

**MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
December 9, 2016
Phoenix, AZ**

BOARD MEMBERS PRESENT: Lisa Loo, President, Phoenix; Alex B. Vakula, President-Elect, Prescott; Jeffrey Willis, First Vice President, Tucson; Richard D. Coffinger, Glendale; Hon. David G. Derickson, Phoenix; Hector M. Figueroa, Payson; Denis M. Fitzgibbons, Casa Grande; Patrick Greene, Tombstone; Samuel Saks, Phoenix; Dee-Dee Samet, Tucson; Jimmie Dee Smith, Yuma; Geoffrey M. Trachtenberg, Immediate Past President, Phoenix; Public Members: John W. Gordon, Prescott; Audrey R. Jennings, Scottsdale; Anna C. Thomasson, Phoenix; and At-Large Members: Mike Baumstark, Phoenix; Lori Higuera, Phoenix; and Paul Senseman, Phoenix; Court Liaison Hon. Clint Bolick, Phoenix;

EXCUSED ABSENCES: Brian Y. Furuya, Secretary-Treasurer, Flagstaff; Diane L. Drain, Phoenix; Kenney F. Hegland, Tucson; Melissa S. Ho, Phoenix; Alexia J. Peterson, YLD President, Phoenix; Jennifer R. Rebholz, Phoenix; Public Member: Tony Finley, Tucson; Ex-Officio Members: Dean Shirley Mays, Phoenix; Dean Marc L. Miller, Tucson; Dean Douglas J. Sylvester, Tempe.

OTHERS PRESENT: Nina Benham, Board Services Specialist; Matt Campbell, Help Desk Technician; Lisa Deane, Chief Member Services Officer; Rick DeBruhl, Chief Communications Officer; Tim Eigo, Editor, Arizona Attorney; Rob Hosch, Technology Support Director; Gayle V. Jackson, Human Resources Director; Ann Leslie, Executive Assistant; Lisa Panahi, Sr. Ethics Counsel; John Phelps, CEO/Executive Director; Amy Rehm, Deputy Chief Bar Counsel; Patricia Seguin, Legal Services Manager; Carrie Sherman, Director of Board Operations; and Maret Vessella, Chief Bar Counsel.

GUESTS: Kyle Hirsch, Tyler J. Carrell, Norma Izzo, Melinda Sloma and Allister Adel MCBA; Kevin Ruegg, CEO and Chris Groninger with the Arizona Bar Foundation; Gary Stuart for Dean Douglas J. Sylvester, Leah Won for Dean Marc Miller and Jessica Sanchez.

President Lisa Loo called the Board meeting to order at 8:35 a.m.

PRESIDENT'S REPORT – Lisa Loo

- Recognition of the passing on December 1, 2016, of Steven August Hirsch, Sr., the Board's Second Vice President, who lost his courageous battle against pancreatic cancer. Board members took time to speak about him as a leader and an exemplary man, someone who they aspire to emulate. Board members shared "Steve stories". Steve was a consummate lawyer and mentor. His professional and civic contributions are too extensive to list. Mr. Hirsch loved the State Bar and was active in its activities up until two weeks before his passing.

PRESIDENT'S REPORT (Continued)

- With Mr. Hirsch's passing there is a vacancy on the Board of Governors. Staff will review the bylaws and rules and make a recommendation at the January 30 Board meeting regarding this seat.
- Thanked Diane Drain and Jay McClimon for opening their beautifully decorated home for the Board Holiday Party.
- Attended the Arizona Society of Association Executives' Annual Awards Gala where the Bar was honored:
 - Tim Eigo, Editor of the *Arizona Attorney* magazine, accepted the Creative Funding Award. When revenue was lost from the elimination of the printed membership directory, the Communications Department created a special insert in the March issue of the magazine listing expert witnesses which made up for some of the lost revenue.
 - The Award for Membership Development, recognizing the Bar's new member orientation, was accepted by CEO/Executive Director John Phelps.
 - The President's Award was given to Lisa Deane, Chief Member Services Officer.
- Attended the Arizona Judicial Council (AJC) meeting in Flagstaff with General Counsel John Furlong.

CEO/ED REPORT – John Phelps

- Mr. Phelps introduced Lisa Deane who presented a Member Services Moment.
- A new initiative was spotlighted: a lawyer/judicial education program, Hidden in Plain Sight: Dementia and Its Impact on Lawyers and Judges – a free 75 minute CLE.
 - The program, offered nationally via webcast, will highlight the signs of dementia as well as general responsibilities of lawyers and judges and offer a review of available resources. A more in-depth three hour Arizona-specific program is being developed for April 7, 2017.
 - Impetus for this program came from an ABA program the Hon. Lorraine C. Arkfeld chaired last spring. Alzheimer's is a growing societal tsunami as every 66 minutes someone in the U.S. is diagnosed with the disease. Lawyers and judges may attend the program live at the Bar Offices or watch by webcast. Group viewings are encouraged.

CALL TO THE PUBLIC: President Lisa Loo announced that each speaker would be limited to three minutes.

- This is a time for the public and guests to speak. Issues raised are not to be deliberated at this time.
 - Kyle Hirsch, Maricopa County Bar Association President, expressed concern over the proposed Public Service Center (PSC) if it includes a lawyer referral service. That is something the MCBA and Pima County Bar Associations are currently doing.
 - Norma Izzo, MCBA President–Elect, expressed concern if the PSC were to experience a financial shortfall, would that be paid for by members' mandatory fees?
 - Allister Adel, Ethics Committee member and MCBA Executive Director, expressed concern about how lawyers who participate in the PSC are rated/screened and the price points – does the lowest (lawyer) bidder win (get the case); that would “cheapen the profession.”
 - Melinda Sloma, MCBA Secretary, expressed ethical concerns about the creation of the PSC; urged more study regarding unintended consequences.

CALL TO THE PUBLIC (Continued)

- Tyler Carrell, MCBA Board member, stated his concern over how the proposed Center might impact the MCBA's Lawyer Referral Service.
- Call to the Public concluded. President Loo encouraged those interested to submit written comments for consideration regarding any topics on the agenda.

JUSTICE FOR ALL – Dave Byers

- March 3, 2016, Chief Justice Scott Bales issued Administrative Order No. 2016-16 which established the Task Force on Fair Justice for All. The purpose of the task force was to study and make recommendations regarding:
 - Statutory changes, if needed, to court rules, written policies, and processes and procedures for setting, collecting, and reducing or waiving court-imposed payments.
 - Options for people who cannot pay the full amount of sanction at the time of sentencing to make reasonable time payments or perform community service in lieu of some or all of the fine or sanction.
 - Best practices for making release decisions that protect the public but do not keep people in jail solely for the inability to pay bail.
 - The practice of suspending drivers' licenses and alternatives to license suspension.
- Mr. Byers reviewed the 53 recommendations from the Task Force that included judicial educational and training programs that were presented to the AJC on October 31, 2016, for its review and considerations.
- The entire Report and Recommendations can be found on the Court's website: <http://www.azcourts.gov/cscommittees/Task-Force-on-Fair-Justice-for-All>

PUBLIC SERVICE CENTER PROPOSAL – Geoffrey Trachtenberg and John Phelps

- Geoff Trachtenberg summarized the history of this ongoing project.
- President's letter went out to the membership regarding the proposed PSC and comments received were 75% very favorable.
- Program Review Committee recommended including \$180K in the 2017 budget to implement the PSC.
- Today for vote: resourcing the PSC for two years at which time it will be reassessed.
 - MOTION: Patrick Green moved and Alex Vakula seconded to approve and fund the Public Service Center concept as presented today for a two-year period.
 - FRIENDLY AMENDMENT, Sam Saks moved to add 1) "the State Bar would collaborate and support existing programs to the extent it is possible" and 2) "present the PSC proposal to the Board when it is fleshed out even more". Only point 1 contained within the friendly amendment was accepted.
 - VOTE: The motion as amended passed 15-2-1.

APPOINTMENTS COMMITTEE – Sheena Chiang

- Ms. Chiang chaired the Committee's last meeting in Steve Hirsch's absence.
- Ms. Chiang gave a brief overview of the workings of the Committee, the candidate vetting process and how the recommendations are made after significant discussion.
- 1) Arizona Commission on Appellate Court Appointments (one opening) – Concurred with the Committee and voted unanimously to forward the following slate to the Governor:
 - Mr. Frederick K. Lomayesva, Pascua Yaqui Tribe

APPOINTMENTS COMMITTEE (Continued)

- Mr. Larry W. Suci, Attorney at Law
 - Ms. Jean K. Gage, CopperPoint Insurance Companies
 - Mr. Brandon Kavanagh, Mangum, Wall, Stoops & Warden, PLLC
- 2) Maricopa County Commission on Trial Court Appointments, Supervisorial **District 3** seat – Concurred with the Committee and voted unanimously with one abstention (Willis) to forward the following slate to the Governor:
 - Mr. Sal J. Rivera, Rivera Law Group PC
 - Mr. Jason M. Barraza, Veridus LLC
 - Mr. Michael D. Kimerer, Kimerer & Derrick
 - Mr. Don Bivens, Snell & Wilmer
 - 3) Pima County Commission on Trial Court Appointments, Supervisorial **District 2** seat - Concurred with the Committee and voted unanimously to forward incumbent Nanette M. Warner's name to the Governor.
 - 4) Pinal County Commission on Trial Court Appointments, Supervisorial **District 2** seat – As no applications were received, concurred with the Committee's plans to reopen and re-advertise this position, and provide its report and recommendations to the Board in February 2017.
 - 5) Pinal County Commission on Trial Court Appointments, Supervisorial **District 3** seat - Concurred with the Committee and voted unanimously to forward incumbent Stephen R. Cooper's name to the Governor.
 - 6) Maricopa County Commission on Trial Court Appointments, Supervisorial **District 2** seat -
 - a) After discussion, a motion was made and seconded to waive the Board's term limit policy this time for this position and to add Ronald Reinstein's name to the slate of candidates nominated by the Committee. That motion failed by a vote of 7-10. The Board agreed to review its term limit policy in the near future.
 - b) Concurred with the Committee and voted unanimously to forward the following slate to the Governor:
 - Mr. Stephen E. Silverman, Stephen Silverman Law
 - Mr. Michael L. Aguirre, Greenberg Traurig LLP
 - Mr. Gregg R. Woodnick, Gregg R. Woodnick, PLLC

APPOINTMENTS TO FOUNDATION BOARD – President Loo

- President Loo reminded the Board that the State Bar has six seats on the Arizona Bar Foundation Board.
- Dee-Dee Samet's term was expiring; she is eligible for and seeks reappointment.
- Audrey Jennings' and Patrick Greene's terms are also expiring but they are not seeking reappointment. The Governors publicly thanked them for their service these past three years.
- Kenney Hegland and Alexia Peterson have volunteered and would like to be appointed to serve on the Foundation Board.
- VOTE: The Board voted unanimously to reappoint Dee-Dee Samet to a second three-year term and to appoint Kenney Hegland and Alexia Peterson to a three-year term.

FINANCE AND AUDIT COMMITTEE – Jeff Willis and Kathy Gerhart

- 2017 Budget Guidelines
 - Consistent with 5-year financial projections provided to the Board on February 26, 2016.
 - Personnel costs not to exceed 3% increase over the 2016 budget (excluding new positions).
 - Addition of Public Service Center budget contingent upon review by the Program Review Committee and Board approval.
- Revenues \$15,762K (Dues Income \$9,703K, CLE Income \$1,884K, Other Income \$4,175K).
- Expenses: \$15,159K (Personnel \$9,233K, Depreciation \$829K, Other Expenses \$5,097K).
- Operations: Revenues \$15,762K, Expenses \$15,159K, Surplus \$603K, PSC Cost \$104K = Net Surplus \$499K.
- Capital Budget: \$948K (\$359K IT projects, \$127K Tenant Improvements, \$462K Other).
- Other Expenses - \$150K for fire suppression deferred to 2017.
- No capital expenditure included for 3rd floor remodeling – only \$33K for chairs for the 3rd floor employees and the Board Room.
- VOTE: Coming from the Finance and Audit Committee, requiring no second, to approve the 2017 budget as presented - passed unanimously.

STRATEGIC PLAN PROPOSED CHANGES 2015-2019 – Alex Vakula

- Reported on the redlined version of the 2015-2019 Strategic Plan as follows:
 - Bar's New Mission – Court's revisions to Rule 32 emphasizing protection of the public – all related goals throughout the Plan were moved to the top of the document.
 - Current Goal #4 – Administration and Access to Justice - is now goal #1.
 - Combined all goals relating to communications into a global statement referencing the Board-approved Communications Strategic Plan.
 - Following the Board's vote earlier in the meeting to approve it, now would include the implementation of the Public Service Center.
 - Bar Fees – “The Bar remains committed to maintaining member fees as approved by the Arizona Supreme Court, without additional increases to members, “consistent with the Bar's duty to serve and protect the public.” [added]
- VOTE: Sam Saks moved, Dee-Dee Samet seconded and the motion to table the vote on the modified Strategic Plan to the January 2017 meeting passed over three dissents.

CONSENT AGENDA

- a) Approval of October 21, 2016 Board Meeting Minutes
- b) Approval of Resignations
 - i) In Good Standing
 - ii) In Lieu of Reinstatement
- c) Approval of Reinstatements
 - i) Approval of Reinstatements of Members suspended for Non-Compliance with MCLE Requirements, Rule 45, Ariz. R. Sup. Ct.
 - ii) Approval of Reinstatement of Member(s) Suspended for Non-Compliance with Annual Membership Dues and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.
 - c) BoG Reporting Form Rules Review Committee

CONSENT AGENDA (Continued)

- e) Proposed Petition to Amend the Arizona Rules of Civil Procedure to Add Rule 5.4
- f) Proposed Petition to Amend Rules 16, 16.1, 26.2, 38, and 38.1, Ariz. R. Civ. P.
- g) Proposed Petition to Amend Rules of Procedure for Judicial Review of Administrative Decisions
 - JRAD Rules Study Group Final Report and Recommendations
- h) Proposed Petition to Amend Rules of Procedure for Eviction Actions
- i) Proposed Petition to Amend Rule 38, Ariz. R. Sup. Ct.
- j) Proposed Petition to Amend Rule 39, Ariz. R. Sup. Ct.
- VOTE: Alex Vakula moved, Dave Byers seconded and the motion to approve the Consent Agenda carried unanimously.

SUPREME COURT RULE 32 AMENDMENTS AND NEW RULE 44 – John Phelps

- A.O. 2016-126 entered by the Court on November 23rd modifies the implementation dates for specified recent amendments to Supreme Court Rule 32.
- The State Bar requested additional time to craft Public Meetings and Public Records policies. The Court extended the deadline to February 1, 2017, and May 1, 2017, respectively. The Board reviewed the draft policies which will be voted on at the January meeting.
- The Rule 32 changes included reducing the number of Board officers from five to four come January 1. The Court agreed to extend the deadline to June 2017.
- Rule 44 - Board of Legal Specialization: The Bar also requested an extension of time to perform a full review the BLS rules and regulations. The Court again granted an extension to January 2018.

LEGISLATIVE UPDATE – Rick DeBruhl on behalf of Lobbyist Janna Day

- Summarized the outcome of the election and the resulting number of Republicans and Democrats in both the House and Senate. Neither had a significant change.
- One-third are newly elected lawmakers.
- No bills have been pre-filed at this point.
- Three new lawyer-legislators in the House of Representatives: Wenona Benally, Maria Syms, David Stringer.
- Board members were asked to complete and return a form noting their district information and whether they have established a relationship with their respective or any elected official(s).

HUMAN RESOURCES COMMITTEE – Audrey Jennings

- Ms. Jennings reviewed the CEO's Annual Review Process Timeline.

ADJOURN

There being no further business to come before the Board of Governors, the meeting adjourned at 1:15 p.m.

Respectfully submitted,

Jeffrey Willis

First Vice-President