

Tenth Judicial District Judicial Nominating Commission Minutes September 11, 2012 Meeting

Date: September 11, 2012

Time: 4:00 p.m.

Location: Johnson County Courthouse, 100 N. Kansas, Room 319, Olathe, KS

In attendance: Justice Lee Johnson, Chair; Hon. Karen Arnold-Burger, Secretary, Edna Baginsky, Ron Ryckman, Charley German, Gregory Doring, Steve Howe, Brett Milbourn, Marcia Rinehart, Lee Smithyman, Richard Merker, Terry Presta, Michelle Kinzer, Judge Kevin Moriarty, and Vivien Jennings.

The meeting was called to order by Justice Lee Johnson at 4:02 p.m. and a quorum declared. Marcia Rinehart moved to approve the minutes of the June 28, 2012 meeting and Steve Howe seconded the motion, which passed unanimously.

The Commission next discussed whether to accept Michelle Suter's application in light of the fact that it was late. Brett Milbourn moved that an exception not be granted. Lee Smithyman seconded the motion. It passed unanimously. Accordingly, the Commission will not consider Ms. Suter's application.

It was noted that Marcia Rinehart will be absent for the next meeting due to foreign travel that was planned before dates were set for interviews.

At 4:15 p.m. the meeting was open for public comment. There being no members of the public present, the public comment session was closed.

The Commission then discussed voting rules. Frustration was expressed that this seemed to be the most difficult part of our rules to tie down. It was expressed that some of the problems were due to the fact that our commission is so big. Based on total votes cast, several scenarios were discussed and methods to deal with them addressed. Two amendments were suggested to the proposed voting changes. At the end of the paragraph labeled "First Round" the following sentence was added: "In the event more than 3 applicants received 8 or more votes, only those receiving 8 or more votes will move on to the second round." In addition, at the end of the paragraph labeled "Third Round" the following sentence was added: "If more applicants with 8 or more votes remain than there are positions left to be filled after this round, the unfilled positions will be awarded to the applicants receiving the highest number of votes in excess of 8." A redline version of the proposed changes are attached to these minutes. A motion was made by Brett Milbourn to accept the changes as discussed subject

to final approval and review at the September 25 meeting. Rick Merker seconded and the motion passed unanimously.

At 4:40 p.m. a motion was made by Lee Smithyman and seconded by Ron Ryckman to adjourn to executive session until 5:00 p.m. to discuss confidential information regarding the qualifications of applicants for the position of Judge of the Tenth Judicial District as allowed by K.S.A. 75-4319(b)(1). The motion passed unanimously.

At 5:00 p.m. the public meeting reconvened. At 5:01 p.m. a motion was made by Michelle Kinzer and seconded by Judge Kevin Moriarty to adjourn to executive session until 5:20 p.m. to discuss confidential information regarding the qualifications of applicants for the position of Judge of the Tenth Judicial District as allowed by K.S.A. 75-4319(b)(1). The motion passed unanimously.

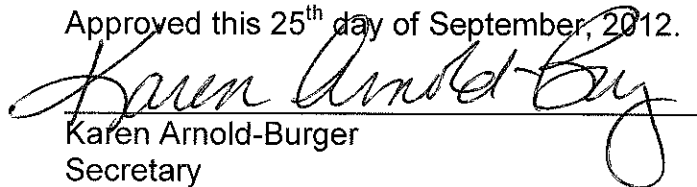
At 5:20 p.m. the public meeting reconvened. The Commissioners proceeded to fill out and sign ballots to determine who would be interviewed. Commissioners were allowed to vote for as many interviewees as they wanted. Justice Johnson tallied the ballots and then announced the vote totals. It was determined if Commissioners just wanted to consider candidates who received 8 or more votes (a majority of those present and voting) it would be interviewing 9 candidates. If it wanted to include those who received 7 or more votes, it would be interviewing 11 candidates. A discussion ensued. Rick Merker made a motion to interview all candidates who received 7 or more votes. Greg Doring seconded the motion. The motion passed 11 to 2.

The Secretary was directed to prepare an interview schedule similar to the one used for the last interview session the Commission held in June 2012. A random drawing was then held to determine which liaisons would be assigned to which interviewees. The assignments were as follows:

INTERVIEWEES	COMMISSIONER ASSIGNED	
	LAY	LAWYER
Christi Bright	Doring	Merker
Hon. Michael Farley	Doring	Merker
Stephanie Goodenow	Kinzer	German
Michael Joyce	Kinzer	German
Timothy McCarthy	Jennings	Moriarty
Laura McConwell	Jennings	Moriarty
Clayton Norkey	Presta	Arnold-Burger
Jackie Rokusek	Presta	Arnold-Burger
Robert Scott	Baginsky	Howe
Hon. Dan Vokins	Ryckman	Smithyman
Lisa Wetzler	Baginsky	Milbourn

The meeting was adjourned at 6:00 p.m.

Approved this 25th day of September, 2012.


 Karen Arnold-Burger
 Secretary

14. Voting. No final action shall be taken except upon a vote of at least a majority of the members of the Commission (8). K.S.A. §20-2907. Following the interviews, the Commissioners present for all interviews will vote using the Tenth Judicial Nominating Commission Voting Rules attached hereto. Only Commissioners who have attended the interviews are eligible to vote. Voting by proxy or absentee ballot is not permitted. All votes shall be cast by written ballot, signed by the voter.

Tenth Judicial District Judicial Nominating Commission Voting Rules

1. Each Commissioner is allotted 3 votes for the first round. For each subsequent round, each commissioner will have one vote per position that remains unfilled. For an applicant to be selected as a nominee, he or she must receive at least 8 votes, regardless of the number of commissioners present and voting per round in each of the first two rounds.
2. Each Commissioner is allowed to cast only one vote per applicant per round.
3. Commissioners must cast each of their allotted votes each round.
4. **First Round.** All votes are cast on the entire list of interviewees. For an applicant to continue to be considered after the First Round, he or she must receive at least 2 votes, fall in the top 50% of votes received plus any ties. If an applicant receives 8 or more votes in the first round, the applicant becomes a nominee and his or her name is removed from the ballot for the second round of voting on the remaining unfilled positions. In the event more than 3 applicants receive 8 or more votes, only those with 8 or more votes will be on the ballot for the second round.
5. **Second Round.** Each Commissioner is allotted a number of votes equal to the number of positions remaining unfilled after the first round (3, 2, or 1). If fewer applicants than the number of unfilled positions receive 8 or more votes in the second round, those applicants with 8 or more votes become nominees and their names will be removed from the ballot for the third round. If more applicants receive 8 or more votes than the number of unfilled remaining positions, only those persons with 8 or more votes will be on the ballot for the third round. For an applicant to be selected, he or she must receive at least 8 votes. If more than three names remain that have 8 or more votes, voting will continue to the Third Round.

~~6.—Third Round. Each Commissioner is allotted a number of votes equal to the number of positions remaining unfilled after the second round. The ballot for the third round shall include all applicants that received 2 or more, but less than 8, votes in the second round, except in the event that the second round produced more applicants with 8 or more votes than the number of unfilled positions remaining, in which case, the third round ballot will include only those applicants receiving 8 or more votes in the second round. If more applicants with 8 or more votes remain than there are positions left to be filled after this round, the unfilled positions will be awarded to the applicants receiving the highest number of votes in excess of 8. Only those applicants receiving 8 or more votes in the Second Round are considered in this round. However, each Commissioner is allotted only 2 votes. For an applicant to be selected, he or she must receive at least 8 votes. If necessary, voting will continue until at least two, but no more than three, applicants receive 8 votes.~~

7. Ties or Deadlock. In the event there is a tie for the final position that is not resolved after two ballots following the third round, or in the event the Commission should become deadlocked for any reason, the majority of the Commissioners then present shall establish a procedure to fairly and equitably accomplish the selection of at least two but no more than three qualified nominees.

~~7. Selecting Magistrates. This voting procedure will be used for the selection of a magistrate judge, however when the process results in three finalists, voting will continue for the selection of a final candidate. Each Commissioner is allotted only 1 vote. To be selected as magistrate judge the applicant must receive at least 8 votes.~~

Formatted: Indent: Left: 0.5", Space After: 0 pt, Line spacing: single

Formatted: Indent: Left: 0.5", No bullets or numbering

Formatted: Font: (Default) Arial