

## COMMISSION ON APPELLATE COURT APPOINTMENTS

### MINUTES

September 17, 2020

**PRESENT:** Chief Justice Robert Brutinel, Chair; Ammon Barker; Jaime Chamberlain; Laura Ciscomani; Buchanan Davis; Bill Gresser; Kevin Taylor; Kathryn Townsend; Tracy Munsil; Gerry Nabours; Jonathan Paton; Daniel Seiden; Tina Vannucci; Linley Wilson and James Zieler:

**ABSENT:** Larry Suciu

Chief Justice Brutinel called the meeting to order at 9:30 a.m. to screen applications for the Arizona Independent Redistricting Commission (IRC).

Chief Justice Brutinel mentioned that the rules require him to appoint a secretary of the Commission to sign the minutes. Gerry Nabours nominated himself and the Commission approved his appointment as secretary.

Chief Justice Brutinel asked the six new Commission members to introduce themselves.

Chief Justice Brutinel then introduced Colleen Mathis, past Chair of the 2010 Arizona IRC, who joined the meeting via phone, to explain the work of the IRC. Ms. Mathis provided a PowerPoint presentation for the Commission. She reported:

- Arizona is a pioneer in Independent Redistricting and has been doing this process for 20 years. A tri-partisan effort along with many entities helped draft and pass Proposition 106 which “oversees the mapping of fair and competitive districts”
- The make-up of the 2010 IRC represented Maricopa and Pima Counties only. The Appellate Commission is tasked with providing diverse nominees from different parts of the state, their gender and demographic.
- The IRC tried to take the language of the proposition to heart when doing their work, keeping community interest in mind.
- The first step before drawing a line is holding hearings around the state for public input about issues relevant to redistricting.
- The IRC traveled 29,000+ miles around the state holding these hearings, and created a website to provide public engagement and be as transparent as possible at all their meetings.
- The IRC Chair has a higher burden due to the hiring of staff, finding office space, etc.
- Being a member of the IRC is more than a full-time job. Flexibility and a large time commitment are required.
- After the public comment period, the IRC began drawing maps and it took about 13 months for the final maps to be completed.
- It is an inherently political process, but the IRC tried to bring the process to the public’s attention as much as possible.
  - The IRC held 58 business meetings
  - 43 public hearings
  - 5364 people were in attendance, more than 1800 attended via internet

- 2350 requests to speak
- 7403 pieces of public input
- 224 maps submitted
- Spent years in litigation, won all challenges.
- Characteristics of a good Commissioner include, good listener, open minded, collaborative, respectful, ability to make a significant time commitment, steady temperament and thick skin.

Chief Justice Brutinel then asked the Commission if they had any questions for Ms. Mathis. The Commission members engaged in discussions with Ms. Mathis and asked questions regarding the work of the IRC and the presentation.

Chief Justice Brutinel explained that the Arizona Constitution, Article IV, Part 2, Section 1 provides that it is the duty of Commission on Appellate Court Appointments to nominate candidates for vacant positions on the Independent Redistricting Commission. The constitution requires that commissioners select people who are... “committed to applying the provisions of this section in an honest, independent, and impartial fashion and to upholding public confidence in the integrity of the redistricting process.” He added that nominees must be registered voters who have been continuously registered with the same political party or registered as unaffiliated with a political party for three or more years immediately preceding appointment. The nominees must not have been, within the three years prior to appointment: (1) appointed to, elected to, or a candidate for any other public office, including precinct committeeman or committee woman but not including school board member or officer; (2) an officer of a political party or an officer of a candidate’s campaign committee; or (3) a registered paid lobbyist.

He explained that staff researched the records of the Secretary of State and believe that none of the applicants were disqualified on those grounds. He also explained that this is the third time the Appellate Commission has been called upon to select nominees for the IRC and would keep the process as transparent as possible.

### **Public Comment**

Chief Justice Brutinel called for comment from the public on the applicants. He announced that speakers would be called in the order they signed up to speak, and each speaker would be limited to three minutes.

Eric Gorseigner introduced himself as one of the IRC applicants. He provided a few points about himself and his application. He also urged the Commission to select nominees who are less rather than more partisan and to recognize that temperance tolerance and chemistry may be more important when selecting nominees.

Chief Justice Brutinel introduced Charles Grube, Assistant Attorney General, who was assigned to help the Commission with legal questions, in place of Ms. Marjorie Becklund.

Mignonne Hollis introduced herself as one of the applicants. She thanked the Commission for their work.

Veronica Hirsch spoke on behalf of Rainbow Lopez, Peggy Solis and Derrick Watchman. She mentioned that she feels it is vitally important for the upcoming IRC to reflect the diversity of the state. She further explained that there has not yet been a citizen of any of the 22 Native Nations within the geographic boundaries of Arizona. She encouraged the Commission to look at the

applicants carefully and take this information into account when selecting nominees.

Maxine White introduced herself as an applicant from Maricopa County. She mentioned she is very excited about the process and provided a short overview on her background. She also mentioned that she is looking forward to possibly serving the State of Arizona.

### **Disqualifications and Disclosures**

Chief Justice Brutinel explained that the rules of the Commission require members to disclose any disqualifications and disclosures.

Chief Justice Brutinel disclosed that he knows Ernest Calderon from law school and Martha Durkin who is married to Judge John Leonardo (ret). Susan Freeman has appeared in front of the Arizona Supreme Court and participated on the Judicial Performance Review process. He knows Lizzie Kim when she worked at the Governor's office, Randall McDonald when he clerked at the Supreme court but not for him and Randall Pullen whose wife is his father's second cousin. He also disclosed that he knows Nanette Warner who is a retired Pima Court Judge and a current member of the Pima County Commission on Trial Court Appointments

Jonathan Paton disclosed that he knows Nick Dranias from the State Capitol and he knows David Mehl, David Lane and Randall Pullen but he does not believe his relationship with them would be a conflict of interest.

Buchanan Davis disclosed that he believes Brandi Oveson is a second cousin to his wife, but he has never met her. He considers Jonathan Allred a friend, but he hardly sees him, and he also knows Randall Pullen from political activity he was involved in.

Jaime Chamberlain disclosed that he knows Michael Hammond from the Arizona Department of Transportation Board, he presented in front of him several times and has bought property from him in the past. He also knows Megan Carollo who is the wife of their advisor for Greater Nogales, Santa Cruz County Port Authority which he chairs. He did not believe any of these would require a recusal.

Daniel Seiden disclosed that he knows Trevor Abarzua, Megan Gould Maestas and Alec Thompson from his time at the Governor's office. He knows Randall Pullen from political circles. He knows Lisa Davis' husband through republican circles. He met Erika Schupak Neuberg at a dinner, and Kevin Kopp at a fundraiser. He also disclosed that he had representation with Thomas Loquvam's prior company in the past, but he is twice removed from that company and does not believe he needs to disqualify himself. He also mentioned that he met Mignonne Hollis briefly through some development work while at the Governor's office.

Linley Wilson disclosed that Dr. Rodolfo Espino was one of her professors while she attended ASU.

Tracy Munsil disclosed that she knows Randall Pullen and David Mehl but has not had contact with them for over 10 years. She also had Dr. Rodolfo Espino as a professor for her graduate studies.

Ammon Barker disclosed that he knows Adam Anderson from law school but has not had contact with him ever since.

Gerry Nabours disclosed that he knows some of the people who applied from Flagstaff but does not have any personal or business connections to them.

Tina Vannucci disclosed that she has worked with Kenneth Strobeck with the League of AZ Cities but nothing significant.

James Zieler disclosed that he has run into Derrick Watchman during his early time in law enforcement but doesn't know him personally.

Laura Ciscomani disclosed that she knows Sarah Brown Smallhouse, Megan Carollo's partner, Michael Hammond, Thomas Loquvam, Trevor Abarzua, David Mehl and John Winchester through different chamber events.

All members who made disclosures indicated there is nothing in their current or past relationships or acquaintances with the applicants that would prevent them from considering the applications impartially or pose a conflict in voting on the applications.

### **Discussion of Applicants**

The Commission took turns asking procedural questions regarding the difference between a paid lobbyist or an active lobbyist and the county recorder's office records. Chief Justice Brutinel referred to Mr. Grube from the Attorney General's office for an answer. Mr. Grube referred the question to Kate Sawyer from the Solicitor Generals' office who joined by phone. Mr. Grube mentioned that the Commission held the right to receive legal advice in executive session. The Commission chose to keep the discussion in public session. Ms. Sawyer mentioned that this would be a factual question, which would require it be submitted in writing.

Chief Justice Brutinel asked the Commission for discussion on potentially holding interviews of the applicants. The rules allow them to submit nominations without holding interviews. He mentioned that the previous Commissions held interviews and gave the logistics of the 2010 interviews for the IRC. He opened the floor for discussion on this matter.

Jonathan Paton mentioned that the public expects the Commission to hold interviews. He made a motion to interview approximately 50 people which would double the number of required nominations. Mr. Paton amended the motion to interview approximately 20 Republicans, 20 Democrats and 10 Independents. The motion was seconded and passed unanimously.

Chief Justice Brutinel mentioned that the rules require for him to read an alphabetical list of the applicants and invite discussion from the Commission. He suggested he would read the list of democratic applicants in alphabetical order, then independents, then republicans. He suggested a straw vote for the applicants by category and all who received 5 or more votes would remain on the list of candidates.

The Commission members took turns discussing this suggestion and verifying the process to discuss the applicants and place them on a tentative list after the straw vote.

Break from 10:50 a.m. to 11:02 a.m.

### **Selection of Applicants to be Interviewed**

The Commission conducted a straw vote by political affiliation as applicants were discussed. Those applicants receiving at least five votes would warrant further discussion and possible nomination to

a tentative interview list. The Commission discussed the Democratic applicants.

As each applicant was named, their qualifications were discussed;

- Linley Wilson shared a concern regarding Cheryl Cage's application showing she is an officer of a candidate's campaign committee, which under the constitution is disqualifying to serve on the IRC.
- Tracy Munsil mentioned that there is a question if Serena Campas is a paid lobbyist which would disqualify her under the constitutional requirements to serve on the IRC.
- Kathryn Townsend asked if there is a constitutional guideline on how long an applicant needs to have lived in the State to be qualified. Chief Justice Brutinel referred the question to Kate Sawyer from the Solicitor General's office. Ms. Sawyer confirmed that they believe the best reading of the constitutional provision is that the applicants need to be a registered Arizona voter who has been registered with the same party in Arizona for three years immediately preceding appointment. The question is not resolved, but should the Court interpret it differently, she suggested this was the best reading considering the vagueness of the provision provided in the constitution.
- The Commission shared concerns regarding the following applicants who did not meet the constitutional requirements of continuous Democrat affiliation for the past three years based on records received from the County Recorder's offices: Patricia Caracena, Renee Guido, Rainbow Lopez, Loretta Love Huff, and Laurie-Sue Ptak Retts.

The results of the straw vote were:

### Democrats

|                         |                           |                            |
|-------------------------|---------------------------|----------------------------|
| Carrie Aaron - 2        | Sheila Harris - 9         | Mumtaza "Taj"Rahi-Loo - 9  |
| Elizabeth Bernstein - 5 | John Hay - 2              | James Robbins, Jr. - 11    |
| Bonnie Boyce-Wilson - 4 | Chelsea Hickok - 1        | Daniel Sanchez - 0         |
| Grant Buma - 10         | S. Arthur Hinshaw, II - 6 | Cassio Saverino - 0        |
| Cheryl Cage - 0         | Louis Hoffman - 2         | Laura Schaffer-Metcalf - 4 |
| Ernest Calderon - 13    | Donald Jorgensen - 3      | Robert Schwartz - 0        |
| Serena Campas - 4       | Joan Kelchner - 0         | Jesse Simpson, Jr. - 5     |
| Patricia Caracena - 0   | Dale Keyes - 5            | Ronald Sotardi, Jr. - 3    |
| Bryan Cooperrider - 13  | Ryan Kohlman - 0          | Frances Steinman - 4       |
| Thomas Cullison - 4     | Neil Konigsberg - 1       | Ernest Strauch, Jr. - 4    |
| Martha Durkin - 5       | Robert Kovitz - 6         | Gilda Taylor - 1           |
| Rodolfo Espino, III - 9 | Patricia Krueger - 5      | Rennae Ward - 0            |
| Donald Evans - 7        | Jennifer Lefere - 3       | Nanette Warner - 3         |
| Mary Feeney - 3         | Shereen Lerner - 10       | Derrick Watchman - 14      |
| Stephanie Forrest - 3   | Rainbow Lopez - 0         | Maxine White - 13          |
| Grant Freeland - 6      | Loretta Love Huff - 0     | Teresa Wyatt - 9           |
| Susan Freeman - 5       | Randall McDonald, III - 1 | Robert Young - 0           |
| Renee Guido - 0         | Mark Murphy - 6           |                            |
| Allan Gutkin - 4        | Laurie-Sue Ptak Retts - 0 |                            |

The Commission took a short break for staff to provide a list of all Democrat applicants who

received 5 or more votes.

Chief Justice Brutinel provided vote totals of the 22 Democrat applicants that received 5 or more votes and opened the floor for discussion.

Ammon Barker moved to interview all Democrat applicants who received 5 or more votes. The motion was not seconded.

Chief Justice Brutinel welcomed further discussion on the tentative list.

Daniel Seiden discussed Patricia Krueger's application and welcomed discussion from the rest of the Commission.

Gerry Nabours moved to remove Patricia Krueger from the tentative interview list. After further discussion the motion was seconded and passed by a vote of 14-0-1 with Chief Justice Brutinel abstaining.

Gerry Nabours moved to remove Jesse Simpson from the tentative interview list. The motion was seconded and passed by a vote of 11-1-3 with Chief Justice Brutinel abstaining.

Jonathan Paton moved to finalize the tentative interview list of all Democrat applicants who received 5 or more votes, excluding Patricia Krueger and Jesse Simpson. The motion was seconded and passed buy a vote of 13-0-2 with Chief Justice Brutinel abstaining.

The final list of Democrat candidates consisted of **Elizabeth Bernstein, Grant Buma, Ernest Calderon, Bryan Cooperrider, Martha Durkin, Rodolfo Espino III, Donald Evans, Grant Freeland, Susan Freeman, Sheila Harris, Arthur Hinshaw II, Dale Keyes, Robert Kovitz, Shereen Lerner, Mark Murphy, Mumtaza Rahi-Loo, James Robbins, Jr., Derrick Watchman, Maxine White and Teresa Wyatt.**

The Commission recessed for lunch at 12:00 p.m.

Chief Justice Brutinel called the meeting back to order at 12:31 p.m.

Chief Justice Brutinel proceeded naming the Independent applicants in alphabetical order and the Commission discussed and conducted a straw vote on the applicants.

As each applicant was named, their qualifications were discussed;

- The Commission shared concerns regarding the following applicants who did not meet the constitutional requirements of continuous Independent affiliation for the past three years based on records received from the County Recorder's offices: Dana Allmond, Eric Gorsegner, Patricia Mazzeo, Curtis Nelson and William Sandry.

The results of the straw vote on the Independent applicants were:

#### Independents

|                            |                      |                            |
|----------------------------|----------------------|----------------------------|
| Dana Allmond - 0           | Michael Hammond - 3  | Steven Neil - 0            |
| Adam Anderson - 1          | David Hamra - 3      | Curtis Nelson - 1          |
| Christopher Bavasi - 12    | Daniel Hatch - 0     | William Sandry - 0         |
| Sarah Brown Smallhouse - 1 | Mignonne Hollis - 10 | Erika Schupak Neuberg - 10 |
| Niccolo Campuzano - 0      | Leezie Kim - 2       | Leanne Serignese Titus - 1 |

Megan Carollo - 6  
Michael Chihak - 2  
Joseph Citelli - 11  
Nicole Cullen - 11  
David Curl - 0  
Nicholas Dranias - 9  
Eric Fisher - 0  
Eric Gorseger - 0

Steven Krenznel - 0  
Meredith Kupinski - 3  
Thomas Loquvam - 12  
Anders Lundin - 9  
Patricia Mazzeo - 0  
Lawrence Mohrweis - 1  
Joseph Moore - 2  
George Morgan, Jr. - 4

Peggy Solis - 0  
Gregory Teesdale - 9  
Alec Thomson - 1  
Chris Verrill - 0  
Shawn Watt - 0  
Robert Wilson - 7  
Eric Zaharia - 1

The Commission took a short break for staff to provide a list of all Independent applicants who received 5 or more votes.

Chief Justice Brutinel opened the floor for discussion on the tentative list of Independent applicants who received 5 or more votes.

Ammon Barker moved to remove Robert Wilson from the tentative list. The motion was not seconded.

The Commission discussed the lobbyist records provided and asked Kate Sawyer from the Solicitor General's office how long it would take to receive an opinion on the difference between a paid lobbyist and an active lobbyist. Ms. Sawyer noted that they would try to get this fact-based opinion as soon as possible.

Gerry Nabours moved to interview all 11 applicants who received 5 or more votes. The motion was seconded and passed by a vote of 14-0-1 with Chief Justice Brutinel abstaining.

Chief Justice asked the Commission for discussion on Michael Jensen who was listed as a Libertarian. The Commission disclosed that there are concerns regarding the continuous affiliation as a Libertarian for the past three years based on the County Recorder's office records. The result of the straw vote for Mr. Jensen was 0.

The final list of Independent candidates consisted of **Christopher Bavasi, Megan Carollo, Joseph Citelli, Nicole Cullen, Nicholas Dranias, Mignonne Hollis, Thomas Loquvam, Anders Lundin, Erika Schupak Neuberg, Gregory Teesdale and Robert Wilson.**

Chief Justice Brutinel proceeded naming the Republican applicants in alphabetical order and the Commission discussed and conducted a straw vote on the applicants.

As each applicant was named, their qualifications were discussed;

- The Commission shared concerns regarding the following applicants who did not meet the constitutional requirements of continuous Republican affiliation for the past three years based on records received from the County Recorder's offices: Robert Burgess, Edward Hampton, William Kaehler, and David Van Denburgh.

The results of the straw vote on the Independent applicants were:

#### Republicans

Trevor Abarzua - 5  
Jonathan Allred - 14  
Robert Amberson - 0

Megan Gould Maestas - 6  
Edward Hampton - 0  
Donald Harvel - 0

Walter Schoch - 9  
Grant Smith - 7  
Michael Striplin - 8

William Bamford - 3  
Michael Bennett - 0  
Philip Bentley - 0  
Margaret Bevan - 12  
Robert Burgess - 0  
Daniel Conway - 2  
Scott Crouch - 7  
Lisa Davis - 7  
Paul Djuriscic - 10  
Edith Edde - 0  
Charles Ertl - 0  
Susan Gieseler - 2

Brian Hatheway - 8  
Susan Hemme - 2  
Steven Hill - 0  
William Kaehler - 0  
Kevin Kopp - 7  
David Lane - 6  
Ruth Lee - 2  
David Mehl - 10  
Matthew Osborn - 1  
Brandi Oveson - 12  
Randall Pullen - 1  
David Riddle - 1

Kenneth Strobeck - 6  
William Turner - 6  
David Van Denburgh - 0  
Steven Walters - 2  
William Weaver - 0  
Mark Weber - 2  
Lonnie Williams, Jr. - 0  
Donald Wilson, Jr. - 7  
John Winchester - 2  
Edwin Winkler - 8  
Douglas York - 9

The Commission took a short break for staff to provide a list of all Republican applicants who received 5 or more votes.

Chief Justice Brutinel opened the floor for discussion on the tentative list of Republican applicants who received 5 or more votes.

Gerry Nabours moved to finalize the tentative list of Republican candidates that received 5 or more votes. The motion was seconded and passed by a vote of 14-0-1 with Chief Justice Brutinel abstaining.

The final list of Republican candidates consisted of **Trevor Abarzua, Jonathan Allred, Margaret Bevan, Scott Crouch, Lisa Davis, Paul Djuriscic, Megan Gould Maestas, Brian Hatheway, Kevin Kopp, David Lane, David Mehl, Brandi Oveson, Walter Schoch, Grant Smith, Michael Striplin, Kenneth Strobeck, William Turner, Donald Wilson, Jr., Edwin Winkler and Douglas York.**

#### **Discussion of Interview Schedule**

Chief Justice Brutinel opened the floor for discussion on the options available for interviews. The Commission had two dates set aside for interviews and he mentioned that in 2010 the Commission held 5-minute telephonic interviews.

The Commission members discussed the pros and cons of 5-minute interviews versus a longer interview, how many questions would be asked and the length of the meeting. They also shared concerns of asking candidates different questions and therefore agreed to ask uniform questions of candidates with an option to ask follow-up questions depending on the due diligence findings. The Commission further discussed the potential of sharing the questions ahead of time but agreed that it would provide scripted answers and therefore decided against it.

The Commission asked for advice from Mr. Grube regarding the rules preventing candidates the option to appear by electronic means or in person. Mr. Grube indicated that candidates can appear via electronic means. He also noted that Rule 133 could be considered when scheduling the interviews. The rule requires for the Commission to set aside enough time before each interview to disclose investigation reports, and that per the rules, no material adverse information about an applicant known to a commissioner, would be called to the attention to the Commission, after the interview takes place.

The Commission continued discussing the length of time for each interview.

Jaime Chamberlain moved to hold 10-minute interviews over the course of two days. The motion

was seconded.

The Commission members shared worries of holding interviews over two days considering the potential of the questions being shared with candidates interviewing on the second day. The Commission continued discussing the pros and cons of 5-minute interviews and logistically what a day of 10-minute interviews would look like.

Bill Gresser called the question. Chief Justice called Robert's Rules of Order. The motion was seconded and passed by a vote of 9-5-1 with Chief Justice Brutinel abstaining.

Chief Justice Brutinel called for a vote on Mr. Chamberlain's motion. The motion failed by a vote of 2-12-1 with Chief Justice Brutinel abstaining.

Jonathan Paton moved to hold 5-minute interviews. The motion was seconded and passed by a vote of 12-2-1 with Chief Justice Brutinel abstaining.

Chief Justice Brutinel opened the floor for discussion on how many questions would be asked of the candidates.

Daniel Seiden moved to ask three well-crafted questions of the candidates with any potential candidate specific questions depending on the due diligence findings. The motion was seconded and passed by a vote of 14-0-1 with Chief Justice Brutinel abstaining.

Gerry Nabours moved to spread the meetings over two days with public comment, due diligence reports and the interviews of Independent candidates on the first day, and interview the Democrat and Republican candidates on the second day. The motion was seconded.

The Commission members clarified that the Independent candidates serve a different role on the IRC and therefore may have different questions. They also agreed that discussion and voting on the nominees should be completed after each group is interviewed.

Chief Justice Brutinel called for a vote on the motion including the clarification on discussion and voting after each group. The motion passed by a vote of 14-0-1 with Chief Justice Brutinel abstaining.

Chief Justice Brutinel reminded the Commission if there are any candidates in which the Commission wanted an opinion from the Attorney General to please forward the name of the candidates to him and he would forward it to the Attorney General for an opinion.

The Commission adjourned at 2:52 p.m.

\*Post-meeting note\*

The Commission did not make a final decision on how candidates would appear for their interview. Staff polled the Commission via email on the preference between in-person or remote interviews and the majority voted to hold Zoom interviews with the option for candidates to call-in if they did not have access to a device with a camera or reliable internet access.

Respectfully submitted,

Gerald Nabours  
Commission Secretary