

# Kentucky Equal Justice Center

## Board Minutes

December 11, 2014

**Board Members Present:** Jamie Abrams, Chris Frost, John Rosenberg, Dianet Valencia (Community Members); Jeff Been, Josh Crabtree, Dick Cullison (Program Directors); Jennifer Guzmán, Loree Stark (Staff Representatives).

**KEJC Staff:** Miranda Brown, McKenzie Cantrell, Guion Johnstone, Spencer Lee, Anne Marie Regan, Rich Seckel, Cara Stewart (by phone), Daniel Welsh.

**Guests:** Jonathan Langston (student).

### Welcome and Introductions

Chair Chris Frost welcomed board members, staff and guests and invited people to introduce themselves.

### Highlights of Recent Activity

As a quorum gathered, Chris invited Rich to give a short presentation on highlights of recent activity. Rich focused on the year as a whole, as follows:

**Consumer Reports award:** Rich said that KEJC had received the Consumer Reports Excellence in Consumer Advocacy back in January, an award given just once every several years to a single small nonprofit nationwide. He said it was wonderful to have good work over a long period of time noticed and valued. The award came with a \$25,000 donation.

**Kynect enrolls 500,000 plus:** Rich said enrollment figures for Kentucky's rollout of the ACA were extraordinary: over half a million people had signed up for Medicaid or Qualified Health Plans during the first year. Rich said it was great that legal aid programs had played a vigorous role in outreach.

**Number 4 with a button:** Rich said that the Foundation for a Healthy Kentucky recently had ranked a KEJC advocacy success at Number 4 on its all-time list of grantee achievements. At Cara and Rich's suggestion, kynect had placed a "show me all my options" button on a key kynect shopping screen, linked to a sequence of screens that let consumers know they whether they qualified for Medicaid or other help with costs.

**Payday loan bill filed in Senate:** A new bill to cap payday loan interest rates at 36 percent had been filed by Senator Alice Forgy Kerr from Lexington, a member of the Senate majority. Rich said that within the Kentucky Coalition for Responsible Lending, faith-based groups were playing a very active role. He said Anne Marie provided crucial

support through requests for data from DFI on the number and frequency of loans, the fees collected and more.

**Top three for young Good Giving donors:** During the online Good Giving campaign, KEJC was ranked third among over 150 nonprofits in the number of young donors (under age 35). Rich said that KEJC won a Lexmark printer by having the greatest number of young donors on a special challenge day, thanks to help from McKenzie, Guion and Cara.

Rich said the results of Good Giving were promising for future fundraising focused on young professionals.

### **Approval of Minutes**

A quorum being present, Chris invited a motion on the minutes of the previous meeting:

- Motion:** Jeff Been moved to approve the minutes of the October 2, 2014, board meeting.
- Second:** Loree Stark
- Action:** Approved unanimously

### **Administration: Financial Report**

Director Rich Seckel gave a financial report for the year through November 30, as follows:

**Profit and Loss Budget Overview:** budget for the year anticipated a gain of \$9,059.

**Profit and Loss Budget vs. Actual through November 30:** showed a gain of \$68,501 compared to the expected loss of \$11,856—a positive variance of \$80,357.

**Balance Sheet as of November 30:** showed Total Current Assets of \$278,423, down from \$299,122 on August 31 but up by 100 percent from \$139,214 on November 30, 2014.

**Income and Expense Charts:** 76% of spending was payroll; 52% of income was grants.

Rich predicted carryover of \$287,423 into the coming year. He estimated unrestricted reserves of \$51,012 as of November 30, 2014, about 10 percent of budget.

Rich said the \$50,000 in unrestricted reserves was a healthy minimum to keep on hand. He said that, in his judgment, amounts above that potentially could be put to use. He said he would talk more about potential uses during presentation of the budget for 2015.

Also on unrestricted funds, Rich said:

- He planned to meet with Brenda Combs of Legal Aid of the Bluegrass to review KEJC's allocation of CHIPRA funds. He said that if more funds properly could be allocated to CHIPRA, they could replace use of unrestricted funds and raise the unrestricted fund total.
- He had identified another portion of restricted funds that perhaps could be unrestricted, or at least used flexibly, for capacity building: just over \$20,000 in funds originally raised to meet a challenge and draw match from the Health Foundation of Greater Cincinnati (now Interact for Health).

Rich said that under the foundation's challenge, each dollar up to \$20,000 raised for the Health Law Fellowship had generated a dollar of unrestricted funds. He said the unrestricted funds had been spent, but the original \$20,000 raised was part of the restricted funds balance for the Fellowship.

Rich said that perhaps all or a portion of the \$20,000 plus in donations could be used, with permission, for capacity building in fundraising and communications.

Turning to the Budget vs Actual report, Rich said the bottom line was good: income had come in at 117% of budget called and spending at 101%, a favorable ratio. Rich said the income figure was driven primarily by the Consumer Reports award in January and the \$50,000 Mason Fund donation in the summer.

Rich said the 1% overage in spending was not so much overspending on budgeted items as it was new spending made possible by new funding, including:

- About \$7,500 in funds from the \$25,000 Consumer Reports award that was used for the new server at Maxwell Street
- An increase in the "Boots on the Ground" grant from \$32,000 to \$50,000, of which \$10,000 in new funds had been passed through to local programs for outreach

Rich said that if the server and Boots pass-through were factored out, KEJC had come in under budget in expenses.

Turning to the Balance Sheet, Rich noted that equipment purchases for the year had not yet been capitalized as assets, but instead showed up as expense. He said that in the final preparation of financial statements for the audit, the new equipment would be reclassified as assets. As well, depreciation of all equipment would be entered for the year.

Rich commented on the chart "Months of Reserves 2013-2014" in the board package. The chart showed how long funds on hand would last if there were no new income. Rich said total funds would last just under six months and restricted funds just above a month. He said it had taken several years to raise the unrestricted funds to the current healthy level.

## **Administration: Fundraising Update**

Rich turned next to the handout “KEJC Recent Fundraising Effort.” The handout showed what KEJC had sought in funding and what it had received, as follows:

- In 2013, KEJC received \$337,811 of the \$424,015 it sought through grants and fundraising campaigns, or 80%
- In 2014 to date, KEJC had received \$291,926 of \$272,411 it sought, or 107%

Rich reiterated that the unexpected Consumer Reports Award and Mason Fund donation had driven the 107% income performance. He said that other good news was highlighted in green on the handout: a first-ever grant from United Way of the Bluegrass, for \$16,200, and \$7,500 for program services under an MOA with Kentucky Voices for Health to gather stories about consumer experiences under the Affordable Care Act.

Rich said that disappointments for the year were highlighted in red: the Kentucky Bar Foundation had not funded a proposal for Maxwell Street and Mary Reynold Babcock Foundation had not renewed a multi-partner grant through Kentucky Youth Advocates for payday lending advocacy.

Rich said the Good Giving Campaign was underway and two other fundraising activities were pending or coming up: (a) a proposal to the Fayette County Bar Foundation for \$8,000 for Maxwell Street and (b) donations in response to the annual holiday letter, with a hoped for response of \$10,000.

Rich said that the New Year presented two “wild cards” not addressed in the budget he was about to present. The first was a potential funding source: KEJC had been encouraged to participate in the Lexington-Fayette Urban County Government funding process for “external social resources.” The second wildcard was a match opportunity: summer law clerk Sarah Adkins, now 3L at Harvard Law, had applied for an Equal Justice Works Fellowship.

Rich said the Fellowship presented a great opportunity to bring a second attorney to Maxwell Street. Under the terms of the Fellowship, he said, EJW would pay salary while KEJC would pick up fringe benefits and operating cost, perhaps \$25,000 to \$30,000 a year. Rich said he felt KEJC could raise the money for its share.

Josh Crabtree said that the Lexington-Fayette funding sounded great but the city process could be “quirky,” both in who got funded and in how services could be budgeted, especially legal services. He said that the per-case cost of legal services tended to look high compared to other services under consideration.

Josh also said that United Way of the Bluegrass (UWBG) was in difficulty financially and had cut back grants accordingly. He anticipated smaller than normal grants from UWBG in 2015.

Chair Chris Frost commented that the Consumer Reports award was great press. He said KEJC now had an opportunity to convert a PR success into development prospects. He said the opportunity should be pursued sooner rather than later.

Treasurer May O'Doherty recommended forming a development committee to build grant-seeking capacity, with staff help.

### **Administration: Proposed Budget for 2015**

Director Rich Seckel presented a proposed budget for FY 2015, using a projector to display the details. He said he had prepared the budget guided by the budget assumptions discussed at the last meeting and had held a staff briefing by webinar a few days earlier. Rich said the budget featured:

- expenses based trend or, if available, actual costs and rates
- 50 cent per hour raises for hourly employees
- \$900 increments for full-time employees, as provided under the staff attorney scales developed for earlier committee discussions
- additional \$300 increments for the Director and Senior Staff Attorney, whose salaries had been found farthest from comparability

Rich said that as a percent, the raises for hourly employees were the highest, all exceeding 3 percent. At the other end of the scale, he said, raises fell just short of 2 percent.

On the income side, Rich said he had made reasonable assumptions about grant renewals. He said the budget featured a \$30,000 "risk level" of new grants to be sought from sources not yet identified, an amount he felt could be achieved. Rich said the budget also featured "wiggle room" of about 1% in surplus should all the projected income come in and expenses match projections.

Rich said there was one known downside in the coming year: CHIPRA grant funding was scheduled to end June 30, 2015. He said the CHIPRA grant paid for Health Outreach Coordinator Miranda Brown and Health Outreach Worker Sara Moreles. Under the budget, Rich said, their positions would end when the grant ended.

Rich said that 4 hours a week for intake screening by Legal Assistant Amanda Hitt and Citizenship Coordinator Spencer Lee also were paid for by the CHIPRA funds, so that their positions would scale back from 20 to 16 hours a week mid-year.

Rich said that he wanted to see if the level of unrestricted funds stayed stable or increased. He suggested that if early in the year it was substantially above \$50,000 and appeared stable, the program might do two things: first, keep Amanda at 20 hours per week; second, add a contract or part-time communications and development person, a position that might ultimately pay for itself.

Rich suggested that the board might wish to authorize him, Chair Chris Frost and Mary O’Doherty to review unrestricted reserves early in the year and, if they were sufficient and stable, to proceed with the 20 hours for Amanda and the new development staffing.

In discussion, members suggested that the specific authorizing language was unnecessary and left it to Rich, Chris and Mary to review and act at their discretion.

Jeff Been suggested slight additional increments for the Director, Senior Staff Attorney and Health Law Fellow to assure that all employees received at least a two percent raise. He pointed out that it would take only small amounts of money to get everyone to 2%.

Rich said he could support the idea, and asked that the additions be to a round number, ideally divisible by twelve, for administrative simplicity.

- Motion:** Jeff Been moved to approve the budget with additional increments, rounded as Rich suggested, to achieve at least 2% increases for all employees.
- Second:** Mary O’Doherty
- Action:** Approved unanimously

(The resulting salary change added \$180 each per year for the Director and Senior Staff Attorney and \$100 for the Health Law Fellow.)

#### **Administration: Audit Committee Report**

Treasurer Mary O’Doherty said that she and fellow Audit Committee member Bob Brown had met by phone with auditor Vickie Richardson to review and discuss the KEJC audit report for FY 2013, with Chair Chris Front participating ex officio.

Mary said the program received a “strong audit” with no problems. She said that Vickie had answered questions to the committee’s satisfaction regarding (a) figures for in-kind software donations via Tech Soup and (b) accounts receivable.

- Motion:** Jeff Been moved to accept the KEJC Audit Report for FY 2013.
- Second:** John Rosenberg
- Action:** Approved unanimously

#### **Big Picture: Legal Services Funding**

Program Director Jeff Been reported on Congressional proposals for funding for the Legal Services Corporation (LSC)-funded programs. Jeff said it appeared that a \$10 million increase could be adopted nationwide, with the allocation of funds between field programs and LSC itself as yet undetermined.

Josh Crabtree asked what \$10 million nationwide might mean for Kentucky programs. Dick Cullison suggested it would mean about \$60,000 in new income per program.

Jeff said that the case for increased funding for programs might have been enhanced by a recent report. Around Thanksgiving, the National Center for Access to Justice had released a set of “justice index” scores and rankings for states. Jeff said the index took into account factors like the accessibility of courts to people with disabilities, Limited English Proficiency and low income.

Jeff said Kentucky had been ranked second to last, with only Oklahoma scoring lower. He said that he had been interviewed on the radio about the ranking and had also mentioned it in conversation with Kentucky Chief Justice Minton.

Jeff said the report created an opportunity to hold a Justice Summit, perhaps in the first 6 months of 2015, at which presenters from the national center could say “here’s what we could do.”

Josh Crabtree agreed that the report was a good piece to use in discussions about funding. Dick Cullison noted that Kentucky makes about \$4 million a year available to the field programs through state budget appropriations and filing fee distributions.

John Rosenberg said that Public Welfare Foundation had provided funding for the Voices for Civil Justice project, led by Martha Bergmark, which sought to draw media attention to the good work done by legal services programs.

### **Strategic Planning: Top Five Takeaways**

Chris invited Rich to address strategic planning. Rich noted that during the current year planning had taken the form of work sessions at board meetings on (a) substantive advocacy and (b) communications. Rich said he appreciated the board and staff participation. He offered his “top five takeaways” from the process so far, as follows:

- Include advocacy goals in updated advocacy sections of the plan
- Include sustainability activities, like projections of attorney’s fees, in the advocacy sections
- Have a communications plan, including potential new staffing
- Have a development plan with the same
- Continue work sessions in meetings, with development and governance up next

### **Governance: Whistleblower Policy**

Rich thanked Employment Law Attorney McKenzie Cantrell for her work on the proposed whistleblower policy. He said the policy had been circulated after the last meeting for review. Chris Frost offered addition language to explain the purpose of the policy. He proposed that the second sentence be expanded as follows (additions in bold and italics).

We take seriously our obligation to prevent the kinds of legal and ethical violations that could cause adverse publicity or public distrust of KEJC, ***injure our ability to fulfill our mission or result in a failure to meet our obligations to the public.***

- Motion:** Jeff Been moved to adopt the whistleblower policy with the change proposed by Chris.
- Second:** Josh Crabtree
- Action:** Approved unanimously

### **Governance: Conflict of Interest Statement**

Rich called the board's attention to the Conflict of Interest form in the board package. A number of members and staff filled out and returned the form during the meeting.

### **Governance: Community and Client Member Nomination Process**

With the end of the year, Rich said, the board terms of Community Members Jamie Abrams, Chris Frost and Bob Brown were coming to an end, as well as the term of Client Member Clarence Henry. He said that early in the new year he would contact each member with an expiring term to see if they wished to continue.

Rich said that, under the bylaws, members remained on the Board until their successor was elected. Rich said he would discuss the results of the survey with the Nominating Committee, now composed of Scott Crocker, Jamie Abrams and Loree Stark, with Chair Chris Frost empowered to invite a Client Member to serve.

Rich said that under the schedule KEJC had followed the last several years, the steps were to determine first if there were potential vacancies; issue a call for nominations if there were; hold a Nominating Committee meeting to consider nominations; and convene a short board conference call to consider nominations. Rich said the process allowed new members of the Board to be elected before the first regular meeting of the year.

### **Governance: Meeting Dates for 2015**

Members reviewed the handout with proposed meeting dates for 2015 as follows: April 2 for the special conference call on nominations; April 17, July 15, September 25 and December 10 for regular meetings. After a discussion, members agreed by consensus to change the April 17 meeting date to April 21.

### **Adjournment**

KEJC staff reported on their activities, projects and successes. Because no board action was required in response, the staff reports are summarized separately. The agenda having been completed, the meeting was adjourned by acclamation.

### **Reported by:**

Rich Seckel  
April 18, 2015