



MINUTES OF THE MEETING OF THE BOARD OF GOVERNORS

March 7, 2007

A Regular Meeting of the Board of Governors of the State Bar of Nevada was convened on March 7, 2007 at the Northern Nevada Bar Center, Reno, NV at 9:08 am.

The following members were in attendance:

Rew Goodenow, President
Nancy Alf, President – Elect
Bruce Beesley, Vice President
Vince Consul, Immediate Past President
Connie Akridge
James Bradshaw
Cam Ferenbach
Francis Flaherty
Kathleen England
Dara Goldsmith
Gregg Kamer
Richard Morgan
Bridget Robb Peck
Robert Witek

By Phone:

William Turner
Bryan Scott

State Bar Staff Present:

Kimberly Farmer
Gale Skala
Marc Mersol
David Clark

Member of the Young Lawyers Section in attendance:

Laura Granier

MINUTES

1. CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order by President Rew Goodenow at 9:00 am and a quorum was declared.

2. CONSENT ITEMS

The Board of Governors agreed that item 5: Report of Director of Finance and Information Systems should be removed from the Consent Agenda. The remainder of the following Consent Agenda items were accepted or approved unanimously, as follows:

Approval of Minutes of January 22, 2007

Report of Director of Admissions

Report of Director of Operations and Education

It was moved and approved to appoint Peter Clancy, Lisa Lackland, Heidi Parry Stern and Richard Vilkin to the Nevada Lawyer Editorial Board for three year terms to begin in June 2007.

Report of Clients' Security Fund Committee/Report of Fee Dispute Committee

It was moved and approved that Vernon (Gene) Leverty be reappointed to the Clients' Security Fund Committee for three year terms effective immediately.

It was moved and approved that Greta Muirhead be appointed to the Fee Dispute Arbitration Committee for three year terms effective March 2007 to the Las Vegas Panel A.

It was moved and approved that the following Committee members be reappointed to the Fee Dispute Arbitration Committee for additional three year terms effective March 2007:

- Edward R. Miley and Bruce D. Schupp: Las Vegas Panel A
- Michael Bohn, Eric Dobberstein, Howard Miller and Victor Perri: Las Vegas Panel B
- Patrick McKnight (mediations only): Las Vegas Panel B
- Christine Roberts: Las Vegas Panel C
- Gary Backus, Thomas Coyle, Jr., David Stanton and Stewart Wilson: Rural Panel

It was moved and approved that Jeffrey Kump be reappointed for another one year term effective March 2007 as the Regional Chair to the Rural Panel.

Report of Law Related Education

It was moved and approved to grant the Mock Trial Team an additional \$3000 to cover the estimated expenses of going to Nationals.

Report of the Diversity Committee

Report on Access to Justice Commission/ Report on Lawyer Referral and Information Service

It was moved and approved to appoint the following attorneys to the Lawyer Referral and Information Service Committee for three year terms beginning in April 2007: Eric Chandler, R. Christopher Reade, G. David Robertson and Natricia C. Tricano.

Consider Reappointment of Member to Judicial Discipline Commission

It was moved and approved to reappoint C. W. "Bill" Hoffman, Jr. to a four year term as an Alternate Attorney Member on the Nevada Judicial Discipline Commission.

2007 ABA Midyear Meeting-House of Delegates

Report of Director of Finance and Information Systems

Marc Mersol shared the history on the Lawyer Referral restricted fund for the past few years. Mr. Mersol indicated that the "Restricted Funds" requirement of the Funds Balance on the Balance Sheet has not been updated to reflect the grants and profit/loss of the past few years. The "Restricted Funds" is in effect the retained earnings from the Lawyer Referral Program. It was moved and approved to increase the balance showing under "Restricted Funds" to \$297,879.

Gregg Kamer brought to the Board his concern that there has not been a qualified survey on staff salaries and that an audit of staff salaries (and benefits) is needed. Mr. Goodenow appointed a study committee consisting of members of the compensation and personnel committee and Gregg Kamer. They will obtain quotes from consultants to conduct a benefits survey and report to the Board their findings.

Marc Mersol discussed the rollover funds that the State Bar of Nevada sections are able to carryover each year. Mr. Mersol asked the Board for direction on how far back the section should be taken. Mr. Goodenow asked that a proposal in the form of a policy be written and subsequently brought to the Board for approval.

3. DISCUSSION ON THE BAR EXAM STUDY COMMITTEE

Richard Trachok, chair of the Board of Bar Examiners, was invited to attend the Board meeting but was out of the country and therefore unable to attend. Nancy Allf gave a history on the Bar Exam Study Committee and shared that the direction of the committee has moved from its mission which was to look at alternatives to administering the exam. It was moved and approved to recommend to the Supreme Court to disband the committee. A letter will be sent to the committee chair regarding the Board recommendation.

4. DISCUSSION SCR 42 TASKFORCE

Bridget Robb Peck shared what the task force had accomplished as of this date. The task force recommends that under SCR 42 section 6(a), the word *firm* be omitted; the text will read "5 appearances by any individual in a 3 year period." Ms. Peck reported that the task force recommends that an ADKT petition be drafted to reflect this change. It is recommended that the ADKT to include specifics and standards on the special circumstances. After considerable discussion concerning this rule, it was moved and approved to direct Bar Counsel to draft an ADKT petition amending the rule. The ADKT will then be put before the Board for approval.

Ms. Peck noted that the task force discussed additional items in need of review including how the SBN notes limited practice attorneys in its records and the application of SCR 42 to arbitration and mediation. Mr. Goodenow charged the committee with further study on the portion of SCR 42 as it relates to arbitration and mediation and to look into the limited practice attorney question. It was suggested that David Clark assist the study committee in its review.

5. REPORT OF THE COMMITTEE ON JUDICIAL INDEPENDENCE AND ACCOUNTABILITY

Cam Ferenbach, chair, informed the Board that the committee had changed the name of the committee to *The Third Branch Project: Addressing the Role of Nevada's Judiciary*.

Mr. Ferenbach provided an overview of the goals and objectives of the task force. The primary function of the committee is to educate the public with goals covering education on the historical foundation and function of the judicial branch; the structure and duties of the judiciary; and present day realities and pressures impacting the judiciary.

6. REPORT OF THE YOUNG LAWYER'S SECTION

Laura Granier reported to the Board the latest activities of the Young Lawyer's Section. Ms. Granier indicated that the 2007 Rocky Mountain Conference was a huge success and thanked the Board members that helped make the event a success. Ms. Granier shared information on the Wills for Heroes project which the section hopes that the Board will support. As more details come forth the section will share the details of this public service project. Bridget Robb Peck was concerned about the malpractice insurance coverage for this project – whether volunteers with this project fall under the umbrella of the pro bono services. Mr. Goodenow appointed Dara Goldsmith to help the YLS with reviewing the insurance question as well as other specifics that relate to the Wills for Heroes project.

7. COMMUNICATIONS TO CONSTITUENTS VIA EMAIL

Frank Flaherty shared that a member for District Three expressed interest in wanting to know what is going on at the SBN. The member suggested that Flaherty might share important news about the State Bar of Nevada. The Board discussed options with respect to Board members emailing constituents. Mr. Goodenow appointed a study committee to review this issue. Connie Akridge, Frank Flaherty, Jim Bradshaw and Marc Mersol will study this issue and report back to the Board.

8. CHIEF JUSTICE LED TASK FORCE

Applicants were sought for an attorney position on the Chief Justice-Led Task Force to Promote Criminal Justice/Mental Health Collaboration. The State Bar of Nevada had received two letters of interest, Diane Crow and Franny Forsman. After considerable discussion on each candidate, Kathy England suggested that the Board recommend both of the candidates. It was moved and approved that Diane Crow will be the primary candidate recommended to the taskforce with Franny Forsman a second choice; additionally suggesting to the Chief Justice that Ms. Forsman would also be a strong candidate for the high-ranking official position on the taskforce.

9. REPORT OF THE PRESIDENT

Midyear Meeting/Annual Meeting Mr. Goodenow informed the Board that the decision had been made to cancel the 2007 midyear meeting. Mr. Goodenow suggested there be section meeting at the annual meeting in June. Nancy Allf suggested that the YLS be involved in planning the 2008 Midyear Meeting.

Assembly Bill 17 Mr. Goodenow gave the history on the bill as proposed. Mr. Goodenow informed the Board that the Executive Committee had met regarding AB 17 (due to timing of the hearing on the bill) to discuss what action the State Bar of Nevada would take on the Bill. It was determined that the State Bar of Nevada opposes the legislation as written on the basis that we believe, when possible, in filling judicial positions a lawyer should be appointed to serve.

Senate Joint Resolution 2 Mr. Goodenow discussed highlights of SJR2. This draft is slightly different from the draft the Board reviewed during prior meetings. He shared the fact that the SJR2 contains a provision for a judicial review process. After some discussion, it was moved and approved to support SJR 2 as it is currently presented. Mr. Goodenow developed a position paper that was sent to the Board members for comments. With a hearing of SJR2 scheduled, Mr. Goodenow will include comments from the Board as well as those of Chief Justice Maupin in the final position paper.

Metadata Mr. Goodenow would like the Board to review issues as they relate to the ethical and legal issues surrounding metadata files. After discussing the issue, it was determined that Bruce Beesley, Kathy England, Dara Goldsmith and David Clark will review issues as they relate to metadata and report back to the Board at the June meeting. Ms. Kathy England will chair the committee. Ms. England thought it would also be beneficial to invite the CLE committee chair to be involved in the study committee.

Attorney Update, Carl Lovell Jr. Mr. Goodenow gave an update on the Carl Lovell Jr. case. Mr. Goodenow discussed the Lovell matter in his President's column in the *Nevada Lawyer* asking members to offer some solutions to the problems highlighted in the Lovell case. The Board was reminded that the state of Nevada does not have a plan in place for attorneys to be responsible in situations such as the Lovell case. David Clark gave the updated status on the Lovell files. In discussing the management issues, Gregg Kamer indicated that the SBN should have a standing committee to deal with the issues of practice management that will help prevent situations like this in the future. President Goodenow charged Vince Consul, Gregg Kamer and Dara Goldsmith with the task of scoping the goals of such a committee. Assistant Bar Counsel Phil Pattee will help with this study committee.

Clark County LRIS Partnership Mr. Goodenow informed the Board of his meeting with Clark County Bar Executive Director, Eric Mann. He noted that a question came up regarding the LRIS; Clark County Bar Association is referring callers to Attorney's Guide.com rather than the SBN LRIS. They discussed the option of State Bar of Nevada and CCBA forming a partnership in CCBA referring callers to the SBN instead of Attorney's Guide.com. Discussions will continue with CCBA on this matter.

NTLA/ Business Law Section – SB72 In a letter to Mr. Goodenow, William Patterson Cashill expressed concern over the impact of SB72 on the potential liability of limited partners as well as the SBN not apprising the NTLA of the SBN Business Law Section's proposed revisions. Mr. Goodenow stated that the Board's previous approval of the Business Law section's proposed changes is NOT the same issue. It was moved and approved to table this issue indefinitely.

Clark County Clerk's Office It was moved and approved to contact Steve Parsons and inquire if he would like the SBN to publish his letter in the *Nevada Lawyer* concerning the role of the county clerk.

Appoint Study Committee on the State Bar of Nevada Document Retention Policies Mr. Goodenow appointed Marc Mersol and Frank Flaherty to review document retention polices of the SBN and to develop document retention policies for the SBN where none exist, specifically in the area of human resources.

Appoint a Study Committee to Consider the SBN Response to the Federal Indictments on the Health Care Case Mr. Goodenow expressed his concern that this matter could affect attorneys in the community and that the SBN should be proactive in developing a statement on this matter (if needed). Mr. Goodenow appointed Bob Witek to chair a committee to review the matter and to develop the SBN response on this issue if deemed necessary. Members of the committee will include Connie Akridge, Bruce Beesley, Bridget Robb Peck, and Kathy England. David Clark will assist the committee.

10. REPORT OF THE PRESIDENT-ELECT

Nancy Allf shared with the Board members that the rural meeting this year will be in Ely, NV. Ms. Allf hopes to have committee assignments to the Board members in June. Ms. Allf asked that members let her know by May if they had any preferences. The 2008 annual meeting will be in Santa Barbara, CA. Ms. Allf felt it was important to have a 2008 Midyear Meeting and will assign a committee to plan the meeting.

11. REPORT OF BAR COUNSEL

It was moved and approved to accept the applications of resignation for M. Colleen Weule and Cynthia R. Taylor.

The Board reviewed reappointments to the Southern and Northern Nevada Disciplinary Board. It was moved and approved that the 10 alternate attorney members and 7 alternate laymembers of the Southern Nevada Disciplinary Board be redesignated as regular attorney members and laymembers. It was moved and approved that the 4 alternate attorney members and 8 alternate laymembers of the Northern Nevada Disciplinary Board be redesignated as regular attorney members and laymembers. It was moved and approved that Gregory Livingston be appointed as a member of the Northern Nevada Disciplinary Board. It was moved and approved to appoint Candace Carlyon to be member of the Southern Nevada Disciplinary Board.

David Clark shared with the Board that Kevin Mirch had been disbarred. David Clark gave a report to the Board on the March 1, 2007 Lawyer Advertising hearing. Mr. Clark believes the Court will be acting on this issue quickly.

12. REPORT OF EXECUTIVE DIRECTOR

Kim Farmer shared with the Board that Jean Varize had resigned from her position as accounting clerk with the State Bar of Nevada. Marc Mersol will be interviewing for this position.

13. ADJOURNMENT

There being no further business before the Board the meeting was adjourned at 2:10 p.m.