

Minutes of the Chief Hearing Officer Selection Committee

Special Meeting

December 16, 2021

Held remotely via Microsoft Teams and telephonically

1. Introduction/Roll Call of Committee Members

Members Present:

Janet Clow
Suzanne Wood Bruckner (by phone)
Representative Cristine Chandler
Senator Katy Duhigg
Nancy Long
Richard Anklam (by phone)

Members Excused:

Representative Jason Harper
Senator William Sharer

Staff Present:

Andrew Baranowski, Chief Legal Counsel, Department of Finance and Administration
Renee Ward, Deputy Secretary, Department of Finance and Administration
Baylee Rawson, Public Information Officer, Department of Finance and Administration
Brian VanDenzen, Chief Hearing Officer, Administrative Hearings Office

Mr. Baranowski welcomed the committee and stated that since the committee does not yet have a chair, he was prepared to moderate the meeting.

Representative Chandler and Members Bruckner and Clow noted some technical difficulties with the Microsoft Teams video link, requiring them to call in.

2. Approval of Agenda (Action Item)

Ms. Long moved to approve the agenda, and Ms. Bruckner seconded the motion. The motion passed by unanimous voice vote.

3. Nominations for and Selection of Committee Chair (Action Item)

Mr. Baranowski discussed the requirements for the chair under Section 7-1B-4(A)(3), NMSA 1978, as follows:

(3) a committee chair, whom a majority of the other eight members select and who is:

(a) not a candidate for the position of chief hearing officer; and

(b) either a former chief of the hearings bureau [administrative hearings office] of the taxation and revenue department, a former chief hearing officer or another person with extensive knowledge of the tax law.

Mr. Anklam asked whether the chair must be an existing member of the committee. Mr. Baranowski indicated that the statute is not clear on that point, but Mr. Vandenzen clarified that Section 7-1B-4 contemplates nine total members, so the chair must be someone not yet on the committee.

Ms. Long noted that the requirements seem very narrow and inquired as to whether any outreach had yet occurred. Ms. Bruckner recommended Helen Hecht, an attorney and CPA who works for the Multistate Tax Commission and previously represented clients in tax matters in New Mexico. Representative Chandler asked if Ms. Hecht was a New Mexico resident, which Mr. Anklam confirmed.

Mr. Anklam added that he cannot think of a more qualified chair than Ms. Hecht. He added that there are not many individuals outside of the existing committee members who would be qualified. The committee declined to formally nominate Ms. Hecht until they could confirm her interest and ability to serve.

Following discussion of items 4 and 5, Mr. Anklam indicated that Ms. Hecht verbally confirmed her interest in serving as chair. Ms. Long moved to return to item 3, and Mr. Anklam seconded the motion. The motion passed by unanimous voice vote.

Ms. Long moved to nominate Helen Hecht as the committee chair, and Mr. Anklam seconded the motion. The motion passed by unanimous voice vote.

4. Approve Open Meetings Resolution (Action Item)

Mr. Baranowski reviewed the Open Meetings Resolution, which is required of all public bodies to establish the notice requirements and other terms under which they will conduct meetings subject to the Open Meetings Act.

Ms. Clow moved to approve the open meetings resolution. Ms. Long seconded the motion. The motion passed by unanimous voice vote.

5. Discuss Required and Preferred Qualifications for Chief Hearing Officer (Informational Item)

Mr. Baranowski stated that Section 7-1B-4B NMSA 1978 provides the following required qualifications. The Chief Hearing Officer must:

- a) Be an attorney licensed to practice law in New Mexico or another state; and
- b) Have knowledge of the tax law and substantial experience making the record in an administrative hearing suitable for judicial review.

Ms. Long asked if the committee had access to the prior ads soliciting applications in order to determine any additional qualifications. Ms. Bruckner indicated that she had them and would circulate them before the next meeting. She indicated that a subcommittee conducted interviews and reported back to the full committee. Mr. VanDenzen said he would send any materials he had to DFA as well.

Ms. Long asked if there were limits on the time in which the committee needs to make recommendations to the Governor. Mr. Baranowski replied that Section 7-1B-4 directs the committee to submit recommendations to the Governor within 30 days. Senator Duhigg asked about the difference between the 30- and 90-day time frames in Section 7-1B-4. Mr. Baranowski clarified the time frames that apply to the convening of the committee as opposed to the timeline for recommendations to the Governor.

Ms. Long opined that 30 days is a very short time to make recommendations. Ms. Bruckner indicated that her recollection was that the 2015 committee took longer than that. Mr. Baranowski stated that the committee should move expeditiously, but there did not appear to be any consequence if it takes longer than 30 days to submit recommendations.

6. Approve Procedures for Solicitation of Applications for the Position of Chief Hearing Officer (Action Item).

Given the discussion in item 5, the Committee declined to discuss or approve these procedures until the next meeting.

7. Discuss Scheduling of Next Committee Meeting to Nominate Chief Hearing Officer Candidates and Proposed Schedule (Informational Item).

Mr. Baranowski proposed the week of December 20 for the next committee meeting. Ms. Bruckner and Senator Duhigg said they were unavailable, and other members generally expressed it may not be convenient. Mr. Baranowski proposed Thursday, December 30, at 2:00pm as a tentative meeting time pending Chair Hecht's schedule, to which there were no objections.

Ms. Clow asked about the role of the Chief Hearing Officer and the Administrative Hearings Office, generally. Mr. Vandenzen stated that his office currently employs ten hearing officers who oversee two primary types of cases, among others. The first are tax protest hearings independent of the Taxation and Revenue Department, which he described as "tax court lite." The second are driver's license revocations through the Motor Vehicle Division, which are the primary focus of the hearing officers and pre-pandemic comprised 3,500 across the state in a given year.

Ms. Long asked Mr. Vandenzen if the hearing officers were employees or contractors. Mr. Vandenzen confirmed that they are employees, but the agency will contract with others from time to time as needed.

8. Adjourn (Action Item)

Mr. Anklam moved to adjourn the meeting, and Ms. Long seconded the motion. The motion passed by unanimous voice vote.

Its business completed, the committee adjourned the meeting at 2:46 p.m.

DocuSigned by:

Helen Hecht

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Helen Hecht, Chairperson

1/5/2022

Date