

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Icon Hotel
Houston, Texas
January 20, 2006**

The Board of Directors of the State Bar of Texas met in a regular session on January 20, 2006, at the Icon Hotel in Houston, Texas. Chair of the Board Tom Godbold called the meeting to order at 9:00 a.m., and Executive Director John Edwards called the roll. A quorum of voting Board members was present. Board Member Pauline Higgins delivered the invocation.

Present:

Board Members: Judge Ernie Aliseda, Michael D. Atkins, Dr. Fred E. Aurbach, Cynthia J. Barela, Demetrius Bivins, Michael J. Black, Robert A. Black, Ronald E. Bunch, Russell G. Burwell, Michael Connelly, Judge Jim Coronado, Karin R. Crump, Martha S. Dickie, J. David Dickson, William D. Elliott*, John D. Ellis, Jr., Edward F. Fernandes, F.R. (Buck) Files, Jr., Kelly Frels, Rodolfo Garcia, Lloyd M. Garland M.D., Tom Godbold, David O. Gonzalez, Jim Hall, Pauline E. Higgins, Rhonda F. Hunter, Roland K. Johnson, Bill Kroger, Michael D. Marin, David R. McAtee, Robert D. Miller, Mickey R. Redwine, Lee Ann Reno, Rocky Robinson, Eduardo Roberto Rodriguez, Elizabeth Rogers, N. Henry Simpson III, Michael C. Smith, Sandra L. Stewart, G. Thomas Vick, Jr., Michele Wong-Krause

Participating via teleconference: Joette Furlough*

Liaisons*: Judge Lawrence E. Meyers, Judge Michael H. Schneider, Justice Dale Wainwright, Judge Laura Weiser

Section Representatives*: Pat E. Allison, W. David East, Carolyn F. Moore, Judy L. Ney, Stephen J. Smith

Ex Officio*: John Edwards, Patricia A. Moore, John A. Neal

Excused Absences: Carmen I. Perez, Laura Bellegie Sharp, Lisa M. Tatum, G. Allan Van Fleet, Travis Vanderpool

(* = nonvoting)

I. REPORT FROM THE CHAIR OF THE BOARD

A. General Report: Chair of the Board Tom Godbold introduced Randy Sorrels, President of the Houston Bar Association, who welcomed the Board to Houston and made remarks about the Houston Bar Association.

B. Consent Agenda Items: **Upon motion properly made by Kelly Frels and seconded by Martha Dickie, the following Consent Agenda items were approved:**

1. Approved the minutes of the Board meeting conducted on *September 23, 2005*
2. Ratified actions taken at the following Executive Committee meetings:

November 3, 2005: Approved minutes of the September 1, 2005 Executive Committee meeting
January 11, 2006: Approved minutes of the November 3, 2005 Executive Committee meeting
3. Approved the appointment by President Eduardo Rodriguez to the **Texas RioGrande Legal Aid**, for unexpired two-year term effective January 1, 2006 through December 31, 2007:

Ric Lara (Brownsville)

4. Approved appointments by President-elect Martha Dickie to the **Texas Bar Foundation's Board of Trustees:**

for three-year terms, effective June 2006 to June 2009:

<i>lawyers:</i>	<i>public member:</i>
Mark A. Shank (Dallas)	Frances A. King (Houston)
Hon. Jim Coronado (Austin)	

5. **Items from State Bar Committees and Sections:** Approved the request by the –
 - a) State Bar Government Lawyers Section to amend its bylaws (**Exhibit A**)
 - b) State Bar Judicial Section to amend its bylaws (**Exhibit B**)
 - c) State Bar Business Law Section to amend its bylaws (**Exhibit C**)
6. Approved the (Revised) 2006-2007 Preliminary Calendar/Holiday Schedule (**Exhibit D**)
7. Approved the State Bar Legislative Timetable (**Exhibit E**)
8. Approved **resolutions** honoring the following:
 - a) **U.S. District Judge Howell Cobb (Beaumont)**
 - b) **Veronica Jacobs (Houston)**
 - c) **Houston Bar Association (Houston)**

II. REPORT FROM THE PRESIDENT:

A. General Report:

1) President Rodriguez reported on his trip to Costa Rica in October, noting that he attended a teacher training session on promoting democratic principles in teaching, and visited a underprivileged school where the students were building their own library; he mentioned if anyone would like to donate books to the school, they should give them to Jan Miller. The students also felt that child abuse is a major issue facing children in Costa Rica, and they have put together a program and a report that addresses the abuse of children in Costa Rica. President Rodriguez also visited with the Costa Rican Bar Association to help develop CLE programs for lawyers there.

2) President Rodriguez reported that the Watkins Committee has completed their assignment and sent their adoption of ABA rules recommendations to the Supreme Court, and a referendum will be decided after a presentation is done of all the rules to the Supreme Court sometime in 2006. The two rules pending for possible referendum are the Jimmy Brill deceased solo practitioner rule and the intimacy with client rule passed by the Board in 2000 but now with changes from the Watkins Committee.

3) President Rodriguez reported that a task force has been created to consider the issue of senior lawyers and how they can help the lawyers and public of Texas. The task force will consist of 15 members, chaired by John W. Clarke of Dallas, and will consider ways senior lawyers can come together to assist each other and younger lawyers. He also asked for recommendations for appointments to the task force.

4) President Rodriguez reported that a task force is being created to accumulate ideas and strategies related to the issue of hiring, retention and promotion of women and minority attorneys in corporations and firms. The task force will consist of 17 members, chaired by Nina Cortell and co-chaired by Carla Herron. He also asked for recommendations from the Board on appointments to this task force, and will plan to have the task force named and instructions given to them by the end of January.

5) President Rodriguez reported that the State Bar will be having a special session on taxation for funding public education, and a meeting was held with TADC and TTLA leadership to discuss ways to keep membership informed. As a result of that meeting, the State Bar of Texas Statement of Excellence was drafted as a statement of the State Bar's position concerning education and taxation to fund adequate education (**Exhibit F**).

B. Action Items:

1) **President Rodriguez moved for approval of the Consumer Law name change to the Consumer and Commercial Law Section; Martha Dickie seconded.**

Steven James, current chair of the Consumer Law Section, spoke in favor of the name change, and Derek Carson from the Business Law Section spoke against the name change. Judy Ney noted that the Section Representatives to the Board committee did not take a stance or vote on the name change, but the Council of Chairs did approve the name change. After some discussion, a hand vote was counted; 18 Board members voted in support of the name change, 17 nays were counted. **Motion carried (Exhibit G).**

2) President Rodriguez noted that Richard Pena is the chair of the Immigration Committee of the ABA, and his committee has asked the State Bar to co-sponsor seven proposed resolutions. Martha Dickie noted that there might be a Keller issue if the Bar decides to sponsor the resolutions, and after discussion, the item was tabled; no action was taken (**Exhibit H**).

3) **President Rodriguez moved for adoption of the State Bar of Texas Statement of Excellence; Martha Dickie seconded. Motion carried.**

4) President Rodriguez asked to withdraw number four under Item 6B (to vote on the nominee for State Commission on Judicial Conduct); no action was taken.

III. REPORT FROM THE PRESIDENT ELECT:

President-elect Martha Dickie reported that she is formulating an initiative on helping lawyers with mental health issues, and she has received much support from the Board. She has been working with TLAP, the DCAAP committee and the Commission for Lawyer Discipline to find innovative ways within the rules to continue to protect the public but to find ways to deal with these issues when recognized.

IV. REPORTS FROM BOARD COMMITTEES/SUBCOMMITTEES:

A. Nominations and Elections Subcommittee: Co-Chair Kelly Frels reported that the N&E Subcommittee had selected two nominees for the President-elect candidacy, and discussed the election campaign rules, one of which was that any member of the Board is prohibited from being a part of, endorsing, or participating in the campaign for President-elect. The two candidates were introduced – Andrew Strong by David McAtee, and Gib Walton by Pauline Higgins – and allowed to give acceptance remarks.

On behalf of Kelly Frels' motion to approve the candidates for President-elect, Godbold asked the Board for acclamation of the two candidates as nominees for President-elect of the State Bar of Texas, and hearing no opposition, both candidates were approved (Exhibit I).

B. Administration Committee: Chair Roland Johnson report that the committee has four action items as recommended for approval at the Executive Committee; the evaluation procedure for the ED and GC of the State Bar, changes to the 5-year Real Estate Strategic Plan, performance measures, and the two leases with the Bar Foundation and TCLEP. **On behalf of the committee, Johnson moved for approval of the following (Exhibit J):**

1) **The new Executive Director and General Counsel Evaluation policy. Motion carried.**

- 2) **Financial and design changes to the Five-year Real Estate Strategic Plan (to accommodate potential future additional staffing needs and the landscaping of floors 3-6). Motion carried.**
- 3) **Proposed State Bar Performance Measures for fiscal year 2006. Motion carried.**
- 4) **Ratification of leases for the Texas Bar Foundation and the Texas Center for Legal Ethics and Professionalism. Motion carried.**

C. Finance Subcommittee: Co-Chair Michael Connelly presented a brief overview of the financial highlights, stating that halfway through the fiscal year, total revenues at \$17,411,696 which is over budget, total expenditures at \$15,211,267 which is under budget, means there is a net excess in the budget of \$2,200,429 (**Exhibit K**). Connelly also reported that the Annual Meeting fund balance has increased to \$347,418 as of May 31, 2005, and the Finance subcommittee would recommend to the Board that a portion of that fund be designated for the Law Center building project. **On behalf of the committee, the following actions were taken separately:**

- 1) **Connelly moved for approval of the transfer of \$280,000 of the Annual Meeting fund to the Law Center project. Motion carried.**
- 2) **Higgins moved for acceptance of the financial audit for fiscal year ending May 31, 2005. Motion carried (Exhibit L).**
- 3) **Higgins moved for acceptance of the quarterly investment reports for quarters ending August 31, 2005. Motion carried (Exhibit M).**

D. Budget Subcommittee: Chair Martha Dickie presented the proposed 2006-07 State Bar budget, recommended at \$41,695,916. Included in the budget is \$400,000 for a technology fund contribution; \$250,000 for Client Security fund contribution; \$100,000 for referendum; \$400,000 reserve; 4% merit increase for employees, all of which nets out to a reduction of one full-time employee. **On behalf of the Budget subcommittee, Dickie moved for approval of the following:**

- 1) **State Bar 2006-07 budget for publication in the *Texas Bar Journal*. Motion carried. (Exhibit N)**
- 2) **Minimum Reserve Policy recommendation at \$5,510,000. Motion carried.**
- 3) **Designation of \$1,619,009 for the Texas Law Center projects. Motion carried.**

E. Liaison Reports:

1) Supreme Court Liaison Justice Dale Wainwright reported that there has been some misunderstanding between the Grievance Oversight Committee and the Commission for Lawyer Discipline about what information can be passed back and forth between them, and there will be a meeting with Jack Balasia and Justice Scott Brister to work out those differences. The Court promulgated changes to the rules involving foreign legal consultants, which will help bring Texas more in line to register, identify, and facilitate a method to make that registration process simple because of the commercial and business component tied to it. The Watkins task force did a comprehensive overview of the ethical rules governing attorneys in Texas, and the Court will study it and decide which provisions need to be implemented.

2) Court of Criminal Appeals Liaison Judge Larry Meyers reported that new clerk Louise Pearson is doing a great job, and the Court has taken up their 2006 term, with a number of capital cases they are taking on. Their grant committee and county judges have been extremely busy trying to get their grant monies lined up, and the Advance Criminal Law Seminar is in the planning stages, with the seminar being held in mid-July in Dallas, also the Court is in the middle of election time.

3) Federal Judicial Liaison Judge Michael Schneider reported that there are four districts in Texas; he is in Tyler in the eastern district. The district was touched significantly this year by the hurricanes; Katrina shut down the 5th Circuit Courts of New Orleans, which were moved to Houston and stayed there until just recently, and Rita shut down the courts in Beaumont. Judge Schneider also noted that the federal courts are in dire financial circumstances because they are locked into paying rent to the General Service Administration, and rent increases 17.5% a year.

4) Judicial Section Liaison Judge Laura Weiser reported that the Judicial Section has been working with the State Bar in planning a special panel program for the Annual meeting this year called “You Can’t Always Get What You Want, But You Can Get What You Need – Promising Practices From the Bench and Bar”; the Board meeting of the Judicial Section will be scheduled during the Annual Meeting so that more judges will be available to attend.

5) Out-of-State Lawyer Liaison Joette Furlough, participating by teleconference, had no report.

F. Discipline and Client Attorney Assistance Committee: Co-Chair Jim Hall reported that the DCAAP committee has an action item that deals with an issue in the rules with regard to the appointment of replacements in a vacancy. The Commission, the DCAAP Committee, and the Executive Committee have reviewed and passed on the language.

On behalf of the committee, Hall moved for approval of the amendments to Part II of the Texas Rules of Disciplinary Procedure regarding the appointment of grievance committee members to fill vacancies. Motion carried (Exhibit O).

G. Section Representatives to the Board Committee: Chair Judy Ney noted that the Section Reps Committee had been charged with developing a Mission Statement, they are recommending it to be accepted by the Board and the language is generic so that it can cover all areas. Ney showed a PowerPoint that explained what Sections are, what they offer and what they deal with, and Stephen Smith gave updates on various Sections reports.

President Rodriguez moved for adoption of the Section Representatives to the Board Committee Mission Statement; Martha Dickie seconded. Motion carried (Exhibit P).

H. Appeals-Grant Review Subcommittee: Chair Russell Burwell reported that the committee unanimously approved TYLA’s request to submit a grant to the Texas Bar Foundation for their “Kids on the Bus” Video, and he discussed the appeal of denial of recertification of TLBS in Consumer and Commercial Law; the subcommittee asked that there be no action at this time to allow for time to draft a compromised resolution to the appeal (Exhibit S).

I. Policy Manual Subcommittee: Chair Bob Black requested that the electronic advertising item be pulled and deferred to a later meeting. The new policy regarding Section name changes, which deals with the course of action a Section must do to change their name, and the revised policy regarding the Disaster Response Team, which includes the TYLA President or person authorized or designated by the TYLA, were passed through the Executive Committee and are being recommended to the Board. **On behalf of the committee, Black moved adoption of the following:**

- 1) **New Policy Manual Section 5.01.01 concerning Section Name Changes. Motion carried (Exhibit Q).**
- 2) **Revised Policy Manual Section 7.01.04 concerning the Disaster Response Team. Motion carried (Exhibit R).**

J. Ad hoc Committee to Select Minority Directors: Chair Demetrius Bivins reported that the committee has ten great candidates, two of which will be selected to go to the President, and all candidates will be interviewed on Saturday, January 28.

K. Member Services & Education Committee: David Gonzalez reported on the Technology Oversight subcommittee, noting that the subcommittee had approved the following items; a capital purchase replacement strategy for the State Bar's computer/printer equipment, a CDC document imaging software system, and the conversion of microfiche files to digital media format for use under the new format system.

L. Professional Development Subcommittee: Chair Buck Files reported that State Bar CLE had a significant increase in revenues from last year, and noted that the "Prairie Dog Lawyers Advance Criminal Law" seminar was held in January in Lubbock, which Pat Nester set up a web cast for. Files also noted that he has been speaking with CLE Committee Chair David Keltner in coordinating with Pat Nester on online CLE and web casting.

M. Public Services & Education: Chair Judge Jim Coronado reported that the Pro Bar insurance program is in place, and the Standing Committee on Legal Services to the Poor in Civil Matters is moving forward with the telephone survey to determine how much Pro Bono is going on by Bar lawyers. The Standing Committee on Legal Services to the Poor in Criminal Matters will present the proposed Guidelines for the Appointment of Counsel in Capital Cases to the Board for approval in April, which has been passed through the Court for input, and the standing committee is also asking that a resolution be presented to the Bar that recommends that the Board consider a variety of actions to address inadequate counsel in death penalty cases, as well presenting proposals that encourage ways the Bar can be as involved in legal services to the poor in criminal matters as they are in civil matters.

N. Section Representatives Task Force: Chair David Dickson reported that the task force will meet in February to discuss defining the relationship between Section Reps and the Board; increasing the Section Reps committee from six to seven, where should this representative come from, whether or not to use the Section Reps themselves to act as liaisons to the various Sections, and who and how expenses should be reimbursed for these meetings.

O. Report from Section Liaison: Business Law and Corporate Counsel Section Liaison Pauline Higgins reported that the Corporate Law Section were overjoyed that a Board liaison attended their section meeting, which she attended in Galveston a few months before. She also attended the last Business Law Section meeting and noted that they feel that the Board focuses only on litigation and not on transactional and corporate practices, and they do not feel that they are being adequately represented.

P. Personnel Matters: **Closed Session**: Godbold announced at 2:21p.m. that the Board of Directors will meet in closed session, as authorized by Texas Government Code, Section 551.071 and 551.074 for the purpose of discussing personnel matters.

Open Session: Upon return to open session at 3:21p.m., Chair Godbold announced that during the closed session, only items pertaining to personnel matters were discussed. No action was taken in closed session. **In open session, Kelly Frels moved for the following:**

- 1) **Approval of the severance package for Pat Hiller on the terms discussed in close session and delegate the authority to finalize the agreement to the Executive Director; Bob Black seconded. Motion carried.**
- 2) **To delegate the responsibility to the currently composed Evaluation Committee to complete the evaluation of the Executive Director; Henry Simpson seconded. Motion carried.**
- 3) **To delegate the authority to the currently constituted Evaluation Committee to accept the resignation of the General Counsel; Henry Simpson seconded. Motion carried.**

Q. Chair of the Board Elections: Chair of the Board Godbold indicated that six second-year directors had submitted their names as candidates for the 2006 Chair of the Board – Bob Black, Ron Bunch, Michael Connelly, Buck Files, Jim Hall, and Michele Wong Krause – and they were allowed to give acceptance remarks (**Exhibit T**).

Rhonda Hunter moved for the Board to vote for Chair of the Board at the April 21 Board meeting by written ballot; David McAtee seconded. By a show of hands, the motion carried.

Demetrius Bivins asked if it would be possible to eliminate more than one person at each round for the method of voting; and General Counsel Patricia Moore noted that this discussion came up in the past and explained the reason for dropping one off at each time was because the people who may have voted for the person who was dropped off might not necessary have voted for the person who pulled the highest or second highest vote, and the Policy Manual would need to be changed in order to do it a different way.

R. Texas Access to Justice Commission: Chair Jim Sales reported that it has been a year and three months since the Commission discussed and adopted a strategic five-year plan for the long range good of the delivery of legal services to the Poor, which includes nine major initiatives designed to enlarge and produce more representation for low income and poor Texans. The underlying theory in this Commission plan to enhance the delivery of legal services is based on the principle that the profession is not utilizing resources and lawyers effectively. Sales reported that corporate counsel, law schools, the effort to engage and expand our legal delivery services to areas of underserved, and engaging a consultant that will estimate their ability to succeed in increasing funding, are the four major initiatives the Commission will hope to have progress on by the end of 2007 (**Exhibit U**).

S. Commission for Lawyer Discipline/Chief Disciplinary Counsel Update: Commission Chair Mark White reported that the Commission and the co-chairs of the DCAAP committee met in October for a two-day training workshop to discuss ways to handle and evaluate cases, and they are looking forward to working with Martha on the Alternative Discipline taskforce. The Commission and the DCAAP committee will also be working to expand the role of CAAP, as well as looking at creative ways to dispose of minor cases after just cause is found and implementing a program for that in order to make the Commission more efficient and more streamlined (**Exhibit V**).

T. Texas Young Lawyers Association Report: TYLA President Lee Ann Reno highlighted the various projects ongoing and planned by the Texas Young Lawyers Association, including: Access to Justice initiatives which involves encouraging young lawyers to do Pro Bono work; their “Kids in the Crossfire” video on the impact of divorce on children; their Law Focused Education Committee; the TASA conference in Austin on January 30; National Trial Competition in Dallas on March 22; “Crossroads – Mapping Out the Rest of Your Career” CLE program in Dallas on March 3; “Ten Minute Mentor”; and their federal court practice CLE seminar in May and June in districts across the state as well as various member services and road shows.

U. Executive Director Report: John Edwards reported that we have started collecting data from various Board departments; the CAAP program has handled over 31,000 inquires over this fiscal year; LRIS made 41,498 referrals in the first seven months of the year, 7000 of which have been referred to local bars, and 23,000 have been referred directly to lawyers; TBJ advertising revenues averaging \$90,000 per month; Texas Bar website has had 70,000 unique visitors; CLE has averaged 1500 live, 2500 online, and 800 web cast attendees a month. Kathy Reese was recognized as Employee of the Month for 24 years of service in CLE.

V. General Counsel Report: Patricia Moore noted that she would like the litigation case that was filed in Travis County district court to get through before she leaves the Bar, which would protect the personal addresses of members, and she also noted that she has been researching whether or not the Disciplinary Rules procedure that was passed at the meeting will require a referendum. She thanked everyone for their confidence in her and noted that she will be taking time off after her resignation.

W. Annual Meeting Resolutions Committee Sergeant-at-Arms: Per Board policy, Chair Godbold requested the TYLA President to furnish a sufficient number of TYLA members to act as sergeants-at-arms at the Resolutions Committee at the 2006 State Bar annual meeting.

There being no further business, the meeting was adjourned.

