

Arizona Independent Redistricting Commission

Thursday, May 12, 2011

9: 30 a.m.

Location

Arizona Industrial Commission Auditorium
800 West Washington
Phoenix, Arizona

Attending

Colleen C. Mathis, Chair
Jose M. Herrera, Vice Chair
Scott Day Freeman, Vice Chair
Linda C. McNulty, Commissioner
Richard P. Stertz, Commissioner

Raymond F. Bladine, Executive Director
Kristina Gomez, Deputy Executive Director
Buck Forst, Information Technology Specialist
James E. Barton II, Assistant Attorney General

Meeting Summary

1. Call to Order

- The meeting was called to order at 9:35 a.m. by Chairman Mathis, followed by the Pledge of Allegiance
- There was a quorum present
- Any member of the public wishing to speak was requested to fill out a public comment form and submit it to the Chair.
- There being no requests for public comment until later in the day, the Commission moved to agenda item 7, and moved to go into executive session for the purpose of discussing contract matters relating to hiring legal counsel and for reviewing confidential documents with State Procurement Administrator Jean Clark and Don Ellwanger.
- **Whereupon, Vice Chair Freeman moved to go into Executive Session for the purpose of discussing contract matters relating to hiring legal counsel and for reviewing confidential documents with State Procurement Administrator Jean Clark and Don Ellwanger. The motion was seconded by Vice Chair Herrera. The motion carried unanimously.**

2. Executive Session

The public was excused and the Commission went into Executive session at 9:39 a.m.
Public session resumed at 10:23 a.m.

3. Interview of applicant law firms that have submitted a proposal to be the Commission's legal counsel.

- **A. David Braun** was interviewed. Mr. Braun responded to a question by Vice Chair Freeman on being able to provide fair and independent legal advice to all members of the Commission, stating his representation of plaintiffs against the Commission and past involvement in the process 10 years ago, that he would be an honest broker. Mr. Braun shared that he was on the bench for 12 years, and has represented Republicans and Democrats alike.
- Mr. Braun further fielded questions on pre-clearance, community of interest, competitive districts, personal interest in redistricting, and whether political affiliation plays into what counsel, and to who counsel is given. Mr. Braun was asked his opinion of the other candidates and their qualifications. The Commission inquired into Mr. Braun's schedule, availability and perceived time commitment to the representation. He was also asked whether his office had sufficient resources and staff to adequately accommodate the volume of the representation.
- Mr. Braun was thanked for his participation in the process, for his interest, and for his application. His interview concluded at 11:02 a.m.

A recess was taken from 11:04 a.m. to 11:12 a.m.

Chief Technology Officer Buck Forst set up a video conference with the next applicant, and was thanked for his expertise and efforts in doing so.

Ballard Spahr was interviewed. Firm members appeared via video conference from Philadelphia and Washington, D.C. Appearing for Ballard Spahr were Joseph Kanefield, Steve Savage, (managing partner of the Phoenix office), and Jaclyn Foutz, associate in the Phoenix office, as well as Bruce Adelson from Federal Compliance Consulting.

- Mr. Kanefield responded to a question by Vice Chair Freeman on being able to provide fair and independent legal advice to all members of the Commission, stating his experience in non-partisan election work, as well as being attorney for the State and the Secretary of State, and most recently Governor Brewer.
- Mr. Kanefield is also President-Elect of the State Bar of Arizona.
- Mr. Kanefield further fielded questions on pre-clearance, stating his role in the previous redistricting, where he was tasked with review and submission of pre-clearance matters.
- Further inquiry included community of interest, competitive districts, personal interest in redistricting, and whether political affiliation plays into what counsel, and to who counsel is given. The Commission inquired into Mr. Kanefield's schedule, availability and perceived time commitment to the representation. He was also asked his opinion of the other candidates and their qualifications, and asked what role Mr. Adelson would have in representation
- The Ballard Spahr applicants were thanked for their participation, particularly in light of it being video conference, and for their application. The interview concluded at 12:02 p.m.

Lisa Hauser was interviewed. The interview started at 12:04 p.m.

- Ms. Hauser opened sharing with the Commission that she is the only candidate who has actually represented the Arizona Independent Redistricting Commission, the only candidate who has the experience in every step of the Commission's mapping process, of the Legislative and Congressional Districts, the only candidate to have actively participated in each one of the cases filed against the Commission, who successfully litigated each one to conclusion in favor of the Commission. Additionally, she stated that she is the only candidate who worked with the Commission's experts to analyze competitiveness and to analyze the strength of voting rights districts, and who worked to secure pre-clearance of Arizona Congressional and Legislative Districts for the last decade.

Ms. Hauser has been on the staff of Republican Governor Fyfe Symington, The Attorney General's Office and in the Solicitor General's Division, representing Secretaries of State Mofford, Karen Osborne, Jim Shumway and Dick Mahoney. She has the bipartisan support of Andi Minkoff, Paul Eckstein, Steve Lynn and Jose Rivera.

- Ms. Hauser responded to a question by Vice Chair Freeman on being able to provide fair and independent legal advice to all members of the Commission. She further fielded a question from Commissioner McNulty on ex parte communications, stating that she worked closely with previous Commission counsel Jose Rivera collectively representing the entire Commission. Further questions included community of interest, competitive districts, personal interest in redistricting, and whether political affiliation plays into what counsel, and to whom counsel is given.
- Ms. Hauser answered inquiry on Compliance with the Voting Rights Act, and the DOJ, and her opinion and knowledge of the other candidates and their qualifications. She was asked for her experience and expected timeline for the Commission. Ms. Hauser was thanked for her participation. The interview concluded at 1:06 p.m.
- (Lunch recess was taken from 1:06 p.m. to 1:53 p.m.)

Public Session Resumed.

- Commissioner Stertz made a motion to go into Executive Session for the purpose of discussing contract matters relating to hiring legal counsel and confidential documents. The motion was seconded by Commissioner McNulty and carried with no opposition.

4. Executive Session

The public was excused and the Commission went into Executive session at 1:55 p.m. Public session resumed at 2:11 p.m.

- **Michael Mandell** was interviewed. Mr. Mandell opened stating his experience working at Brown & Bain, and ultimately the legislature, that he believed a solo practitioner would be cheaper than a large firm, and that he was well-rounded and an Independent. Mr. Mandell responded to a question by Vice Chair Freeman on being able to provide fair and independent legal advice to all members of the Commission, stating he has represented the Arizona Minority Coalition for Redistricting, the Democratic Caucus, and that his intent would be to take a leave of absence from the Democratic Caucus if chosen to represent the Commission.
- Mr. Mandell further fielded questions on pre-clearance, community of interest, competitive districts, and whether political affiliation plays into what counsel, and to who counsel is given. Mr. Mandell was asked his opinion of the other candidates and their qualifications, and about his experience of the mapping process.
- Mr. Mandell stated that, if needed, he would affiliate with a large firm to handle the workload.
- Mr. Mandell was thanked for his participation in the process, and for his application. His interview concluded at 2:46 p.m.

Mary O'Grady was interviewed. The interview started at 2:47 p.m.

- Ms. O'Grady opened sharing with the Commission that she would be good at representing the Commission because she has experience in terms of election law, constitutional litigation, advising public officials and advising legislative bodies.
- Ms. O'Grady responded to a question by Vice Chair Freeman on being able to provide fair and independent legal advice to all members of the Commission, sharing her work with the legislature in obtaining pre-clearance, request for consideration and resubmission in a bipartisan effort. Having worked for both Janet Napolitano, Jan Brewer, and stating that her job is to give the Commission good analysis and solid legal advice so that it can act impartially.
- She further fielded a question from Commissioner McNulty on pre-clearance, and its history in previous submissions. Further questions included community of interest, competitive districts, personal interest in redistricting, and whether political affiliation plays into what counsel, and to whom counsel is given.
- Ms. O'Grady deferred to critique her fellow applicants, reminding that counsel's role was to advise and not to let the Commission shift decisions to counsel. She assured the Commission that she could and would work with whoever is hired. She was asked for the expected timeline of mapping for the Commission, and expected to move fairly quickly to the grid issue once experts were hired, and to setting the 30-day notice period in compliance with the Voting Rights Act. Ms. O'Grady would make the Commission her priority in her practice
- Ms. O'Grady was thanked for her participation. The interview concluded at 3:21 p.m.
- A recess was taken from 3:21 p.m. to 3:28 p.m.

- **Tim LaSota** was interviewed. Mr. LaSota opened stating his experience working at The Rose Law Group included a bipartisan mix of clients, and that his entire career he has lived and breathed election law, including his time at the County Attorney's Office. Mr. LaSota was previously the Mayor of Scottsdale's counsel.
- Questions were asked on pre-clearance, community of interest, competitive districts. Mr. LaSota admitted that he had no experience in submitting a pre-clearance to the DOJ. On the topic of bipartisanship, LaSota shared that his wife is a Democrat and her uncle is Congressman Pastor. He has made it a point not to burn bridges in his work with the legislature.
- Mr. LaSota was asked his opinion of the other candidates and their qualifications. He stated that the Commission would be his full-time focus, and that he was passionate about the process.
- Mr. LaSota was thanked for his participation in the process, and for his application. His interview concluded at 3:57 p.m.

Ray Bladine was thanked by the Commission for collecting the applications and for promptly getting all the interviews organized and set up for the hearing.

5. Call for Public comment:

- Any member of the public wishing to speak was requested to fill out a public comment form and submit it to the Chair.
- Steve Muratore, Publisher, Arizona Egalitarian
 - i. Expressed concern with the public perception of Ms. Hauser being partisan, and that he found her to be an intriguing individual with many contradictions.
 - ii. That he was impressed with Ballard Spahr's presentation.
 - iii. That Ms. O'Grady was pretty good too.

There were no other requests for public comment and the public comment session ended at 4:02 p.m.

6. Due to time constraints, Commissioner McNulty moved to table the Executive Director's report, item number three, number four, number five, leaving only agenda item seven and adjournment afterwards. The motion was seconded by Commissioner Stertz, and carried with no opposition.

7. Executive Session

The public was excused and the Commission went into Executive Session at 4:05 p.m. Public session resumed at 5:10 p.m.

8. Public Session resumed, and scheduling was made to resume the meeting via video conference at 4:00 p.m. on May 13, 2011, at the Evans House, 1100 West Washington, Phoenix, Arizona.

9. The meeting was recessed at 5:17 p.m.