

## JUDICIAL ADVISORY BOARD MINUTES

February 11, 2004

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 February 11, 2004 at 8:05 a.m.

### COMMITTEE PRESENT

Chairman Joan Ruffennach  
Marlon E. Branham  
Joan C. Herzog  
Barbara Jarrett  
Linda Rottman  
Joe Shipley

### COMMITTEE ABSENT

Murray G. Snow

### STAFF PRESENT

Denise Bleyle  
Kathleen Broman  
Pat Granillo  
Debbie Spinner  
Matt Tafoya  
Kelly Walsh

(Chairman Ruffennach excused Boardmember Snow from the meeting.)

#### 1. Approve minutes of January 6, 2004 meeting.

It was moved by Boardmember Shipley, seconded by Vice Chairman Rottman, that the minutes of the January 6, 2004 meeting be approved.

Chairman Ruffennach declared the motion carried unanimously by those present.

#### 2. Discuss items with City Attorney Debbie Spinner.

- a. Changes to ordinance for board membership.
- b. Current reappointment practices.

City Attorney Debbie Spinner addressed the Judicial Advisory Board relative to this agenda item. She explained that the purpose of her presentation was to provide legal opinions regarding several issues that were first introduced by Presiding Magistrate Matt Tafoya at the Board's January 6<sup>th</sup> meeting.

Ms. Spinner reported that the Mesa City Code establishes the criteria for membership on the Judicial Advisory Board and stated that it is at the Board's discretion whether it wishes to add a voting or nonvoting member. She explained that if the Boardmembers determined that it would be appropriate to add the Presiding Magistrate as a nonvoting member, then the matter would be forwarded to the City Council for consideration in the form of an ordinance to amend the City Code.

Ms. Spinner commented that the City Code also sets out the requirements concerning reappointment practices for City Magistrates and what process the Board should follow in that regard. She advised that City Code Section 2-3-7 (B) indicates, "All applicants for appointment or reappointment shall complete an application containing such information as the Board and Personnel Office deem necessary and appropriate to comply with the law and provide relevant information about the ability of the applicant to perform an outstanding job as a City Magistrate." She explained that the Board has the authority to request a credit check of an applicant if it is deemed necessary, but that it is not required to do so.

Ms. Spinner further stated that if an individual has submitted an incomplete application for either appointment or reappointment, per the Arizona Supreme Court's Rules of Procedure for Judicial Performance Review, the Board could request that the applicant complete the application in its entirety. She explained that the Board might also include in its report to the Council whether or not the applicant has been cooperative in providing information. Ms. Spinner noted that if the Board requires additional information from an applicant, there is no specific timeframe regarding the notification process, but urged the Board to provide sufficient notice so that the applicant could respond to the request in a timely manner.

Ms. Spinner reported that if the Boardmembers wish to discuss an individual's employment during an Executive Session, the item must be properly noticed as an Executive Session issue. She stated that the applicant could be invited into the Executive Session to respond to questions regarding, for example, irregularities on his/her credit report. Ms. Spinner cautioned, however, that if and when the Board does invite the applicant into an Executive Session, only confidential information should be discussed and that the Board should not conduct its interview at that time.

Chairman Ruffennach expressed appreciation to Ms. Spinner for her input.

It was moved by Vice Chairman Rottman, seconded by Boardmember Jarrett, that staff be directed to draft an ordinance to add the Presiding City Magistrate as a nonvoting member of the Judicial Advisory Board.

Chairman Ruffennach declared the motion carried unanimously by those present.

Management Assistant Denise Bleyle advised that she and the City Attorney's Office would endeavor to draft the ordinance and bring it back for the Board's approval at its March 3<sup>rd</sup> meeting.

Vice Chairman Rottman commented that with regard to current reappointment practices, because Presiding Magistrate Matt Tafoya initially recommended changes to the process, she suggested that he and the other City Magistrates offer input regarding modifications to the Application for Reappointment which, in turn, would be forwarded to the Board for consideration.

Ms. Bleyle concurred with Vice Chairman Rottman's comments and suggested that the Magistrates coordinate their efforts with the Human Resources Division to ensure that both entities are in accord with any changes to the document.

Discussion ensued among the Boardmembers relative to various modifications to the application forms; that the Board is an oversight organization whose primary obligation is to

ensure that only the most qualified candidates are selected as City Magistrates; and that the City is protected by the Board's due diligence and investigation into an applicant's qualifications that the Board deems most important and necessary.

Human Resources Administrator Kelly Walsh addressed the members of the Board and provided a brief historical overview regarding the creation of the Judicial Advisory Board. She reported that as a result of the method by which a former Presiding Magistrate selected applicants to be interviewed for appointments to the Court, charges were brought through the media regarding a lack of diversity among the candidates. Ms. Walsh explained that through a series of City-conducted investigations, along with negative press coverage, a determination was made that Mesa establish an independent board whose purpose is "to recommend to the City Council the best qualified persons to become City Magistrates and advise the City Council about retaining them." She also stated that the Application for Appointment and the Application for Reappointment were created by Maricopa County Superior Court Judge Robert Myers who based those documents on similar applications used by the Arizona Supreme Court.

Presiding Magistrate Matt Tafoya addressed the Boardmembers and expressed support for Vice Chairman Rottman's recommendation that he and his fellow Magistrates, along with the Human Resources Division, submit recommendations to the Board regarding the current reappointment process.

Ms. Bleyle advised that the Board normally convenes for a "wrap up" meeting in April or May and stated that it may be possible for staff to complete a draft application for the Board's review by that time.

Discussion ensued among the Boardmembers relative to the current reappointment process and the pros and cons of continuing to obtain credit reports on the Magistrates seeking reappointment. Some of the comments included: the fact that credit reports are an important tool and demonstrates a person's ability to follow the law, especially in the capacity as a City Magistrate; that it may be appropriate to include a series of questions in a revised Application for Reappointment which would address the issue of possible bias when adjudicating a matter; that credit reports initially serve an important purpose at the appointment phase, although they may be unnecessary for reappointment; that the State Bar and other agencies could provide the Board with information relative to an applicant's financial indiscretions, if any; and that there has not been an incident at the City in which the information on a credit report precluded a Magistrate from being reappointed.

It was moved by Vice Chairman Rottman, seconded by Boardmember Shipley, to direct the Presiding Magistrate and his staff, in conjunction with the Human Resources Division, to review the current Application for Appointment and Application for Reappointment, and to provide input/suggestions regarding modifications to the documents, which would be forwarded on to the Board for further consideration.

Chairman Ruffennach declared the motion carried unanimously by those present.

Additional discussion ensued relative to the fact that at the January 6<sup>th</sup> meeting, it was the consensus of the Boardmembers that the reappointment process for Magistrates Robin Allen and Rebecca Standage proceed as usual, including obtaining credit reports, but that the credit information not be disseminated to the Boardmembers until such time as the City Attorney

provided input regarding its relevance; the option of one Boardmember being appointed to review the credit reports and advise the Board of any inconsistencies or irregularities; that the Board has no clearly defined objectives regarding the use of the credit reports; and that if the credit reports are not utilized in the correct manner, they could indirectly affect the potential quality of the candidates applying for Magistrate.

It was moved by Boardmember Shipley, seconded by Boardmember Jarrett, that staff continue to conduct credit checks on applicants seeking appointment/reappointment to the Mesa City Court.

Upon tabulation of votes, it showed:

AYES - Ruffennach-Jarrett-Rottman-Shipley  
NAYS - Branham-Herzog  
ABSENT - Snow

Chairman Ruffennach declared the motion carried by majority vote of those present.

Ms. Bleyle commented that the credit checks are currently available for Magistrates Allen and Standage and stated that she would provide copies of those items to the Boardmembers for their review prior to the March 3, 2004 public hearings and interviews.

Vice Chairman Rottman requested that in conjunction with her previous motion relative to the City Court and the Human Resources Division's review of the current reappointment practices, that they also provide the Board with suggestions regarding the most appropriate manner in which to use the credit reports as part of the process.

3. Review and consider items related to the reappointment of Magistrates Rebecca Standage and Robin Allen, whose terms expire June 30, 2004:

a. Review Application for Reappointment and assign reference checks.

Ms. Bleyle reported that the Board has been provided a copy of the completed application for Magistrate Allen. She noted that the Board has also received Magistrate Standage's 2000 Application for Reappointment, in addition to her current application which is incomplete. She explained that Magistrate Standage failed to include reference checks on her application and requested direction from the Boardmembers regarding how they wished to proceed with this matter.

Discussion ensued among the Boardmembers relative to the importance of a Magistrate seeking reappointment to complete his/her application in its entirety, and that anything less could be construed as grounds for the Board not to consider the application.

In response to the Boardmembers' above-referenced concerns, Ms. Spinner clarified that per the Rules of Procedure for Judicial Performance Review, the Board must consider Magistrate Standage's application; however, if it is determined that the applicant failed to fully disclose all answers as requested on the application (i.e., reference checks), that fact may be considered as a basis for its decision whether or not to recommend reappointment.

Further discussion ensued among the Boardmembers relative to the appropriateness of sending a letter to Magistrate Standage requesting that her application be completed and resubmitted in a timely manner, otherwise the document would be considered as originally submitted; that pending receipt of the completed application, including references, reference check assignments among the Boardmembers would be made via the Internet; that it is the consensus of the Board that the March 3<sup>rd</sup> Public Hearing and Interview process for Magistrate Allen proceed as scheduled; and the procedure to be followed during the Public Hearing and Interview process.

Chairman Ruffennach relinquished the gavel to Vice Chairman Rottman in order to make a motion.

It was moved by Chairman Ruffennach, seconded by Boardmember Shipley, that Ms. Bleyle draft a letter to Magistrate Standage (for Chairman Ruffennach's signature) requesting that her Application for Reappointment be completed in its entirety and submitted to the Human Resources Division prior to February 20, 2004.

Vice Chairman Rottman declared the motion carried unanimously by those present.

Vice Chairman Rottman yielded the gavel back to Chairman Ruffennach.

The Boardmembers assigned the reference checks for Magistrate Allen and Magistrate Standage, pending receipt of Magistrate Standage's completed application.

b. Response from Commission on Judicial Conduct.

Ms. Bleyle stated that she has distributed to the Boardmembers a response from the Commission on Judicial Conduct indicating that there were no pending complaints, investigations or proceedings filed against Magistrates Allen and Standage.

c. Survey results.

Mr. Bleyle commented that the Boardmembers have also been provided Mesa City Court statistics and survey results that were recently conducted relative to the reappointments of Magistrates Allen and Standage. She stated that the dates indicated on the surveys are incorrect and that the revised dates should reflect from July 1, 2000 to January 31, 2004.

4. Scheduling of meetings and general information.

Chairman Ruffennach stated that the next meeting of the Judicial Advisory Board will be held on Wednesday, March 3, 2004, with a light snack at 5:00 p.m., followed by a 6:00 p.m. Public Hearing/Interview of Magistrate Rebecca Standage and a 7:00 p.m. Public Hearing/Interview of Magistrate Robin Allen.

(At the suggestion of Boardmember Shipley, it was the consensus of the Board that the Public Hearing and Interview of Magistrate Robin Allen be conducted first at 6:00 p.m., followed by the Public Hearing and Interview of Magistrate Rebecca Standage at 6:45 p.m.)

Magistrate Tafoya requested that the Boardmembers keep an open mind concerning Magistrate Standage's incomplete Application for Reappointment and stressed that she is an outstanding and ethical individual with high moral character.

5. Convene an Executive Session.

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 of Magistrate – Interview questions

It was moved by Boardmember Shipley, seconded by Vice Chairman Rottman, that an Executive Session be convened at 9:29 a.m.

(At 9:59 a.m., the Executive Session adjourned and the Board reconvened their regular meeting.)

6. Adjournment.

Without objection, the meeting of the Judicial Advisory Board adjourned at 10:00 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 11<sup>th</sup> day of February 2004. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK