

Joe Longley

From: Don Jones <Don.Jones@TEXASBAR.COM>
Sent: Wednesday, July 12, 2017 4:43 PM
To: Joe Longley
Cc: John Sirman
Subject: Minutes & Talking Points re General Counsel
Attachments: Talking Points for Tim Mountz for April 2010 EC mtg.pdf; 2010-04 BOD Minutes.pdf; EXEC APRIL2010 minutes.pdf; 2010-06 BOD Minutes.pdf

Joe,
John asked that I send the attached to you. These are the 2010 Board and EC minutes regarding the general counsel and the talking points on the issue for the meeting. (At the time, Tim Mountz was the chair of the Board Administration Committee.)
Best,
Don

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TALKING POINTS RE GENERAL COUNSEL ISSUE

- Prior to 1991 – State Bar Act vested the disciplinary system administration in the General Counsel
 - The primary reason behind the Board electing the General Counsel was to help ensure separation of the disciplinary functions of the Bar from the executive functions of the Bar. (thus, the requirement for the GC to file a financial disclosure form).
- 1991 – Sunset – State Bar act created the Commission for Lawyer Discipline to oversee the disciplinary system.
 - CFLD given authority to select a Chief Disciplinary Counsel “with the advice and consent of the board.”
- Rule 5.01 of the Texas Disciplinary Rules of Procedure – the General Counsel shall serve as the CDC unless and until the CFLD chooses to select a separate CDC
- 1999 – CFLD opted for a separate CDC (Dawn Miller)
 - We’ve had 3 GCs since then: Shelby Rogers, Patricia Moore, Elizabeth Rogers
- Without the disciplinary duties, **the GC’s role has become more of a routine in-house counsel re contracts, open records, open meetings issues, employment issues, etc.**
 - When the GC and CDC were the same person, the CDC would appoint a “corporate counsel” to handle those matters
 - We have always had the authority (and used it) to retain outside counsel for extraordinary matters / litigation / etc.
- **During the next legislative session, we will explore some clean-up provisions for the Act.**
- **Until then, we propose:**
 - **Do not fill the general counsel position at this time**
 - **The Act says the Board “elects the general counsel”.** It does not use mandatory language. (Note: The legislature did use mandatory language in the Texas Natural Resource Conservation Commission statute, which says that the Commission *shall* appoint a general counsel.)
 - **In the meantime, give Michelle the authority to hire an in-house legal counsel to handle the routine legal matters for the Bar.**
 - **The Policy Manual Subcommittee will be given the task of proposing language which will be brought to the Board for action in June.**
- **We have discussed this with the Officers and the Chair, and with the CFLD and the CDC (Linda Acevedo) and they are in agreement.**

OFFICIAL MINUTES
STATE BAR OF TEXAS
EXECUTIVE COMMITTEE MEETING
Texas Law Center
Austin, TX
April 6, 2010

The Executive Committee met on April 6, 2010 in Austin at the Texas Law Center. President Roland Johnson called the meeting to order at 10:30a.m., and Executive Director Michelle Hunter called the roll.

Present: Pablo Almaguer, Talmage Boston, Guy Choate, Warren Cole*, Chair of the Board David Fisher, Pamela Gilbert, President Roland Johnson, TYLA President Jennifer Evans Morris*, Tim Mountz, Bill Ogden, President-elect Terry Tottenham, Barbara Young

Participating via teleconference: Chad Baruch*, Lisa Tatum

**Nonvoting member*

I. APPROVAL OF MINUTES

Upon motion properly made by President-elect Terry Tottenham and seconded by Talmage Boston, the minutes of the January 12, 2010 Executive Committee meeting were approved as distributed. Pablo Almaguer abstained from voting due to his absence from the January meeting.

II. REPORTS

A. Report from the President: President Roland Johnson reported that the professional liability insurance information was delivered to the Supreme Court after the January Board meeting with the Board's recommendation. The ABA will be taking a position on the ABA 2020 project, which will study what the practice of law will look like in the next decade. Texas hosted the Western States Bar Conference in San Antonio in March. President Johnson reported that he had a meeting with State Representative Senfronia Thompson to discuss her efforts in dealing with the problem of human trafficking in Texas, and ways in which the State Bar could help call attention to the issue. President Johnson also discussed AftertheBarExam.com, the YouTube contest, the Transition to Practice mentoring program, LeadershipSBOT, and reported on the Annual Meeting. President Johnson also reported that there will be several changes to the dues statement and to the ATJ contribution option, which will require members to opt-out of a \$150 contribution if they do not wish to donate to legal aid.

Closed Session: At 10:53a.m., President Johnson announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.074 for the purpose of discussing recommendations concerning the appointment of Legal Counsel.

Open Session: Upon return to open session at 11:28a.m., President Johnson announced that during the closed session, only matters relating to recommendations concerning the appointment of Legal Counsel were discussed. No action was taken in closed session.

President Johnson reported on the name change of the SOGII Section and the proposed new Collaborative Law Section.

1) **Bill Odgen moved for approval of the recommendation regarding the proposed Collaborative Law Section; Tim Mountz seconded, with one nay vote noted. Motion carried.**

OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Hyatt Regency Lost Pines
Lost Pines, Texas
April 16, 2010

The Board of Directors of the State Bar of Texas met in a regular session on April 16, 2010 at the Hyatt Regency Lost Pines Resort in Lost Pines, Texas. Chair David Fisher called the meeting to order at 9:00am, and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Steve Benesh introduced Pat Hazel from the Lakeside Mediation Center and St. David's Episcopal Church in Austin, who led the invocation. Allan DuBois led the pledges to the U.S. and Texas flags.

Present:

Board Members: J. Arnold Aguilar, Pablo Almaguer, Glenn Ballard, Jr., Tim Belton, Steve Benesh, Talmage Boston, TYLA Immediate Past President Sylvia Cardona, Theresa Chang, Guy Choate, Janna Clarke, Warren Cole, Jeanne C. (Cezy) Collins, David W. Copeland, Mark Daniel, Allan DuBois, Damon Edwards, Immediate Past President Harper Estes, Chair of the Board David Fisher, Susan M. Fisher, Deborah Gagliardi, Pamela Gilbert, Beverly Godbey, Mike Gregory, L. Bradley Hancock, TYLA President Cori Harbour, Lamont Jefferson, President Roland K. Johnson, Kyle Lewis, TYLA President-elect Jennifer Evans Morris, Timothy Mountz, Bill Ogden, Yvette Ostolaza, Tommy Proctor, Annette Raggette, Robert Roby, Mark K. Sales, Lisa Tatum, President-elect Terry Tottenham, Pat Wolter, Barbara S. Young

Liaisons*: Scotty Holloman, Justice Phil Johnson, Judge Larry Meyers

Section Representatives*: Chad Baruch, Stewart Gagnon, John Jansonius, Dan Micciche

Ex Officio*: Executive Director Michelle Hunter, CDC Linda Acevedo, Immediate Past Chair of the Board Joe Shannon, Jr.

Excused Absences: Steve Bolden*, Judge David Folsom*, Judge David Garcia**, John Hatchel, Randy Howry, Bert Jennings, Sam Lovelady, Travis Sales, John D. Sloan, Jr., Brian Webb*

(* = nonvoting)

**Hon. Steve Smith attended in place of Judge David Garcia.

I. CONSENT AGENDA ITEMS:

Upon motion properly made by Janna Clarke and seconded by Tim Mountz, the following items from the Consent Agenda were approved:

A. APPROVAL OF MINUTES:

- a. Approval of minutes of Board meetings conducted on *January 28-29, 2010*
- b. Ratification of actions taken at the following Executive Committee meetings:
 - 1) ***April 6, 2010:*** Approved minutes of the January 12, 2010 Executive Committee meeting

B. ITEMS FROM THE PRESIDENT:

Approval of appointments to the following entities:

- 3) **The J. Chrys Dougherty Legal Services Award:** Wafa Abdin, Catholic Charities of the Archdiocese of Houston-Galveston
- 4) **W. Frank Newton Award:** The Fowler Law Firm (Austin) and Marathon Oil Joe Simmons Legal Pro Bono Program (Houston)
- 5) **Pro Bono Coordinator Award:** Maria “Lulu” Villanueva, Texas RioGrande Legal Aid (San Antonio) [Exhibit B]

- b. Approval of recipients for the Nancy Garms Memorial Award to be presented at the Annual Meeting:

Judge Lora Livingston (Austin)

II. REPORTS:

A. Report from the President:

Closed Session: At 9:09a.m., Chair Fisher announced that the Board of Directors would meet in closed session as authorized by Texas Government Code, Section 551.074 for the purpose of discussing recommendations concerning the appointment of Legal Counsel.

Open Session: Upon return to open session at 9:15a.m., Chair Fisher announced that during the closed session, only matters relating to recommendations concerning the appointment of Legal Counsel were discussed. No action was taken in closed session.

President Roland Johnson reported that the Court sent the State Bar a letter on the professional liability insurance disclosure issue, congratulating the Board for their efforts on this arduous but important task, and stating that the information gleaned during the process gave the Court the tools to make an informed decision. [Exhibit C]

President Johnson reported that the ABA will be taking a position on the rankings of law schools by Newsweek, and on the ABA 2020 project, which will study what the practice of law will look like in the next decade. President Johnson also discussed AftertheBarExam.com, the YouTube contest, the Transition to Practice mentoring program, LeadershipSBOT, Annual Meeting, and Texas hosting the Western State Bar Conference in San Antonio held in March. President Johnson reported that he had a meeting with State Representative Senfronia Thompson to discuss her efforts in dealing with the problem of human trafficking in Texas, and ways in which the State Bar could help call attention to the issue. President Johnson also reported on the dues statement and the changes to the ATJ contribution option, which requires members to opt-out of a \$150 contribution if they don't wish to donate to legal aid.

President Johnson reported on the Ad Hoc Committee to Select Minority Directors, noting that the committee submitted four qualified names to the President, and gave background information on the final two selected.

Lisa Tatum moved for approval of the appointment of Toni Nguyen (Keller) and John Trevino (Dallas) as a minority member to the Board of Directors, for a three-year term effective at the Annual meeting of 2010 and expiring at Annual Meeting 2013; Tim Belton seconded. Motion carried. [Exhibit D]

B. Report from the Chair of the Board:

Chair David Fisher reported that at the January meeting, the Board voted to conduct the Chair election by written ballot. Chair Fisher explained the balloting process, and noted that if one candidate gets a majority of all votes cast, that candidate wins the election, and if no candidate gets a majority of all votes cast, a runoff election will be held between the two candidates getting the most votes. **After two rounds of voting were conducted, Chair Fisher announced that Pablo Almaguer has been named the 2010-11 Chair of the Board.** Almaguer made remarks.

OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Omni Fort Worth Hotel
Fort Worth, TX
Wednesday, June 9, 2010

The Board of Directors of the State Bar of Texas met in a regular session on June 9, 2010 at the Omni Hotel in Fort Worth, Texas. Chair of the Board David Fisher called the meeting to order at 1:30 p.m., and Executive Director Michelle Hunter called the roll. A quorum of voting Board members was present. Immediate Past President Harper Estes gave the invocation. All veterans that were in the room were asked to stand and lead the pledges to the U.S. and Texas flags.

Present:

Board Members: Arnold Aguilar, Pablo Almaguer, Tim Belton, Talmage Boston, TYLA Immediate Past President Sylvia Cardona, Theresa Chang, Guy Choate, Janna Clarke, Warren Cole, Jeanne Cezy Collins, David Copeland, Mark Daniel, Allan DuBois, Damon Edwards, Immediate Past President Harper Estes, Chair of the Board David Fisher, Susan Fisher, Deborah Gagliardi, Pamela Gilbert, Beverly Godbey, Mike Gregory, Brad Hancock, TYLA President Cori Harbour, John Hatchel, Randy Howry, Lamont Jefferson, Bert Jennings, President Roland Johnson, Kyle Lewis, Sam Lovelady, TYLA President-elect Jennifer Evans Morris, **Tim Mountz**, Bill Ogden, Yvette Ostolaza, Tommy Proctor, Annette Raggette, Mark Sales, Travis Sales, Immediate Past Chair of the Board Joe Shannon*, John Sloan, President Terry Tottenham, Pat Wolter, Barbara Young

Liaisons*: Judge David Garcia, Justice Phil Johnson

Section Representatives*: Chad Baruch, Steve Bolden, Stewart Gagnon, John Jansonius, Dan Micciche, Brian Webb

Excused Absences: Glenn Ballard, Steve Benesh, Judge David Folsom*, Scotty Holloman*, Judge Larry Meyers*, Rob Roby, Lisa Tatum

(* = nonvoting)

I. CONSENT AGENDA ITEMS

Upon motion properly made by Janna Clarke and seconded by Cori Harbour, the following actions were taken regarding the Consent Agenda items:

A. Approval of Minutes:

Approval of minutes of Board meeting conducted on *April 16, 2010*

B. Approval of 2010-2011 Presidential appointments to the following entities:

1) College of the State Bar Board, for three year terms effective June 1, 2010 through May 31, 2013:

Patricia Alvarez (Laredo)
Martha Susanne Bonilla (Corpus Christi)
Morgan Broaddus (El Paso)

John Charles Grace (Lubbock)
Veronica Jacobs (Houston)
Kurt Noell (Tyler)

For an unexpired term effective June 1, 2010 through May 31, 2012:

H. Administration Committee: President Johnson explained the rationale behind the changes to the General Counsel position. Tim Mountz reported further on the history of the position and duties of the General Counsel and how it relates to the Chief Disciplinary Counsel position. Mountz reported on the specifics of the Policy Manual provisions concerning Legal Counsel, including the duties and responsibilities of the position, which are primarily administrative, and the recent revisions made by the Administration Committee to Part IX, 9.01.02, Subsection B and C concerning the advice of, and hiring of, in-house legal counsel.

On behalf of the committee, Mountz moved for approval of the adoption of the amendments to the Policy Manual concerning Legal Counsel, including the latest changes outlined by the Administration Committee; no second needed. Motion carried. [Exhibit B]

Several questions were raised regarding the rationale behind the option to hire in-house counsel, to which Mountz responded that a staff legal counsel position is needed in terms of reviewing contracts, open meetings issues, etc., but those duties do not require the full-time efforts of an attorney.

I. Client Security Fund Subcommittee: Janna Clarke reported that the subcommittee responded favorably to 98 grant applications received from citizens that were mistreated by their attorneys, and awarded approximately \$483,000.

J. Member Services and Education: Chad Baruch reported that PDP met jointly with the CLE Committee on April 23. The New Directors' Orientation was held yesterday and this morning for incoming Board members and went very well.

K. Audit and Finance Committee: Warren Cole reported that the general fund is in very good shape and expenditures are down considerably. TexasBarCLE has a positive variance of almost 50%, and the financial audit begins August 9, with the internal audit starting around August 30. [Exhibit C]

L. Public Services and Education: Guy Choate reported that the Pro Bono survey will be distributed to Board members as soon as it is ready.

M. Section Representatives to the Board Committee: Steve Bolden thanked the Section Representatives for their hard work this year.

N. Supreme Court Liaison: Justice Phil Johnson complimented Lillian Hardwick and Kennon Peterson on their work with the changes to the disciplinary rules, and praised the Texas Lawyers for Texas Veterans' Initiative.

O. Judicial Section Liaison: Judge David Garcia reported that the Judicial Section has completed its transition of all of its administrative responsibilities from the Texas Center for the Judiciary to the State Bar. Ethics Opinion 484 has been the primary focus this year, and there should soon be a Texas Ethics Opinion as it relates to the judiciary.

P. Executive Director: Michelle Hunter made remarks on the 2009-10 Continuous Improvement Process recipients, and presented Roger Siebert from TexasBarBooks with the Employee of the Quarter Award.

There being no further business, the meeting was adjourned at 4:13pm. [Exhibit D]²

¹ Exhibits A through D are available at www.texasbar.com/bodcentral under Meeting Agendas and Minutes.

² Exhibit D is the State Bar Committee and Section End of Year Reports and for information only.