

# **JUDICIAL NOMINATING COMMISSION**

**March 26, 2007**

## **OPEN SESSION**

### **Minutes**

**A meeting of the Judicial Nominating Commission was held on March 26, 2007 in Open Session at 5:20 p.m. at the office of the Judicial Nominating Commission, Department of Administration Building, 3rd Floor, in Conference Room 2, Providence, Rhode Island, pursuant to the notice of the meeting to all of the Commissioners and to the public, as required by RIGL §42-46-6.**

**The following Commissioners, constituting a quorum, were present: Stephen Carlotti, Chairperson, Herbert Brennan, Dennis Coleman, Patty Fairweather, Valentino Lombardi, Faye Sanders, Solomon Solomon, and June Tow.**

**Commissioner William Rampone was absent.**

**Also present: JoAnn Dubuc, Legal Assistant to the Commission, Senator James C. Sheehan, democratic senator from North Kingstown, and Edward Fitzpatrick from the Providence Journal.**

**Mr. Carlotti presided over the meeting and Ms. Dubuc acted as**

recording secretary.

Mr. Carlotti asked for approval of the March 6, 2007 minutes. Ms. Fairweather noted that she had not received them so approval was postponed to the next meeting.

Senator Sheehan asked to be heard regarding the two new appointees to the Commission. He stated that while both Ms. Tow and Ms. Fairweather were highly qualified to serve on the Commission he was in disagreement with the governor's executive council opinion regarding the legality of their appointments. He stated he agreed with Common Cause that Ms. Tow's re-appointment was illegal because she had previously served on the Commission for a full term. He said the appointment of Ms. Fairweather was not as clearly defined to be illegal as to her status as a public official with regard to her job at the Department of Environmental Management.

Mr. Carlotti stated that the Commission is not empowered to oppose appointments to the Commission. He said he received copies of the letter from Christine Lopes, Executive Director of Common Cause to Governor Carcieri and the response to that

letter from Andrew Hodgkin, Executive Counsel to the Governor. (Copies of these letters are attached for the Commissioners to review.)

**Mr. Carlotti said he would entertain scheduling a special meeting at a future date to address these issues as well as other issues, i.e., (1) procedures for applicants re-applying; (2) financial statements (what should these consist of); (3) policy statements/interpretations: and (4) place of filing applications.**

**Ms. Sanders queried if the Commission would take any position on the bill currently being considered by the legislators to keep judicial candidate's names active for 2 or 3 years in response to Governor Carcieri's request. Mr. Carlotti stated that he was not familiar with the bill but would look into it and get copies of the bill for the members.**

**Mr. Solomon expressed concern about Senator Sheehan's remarks and asked what would happen if the appointments of Ms. Tow and Ms. Fairweather were declared invalid. He wondered if the Commission's selection of candidates would be legal and asked whether the legal issues should be resolved before continuing with the search. Mr. Carlotti stated that even though it's conceivable that the appointments could be declared invalid, the Commission members are in no position to deal with it at this time and the search should go forward.**

**Mr. Lombardi agreed with Mr. Carlotti and stated that under the law the Commission is obligated to go forward.**

**Mr. Carlotti then called for a motion to go into executive session for the purpose of reviewing and discussing the applications for the current vacancy on the superior court created by resignation of Associate Justice Stephen Fortunato. Upon motion made by Ms. Sanders and seconded by Ms. Tow, members voted unanimously to go into executive session at 5:30 p.m.**

**The executive portion of this meeting shall be closed to the public in accordance with RIGL § 42-46-4 in order to discuss matters allowed to be exempt from discussion at open meetings under subdivision (1) of §42-46-5(a), namely, the “job performance, character, or physical or mental health of a person or persons.”**

**Members returned to open session at 7:15 p.m. A motion was made by Mr. Solomon and seconded by Mr. Lombardi to seal the preceding minutes of the executive session, and all members voted in the affirmative.**

**Pursuant to RIGL §§42-46-4 and 42-46-5, as permitted under §42-46-7(c) the minutes of the preceding Executive Session shall be kept closed and sealed.**

**Mr. Carlotti announced that the following eight applicants had been selected to be interviewed for the current superior court vacancy: Bennett Gallo, Alan Goulart, Sandra Lanni, John Martinelli, Luis Matos, Henry Monti, Kristin Rodgers, and Carol Zangari.**

**Members voted to conduct the interviews on May 7 and May 8, 2007 in the JNC office. A tentative date for the public comment hearing was set for May 14 or May 15, depending on the conference room availability at the Department of Administration.**

**There being no further business in open session, a motion to adjourn was made by Mr. Lombardi, seconded by Ms. Tow and members voted in the affirmative to adjourn at 7:30 p.m.**

**Respectfully submitted,**

**JoAnn Dubuc**

**Legal Assistant**