



# JUDICIAL ADVISORY BOARD MINUTES

November 18, 2020

The Judicial Advisory Board of the City of Mesa met via a virtual format streamed into the lower level meeting room of the Council Chambers, 57 East 1st Street, on November 18, 2020 at 7:30 a.m.

## BOARD PRESENT

Gordon Sheffield, Chairman\*  
Charles Wirken, Vice Chairman\*  
Kent Cattani\*  
Carolyn Finley\*  
Kevin Humphrey\*  
Daniel Kiley\*  
Wade Swanson\*

## BOARD ABSENT

None

## STAFF PRESENT

Nicole Fazzio\*  
Agnes Goodwine  
Sarah Staudinger\*

(\*Boardmembers and staff participated in the meeting through the use of video conference equipment.)

Chairman Sheffield excused Boardmember Cattani from the beginning of the meeting; he arrived at 7:32 a.m.

### 1. Meeting called to order.

Chairman Sheffield called the meeting to order at 7:30 a.m. and conducted a roll call.

### 2. Approve minutes from the October 19, 2020 Board meeting.

It was moved by Boardmember Swanson, seconded by Boardmember Humphrey, that the October 19, 2020 Board meeting minutes be approved.

Upon tabulation of votes, it showed:

AYES – Sheffield-Wirken-Finley-Humphrey-Kiley-Swanson  
NAYS – None  
ABSENT – Cattani

Chairman Sheffield declared the motion carried unanimously by those present.

3. Items from citizens present.

Mesa City Prosecutor John Belatti addressed the Board and stated that there are several Mesa prosecutors among the applicants for the City Magistrate position. He urged the Board to consider a current prosecutor, adding those in the pool are well-qualified and have a breadth and depth of experience that makes them excellent choices. He mentioned for at least the past decade no prosecutor has even been considered for appointment to the bench as a magistrate. He advised his understanding is that due to an ethics advisory opinion dating back approximately 25 years that prosecutors are not allowed to serve as pro tem judges; therefore, without that experience prosecutors have difficulty being considered for a magistrate position.

Mr. Belatti notified the Board that even without pro tem experience, prosecutors in Scottsdale, Chandler, and Gilbert have been appointed as magistrates to their respective benches, while Mesa has yet to consider a prosecutor for magistrate. He expressed the opinion that a truly diverse and well-rounded criminal bench requires practitioners from the defense, as well as the prosecution side. He stated prosecutors know the criminal process, have everyday experience in the courtroom, and have a legal duty to be ministers of justice. He encouraged the Board to give serious consideration to a current City prosecutor.

4. Review, discuss, and provide direction on the appointment process and application for the Mesa City Magistrate vacancy.

Presiding Magistrate John Tatz addressed the Board and gave his perspective on the ideal candidate qualifications for the Magistrate vacancy, which included integrity and character, both on and off the bench, along with a calm and patient judicial demeanor, legal knowledge, and someone who can handle themselves in a fast-paced environment. He asked the Board to be mindful of diversity while choosing the best candidate for the position and an individual that shows humility. He added judicial experience is helpful but agrees there are multiple ways of gaining experience.

In response to a question posed by Boardmember Kiley regarding whether there are any updates on operational plans for the Mesa Municipal Court, Judge Tatz reported that due to the surging COVID-19 cases, jury trials will be postponed. He remarked staff are comfortable with continuing to limit the docket, requiring facial masks and social distancing, and working remotely. He stated the status of the court will be re-evaluated again in December.

In response to a question from Vice Chairman Wirken regarding the current state of pro tem judges, Judge Tatz explained Retired Presiding Magistrate Tafoya had appointed three new pro tems before his retirement and currently the department is limited on the use of pro tem judges due to budget cuts.

5. Convene an Executive Session.

- a. Discussion and consideration of employment, assignment, appointment, promotion or resignation of a public officer, appointee, or employee of the City. [A.R.S. 38-431.03(A)(1)]

1. Appointment of City Magistrate – Board to select top candidates to interview (minimum of six).
2. Finalize and assign interview questions and reference checks.

It was moved by Boardmember Swanson, seconded by Vice Chairman Wirken, that the Board enter into an Executive Session at 7:44 a.m.

Upon tabulation of votes, it showed:

AYES – Sheffield-Wirken-Cattani-Finley-Humphrey-Kiley-Swanson  
NAYS – None

Carried unanimously.

(At 9:09 a.m. the Executive Session adjourned, and the Board reconvened their regular meeting.)

6. Announce names of the candidates for the City Magistrate position selected for interview.

- Manuel Delgado, Jr.
- Catherine Gaudreau
- Danielle Harris
- Umayok Novell
- Stephanie Olohan
- Lorie Patrick
- Stephen Umpleby
- Laurel Workman

It was moved by Boardmember Swanson, seconded by Boardman Kiley, that the Board interview the above-listed candidates for the City Magistrate position.

Upon tabulation of votes, it showed:

AYES – Sheffield-Wirken-Cattani-Finley-Humphrey-Kiley-Swanson  
NAYS – None

Carried unanimously.

7. Review and discuss Magistrate salaries and make final recommendation for Mayor and Council approval.

Senior Human Resources Analyst Nicole Fazzio stated that comparable salary data from surrounding cities were distributed to the Board, as well as hypothetical scenarios that show what certain percentage increases would look like based off the current base salaries. She remarked that supplemental information from the Municipal Court is not available due to the limited resources and a third-party company to conduct a study cannot be used at this time. She added that Presiding Magistrate Tatz is confident that the 2018 comprehensive report is relevant.

Ms. Fazzio explained that every two years the Board is asked to review magistrate compensation by assessing the market to decide if Mesa's magistrate salaries are still equitable or whether salary increases are warranted. She expanded the Board then makes a recommendation to Council for consideration.

Boardmember Humphrey pointed out that COVID-19 has led to tighter budgets. He recommended maintaining current salaries until the Board receives information from the City Manager on how the pandemic has affected the City's budget.

In response to a question from Chairman Sheffield concerning whether City employees received cost-of-living increases this year, Ms. Fazzio advised employees did not receive a step increase for the new fiscal year. She mentioned the City Manager's office authorized the Board to move forward with the salary discussion. She advised the Board can decide whether to address the salary issue now or table the discussion until next spring.

Deputy City Clerk Agnes Goodwine informed the Boardmembers that Council will be discussing the City's budget and possible merit increases at the next Study Session.

Boardmember Swanson stated per the Judicial Advisory Board (JAB) code there is an obligation to have a discussion every two years on magistrate salaries; however, he feels like more data is necessary for comparison purposes to avoid artificial inflation. He commented he would not feel comfortable with a salary increase without having more data tying the numbers together. He remarked if it is not possible to have a third-party company conduct the analysis, he would still want a recommendation from City staff based on the current budget, along with support from the City Manager's for a salary increase. He suggested the Board could push the discussion to the next meeting.

Boardmember Cattani expressed the opinion that while Mesa should be on par with similarly-sized cities, there seems to be a number of highly qualified candidates interested in the magistrate position, which lessens the immediate concern to increase the salary.

In response to a question posed by Chairman Sheffield, Ms. Fazzio replied the magistrate positions are considered a fixed executive appointed position and any merit increases for City staff would not apply to magistrate salaries. She stated a salary increase for magistrates must go through the Judicial Advisory Board review process.

Vice Chairman Wirken indicated that there are other surrounding cities who rank lower than Mesa in magistrate salaries. He continued by saying he is not prepared to make a recommendation at this point and would like to continue the discussion to next year.

In response to a question from Chairman Sheffield as to whether there is a deadline for discussing magistrate salaries, Ms. Fazzio answered there is no timeframe that must be followed and the Board can keep the item on the backburner until the Board is ready to continue the discussion. She added there are opportunities to add the agenda item to a future meeting and at that point staff will have a better idea what the City budget looks like.

It was moved by Vice Chairman Wirken, seconded by Boardman Humphrey, that the Board continue discussion on Agenda Item 7 to a future Judicial Advisory Board meeting.

Upon tabulation of votes, it showed:

AYES – Sheffield-Wirken-Cattani-Finley-Humphrey-Kiley-Swanson

NAYS – None

Carried unanimously.

8. Scheduling of meetings and general information:

Next meeting:

Wednesday, December 16, 2020, 7:45 a.m.  
Lower Level Council Chambers – Virtual format  
57 E. First Street

9. Adjourn.

Without objection, the Judicial Advisory Board adjourned at 9:24 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Judicial Advisory Board meeting of the City of Mesa, Arizona, held on the 18<sup>th</sup> day of November 2020. I further certify that the meeting was duly called and held and that a quorum was present.

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DEE ANN MICKELSEN, CITY CLERK

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