

DRAFT
OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Texas Law Center – Room 101
1414 Colorado St.
Austin, TX 78701
Friday, January 18, 2019

The Board of Directors of the State Bar of Texas met in a regular session on January 18, 2019 at the Texas Law Center in Austin, TX. Chair Laura Gibson called the meeting to order at 9:00 a.m., and Executive Director Trey Appfel called the roll. A quorum of voting Board members was present. Director Angelica Hernandez delivered the invocation, and Director Lisa Richardson led the pledges to the U.S. and Texas flags.

Present:

Board Members: Jerry Alexander, Christy Amuny, Jeff Chandler, Alison Colvin, Derek Cook, Rob Crain, Alistair Dawson, Leslie Dippel, Estrella Escobar, TYLA President-elect Victor Flores, Jarrod Foerster, Chair Laura Gibson, Charlie Ginn, Shari Goldsberry, Marc Gravely, August Harris, Angelica Hernandez, Rice Horkey, Wendy-Adele Humphrey, Sarah Keathley, Neil Kelly, David Kent, President Joe K. Longley, Bob McKnight, Rudy Metayer, Steve Naylor, Chris Oddo, Amie Peace, TYLA President Sally Pretorius, Curtis Pritchard, TYLA Immediate Past President Baili Rhodes, Lisa Richardson, Carmen Roe, Greg Sampson, Alan Sims, President-elect Randy Sorrels, Immediate Past President Tom Vick, Nicole Voyles, Brad Weber, Amy Welborn, James Wester, and James Woo.

Liaisons*: Judge Randy Clapp, Judge Barbara Hervey, Justice Debra Lehrmann, and Judge Karen Gren Scholer

Section Representatives*: Erich Birch, Wendy Burgower, Judge Elizabeth Copeland, Shelby Jean, and Matthew Kolodoski

Excused Absences: *Immediate Past Chair Rehan Alimohammad*, Michael Dokupil, Aldo Lopez, Fidel Rodrigues, Jr., Dinesh Singhal, and Judge Linda Thomas**
(* denotes nonvoting)

CONSENT AGENDA ITEMS:

Upon motion properly made by Director Estrella Escobar and seconded by Director Jeff Chandler, the following actions were taken regarding the Consent Agenda items {CONSENT TAB}¹:

C1. APPROVAL OF MINUTES:

(Minutes Tab) a. Approval of minutes of the Board meeting conducted on September 28, 2018

C2. ITEMS FROM THE PRESIDENT:

Approval of appointments to the following:

- a. **Tina Green (Texarkana)** for a term on the Continuing Legal Education Committee, effective January 18, 2019, through Annual Meeting, 2021
- b. **Dustin Brian Benham (Lubbock)** – for a term on the Pattern Jury Charge – General Negligence, Intentional Personal Torts & Workers Compensation Committee, effective January 18, 2019, through Annual Meeting, 2021

C3. ITEMS FROM THE PRESIDENT-ELECT:

Approval of appointments to the:

- a. **Texas Bar Foundation Board of Trustees for a threeyear term, effective June 1, 2019, through**

¹ Tabbed Materials are available at www.texasbar.com/bodmaterials.

May 31, 2022:

Melanie Bragg (Houston)
Diana M. Geis (San Antonio)

C4. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:

(Yellow Tab A) a. Approval of the Civil Liberties & Civil Rights Section's request to increase annual dues from \$15 to \$25

(Yellow Tab B) b. Approval of amended Environmental and Natural Resources Law Section by-laws

C5. OTHER ITEMS

(Yellow Tab C) a. Approval of the 2019-20 Preliminary Calendar/Holiday Schedule

(Yellow Tab D) b. Approval of resolution for statement of support for the judiciary

(Yellow Tab E) c. Approval of 2019 General and Run-off Election Timetable for President-elect and District Director

(Yellow Tab F) d. **Approval of resolutions honoring:**

1. Linda Acevedo
2. Justice Phil Johnson

I. REPORTS:

A. Remarks from the General Public:

Manuel Escobar and Gloria Leal addressed the board with statements from the Hispanic Issues Section. Carlos Leon of Austin addressed the board regarding a dismissed grievance.

B. Presentations of Resolutions:

President Joe K. Longley presented two resolutions on behalf of the board to Linda Acevedo and Justice Phil Johnson.

C. Report from the Executive Director:

Executive Director Trey Apffel reported on recent travels, meetings, and activities since the September 2019 meeting. Mr. Apffel gave a year-end report on staff activities and an update on online dues payments and TLAP staff changes. He awarded the staff excellence awards to Jerry Cisneros and Michael Slone. Mr. Apffel updated the board on Fleck v. Wetch. {TAB 1}

Immediate Past President Tom Vick made a motion to consider, discuss, and approve delegation of authority to the Ad Hoc Submission Committee and Litigation Subcommittee to make decisions related to the *Fleck* matter if needed before the next Board meeting. Director Rudy Metayer seconded; no discussion; motion carried.

D. Closed Session: At 9:52 am, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Section 551.071 for the purpose of consulting with legal counsel on legal matters, including regarding travel request by Laws Relating to Immigration and Nationality Committee and regarding pending or contemplated litigation (*Jovita Pardo v. the State Bar of Texas et al.*; *Patricia Baskette v. State Bar of Texas Insurance Trust and the Prudential Insurance Company of America*; *Fleck v. Wetch*, 2018 WL 6272044; and threatened litigation regarding voting in TYLA and State Bar statewide elections); and Section 551.074 to deliberate regarding personnel matter(s). With the exception of Board liaisons and section representatives, all other individuals including non-essential staff and other guests excused themselves from the closed session.

E. Open Session: At 10:04 am, the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating to consultations with legal counsel concerning litigation were discussed. No action was taken in closed session.

F. Swearing-in of New Board Member:

Justice Debra Lehrmann swore in new district 10, place 1 director Marc Gravely of San Antonio.

G. Report from the Chair:

Chair Laura Gibson reported on her recent travels, board member outreach efforts, TMCP updates and the director's report email. Chair candidates Jerry Alexander (Dallas), Alison Colvin (Brownsville), Leslie Dippel (Austin), and Neil Kelly (Houston) addressed the board. {TAB 2}

Chair Gibson conducted a vote to determine the method of voting to be used for the election of chair of the board at the April board meeting. Ms. Gibson declared that the method of voting will be done by written ballot at the April meeting in Georgetown.

H. Report from the President

President Joe K. Longley reported on his recent travels and the upcoming 2019 Annual Meeting. He gave an update on border issues. President Longley reported on the Committee Review Subcommittee review of all standing subcommittees. {TAB 3}

On behalf of the Committee Review Subcommittee, President Longley made a motion that the board approve the Subcommittee's recommendations regarding: eliminating the Child Abuse and Neglect Committee; Increasing the number of Advisory Members on the Patten Jury Charges and Real Estate Forms committees; adding the word "Insurance" to the PJC Business, Consumer and Employment Committee; formally eliminating the Texas Disciplinary Rules of Profession Conduct committee from the roster of committees; and changing the reporting date for committees to submit their goals and objectives to the State Bar from September 30 to September 1 of every year. Coming from a committee, no second was needed. No discussion; Motion carried.

President Longley reported on his view that unequal weight is given to TYLA votes cast in statewide officer elections. Discussion ensued. Members of the public addressed the board: Karin Crump, Berry Crowley, Bill Jones, Jo Ann Merica, Joe Lea, Karla Pascarella, Catherine Kyle, Gloria Leal, Lauren Sepulveda, and Philip Mack Furlow.

I. Report from the Supreme Court:

Justice Debra Lehrmann reported that the Court will be moving forward on February 21 with the unified bar exam. Justice Lehrmann reported that the Court repelled rule 78A, determining that it was no longer necessary. She also gave updates on judicial pay, the Judicial Commission on Mental Health, and the Court's upcoming travels for oral arguments in Texarkana.

Chair Gibson recessed the board at 11:54 am and the board returned at 12:25 pm.

J. Closed Session: At 12:25 pm, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Section 551.071 for the purpose of consulting with legal counsel on legal matters, including regarding travel request by Laws Relating to Immigration and Nationality Committee and regarding pending or contemplated litigation (*Jovita Pardo v. the State Bar of Texas et al.*; *Patricia Baskette v. State Bar of Texas Insurance Trust and the Prudential Insurance Company of America*; *Fleck v. Wetch, 2018 WL 6272044*; and threatened litigation regarding voting in TYLA and State Bar statewide elections); and Section 551.074 to deliberate regarding personnel matter(s). With the exception of Board liaisons and section representatives, all other individuals including non-essential staff and other guests excused themselves from the closed session.

K. Open Session: At 12:42 pm, the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating to consultations with legal counsel concerning litigation were discussed. No action was taken in closed session.

L. Director Alistair Dawson made a motion to reaffirm section 1.23 of the SBOT policy manual as written. Director Jerry Alexander seconded; no discussion; Director Dawson called for roll call vote; motion carried.

M. Report from the Commission for Lawyer Discipline/Chief Disciplinary Counsel:

Chair Noelle Reed reported that the Commission has selected a new Chief Disciplinary Counsel, Seana Willing. {TAB 7}

Director Marc Gravely made a motion that in accordance with Texas Government Code Section 81.076(g), the Board accept the Commission for Lawyer Discipline's selection of Seana Willing as Chief Disciplinary Counsel. Director Nicole Voyles seconded; no discussion; motion carried.

N. Federal Judicial Liaison:

Judge Karen Gren Scholer reported on the First Step Act of 2018, the Power Act, the current efforts to fill open benches, and the government shutdown.

O. Audit & Finance Committee:

Dan Graves, who is a Partner at the Weaver Risk Advisory Services firm, addressed the board on the Transparency Review conducted for the State Bar of Texas. {TAB 6}

On behalf of the Audit and Finance Committee, Director Jarrod Foerster made a motion that the board accept the State Bar of Texas Transparency Review Report as prepared by Weaver. No discussion; no second is needed; motioned carried.

Director Jarrod Foerster reported that the November financials show that the State Bar is doing well six months into the current fiscal year. As of November 30, the General Fund actual net revenues over expenditures and transfers totaled just under \$1.5 million. Mr. Foerster reported that the FY 2017-2018 internal audit is currently in the reporting phase of completion. He reported that the CPA firm of RSM has completed the financial audit for FY 2017-2018.

On behalf of the Audit and Finance Committee, Director Jarrod Foerster made a motion that the board accept the FY2017-2018 Financial Audit Report. Discussion ensued; no second is needed; motion carried.

Mr. Foerster reported that Barry Baughier, Senior Managing Consultant for PFM Asset Management LLC, presented the investment reports to the Audit & Finance Committee yesterday.

On behalf of the Audit & Finance Committee, Director Jarrod Foerster made a motion that the board accept the November 2018 State Bar Quarterly Investment Reports. No discussion; no second is needed; motion carried.

P. Report from the Court of Criminal Appeals:

Judge Barbara Hervey reported that the Court is back in session and that they had a formal investiture for Judge Michelle Slaughter. Judge Hervey reported that the court will be travelling to Sherman to hear oral arguments, and that in December 2018 the Court worked with the SBOT on a writ of habeas corpus summit. She provided updates on the Judicial Commission on Mental Health and the upcoming summit in October in Austin. Judge Hervey reported on the Commission on Forensics training and that she will be travelling to Washington, DC with CSAFE to speak to the Legislature about the education the Court does through the State Bar, with a grant from the Legislature to educate all of the judges, the defense bar and the prosecutors in this state.

Q. Committee on Laws Relating to Immigration & Nationality:

Director Charlie Ginn and Director David Kent reported their support of a planned LRIN meeting in Ciudad Juarez with the U.S. Consulate. The LRIN Committee Chair Linda Brandmiller addressed the board. {TAB 9}

Director Charlie Ginn made a motion to consider and discuss approval of Committee request for permission to travel for educational/outreach meeting with officials at the U.S. Consulate in Juarez, Mexico. Director David Kent seconded; discussion ensued; motion carried.

R. Report from the President-elect:

President-elect Randy Sorrels reported on his recent travels, updates on the Courthouse Access Badge Task Force, and the proposed formation of a State Bar of Texas Board of Directors social media engagement team.

President-elect Sorrels reported that the proposed General Fund budget includes revenues & receipts from reserves of \$43,953,714 and has an equal amount of expenditures, transfers out, and proposed Board Commitments. Mr. Sorrels reported that there is no need to allocate funds in the minimum reserve for new programs as the funding for new programs is already included in the proposed general fund operating budget for Fiscal Year 2019-2020. **{TAB 4}**

President-elect Sorrels made a motion that the Board consider, discuss, and approve SBOT 2019-20 proposed budget for publication in Texas Bar Journal. No second was needed; no discussion; motion carried.

S. Report from the Immediate Past President:

Immediate Past President Tom Vick reported on the launch of Board Effect, the State Bar of Texas Board Portal, which will allow directors and key staff members to securely access and manage digital governance documents, meeting materials, committee information, and calendaring.

T. Nominations & Elections Subcommittee:

Immediate Past-president Tom Vick reported that two nominees were chosen to run for State Bar President-elect, Cezy Collins of El Paso, and Larry McDougal, of Richmond. There are no petition candidates that we are aware of this year. Mr. Vick also reported that there are ten district director positions up for election this year and that the deadline to submit petitions to run is March 1st. The election will begin on April 1st and end on April 30. **{TAB 5}**

U. Policy Manual Subcommittee

Director Estrella Escobar reported that the Policy Manual Subcommittee met via teleconference on January 4, 2019, to hear and consider President Joe K. Longley's proposal regarding voting in TYLA and State Bar statewide elections. All nine members of the subcommittee were in attendance. Chair Laura Gibson and President-elect Randy Sorrels also joined the call. After discussion the subcommittee decided not to vote on a Policy Manual change in light of the fact that the question would be decided by the Board and that if Policy Manual change is recommended, it would be referred back to the Subcommittee for drafting.

V. Facilities Subcommittee:

Director Jerry Alexander reported that the current Dallas Regional Counsel's Office lease will expire on December 31, 2019.

Director Jerry Alexander made a motion that the board delegate to the Administration Committee the authority to approve the lease for the Dallas CDC Regional Office if further negotiations are needed. No second was needed; no discussion; motion carried.

W. Appeals Grant Subcommittee:

Director Chris Oddo reported that the subcommittee received three requests for authorization to seek outside funding from the Texas Bar Foundation. The Appeals and Grants Subcommittee unanimously approved all three of these requests. The subcommittee received one appeal from Rahul Malhotra of a decision by the Texas board of Legal Specialization. **{TAB 8}**

Director Chris Oddo made a motion that the Board approve the recommendation of the Subcommittee to deny the appeal submitted by Mr. Malhotra and uphold the decision of the Texas Board of Legal Specialization revoking his certification in personal injury trial law. No second was needed; no discussion; motion carried.

X. Professional Development Subcommittee:

Director Sarah Keathley reported that the CLE Committee and the Board PDP Subcommittee met December 6 to discuss new topics for CLE programs and publications, finances, and operations. Ms. Keathley reported that the State Bar is holding a free CLE event for solo and small firm practitioners on March 27 in Texarkana. Ms. Keathley reported that in

January, TexasBarCLE rolled a new program called Flash CLE Silver and that TexasBarBooks plans to launch the Texas Probate System Online in February.

Y. Committee on Disciplinary Rules and Referenda:

Lewis Kinard reported that the CDRR took significant efforts to develop the Committee's organizational process and procedures to ensure compliance with the statute. He reported The CDRR has taken significant steps to ensure that its processes are transparent and open to feedback from the public, including lawyers and nonlawyers. As required by statute, the Committee has voted to recommend three rule changes to the Board of Directors, which are included in the Rule Submission Packet. **{TAB 10}**

Z. DCAAP Subcommittee:

Section Representative Wendy Burgower reported that the DCAAP Committee met with Lewis Kinard, who gave a detailed report about what the CDRR has been doing, and outlined the specific rules they have submitted to the board. Ms. Burgower gave a brief overview of what the board's role will be.

AA. Client security Fund Subcommittee:

Director Lisa Richardson reported that the subcommittee met on Thursday, January 17th and they reviewed 30 claims, for a total \$208,060.06.

BB. Affordable Legal Services Subcommittee: No report.

CC. Legislative Policy Subcommittee:

Director Jeff Chandler reported that there have been no proposal changes for LGBT.

DD. Ad-Hoc Committee to Select At-Large Directors:

Director Angelica Hernandez reminded the Board that the Minority Director positions are now called "At-Large" Directors and are spelled out in the State Bar Act. Ms. Hernandez reported that there were 20 nominations for at-large director submitted to the State Bar. The Ad Hoc Committee reviewed these nominations this past Tuesday and determined that they would interview seven people from this list of 20 nominations. She reported that the committee will conduct these interviews on February 4th and will recommend four nominees to President Joe Longley for consideration. Of those four, President Longley will choose two, and submit those appointments to the Board for consideration at the April Board meeting.

EE. Section Representatives to the Board Committee: No Report.

FF. Texas Young Lawyers Association:

TYLA President Sally Pretorius reported that they will have their next board meeting in Houston. She reported that TYLA is holding a mock trial competition in San Antonio. She also reported on various TYLA projects: a diversity podcast, Bookshelves in Courtrooms, Compassion Fatigue, and Legal Practice Roundtable. Ms. Pretorius reported that the new TYLA website is up and running.

GG. Access to Justice Commission:

Trish McAllister reported that the Legal Access Division has been working on Texas Legal Answers and the NOVA program that was established last session that enables non-active lawyers to work pro bono. The Commission has been attending the Legislative Session to secure funding for legal aid. She reported that April 30 is the upcoming Veterans Gala.

HH. Judicial Section Liaison:

Judge Randy Clapp reported that the Judicial Section is working on convincing the Legislature to give raises to judges. The Judicial Compensation Committee met in September and is requesting a 15% pay raise for judges.

There being no further business, the meeting was adjourned at 1:59 pm.