

## COMMISSION ON APPELLATE COURT APPOINTMENTS

### MINUTES

August 25, 2015

**PRESENT:** Chief Justice Scott Bales, Chair; Krista Carman; Doug Cole; Joseph Cuffari; William Ekstrom, Jr.; J. W. Harris; Harry Hengl; Monica Klapper; Joanne Keene; Tracy Munsil; Ben Reeves; Mick Rusing; Tom Taylor; Phillip Townsend and Charie Wallace

**ABSENT:** James Hartdegen

Chief Justice Scott Bales, Chair, called the meeting to order at 9:00 a.m.

#### Introductions

Chief Justice Bales introduced himself and noted a quorum of the Commission. He welcomed the Commission members and the public. He asked to rearrange the agenda slightly and approve the minutes first, then follow by the disqualifications & disclosures and public comment. They would continue with the executive session to select the interview questions and the due diligence reports.

He explained the purpose of the meeting is to interview for the position created by the retirement of Judge Virginia Kelly.

#### Approval of Minutes

Chief Justice Bales asked if any member wished to submit changes or additions to the draft minutes of the July 21, 2015 meeting. It was moved that the minutes be approved as submitted. The motion was seconded and passed unanimously.

#### Disqualifications and Disclosures

Chief Justice Bales asked the Commission if there were additional disqualifications or disclosures since the screening meeting on July 21, 2015.

Mick Rusing disclosed that he is recused from voting on his sister-in-law, Cynthia Kuhn. He also disclosed that Sean Brearcliffe is a former partner.

Monica Klapper reminded the Commission she is disqualified from voting on her coworker, Christina Cabanillas.

#### Public Comment

Chief Justice Bales asked for public comment on the candidates that will be interviewed for the Court of Appeals Division II vacancy. He reminded the speakers that they are limited to three minutes each and asked them not to repeat comments by previous speakers about the same candidate.

Jim Marner spoke on behalf of Sean Brearcliffe.  
Randy Hansen spoke on behalf of Cynthia Kuhn.  
William Druke spoke on behalf of Christina Cabanillas.  
Richard Gordon spoke on behalf of Christopher Staring.  
Wayne Yehling spoke on behalf of Christopher Staring.  
Patricia Orozco spoke on behalf of Christina Cabanillas.  
Sandy Froman spoke on behalf of Cynthia Kuhn.

### **Interview Questions**

A motion to go to executive session for the purpose of selecting interview questions was made at 9:32 a.m. The motion was seconded and passed unanimously.

The Commission returned to public session at 10:24 a.m.

### **Candidate Interviews**

From 10:30 a.m. to 11:43 a.m. the Commission interviewed Christopher Staring, Christina Cabanillas and Sean Brearcliffe.

### **Due Diligence Reports**

Commission members delivered the due diligence reports for Christopher Staring and Christina Cabanillas. The Commission agreed to disclose the remaining due diligence reports after lunch.

The Commission recessed for lunch at 12:02 p.m.

Chief Justice Bales called the meeting back to order at 12:30 p.m.

Commission members delivered the due diligence reports for Sean Brearcliffe, Deanna Conn and D. Douglas Metcalf

### **Candidate Interviews**

From 1:00 p.m. to 1:43 p.m. the Commission interviewed Deanna Conn and D. Douglas Metcalf.

Commission members delivered the due diligence reports for David Euchner and Cynthia Kuhn.

From 2:00 p.m. to 2:42 p.m. the Commission interviewed David Euchner and Cynthia Kuhn.

### **Discussion of Applicants and Interviews and Selection of Nominees**

Chief Justice Bales reminded the Commission of the constitutionally required balance of political affiliations among nominees. He explained he would only vote on a candidate in the event of a tie.

The Commission discussed the interviews and the qualifications of the candidates in alphabetical order. Chief Justice Bales opened the floor for individual nominations to a non-binding list of nominees to be sent to the Governor.

Bill Ekstrom moved to add Cynthia Kuhn to the list. The motion was passed by a vote of 13-0-2 with Mick Rusing and Chief Justice Bales abstaining.

Joseph Cuffari moved to add D. Douglas Metcalf to the list. The motion was passed by a vote of 14-0-1 with Chief Justice Bales abstaining.

Ben Reeves moved to add Christopher Staring to the list. The motion was passed by a vote of 14-0-1 with Chief Justice Bales abstaining.

Phil Townsend moved to add Christina Cabanillas to the list. The motion was passed by a vote of 11-2-2 with Monica Klapper and Chief Justice Bales abstaining.

Doug Cole moved to add Deanna Conn to the list. The motion failed by a vote of 0-14-1 with Chief Justice Bales abstaining.

Mick Rusing moved to add Sean Brearcliffe to the list. The motion passed by a vote of 8-6-1 with Chief Justice Bales abstaining.

Phil Townsend moved to add David Euchner to the list. The motion passed by a vote of 12-2-1 with Chief Justice Bales abstaining.

There was additional discussion regarding the tentative list of nominees.

After further discussion Doug Cole moved that **Christina Cabanillas, David Euchner, Cynthia Kuhn, D. Douglas Metcalf** and **Christopher Staring** be adopted as the final nomination list for submission to Governor Ducey. The motion was seconded and passed by a vote of 12-0-3 with Mick Rusing, Monica Klapper and Chief Justice Bales abstaining.

### **Adjournment**

Chief Justice Bales thanked the members for their service. At 3:00 p.m., it was moved that the meeting be adjourned. The motion was seconded and passed unanimously.

Respectfully submitted,

Commission Secretary