MEETING OF THE
BOARD OF GOVERNORS
OF THE
STATE BAR OF ARIZONA
Hybrid
February 25, 2022
Phoenix, AZ

BOARD MEMBERS PRESENT: Jennifer Rebholz, President, Phoenix; Jessica Sanchez, President-Elect, Mesa; Benjamin Taylor, Vice President, Phoenix; Kelsi Lane, Phoenix; Robert McWhirter, Phoenix; At-Large Members Lori Higuera, Phoenix and Doreen McPaul, Window Rock.

BOARD MEMBERS ON ZOOM: Ted Schmidt, Secretary-Treasurer, Tucson; Diandra Benally, Fountain Hills; Hector Figueroa, Payson; Sharon Flack, Prescott; John Moody, Phoenix; David Rosenbaum, Phoenix; Eric Ruckensky, Flagstaff; D. Christopher Russell, Sierra Vista; Samuel Saks, Tempe; Jimmie Dee Smith, Yuma; Public Members: Robyn Austin, Tucson, and Anna Thomasson, Paradise Valley; At-Large Member David Byers; Board Advisor Denis Fitzgibbons, Casa Grande; Dean Marc Miller, UA Law School, Tucson.

EXCUSED ABSENCES: Sandra Bensley, Tucson; Leticia Marquez, Tucson; Public Members Mignonne Hollis, Sierra Vista, and Jonathan Martone, Paradise Valley.

UNEXCUSED ABSENCE: YLD President Gaya Shanmuganatha, Phoenix.

STAFF/OTHERS PRESENT/ON ZOOM: Deanna Commack, Executive Assistant; Sarah Corpening, Membership Administrator & Services Manager; Joel England, CEO/Executive Director; Kathy Gerhart, Chief Financial Officer; Joe Hengemuehler, Chief Communications Officer; Lori Maxwell, Chief Information Officer; Elena Nethers, Director of Diversity, Equity and Inclusion; Lisa Panahi, General Counsel; Carrie Sherman, Director of Board Operations; Roberta Tepper, Chief Member Services Officer; Karen Van Allen, Administrative Assistant; Maret Vessella, Chief Bar Counsel; Rachel Williams, Human Resources Director; Supreme Court Liaison Hon. James Beene, Phoenix; Leah Won, UA College of Law, Tucson; Victoria Ames on behalf of Interim Deans Chodorow and Kramer, ASU College of Law, Phoenix.

GUESTS: Stacy Butler, Janna Day, and Michael Simes

President Jennifer Rebholz called the virtual Board meeting to order at 8:34 a.m.

Call to the Public – Jennifer Rebholz

President Rebholz made a Call to the Public and hearing nothing, moved on to the next item on the agenda.

President’s Report – Jennifer Rebholz

- Convention
  - In-person Convention will be held on Monday June 27, 2022, through Wednesday, June 29, 2022.
  - Board Meeting begins at 8:00 a.m. on June 27
Major events during the three-day conference were highlighted including the new First-Time Attendees Breakfast on Tuesday morning.

Board members were asked to return their registration and ticket order forms by April 29.

- Spoke at the New Admittees Swearing In on January 25, 2022; included a discussion of Alternative Business Structures (ABS), even though it is early in the process.

- Attended:
  - National Conference of Bar Presidents virtual meeting February 10-11, 2022
  - American Board of Trial Advocates Conference in Tucson; questions were asked about ABS's and Legal Paraprofessionals in Arizona

- Welcomed Justice Beene to the Board meeting; this is his last meeting as Court Liaison.
  - Justice Beene: He has learned what the Bar does and what it does for the members of the Bar, and he takes this information back to his colleagues.
  - Don’t hesitate to contact him if you need anything from the Supreme court

CEO’s Report – Joel England

- Attended:
  - Virtual National Conference of Bar Presidents meeting along with President Rebholz and President-elect Sanchez
  - New Admittees Ceremony; young attorneys are ready to go
  - University of Arizona Board of Visitors annual meeting on February 4, 2022
    - Stacy Butler gave a presentation on the Innovation for Justice (i4J) program
    - She will be presenting an overview of the i4J program later in the meeting.

- Internally, the performance review process ends today
- Updating the Financial Policies Manual; making it more flexible
- Two Legislative items that impact the Bar will be discussed later in the meeting.

Mark Harrison Memorial 10-Minute Topics – Robert McWhirter

Constitution, Presidential Power, and War: Original Intent and Today

Special Constitutional Appointments Committee (SCAC) – Benjamin Taylor

- Reviewed what the SCAC does
  - Five Board members and four Appointments Committee members serve on the SCAC
  - Charged with recruiting/screening/recommending constitutionally qualified applicants to the Board which in turn sends its nominations to the Governor for appointment to the five judicial nominating commissions
  - SCAC members interview the judicial nominating commission applicants they are assigned and perform the due diligence

- Arizona Commission on Appellate Court Appointments
  - MOTION: Jimmie Smith moved to send the top two candidates on the list of recommendations from the Committee. Seconded by Robert McWhirter
After discussion, Robert McWhirter offered a friendly amendment which was accepted to send the top three candidates to the Governor.

Motion failed by a vote of 5 – 14.

**MOTION:** John Moody moved, Hector Figueroa seconded and the motion carried by a vote of 17 – 1 to send the slate of seven ranked candidates who received votes.

- **Coconino County Commission on Trial Court Appointments**
  - **MOTION:** Robert McWhirter moved, Doreen McPaul seconded and the motion carried by a vote of 18 – 0 to send the names recommended by the SCAC for the openings in Supervisatorial Districts 1, 2, 3 and 5.

- **Maricopa County Commission on Trial Court Appointments**
  - **MOTION:** Jimmie Smith moved to send the candidate who received the most votes. The motion died for the lack of a second.
  - **MOTION:** Kelsi Lane moved, John Moody seconded and the motion carried by a vote of 15 - 4 to send the slate of three ranked candidates who received votes.

- **Pima County Commission on Trial Court Appointments**
  - **MOTION:** Jimmie Smith moved, Robert McWhirter seconded and the motion failed by a vote of 7 – 12 to send only the name of Walter Nash to the Governor.
  - **MOTION:** Kelsi Lane moved, Robert McWhirter seconded and the motion carried by a vote of 16 – 2 to send both candidates’ names, ranked, to the Governor.

- **Pinal County Commission on Trial Court Appointments**
  - Robert McWhirter moved, Doreen McPaul seconded and the motion carried by a vote of 17 – 0 to send the one candidate who had applied and was recommended by the SCAC to the Governor.

**Break:** 10:00 – 10:10 a.m.

**Finance and Audit Committee** – David Rosenbaum and Kathy Gerhart

- The Board approved the creation of an Opportunity Reserve at the January 21, 2022 Board meeting. The Finance & Audit Committee met yesterday and learned:
  - Should finish the year with an estimated surplus of $2,504,552. The Committee recommends the following allocation:
    - 25% in the Annual Fees Reserve ($528,680)
    - 75% in the Opportunity Reserve ($1,586,040)
    - Vote to reflect the 25%/75% split when the final numbers come in; it will be a percentage split, not a numbers split
  - **MOTION:** David Rosenbaum moved, Jessica Sanchez seconded and the motion to approve the Reserve Fund Allocation as presented carried unanimously.

- Financial Policies and Processes Manual is being updated.
  - Amendments mainly deal with investments and procurement
  - Reviewed by CEO England and F&A Committee
  - Should be ready for review and vote by the Board in March
Consent Agenda – Jennifer Rebholz

- Hearing no request to have any items removed from the Consent Agenda:
  Lori Higuera moved, Kelsi Lane seconded and the motion to approve the Consent Agenda passed unanimously.
  ➢ Approval of January 21, 2022 Board Meeting Minutes
  ➢ Approval of Resignations in Good Standing
  ➢ Approval of Resignations in Lieu of Reinstatement
  ➢ Approval of Reinstatements of Members Suspended for Non-Compliance with MCLE Requirements (Rule 45, Ariz. R. Sup. Ct.)
  ➢ Approval of Reinstatement of Member(s) Suspended for Non-Compliance with Annual Membership Fees and/or Trust Account Compliance (Rule 32(c)(10) and/or Rule 43, Ariz. R. Sup. Ct.)
  ➢ Fee Waiver Denials
  ➢ Family Law Section – Proposed Bylaws Amendments

Bar-Related Legislation – Joel England

- CEO England introduced Janna Day, the Bar’s lobbyist. She gave an overview of each Bill:
  ➢ SB 1565
  ➢ SB 1566
  ➢ Engage:
    o Please let CEO England or Carrie Sherman know if you intend to reach out or have reached out to an elected official you know to manage coordination of efforts.
    o CEO England has engaged with Anni Foster, the Governor’s general counsel
  ➢ The Board will be provided with talking points about the Bills and a Bar fact sheet.

MOTION: David Rosenbaum moved, Robert McWhirter seconded and the motion to ratify the Executive Council’s action to authorize the CEO to work to oppose SB1565 and SB1566 carried unanimously.

- Ted Schmidt: He receives inquiries about why the Bar has not taken a position on other law/legal services-related Bills; might be an opportunity to publish something in Arizona Attorney Magazine about why we address one Bill and not another.
  ➢ General Counsel Lisa Panahi is already engaged in a review of said legislation and will provide an opinion whether they fall within Keller.

MOTION: Sam Saks moved, Robert McWhirter seconded and the motion to authorize the Executive Council to direct lobbying efforts on any practice of law issues deemed within Keller carried unanimously.

Social Justice, Bias and Inclusion Working Group – Elena Nethers

- The test survey to the Board and others that was going to go out did not happen; waiting for approval from the University of Arizona team assisting the Working Group.
- Updated demographic information on the Bar’s membership has been integrated into the database.
Innovation for Justice (i4J) – Stacy Butler
Stacy Butler, Director of Innovation for Justice at the University of Arizona College of Law, gave a presentation on the i4J program initiatives which expand the delivery of legal services. “Housing stability legal advocates” are being proposed to deal with housing eviction issues.

Executive Session: 11:24 a.m.
Jessica Sanchez moved, Robert McWhirter seconded and the motion to move into Executive Session carried unanimously.

Open Session: 11:58 a.m.
MOTION: Chris Russell moved, Robert McWhirter seconded and the motion to accept the Executive Council’s recommendation regarding the CEO’s performance evaluation carried unanimously.

Adjournment: 12:00 p.m.
Robert McWhirter moved, Jessica Sanchez seconded and the motion to adjourn carried unanimously.

Respectfully submitted,

Ted A. Schmidt
Secretary/Treasurer