

OFFICIAL
STATE BAR OF TEXAS
BOARD OF DIRECTORS

Friday, January 22, 2021 – 9:00am

*Via Telephonic Open Meeting Pursuant to Governor's March 16, 2020,
Temporary Suspension of Certain Open Meetings Provisions**

The Board of Directors of the State Bar of Texas met on January 22, 2021, via Zoom. Chair Charlie Ginn called the meeting to order at 9:19 am, and Executive Director Trey Apffel called the roll. A quorum of voting Board members was present. Director Alistair Dawson delivered the invocation, and Director Matthew Kolodoski led the pledges to the United States and Texas flags.

Present:

Board Members: Benny Agosto, Immediate Past Chair Jerry Alexander*, Jeff Allison, Andy Almanzán, Chad Baruch, Kate Bihm, Rebekah Brooker, David Calvillo, Luis Cardenas, Derek Cook, Rob Crain, Christina Davis, Alistair Dawson, Michael Dokupil, Dr. Maria Hernandez Ferrier, President-elect Sylvia Borunda Firth, Steve Fischer, TYLA Immediate Past President Victor Flores, Lucy Forbes, Chair Charlie Ginn, Shari Goldsberry, Marc Gravely, August Harris, TYLA President Britney Harrison, Wendy-Adele Humphrey, Yolanda Cortés Mares, President Larry McDougal, Carra Miller, Lydia Mount, Steve Naylor, Carmen Roe, Adam Schramek, Mary Scott, David Sergi, Alan Sims, Jason Smith, Todd Smith, Immediate Past President Randy Sorrels, Diane St. Yves, Andrew Tolchin, Santos Vargas, Michael Vasquez, Amy Welborn, James Wester, and Kim Pack Wilson.

Liaisons*: Judge Les Hatch, Denise Hoggard, Justice Debra Lehrmann, Judge David Morales and Judge Kevin Patrick Yeary

Section Representatives*: Carlos Cárdenas, Deborah Cordova, Matthew Kolodoski, Emily Miller, Kathryn Murphy, and Michael Smith

Excused Absences: Michael Hurst and TYLA President-elect Jeanine Rispoli
(* denotes nonvoting)

CONSENT AGENDA ITEMS {**Exhibit A**}¹:

C1. APPROVAL OF MINUTES:

(Materials) Approval of minutes of the Board meeting conducted on September 25, 2020

C2. ITEMS FROM THE PRESIDENT:

Approval of appointments to the following:

Texas Rio Grande Legal Aid, for a two-year term effective January 1, 2021, to December 31, 2022:

Joseph A. Connors, III (McAllen)
Cynthia Polinard (McAllen)

C3. ITEMS FROM THE PRESIDENT-ELECT:

Approval of appointments to the following:

Texas Bar Foundation Board of Trustees, for three-year terms, effective June 1, 2021, to May 31, 2024:

Alesha Buckner (Tyler)

¹ Exhibits are available at www.texasbar.com/board

June Deadrick (Houston - Public Member)
Joe Escobedo (McAllen)
Greg Sampson (Dallas)

For a year term, effective June 1, 2021, through May 31, 2022

Board Liaison:
Rebekah Steely Brooker (Dallas)

C4. OTHER ITEMS

- (Materials) a. Approval of the 2020-21 Preliminary Calendar/Holiday Schedule
- (Materials) b. Approval of 2020 General and Run-off Election Timetable for President-elect and District Director
- (Materials) c. Approval of resolution for statement of support for the judiciary
- (Materials) **d. Approval of resolutions honoring:**
1. Bobby D. Mims (Tyler)
 2. Kenda Culpepper (Rockwall)
 3. Hon. Brenda Mullinix (Richmond)
 4. Nathan Cash (Tyler)
 5. Shannon Dacus (Tyler)
 6. Buck Files (Tyler)
 7. Justice Paul W. Green (San Antonio)
 8. Hon. Michael Keasler (Austin)
 9. Kristina Ross (Tyler)

I. REPORTS:

- A. Remarks from the General Public:
The board heard oral comments from three members of the public relating to Agenda Item 4.
- B. Presentation of Resolutions:
President Larry McDougal presented presidential citations to: Bobby D. Mims, Kenda Culpepper, Hon. Brenda Mullinix, Nathan Cash, Shannon Dacus, Buck Files, Justice Paul W. Green, Hon. Michael Keasler, and Kristina Ross. **{Exhibit A}**¹
- C. Audit & Finance:
Director Alistair Dawson gave an update on financial reports, a general review of financial statements, and an update on the internal audits. **{Exhibit G}**

Director Dawson made a motion to accept the Fiscal Year 2019-2020 Annual Financial Report and financial audit opinion. Coming from a committee, no second was needed. Discussion ensued; motion carried.

Director Dawson made a motion to accept the November 2020 State Bar Quarterly Investment Report. Coming from a committee, no second was needed. No discussion; motion carried.

The board recessed 10:31 am and returned at 10:40 am.

- D. Report from the Chair of the Board:

¹ Exhibits are available at www.texasbar.com/board

Director James Wester made a motion to approve the consent agenda items. Director David Sergi seconded. No discussion; motion carried. {Exhibit A}¹

Chair Charlie Ginn reported on the board implicit bias training and provided a brief update on the district director newsletters. He then introduced the five chair candidates: Christina Davis, Adam Schramek, David Sergi, Diane St. Yves, and Santos Vargas. Each candidate was given four minutes to address the board.

Director Jason Smith made a motion to approve the method of voting to be used for the 2021-22 chair of the board elections during the April board meeting, including the use of electronic ballots. Seconded by August Harris. No discussion; motion carried.

E. Committee on Disciplinary Rules and Referenda:

Lewis Kinard updated the board on the upcoming Rules Vote/Referendum, Committee activities, and rules proposals. Discussion ensued. {Exhibit H}

F. Report from the Executive Director:

Executive Director Trey Appfel reported on continued COVID-19 support from TLAP, and pandemic court guidance. He reported that TexasBarCLE will continue to hold CLEs via webcast through April 30. He gave a brief update on the 2021 Rules Vote set to take place February 2 through March 4 and presented two staff excellence awards. Discussion ensued. {Exhibit B}

G. Report from the President:

President Larry McDougal reported on the first State Bar of Texas Together We Dine event that was held on December 9 for District 5. He shared that staff is working to schedule events in the remaining bar districts. Kenda Culpepper provided an update on the work of the Presidential Task force on Criminal Court Proceedings. Judge Michael Fields provided an update on the work of the Task Force on Public Protection, Grievance Review, and the Client Security Fund. Director David Sergi provided an update on the work of the Courthouse Access Badge Workgroup. President McDougal reported that there would be an Ad Review Task Force presented at the upcoming April board meeting and that the update on the potential purchase of real property at 1415 Lavaca St. will be discussed in closed session. {Exhibit C}

The board recessed at 11:51 am and returned at 12:16 pm.

H. Report from the President-elect:

President-elect Sylvia Borunda Firth provided an update on the Diversity Listening Session held on October 28; the Task Force on Diversity, Equity, and Inclusion; and the Committee Review Task Force. {Exhibit D}

President-elect Sylvia Firth made a motion to approve the SBOT 2021-22 proposed budget for publication in the *Texas Bar Journal*. Coming from a committee, no second was needed. Discussion ensued; motion carried.

I. Report from the Immediate Past President:

Immediate Past President Randy Sorrels gave a brief comment on the candidates for board chair and how impressed he was with their speeches. He asked that directors stay engaged.

J. Commission for Lawyer Discipline/Chief Disciplinary Counsel:

Commission Chair Gena Bunn gave an update on statistics from the Fiscal Year 2021 and provided more information on the grievance committee appointment process. {Exhibit E}

K. Nominations and Elections Subcommittee:

Immediate Past Chair Jerry Alexander reported on the Nominations and Elections Committee selection of the two president-elect candidates: Sara Dysart and Laura Gibson. Immediate-Past President Randy Sorrels reported that there are 10 bar director positions that are open and that the deadline to receive petitions will be March 1. Discussion ensued. {Exhibit F}

L. Report from the Policy Manual Subcommittee:

Director Adam Schramek provided an update on the Subcommittee's work on a code of conduct for officers and directors, and policies relating to increasing candidate vetting. Discussion ensued.

M. Discipline & Client Attorney Assistance Committee:

Director Steve Naylor reported that the Committee voted unanimously that no further action should be taken on ABA Model Rule 8.4(g) and that the Committee recommendation to the board is that the board not move the model rule forward in the rule making process. Mr. Naylor reported the Committee is also looking at Rule 5.08 of the Texas Disciplinary Rules of Professional Conduct and will report back with the Committee's progress. Discussion ensued.

N. Report from the Legislative Policy Subcommittee:

Section Representative Emily Miller reported that the Subcommittee completed its review of its section's proposed legislation last fall and that both houses of the legislature are on recess until January 26. Ms. Miller thanked KaLyn Laney and Kristina McGuire for their diligence in the legislative review process and she encouraged the board to follow the Governmental Relations Department's "Friday Update".

O. Administration Committee:

Director James Wester did not have an update on the Administration Committee but thanked Director Shari Goldsberry for all of her hard work with the SBOT Strategic plan.

P. Performance Measures & Strategic Planning Subcommittee:

Director Shari Goldsberry reported that the updated Strategic Plan is a culmination of hard work and input during the Board retreat in July. She thanked Elizabeth Derrico, the Subcommittee, and former Director David Kent for their hard work. Ms. Goldsberry reported that Ms. Derrico was able to help capture the essence of the State Bar's operations and strategic goals, and was able to provide a template for setting priorities going forward. {Exhibit I}

Director Shari Goldsberry made a motion that the Board approve the Strategic Plan for 2021 to 2026. Coming from a committee, no second was needed. No discussion; motion carried.

Q. MCLE Committee:

MCLE Committee Chair John Boyce gave an update on the consideration of making implicit bias training an MCLE requirement and the possibility of categorizing CLE courses on the subject of mental health, substance use, and wellness as eligible for legal ethics professional responsibility credit. He shared that the Committee's recommendation would be that these topics be made eligible for MCLE ethics credit on an optional basis. Discussion ensued.

R. Client Security Fund:

Director Rob Crain reported that the Subcommittee met in November and reviewed 17 cases and accepted 9, with the approval of \$69,759.03. The Subcommittee met again January 20, and reviewed 46 cases, accepting 35 of those for a total of \$283,518.98. Mr. Crain reported to date for the State Bar year disbursements totaled \$460,278.01.

S. Report from the Ad Hoc Committee to Select At-Large Directors:

Director Wendy-Adele Humphrey reported that the deadline to receive nominations was December 1 and that the Committee received a total of 37 nominations. She reported that the Committee met to review the nominations and narrowed it down to eight candidates to interview via Zoom on February 10 and then will narrow it down to two candidates to put forth to President Larry McDougal.

T. Report from the Appeals-Grant Review Subcommittee:

Director Andy Almanzán reported that the Subcommittee received two requests for authorization to seek outside funding by Law Focused Education, Inc for authorization to seek grant funding from the Texas Bar Foundation and by the Texas Young Lawyers Association to seek funding from the Texas Bar Foundation for their project called "Civility in Government, Law and Leadership". {Exhibit J}

U. Report from the Professional Development Committee:

Director Rebekah Brooker reported that TexasBarCLE has converted all live seminars to webcast format through April 30 and that TexasBarBooks has created a new website, texasbarpractice.com.

V. Section Representatives to the Board Committee:

Section Representative Emily Miller reported that the State Bar sections have been participating in the Audit and Finance Committee's multi-year audit plan and that the auditors completed their information gathering in December. She thanked Tracy Jarratt and the accounting team and Tracy Nuckols and the sections staff for all their help. Ms. Miller reported that once the draft report is received, it will be presented at the February 26 Council of Chairs meeting and that the final report will be provided to the full board of directors in April.

W. Report from the Insurance/Member Benefits Subcommittee:

Director Carmen Roe gave an update on the Texas Bar Private Insurance Exchange and non-insurance member benefits. Discussion ensued.

X. Justice in Leadership Workgroup:

Director Carmen Roe reported that the Workgroup has met five times since its creation and with the help of the Public Information Department, has reviewed all written and in-person public and member comments and ideas presented from the July 2020 special called meeting. She reported that the Workgroup has split into two subcommittees to focus on four goals to find areas where they can work to effect the most amount of change.

Y. Texas Young Lawyers Association:

TYLA President Britney Harrison provided an update on the current TYLA projects: "Guide to Garnishments", "Consequences of Vaping", and "Evidence and Predicates Guide". She reported that on January 15, the TYLA Nominations Committee interviewed directors to narrow down and determine spots for the TYLA Executive Committee. **{Exhibit K}**

The board recessed at 2:19 pm and returned at 2:30 pm.

Z. Director Proposal:

Director Steve Fischer explained a request for referral a proposal regarding the Texas Lawyer's Creed to the Task Force on Diversity, Equity, and Inclusion. **{Exhibit L}**

Director Andrew Tolchin made a motion for referral of the proposal to the Task Force. Director Carra Miller seconded. Discussion ensued; motion carried.

AA. Discussion: Ombudsman Report:

The Ombudsman for the Attorney Discipline System, Stephanie Lowe, presented the annual report which covers activity of the Ombudsman's Office from September 1, 2019, through August 31, 2020. **{Exhibit M}**

BB. Supreme Court Liaison:

Justice Debra Lehrmann reported that there have been six new emergency orders for a total of 33 since last March, and that the Governor and legislative leadership agreed to dedicate over \$171 million in CARES Act funding for rental assistance and eviction diversion. Justice Lehrmann reported that since March 24, 2020, there have been over 780,000 remote proceedings and jury trials, with almost 2.4 million participants. She reported that the Board of Law Examiners is looking at what to do for the upcoming exam in February and whether that will be given online. She reported that the Court looked at Rule 169 and that the Court has increased the amount in controversy from 50,000 to 250,000 for civil actions in county court. Justice Lehrmann also reported the Supreme Court created a Remote Proceeding Task Force of 20 judges.

CC. Court of Criminal Appeals Liaison:

Judge Kevin Yeary reported that the Court continues to decide the cases before it as expeditiously and as efficiently as possible. The Court continues to conference on cases via Zoom and entertain oral arguments on Zoom. He reported that Judge Michael Keasler retired after 22 years on the Court and that Judge Jesse McClure will be replacing Judge Keasler.

DD. Judicial Section Liaison:

Judge Les Hatch reported that the Judicial Section is up and running with its legislative committee and the primary purpose of the section is to monitor proposed legislation that affects the judiciary.

EE. Federal Judicial Liaison:

Judge David Morales provided an update on the Fifth Circuit, and the different judicial districts.

FF. Out of State lawyer Liaison:

Director Denise Hoggard reported that a letter was sent out to the out-of-state members of the bar.

GG. Report from General Counsel: No report.

HH. Report from Legal Counsel: No report.

II. Closed Session: At 3:15 pm, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Section 551. for the purpose of consulting with legal counsel, to include discussion regarding all pending or any contemplated litigation (including regarding *McDonald et al. v. Sorrels et al* (No. 20-50448 in the Fifth Circuit Court of Appeals) and *LawHQ v. Willing* (No. 20-cv-00085 in the Western District of Texas)); Section 551.072 to deliberate regarding the potential purchase of real property at 1415 Lavaca St. in Austin; and Section 551.074 to deliberate regarding personnel matter(s); 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.

JJ. Open Session: At 3:43 pm, the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating to seeking advice of board counsel all pending or any contemplated litigation (including regarding *McDonald et al. v. Sorrels et al* (No. 20-50448 in the Fifth Circuit Court of Appeals) and *LawHQ v. Willing* (No. 20-cv-00085 in the Western District of Texas)); Section 551.072 to deliberate regarding the potential purchase of real property at 1415 Lavaca St. in Austin; and Section 551.074 to deliberate regarding personnel matter(s); and Section 551.074 to deliberate regarding personnel matter(s).were discussed.

There being no further business, a motion to adjourn was made by Director August Harris and seconded by Steve Naylor. The meeting was adjourned at 3:45 p.m.

Exhibits referenced in these minutes are available online at www.texasbar.com/board