

**OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Camino Real Hotel
El Paso, Texas
January 26, 2007**

The Board of Directors of the State Bar of Texas met in a regular session on January 26, 2007 at the Camino Real Hotel in El Paso, Texas. Chair Bob Black called the meeting to order at 9:00am, and Executive Director John Edwards called the roll. A quorum of voting Board members was present. Board Member Mickey Redwine delivered the invocation. Chair Black asked to pause for a moment of silence in honor of Justice Wainwright's father who passed away. Sheryle Patterson, who was resigning after seven years of work in the Finance division, was presented with a resolution.

Present:

Board Members: Judge Ernest Aliseda, Michael D. Atkins, Cynthia J. Barela, Demetrius K. Bivins, Chair Robert A. Black, Deborah Bullion, Ronald E. Bunch, Bill Burch, Michelle Cheng, Michael Connelly, Karin R. Crump, President Martha S. Dickie, J. David Dickson, John D. Ellis, Jr., Edward Fernandes, F.R. (Buck) Files, Jr., Rodolfo Garcia, Lloyd M. Garland, M.D., Immediate Past Chair Tom Godbold*, David O. Gonzalez, Jim Hall, Van Hilley, Rhonda F. Hunter, Bill Kroger, Michael D. Marin, William W. Miller, Jr., Robert D. Miller, Timothy W. Mountz, J. Goodwille Pierre, Mickey R. Redwine, Immediate Past TYLA President Lee Ann Reno, Rocky Robinson, Immediate Past President Eduardo Roberto Rodriguez, Elizabeth Rogers, Joe Shannon, Jr., Laura Bellegie Sharp, N. Henry Simpson III, Michael C. Smith, Randy O. Sorrels, Sandra L. Stewart, R.E. Thompson, G. Allan Van Fleet, Travis Vanderpool, G. Thomas Vick, Jr., President-elect Gib Walton, Michele Wong-Krause

Liaisons*: Judge A. Joe Fish, Judge Barbara Walther

Section Representatives*: Pat E. Allison, Warren Cole, Carolyn F. Moore, Judy L. Ney, Stephen J. Smith, Lisa M. Tatum

Ex Officio*: Executive Director John Edwards, Deputy Executive Director Michelle Hunter, Chief Disciplinary Counsel John A. Neal, General Counsel Elizabeth Rogers

Excused Absences: Justice Dale Wainwright*, Judge Lawrence E. Meyers* (*Judge Cheryl Johnson attended in his place*)

(* = nonvoting)

I. CONSENT AGENDA ITEMS:

Upon motion properly made by Henry Simpson and seconded by Dr. Lloyd Garland, the following items on the Consent Agenda were approved:

- A. Approval of minutes of Board meeting conducted on *September 15, 2006*
- B. Ratification of actions taken at the following Executive Committee meetings:
 - 1) **January 11, 2007:** Approved minutes of August 29, 2006 Executive Committee meeting and November 3, 2006 Executive Committee retreat
- C. Approval of **appointments** by **President Martha Dickie** to the following entities:

1. **Legal Aid of Northwest Texas** Board of Directors, for two year term effective March 1, 2007 through February 28, 2009:

Charles R. Lotter (Dallas)

2. **Texas Access to Justice Foundation** (formerly Texas Equal Access to Justice Foundation):

Tom Godbold (Houston), for unexpired term effective January 26, 2007 through August 31, 2008

Mike McGee (Public Member – Dallas), for unexpired term effective January 26, 2007 through August 31, 2007

3. **Texas Legal Protection Plan** Board of Directors:

Dan Boulware (Cleburne), for unexpired term effective January 26, 2007 through May 31, 2008

Catherine Brown Fryer (Austin), for unexpired term effective January 26, 2007 through May 31, 2007

D. Approval of **appointments** by **President-elect Gib Walton** to the following entities

1. Approval of appointments to the **Texas Bar Foundation's Board of Trustees**

a) for three-year terms, effective June 2007 to June 2010:

lawyers:

JoAl Cannon Sheridan (Jacksonville)

Scott Rozzell (Houston)

Robert A. Black (Beaumont)

public member:

Linda Hunsaker (Houston)

As liaisons 2007-2008:

Rocky Robinson (Houston)

Ed Fernandes (Austin)

E. State Bar **Section** Items:

1. Approval of request by the State Bar Litigation Section to revise its dues schedule. **[Exhibit A]**

2. Approval of request by the State Bar Consumer & Commercial Law Section to increase its dues to \$30.00. **[Exhibit B]**

3. Approval of request by the State Bar Insurance Law Section to hold its Annual meeting in conjunction with SBOT Advanced Insurance Law Course. **[Exhibit C]**

F. Approval of **resolutions** honoring:

Judge Max D. Higgs (El Paso) [Exhibit D]

II. REPORTS:

A. Report from the President:

President Dickie reported that the Supreme Court has recently entered three orders; the “Jimmy Brill amendments”, amending the Texas Rules of Disciplinary Procedure; the IOLTA order

which amends rules governing the operation of the Texas Access to Justice Foundation; and the order approving amendments to the State Bar Rules. [Exhibit E]

President Dickie reported on the election process and our new vendor, and noted that paper ballots will be mailed to all attorneys, which will allow them the option to use the code included on the ballot to vote online, or to mail the ballot back in.

President Dickie reported on her appointments to the Habeas Counsel Task Force, with Buck Files as chair, as well as the members of the Accounting Standards Review Work Group, of which Travis Vanderpool is chair. President Dickie noted that there have been two more resignations from Board members of the Texas Legal Protection Plan, and she appointed Dan Boulware and Catherine Brown Fryer to fill those vacancies.

At this time, President Dickie's mental health video, "Practicing from the Shadows of Depression" was shown, which focuses on depression in the legal profession. Dr. Lloyd Garland reported on ways the Mental Health Task Force is looking at helping promote the awareness of depression in the profession, and presented a resolution on behalf of the task force.

Dr. Lloyd Garland moved for approval of the resolution supporting Texas lawyers' commitment to wellness; President Dickie seconded. Motion carried. [Exhibit F]

The item on the task force on retention of women and minorities in the profession was taken out of order. President Dickie reported on the task force and its members, and introduced Nina Cortell, chair of the task force, who talked about the task force report and recommendations and highlighted various statistics on women and diversity included in the report.

President Dickie moved for approval to accept the report from the Task Force on Retention of Women and Minorities in the Profession; Goodwill Pierre seconded. Motion carried. [Exhibit G]

B. Commission for Lawyer Discipline/Chief Disciplinary Counsel:

Commission Chair Betty Blackwell highlighted various items, including the attorney grievance system and the number of grievances received, the number of sanctions so far in 2006-07, the number one grievance is failure to communicate and failure to answer the grievance, the areas most susceptible to grievance are criminal, family and personal injury, and noted that nominations for district grievance committee appointments are due May 1. [Exhibit H]

C. Legislative Policy Subcommittee:

Chair Mike Atkins reported on the Taxation Section's request to take a position on legislation that had been filed, and noted the Legislative Policy Subcommittee unanimously approved the recommendation to support it. Kevin Thomason, chair-elect of the Taxation Section, spoke on tax planning patents and the proposed legislation from the Taxation Section. After much discussion, **a motion was made by Goodwill Pierre to table taking action on the proposed recommendations until the April Board of Directors meeting; seconded by Michele Wong-Krause, the motion failed.**

Dr. Lloyd Garland moved for approval of the proposal from the Taxation Section to be included in the SBOT legislative program; Timothy Mountz seconded. Motion carried, with one nay vote noted. [Exhibit I]

D. Texas Young Lawyers Association:

TYLA President Karin Crump noted that copies of the public service video “They Had a Dream Too” and the legal guide for cancer patients are being distributed at the meeting, and the video has been presented twice in Austin so far, with over 155 high schools across the state requesting it. Crump highlighted various TYLA projects including the Pro Bar children’s project, noting that more than 100 attorney’s have now been trained across the state, and a roll-out presentation of the legal guide for cancer patients is scheduled for next week. TYLA’s first ever webcast was held in December in collaboration with the Commission for Lawyer Discipline on navigating the grievance process, and TYLA will soon hold their first practical skills course for young lawyers.

E. Report from the President-elect:

President-elect Gib Walton discussed the calendar of Board meetings for 2007-08, and presented the proposed 2007-08 budget, recommended at \$42,325,219, and reported that we have a net excess of revenues over expenditures of \$95,398. Walton noted that the minimum reserve recommendations will equal a total designation for minimum operating expenditures of over \$5.8 million, and the total designation for the Law Center projects will equal over \$4.6 million.

On behalf of the Budget subcommittee, Walton moved for approval of the following:

(1) Minimum reserve designation total of \$5,860,000 and total designation for the Texas Law Center projects of \$4,693,929; no second needed. Motion carried.

(2) SBOT 2007-08 proposed budget for publication in the *Texas Bar Journal* with notice of public hearing; no second needed. Motion carried. [Exhibit J]

Walton thanked the members of the Committee Review Task Force and explained the review process and recommendations of the task force, which outlined eliminating the Agricultural Law Committee, amending the purpose clauses of the Crime Victims Committee, Legal Services to the Poor in Civil Matters, and Technology Advisory Committee, and changing the name of the Technology Advisory Committee to Web Services Committee.

Eduardo Roberto Rodriguez moved for approval of the task force recommendations pertaining to State Bar Standing Committees; Rocky Robinson seconded. Motion carried. [Exhibit K]

F. Nominations & Elections Subcommittee:

Eduardo Roberto Rodriguez reported that the subcommittee worked hard on finding President-elect candidates this year and interviewed five candidates for election, and pointed out the districts up for director elections this year and encouraged the outgoing Board members to find replacements for their districts.

On behalf of the N&E subcommittee, Rodriguez moved for approval of Harper Estes (Midland) and Mark Osborn (El Paso) as the 2007-08 President-elect candidates; no second needed. Motion carried. [Exhibit L]

The two candidates were introduced – Harper Estes by Mike Atkins, and Mark Osborn by Elizabeth Rogers – and allowed to give acceptance remarks.

G. Judicial Section Liaison:

Judge Barbara Walther reported that the Judicial Section is working on some legislative issues including concerns about salaries, retirement, and the reorganization of the judiciary, and they appreciate the new relationship they have with the State Bar on education and in planning CLE for the Annual meeting, which the Litigation Section is working on.

H. Court of Criminal Appeals Liaison:

Judge Cheryl Johnson gave the report in Judge Larry Meyers absence, and noted that the Court heard arguments last week on death penalty cases, and now have four cases pending. They are in the process of holding arguments around the state and have one scheduled in Fort Worth in March, as well as setting up arguments starting with Courts of Appeals with Corpus Christi and Beaumont. They are also working on a list of lawyers approved to do writ of capital cases, which now has about 53 lawyers, and looking at how to evaluate whether certain lawyers should be included on that list.

I. Federal Judicial Liaison:

Judge A. Joe Fish noted that Congress enacted an annual appropriations act to fund the government and has indicated the intention to continue to fund agencies through a continuing resolution for the balance of this fiscal year, and noted that 85% of their appropriations go to rent and to salary and expenses, therefore a reduction in personnel is likely. Judge Fish noted that the Chief Justice is trying to develop support for an increase in pay for federal judges, and that the judges will not receive a pay increase unless the Congress does.

J. Administration Committee:

Ron Bunch highlighted various subcommittee activities, including Employment / Salary / Evaluation, Contracts, Performance Measures, Governance, & Facilities & Equipment, and noted Stewart Morris Jr. has agreed to donate \$150,000 towards the Stewart Morris Board Room renovation. Bunch also showed a video on the renovation projects that have been completed and that are in progress.

On behalf of the Administration Committee, Bunch moved for approval of the following:

(1) Name Change of Room 101 to the Hatton W. Sumners Foundation Conference Room; no second needed. Motion carried.

(2) Performances Measures Outcomes report to send to the Supreme Court; no second needed. Motion carried.

(3) Recommendation of the Governance subcommittee regarding selection of an insurance consultant; no second needed. Motion carried. [Exhibit M]

K. Legal Services Subcommittee:

Henry Simpson noted there are no action items, but reported on several items, including the Supreme Court order amending IOLTA rules, the AG opinion that clarified the collection of the filing fee add-on funds for legal services to the poor, and the Texas Student Loan Repayment Assistance Program guidelines that have been revised by the Texas Bar Foundation to include using a debt-to-income ratio for determining eligibility for assistance.

L. Finance Committee:

Michael Connelly presented an overview of the financial highlights, noting that total expenditures are 3% less than what was expected at this point in the year, with revenues from TexasBarCLE at 7% over what was budgeted, and expenses at 3% under, leaving a net excess for halfway through the year at \$2.1 million.

On behalf of the Finance Committee, Connelly moved for approval of the following:

(1) Acceptance of financial audit for FY ending May 31, 2006; no second needed. Motion carried.

(2) Acceptance of internal audit for FY ending May 31, 2006; no second needed. Motion carried.

(3) Acceptance of quarterly investment reports for quarters ending August 31, 2006 and November 30, 2006; no second needed. Motion carried. [Exhibit N]

Connelly noted that at the recommendation of the auditors, operating and contribution expenses will be reflected on the financials as operating transfers to certain funds and departments, and they recommended writing off capital assets that are less than \$5000 and discontinue using any salvage values when depreciating capital assets.

M. Policy Manual Subcommittee:

Chair Bob Black reported on the Policy Manual revision relating to the split of the Budget and Finance Committee into two separate full Board committees, with the Finance subcommittee renamed the Audit & Finance Committee.

Tom Vick moved for approval of the revised Policy Manual Section 1.14 concerning Budget and Finance Committee; Ernie Aliseda seconded. Motion carried. [Exhibit O]

N. Ad Hoc Committee to Select Minority Directors:

Demetrius Bivins reported that the committee interviewed candidates the week before for the two positions opening in June, and submitted four names to President Dickie for her selection of two to be ratified at the April Board of Directors meeting.

O. Member Services and Education Committee:

Appeals Grant Review Subcommittee: Dr. Lloyd Garland reported that the Appeals Grant Review subcommittee reviewed four appeals made by attorneys requested review of decisions made by the Texas Board of Legal Specialization, the first one regarding suspension of Personal Injury Trial Law certification, and the second one regarding denial of recertification in Consumer Bankruptcy Law; the committee voted to deny the appeal and uphold the decision of TBLS in both cases.

On behalf of the Appeals Grant Review subcommittee, Dr. Garland moved for approval of the recommendation to uphold the decision of the Texas Board of Legal Specialization and deny the appeals of Gregory W. Allen and David W. Barry; no second needed. Motion carried.

Dr. Garland noted that the third and fourth appeals regarding denial of certification in Immigration and Nationality Law involved not satisfying the standards for case experience as required by TBLS in dealing with the Immigration and Nationality Law Section, and the committee voted to uphold the decision of TBLS and deny the appeal. Dr. Garland noted that it was recommended that the committee work with TBLS to review their certification standards for Immigration Law as they relate to immigration lawyers

On behalf of the Appeals Grant Review subcommittee, Dr. Garland moved for approval of the recommendation to deny the appeals by Kevin Lashus and Make Harrington and to uphold the decision of the Texas Board of Legal Specialization; no second needed. Motion carried, with one nay vote noted. [Exhibit P]

Professional Development Subcommittee: Buck Files reported that the PDP subcommittee will meet several times in the next few months for a review and status report on TexasBarCLE and TexasBarBooks, and the subcommittee will be brainstorming new topics for webcasts and will likely have 100 webcasts set for this year. Files also thanked Judge Barbara Walther for her help with getting more lawyers to speak at CLE seminars with judges.

Technology Oversight Subcommittee: Michael Smith noted that a network upgrade that's being put in place is a remote access platform that will allow onsite meeting registration and remote access to the system by staff and the Supreme Court clerk.

P. Section Representatives to the Board:

Judy Ney highlighted various purposes of Sections and ways they help TexasBarCLE, and noted that the Council of Chairs met by email and approved the proposed new Worker's Compensation Section. Proposed chair of the new Section Stuart Colburn spoke on behalf of it.

President Dickie moved for approval of the proposed SBOT Worker's Compensation Law Section; David Dickson seconded. Motion carried. [Exhibit Q]

Q. Chair of the Board Election:

Chair Black indicated that four second-year directors had submitted their names as candidates for the 2007 Chair of the Board – John Ellis, Bob Miller, Michael Smith, and Travis Vanderpool – and they were allowed to give remarks. [Exhibit R]

Tom Vick moved for approval of the Board to vote for Chair of the Board at the April Board of Directors meeting by written ballot; President Dickie seconded. By a show of hands, the motion carried.

R. Report from the Executive Director:

John Edwards reminded the Board of the filing deadline of Monday, April 30 for their personal financial statements to the Ethics Commission, and Linda Samaniego was recognized as Employee of the Quarter for her work with the new telephone system.

S. Report from the General Counsel:

Elizabeth Rogers reported on the Public Information Act lawsuit, and that our response to the Attorney General's reply filing of the appellates brief is due February 1, and reminded the Board of the Open Meetings and Open Records Act and to be careful of what could be considered a violation of both in how they relate to email correspondence.

T. Annual Meeting Resolutions Committee:

Per Board Policy, Chair Black requested the TYLA President to furnish a sufficient number of TYLA members to act as sergeants-at-arms at the Resolutions Committee at the 2007 State Bar Annual meeting.

There being no further business, the meeting was adjourned at 3:04pm.