

MONTANA PUBLIC DEFENDER COMMISSION

Conference Call

Public Location: Helena Regional Office
139 N. Last Chance Gulch, Helena MT 59601

April 20, 2012

Minutes

Approved at the May 15, 2012 Meeting

Commissioners Present

Charles Petaja, Helena; Richard (Fritz) Gillespie, Helena; Ann Sherwood, Pablo; Kenneth Olson, Great Falls; Al Avignone, Bozeman; Majel Russell, Billings; Margaret Novak, Chester

Commissioners Absent

Chris Daem, Billings; Bill Snell, Billings

State Human Resource Officers

Lisa Coligan and Peggy MacEwen

Staff Members Present

William F. Hooks, Chief Public Defender; Harry Freebourn, Administrative Director; Assistant Appellate Defenders Eileen Larkin, Chase Rosario, Wade Zolynski, and Koan Mercer

Interested Persons

Scott Crichton, Executive Director, American Civil Liberties Union of Montana (ACLU); Greg DeWitt, Legislative Fiscal Analyst

1. Call to Order

Chairman Fritz Gillespie called the meeting to order at 1:35 p.m. He has reconsidered his decision to apply for the position of chief appellate defender, and will remain on the Commission instead. He turned the meeting over to Personnel Committee Chair Charles Petaja.

2. Personnel Committee's Recommendation: Recruitment Plan for Selecting Permanent Chief Appellate Defender (*Action Item)

Commissioners Petaja and Sherwood met with Peggy MacEwen and Lisa Coligan from the State Human Resources Division last week to develop the vacancy announcement and selection plan. They would like to expedite the process for filling the permanent position, and plan to follow a procedure similar to that used for the chief public defender vacancy, except for eliminating the phone interview step. There will be an initial screening of applications by the Personnel Committee, followed by interviews of three finalists by the full Commission. Applications will be accepted for two weeks following the posting. Mr. Crichton expressed concern about the duration of the recruitment at the committee meeting, but otherwise the committee heard no concerns about the proposed plan.

Commissioner Gillespie recommended changes to the vacancy announcement, including increasing the salary range by \$5,000 to \$70,000-80,000. **Commissioner Novak moved to approve the job description as amended. Commissioner Sherwood seconded. Commissioner Avignone suggested further refinements to the vacancy announcement, and the motion was amended to include his changes. The motion carried unanimously by roll call vote.**

3. Personnel Committee's Recommendation: Appointment of Interim Chief Appellate Defender (*Action Item)

Commissioner Petaja said that the Personnel Committee recommends Eileen Larkin as the interim chief. Koan Mercer also applied for the interim position. Commissioner Petaja also contacted conflict coordinator Kristina Neal about acting as the interim in the event that no one from the appellate office applied. He thought that the Commission might think it more appropriate in the interest of transparency to choose Ms. Neal as she has no intention of applying for the permanent position. It would eliminate any perceived advantage to the interim in choosing the permanent chief.

Commissioner Petaja asked the Commission members for their opinions and noted that the Commission's motion at the last meeting was to select an interim from within the appellate office. If the Commission wishes to consider Ms. Neal or someone else from outside the appellate office, it would require another vote.

Commissioner Olson likes the idea of having a non-applicant appointed as the interim chief. He said the process of selecting the chief public defender was a fair and transparent one, but it would avoid the appearance of giving a candidate for the permanent position a "leg up" by appointing someone else to the interim position.

Commissioner Olson moved to amend the motion from the April 13, 2012 meeting to allow the appointment of someone who is not a present employee of the appellate office to the interim position, with the proviso that the appointee will not apply for the permanent position. Commissioner Avignone seconded.

Commissioner Sherwood agreed that the process for hiring the chief public defender was a fair process. She believes that the Commission showed that they are making independent decisions, and she is less concerned about appearances than consistency within the appellate office. Since Ms. Larkin previously served as the acting chief, Commissioner Sherwood is more comfortable having her serve during the short interim period.

Commissioner Petaja concurred with Commissioner Olson. He doesn't want to interrupt the office, but he thinks there are competing interests, and he doesn't want an applicant for the permanent job to be chosen as the interim chief.

Commissioner Novak asked when Ms. Neal would be available to work since she is on leave, and how she would handle these duties when she is already very overworked. Ms. Neal will be available in early May, and she would not be expected to work on briefs, but do only administrative work.

Chairman Gillespie invited public comment. Ms. Rosario supported Commissioner Petaja's view that it would be better for the office to have a neutral party serve as the interim chief rather than either of the competing employees.

Commissioner Russell understands the recommendation about not choosing an applicant for the permanent job to serve as interim, but concurs with Commissioner Sherwood that Ms. Larkin would benefit the appellate office during the interim.

Chairman Gillespie asked for a roll call vote. The motion carried with Commissioner Sherwood opposed.

Commissioner Petaja moved to appoint Ms. Neal as the interim chief appellate defender. Commissioner Olson seconded. Mr. Crichton asked when Ms. Neal would return from medical leave. She will be available May 7, immediately following Chief Hunt's departure, and will do strictly administrative tasks for approximately ten days. ***The motion carried unanimously.***

4. Public Comment

There was no additional public comment.

5. Schedule Next Meeting

The next Commission meeting to interview finalists for the chief appellate defender position will be held May 15 in Helena, beginning at 9 a.m.

6. Adjourn

Commissioner Petaja moved to adjourn; Commissioner Olson seconded. The motion carried and the meeting adjourned at 2:10 p.m.