

Tenth Judicial District Judicial Nominating Commission Minutes April 24, 2008 Meeting

Date: April 24, 2008

Time: 9:00 a.m.

Location: Jack Sanders Justice Center, 12400 Foster, Training Room B

In attendance: Justice Lee Johnson, Chair; Hon. Karen Arnold-Burger, Secretary, Edna Baginsky, Michelle Kinzer, Charley German, Jacob Swisher, Victor Bergman, Scott Gyllenborg, Marcia Rinehart, Larry McClain; Lee Smithyman, Janis McMillen, Brant Tidwell, and Kevin Moriarty

Absent: Terry Presta

The meeting was called to order by Justice Lee Johnson at 9:13 a.m.

After the meeting was called to order and a quorum declared, Larry McClain moved to approve the minutes of the March 20, 2008 meeting. Marcia Rinehart seconded the motion. The motion passed unanimously and the minutes were thereby approved.

Justice Johnson then called upon audience members for public comment. There being no audience members present, the public comment section of the meeting was closed. The Commission began discussing a proposed amendment to the Commission's Rules of Procedure concerning contact with applicants outside the formal interview process. Some Commissioners had been approached for the first time by applicants seeking to introduce themselves and discuss their qualifications. There was some concern that if this became routine, all applicants would seek out the Commissioners prior to interviews and an entirely new preliminary process would develop. There would be no record made of these conversations and it could give the appearance of favoritism toward those that meet with Commissioners in advance. The Commissioners discussed the difference between being contacted by an applicant and being lobbied by a third person on the applicant's behalf. Some felt this had not been a problem in the past and there was no reason to believe it would be in the future and Commissioners were simply free to decline any private meetings without the necessity of a rules change.

A motion was made by Marcia Rinehart to approve the proposed change to the Rules of Procedure to insert the following in the Ethics paragraph: *"Private meetings with declared applicants to discuss the applicant's qualifications are discouraged. The fact that such a meeting has taken place shall be disclosed to the whole Commission."* The motion was seconded by Lee Smithyman. During

the discussion on the motion there was a consensus that actually submitting an application was what was meant by being a “declared candidate.” The motion passed 10-3.

The Commission next discussed its voting procedure. Justice Johnson outlined the issue that arose at the last interview session where, due to the size of the commission and the size of the interview pool, it was impossible to get enough people with seven or more votes to move on to the second round. After discussion of various options and a clear desire to have a system that worked and did not need modification with every meeting, a motion was made by Commissioner Tidwell and seconded by Commissioner McMillen to allow the top 50% vote getters, plus ties, to advance to the second round. After the second round, the rules would remain as currently written. After discussion, the motion passed unanimously.

Discussion then turned to whether we would select interviewees in the same way we had during the last selection process. Commissioners would be allowed to vote for whomever they wanted for an interview. Although they could only vote once for each person, a Commissioner could vote for as many interviewees or as few interviewees as he or she wanted. A motion was made by Commissioner McClain and seconded by Commissioner Kinzer to interview everyone. After discussion, the maker and second withdrew the motion. A motion was made by Commissioner Gyllenborg to keep the interview voting the same as it had been. The motion was seconded by Commissioner Arnold-Burger and passed unanimously, 13-0.

At 10:30 a.m. a motion was made by Commissioner Rinehart and seconded by Commissioner Swisher to adjourn to executive session until 11:00 a.m. to discuss qualifications of applicants/interviewees for the position of Judge of the Tenth Judicial District as allowed by K.S.A. 75-4319(b)(1). The motion passed unanimously, 13-0.

At 11:00 a.m. the public meeting reconvened. At 11:01 a.m. a motion was made by Commissioner Rinehart and seconded by Commissioner Baginsky to adjourn to executive session until 11:30 a.m. to discuss qualifications of applicants/interviewees for the position of Judge of the Tenth Judicial District as allowed by K.S.A. 75-4319(b)(1). The motion passed unanimously, 13-0.

At 11:30 a.m. the public meeting reconvened. The Commissioners proceeded to fill out and sign ballots to determine who would be interviewed. Justice Johnson tallied the ballots. It was determined that 11 people had seven or more votes and three people had 6 votes. A motion was made by Commissioner Arnold-Burger to interview all persons receiving at least 7 votes, or a majority of those present and voting. The motion was seconded by Commissioner Baginsky. After discussion, the motion passed, 11-2.

In order to have sufficient time to review background interviews conducted by Commissioners, the Secretary was directed to set interviews starting at 9:30 a.m. at 20 minute intervals with 10 minutes between interviews and one hour for lunch.

A random drawing was had to determine which liaisons would be assigned to which interviewees.

The meeting was adjourned at approximately 12:00 noon.

Approved this 8th day of May, 2008

A handwritten signature in black ink, reading "Karen Arnold-Burger". The signature is written in a cursive style with a large, prominent initial "K".

Karen Arnold-Burger
Secretary