

Tenth Judicial District

Judicial Nominating Commission

Minutes May 8, 2008 Meeting

Date: May 8, 2008

Time: 8:00 a.m.

Location: Johnson County Administration Building, 111 S. Cherry, Room 200, Olathe, KS

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, Terry Presta and Kevin Moriarty

Absent: None.

The meeting was called to order by Justice Lee Johnson at 8:05 a.m.

After the meeting was called to order and a quorum declared, Janis McMillan moved to approve the minutes of the April 24, 2008 meeting. Marcia Rinehart seconded the motion. The motion passed unanimously and the minutes were thereby approved.

The Commission then reviewed the amendments to the Rules of Procedure recommended at the last meeting. It was agreed by consensus that the phrase "declared applicants" in paragraph 23 meant those that had actually submitted an application for a current opening. Marcia Rinehart moved to approve the amendments to the Rules of Procedure. Jacob Swisher seconded the motion. The motion passed unanimously and the amendments were thereby approved.

At 8:10 a.m., 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.

At 8:14 a.m. a motion was made by Commissioner Gyllenborg and seconded by Commissioner Tidwell to adjourn to executive session until no later than 9:00 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, 14-0.

At 9:00 a.m. the public meeting reconvened. There being three members of the public present, Justice Johnson reopened the meeting for public comment. Comments were made by attorney Jon Christlieb and Ms. Ann Etter. Ms. Etter expressed concern about the necessity of executive sessions to discuss

applicants. She felt that the integrity of the system necessitated that there be no executive sessions and that all discussions be in public meeting. Justice Johnson explained the process and the confidentiality rules regarding the private information about the applicants that was provided to the Commission.

At 9:08 a.m. a motion was made by Commissioner Gyllenborg and seconded by Commissioner Kinzer to adjourn to executive session until no later than 9:30 a.m. to continue 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, 14-0.

At 9:30 a.m. the public meeting reconvened. The Commissioners proceeded to interview applicants. At noon a lunch break was taken. The meeting reconvened at 1:00 p.m. and applicants were interviewed until 4:00 p.m. The Commission took a 10 minute break.

At 4:10 p.m. a motion was made by Commissioner Gyllenborg and seconded by Commissioner Swisher to adjourn to executive session until no later than 4:45 p.m. to continue 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, 14-0.

At 4:45 p.m. the public meeting reconvened. At 4:46 p.m. a motion was made by Commissioner Gyllenborg and seconded by Commissioner Swisher to adjourn to executive session until no later than 5:05 p.m. to continue 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, 14-0.

At 5:05 p.m. the public meeting reconvened and voting began by signed written ballot. Justice Johnson tallied the votes from the First Final Ballot and announced that the names of Todd Arney, Jon Blongewicz, Christine Graham, Kelly Ryan and Dan Vokins must be removed from the ballot for the second round pursuant to the voting rules. The Commissioners then proceeded to cast their ballots on the Second Final Ballot and deliver them to Justice Johnson. Justice Johnson tallied the votes and it was determined that there were three candidates with eight or more votes, Robert Bjerg, David Hauber, and James Phelan. Pursuant to the voting rules, these three applicants were declared to be the nominees. It was determined that each applicant would be notified by their liaison regarding the final three nominees.

The Commission then began discussing any changes that should be put in place for the next selection. It was determined that:

- 1) Due to some applicants misunderstanding the request in paragraph 12 of the application, it was determined that it would be clarified to require that the applicant attach his or her CLE printout for the preceding 3 years.
- 2) The application was to clarify that the applicant must include zip codes and phone numbers for all persons identified on the application.
- 3) The letter that is sent to references etc. would indicate that the person "may" be contacted by the liaisons, not "will" be contacted, in case a liaison determines it is not necessary to contact a particular reference or is not able to make contact. It was also determined that a "cut off" date be established for all letters and included in the press release.
- 4) Public comment will be accepted both before and after interviews for a designated period of time so that persons wishing to make comments know the "window" during which such comments should be made. In addition, the future press releases would clearly designate the time frame during which public comment would be accepted so that people would not have to wait through executive sessions unnecessarily.
- 5) The Secretary was directed to pursue development of a Commission website on which would be placed the application, rules of procedure, pictures and short bio's regarding each Commissioner.
- 6) The Secretary was also directed to pursue the feasibility of conducting future meetings in the Board of County Commissioners meeting room so that they could be televised.

The meeting was adjourned at approximately 5:30 p.m.

Approved this 11th day of August, 2008



Karen Arnold-Burger
Secretary