

JUDICIAL ADVISORY BOARD MINUTES

December 30, 1997

The Judicial Advisory Board of the City of Mesa met in the Mesa City Plaza Building, Suite 750, 20 East Main Street, on December 30, 1997, at 8:04 a.m.

COMMITTEE PRESENT

Chairman Marilyn Wilson
Sylvia Garcia-Suttle
James R. Hart II
John Kerr
Ruth V. McGregor
Robert D. Myers

STAFF PRESENT

Neal Beets
Denise Bleyle
Linda Crocker
Barbara Jones
Ellen Pence
Andrea Rasizer

COUNCIL PRESENT

None

OTHERS PRESENT

Monica Davis
Mark Reeb
Bill Richardson
None

COMMITTEE ABSENT

Judith C.R. O'Neill

STAFF ABSENT

None

Chairman Wilson excused vacationing Boardmember O'Neill from the meeting and advised that Boardmember Myers and Boardmember McGregor will participate, by telephone, in the meeting.

1. Consider the request outlined in December 15, 1997, letter of Judge Robert D. Myers regarding the Board's position on the Interim Report of independent counsel Gary L. Stuart

Chairman Wilson advised that at the December 3, 1997 Judicial Advisory Board meeting, the Board voted unanimously by those present (Vice Chairman Hart and Boardmember McGregor were excused from the meeting) to proceed with the public hearing and interview process for Presiding City Magistrate Harold Reeb on December 10, 1997. Chairman Wilson added that following the release of the Special Counsel's Interim Report, Boardmember Myers forwarded a letter to the Board urging the members to consider reviewing the Interim Report.

Boardmember Myers stated that Judge Reeb's attorney, Mr. Cameron Morgan, delivered a letter to the members of the Board on December 10, 1997 which contained lengthy discussion relative to Special Counsel Gary L. Stuart's Interim Report. Boardmember Myers added that the letter criticizes Mr. Stuart's investigation and discusses a number of allegations that Mr. Stuart has made against his client, Judge Reeb.

Boardmember Myers stated that by introduction of the letter, the Board has been made aware of the contents of the Interim Report without receiving a copy of the actual report and

expressed the opinion that the report should be reviewed and considered by the members of the Judicial Advisory Board.

Boardmember Kerr commented that in his letter, Boardmember Myers urges the members of the Board to consider all available information and emphasized the word 'available.' Boardmember Kerr stated that a copy of the Interim Report has not been made available to the Board. Boardmember Kerr added that the Board could request that the Council provide the members with copies of the report if the Council deemed such distribution to be appropriate.

Boardmember McGregor concurred with Boardmember Myers' remarks and noted that Mr. Morgan's letter refers and responds to the contents of the Interim Report. Boardmember McGregor stated the opinion that the Board should be provided any and all information upon which to base their decision and spoke in support of Boardmember Myers' recommendation.

Vice Chairman Hart commented that he was under the impression that the members of the Board had decided not to consider the December 10, 1997 letter from Mr. Morgan and requested that City Attorney Neal Beets provide the Board with a brief outline of their functions as a Board and the functions of the Special Counsel as they relate to this matter.

Chairman Wilson noted that the Board decided to provide Mr. Morgan additional time in which to submit materials to the members for their review and added that she does not recall any discussion relative to not considering the contents of Mr. Morgan's letter.

Boardmember McGregor expressed the opinion that although the Board discussed the possibility of not considering Mr. Morgan's letter, based on the fact that a number of the Boardmembers had already reviewed the document, it was decided that the entire Board would review the letter and determine its value.

Mr. Beets stated the opinion that the Interim Report should not be part of the record and emphasized that the final report has not yet been submitted. Mr. Beets added that the conclusions contained in the final report may change. Mr. Beets commented on the fact that the Interim Report contains serious allegations of misconduct on the part of Judge Reeb and expressed the opinion that Judge Reeb is entitled to a public due-process hearing to address those allegations.

Mr. Beets informed the members of the Board that Special Counsel Gary L. Stuart was charged with the responsibility of determining whether serious misconduct had occurred on the part of Judge Reeb which may possibly result in his removal from office. Mr. Beets added that the members of the Judicial Advisory Board, on the other hand, were charged with the responsibility of reviewing documentation and determining whether Judge Reeb's reappointment and contract renewal should occur. Mr. Beets added that both entities were given two very distinct and different responsibilities to carry out.

Boardmember Garcia-Suttle expressed the opinion that the Council be requested to provide the Board with copies of the Interim Report.

It was moved by Boardmember Kerr, seconded by Boardmember Garcia-Suttle, that the Board request the City Council to provide them with copies of the Interim Report prepared by Special Counsel Gary L. Stuart.

Boardmember Kerr added that the City Council would render the final decision on whether to provide copies of the report to the members of the Board.

Chairman Wilson commented that she supports the motion and added that the Council should be requested to provide the copies by January 7, 1998 in order to avoid further delays.

Vice Chairman Hart expressed the opinion that Mr. Morgan be provided additional time in which to prepare and submit his response. Vice Chairman Hart pointed out that the Board had informed Mr. Morgan that they were not going to consider the Interim Report and requested that Mr. Morgan frame his response without reference to the report.

Boardmember Myers urged the members of the Board to set new guidelines and allow Mr. Morgan sufficient time in which to respond.

Mr. Beets clarified that if it is the decision of the Board that they review the contents of the Interim Report prepared by Special Council Gary L. Stuart, the report is part of the public record and can be distributed without requesting permission from the City Council.

Boardmember Kerr withdrew his motion. Boardmember Garcia-Suttle withdrew her second to the motion.

It was moved by Boardmember Kerr, seconded by Boardmember Garcia-Suttle, that the Board request City Attorney Neal Beets to release copies of Special Counsel Gary L. Stuart's Interim Report to the members of the Board.

Chairman Wilson stated that the report will be considered by the Board in addition to all other information they have been provided.

Boardmember Kerr amended his motion to include Chairman Wilson's comment. Boardmember Garcia-Suttle seconded the amendment to the motion.

Chairman Wilson stated the opinion that it would be appropriate for Mr. Beets to contact Mr. Stuart and ask him to provide an estimated date for the completion of the final report.

Upon tabulation of votes it showed:

AYES - Wilson-Kerr-McGregor-Myers-Suttle
NAYS - Hart
ABSENT - O'Neill

Chairman Wilson declared the motion carded by a majority of the Board present at the meeting.

Discussion ensued among the members of the Board relative to providing Mr. Morgan with additional time in which to submit materials to the Board.

It was moved by Boardmember Myers, seconded by Boardmember McGregor, to recommend to Council that Mr. Cameron Morgan's deadline for submitting a response to the Board be extended to January 14, 1998.

In response to a question from Chairman Wilson, Vice Chairman Hart recommended that Mr. Morgan's submission allowance be increased to 15 pages of material.

Boardmember Myers amended his motion to increase Mr. Morgan's submittal to a total of 15 pages. Boardmember McGregor seconded the amendment to the motion.

Chairman Wilson declared the motion carried unanimously by those present.

Assistant to the City Manager/Board Liaison Ellen Pence indicated that she would inform Mr. Morgan of the time and content extensions. Ms. Pence also advised that duplicate copies of the candidate interviews are available should the Board wish to review their contents.

Chairman Wilson expressed appreciation to the members of the Board for their participation in the meeting.

2. Adjournment.

It was moved by Boardmember Kerr, seconded by Boardmember Garcia-Suttle, that the meeting adjourn at 8:41 a.m.

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 30th day of December 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 2nd day of March 1997

BARBARA JONES, CITY CLERK