

Tenth Judicial District Judicial Nominating Commission Minutes April 4, 2007 Meeting

Date: April 4, 2007

Time: 5:30 p.m.

Location: 12400 Foster, Overland Park, KS Training Room A

In attendance: Justice Lee Johnson, Chair; Karen Arnold-Burger, Edna Baginsky, Michelle Kinzer, Larry McClain, Paul Morrison, Terry Presta, Richard Wells, Marcia Rinehart, Lewanna Bell-Lloyd; Mark Hinderks, Janis McMillen, Brant Tidwell.

Absent: Victor Bergman, Scott Gyllenborg

The meeting was called to order by Justice Lee Johnson.

After introductions were made discussion was had concerning the proposed notice of application and applications forms for both the District Judge and Magistrate Judge positions. Justice Johnson indicated that he had been informed that there had been a question raised in some judicial districts concerning K.S.A. §20-2909(b). He passed out copies of the statute. A discussion was had concerning the statute and it was decided that to avoid any problem in the future, the "Notice to Applicants," which will be posted on the website with the application, will clearly state that if there are at least two qualified candidates that live in the district and are willing to serve, candidates who live outside the district will not be considered.

It was suggested that the questions concerning bankruptcy and unpaid taxes that were on the Magistrate application should also be on the District Judge application. There was also a request to add "diversion" to the list of items in the "Authorization of Release" attached to both applications as well as a current address. There being no further discussion, a motion was made and seconded to approve the notice and the application. The motion passed unanimously. It was determined by consensus that the application would be put on the website in a format that would allow applicants to fill it out online, print it and turn it in.

Discussion next turned to the rules of procedure. A lengthy discussion was had concerning the voting rules. Several amendments were made to the proposed rules to make them clearer and to take into account situations in which less than all the members were present and voting. It was also determined that based on the number of members on the Commission, we would never be able to go further than "round three", although the members may have to repeat round three several times in order to have three people with at least 8 votes.

A discussion was had concerning notification of nominees. It was determined by consensus that the best course of action would be to post the list of final nominees on the district court website.

Next discussions turned to Commissioner ethics. Members expressed concern regarding what situations might require recusal and whether the other members had any authority to force another member to recuse himself or herself from voting. It was determined that Commissioners probably do not have any authority to require recusal of another member, but all agreed that full disclosure of any conflicts was essential.

Voting protocol was discussed as it relates to secret ballots. It was agreed that each Commissioner would submit a signed ballot for each voting round. However, Supreme Court Rule 1101 requires that all records of the Commission be kept confidential and not be disclosed to anyone outside the Commission. Since "record" is defined as any recorded information and a written ballot would be recorded information, it would not be subject to disclosure. The Commissioners agreed however that they did not want to know who cast each particular ballot, because they didn't want to be influenced by who cast the vote. Therefore, it was agreed that the Chair would examine the ballots to make sure they complied with the rules (all votes cast, only one per applicant, etc.) and read the ballots out loud to tally the votes, but would not read the name of the voter. The ballots would then be retained by the Chair until the selection was completed, so that the Commission members would not have access to how any particular Commissioner voted.

With the changes discussed a motion was made and seconded to approve the Rules of Procedure as amended. The motion passed unanimously.

A motion was made by Commissioner McClain and seconded by Commissioner McMillen to elect Karen Arnold-Burger as the Secretary of the Commission. The motion passed unanimously.

The meeting was adjourned at approximately 7:30 p.m.

Approved unanimously this 22nd day of June, 2007

A handwritten signature in black ink, reading "Karen Arnold-Burger". The signature is written in a cursive, flowing style.

Karen Arnold-Burger, Commission Secretary