

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD MARCH 31, 2009, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Mayor Joens called the special meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
James Chapman, Council Member
Tim Elinski, Council Member
Duane Kirby, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jiménez, City Clerk
Terri Messick, Court Administrator
Iris Dobler, Human Resources Manager

OTHERS PRESENT

Michael Carroll
Douglas LaSota
Louis Levin
Lorrie Minor
Robert Oliphant

INTRODUCTION OF MAGISTRATE CANDIDATES TO BE INTERVIEWED

Mayor Joens introduced the four candidates to be interviewed: Michael Carroll, Douglas LaSota, Louis Levin, and Lorrie Minor.

REPORT FROM THE CHAIRMAN OF THE JUDICIAL REVIEW AND APPOINTMENT ADVISORY BOARD REGARDING THE INTERVIEW PROCESS OF THE CANDIDATES THAT WAS CONDUCTED BY THE BOARD

Mr. Bob Oliphant, the chairman of the Judicial Review and Appointment Advisory Board (JRAAR) stated the Board consisted of 3 lawyers and 4 citizens, all appointed by the Council. The goal of the Board was to be fair and impartial, and to ensure, among other things, the Open Meeting Law was complied with. All of its meetings were announced in the newspapers and open to the public. It reviewed 26 applications for the position of city magistrate. After discussion the Board agreed on a matrix as a guide for the selection process, with a 6 part criteria. This included legal experience, judicial experience, management experience, education, community service, and, based on the paper application, how the applicant met the job description. There was almost no difficulty arriving at the top 7 applicants. By a 6-1 vote, the Board decided to select 4 applicants for oral interviews. The 4 applicants were selected based on their ranking. The 3 remaining

applicants were put on an alternate list in the event the Council decided to direct they be interviewed as well. Information was obtained from various bar associations and police departments, as well as other sources. The Board agreed on 5 general questions for the oral interviews, to be asked one at a time on a rotating basis, to ensure fairness. The first question focused on the qualifications for the job. The second on an ethical dilemma faced and handled by the applicant. The third, their administrative experience. Fourth, what the applicant saw as the greatest challenge facing the city magistrate in Cottonwood. Fifth, the applicant's view of living and working in the community. A sixth item was added to assess references. Follow-up questions by the Board were permitted. The Board used two guides to reach its final selection. One was a ranking by each Board member based on responses to the 5 oral interview questions as well as item 6.

Four Board members ranked Mr. A. Douglas LaSota as the top candidate. He received the highest number matrix points at 318. He is currently a judge *pro tem* in the Mesa court and had been a judge there since May 2006. He presided over all aspects of misdemeanors, city code cases, traffic code cases, and orders for protection. He was also a judge *pro tem* for the City of Chandler, where he presided over misdemeanors, city code case, traffic code cases, and orders for protection. He served a two-year term as a judge *pro tem* in Scottsdale, and 3 one-year terms as a judge *pro tem* for the Maricopa County Justice of the Peace courts. He was currently the president of the LaSota Law Office and had an accounting background, creating budgets for his law firm. References describe him as punctual and on top of court cases, even when they were not his own. He was considered very impartial, had people skills, was friendly with staff and seasoned in criminal, civic, and traffic law. One Board member observed he was well prepared for his oral interview and had studied previous board meeting minutes. He had interests in horses and had a long-term interest in Cottonwood.

Ms. Laurie Minor was a second highest rated finalists, with 302 matrix points and was picked as the top candidate by two Board members. She has served 3 years a Yavapai-Apache Juvenile Judge, presiding over juvenile and civil hearings where she hears neglect and dependency cases. She was also in charge of the Family Health Court, which includes the Drug Court and Mental Health Court. She presided over criminal cases as assigned. She was formerly, for about 6 years, Chief Judge of the Tribal Court of the Standing Rock Sioux Tribe in Ft. Yates, North Dakota, and had 5-6 associate judges reporting to her. She presided over criminal and civil actions and prepared and oversaw a \$3 million budget. References describe her excellent rapport with those with whom she has worked. She treated others with respect and dignity while keeping a firm hand, when needed, in court.

Judge Michael Carroll received the third highest matrix ranking, but was not picked as the top candidate by any Board member. He is a retired judge of the City of Phoenix, having served over 20 years in that capacity. He was a part-time judge for the City of Goodyear and the City of Avondale. He was recently appointed a Maricopa County Justice Court *pro tem* judge. References described him as possessing a superb intellect, always showing respect for litigants, being prompt, and an excellent judge. He was described as fair, judicial, conscientious, and thorough.

Mr. Louis Levin received the fourth highest matrix ranking and was picked by one Board member as the top candidate. He was a senior attorney at the Flagstaff Public Defender's office. He handled that office's most serious cases, including homicides, robberies, theft, sexual assault, domestic violence, and driving under the influence. He was looked upon as an exceptional supervisor and trainer. He has been an acting magistrate in Sedona. He was viewed as having an even demeanor, diligent, level headed, professional, and gentlemanly. His references state he has earned respect from those in the court system as well as the Flagstaff community.

The top four candidates are all in good standing with the Arizona or North Dakota Supreme Courts, with no pending complaints. Ms. Minor stated intended to become a member of the Arizona Bar in 2010. It should be noted, for the record, one member of the Board stated at the close of the Board's considerations last Friday, that none of the four top candidates had qualifications which exceeded those of the current city magistrate.

The Board recommended all four candidates for consideration by the Council because it believed any one of them, regardless of matrix ranking, had the potential to do an excellent job as city magistrate.

Board members had been asked to attend tonight's meeting, and give their personal opinions. A summary and the matrix had been delivered to Council Members.

INTERVIEW QUESTIONS TO MAGISTRATE CANDIDATES BY CITY COUNCIL

The candidates answered, on a rotating basis, a series of questions from the Council.

Ms. Terri Messick, the court administrator, then asked two questions of the candidates, which they responded to.

QUESTIONS FROM MAGISTRATE CANDIDATES

The four candidates had no questions, but each gave a closing statement as invited to do so by Mayor Joens.

QUESTIONS FROM THE PUBLIC TO THE MAGISTRATE APPLICANTS

Ms. Terri Gage, a Cottonwood resident, questioned the candidates if there might be a time when they might refuse to hear a case, which each candidate responded to.

Mr. Bill Ponath, a resident of Cave Creek and applicant for the position, stated he was disappointed that he was not selected to interview for the position and proceeded to state why he was a better selection for the position and spoke about his references.

Richard Serden, the city magistrate for the last four years, stated after four years of being

the presiding magistrate of this court and questioned why he was deemed not qualified to serve in this position. He asked that the staff of the court be taken care of and that there were no negative ramifications for the staff.

Mr. Ponanth stated he would like to deliver correspondence the following day to Council Members addressing the questions asked of candidates at this meeting and demonstrating his qualifications for the position.

Mayor Joens stated the City Council did create a judicial commission. That commission accepted 26 applications and had a very thorough process. She had read the minutes which explained how they went about that process. She respected that process.

Mayor Joens suggested taking a break so staff could add up the scores.

Mr. Bartosh stated that would be fine unless the Council wished to convene into executive session to discuss and deliberate on the candidates.

Council Member Pratt moved to convene into executive session. Motion was seconded by Council Member Chapman, and carried with a dissenting vote by Council Member Kirby.

Council Member Pratt moved to reconvene into regular session. Motion was seconded by Council Member Norman, and carried unanimously.

Mayor Joens called for a 5 minute break so that score sheets could be added up. She wanted to acknowledge the 4 letters the candidates received advising them of the executive session. She wanted to let them know the Council did not need to call them because it wasn't necessary. Had the Council discussed the candidates they would have been called and given the option of doing that in public or in executive session.

DISCUSSION, CONSIDERATION, AND POSSIBLE LEGAL ACTION REGARDING THE APPOINTMENT OF A CANDIDATE FOR THE CITY MAGISTRATE POSITION

Mayor Joens stated all the candidates were impressive. Each has obviously dedicated their career to high accomplishments in the field of law. She was quite impressed with the judicial commission's choices.

Council Member Elinski stated what the Council did was important and he stood by the formation of the commission and its integrity.

Council Member Pratt stated he was impressed by the quality of all four of the candidates.

Vice Mayor Pfeifer stated she reiterated everything that's been said and she wanted to thank Judge Serden for his four years of service to the city. He's done a fantastic job.

Mayor Joens stated the rest of the Council would extend their gratefulness and their thanks

for the job he did getting the court straightened out. It's running very well and he was greatly appreciated.

Mayor Joens read the interview scores by the City Council for the four candidates through use of the matrix by the Council and the Court Administrator. They were as follows: Michael Carroll, 233; Douglas LaSota, 278; Louis Levin, 233; and Lorrie Minor, 249. This placed Mr. LaSota as the number one candidate, Lorrie Minor as the second candidate, and Mr. Carroll and Mr. Levin tied for third. The ranking sheets show that Mr. Carroll was picked as the top candidate once, Mr. LaSota seven times, and Mr. Levin and Ms. Minor were not chosen by anyone as the top candidate.

Mayor Joens stated the Council's choice was to consider any of the candidates, direct the judicial commission to recommend additional applicants from the existing applications, or instruct the judicial commission to initiate additional recruitment action. Or the Council may decide tonight or refer it to a future agenda.

POSSIBLE JOB OFFER TO A MAGISTRATE APPLICANT FOR THE POSITION OF CITY MAGISTRATE CONTINGENT UPON NEGOTIATING A CONTRACT AGREEABLE TO BOTH PARTIES, OR POSSIBLE DIRECTION TO STAFF TO RE-ADVERTISE THE POSITION

Council Member Kirby moved to make a job offer to Mr. LaSota for the position of city magistrate contingent upon negotiating a contract agreeable to both parties. The motion was seconded by Council Member Chapman, and carried unanimously.

The Council directed the Mayor to work with staff to negotiate a contract with Mr. LaSota to be presented for Council approval at its meeting on April 7, 2009.

ADJOURNMENT

Council Member Norman moved to adjourn. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously. Special meeting adjourned at 9:20 p.m.

Diane Joens, Mayor

Marianne Jiménez, City Clerk

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CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a special meeting of the City Council of the City of Cottonwood held on March 31, 2009. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date