



Serving the Public. Serving the Profession.

BOARD OF GOVERNORS

2 p.m. ☞ Friday, April 8, 2016

New Orleans, LA

*** MINUTES ***

President Mark A. Cunningham called the meeting to order at 2 p.m., on Friday, April 8, 2016, in New Orleans.

Agenda Item 1. Roll Call

Ms. Larsen called roll and advised that the following members, who constituted a quorum, were present:

President, Mark A. Cunningham
President-Elect, Darrel J. Papillion
Secretary, Alainna R. Mire
Treasurer, Robert A. Kutcher
Immediate Past President, Joseph L. Shea, Jr.
Chair, Young Lawyers Section, Erin O'Brien Braud
Second Board District Representative, John E. McAuliffe, Jr.
Third Board District Representative, Blake R. David
Fourth Board District Representative, Shayna L. Sonnier
Fifth Board District Representative, Michael E. Holoway
Fifth Board District Representative, C. Kevin Hayes
Sixth Board District Representative, Charles D. Elliott
Seventh Board District Representative, C. A. "Hap" Martin, III
Eighth Board District Representative, Marjorie L. "Meg" Frazier
At-Large Member, John M. Frazier
At-Large Member, Rachael Johnson
From the Faculty of Loyola University College of Law, Monica Hof Wallace
From the Faculty of Southern University Law Center, Donald W. North
House of Delegates Committee on Liaison Member, Julie Baxter Payer

Also present were:

President-Elect Designee, Dona K. Renegar
Treasurer-Elect, H. Minor Pipes III
Executive Director, Loretta Larsen, CAE
Associate Executive Director, Cheri Cotogno Grodsky

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Access to Justice Director, Monte Mollere
Communications Director, Kelly Wells Ponder
Information Technology Director, Tony LaVerde
Director of Member Outreach and Diversity, Tricia R. Pierre
Executive Assistant, Mindi Hunter

Absent were:

First Board District Representative, David W. Leefe
First Board District Representative, Patrick A. Talley, Jr.
At-Large Member, Mickey S. deLaup
From the Louisiana State Law Institute, Kevin C. Curry
House of Delegates Committee on Liaison Chair, S. Jacob Braud
House of Delegates Committee on Liaison Member, Marcus A. Augustine

Agenda Item 2. Consent Calendar

a. Approval of Minutes

Consideration of approval of minutes from January 15, 2016 and January 16, 2016 Board of Governors meetings, held in New Orleans.

b. Louisiana Center for Law and Civic Education

Periodic report from the LCLCE, as required by the April 2010 cooperative endeavor agreement.

Upon motion by Mr. Shea and second by Mr. David, the Board unanimously approved the Consent Calendar without discussion or debate.

Agenda Item 3. Consideration of Any Item(s) Removed from Consent Calendar – Mark A. Cunningham

There were no items removed from the Consent Calendar.

Agenda Item 4. Ratification of Email Votes – Loretta Larsen

Upon motion by Mr. Shea and second by Mr. McAuliffe, the Board voted unanimously to ratify its email approval of the Pro Bono and Children's Law Awards recipients.

Agenda Item 5. Ratification of At-Large Representative – Darrel J. Papillion

Upon motion by Mr. Kutcher and second by Mr. Elliott, the Board voted unanimously to approve Mr. Papillion's appointment of Jermaine Guillory to serve as the 2016-2019 At-Large Representative.

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Agenda Item 6. Budget Committee Recommendations – Robert A. Kutcher

Mr. Kutcher reviewed the proposed budget amendments as recommended by the Budget Committee, noting that without the additional \$100,000 in JLAP funding, the amendments would result in a positive impact on the budget. After a brief discussion and upon motion by Mr. Shea and second by Mr. McAuliffe, the Board unanimously approved the amendments as recommended by the Budget Committee.

Agenda Item 7. Appointment of LCLCE Board of Directors – Loretta Larsen

Ms. Larsen advised that the LCLCE Nominating Committee had to postpone its meeting so this issue was deferred until the June Board of Governors meeting.

Agenda Item 8. Catherine D. Kimball Award – Mark A. Cunningham

Ms. Larsen gave a brief description of the award. After some discussion, the Board voted unanimously to present the award to Appleaseed nominees Martin Stern, Ronald Sholes, Jeffrey Richardson, and Justice Harry T. Lemmon (Ret.).

Agenda Item 9. Public Information Committee Rapid Response Program – Mark A. Cunningham

Mr. Cunningham introduced the proposal and advised that the Executive Committee had voted unanimously to recommend the proposal after amending the funding component so that it reads as follows:

PIC shall receive an initial budget of up to \$10,000, with any expenditure to be approved by the Budget Committee or in the case of an immediate need, the Executive Committee. The initial funding will support the PIC's development of this program and PIC may submit additional funding requests on an as-needed basis, taking into consideration the limited financial resources of the LSBA. PIC is also encouraged to seek alternative sources of funding to support its mission through grants and designated donations to the LSBA.

Upon motion by Mr. Shea and second by Mr. Kutcher, the Board voted unanimously to approve the Executive Committee's recommendation.

Agenda Item 10. Committee on Bar Admissions Appointment – Loretta Larsen

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After review by Ms. Larsen and upon motion by Mr. Frazier and second by Mr. Martin, the Board voted unanimously to recommend to the Supreme Court the appointment of Donna Phillips Currault as Examiner for Civil Code I.

Agenda Item 11. High School Mock Trial Competition – Mark A. Cunningham

Mr. Cunningham informed the Board that there has been some controversy about the LSBA's decision to go forward with the March 12 Statewide High School Mock Trial Competition despite flooding in parts of north Louisiana. He explained that the decision was made because 75 percent of the teams could still participate and because rescheduling around other school and volunteer conflicts would have been impossible. He advised that he and YLD leaders had spent significant time addressing complaints from representatives of Caddo Magnet High School and West Monroe High School. Mr. Cunningham asked that the LSBA consider adoption of a policy which would address cancelation of such events. After a brief discussion, Ms. Mire and Ms. Renegar agreed to work with the YLD to determine whether such a policy was feasible, and if so, what it might look like.

Agenda Item 12. Judges and Lawyers Assistance Program

Mr. Papillion reported he has served as a member of the JLAP Board for the past year and that the organization continues to move in the right direction. He said that as instructed by the LSBA, JLAP is projecting to spend into its reserves this fiscal year. He added that JLAP is serving members quickly and more efficiently due to additional staff. Mr. Papillion advised that he believed the additional \$100,000 in funding was warranted.

**Agenda Item 13. Task Force on Corporate Counsel and Government Lawyers –
Loretta Larsen**

Ms. Larsen referred members to the written report and advised that staff will continue to work toward implementation of the recommendations.

Agenda Item 14. Tech Center and LSBA.org Update – Mark A. Cunningham

Mr. Cunningham thanked the staff and Tech Task Force for their work on this project and demonstrated to the Board a number of additions and enhancement to LSBA.org. He encouraged Board members to browse the website and to spread the word about the changes and available resources.

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**Agenda Item 15. 2016 Annual Meeting/Summer School for Lawyers and Judges –
Darrel J. Papillion**

Mr. Papillion referred Board members to the Annual Meeting/Summer School schedule, and the registration statistics. He also encouraged Board members to register if they had not already done so.

Upon motion by Mr. Shea and second by Mr. Kutcher, the Board voted unanimously to ratify the changes to the Annual Meeting/Summer School fee schedule, which changes had been approved via email vote in late February.

Agenda Item 16. Indigent Defense Crisis – Mark A. Cunningham

- a. LSBA Resolution 8, June 2015**
- b. State Public Defender Report**
- c. HB 818**
- d. Criminal Justice Committee Summit**
- e. Prisoner Reentry Program**
- f. Law Institute Post-Conviction Relief Proposal**
- g. Other**

Mr. Cunningham addressed all issues related to indigent defense, advising that the LSBA has been acting as an honest broker in an attempt to address issues related to the indigent defense system by bringing stakeholders together.

Agenda Item 17. Audit Committee Report – Barry H. Grodsky

Mr. Grodsky referred Board members to the Audit Committee report, and thanked Mr. McAuliffe and Mr. Talley for their service on the Committee. Mr. Grodsky noted that auditors had issued a clean, unqualified opinion, with no deficiencies. Mr. Grodsky further advised that the JLAP financials are now being included pursuant to the September 2014 amendments to JLAP's Bylaws. Upon motion by Mr. Shea and second by Mr. Kutcher, the Board voted unanimously to accept both the audit and the Audit Committee's report.

Agenda Item 18. Louisiana Board of Legal Specialization – Mark A. Cunningham

Mr. Cunningham reported on a number of issues related to LBLS and its administration, including LBLS's establishment of an account outside of LSBA financial controls and LBLS's decision to compensate its employee separate from the LSBA. He further advised that he has

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been working to resolve these issues with no success. After some discussion, Mr. Shea made the following motion, which was seconded by Mr. Holoway:

Be it resolved that President Mark Cunningham and the Executive Committee be authorized to communicate to the Court the LSBA's concern with recent steps taken by LBLS, along with the LSBA's willingness to continue to handle financial administration at no charge, as it has done since the inception of LBLS.

And be it further resolved that the LSBA continue to safeguard LBLS funds entrusted to its care, and that the LSBA also ensure all activity conducted under the LSBA's financial umbrella be in compliance with established financial policies and procedures, as well as federal and state tax laws.

The Board unanimously approved the motion.

Agenda Item 19. Sales Tax on Membership Dues Legislation – Mark A. Cunningham and Loretta Larsen

Mr. Cunningham reported that he and Ms. Larsen had originally had some concern about LSBA dues being subject to state sales tax based on changes adopted during the 2016 First Extraordinary Session. However, he added, the Department of Revenue issued a bulletin which clarified that professional dues would not be subject to such a tax.

Agenda Item 20. Report of the President – Mark A. Cunningham

a. Legislation Committee Meeting

Mr. Cunningham noted that there are a significant number of bills to get through in the Legislation Committee meeting, and said he would be meeting with Committee Chair Keenan Kelly to discuss how it might be streamlined. He encouraged Board members to attend the meeting in its entirety and to thank stakeholders for their participation.

b. Unauthorized Practice of Law Legislation

Mr. Cunningham thanked Mr. McAuliffe for his work on the Unauthorized Practice of Law legislation.

c. JLAP Loan Program

Mr. Cunningham referred members to the governing documents as drafted by Ms. Larsen, and advised that the Executive Committee voted unanimously to recommend to the Board that it approve the documents, consistent with the Board's January 2016

approval in concept of this project. After a brief discussion and upon motion by Mr. Shea and second by Mr. Papillion, the Board unanimously approved the documents as drafted.

d. Diversity Conclave

Mr. Cunningham thanked Ms. Pierre for her outstanding work on the Diversity Conclave. He also noted that the Conclave was well attended and a huge success.

e. Louisiana Immigration Working Group Report

Mr. Cunningham advised that this group was continuing its work.

f. Flat Fee Rules Recommendation from Rules of Professional Conduct Committee

Mr. Cunningham referred Board members to the Rules of Professional Conduct Committee's March 23, 2016 draft minutes, which includes a proposal to amend Rule 1.5(f)(2): to require that the fixed fee be in writing and signed by the client; and to remove the language indicating that the funds become the immediate property of the lawyer. Mr. Cunningham advised that these proposed changes will be submitted to the House of Delegates for its consideration at its June 2016 meeting.

g. Senior Lawyer Diversion Project

Mr. Cunningham reported that he has appointed the Transitioning Lawyers Committee, which will be chaired by Richard K. Leefe and will be charged with developing a program: to safeguard the public by educating members of the legal profession about age-related disabilities; and to help attorneys suffering from impairments that prevent them from practicing competently to transition out of the practice of law with dignity. Mr. Cunningham referred members to the roster and noted that the Hon. Elizabeth Erny Foote had been added to the Committee.

h. Law School Debt/Personal Banking Program

Mr. Cunningham advised that work on this program was progressing.

i. Outreach Events:

- Specialty Bar Meeting
- Southwest Louisiana Bar Association Meeting
- Florida Bar Association Board Meeting in New Orleans
- New Orleans Bar Association

Mr. Cunningham reported that he had attended these events as the LSBA's representative.

j. ABA Midyear Meeting

Mr. Cunningham reported that he and Mr. Papillion had attended this meeting.

k. New Orleans Courthouse

Mr. Cunningham reported that a new New Orleans courthouse is still a work in progress.

l. Task Force on Cuba

Mr. Cunningham reported that the Task Force is continuing its work and there will likely be a trip to Cuba in late 2016.

m. Task Force on Notarial Laws

Mr. Cunningham advised that there was an interim report but that there was much more work to be done in this area.

n. Task Force on Technology

Mr. Cunningham advised that he had already addressed the work of this group when he demonstrated the website improvements.

o. Task Force on Quality of Life

Mr. Cunningham referred members to Chair Alida C. Hainkel's written report.

p. May 11 Deadline for Resolutions – June 9, 2016 House of Delegates Meeting

Mr. Cunningham noted the deadline.

q. May 24 Pro Bono Awards Ceremony at Louisiana Supreme Court

Mr. Cunningham encouraged Board members to attend.

r. Final Meeting – The final meeting of the 2015/2016 Board of Governors will be held at 1 p.m., Monday, June 6 at Sandestin Golf & Beach Resort. There will be lunch for members and their spouses/guests, followed by a substantive meeting. Details to follow in late April.

Mr. Cunningham encouraged Board members to attend.

s. ABA Commission on Future of Legal Services

Mr. Cunningham referred members to the written report.

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a. 2016/2017 Board of Governors Orientation – Thursday, April 28 through Saturday, April 30 at Grand Hotel Marriott Resort, golf Club and Spa.

Mr. Papillion announced plans for the orientation and urged all returning Board members to attend.

b. Swearing In of 2016/2017 Board Members – Installation Luncheon at noon, Thursday, June 9 at Sandestin. Reception will immediately follow General Assembly and House of Delegates, and Luncheon will immediately follow reception.

Mr. Papillion encouraged all members to participate, and noted that the first meeting of the 2016-2017 Board would be held at 11 a.m., Friday, June 10.

Agenda Item 22. Report of the Secretary – Alainna R. Mire

Ms. Mire reminded Board members that the June/July 2016 issue of the Louisiana Bar Journal will commemorate the 75th anniversary of the LSBA.

Agenda Item 23. Report of the Treasurer – Robert A. Kutcher

Mr. Kutcher waived his report.

Agenda Item 24. Report of the Immediate Past President – Joseph L. Shea, Jr.

Mr. Shea waived his report.

Agenda Item 25. Report of the Young Lawyers Division Chair – Erin O. Braud

Ms. Braud thanked the leadership for its support with regard to the High School Mock Trial Competition. She reported that the 2016-2017 YLD Officers and Council will be sworn in at the Summer Soirée on Wednesday, June 8, during the LSBA Annual Meeting.

Agenda Item 26. Report of the Executive Director – Loretta Larsen

Ms. Larsen reported that the elevator replacement project is now complete.

Agenda Item 27. Report of the Associate Executive Director – Cheri Cotogno Grodsky

Ms. Grodsky referred members to her written report.

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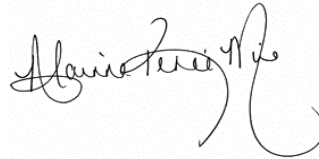
Agenda Item 28. Other Matters

There were no additional matters to come before the Board.

Adjourn

There being no further business and upon motion by Mr. Kutcher and second by Mr. Holoway, the meeting was adjourned at 4:15 p.m.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Alainna R. Mire". The signature is written in a cursive style with a large, looping flourish at the end.

Alainna R. Mire
Secretary

APPROVED BY BOARD OF GOVERNORS
JUNE 6, 2016
DESTIN, FLORIDA