

CITY COUNCIL REPORT



Meeting Date: April 4, 2017
 Charter Provision: *Provide for the orderly government and administration of the affairs of the City*
 Objective: *Appoint Officials*

ACTION

Associate City Judge Reappointment. Discuss, consider, and act on the possible reappointment, including terms of employment, of Orest Jejna, Associate City Judge, to a term of four years, as set forth in the City Ordinance, to begin on **May 1, 2017**. Consideration of Judge Orest Jejna's reappointment will include a presentation by Judicial Appointments Advisory Board (JAAB) representatives and may include, but is not limited to, questions between Council and the JAAB representative(s), Donna Brown (HR Director), Judge Jejna and/or other relevant staff.

BACKGROUND

In accordance with Scottsdale Revised Code, Section 9 – 2 (a), City Council shall appoint, and may remove for cause, the city judge, associate city judges and judges pro tempore, as the City Council deems necessary. The Judicial Appointments Advisory Board (JAAB) shall make recommendations to the City Council, as provided in Division 13, Article V of city code, relating to the initial appointment or reappointment of the city judge and associate city judges. As established in section 9-2 (b) of the Scottsdale Revised Code, through adoption of Ordinance 4079 on April 30, 2013, reappointment term lengths for all city judges was amended to four years.

Judge Orest Jejna was originally appointed as an associate city judge on May 1, 2001 and he will conclude his sixth (6th) term on the bench at Scottsdale City Court on May 1, 2017.

The Council-appointed JAAB has completed a comprehensive review of Judge Jejna's application for reappointment (Attachment 1) and they are unanimously (six of seven board members present at the public meeting on March 7, 2017; regarding Judge Jejna's application for reappointment; Board Member Schenkat recused herself) recommending reappointment for another four year term. No judicial conduct concerns or issues were identified during the JAAB's review of Judge Jejna's performance. A copy of a letter from Judge Bruce Cohen, JAAB Chairman, is attached (Attachment 2), along with other useful reference documents for Council's review and consideration (Attachments 3 and 4).

Compensation

Scottsdale Revised Code Section 9-6 provides that the City Council will determine the compensation of the City Judge and all other Judges of the City Court. Prior to May 1, 2005, the salaries of

associate city judges were set by the City Council at the time of reappointment and the amounts remained fixed for the full term. Because associate city judge terms do not run concurrently, the respective pay increases occurred at different times which led to salary inequities. Research and analysis at that time concluded that the salaries of all associate city judges should be the same.

As approved by City Council on May 3, 2005, with an effective date of May 1, 2005, associate city judge salary amounts are set annually in conjunction with City Council's annual budget review process. As such, Judge Jejna's salary is presently set for the current fiscal year and will be determined for fiscal year 2017/18 through the FY 2017/18 budget process.

ANALYSIS & ASSESSMENT

Community Involvement

The Council-appointed JAAB is a seven member board made up of distinguished judges, attorneys and Scottsdale citizens and includes Judge Bruce Cohen (Chair), Judge Bradley Astrowsky (Vice Chair), Scottsdale attorneys Donald Alvarez and James Padish, and citizens Sandra Schenkat, Stanley Morganstern and Brian Adamovich. Board Member Schenkat recused herself from the reappointment process of Judge Jejna.

The reappointment process included the following steps:

- October 11, 2016– Judge Jejna received a letter from staff, on behalf of the JAAB, inviting him to apply for reappointment.
- October 25, 2016 – Judge Jejna submitted his application for reappointment.
- January/February 2017 – Outside firm conducted survey of citizens, legal community and staff on Judge Jejna's performance. (See Attachment 3 for survey result reports)
- February 14, 2017 – In response to the JAAB's request for any information related to Judge Jejna, a letter from the AZ Commission on Judicial Conduct was received. (As set forth above, the JAAB did not uncover any judicial conduct concerns or issues during its review).
- Weeks of February 24 and March 3, 2017 – Solicitation of public comment was conducted. (Public comments received can be heard from posted recording of JAAB meeting and are summarized in the DRAFT minutes of the meeting which are set forth in Attachment 4).
- March 7, 2017 – The JAAB completed their extensive process in considering Judge Jejna's reappointment which included a review of the judge's application for reappointment and the judicial survey results, reference checking, a public hearing to invite community input, and an interview with Judge Jejna. Based on all of the information the board gathered, the JAAB voted unanimously (out of 6 board members participating in this portion of the meeting) to recommend Judge Jejna's reappointment to the City Council.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

The Council-appointed Judicial Appointments Advisory Board (JAAB) makes recommendations to the City Council on the retention of the Presiding and Associate City Judges based on a thorough review process. The JAAB has voted to highly recommend to Council that Judge Jejna be retained as an Associate City Judge for another four year term, effective May 1, 2017 through May 1, 2021.

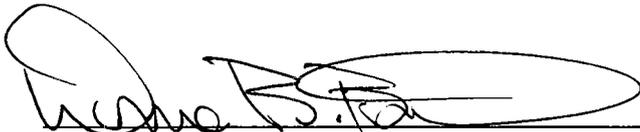
RESPONSIBLE DEPARTMENT(S)

Human Resources

STAFF CONTACTS (S)

Donna Brown, Director – Human Resources, dbrown@scottsdaleaz.gov

APPROVED BY



Donna Brown, Director – Human Resources

3/28/17
Date

(480) 312-2615, dbrown@scottsdaleaz.gov

ATTACHMENTS

1. Judge Jejna’s Application for Reappointment
2. JAAB Recommendation Letter from Judge Bruce Cohen, Chair
3. Survey Statistical Data Reports for Judge Jejna
4. **DRAFT** Meeting Minutes – March 7, 2017 JAAB Public Meeting



City of Scottsdale
APPLICATION FOR REAPPOINTMENT AS
ASSOCIATE CITY JUDGE

A. PERSONAL INFORMATION

1. Full name: Orest Andrew Jejna
2. Office address: 3700 North 75th Street, Scottsdale, Arizona 85251
3. Message phone number: (480) 312-2772 Ext. 7896

B. PROFESSIONAL BACKGROUND AND EXPERIENCE

4. Summarize your tenure as Associate City Judge, including dates served and the nature and volume of your caseload.

I have been an Associate City Judge in the City of Scottsdale since May 1, 2001. During my term, I have been primarily assigned to Division Three, which includes partial coverage of the Jail Court.

During my tenure, I have had the pleasure of handling and trying all types of cases, which include but are not limited to the following: Driving While under the Influence, Prostitution, Assault, Domestic Violence, Criminal Speed, Criminal Damage, Driving on a Suspended License, Indecent Exposure and other crimes under Title 13 and 28 of the Arizona Revised Statutes.

Based on the fact that we are a relatively high volume Court, I have been provided with the following statistics regarding some of the major courtroom events I routinely handle. The categories of some of the major items I presided over from January 1, 2013 to the present are as follows: Arraignments-2862 (Approximate); Pretrial conferences 2388; Bench trials 348; Jury Trials 160 and Change of Plea Proceedings 1327.

5. Why are you seeking reappointment as Associate City Judge?

During my many years of practicing law, I aspired to become a Judge that would do their best to make a positive impact for all victims and defendants involved in the criminal justice system. I was given that opportunity by the City of Scottsdale in my first appointment in 2001 and continue to serve to this date.

I have had the opportunity to continue to expand my knowledge of the law, observe and study human behavior in the context of the cases I am assigned and have been entrusted with the responsibility of administering justice and upholding the tenets of the Arizona and

United States Constitutions. From a professional perspective, I can think of no greater privilege and honor to serve my community. For these primary reasons, I seek reappointment to the bench.

6. What two or three aspects of your performance or contributions as Associate City Judge are you most proud of during your present term?

During my many years on the bench, I have found that the judicial experience has a consistently changing landscape. As Forest Gump would say "Life is like a box of chocolates, you never know what you're going to get." So too is the judicial experience.

As a result of my vast experience on the bench, I have done my best to strive for judicial excellence in all facets of our profession. I'm very proud of the manner in which I deal with the litigant's in our Court and feel a tremendous sense of satisfaction by always trying to reach the next level of performance in my judicial role. I also find that my judicial demeanor is appreciated by counsel for both sides along with the participating litigants. Keeping an open mind during the litigation process and providing a proper sense of fairness and equity are my strong points.

7. What have you done as Associate City Judge to further your professional development and to prepare yourself for a subsequent term on the bench?

In order to further my professional development, I have attended a number of conferences and seminars during the last few years. These events covered a variety of legal topics that are routinely encountered in the limited jurisdiction courts. We were brought up to date on such topics as Evidence, Ethics, Criminal case law updates along with a plethora of legal issues that arise in our court.

8. Describe any additional experience, accomplishments or awards that you would like to share with the Board.

During this last term, I had the pleasure of teaching both Ethics and Protective Order Procedure to our Pro Tem judge candidates. Since many of our Pro Tem Judges are in private practice, our teaching program provides the judges with the necessary information to successfully serve the Court and community. In addition to my teaching duties for Pro Tem Judges, I also participated in instructing our staff in seminars concerning Court Ordered Treatment and Compliance as well as Ethics and Social Media.

Additionally, I have rekindled my participation with the Ukrainian American Bar Association. I have attended the last three annual conferences and was voted to the Board of Governors in 2014. I continue to serve on the Board of this organization.

C. CONDUCT AND ETHICS

9. List and describe any sanctions imposed upon you by any courts or judicial oversight bodies for violation of any rule or procedure or for any other professional impropriety.
None
10. Are there any other issues pertaining to judicial conduct or ethics that should be disclosed to the Board.
None

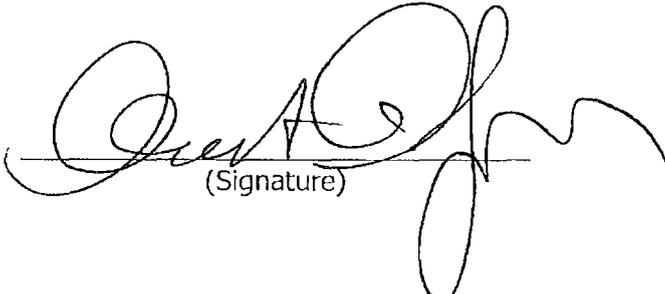
The undersigned hereby authorizes the Committees of the State Bar of Arizona, all Bar Associations, references, employers, credit reporting agencies, business and professional associates, and all governmental agencies to release to the Scottsdale Judicial Appointments Advisory Board and the City of Scottsdale any information requested by said Board in connection with the processing of my application for reappointment as Associate City Judge.

I certify that all the information provided herein is true and complete to the best of my knowledge. I agree and understand that omissions, misstatements, and falsifications may be cause for rejection of this application or may otherwise impact my continued employment with the City of Scottsdale. I give the Judicial Appointments Advisory Board and the City of Scottsdale the right to investigate and verify any information obtained through the application process. Permission is granted and I release from any and all liability any employer, agency, or individual assisting the Board or the City of Scottsdale in providing relevant, job related information or survey data that will assist with this process.

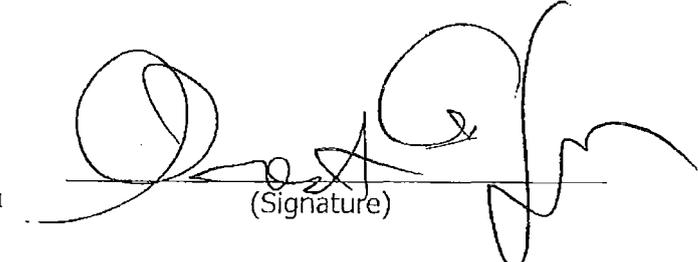
I understand that I may be required to successfully complete an alcohol/drug test as part of the reappointment assessment process.

My signature below acknowledges my understanding and agreement with the above.

Date: 10/25/16


(Signature)

Submission of this application expresses my willingness to accept reappointment to the judicial position applied for in this application if tendered by the Scottsdale City Council.


(Signature)



City of Scottsdale
Human Resources

9191 E. San Salvador Drive
Scottsdale, AZ 85258

PHONE: 480-312-2491
WEB: www.ScottsdaleAZ.gov

March 16, 2017

The Honorable Mayor W.J. "Jim" Lane
Members of the Scottsdale City Council
3939 North Drinkwater Blvd.
Scottsdale, AZ 85251

RE: Reappointment of Hon. Orest Jejna as a Scottsdale Associate City Judge

Dear Mayor Lane and Members of the Council:

On March 7, 2017, the Scottsdale Judicial Appointments Advisory Board (JAAB) convened to consider the application of Judge Orest Jejna for reappointment to a four year term as an Associate City Judge of the Scottsdale City Court. Judge Jejna will complete his sixth term on May 1, 2017.

The JAAB used a very thorough process in considering this matter, including: an independent survey of attorneys, defendants, witnesses and court staff; reference checks with attorneys who regularly appear in Judge Jejna's court; public testimony concerning Judge Jejna; and, a formal interview by the Board. The JAAB would like to emphasize that Judge Jejna's survey scores, reference checks and public comments were outstanding. His reputation in the community is commendable, his ethics are unimpeachable, and he exemplifies all of the traits we seek from an independent judiciary.

Six (6) of seven (7) Board members were present at the public meeting to consider Judge Jejna's application for reappointment. After broad-scoped deliberation, the Board voted unanimously (6-0) to recommend to the City Council the reappointment of Judge Jejna to another term, beginning May 1, 2017.

Lastly, as the new Chair of the Board, I would ask that the Council take a moment to acknowledge the exemplary service of JAAB's out-going Chair, Don Alvarez. Under his stewardship, JAAB has continued to meet its mandate and has ably served the citizens of Scottsdale.

If you have questions or need further information, please feel free to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Bruce R. Cohen".

Bruce R. Cohen
Judge of the Maricopa County Superior Court
Chair of JAAB
(602) 372-0686



RIS
P.O. Box 20958
Mesa, AZ 85277-0958
(623) 565-6551

February 21, 2017

Ms. Lorelei Oien
City of Scottsdale
Human Resources Systems
7575 E. Main Street
Scottsdale, AZ 85251

Subject: Reappointment Report for Judge Orest Jejna

Dear Lorelei:

The following pages provide the survey materials in support of the re-appointment process for the judge named above. This letter provides assistance in interpreting those materials.

Surveys Distributed and Returned

You provided me with listings containing names and contact information for private attorneys, city prosecutors, city court judges, police officers, defendants, court staff, and city prosecutor (non-attorney) staff. I developed online survey forms, new for this reappointment cycle, and sent email invitations to all groups except for private attorneys and defendants; email addresses were not available for these individuals. These groups included parties who appeared before Judge Jejna between May 1 and October 31, 2016.

The table below provides the counts of surveys distributed and received. A total of 1,115 surveys were distributed for the current report period. Of those, the post office returned 101 (9.1 percent) as undeliverable, and we received a total of 146 usable surveys for an effective response rate of 14.4 percent.

Scottsdale City Court Survey Distribution and Receipt Summary Judge Orest Jejna February 2017							
Reported As	Respondents	Medium	Distributed	Returned Undeliverable	Net Distributed	Responses	Net Rate
Attorney	Total	All	157	5	152	30	19.7%
	Private Attorneys	Mail	143	5	138	19	13.8%
	Prosecutors	Online	11	0	11	8	72.7%

	Peer Judges	Online	3	0	3	3	100.0%
Defendant/ Witness	Total	All	884	96	788	75	9.5%
	Police Officers	Online	205	0	205	58	28.3%
	Defendants	Mail	679	96	583	17	2.9%
Staff	Total	All	74	0	74	41	55.4%
	Court Staff	Online	54	0	54	32	59.3%
	Prosecutor (Non-Attorney) Staff	Online	20	0	20	9	45.0%
Grand Total			1,115	101	1,014	146	14.4%

Interpreting Statistical Reports

The summary sheets (All Reports as of February 2017) provide the combined results for all of the responses we have received since the beginning of our work with the City of Scottsdale, including those for this report, while the sheets for Judge Orest Jejna provide the results for the current survey cycle. All of the reports are structured in the same way.

At the top of the report page, under the "City of Scottsdale Judicial Appointment Advisory Board" line, the report provides Name of Judge, Total Surveys, and Prepared. The Total Surveys number is the total of all surveys received: attorney, defendant/plaintiff, and staff. The Prepared field is the date on which the results were compiled.

For the numerical and percentage reports, the survey questions are in the left-most column and are categorized into *Legal Ability*, *Integrity*, *Communication Skills*, *Judicial Temperament*, and *Administrative Performance*. The responses to each question are displayed on the line corresponding to the question under the appropriate respondent group. These responses give the number (or percentage) of respondents who rated the judge as:

- UN = Unacceptable (0 points)
- PO = Poor (1 point)
- SA = Satisfactory (2 points)
- VG = Very Good (3 points)
- SU = Superior (4 points)

Mean scores are based on a scale of zero to four as defined above: an Unacceptable response is worth zero points and a Superior response is worth four points. A category summary is given at the bottom of each category, for example, "Legal Ability Summary." These summaries are the total number of responses for all questions in that category.

A legend for translating the response categories is located at the bottom of each page, along with the time period for which surveys were distributed. The second page provides the percentages for all of the numerical responses on the first page.

Thank you for the opportunity to provide this information. As always, please call me at (623) 565-6551 or email me at jimriggs@cox.net if you have any questions or require any additional information.

Sincerely,

James E. Riggs

James E. Riggs
Owner

Attachments

**CITY OF SCOTTSDALE
JUDICIAL APPOINTMENTS ADVISORY BOARD**

**SUMMARY OF
STATISTICAL DATA REPORTS
THROUGH FEBRUARY 21, 2017**

CITY OF SCOTTSDLAE JUDICIAL APPOINTMENTS ADVISORY BOARD

Name of Judge: All Reports as of February 2017	Total Surveys: 3657					Prepared: February 2017					ATTORNEY					DEFENDANT/PLAINTIFF					JUROR					STAFF				
	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean		
I: Legal Ability																														
Legal reasoning ability.	23	43	88	168	355	677	3.2																							
Knowledge of substantive law.	17	42	88	159	369	675	3.2																							
Knowledge of rules of evidence.	15	47	88	144	364	658	3.2																							
Knowledge of rules of procedure.	17	37	94	157	378	683	3.2																							
Knowledge of laws pertaining to sentencing.	13	18	106	152	389	678	3.3																							
Keeps up to date.	12	25	82	138	368	625	3.3																							
Legal Ability Summary	97	212	546	918	2223	3996	3.2																							
II: Integrity																														
Conduct free from impropriety.	25	33	76	111	450	695	3.3																							
Equal treatment regardless of race.	11	12	72	104	451	650	3.5	42	26	223	441	672	1404	3.2	1	2	14	59	123	199	3.5	2	8	50	119	446	625	3.6		
Equal treatment regardless of gender.	15	18	68	104	448	653	3.5	41	36	248	425	692	1442	3.2	1	2	15	66	129	213	3.5	5	16	47	127	433	628	3.5		
Equal treatment regardless of economic status.	19	16	73	101	445	654	3.4	58	63	220	413	679	1433	3.1	0	2	16	63	126	207	3.5	7	8	52	124	434	625	3.6		
Avoided prejudging outcome of case.	42	52	65	100	424	683	3.2																							
Basic fairness and impartiality.	48	45	62	107	439	701	3.2	96	90	216	424	711	1537	3.0	0	2	15	64	146	227	3.6	7	22	52	113	444	638	3.5		
Exhibits personal integrity.																														
Integrity Summary	160	176	416	627	2657	4036	3.3	237	215	907	1703	2754	5816	3.1	2	10	74	312	667	1065	3.5	27	71	254	595	2226	3173	3.6		
III: Communication Skills																														
Clear and logical oral communications/directions.	16	43	102	146	384	691	3.2	53	77	244	462	739	1575	3.1	2	0	12	74	142	230	3.5	9	23	70	170	385	657	3.4		
Clear and logical written decisions.	18	36	53	111	324	542	3.3																							
Explained proceedings to the jury.																														
Explained reasons for delays.																														
Clear explanations of the juror's responsibilities.																														
Clear instructions to the jury.																														
Communication Skills Summary	34	79	155	257	708	1233	3.2	53	77	244	462	739	1575	3.1	10	5	61	315	718	1109	3.6	9	23	70	170	385	657	3.4		
IV: Judicial Temperament																														
Understanding and compassion.	34	51	99	118	388	690	3.1	98	105	240	478	628	1549	2.9	2	0	19	64	115	200	3.5	11	27	88	156	363	645	3.3		
Dignified.	24	28	92	145	411	700	3.3	63	56	264	449	729	1561	3.1	2	1	14	63	130	210	3.5	7	13	76	143	423	662	3.5		
Courteous.	30	32	94	128	418	702	3.2	66	82	249	452	718	1567	3.1																
Courteous to litigants.																														
Courteous to jurors.																														
Is accessible.	18	24	89	130	395	656	3.3																							
Conduct that promoted public confidence in the court and judge's ability.	39	46	70	129	410	694	3.2	94	93	209	414	736	1546	3.0	3	2	12	53	133	203	3.5	16	19	57	126	428	646	3.4		
Judicial Temperament Summary	145	181	444	650	2022	3442	3.2	321	336	962	1793	2811	6223	3.0	12	4	68	297	649	1030	3.5	48	80	296	574	1622	2620	3.4		
V: Administrative Performance																														
Punctuality in conducting proceedings.	12	19	126	168	356	681	3.2	59	90	308	477	607	1541	3.0	1	3	18	61	126	209	3.5	13	33	68	138	370	622	3.3		
Maintenance of proper control over courtroom.	14	20	100	139	410	683	3.3	34	43	257	448	755	1537	3.2	2	0	13	58	139	212	3.6	7	18	49	129	413	616	3.5		
Promptness in making rulings and rendering decisions.	10	10	111	153	380	664	3.3																							
Hard worker.	10	18	72	126	379	605	3.4	42	46	185	366	584	1223	3.1	1	3	9	38	101	152	3.5	8	10	52	96	474	640	3.6		
Respectful treatment of staff.																														
Cooperation with peers.																														
Cooperation with staff.																														
Efficient management of calendar.	14	33	87	136	352	622	3.3																							
Admin. Performance Summary	60	100	496	722	1877	3255	3.3	135	179	750	1291	1946	4301	3.1	4	6	40	157	366	573	3.5	76	149	419	864	2902	4410	3.4		

UN=Unacceptable, PO=Poor
SA=Satisfactory, VG=Very Good, SU=Superior

This summary is based on the results for all Scottsdale judicial surveys reported as of February 2017, including the current report.

CITY OF SCOTTSDLAE JUDICIAL APPOINTMENTS ADVISORY BOARD

Name of Judge:
All Reports as of February 2017

Total Surveys: 3657 **Prepared:** February 2017

	ATTORNEY					757		DEFENDANT/PLAINTIFF					1861		JUROR					332		STAFF					707							
	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean						
I: Legal Ability																																		
Legal reasoning ability.	3%	6%	13%	25%	52%	100%	3.2																											
Knowledge of substantive law.	3%	6%	13%	24%	55%	100%	3.2																											
Knowledge of rules of evidence.	2%	7%	13%	22%	55%	100%	3.2																											
Knowledge of rules of procedure.	2%	5%	14%	23%	55%	100%	3.2																											
Knowledge of laws pertaining to sentencing.	2%	3%	16%	22%	57%	100%	3.3																											
Keeps up to date.	2%	4%	13%	22%	59%	100%	3.3																											
Legal Ability Summary	2%	5%	14%	23%	56%	100%	3.2																											
II: Integrity																																		
Conduct free from impropriety.	4%	5%	11%	16%	65%	100%	3.3																											
Equal treatment regardless of race.	2%	2%	11%	16%	69%	100%	3.5	3%	2%	16%	31%	48%	100%	3.2	1%	1%	7%	30%	62%	100%	3.5	0%	1%	8%	19%	71%	100%	3.6						
Equal treatment regardless of gender.	2%	3%	10%	16%	69%	100%	3.5	3%	2%	17%	29%	48%	100%	3.2	0%	1%	7%	31%	61%	100%	3.5	1%	3%	7%	20%	69%	100%	3.5						
Equal treatment regardless of economic status.	3%	2%	11%	15%	68%	100%	3.4	4%	4%	15%	29%	47%	100%	3.1	0%	1%	8%	30%	61%	100%	3.5	1%	1%	8%	20%	69%	100%	3.6						
Avoided prejudging outcome of case.	6%	8%	10%	15%	62%	100%	3.2																											
Basic fairness and impartiality.	7%	6%	9%	15%	63%	100%	3.2	6%	6%	14%	28%	46%	100%	3.0	0%	1%	7%	28%	64%	100%	3.6	1%	3%	8%	18%	70%	100%	3.5						
Exhibits personal integrity.																																		
Integrity Summary	4%	4%	10%	16%	66%	100%	3.3	4%	4%	16%	29%	47%	100%	3.1	0%	1%	7%	29%	63%	100%	3.5	1%	2%	8%	19%	70%	100%	3.6						
III: Communication Skills																																		
Clear and logical oral communications/directions.	2%	6%	15%	21%	56%	100%	3.2	3%	5%	15%	29%	47%	100%	3.1	1%	0%	5%	32%	62%	100%	3.5	1%	4%	11%	26%	59%	100%	3.4						
Clear and logical written decisions.	3%	7%	10%	20%	60%	100%	3.3																											
Explained proceedings to the jury.															1%	0%	6%	27%	66%	100%	3.6													
Explained reasons for delays.															1%	1%	8%	26%	63%	100%	3.5													
Clear explanations of the juror's responsibilities.															1%	0%	5%	28%	66%	100%	3.6													
Clear instructions to the jury.															1%	1%	4%	28%	66%	100%	3.6													
Communication Skills Summary	3%	6%	13%	21%	57%	100%	3.2	3%	5%	15%	29%	47%	100%	3.1	1%	0%	6%	28%	65%	100%	3.6	1%	4%	11%	26%	59%	100%	3.4						
IV: Judicial Temperament																																		
Understanding and compassion.	5%	7%	14%	17%	56%	100%	3.1	6%	7%	15%	31%	41%	100%	2.9	1%	0%	10%	32%	58%	100%	3.5	2%	4%	14%	24%	56%	100%	3.3						
Dignified.	3%	4%	13%	21%	59%	100%	3.3	4%	4%	17%	29%	47%	100%	3.1	1%	0%	7%	30%	62%	100%	3.5	1%	2%	11%	22%	64%	100%	3.5						
Courteous.	4%	5%	13%	18%	60%	100%	3.2	4%	5%	16%	29%	46%	100%	3.1																				
Courteous to litigants.															1%	0%	6%	29%	63%	100%	3.5													
Courteous to jurors.															1%	0%	5%	27%	67%	100%	3.6													
Is accessible.	3%	4%	14%	20%	60%	100%	3.3																											
Conduct that promoted public confidence in the court and judge's ability.	6%	7%	10%	19%	59%	100%	3.2	6%	6%	14%	27%	48%	100%	3.0	1%	1%	6%	26%	66%	100%	3.5	2%	3%	9%	20%	66%	100%	3.4						
Judicial Temperament Summary	4%	5%	13%	19%	59%	100%	3.2	5%	5%	15%	29%	45%	100%	3.0	1%	0%	7%	29%	63%	100%	3.5	2%	3%	11%	22%	62%	100%	3.4						
V: Administrative Performance																																		
Punctuality in conducting proceedings.	2%	3%	19%	25%	52%	100%	3.2	4%	6%	20%	31%	39%	100%	3.0	0%	1%	9%	29%	60%	100%	3.5	2%	5%	11%	22%	59%	100%	3.3						
Maintenance of proper control over courtroom.	2%	3%	15%	20%	60%	100%	3.3	2%	3%	17%	29%	49%	100%	3.2	1%	0%	6%	27%	66%	100%	3.6	1%	3%	8%	21%	67%	100%	3.5						
Promptness in making rulings and rendering decisions.	2%	2%	17%	23%	57%	100%	3.3																											
Hard worker.	2%	3%	12%	21%	63%	100%	3.4	3%	4%	15%	30%	48%	100%	3.1	1%	2%	6%	25%	66%	100%	3.5	1%	2%	8%	15%	74%	100%	3.6						
Respectful treatment of staff.																						2%	3%	10%	18%	67%	100%	3.4						
Cooperation with peers.																						1%	2%	9%	20%	68%	100%	3.5						
Cooperation with staff.																						2%	4%	9%	21%	64%	100%	3.4						
Efficient management of calendar.	2%	5%	14%	22%	57%	100%	3.3																											
Admin. Performance Summary	2%	3%	15%	22%	58%	100%	3.3	3%	4%	17%	30%	45%	100%	3.1	1%	1%	7%	27%	64%	100%	3.5	2%	3%	10%	20%	66%	100%	3.4						

UN=Unacceptable, PO=Poor
SA=Satisfactory, VG=Very Good, SU=Superior

This summary is based on the results for all Scottsdale judicial surveys reported as of February 2017, including the current report.

**CITY OF SCOTTSDALE
JUDICIAL APPOINTMENTS ADVISORY BOARD**

**STATISTICAL DATA REPORTS
FOR
JUDGE OREST JEJNA
PREPARED FEBRUARY 21, 2017**

CITY OF SCOTTSDLAE JUDICIAL APPOINTMENT ADVISORY BOARD

Name of Judge:
Orest Jejna

Total Surveys: 146 Prepared: February 2017

	ATTORNEY					30		DEFENDANT/WITNESS					75		JUROR					###		STAFF					41			
	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean		
I: Legal Ability																														
Legal reasoning ability.	0	2	3	8	16	29	3.3																							
Knowledge of substantive law.	0	2	4	6	17	29	3.3																							
Knowledge of rules of evidence.	0	3	3	6	17	29	3.3																							
Knowledge of rules of procedure.	0	3	3	5	17	28	3.3																							
Knowledge of laws pertaining to sentencing.	0	0	5	6	18	29	3.4																							
Keeps up to date.	0	1	3	8	17	29	3.4																							
Legal Ability Summary	0	11	21	39	102	173	3.3																							
II: Integrity																														
Conduct free from impropriety.	0	2	0	4	24	30	3.7																							
Equal treatment regardless of race.	0	0	1	2	26	29	3.9	3	0	2	20	41	66	3.5	###	###	###	###	###	####	#REF!	0	0	1	7	27	35	3.7		
Equal treatment regardless of gender.	0	1	0	2	26	29	3.8	0	0	5	19	42	66	3.6	###	###	###	###	###	####	#REF!	0	0	2	6	27	35	3.7		
Equal treatment regardless of economic status.	0	1	1	5	22	29	3.7	1	2	5	15	40	63	3.4	###	###	###	###	###	####	#REF!	0	0	2	6	26	34	3.7		
Avoided prejudging outcome of case.	0	2	2	2	24	30	3.6								###	###	###	###	###	####	#REF!									
Basic fairness and impartiality.	0	2	2	3	23	30	3.6	2	1	5	22	37	67	3.4	###	###	###	###	###	####	#REF!	0	0	2	7	27	36	3.7		
Exhibits personal integrity.																						0	0	1	8	28	37	3.7		
Integrity Summary	0	8	6	18	145	177	3.7	6	3	17	76	160	262	3.5	###	###	###	###	###	####	#REF!	0	0	8	34	135	177	3.7		
III: Communication Skills																														
Clear and logical oral communications/directions.	0	2	3	7	15	27	3.3	2	1	6	20	39	68	3.4	###	###	###	###	###	####	#REF!	0	0	5	11	20	36	3.4		
Clear and logical written decisions.	0	1	3	5	15	24	3.4																							
Explained proceedings to the jury.															###	###	###	###	###	####	#REF!									
Explained reasons for delays.															###	###	###	###	###	####	#REF!									
Clear explanations of the juror's responsibilities.															###	###	###	###	###	####	#REF!									
Clear instructions to the jury.															###	###	###	###	###	####	#REF!									
Communication Skills Summary	0	3	6	12	30	51	3.4	2	1	6	20	39	68	3.4	###	###	###	###	###	####	#REF!	0	0	5	11	20	36	3.4		
IV: Judicial Temperament																														
Understanding and compassion.	0	0	4	2	24	30	3.7	1	0	8	22	35	66	3.4	###	###	###	###	###	####	#REF!	0	0	3	7	28	38	3.7		
Dignified.	0	0	3	3	24	30	3.7	1	1	5	25	33	65	3.4	###	###	###	###	###	####	#REF!	0	0	1	10	27	38	3.7		
Courteous.	0	0	3	3	24	30	3.7	2	1	3	23	39	68	3.4								0	0	1	8	30	39	3.7		
Courteous to litigants.															###	###	###	###	###	####	#REF!									
Courteous to jurors.															###	###	###	###	###	####	#REF!									
Is accessible.	0	0	2	4	24	30	3.7																							
Conduct that promoted public confidence in the court and judge's ability.	0	2	1	4	22	29	3.6	1	4	4	22	37	68	3.3	###	###	###	###	###	####	#REF!	0	0	3	7	26	36	3.6		
Judicial Temperament Summary	0	2	13	16	118	149	3.7	5	6	20	92	144	267	3.4	###	###	###	###	###	####	#REF!	0	0	8	32	111	151	3.7		
V: Administrative Performance																														
Punctuality in conducting proceedings.	0	1	4	6	19	30	3.4	2	1	5	22	38	68	3.4	###	###	###	###	###	####	#REF!	0	3	8	8	15	34	3.0		
Maintenance of proper control over courtroom.	1	2	5	3	19	30	3.2	2	1	4	22	39	68	3.4	###	###	###	###	###	####	#REF!	0	2	3	11	17	33	3.3		
Promptness in making rulings and rendering decisions.	0	0	8	4	17	29	3.3																							
Hard worker.	0	1	2	5	21	29	3.6	2	1	0	18	33	54	3.5	###	###	###	###	###	####	#REF!	0	0	3	9	25	37	3.6		
Respectful treatment of staff.																						0	0	2	7	29	38	3.7		
Cooperation with peers.																						0	0	2	6	24	32	3.7		
Cooperation with staff.																						0	0	2	8	28	38	3.7		
Efficient management of calendar.	0	4	4	4	17	29	3.2															0	5	5	9	13	32	2.9		
Admin. Performance Summary	1	8	23	22	93	147	3.3	6	3	9	62	110	190	3.4	###	###	###	###	###	####	#REF!	0	10	25	58	151	244	3.4		

UN=Unacceptable, PO=Poor
SA=Satisfactory, VG=Very Good, SU=Superior

Surveys were distributed to individuals who appeared in court between May 1 and October 31, 2016.

CITY OF SCOTTSBLAE JUDICIAL APPOINTMENT ADVISORY BOARD

Name of Judge: Orest Jejna	Total Surveys: 146		Prepared: February 2017																										
	ATTORNEY					30		DEFENDANT/PLAINTIFF					75		JUROR					#REF!		STAFF					41		
	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	UN	PO	SA	VG	SU	Total	Mean	
I: Legal Ability																													
Legal reasoning ability.	0%	7%	10%	28%	55%	100%	3.3																						
Knowledge of substantive law.	0%	7%	14%	21%	59%	100%	3.3																						
Knowledge of rules of evidence.	0%	10%	10%	21%	59%	100%	3.3																						
Knowledge of rules of procedure.	0%	11%	11%	18%	61%	100%	3.3																						
Knowledge of laws pertaining to sentencing.	0%	0%	17%	21%	62%	100%	3.4																						
Keeps up to date.	0%	3%	10%	28%	59%	100%	3.4																						
Legal Ability Summary	0%	6%	12%	23%	59%	100%	3.3																						
II: Integrity																													
Conduct free from impropriety.	0%	7%	0%	13%	80%	100%	3.7																						
Equal treatment regardless of race.	0%	0%	3%	7%	90%	100%	3.9	5%	0%	3%	30%	62%	100%	3.5	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	3%	20%	77%	100%	3.7	
Equal treatment regardless of gender.	0%	3%	0%	7%	90%	100%	3.8	0%	0%	8%	29%	64%	100%	3.6	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	6%	17%	77%	100%	3.7	
Equal treatment regardless of economic status.	0%	3%	3%	17%	76%	100%	3.7	2%	3%	8%	24%	63%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	6%	18%	76%	100%	3.7	
Avoided prejudging outcome of case.	0%	7%	7%	7%	80%	100%	3.6																						
Basic fairness and impartiality.	0%	7%	7%	10%	77%	100%	3.6	3%	1%	7%	33%	55%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	6%	19%	75%	100%	3.7	
Exhibits personal integrity.																													
Integrity Summary	0%	5%	3%	10%	82%	100%	3.7	2%	1%	6%	29%	61%	100%	3.5	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	5%	19%	76%	100%	3.7	
III: Communication Skills																													
Clear and logical oral communications/directions.	0%	7%	11%	26%	56%	100%	3.3	3%	1%	9%	29%	57%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	14%	31%	56%	100%	3.4	
Clear and logical written decisions.	0%	4%	13%	21%	63%	100%	3.4																						
Explained proceedings to the jury.																													
Explained reasons for delays.																													
Clear explanations of the juror's responsibilities.																													
Clear instructions to the jury.																													
Communication Skills Summary	0%	6%	12%	24%	59%	100%	3.4	3%	1%	9%	29%	57%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	14%	31%	56%	100%	3.4	
IV: Judicial Temperament																													
Understanding and compassion.	0%	0%	13%	7%	80%	100%	3.7	2%	0%	12%	33%	53%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	8%	18%	74%	100%	3.7	
Dignified.	0%	0%	10%	10%	80%	100%	3.7	2%	2%	8%	38%	51%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	3%	26%	71%	100%	3.7	
Courteous.	0%	0%	10%	10%	80%	100%	3.7	3%	1%	4%	34%	57%	100%	3.4															
Courteous to litigants.																													
Courteous to jurors.																													
Is accessible.	0%	0%	7%	13%	80%	100%	3.7																						
Conduct that promoted public confidence in the court and judge's ability.	0%	7%	3%	14%	76%	100%	3.6	1%	6%	6%	32%	54%	100%	3.3	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	8%	19%	72%	100%	3.6	
Judicial Temperament Summary	0%	1%	9%	11%	79%	100%	3.7	2%	2%	7%	34%	54%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	5%	21%	74%	100%	3.7	
V: Administrative Performance																													
Punctuality in conducting proceedings.	0%	3%	13%	20%	63%	100%	3.4	3%	1%	7%	32%	56%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	9%	24%	24%	44%	100%	3.0	
Maintenance of proper control over courtroom.	3%	7%	17%	10%	63%	100%	3.2	3%	1%	6%	32%	57%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	6%	9%	33%	52%	100%	3.3	
Promptness in making rulings and rendering decisions.	0%	0%	28%	14%	59%	100%	3.3																						
Hard worker.	0%	3%	7%	17%	72%	100%	3.6	4%	2%	0%	33%	61%	100%	3.5	###	###	###	###	#REF!	#REF!	#REF!	0%	0%	8%	24%	68%	100%	3.6	
Respectful treatment of staff.																													
Cooperation with peers.																													
Cooperation with staff.																													
Efficient management of calendar.	0%	14%	14%	14%	59%	100%	3.2																						
Admin. Performance Summary	1%	5%	16%	15%	63%	100%	3.3	3%	2%	5%	33%	58%	100%	3.4	###	###	###	###	#REF!	#REF!	#REF!	0%	4%	10%	24%	62%	100%	3.4	

UN=Unacceptable, PO=Poor
SA=Satisfactory, VG=Very Good, SU=Superior

Surveys were distributed to individuals who appeared in court between May 1 and October 31, 2016.



MINUTES

**City of Scottsdale
JUDICIAL APPOINTMENTS ADVISORY BOARD
Regular Meeting
6:00 p.m., Tuesday, March 7, 2017
North Corp Yard, Wrangler Conference Room
9191 E. San Salvador Drive
Scottsdale, Arizona 85258**

PRESENT: Donald Alvarez, Chair
Judge Bruce Cohen, Vice Chair
Judge Bradley Astrowsky, Board Member
James Padish, Board Member
Sandra Schenkat, Board Member
Stanley Morganstern, Board Member
Brian Adamovich, Board Member

STAFF: Lorelei Oien
Bill Hylan
Donna Brown

GUESTS: Patricia Badenoch
Laurie Coe
Presiding Judge Joseph Olcavage
Judge James Blake

CALL TO ORDER

The meeting was called to order at 6:05 p.m.

ROLL CALL

A formal roll call confirmed the presence of Board Members as noted above. Chair Alvarez asked that all those in attendance introduce themselves. Board Member Padish introduced himself as the Scottsdale Bar representative. Board Member Morganstern introduced himself as a representative of the general public. Board Member Schenkat stated that this was her second term on the Board. Board Member Adamovich introduced himself as a representative of the public. Board Member Adamovich introduced himself as a Judge in the Maricopa County Superior Court. Chair Alvarez stated that he was the State Bar representative. Vice Chair Cohen had not yet arrived.

1. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

BOARD MEMBER PADISH MOVED TO NOMINATE JUDGE BRUCE COHEN FOR THE POSITION OF CHAIR. BOARD MEMBER ASTROWSKY SECONDED THE MOTION.

ATTACHMENT 4

Discussion:

Board Member Schenkato asked when Judge Cohen's term ends. Ms. Oien stated that Judge Cohen's term ends in one year. He was just appointed and the administrative order was received two weeks ago.

Judge Cohen arrived at 6:06 p.m.

Chair Alvarez asked for additional nominations. None were made.

THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). VICE-CHAIR COHEN ABSTAINED.

Chair Alvarez called for nominations for Vice Chair.

BOARD MEMBER SCHENKAT MOVED TO NOMINATE JUDGE BRADLEY ASTROWSKY FOR POSITION OF VICE CHAIR. VICE CHAIR COHEN SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER ASTROWSKY ABSTAINED.

Board Member Morganstern suggested that Chair Alvarez continue as Chair for the remainder of the meeting.

BOARD MEMBER MORGANSTERN MOVED THAT DONALD ALVAREZ WILL CONTINUE TO ACT AS CHAIR FOR THE DURATION OF THE MEETING. VICE CHAIR JUDGE COHEN SECONDED THE MOTION. THE MOTION CARRIED BY A UNANIMOUS VOTE OF SEVEN (7) TO ZERO (0).

2. APPROVAL OF MINUTES OF PUBLIC MEETING CONDUCTED DECEMBER 10, 2013.

Chair Alvarez called for a motion to approve the minutes.

BOARD MEMBER SCHENKAT MOVED TO APPROVE THE MINUTES OF THE PUBLIC MEETING CONDUCTED DECEMBER 10, 2013. BOARD MEMBER ADAMOVICH SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER PADISH ABSTAINED.

3. APPROVAL OF 2013 JAAB ANNUAL REPORT

Chair Alvarez called for a motion to approve the 2013 annual report.

BOARD MEMBER MORGANSTERN MOVED TO APPROVE THE 2013 JAAB ANNUAL REPORT. BOARD MEMBER ADAMOVICH SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER PADISH ABSTAINED.

4. REAPPOINTMENT OF BOARD MEMBER

Chair Alvarez congratulated Board Member Schenkat for her appointment to a second term.

5. APPOINTMENT OF NEW BOARD MEMBERS

Chair Alvarez congratulated and welcomed Judge Astrowsky, Stanley Morganstern and Brian Adamovich as new members of the Board.

6. PUBLIC COMMENT

Board Member Schenkat recused herself from participating in any item related to Judge Jejna's reappointment recommendation and left the meeting at 6:16 p.m.

Chair Alvarez invited Judge Olcavage to speak. Judge Olcavage's comments were recorded as follows:

"Good evening, Mr. Chairman, members of the Judicial Advisory Board. I'm Joseph Olcavage, Presiding Judge, Scottsdale City Court. And I'm here to today to speak on behalf of Judge Jejna. I think that he has the knowledge and experience over the years to do this job, but I want to point out a few other things. First of all, he's very helpful in helping out the other courtrooms when they're backed up. My courtroom sits next to his. And in our court, sometimes we also have a Jail Court proceeding and you gotta be two places at once. And I don't have to ask him. If he sees things are backing up and he has time, he'll come into my courtroom. When I get back there, he's processes cases. And it's extremely helpful for us. Two, he's part of teaching our COJET, which means he has to do research in areas of the law, make sure they're updated. Then he teaches them to both our court staff and our judges. And that's required by the Arizona Supreme Court every year.

He also volunteered to be on the Innovation Team. We have a case management system that's pretty darn efficient in the – the purpose is to process cases with justice for everybody as efficiently as possible. Not only does that help court staff and the judges, but it also helps the public, because they don't want to spend all their time in court. They don't want take off from a vacation or time out of school. They want to be able to do what they're doing. And we – innovation also means other than the case management system. For example, we have online motions now, where a defendant can actually file a motion online. Judge can review it, get an answer. They don't even have to take time off from work and school. So that certainly is part of the committee that he is on.

I also want to point out one other thing. He was assigned one of the most contentious cases we've ever had in the City of Scottsdale. This case started as a felony. Grand Jury turned it down. The State decided to file in our court 18 charges. It really was a felony case. Numerous motions had to be read, researched and decided before that trial started. The press was involved, so he had to review the rules and make sure the press understood what they could and could not do in the courtroom. And he had to control them and make sure they followed all the procedures. Additionally, because we needed a far greater jury panel than normal, we couldn't house them in our courtroom. We had to house them in the library auditorium, which is adjacent to our building, which means he had to coordinate with the lawyers, security and staff and seamlessly transition those people back and forth as the voir dire process went on.

And finally, the trial itself was extremely contentious. Lots of arguing. Lots of bickering. Lots of calling names. He managed to control that trial and keep it on task. Trial lasted Monday through Thursday. Fridays were reserved for motions and other arguments or housekeeping measures. It probably was the longest jury trial for a misdemeanor in the history of the State of Arizona. It lasted seven weeks. But the key is when the trial was over, both the Defendant's attorneys and the State's attorneys thought they had received fair trial from that judge. And that's all you can ask any judge to be, is fair during the course of a proceeding to both sides. And obviously, one side won and one side lost, because there was 18 not guilty verdicts. But both sides thought they had been treated fairly. And I think that shows Judge Jejna's professionalism and patience and his ability to do the job. Thank you."

Chair Alvarez thanked Judge Olcavage and invited Judge Blake to speak. Judge Blake's comments were recorded as follows:

"Thank you. Mr. Chairman, members of the committee, I'm Jim Blake. I'm an associate judge of the City of Scottsdale. I'm here to strongly support the retention of Judge Jejna, even though I blame him for the cold he's given me for the past several days. The reason I support Judge Jejna is I've known him for over 33 years. I've known him as an opponent, when I was a prosecutor and he was a defense lawyer. And I've known him as a judge for almost the past 16 years. I've also known Judge Jejna, even as an opponent – and sometimes when you're going at it against each other, it can be a little rough. But I've always known him to be a fair man and a man who keeps his word, which is – criminal lawyers will tell you is a very important thing. Lot of civil lawyers do everything by writing in writing. Criminal lawyers know each other and they know who can be trusted and who cannot. And he's always had that reputation as an honest, fair man.

I had the opportunity to see him as a judge all the years that I've been a judge. And I know he works hard. I know he's considered to be ethical by everyone who knows him. And I know he has – people believe he genuinely tries to care about people and to do what's right in the system. And you can't really ask more than that of a Judge. He's – as I say, he is very ethical and cares about people. And I think that's one of the most important things you want to look to as a judge. He knows the law. He follows the law. And he is fair. I strongly urge you to retain Judge Jejna. Mr. Chairman and members of the committee, I'd be happy to answer any questions you may have. And thank you for your service and your time."

Chair Alvarez asked whether there were any questions. There were no questions. Chair Alvarez invited any others present to speak. Ms. Oien said that she received a written public comment letter as a result of the ads that were run from Mr. Gerald Rosler. She read the letter for the record as follows:

"Regarding the reappointment of associate City Judge Orest Jejna. Dear Chair Alvarez, I would like to submit this public comment letter in support of another four-year term for Associate City Judge Orest Jejna. From 2009 to 2014, in my role as supervisor of court security for the City of Scottsdale, I had the opportunity and privilege of working with Judge Jejna as we performed our respective duties for the City of Scottsdale Court. The knowledge and professionalism displayed in the courtroom by Judge Jejna serves as an example to all of us as we perform our duties to assist him. Both on or off the bench, our security officers had access to the judge. And often we were able to speak with him in order to coordinate our various security duties in his courtroom. The judge was always available to meet with and welcomed us in his chambers to discuss matters relating to the court and his hobby of collecting cars. I truly believe that the

City of Scottsdale and its citizens are fortunate to have Judge Jejna on the bench. Sincerely, Gerald R. Rosler.”

Ms. Oien said that Mr. Rosler is a retired court security supervisor in Scottsdale, retired vice president of Lockheed Martin Security, Burbank, California and retired deputy chief of police, Martin Grove, Illinois. Chair Alvarez thanked Ms. Oien for reading the letter and invited further public comment. There were no further comments. Chair Alvarez announced public comment closed.

7. DISCUSSION OF JUDICIAL SURVEY RESULTS ON ASSOCIATE CITY JUDGE OREST JEJNA.

Ms. Oien reminded Board Members to not use any names. The recording is a public record. Those surveyed were promised confidentiality. Chair Alvarez asked Board Member Padish to begin. Board Member Padish stated that he was in the unique position of knowing most, if not every person whom he was assigned to to speak with about Judge Jejna. Board Member Adamovich called a point of order and asked whether the discussion was as to Agenda Item 7 or 8. Item 7 was to discuss survey results and 8 was to discuss comments. Ms. Oien agreed that was a correct assessment.

Chair Alvarez asked whether everyone had read the survey information and whether anyone would like to comment. Board Member Adamovich asked whether there was historical information regarding how Judge Jejna's scores compare to others. Chair Alvarez stated his understanding the Board was not given that information. Ms. Oien said that the Board was provided with the results of the survey from four years ago.

Chair Alvarez noted that the first survey does not list a judge's name. Ms. Oien explained that this is an accumulation of all the surveys that RIS has done on the judges. This reflects the average of all the surveys that the survey company has performed in the past. Chair Alvarez said that based on a cursory review, Judge Jejna has performed much better than the average scores.

Judge Astrowsky said that to put this in perspective, when Maricopa County Superior Court judges are rated through the judicial performance review process, the commission looks at the unsatisfactory and poor ratings. If the combined score is 25 percent or above, the judge is interviewed. This standard has been used for decades. On this standard, Judge Jejna's results would cause no concern that would warrant speaking with the judge, questioning him or requiring that he provide explanations.

Board Member Padish stated that from the perspective of being the subject of a survey as well as serving on the judicial performance review commission conference team in the Superior Court, one of the challenges is getting people to actually fill out and return the surveys. The data is skewed simply by those who take the time to fill out the surveys. As a judge, it is uncomfortable to find someone guilty and then have staff ask them to fill out a survey on one's performance. Despite this, Judge Jejna did quite well.

Ms. Oien said that in an attempt to achieve a higher survey response rate, the survey time frame was increased from three months to six months. However, the return rate was exactly the same, at 14.4 percent. Chair Alvarez added that this low response percentage has been consistent for the entire time he has been on the Board.

Vice Chair Cohen said that contextually, with this response rate, the question is who are the people that generally do fill out surveys. Not unlike other industries, those who have gripes will be more likely to make a comment than those who have a good or satisfactory experience. Of course those who have an extraordinary experience might also comment. In this context, the scores favor Judge Jejna. He pointed out that as with Superior Court as well and for whatever reason, court staff generally scores judges lower than every other category. One reason for this is that within the rating criteria for staff, it takes a lot for them to receive a superior rating. This logic explains the large number of threes on the surveys. Judge Jejna's scores are excellent. Also, the integrity and judicial temperament scores are very consistent with the comments and opinions received when Vice Chair Cohen spoke with people. The comments received indicate that Judge Jejna's temperament and integrity are beyond reproach.

Vice Chair Cohen posed a due diligence question. He stated that some comments he received were highly sensitive. He does not have identifying information about who made the comments, but he also does not know where the line is drawn on going into executive session. Mr. Hylen said that it is the confidentiality of the person who is giving the information and the risk that it may be divulged is what determines the necessity of executive session.

Vice Chair Cohen asked whether the public has access to the list of names assigned to each Board member to conduct the due diligence. Ms. Oien stated that the names were not included, for the privacy of the attorneys contacted. If anything were to become part of the public record, it would have to be redacted. Personal information is protected above all else. Part of the process includes informing the contacts that this is a confidential survey. Vice Chair Cohen made the point that were the list public, it might be easy to determine the name of a particular individual based on the comments of a Board member.

JUDGE ASTROWSKY MOVED TO CONVENE INTO EXECUTIVE SESSION FOR THE REMAINDER OF THE DISCUSSION ON THIS TOPIC. VICE CHAIR JUDGE COHEN SECONDED THE MOTION.

Discussion:

Mr. Hylen asked for clarification that the purpose of executive session would be to receive legal advice. There was consensus that it would be this as well as discussion of confidential information related to Judge Jejna.

THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER SCHENKAT WAS NOT PRESENT.

The Board recessed into executive session at 6:35 pm and reconvened the public meeting at 7:05 p.m.

8. DISCUSSION OF CONFIDENTIAL RECORDS AND CONFIDENTIAL INFORMATION RELATED TO JUDGE JEJNA'S PERFORMANCE OR REAPPOINTMENT

The Board may discuss confidential records in a manner that does not reveal confidential information and did so in the public portion of the meeting as follows:

Board Member Padish stated that Judge Jejna was ranked very highly by every single person he spoke to with a rather universal ten out of ten when rating his abilities. Respondents described him as very fair, trustworthy and patient. There was concern raised about external

influence and pressure by the prosecutor's office disfavoring him. There was some concern raised that he may have been indirectly affected by the perceived disfavor that some in the Prosecutor's Office exhibited toward him.

Board Member Morganstern said that his responses were substantially better than the percentage that was shown in the survey, although it took several phone calls at times. The attorneys unanimously indicated that Judge Jejna was easy to work with, mild-mannered, very respectful, nice, appropriate and wonderful judge. One attorney described Judge Jejna as his favorite judge. Other comments were, "Excellent judge. Treats everybody with respect. Patient with unrepresented litigants. His decisions are well thought out and based on law and fact." There was nothing negative from the defense attorneys spoken with. Prosecutors had the same kind of response, although they did say that defense lawyers love him. There was comment with respect to Judge Jejna granting multiple continuances to defense attorneys, which the prosecutors felt should not be occurring continuously, as it puts the prosecution in defensive mode. Prosecutors had the same kinds of comments about the Judge Jejna that the defense attorneys did.

Board Member Astrowsky commented that he received overwhelmingly positive responses. These responses were short in their descriptions, but consistent. The negative responses were long in description. The positive responses included, "A plus judge. Treats attorney and clients fairly. Only positive things to say." One person even said they had no problem with anyone on the Scottsdale Municipal Court. Another person said they love him, "Listens to both sides, fair, great temperament." There were consistent comments stating how nice Judge Jejna is as a person. Another commenter said, "He calls balls and strikes the same, regardless of who is at bat and is one of the favorites within the City of Scottsdale. Deals well with difficult pro pers. He has realistic expectations concerning the time needed to go to trial. Is fair in sentencing. Really good demeanor." A particularly notable comment was that Judge Jejna, "Is the best judge in Scottsdale by a good margin, fair to all and knows the law well."

Negative comments include, "Although he is a really super nice guy, the nice guys don't necessarily make the best judges." In other words, that one cannot please everyone. That his preference is to have the attorneys work out difficult issues amongst themselves, so he does not have to make a decision that will be unpopular with one side or the other. Therefore, there is frustration with him concerning times when he is called upon to make a hard or tough decision, or even times when it may be called for for him to be tough on a perceived powerful defendant or the client of a powerful defense attorney. Some of the comments received were that he may treat a pro per defendant poorly compared to represented people, particularly when they are represented by higher profile defense attorneys.

Vice Chair Cohen said that almost all the comments were favorable. To the extent that there were negative comments, it seemed to be more systemic than it was about Judge Jejna personally. Quotes included, "Nothing bad to say. He always treated me professionally. Fairly applies the constitution and the law. Should be retained. He's an excellent Judge. He's reasonable, willing to listen to requests. He's not like some judges from other jurisdictions, who wake up with an attitude. Terrific judge. Always a pleasure to be in front of him." There was a concern regarding a difference in how he handled things before and after a major trial. Some people complimented his handling of the case and acknowledged that he was not the reason for the many issues in the case. He was simply stuck attempting to resolve those issues. There was a sense of shift in behavior afterwards regarding a pattern of actions from the Prosecutor's Office and the perception that Judge Jejna was more responsive to the Prosecutor's Office.

Chair Alvarez said that he called 12 attorneys. One could not be reached, and three did not respond. He interviewed eight, seven defense attorneys and one prosecutor. The comments all included requests to keep Judge Jejna on. All comments were very good, including the following, "He is patient, well reasoned, fair, impartial, respectful, available, personable and well prepared." One of the attorneys interviewed was involved in the aforementioned lengthy case, who also had nothing but good things to say about Judge Jejna. Further comments included, "Fair minded. All sides like him. Great judge. Cordial. Respectful. Can be firm, but not nasty or rude. Great temperament. Excellent temperament. Dignified. Thoughtful. Moves cases efficiently. Knowledgeable." Five out of the eight attorneys made very negative comments about dealing with the Prosecutor's Office, not about the judge, including particularly the prosecutor of the lengthy trial. The one prosecutor that was interviewed said "He has no negatives. Courteous. Good demeanor. Runs a good courtroom. Good with pro pers. Sometimes he is slow in getting decisions out, but he has a busy calendar."

Board Member Padish commented that the municipal court has a higher volume of unrepresented people than superior court does. Dealing with pro pers is a challenge because of the high volume. Some individuals are unable or unwilling to figure out what is happening. A judge must be pretty direct with these individuals. If there is a perception that there is a difference in how Judge Jejna treats pro pers from those who are represented, it is not necessarily a negative, but is what he needs to do in order to run his courtroom. When a pro per is being oppositional, it is also necessary to send a message to other pro pers waiting for their cases to be heard that that does not play very well. As such, Board Member Padish would not view this necessarily as a negative.

9. DISCUSS QUESTIONS FOR INTERVIEW OF JUDGE JEJNA

Chair Alvarez noted that board members have been provided with a list of possible questions. Normally the process is on a play by ear basis. Board members have their own questions to ask the judge. The judge will make a statement and this is followed by a question stage. Chair Alvarez asked whether there are particular areas that should be covered. Vice Chair Cohen said that he may have some questions that were not addressed in executive session. Board Member Astrowsky commented that he likes question number eight on the first page. Ms. Oien clarified that board members are not limited to these questions, nor are they required to ask these particular questions. Chair Alvarez added that board members can ask whatever questions they wish.

10. INTERVIEW OF JUDGE JEJNA

Chair Alvarez invited Judge Jejna to make a statement. Judge Jejna stated that it was a pleasure to be present and that he looks forward to continue to serve the community as he has for the past 16 years.

Chair Alvarez invited questions from the Board.

Vice Chair Cohen asked how long Judge Jejna would like to continue to serve in his capacity as a judge. Judge Jejna stated that he has good health and would like to continue perhaps as long as he can. His wife is a few years younger than he and he would like to be at the point where both can think about this further. He has two young adult children who still need help. He enjoys his work very much. He has spent 38 years in the legal field, primarily in the criminal

field. This is an area where he feels very comfortable. He has developed a rapport with the community.

Board Member Astrowsky asked if most attorneys would feel they receive a fair hearing in Judge Jejna's courtroom, whether or not he rules in their favor. Judge Jejna stated that he believes most would have this belief. Board Member Astrowsky asked him to elaborate. Judge Jejna stated the importance of listening to whatever is being presented. He acknowledged that some who have come before him may disagree with the premise of a fair hearing. However, it is his opinion that most attorneys who appear before him feel they are receiving a fair opportunity. On changes of plea, there may be "Judge shopping," that occurs when attorneys come before him. He does open, walk-in calendars on Mondays and Wednesdays. At times he is inundated with attorneys who come in to resolve their cases and specifically plead them in front of him, rather than the judge to whom they are assigned. This is an indicator that there is a sense of fairness attorneys feel they receive when in his court. In criminal cases, the defense does not often win. Sometimes both the facts and the law are against them. Judge Jejna does have quite a few lawyers who appear before him repeatedly. In general, lawyers feel that there is a level of fairness in the court. If there is not, then he is not doing his job.

Chair Alvarez acknowledged that everyone has weaknesses, including his own, impatience. He asked Judge Jejna to describe his weaknesses as a judge and how he would go about improving upon his weakness. Judge Jejna stated that as a human being, he can sometimes be a procrastinator. He was uncertain as to how this transcends into his daily life. The court is high volume, so there is not time to procrastinate. There are occasions where the court feels pressured to move cases quickly, due to the tremendous volume. In the last month or so, the court has upped its output during pretrial conferences. For example, six weeks ago, on pretrial conferences, they were handling 25 assigned cases and an additional portion of the calendar would handle walk-in matters. The walk-in calendar can range anywhere from 15 to 30 cases on top of the 25. In the last month or so, they increased their assigned cases from 25 to 45 cases. Now the court is handling 45 cases plus 20 to 30 potential walk-in matters. This means that Judge Jejna is handling potentially 60 to 70 cases in an afternoon.

He acknowledged that at times, his patience may run thin and there is a constant battle to ensure he delivers the product that the community expects from him. This includes showing proper respect to individuals and not being short with people. At times, he would like to be able to spend more time with individuals than is feasible. Sometimes individuals are not represented. There are occasions when he feels rushed to get through the calendar. He would like have more time with individuals when possible to assist them in the process, as many who appear are not represented. Every day is a learning experience. He still finds the same satisfaction as he did 16 years ago. He feels comfortable in the position and hopes he is delivering the proper product to the constituents of the community.

Board Member Morganstern asked whether Judge Jejna has any specific policy on granting continuances. Judge Jejna replied that he is fluid in this sense. Continuances apply in different phases and situations. On Monday there is a calendar call for jury trials. There are times where peculiar things occur. In terms of jury trials, there is a heavy concentration in the DUI category, which is a niche area of the law, having developed over the past 20-25 years.

A difficult situation has arisen relating to continuances on DUI jury trials. In January an expert witness who frequently testifies for defendants had a serious accident. Initially, Judge Jejna was continuing some of these matters. However, he has now taken a different approach and asks lawyers to consider retaining an alternative expert, given that this expert may be

unavailable for an extended period. The problem is that there are only two or three experts serving the entire state. Each has varying degrees of expertise and effectiveness. In this unique situation, Judge Jejna feels he has some flexibility in the area of continuances, although there are AOC and Arizona Supreme Court directives regarding timely completion of trials. At the same times, the State has also had to request continuances, because their expert is pregnant and will be on maternity leave for eight to twelve weeks. While he does not have a specific policy on continuance, he is conscious of the importance of these instances. There is a court policy that they attempt to follow, however, sometimes this amounts to fitting a square peg into a round hole.

Board Member Morganstern asked about local rules regarding filing a motion in a particular time frame in order to be granted a continuance and whether there are acceptable reasons that may apply. Judge Jejna stated that there are no specific reasons outlined. There are general rules in the rules of criminal procedure that do require a motion. Most of the time, lawyers do present motions. A classic case will have an arrangement. Typically 30 days later, there is a pretrial conference. It is a setting where little gets done, unless the parties know ahead of time that they are going to resolve the case at this first setting. Predominately, most of the first settings are continued. Sometimes the attorneys come onboard two weeks after the arrangement and sometimes not until just before the pretrial. They will ask for a continuance, because they do not have discovery. A request for discovery requires a certain payment of administrative fees. Sometimes there is a two to three week delay, depending on the circumstances. If there's an on body camera, there will be a further delay, due to the process of obtaining that evidence. A scheme is followed in terms of the tracking of a case, however at times, continuances are necessary to make the process work.

Vice Chair Cohen cited Judge Jejna's 16 years with the court and asked where he sees the court relative to where it was in the past and where he sees it heading in the future. Judge Jejna said there have been strides towards going paperless. Initially, there was a level of panic knowing there would not be a physical file to look at. He has come to the point now where he would never wish to go back to the paper system. There is much greater ease in handling cases. For example, before the paperless system, a motion would come and be handled by a clerk. The clerk would create a file and eventually get the file to Judge Jejna. It would sit on his desk. He would have to look at the motion or correspondence, respond in writing and get the file back. Now what occurs is a bank of cases are placed in his queue. He can go right to the case, immediately pull up the motion or correspondence, respond to it and immediately transfer it to the clerk that handles the particular matter. The response speed has changed dramatically. He considers it lightning speed compared to the paper process.

The volume of cases remains high at this point. This may or may not continue. There has been a drop to some degree in filings. Some of this may be related to, "the Uber situation," as DUI filings have dropped somewhat. The court is on track to continue with many jury trials as compared to other jurisdictions, including Phoenix. Appeals are also probably greater than Phoenix, perhaps because the populace is of more financial capability. From a technology standpoint, the court is way ahead of the curve. He hopes to improve the court in the future in whatever ways possible, including additional technology and improved services to the end user. Being a member of the Innovative Team, the committee gets together quarterly to discuss improvements can be made to assist the end user. Additionally, they discuss ways to assist staff in completing tasks more efficiently.

Chair Alvarez thanked Judge Jejna for being present to answer questions. Vice Chair Cohen noted that it was great to see Judge Jejna again. He added that as a fellow member of the

bench, Judge Jejna casts a very favorable light on all of the judges. Judge Jejna stated that he tries to do well and will strive to do better.

11. DISCUSSION AND REAPPOINTMENT RECOMMENDATION REGARDING JUDGE JEJNA

Chair Alvarez asked board members for further discussion with regard to Judge Jejna. Vice Chair Cohen said that the consistent feedback regarding Judge Jejna is that among those with whom he serves, he is looked at as among the most respected. He is very consistent with how he presents himself and as someone who garners respect fairly universally. He is very thoughtful and deliberate in his responses. His passion for what he does is very evident. Board Member Padish stated that he would like to echo these comments. This was a constant with those he spoke with. While he did not solicit a comparison of Judge Jejna to other judges, most respondents volunteered the sentiment that they would place him at the top.

Board Member Padish added that with Judge Jejna's experience before becoming a judge, he understands it is a court of limited jurisdiction. He weighs in his decisions that the gravity of what he is dealing with merits a more deliberate, patient approach.

VICE CHAIR COHEN MOVED TO RECOMMEND REAPPOINTMENT OF JUDGE JEJNA TO ANOTHER FOUR YEAR TERM. BOARD MEMBER PADISH SECONDED THE MOTION. THE MOTION CARRIED BY A VOTE OF SIX (6) TO ZERO (0). BOARD MEMBER SCHENKAT RECUSED HERSELF.

Chair Alvarez stated that Vice Chair Cohen would be the one recommending Judge Jejna to the City Council, now that he is the new Chair of the Board. The recommendations are typically early in the agenda. Ms. Oien clarified that meetings usually begin at 5:00. Vice Chair Cohen said that getting to the Council meeting on time is challenging because of his duties in Juvenile Court.

Vice Chair Cohen commented that he is not yet reappointed. Ms. Oien said that the Vice Chair Cohen is continuing his appointment until the administrative order goes to Council and they make the announcement. Vice Chair Cohen asked whether this would be the same Council meeting that he would be present to recommend reappointment of Judge Jejna. Ms. Oien acknowledged that this is a good question. The date for the reappointment is April 4th. Chair Alvarez offered to handle it, if needed. He stated that in the past, he would meet with the Mayor and share the Board's recommendation ahead of time. Sometimes, there have been meetings with interested Council Members in order to give them the opportunity to ask questions. Ms. Oien said that she would inquire as to Council's preference this week. She stated that she would assume the meeting with Mayor Lane and meeting for Council Members to ask questions would continue to be the expectation, however, she will confirm this.

Vice Chair Cohen referenced Judge Blake and asked if they would be coming in fairly quick succession. Ms. Oien said that Judge Hendrix and Judge Olcavage's appointments are up next spring. The process with all four judges will take less than one year. Last time, the meeting for Judge Olcavage and Judge Hendrix was in December with the recommendation to City Council in January. She stated that she had not yet developed a timeline. However, at a future date, the Board can decide if they want to do them together again or hold separate meetings. As soon as the process of Judge Blake is complete, she will begin work on the final two.

12. TIMELINE FOR JUDGE JAMES BLAKE'S JUDICIAL REAPPOINTMENT

This item was discussed at the beginning of the meeting before Board Member Schenkat departed. Ms. Oien prefaced her comments by stating that the timeline is a draft. She would like to present this to City Council by July 6th, as Council will break from July 10th to the last Tuesday and Wednesday in August. She has already submitted Judge Blake's application to him and is waiting for a response. Her interest is whether the schedule conflicts with any of the Board's schedules. The July 6th date is firm, but the others are fluid. There was general consensus that the week of June 5th works for everyone. Changes can be made if necessary.

13. FUTURE AGENDA ITEMS

This item was discussed at the beginning of the meeting before Board Member Schenkat departed. Chair Alvarez asked Board Members if they had specific items to place on future agendas. Board Member Schenkat said that when she appeared before Council, she was asked why she wanted to be on the Board. Her response was that because of the increasing population, a fifth judge will be needed in the near future. She also mentioned this to Judge Olcavage, who indicated that the amount of cases have decreased. It would be helpful to discuss this issue further. The last meeting included discussion on how overloaded the judges were with cases, as well as budget increases for pro tems. A fifth judge would alleviate this problem. Chair Alvarez asked that the item be placed on a future agenda. Ms. Oien asked whether the Board wished to have a separate meeting for this or to include it into the next reappointment meeting, which would occur the first week of June. Chair Alvarez asked that the issue be included in that upcoming agenda.

Board Member Morganstern asked whether there is any indication in the charter that discusses how many judges should be appointed based on population or other criteria. Chair Alvarez asked Mr. Hysten to address the question. Mr. Hysten said that the ordinance states that the purpose of JAAB is to recommend to the City Council the best qualified persons to become full time City judges, to evaluate the performance of incumbent full-time City judges and to advise the City Council about retaining them in office. Whether the jurisdiction would extend to recommending the addition of judges is open to interpretation. Vice Chair Cohen posed the question of whether it goes to the issue of the ability of the sitting judicial officers to meet their obligations. Mr. Hysten concurred that the argument could be made and added that there would be no harm in putting it on the agenda. Vice Chair Cohen requested that there be research into any charter which includes a relationship between population and number of judges.

ADJOURNMENT

With no further business to discuss, and being duly moved and seconded, the meeting of the Judicial Appointments Advisory Board adjourned at 7:49 p.m.

SUBMITTED BY:

eScribers, LLC

Respectfully submitted,
Lorelei Oien
Staff Coordinator

Reviewed by,
Donald Alvarez
JAAB Chairperson

OFFICE OF THE
CITY CLERK

Date: March 20, 2017

To: Scottsdale Mayor Lane, Vice Mayor Klapp and City Council Members:
Korte, Littlefield, Milhaven, Phillips and Smith

From: Sandra Schenkat
10961 E. Garry Road
Scottsdale, Arizona 85259

Subject: Request NO VOTE for Judge Orest Jejna's Reappointment.

2017 MAR 20 PM 2:34
Sandra Schenkat

On April 4, 2017, I will appear before you requesting a NO vote for Judge Orest Jejna's reappointment. As a citizen who has appeared before Judge Jejna three times, it is imperative that you are aware of his abuse of process, impute of due process and pro per discrimination, in reference to my case. The events are as follows:

I appeared in Judge Orest's court on March 1, 2012 and May 4, 2012 representing myself. On both occasions Judge Jejna refused to consider my plea. He bluntly told me I would have to order my attorney to challenge ARS 12-1809 L (which was the basis for my criminal misdemeanor trial.)

On August 20, 2012, during my trial, Judge Jejna ignored the violations of law, pertaining to my case, and dismissed the fact I had not been served by the process server. He went on to "guess" at the reasons why the process server had not filed the his fraudulent affidavit of service in a timely manner. Judge Jejna believed the false statements by the City of Scottsdale prosecutor in reference to the affidavit of service in my case. Furthermore, Judge Jejna did not allow my testimony and my attorney's submitted facts, in support of my testimony, to appear in the court record. This information proved I was a victim of false and unwarranted arrest. Consequently, I was found guilty. Our information would have proven that I was innocent and had been falsely arrested. As a result it took another two years, until February 4, 2014, for my false conviction to be "Set Aside" in Scottsdale City Court.

I believe Judge Jejna was complicit with the prosecutor's office. In my opinion this is due to the fact the City of Scottsdale needed to cover up my false arrest on February 17, 2012 so they would not be liable, which would result in paying me for damages later. I have requested that Bruce Washburn investigate the City of Scottsdale prosecutor's office.

I also spoke with Mayor Lane twice, during meetings in 2012, about my concerns. He requested JP Twist research my incarceration. During our second meeting, Mayor Lane suggested my only recourse was to sue the City of Scottsdale. At the time, I thought following that action would add to the taxpayer burden without holding the guilty parties responsible for their misconduct.

Judge Jejna's abuse of process, resulting in a guilty ruling in my case, has resulted in thousands of dollars in legal fees and major disruption in my personal life. I have discussed my City of Scottsdale Court experience with several prominent valley attorneys. The consensus is the City of Scottsdale judges are beholding to the city prosecutor, regardless of the results to the citizens and taxpayers. As a result, of my experience, the input of a number of other Scottsdale citizens, and legal professionals, I am requesting a NO VOTE for Judge Jejna's reappointment.

In an effort to further root out the issues of injustice in the Scottsdale City Courts, I have submitted my complaints against Judge Orest Jejna for further investigation to the Arizona Commission on Judicial Conduct and the American Civil Liberties Union (ACLU).

Sandra Schenk

Jagger, Carolyn

From: Jejna, Orest A. <ojejna@scottsdaleaz.gov>
Sent: Friday, March 24, 2017 3:44 PM
To: Klapp, Suzanne; Korte, Virginia; Lane, Jim; Littlefield, Kathy; Imillhaven@scottsdaleaz.gov; Phillips, Guy; Smith, David N
Cc: Jagger, Carolyn
Subject: Judicial Reappointment of Judge Orest Jejna

To: Mayor and Council
From: Associate City Judge Orest Jejna
CC: City Clerk Carolyn Jagger
RE: Ms. Sandra Schenkat letter dated March 20, 2017
Date: March 24, 2017

I would like to take this opportunity to respond to a letter written by Ms. Schenkat regarding my reappointment as Associate Judge. The letter dated March 20, 2017, by Ms. Schenkat, concerned a criminal trial that took place in my court on August 20, 2012. Ms. Schenkat was the defendant in the matter and was represented by counsel. In order to respond logically to Ms. Schenkat's comments, I have itemized five issues and will refer to the appropriate paragraph in Ms. Schenkat's letter.

Issue #1: Ms. Schenkat did not appear before me on 2 of the 3 occasions noted in her letter
Ms. Schenkat indicates in paragraph 1 of her letter that she appeared before me three times and in paragraph 2 notes the dates of March 1, 2012 and May 4, 2012. The court records revealed Ms. Schenkat appeared before Judge Blake on March 1, 2012 and Judge Hendrix on May 4, 2012. I did not have any conversation with Ms. Schenkat on either date with respect to her criminal case. The record clearly shows that Ms. Schenkat did not appear before me on March 1 or May 4, 2012 and met with completely different judges other than me. A copy of the recordings is provided in this correspondence for your review.

Issue #2: Ms. Schenkat's August 20, 2012 bench trial and appeal
The trial proceeded as scheduled. Both parties had the opportunity to present their respective cases. Ms. Schenkat's attorney presented testimony of Ms. Schenkat along with Elaine Horejs, Grady Soine and Zoeanne Hearburg. After the presentation of the facts from both the State and Defense, I found Ms. Schenkat guilty of violating Arizona Revised Statute 13-2810 (A)(2). The sentencing range for this crime is up to six months in jail, \$2500 fine and up to three years of probation, with a minimum being a suspended sentence. The sentence that I chose to impose was a fine in the amount of \$336.60 along with an order to follow all court orders in the future. The trial transcript will speak for itself and is available to you upon request.

The case was appealed to the Maricopa County Superior Court; the decision of the court was issued on November 20, 2013. After a review of the matter in the higher court by Judge Crane McClennen, the Court concluded "that the State presented sufficient evidence for the trial court to conclude that the defendant was guilty of the charged offense". The Court went on to affirm my judgement and sentence. A copy of the appellate decision has been attached as an exhibit to this letter for your personal review.

Issue #3: Ms. Schenkat's "Set Aside" Motion

Ms. Schenkat refers to having her conviction being "Set Aside" in the latter portion of paragraph 3. The procedure for a set aside is governed by Arizona Revised Statute 13- 907. This is a procedure where the

conviction is not overturned. If the defendant has complied with the terms and conditions of the sentence, in certain cases a defendant may request that their matter be set aside and dismissed. It should be clear that this process does not reverse the conviction. The conviction can still be used by the State to allege a prior conviction if there are subsequent crimes committed by the defendant.

Due to Ms. Schenkat's member status of the Judicial Appointment Advisory Board (JAAB), the Presiding Judge determined that hearing Ms. Schenkat's set aside motion would present a conflict of interest. Therefore, retired Judge Monte Morgan was assigned to hear the set aside motion filed by Ms. Schenkat. According to the record, the State filed an objection to setting aside the conviction based on statement by the victim Cheryl-Anne Bergerbaum. From the courts records and for your review, I have attached the victim's statement by Cheryl-Anne Bergerbaum.

Issue #4: Accusation of Complicity

In paragraph 4, Ms. Schenkat accuses me of complicity with the prosecutor's office in order to cover up Ms. Schenkats false arrest so that the City of Scottsdale was not liable for damages. This allegation is made without one shred of evidence and is without merit.

Issue #5: Scottsdale City Judges beholden to the City Prosecutor

Ms. Schenkat states in paragraph 6, "the consensus is the City of Scottsdale Judges are beholding to the city prosecutor, regardless of the results of the citizens and taxpayers". This allegation is made without any evidence and is without merit. All the city judges take their oath of office seriously and rule to the best of their ability and impartially for all litigants.

In conclusion, it is understandable that some people do not like the rulings the court makes against them. There is always one party in a case that is going to be dissatisfied with the ruling and this is the nature of our criminal justice system. It is important to note Ms. Schenkat's case moved through the system adhering to all procedural norms that are required in a case. There were no violations of due process nor were there any found by the appellate court.

As a judicial officer for the last 16 years, I affirmatively state that I take my oath of office seriously and follow the standards of ethics in the utmost fashion. I endeavor to render a fair and impartial decision in all matters that come before me. I will come before the council on April 4, 2017 to urge my reappointment as Associate Judge for the City of Scottsdale. I will make myself available to the council for any questions or discussion.

Files attached to this message

Filename	Size	Checksum (SHA1)
201703241520_AppealRuling.pdf	356 KB	8063e570a8517ccb6dcea17726932d9a1b6e70ab
201703241520_VictimStatement.pdf	142 KB	07bffeef7398c52261ac4d67d17e28278866f9ce

Jagger, Carolyn

From: sandra@hbc.com
Sent: Monday, April 03, 2017 2:27 PM
To: Lane, Jim; City Council
Cc: Jagger, Carolyn
Subject: Council Agenda 4/4/17 (Important-please read)

Dear Mayor Lane, Vice Mayor Klapp and city council members,

On March 20, 2017, Mayor Lane met with me and discussed my letter of the same date in which I requested a NO vote for Judge Jejna's reappointment. On March 24, 2017, I received Mayor Lane's letter requesting that I "do the correct thing". Because I was so wronged by Judge Jejna on August 20, 2012 and again in his letter dated March 24, 2017, I am explaining my position for a second time with additional documentation and facts. I have reviewed the minutes of the Judicial Appointments Advisory Board meeting dated March 7, 2017. I suggest that you look at pages 6 and 7 of 12 pages of the JAAB minutes which is part of your packet for the April 4, 2017 council meeting and you will come to the conclusion, due to reasonable doubt established, a No vote is the correct thing to do.

P6 and 7 of 12. Chairman Cohen posed a due diligence question. He stated that some comments he received were highly sensitive.

Board member Padish "There was concern raised about external influence and pressure by the prosecutor's office disfavoring him. There was some concern raised that he may have been indirectly affected by the perceived disfavor that some in the Prosecutor's office exhibited toward him."

Board member Astrowsky "The negative responses were long in description." Negative comments include, "Although he is a really super guy, the nice guys don't necessarily make the best judges". Some of the comments received were that he may treat a pro per defendant poorly compared to represented people.

Chairman Cohen - To the extent that there were negative comments, it seemed to be more systemic than it was about Judge Jejna personally. There was a sense of shift in behavior afterwards regarding a pattern of actions from the Prosecutor's office and the perception that Judge

Jejna was more responsive to the Prosecutor's office.

These statements, although not referred to in Judge Cohen's letter dated March 16, 2017, should be taken into consideration by you before you vote. None of us know what was discussed in the JAAB's thirty minute executive session after these statements were shared.

These statements back up my allegations related to the fact that Judge Jejna was beholding to the prosecutor on August 8, 2012 and that he committed pro per discrimination toward me on March 1, 2012. Jejna neglected to include that audio in his letter related to my walk in appearance in his court.

The issue before you is larger than Judge Jejna or the position I hold, it is about the fact that this judge does not guarantee fundamental fairness, justice and liberty to all who appear in Scottsdale Court.

When a judge is beholding to the prosecutor, there is NO JUSTICE.

Scottsdale court needs to have the fairest of the valley city courts. As Mayor Lane says, Scottsdale is the best city in America and if so, we need to have the best court system too.

Thank you for your service to the citizens of Scottsdale. Sandra Schenkat

Smith, Erica

From: kevin@lhcplc.com
Sent: Tuesday, April 04, 2017 2:22 PM
To: Agenda Item Comment
Subject: Agenda Item Comment for 04/04/17 - Item 13

Meeting Date: 04/04/17
Item Number: 13

Contact Information (if blank, user did not provide):

Name: Kevin Crowley
Address: 111 W. Monroe St., Ste. 1216
C/S/Z: Phoenix, AZ 85006
Phone: 480-776-5757

Comment for 04/04/17 Item 13:

I highly encourage the Council to reappoint Judge Orest Jejna. As a defense attorney with the law firm of Lane, Hupp, & Crowley, I appear before Judge Jejna on a regular basis. He is extremely professional towards everyone in his courtroom. He also communicates effectively, explaining his reasoning for rulings. While I disagree with his rulings on occasion, I have never felt that I or my clients have been treated unfairly in his courtroom. I wholeheartedly recommend his reappointment.