

## COMMISSIONERS PROCEEDINGS

Madison, Nebraska

July 23, 2013

The Board of Commissioners of Madison County, Nebraska met in special session at 9:00 A.M. to interview applicants to complete the unexpired term of office for the Madison County Public Defender due to the resignation of the elected official.

Advance notice of meeting was published in the Tuesday, July 16, 2013 edition of The Norfolk Daily News. A copy of said notice was mailed to each Board member. An affidavit of acknowledgment of receipt of notice of meeting as published was executed. Chairman Lee Klein called the meeting to order and notified the public of the location of the information regarding the Open Meeting Act posted in the meeting room.

Present: Commissioners Lee Klein, Jerry McCallum, and Christian Ohl, County Clerk Nancy Scheer, Norfolk Daily News reporter Trisha Schulz, and US92 reporter Brian Masters. Clerk of the District Court Marjorie Schaffer joined the meeting at 9:05 A.M.

Motion was made by McCallum and seconded by Ohl to approve the regular agenda. Roll call vote: Ayes, Klein, McCallum, and Ohl. Nays, none. Motion carried.

The Board conducted the following interviews.

Charles Balsiger stated that his background is outlined in his resume and he is very interested in the position. He reported that he has been practicing in the field of criminal law for most of his career. He stated that he had an interest in criminology long before he went to law school. He stated that his undergraduate career was in science and after graduating he enrolled in grad school where he studied in the area of history, government, and criminology. He explained that he did not complete his graduate studies, but elected to attend law school. He reported that after he graduated from law school he's started working for the Nebraska Commission on Law Enforcement and Criminal Justice as a court specialist. He stated that this was an administrative position, and he was not working in a prosecutor or defense capacity; however, this position allowed him to become very familiar with the court system. Mr. Balsiger reported that he later was hired as the Deputy County Attorney for Scottsbluff County. He stated that he later moved to Beatrice and worked as Gage County Deputy Attorney and later as the Gage County Attorney. He reported that he later went into private practice where he worked with a larger firm, then was in business with his son-in-law, and currently is working as a sole practitioner and enjoys this type of work. He stated that some people would probably question why a person who has a career like his would be interested in the Public Defender's position, but he is very interested. He stated that he feels that he can serve the Public Defender's office and the people of Madison County in an exemplary fashion.

Chairman Klein asked Mr. Balsiger to explain his strengths and weaknesses. Charles Balsiger responded that he is probably similar to everyone else in the room in that he makes mistakes and has different opinions from time to time. He stated that one of his weaknesses in the past may have been his inability to carry out everything that he wanted to and not being entirely successful in certain cases; however, in a number of cases he has been very successful. He pointed out an experience of being appointed to represent a 13 or 14 year old young man who was in trouble with the law. He stated that he saw a glimmer of light with regard to the young man and he decided to go the extra mile in representing him. He reported that he got the young man into Boys Town as opposed to sending him to the Youth Development Center. He stated that later in life when the man was approximately 35 years old he met him in the coffee shop and the young man told him that the Boys Town experience was the best thing that ever happened to him because it gave him some structure and now he owns his own successful business. He stated that this was a demonstration to him that sometimes he does things that are really worthwhile.

Chairman Klein asked Mr. Balsiger to explain how many hours a month he plans to spend working at the Public Defender's position as compared to his private practice. Mr. Balsiger stated that he doesn't know at this time, but he believes that the caseload at the Public Defender's office is heavy and would require the majority of his time. He stated that he has given this substantial consideration and after reviewing the budget, the personnel of the office, and the caseload to be handled, he intends to do the best job that he can in terms of representing the people. He stated that in all likelihood, if he enjoys the position, he may decide to run for the office at the end of the term. He stated that he would probably continue to handle some of his active cases at this time, but probably would not take on any new cases, and may in fact close down his private practice.

Chairman Klein asked Mr. Balsiger why he should be the applicant chosen for the position and Mr. Balsiger responded that he should be chosen because of his experience. He explained that he does not want to denigrate any of the other applicants and as far as he knows the character of all the other applicants is exemplary; but, given the broad experience that he has in the practice of law generally, and in the criminal area, puts him a step above the other applicants in terms of his qualifications. Mr. Balsiger asked for the Board's favorable decision.

Commissioner McCallum questioned if Mr. Balsiger had any questions regarding the wages or benefits and Mr. Balsiger responded that he did not.

Matthew Headley stated that he was approached by numerous people in the community about some concerns with the way the current Public Defender's office was being managed. He stated that people expressed a desire for him to run for the elected Public Defender position and now to apply to complete the unexpired term of office. He stated that he is a good fit for Public Defender through his contacts with the community and his experiences over the past 10 years. He reported that he enjoys Madison County and he lives here with his family and he is at a point where he can give back to the County through this position.

Chairman Klein asked Mr. Headley what experience he has to offer the position. Mr. Headley responded that he has 10 years of experience in the area of criminal law. He explained that he worked with a law firm in Grand Island in the area of criminal law and he worked with Ms. Wentling for a period of time and followed her to the Public Defender's office when she was elected. He stated that while he was working in the Public Defender's office he handled numerous types of cases including felonies, misdemeanors, city cases, child support, juvenile matters, mental health cases, and murder cases, which gave him a wealth of experience. He reported that during his time in private practice he is serving as the Winnebago Tribal Court Public Defender and he has handled numerous cases, including attempted murder, sexual assault, and civil commitments.

Chairman Klein asked what experience Mr. Headley has in training and supervising employees. Mr. Headley responded that when he was working for the Public Defender's office he was involved in supervising the paralegals as well as the secretaries. He stated that while serving as the Winnebago Tribal Court Public Defender he works with numerous staff members at the courthouse. He explained that he is a sole practitioner and he can communicate well with everybody involved in cases, which is shown through his letters of reference.

Chairman Klein asked Mr. Headley to provide a synopsis of his strengths and weaknesses. Mr. Headley responded that his strengths are his business background which will be beneficial when working with the budget. He stated that he has operated a successful law firm for 1½ years as shown by the support that he has given to numerous programs and events in Madison County, including Big Bang Boom and Tilden Prairieland Days, which shows that he can run a successful business. He stated that his weakness is the impact that the trauma dealt with on a daily basis has on his personal life. He stated that he is currently reading a book about this subject and how to use various tools and resources to deal with this issue. He stated that the trauma is something that everyone working in this area of the law must deal with. He reported that he recently went to Seattle and obtained a lot of information about dealing with the trauma the criminal and juvenile defendants come through.

Commissioner Klein asked how many hours a month Mr. Headley plans to spend at the Public Defender position. Mr. Headley responded that the Public Defender position is full-time based upon his previous experience of working in the office. He reported that he has a contingency plan in place to deal with the Winnebago Public Defender's Office after speaking with the Judges and other staff involved. He stated that if he is appointed to the Public Defender position he plans to close his private practice because the Public Defender is a full-time position. He stated that he doesn't feel that Madison County would be best served by having a private practice which would take the focus taken away from the Public Defender's office. He reiterated that the position is full-time and that is what he intends to make it.

Commissioner Klein questioned why Mr. Headley should be the applicant chosen. Mr. Headley stated that his experience for the past ten years, business background, support to the community, and his time serving as the Winnebago Tribal Court's Public Defender all show that he can handle this position. He stated that he knows what is necessary in order to make this position successful. He asked the Board for its favorable consideration.

Commissioner McCallum questioned if he had any questions regarding the wages or benefits and Mr. Headley responded that he does not and he understands the budget.

Timothy Matas reported that he is currently serving as the Platte County Public Defender. He explained that he started in Platte County in 2008 as the Deputy Public Defender and within a few months the current Public Defender, Sam Bethune, had to leave for hip surgery, so he managed the office by himself for two months during Mr. Bethune's recovery. He explained that soon after that Mr. Bethune took the position of York County Public Defender and the Platte County Board appointed him to complete the remainder of the term, so shortly less than a year after he started working in Platte County, he was serving as the Public Defender, ran for election, and is currently serving that term. He stated that his skills and experience are exactly what the County needs in the Public Defender's Office.

Chairman Klein asked what experience Mr. Matas had in training and supervising employees. Mr. Matas responded that the Platte County Public Defender's Office is a two-person department. He reported that when Mr. Bethune left he hired a new attorney as a replacement Deputy Public Defender and he has spent the last three years training him. He stated that his Deputy Public Defender's record would speak to his ability to train because the Deputy has gone from never stepping foot into a courtroom to successfully prosecuting and appealing in front of the Nebraska Supreme Court. He stated that the Deputy has turned into a very capable attorney and he would like to think that he had something to do with his success because of the training process.

Chairman Klein asked Mr. Matas to explain his strengths and weaknesses. Mr. Matas responded that his strengths are his empathy for his clients and his ability to have good working relationships with law enforcement and the County Attorney's office. He stated that if anyone would speak with staff in the Columbus Police Department, Platte County Sheriff's Office, or the Nebraska State Patrol, one would find that he has a very good working relationship with all of these agencies. He noted that his references include the current Platte County Jail Administrator and Judge Steinke. He explained that Judge Steinke would tell the Board that he has a very good working relationship with the Platte County Court system.

Chairman Klein asked Mr. Matas to explain his plan regarding how many hours a month he would work at the Public Defender position. Mr. Matas responded that the Madison County Public Defender is a full-time position and also a position that has about double the case load of the Platte County office that he currently manages. He stated that he understands that there are more attorneys assigned to the Madison County Public Defender's office and more support staff, but the Public Defender position is full-time, and he would devote his full time discharging the duties of this position. He explained that he would daily be in the office working on cases and administering the office.

Chairman Klein asked Mr. Matas to explain why he should be the applicant selected. Mr. Matas responded that he has the skills that the County is looking for, he has managed a similar office, and he has defended all the types of cases that the office would be required to handle. He reported that he has worked on cases from felony murder to driving under suspension and in his current position he is in court daily defending clients in both County and District Court. He reported that in 2012 he personally handled 84 felonies, 135 misdemeanors, 8 Mental Health Board commitments, and 50 child support cases.

Commissioner McCallum inquired if Mr. Matas was familiar with the wages and benefits in Madison County. Mr. Matas responded that he has a good working relationship with Ms. Wentling and has on occasion called her for advice and occasionally the discussions trend toward how things are going in each other's office, so he is familiar with the compensation and benefits.

Kyle Melia stated that he is currently serving as the Chief Deputy Public Defender.

Chairman Klein asked Mr. Melia to explain why he is interested in serving as the Madison County Public Defender. Mr. Melia responded that he is the son of two government lawyers. He explained that his mother is currently a lawyer for the State of California and his stepfather was an associate U.S. Attorney for the Department of Justice. He stated that when he decided to become a lawyer, he wanted to do government work and criminal law. He explained that during the time he has been working in the Public Defender's office he really enjoys doing criminal law, including defending, appeal work, juvenile cases, and mental health cases. He stated that he really likes the job and doing the work and not just the perks.

Chairman Klein asked Mr. Melia to explain his experience and Mr. Melia responded that he started at the Public Defender's office over 2½ years ago. He explained that he started out doing juvenile cases almost exclusively and within three or four months, Ms. Wentling assigned him to District Court work including misdemeanor and felony cases. He reported that within one year, Ms. Wentling put him in charge of all the felony cases and within a very short period of time Ms. Birmingham, who was the former Chief Deputy, resigned and during that time Ms. Wentling went without a Chief Deputy for six or seven months. He explained that Ms. Wentling started handing different responsibilities to both him and Ms. Joseph including management of the paralegal and legal assistants, management of claims, doing the budgeting, and managing vacation and sick time for employees to determine which employee was better suited. He reported that eventually Ms. Wentling appointed him as the chief deputy. Mr. Melia reported that he trained and supervised employees during his position as chief deputy and he has also had different jobs working in restaurants and retail stores where he has been promoted to supervisor.

Chairman Klein asked Mr. Melia to describe his strengths and weaknesses. Mr. Melia responded that his biggest weakness is that he is 29 years old and it may look like he has little experience. He stated that he has handled only one jury trial to date; but, if you look at the cases handled by the Public Defender's office there are between 850 at 1,100 cases handled per year. He stated that with this case load, he has prepared two or three dozen cases as if they were going to trial. He reported that he had one jury trial, but he had approximately 12 cases that went right up to the point where a jury was to be seated and then the case was settled. He explained that he has completed interviewing, completed depositions, and prepared documents associated with preparing for a jury trial. Mr. Melia explained that his biggest strength is the experience that he obtained from preparing for the jury trials. He reported that he argued two cases before the Nebraska Supreme Court and wrote half a dozen briefs to the Court of Appeals or the Supreme Court. He stated that his biggest strength is how quickly he has been able to get the experience. He explained that he is a quick learner and he really enjoys working hard.

Chairman Klein asked how many hours Mr. Melia plans to spend at the position. Mr. Melia responded that he will work as many hours as the job requires. He stated that he has no desire to do civil law or have a private practice and that he only wants to do the Public Defender job. He explained that he has no desire to have private clients because he feels that it would be an awkward position if he is hired by the County to represent everyone, and if he took on a private client, it would appear as though he is working harder for the client who is paying him money as opposed to the County who is paying him for everyone. He explained that he does not like the appearance of having two masters. He stated that his job is to represent indigent clients and that's what he wants to do.

Chairman Klein asked Mr. Melia why he should be the applicant chosen and Mr. Melia responded that he is very interested in the Public Defender position. He stated that he is not originally from Madison County or from the Norfolk area. He explained that when he came to the area he wasn't exactly sure how long he would stay, but he really enjoys living here and his fiancée recently moved to the area and she loves it. He stated that he would like to continue to work for Madison County and stay in the Norfolk area.

Commissioner McCallum questioned if Mr. Melia had any concerns with the wages. Mr. Melia responded that the job was posted at a rate of \$69,000 annually; however, the wage listed in the budget is approximately \$67,000. Chairman Klein stated that the 2013 annual salary is \$69,000.

Chairman Klein stated that the County Attorney advised that, if there were no objections, the Board could recess into executive session to discuss the interviews to prevent harm to any of the applicants' reputations.

Hearing no objections, motion was made by McCallum and seconded by Ohl to recess into executive session to further discuss the applicants interviewed for the position of Public Defender. Roll call vote: Ayes, Klein, McCallum, and Ohl. Nays, none. Motion carried.

The Board recessed into executive session at 9:29 A.M.

Motion was made by Ohl and seconded by McCallum to recess from executive session. Roll call vote: Ayes, Klein, McCallum, and Ohl. Nays, none. Motion carried.

After recessing from executive session, Chairman Klein announced that all candidates were very capable of serving in the capacity of Madison County Public Defender; however, the Board must chose one applicant.

After discussion, a motion was made by McCallum and seconded by Ohl to appoint Kyle Melia to complete the unexpired term of office for the Madison County Public Defender with an effective date of July 29, 2013. Roll call vote: Ayes, Klein, McCallum, and Ohl. Nays, none. Motion carried.

Chairman Klein announced that Kyle Melia had good references and was eager, aggressive, and ready to serve.

The Board adjourned at 9:48 A.M. to Tuesday, July 30, 2013 at 9:30 A.M.

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County Clerk Nancy Scheer

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Lee Klein, Chairman  
County Board of Commissioners