

**December 5, 2003**

**REVISED MINUTES OF THE MEETING OF THE BOARD OF GOVERNORS**

A regular meeting of the Board of Governors of the State Bar of Nevada was convened on December 5, 2003, in the Board Room of the State Bar Offices in Las Vegas.

The following members were in attendance:

N. Patrick Flanagan III	...	President
Ann Price McCarthy	...	President-Elect
Vincent A. Consul	...	Vice President
Nancy L. Alf		
Bruce T. Beesley		
James W. Bradshaw		

Kathleen J. England  
Cam Ferenbach  
Rew R. Goodenow  
Dara Goldsmith  
Richard Morgan  
Bridget Robb Peck  
John P. Schlegelmilch  
Bruce I. Shapiro  
Gloria J. Sturman  
William C. Turner  
Steven B. Wolfson

The following members were absent:

John A. Curtas

STATE BAR STAFF PRESENT

Allen W. Kimbrough  
Rob Bare

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Chris Boadt

Patrice Eichman

Marc Mersol

GUESTS PRESENT

Jeremy Hilsabeck

David Morgan

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**1. CALL TO ORDER AND INTRODUCTIONS**

The meeting was called to order by the Vice President at 9:15 a.m. and a quorum was declared. Upon her arrival the President-Elect presided until the President arrived.

**2. APPROVAL OF MINUTES OF PRIOR MEETING OF BOARD OF GOVERNORS**

The minutes of the October 8, and November 14, 2003, meetings of the Board were approved with the notation that absent Board members Sturman and Turner attempted to call in for the October 8 but could not as a result of a malfunction at the meeting site.

**3. REPORT ON ACTIONS AND RECOMMENDATIONS OF OPERATIONS COMMITTEE**

The Board reviewed the actions and recommendations of the Operations Committee contained in the minutes of its November 12 and December 3, 2003 meetings and ratified same.

**4. REPORT OF DIRECTOR OF FINANCE AND INFORMATION SYSTEMS**

Marc Mersol, Director of Finance and Information Systems presented the financial condition of the State Bar as of October 31, 2003, and responded to questions regarding same.

Mr. Mersol also advised the Board that he projected \$1.75 million as the cash on hand at year end.

Mr. Mersol also presented the financial report of the Nevada Bar Foundation.

The Board accepted the financial statements as presented.

**5. REPORT OF YOUNG LAWYERS SECTION**

Jeremy Hilsabeck, Chair-Elect of the Young Lawyers Section, distributed a written report to the Board regarding the Section's recent activities and programs and gave comments on same.

The YLS was requested to furnish copies of the recently revised "Coming of Age" book to the members of the Board.

**6. REPORT OF BUDGET COMMITTEE**

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Rew Goodenow, Chair of the Budget Committee, presented the proposed 2004 Operating Budget for the State Bar and other recommendations of the Committee.

The 2004 Operating Budget was approved after some minor amendments that occurred prior to the meeting, conditioned upon the Board's subsequent decision regarding the Northern Nevada Bar Center being properly reflected therein.

The Board adopted a policy requiring that the proponent of any recurring expenditure in excess of \$10,000 provide the Board with a fiscal impact statement, to be overseen by the Director of Finance.

**7. CONSIDER MATTERS RELATED TO NORTHERN NEVADA STATE BAR OFFICE**

The President presented a report on efforts to locate a northern Nevada home for the State Bar's offices and a conference center and the work product of the ad hoc committee (composed of the non-Clark County Board members) which reviewed possible options but could not reach a consensus.

The two options presented to the Board were (1) to complete the purchase of the office building at 9456 Double R Boulevard in the South Meadows area of Reno or (2) to lease and renovate space in the Masonic Temple Building in downtown Reno.

Dave Morgan, representing the Masonic Temple, gave a presentation on the building and his group's offer regarding the building and finish-out. Preliminary architectural drawings were shared with the Board by Mr. Goodenow.

Additional information regarding the South Meadows property was also shared with the Board.

Following a lengthy discussion of the pros and cons of both options, Mr. Schlegelmilch made a motion (seconded by Mr. Goodenow) that the State Bar lease the available space at the Masonic Temple. That motion failed by a vote of 6-8.

Thereafter, a motion was made by President-Elect McCarthy (seconded by Ms. Peck) that the State Bar purchase the property at 9456 Double R Boulevard and build it out, conditioned upon the obtaining of third-party financing for 2/3 of the cost. That motion was approved by a vote of 8-6.

**8. REPORT OF ETHICS 2000 COMMITTEE**

Bar Counsel Rob Bare distributed the Committee's Report and ADKT Petition to the Board for its review and comment. Both Mr. Bare and Chair Steven Wolfson expressed the Committee's appreciation to Kristina Marzec of the State Bar

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staff for her exceptional work on the project.

Mr. Bare provided a summary of some of the changes from the present ethics rules to those proposed by the Ethics 2000 Committee. Mr. Wolfson expressed the Committee's desire for additional input from the Board prior to the finalization of the report and petition. It is anticipated that the final version will be presented to the Board at its January 22 meeting.

**9. CONSIDER MATTERS RELATED TO LAWYER ADVERTISING**

Mr. Bare suggested that a need existed for the formation of a Supreme Court-level commission to look at the issues related to this subject, particularly as related to television advertisements. Upon motion made and seconded, the Board agreed that this matter would be raised with the Supreme Court at the joint meeting on January 22.

**10. ANNUAL REVIEW OF EXECUTIVE DIRECTOR**

In Executive Session, the Board conducted the annual review of Executive Director Allen Kimbrough, which had been begun by the Operations Committee. Mr. Kimbrough made a brief presentation to the Board and responded to questions prior to leaving the meeting room. During his absence the Board established the Executive Director's salary, benefits, and goals for 2004, which were communicated to Mr. Kimbrough when he returned to the room and the Executive Session was concluded.

**11. CONSIDER MATTERS RELATED TO STANDING COMMITTEE ON JUDICIAL ETHICS AND ELECTION PRACTICES**

The Board appointed Dan Reaser of Reno as a member of the Standing Committee (with Mr. Ferenbach abstaining) and reappointed the following members (with Mr. Wolfson abstaining): R. Gardner Jolley, Kathleen M. Paustian, Thomas E. Perkins, Thomas R. Sheets, and Steven B. Wolfson.

**12. CONSIDER MATTERS RELATED TO ROCKY MOUNTAIN MINERAL LAW FOUNDATION**

The Board appointed Ross di Lipkau of Reno as Nevada's Trustee on the Foundation's Board. Ms. England and Mr. Goodenow abstained from this vote.

**13. CONSIDER APPOINTMENTS TO THE FEE DISPUTE ARBITRATION COMMITTEE**

The Board appointed the following lay members to the panels indicated:

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Jean A. Donoho	Las Vegas Panel A
Mark Pollack	Las Vegas Panel A
Terry McConnell	Las Vegas Panel C
Richard M. Teichner	Reno Panel
Anthony Ruggiero	Las Vegas Panel C

The Board appointed the following attorney members to the panels indicated:

Michael McOsker	Las Vegas Panel A
Virginia Shane	Rural Panel
Mark Braun	Las Vegas Panel C
Craig Burkett	Carson City Panel
Toni Cowan	Las Vegas Panel C
Darrell W. Faircloth	Carson City Panel
Robert E. Griffy	Las Vegas Panel A
Charles Hilsabeck	Reno Panel
Brian T. Kunzi	Las Vegas Panel C
Marie Martin-Kerr	Carson City Panel
Andrea Nichols	Carson City Panel
Todd Plimpton	Rural Panel
John Lambert	Rural Panel

**14. CONSIDER APPOINTMENTS TO SOUTHERN NEVADA DISCIPLINARY BOARD**

The Board reappointed Bernard Zadrowski to a term on the Southern Nevada Board ending January 1, 2007.

The Board appointed Dan Pearce, Barbara J. Schell, and Dr. Joseph Chenin as alternate lay member panelists for the Southern Nevada Board.

**15. CONSIDER APPOINTMENTS TO COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY**

The Board appointed Shelley Krohn as Vice-Chair of the Committee and reappointed the following persons to terms ending December 2006: Dennis L. Kennedy, J. T. Moran III, Professor Jeffrey Stempel, and Marc H. Rubinstein.

**16. CONSIDER APPOINTMENT TO BOARD OF BAR EXAMINERS**

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The Board reappointed Paul Taggart of Carson City to the Board of Bar Examiners for a term expiring October 2006.

Director of Admissions Patrice Eichman responded to questions from members of the Board regarding the February 2004 bar examination and subsequent admissions ceremony (tentatively set to be held in Carson City).

**17. CONSIDER MATTERS RELATED TO 2004 ANNUAL MEETING OF THE STATE BAR**

Director of Continuing Legal Education Christopher Boadt presented the draft budget for the 2004 Annual Meeting. Concerns were raised regarding the level of underwriting required to reach the mandated break-even point for the convention.

After lengthy discussion, a motion was made and seconded that (1) costs of the video tribute for Justice Shearing be paid from the Restricted Fund, (2) the Saturday lunch be eliminated, and (3) that there be no subsidy for optional activities for those who register after December 31, 2003 (i.e., the participants will pay the actual cost of the events). The motion was approved.

Thereafter, in response to a letter received from Chief Justice Agosti, the Board discussed whether funding should be provided for members of the Supreme Court and other judges who participate in CLE events at the Annual Meeting. Upon motion made and seconded, the Board authorized the President to communicate to the Chief Justice that judges who speak at CLE events at the Annual Meeting would be reimbursed airfare and one-night's lodging and that the registration fee for the meeting would be waived for them. This policy would not apply to judges who merely attend the "View from the Bench" program and casually participate.

**18. CONSIDER SUPPORT OF ABA MARGARET BRENT AWARD FOR JUSTICE MIRIAM SHEARING**

The Board voted unanimously to submit a nomination to the ABA Commission on Women in the Profession for a Margaret Brent Award to be given to Justice Miriam Shearing in the form prepared by Past President Gloria Sturman.

**19. CONSIDER MATTERS RELATED TO MANDATORY REPORTING OF PRO BONO ACTIVITIES**

The Executive Director and others shared with the Board the problems and multiple member inquiries that have been generated by the mandatory pro bono reporting form approved by the Access to Justice Committee and included in the 2004 dues packets. A motion to appoint a Board committee to deal with this issue died for lack of a second.

**20. REPORT OF DIRECTOR OF CONTINUING LEGAL EDUCATION**

Mr. Boadt reported on the recent activities of his department.

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The Board appointed Cassell Ross of Incline Village to the CLE Publications Committee.

**21. REPORT OF BAR COUNSEL**

Mr. Bare gave an oral report to the Board regarding the activities of his department and responded to questions regarding same.

In Executive Session, Mr. Bare briefed the Board regarding various pending litigation matters.

Mr. Bare reported on the dismissal of an action against the State Bar based on a motion filed by Felicia Galati, First Assistant Bar Counsel and other matters related to his office.

**22. REPORT OF EXECUTIVE DIRECTOR**

Mr. Kimbrough elaborated on and responded to questions regarding his written report.

He called the Board's attention to the level of objections being raise to the increase in Inactive dues to \$125; however, he predicted that the resignations which might result therefrom would be far outweighed by the increased revenues generate from the fee increase.

**23. REPORT OF PRESIDENT-ELECT**

Ms. McCarthy provided the Board with additional information regarding the 2005 Annual Meeting in Santa Fe, noting that she hoped to have a reunion of graduates and attendees of the Old College School of Law during the convention.

**24. INFORMATIONAL ITEMS**

The Board reviewed and commented upon various of the informational items provided, including the dismissal of the Shafer bankruptcy and death penalty issues.

**25. CONSIDER MATTERS RELATED TO SPECIALIZATION**

Mr. Bare reported that the Supreme Court staff had made some refinements to the affected Rules and that the Order adopting same was expected to be issued on December 17.



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**26. ADJOURNMENT**

There being no further business, the meeting was adjourned at 5:00 p.m.

Respectfully submitted,

N. Patrick Flanagan  
President

Allen W. Kimbrough  
Executive Director