

MINUTES OF THE
JUDICIAL SELECTION ADVISORY BOARD

May 17, 2010 – 6:00 p.m.
Glendale Municipal Office Complex, B-3
5850 West Glendale Avenue
Glendale, AZ

MEMBERS PRESENT: Jerry Berntsen, Chair
Arthur Dobbelaere, Member
Judge Elizabeth Finn, Non-Voting Member
Leonard Fulcher, Member (via tele-conference)
Steven Keist, Member
Terrance Mead, Member
Judge Ann Scott Timmer, Member
Judge Randy Warner, Member

STAFF PRESENT: Katie Douglas, Judicial Selection Advisory Board Staff Representative
Cathy Clarich, City Court Administrator

MEMBERS ABSENT: No Board members were absent.

Call to Order

Chair Jerry Berntsen called the meeting to order at 5:57 p.m.

Oath of New Board Chair Jerry Berntsen

Upon the departure of Chair Philip Hall, who completed his second three-year term on April 23, 2010, Vice Chair Jerry Berntsen became Board Chair in accordance with Judicial Selection Advisory Board bylaws. Chair Jerry Berntsen took his Board and Commission Oath at this time.

Approval of minutes from March 1, 2010 Meeting

Terrance Mead moved to approve the minutes as presented and Arthur Dobbelaere seconded the motion. It was voted unanimously to approve the Minutes as presented.

Introduction and Oath of New Board Appointees Judge Ann Scott Timmer and Judge Randall Warner

New members Judge Randy Warner and Judge Ann Scott Timmer were introduced to the Board. Judge Warner's appointment to the Judicial Selection Advisory Board was effective on April 27, 2010. He fills the seat vacated by Judge Colleen McNally. He took his Oath at the April 27, 2010 Glendale City Council Meeting. Judge Ann Scott Timmer's appointment to the Judicial Selection Advisory Board was effective on April 23, 2010. She fills the seat vacated by Judge Philip Hall. She took her Oath at the March 23, 2010 Glendale City Council Meeting. Judge Timmer and Judge Warner will be eligible for

two three-year terms. Following their introduction, each of the remaining board members introduced themselves after which Katie Douglas and Cathy Clarich introduced themselves.

Board Organization

Jerry Berntsen, who was elected Vice-Chair at the March 1, 2010 JSAB meeting, became Board Chair on April 23, 2010 when the seat was vacated upon Judge Philip Hall's completion of his second term on the Board. He will serve as Chair for the remainder of the term which ends November 29, 2010. Terrance Mead volunteered to serve as Vice Chair. Judge Ann Scott Timmer moved to nominate Mr. Mead to fill the vacant Vice Chair position. Steven Keist seconded the motion. The motion carried unanimously. Terrance Mead will fill the position through the remainder of the term which ends November 29, 2010.

Review and Discussion of Alternate Example Survey for Presiding City Judge

The Board reviewed and discussed an example of an alternate survey currently being utilized by the City of Phoenix for use with their presiding judge reappointment process to determine if this survey is more appropriate for the position of presiding judge than the survey currently in use.

Judge Elizabeth Finn stated she proposed using the alternate survey because the current survey really doesn't fit her position as she is an administrative judge and does not have a courtroom. She went on to say when the survey has been done in the past, there wasn't one private attorney to send the survey to. Judge Finn also stated she has email addresses for each person on her survey list should the surveys go out via email in the future, rather than the normal mail system. She mentioned the City of Surprise uses Survey Monkey and emails surveys to their list of respondents. Judge Finn also stated that based on the work she performs, the survey is mailed to City of Glendale Department Heads, certain members of the Glendale Police Department, prosecutors, public defenders and her staff. In addition, surveys may go out to individuals she has contact with on special projects as well as individuals with organizations she deals with on a professional basis.

Judge Randy Warner asked if her issue was the questions that are asked in the survey, or if she prefers two answers versus five answers as found in the current survey.

Judge Elizabeth Finn responded that it's both issues. She stated the questions in the alternate survey are more appropriate to her position as an administrative judge. She went on to say the old questions are really designed for attorneys who appear in front of her.

Chair Jerry Berntsen asked if she prefers a survey with two answers rather than five.

Judge Elizabeth Finn stated she thought it would be easier to go with two or three categories. She also stated it would be difficult to take the City of Phoenix survey and use five answers. She went on to say Cecil Patterson became the interim Presiding City Judge before she was appointed to the position and he and the Board set up the processes similar to that of the City of Phoenix.

Arthur Dobbelaere stated the advantage of a two-answer survey is the results would be very clear whereas a survey with five answers could be biased. He suggested they add "can't rate" as one possible answer since in some cases there may be questions a respondent can't comment on.

Chair Jerry Berntsen agreed. He said what's most important is assessing if the Judge being surveyed performs well or if there is room for improvement. He stated he is in favor of a fair assessment.

Judge Ann Scott Timmer asked how these surveys are used. She stated the other surveys give an opportunity to spot trends which would be valuable to the Judge.

Judge Elizabeth Finn said the surveys are used in several ways, including as an educational tool. Anonymous comments are held and released after the appointment is made. She stated it would probably be more beneficial to use the alternate survey as opposed to the one currently in use.

Steven Keist asked if Judge Finn were recommending the alternate survey be used for the Presiding City Judge position.

Judge Elizabeth Finn said she is not sure if recommends is the word she would use. She stated she brought the alternate survey forward months ago because the questions specifically apply to her responsibilities. She also stated the questions on the RIS survey are much more applicable to a trial judge.

Terrance Mead asked how the categories and questions on the RIS survey were developed.

Judge Finn responded the Supreme Court wanted a concrete way to put something in front of the public.

Terrance Mead wondered how the questions are vetted. He stated the questions on the alternate survey seemed less polished and focused whereas the questions used on the RIS survey had been vetted appropriately. He stated if the surveys are changed now, the Board wouldn't be able to compare current results to prior years or have a history.

Judge Finn stated there was no history for her when the process started several years ago. She also said she would be agreeable to continuing to use all existing categories of the current survey, but suggested using only questions that apply to her responsibility. She said the Board may want to form a subcommittee to review and even wordsmith the questions.

Judge Ann Scott Timmer asked how much time the Board had to make a decision.

Katie Douglas stated it would be best to have a decision by August to allow ample time to issue surveys and prepare packets for the Board's reappointment meeting which would take place in December 2010 or January 2011.

Leonard Fulcher stated having a questionnaire appropriate to the position is important and that there is value in consistency. He said he would like to see the form with six categories, but similar to that of the City of Phoenix survey. He recommended the questions be phrased appropriately. Mr. Fulcher stated

question thirty-two of the Phoenix survey caught him by surprise. (Number thirty-two reads as follows: "Taking adequate steps to insure that the administrative policies and procedures of the Court do not encroach upon the proper exercise of judicial discretion.") He also asked if there is room for comment on the alternate survey form.

Judge Elizabeth Finn stated anonymous comments are not forwarded to the Judicial Selection Advisory Board. In regard to question thirty-two, she said she felt several attorneys would be qualified to speak to this topic.

Terrance Mead stated the RIS survey form is a good basis for a survey. He went on to say the Board needs to determine which questions are appropriate. He asked if the Human Resources department would put together a few different sample surveys for the Board to review.

Katie Douglas offered to get samples from other cities to provide to the Board for review.

Terrance Mead stated additional surveys might just cause confusion. He said between the current RIS survey and the alternate survey they should have ample material to work with.

Judge Ann Scott Timmer said that since Judge Finn only occasionally fills in as a trial judge, one idea would be to conduct surveys every four months to better elicit responses from potential survey respondents and provide for a more constant evaluation.

Judge Elizabeth Finn stated the Human Resources Department would have to decide on this from a time and resource perspective.

Judge Ann Scott Timmer stated she agreed with Terrance Mead and recommended keeping the current RIS survey.

Chair Jerry Berntsen stated the Board must move forward. He stated he understood some Board members' preference to stay true to what is currently in use for the survey.

Terrance Mead moved the Board form a three-person subcommittee to meet with Judge Finn to further identify survey questions appropriate to that of her role as Presiding City Judge. He recommended the subcommittee include one attorney, one judge and one citizen member to best represent the Board.

Judge Randy Warner seconded the motion. He stated the task of the committee was to create a survey document to present to the JSAB at a subsequent within two months. The motion carried unanimously.

The Board then discussed the matter of who would serve on the subcommittee and identified Chair Jerry Berntsen, Terry Mead and Judge Randy Warner as the members.

Public Comment

There were no comments from the public at this time.

Staff Report

Katie Douglas stated she would take up the matter of a subcommittee with the City Attorney's office to determine how best to proceed appropriately.

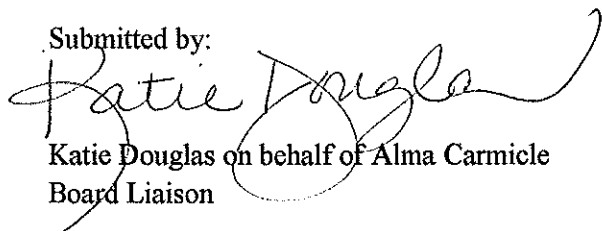
Future Meeting

A meeting will be scheduled for July 2010 at which time the subcommittee will bring their revised survey recommendations back to the Board as a whole to review and decide which survey they wish to move forward with.

Adjournment

Terrance Mead moved to adjourn the meeting at 6:57 p.m. It was seconded by Judge Ann Scott Timmer and the motion carried unanimously.

Submitted by:

A handwritten signature in cursive script that reads "Katie Douglas". The signature is written in black ink and is positioned above the typed name.

Katie Douglas on behalf of Alma Carmicle
Board Liaison