board may determine that it is in the best interest of the City to ensure that the comments remain confidential and request that the media representative present at the meeting return the copies of all confidential materials provided prior to the meeting.

Chairman Wilson requested that the Board vote on the motion currently on the floor.

Chairman Wilson declared the motion carried unanimously by those present.

b. Review statistics on cases at the Court

In response to a question from Chairman Wilson, Vice Chairman Hart stated that the Rules of Procedure allow each litigant to file one Notice of Change of Judge per case and added that the process allows the litigant to be assigned to another court. Boardmember Hart stated that no reason is required for the Notice.

Boardmember Wilson requested input and/or questions relative to this issue and stated that in the absence of comments, the Board will move to the next agenda item.

c. Review statistics on active and completed appeals

Ms. Pence informed the Council that the following revisions on page 7 (of the 12) should be made to the material distributed to the Board: 1) the Court Disposition (S.Ct. Dispo) on Pepsanna Warren, Docket No. 9636490, should be changed from 'Reversed' to "Affirmed;" and 2) the entire State filed case on Ryan Reskin, Docket No. 9600954, should be deleted.

In response to a question from Boardmember O'Neill, Mr. Beets stated that he will ask the Court to explain the use of asterisks in the report and provide the Board with that information.

d. Review proposed interview questions

Chairman Wilson stated the opinion that this agenda item will be discussed in Executive Session and requested that the Board consider the remaining issues prior to convening the Executive Session.

e. Discuss plans for contacting applicant references

Chairman Wilson stated that this issue will also be discussed in Executive Session.

- f. Review results of credit and background surveys

Chairman Wilson stated that this issue will also be discussed in Executive Session.

- g. Finalize plans for the public hearing and interviews on December 10, 1997, 6:30 p.m., Palo Verde Room 1, Community Center, 201 N. Center Street

Chairman Wilson recommended the Board meet at 6:00 p.m. on December 10, 1997.

Discussion ensued relative to the fact that the public hearing has been advertised; the fact that speakers at the hearing will be asked to complete 'Requests to Speak' prior to addressing the Board; and the fact that each speaker will be allotted three minutes in which to provide comments.

4. Consider schedule for filling new position of Magistrate.

In response to a question from Chairman Wilson, Senior Personnel Analyst Kelly Walsh briefly highlighted a proposed timeline for filling the new position of City Magistrate.

Chairman Wilson indicated that it is the consensus of the Board present at the meeting that the proposed timeline be approved.

Chairman Wilson commented that Mayor Wayne Brown has joined the meeting and thanked Mayor Brown for his attendance.

Discussion ensued relative to advertising the open position in various publications and notifying the Minority Bar Association, the fact that it is normal practice for the City of Mesa to advertise in the Arizona Republic, and anticipated attendance at the meeting.

5. Adjournment and motion to convene an Executive Session.

It was moved by Vice Chairman Hart, seconded by Boardmember O'Neill, that the meeting adjourn at 8:55 a.m.

Chairman Wilson declared the motion carried unanimously by those present.

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 19th day of November 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 3rd day of December 1997

BARBARA JONES, CITY CLERK