

JUDICIAL ADVISORY BOARD MINUTES

October 4, 1999

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 October 4, 1999, at 8:02 a.m.

COMMITTEE PRESENT

Chairman John Kerr
James R. Hart, II
Cecil Patterson
Joe Shipley
Marilyn Wilson

COMMITTEE ABSENT

James Keppel
Judith O'Neill

STAFF PRESENT

Kathy Barrett
Denise Bleyle
Linda Crocker
Barbara Jones
Ellen Pence
Walter Switzer
Kelly Walsh
Others

OTHERS PRESENT

None

Chairman Kerr excused Boardmember Hart from the beginning of the meeting, and Boardmember Keppel and Vice Chairman O'Neill from the entire meeting. Boardmember Hart joined the meeting at 8:10 a.m.

1. Approve minutes of the September 8, 1999 meeting.

It was moved by Boardmember Wilson, seconded by Boardmember Shipley, that the minutes of the September 8, 1999 meeting be approved.

Chairman Kerr declared the motion carried unanimously by those present.

2. Further discussion and consideration of the process for reappointment of magistrates.

A. Finalize the applications for reappointment of City Magistrates.

Chairman Kerr commented that copies of the revised applications for reappointment of City Magistrates were forwarded to the members of the Board for their review prior to this meeting and requested input from the Boardmembers regarding any changes and/or additions.

There being no comments from the Board relative to any changes and/or additions to the proposed applications, Chairman Kerr requested a motion on this agenda item.

It was moved by Boardmember Shipley, seconded by Boardmember Patterson, that the proposed applications for the reappointment of City Magistrates be approved.

Chairman Kerr declared the motion carried unanimously by those present.

B. Finalize the schedule for five reappointments.

Assistant to the City Manager Ellen Pence advised that in response to Board direction, staff has compressed the proposed schedule for the interview format. Ms. Pence stated the opinion that the tentatively scheduled November and December Board meetings may be cancelled and noted that the next meeting of the Board will occur on January 5, 2000. Ms. Pence commented that interview questions will be discussed and finalized at the January 5th meeting and said that the actual interview process will follow the same format utilized in the past.

Ms. Pence added that applications for reappointment will be forwarded with a letter from the Board Chairman to each of the five eligible Magistrates following the January 5th meeting and said that staff will directly distribute the surveys soliciting input from City Court employees, police officers, prosecutors and other appropriate individuals. Ms. Pence reported that statistics on case histories will also be prepared on each individual judge, using an overall court average as a reference point. Ms. Pence informed the Board that inquiries regarding the five magistrates will also be made to the Arizona Commission on Judicial Conduct.

Ms. Pence noted that on February 2, 2000, the applications for reappointment will be reviewed, reference checks and courtroom visits will be assigned to the members of the Board and survey results and statistics will be discussed. Ms. Pence advised that on the evening of February 29, 2000, a public hearing and interview session for three of the magistrates will occur and Board recommendations will be forwarded to the Council. Ms. Pence added that an additional public hearing and interview process for the two remaining magistrates will occur on the evening of March 8, 2000 and recommendations will be forwarded to the City Council. Ms. Pence commented that the City Council will review the recommendations in April/May.

Discussion ensued among the members of the Board relative to scheduling the public hearings/interview sessions and it was decided that both meetings will begin at 6:00 p.m.

It was moved by Boardmember Wilson, seconded by Boardmember Hart, that the proposed schedule for the five reappointments be approved.

Chairman Kerr declared the motion carried unanimously by those present.

Chairman Kerr thanked Ms. Pence for her input and assistance.

C. Discuss four-year terms and staggered terms.

Chairman Kerr commented that this item was briefly discussed at the last Board meeting and said that it appeared at that time that the members of the Board supported changing the terms of office for magistrates from two to four years and staggering the terms to ensure sufficient time between reappointment processes.

In response to a request for input from Boardmember Hart, Boardmember Patterson stated that he supports four-year, staggered terms. Boardmember Patterson stressed the importance of continuity and longevity among the magistrates.

Boardmember Wilson stated the opinion that at the previous meeting the Board discussed the feasibility of maintaining the option of appointing magistrates who are up for reappointment following their first term, to appointments of either two year, three year or four year additional terms of office, depending upon performance. Boardmember Wilson spoke in support of maintaining flexibility regarding the reappointment terms. Boardmember Wilson added that should a magistrate be experiencing difficulties carrying out his/her responsibilities, rather than vote in opposition to the reappointment, the Board may prefer to grant the magistrate a two-year rather than four-year reappointment.

Boardmember Patterson discussed the importance of maintaining judicial independence and expressed the opinion that the optional terms may violate or appear to violate this important standard.

Presiding City Magistrate Walter Switzer responded to a request for input from Boardmember Shipley and said that he concurs with Boardmember Patterson's comments regarding the importance of avoiding the appearance of violating judicial independence standards. Judge Switzer added that should the Board determine that a particular magistrate be reappointed for a two year rather than four-year term based on his/her judicial performance, the Supreme Court may misinterpret that action as political pressure and challenge same on judicial independence grounds. Judge Switzer concurred with Boardmember Wilson's remarks and spoke in support of equality and granting all eligible magistrates for first time reappointments additional two year terms.

Discussion ensued relative to the fact that seniority would govern the staggered term process, the fact that with the exception of Judge Robin Allen, Judge Rebecca Standage and Judge Switzer, all of the magistrates' terms are up for their first reappointment, and the fact that although the Board will develop recommendations relative to the reappointments, the ultimate decision will be the responsibility of the Council.

Boardmember Patterson commented that precedent for granting two-year reappointment terms for all initial reappointments has been set by both the Trial and Appellate Courts. Boardmember Patterson spoke in support of recommending to the Council that initial magistrate reappointments be limited to two years and added that judges who are eligible for subsequent reappointments, be reappointed for four-year terms.

Boardmember Wilson reiterated the importance of maintaining term flexibility and said that although she was willing to consider granting first time eligible magistrates two, three or four-year term extensions, in the interest of equality she would support the granting of two-year reappointment terms, based on Board deliberations, for all eligible first time reappointment applicants.

Ms. Pence commented that the Board should also discuss and provide a recommendation relative to the terms of office for new City magistrate appointments.

Chairman Kerr advised that he supports granting two-year term extensions for all first time reappointments, based on eligibility and Board deliberations. Chairman Kerr added that subsequent reappointment terms should be for periods of four years.

Boardmember Hart stated that he supports Chairman Kerr's recommendation.

It was moved by Boardmember Hart, seconded by Boardmember Wilson, that the Board recommend to the City Council that the initial appointment term for all City magistrates be for a period of two years, that the

initial reappointment term be for a period of two years and that subsequent reappointment terms be for periods of four years.

Chairman Kerr declared the motion carried unanimously by those present.

In response to a question from Chairman Kerr, Ms. Pence stated that the minutes of this meeting containing the Board's recommendations will be placed on the agenda of a future Council Study Session for discussion and consideration. Ms. Pence added that the Board will be invited to attend the meeting and present their recommendations.

Chairman Kerr commented on the importance of determining the Magistrates' terms of office prior to the upcoming reappointments.

Additional discussion ensued relative to staggering the terms of the upcoming reappointments and Ms. Pence recommended that the Board consider the terms of the reappointees as part of their deliberations following the public hearings.

Boardmember Patterson suggested that following the public hearing/interview process, the Board's recommendations to the Council state that beginning on an established date, four (4) City Magistrate positions be designated for four (4) year terms and three (3) positions be designated for two (2) year terms and said that the Board's recommendation will indicate the Board's opinion on which magistrates should be reappointed to the two-year and four-year terms.

Chairman Kerr thanked the members of the Board and Ms. Pence for their input.

D. Review survey results to date.

Management Assistant Denise Bleyle provided the Board with a brief update on the status of the surveys and reported that as of September 30, 1999, fifty responses have already been received. Ms. Bleyle added that survey distribution in the courtroom began on September 13th and said that the consultant will be provided the names of the attorneys who have appeared before the various judges and copies of the surveys will be forwarded to those individuals.

Chairman Kerr thanked Ms. Bleyle for the update.

E. Develop questions.

Chairman Kerr discussed Ms. Pence's recommendation that the Board review the various interview questions that are being proposed and provide input regarding additions, deletions and revisions. Chairman Kerr encouraged the members of the Board to forward their written recommendations to Ms. Pence who will present the proposed revisions at the next meeting.

Boardmember Wilson commented on the fact that the same group of questions were posed to the applicants during their initial appointments two years ago and stressed the importance of revising the questions to avoid repetitiveness and to solicit information that was not previously provided.

In response to a question from Boardmember Hart, Judge Switzer described the process of appointing and duties assigned pro-term judges in the City Court.

Chairman Kerr noted that the next Board meeting is scheduled for January 5, 2000 and thanked the members of the Board and staff for their attendance at the meeting.

4. Adjournment.

Without objection, the meeting of the Judicial Advisory Board adjourned at 9:11 a.m.

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 4th day of October 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1999

BARBARA JONES, CITY CLERK