

# Kentucky Equal Justice Center

## Board Minutes

December 8, 2016

**Board Members Present:** Rosa Martin (Client Member); Jamie Abrams, Robert Brown, Christopher Frost, Mary O’Doherty, John Rosenberg (Community Members); Joshua Crabtree, Robert Johns, Neva-Marie Polley (Program Directors); Brenda Combs, Angela Zeek (Staff Representatives).

**KEJC Staff:** Miranda Brown, McKenzie Cantrell, Nathalie Dietrich, Guion Johnstone, Rich Seckel, Cara Stewart, Marcie Timmerman.

**Guests:** Amanda Bear (Children’s Law Center); Nan Hanley (Access to Justice Foundation).

### Welcome and Introductions

A quorum being present, Chair Chris Frost called the meeting to order. Chris invited Rich to share highlights of recent activity. Rich’s addressed several topics, as follows:

**Maxwell Street Rapid Response:** Rich said he was impressed that Maxwell Street Legal Clinic staff and volunteers had responded so quickly to community concern about immigration in the wake of the election. He said they held a well-attended community information session in English and Spanish on the Sunday right after the election, which drew sympathetic coverage in the Lexington Herald-Leader. To help meet the ongoing demand for reliable information, CLINIC Fellow Nathalie Dietrich and founding volunteer Marilyn Daniel created a video version of the presentation and posted it online.

**They call it Stormy Monday, but Tuesday . . . :** Rich said election-driven changes in Washington, DC, and Frankfort could make for challenges for many people that KEJC served, especially immigrants and Kentuckians with new health coverage under the Affordable Care Act. Rich said one election close to home seemed to buck the trend: KEJC’s McKenzie Cantrell had won a seat in the Kentucky House representing the 38<sup>th</sup> District in Louisville.

**“We have money:”** Rich said he enjoyed the December 2-3 meeting of the Legal Impact Network (LIN). LIN is a new association of statewide, policy-oriented civil legal aid programs based at the Shriver Center in Chicago. Rich said speakers from national groups had focused on “messaging” to the public about policy issues. He said that LIN staff and a speaker from Center for American Progress (CAP) “got it” when, in side conversations, he described KEJC’s drumbeat of social media support for Medicaid expansion, an approach he wanted to extended to other issues. Rich said he took note when the CAP rep said: “We have money.”

**Red is the color:** Rich said he and Cara had attended a first rate Consumers Union conference in New Orleans on health care price drivers. (Travel for attendees was subsidized.) The conference started the day after the Presidential election, Rich said, so discussion shifted to the heightened jeopardy for the Affordable Care Act. Among insights that emerged from discussion: “red” states were important. Rich said the conference attendees recognized that swing votes on key issues might have to come from them.

**Comic relief:** Rich said that he and Emily Beauregard of Kentucky Voices for Health had invented a “fake news” story: the Russians had hacked into healthcare.gov and put people on “Putin Care.” He said he and Emily were too straight-laced—or perhaps too principled—to pursue a fake news strategy and so at the Consumers Union conference labeled it as humor rather than rumor. He said that, during dinner conversation, a couple of folks from Ohio seemed at bit worried at first.

### **Approval of Minutes**

Chris invited a motion on the minutes of the last meeting.

- Motion:** John Rosenberg moved to approve the minutes of the September 23, 2016, board meeting.
- Second:** Brenda Combs
- Action:** Approved unanimously.

### **Administration: Financial Report through November 30**

Chris next invited Rich to review the financial report through November 30. Rich began with a review of the summary figures on the cover sheet, as follows:

**Profit and Loss Budget Overview:** the budget for 2016 anticipated a loss of \$12,760 plus \$30,000 in spent down Harvard Fellowship funds, for a total of \$42,760.

**Profit and Loss through November 30:** showed a loss of \$98,427 compared to the expected loss of \$76,550—a negative variance of \$21,877.

**Balance Sheet as of November 30:** showed Total Current Assets of \$274,084, down from \$310,847 on August 31 and down 20.7% percent from \$345,416 on November 30, 2015.

**Income and Expense Charts:** 80.8% of spending was payroll. 56.1% of income was grants.

Rich said a decline in Total Current Assets was expected. During 2016, KEJC had planned to spend down remaining funds received in 2015 for the one-year Harvard Fellowship at Maxwell Street.

Rich projected **carryover** at the end of 2016 at \$287,233, down from \$361,976 at the beginning of the year. He said the figure was based on the budgeted loss for the year, plus (a) the November 30 loss in the Profit and Loss report and (b) payments totaling \$10,000 to legal aid programs for “Boots on the Ground” health outreach under a Foundation for a Healthy Kentucky grant.

Rich said the November 30 net loss of \$21,877 corresponded closely to the amount in the budget for proceeds from a 40<sup>th</sup> anniversary celebration. With input from Chris, Rich said, he had delayed the celebration from its original timing in the fall. The reason: to avoid conflict with holiday fundraising. Rich said the event could be held in 2017, before KEJC’s next “birthday.” (KEJC was incorporated in November 1976.)

Rich said he estimated **unrestricted reserves** at \$46,944 on November 30, down from \$82,925 at the beginning of the year. He said about \$13,000 of the drop was due to a gap in renewal of the Public Welfare Foundation grant for the workers’ rights project. Rich said KEJC had picked up expense for the project from its own pocket from May 16 to June 30, 2016. The grant was renewed effective July 1. (See previous minutes for detail.)

Turning to **months of reserves**, Rich said that Total Current Assets as of November 30 would last about four and a half months (4.58 months) and unrestricted reserves just under one month (0.78 month) under the hypothetical scenario that no new funds would come in. Rich said the figures were healthy but that his goal was to keep them at 6 months and 1 month, with unrestricted reserves at or above 10 percent of budget (about \$68,000).

Rich said that the board had authorized him to spend unrestricted reserves above 10 percent of budget on bookkeeping, fundraising assistance or both. He said unrestricted reserves were below the 10 percent threshold. As a result, he had held off on new expenditures. Rich said, the coming holiday season was a time when unrestricted reserves can be increased through donations.

Turning to **Budget vs. Actual**, Rich said that expenses had come in right on budget at just over 100 percent (100.57%). He said income was a little below budget at 97% percent, due mostly to the delayed anniversary event. He said the figures were “upside down” from ideal but not by a large amount.

On the details of Budget vs. Actual, Rich said that:

- Donations and client fees were running well above budget, at 141% and 154% respectively.
- Rent was over budget, but the amount had been driven and paid for by new grants for health communications.

### **Administration: Development Update**

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

- In 2015 KEJC had received 70 percent of what it sought through grants and fundraising campaigns (\$399,790 of \$568,734).
- From 2011 through 2015, KEJC had received 75 percent of what it sought (\$1,563,178 of \$2,077,873).
- So far in 2016, KEJC had received a total of \$235,238 of \$255,669 sought, or 92 percent, including the Public Welfare Foundation grant as awarded.

Under “coming up,” Rich listed three items: the Good Giving Challenge, the annual holiday fundraising letter and Lexington’s External Social Resource grant process. Rich said the goal for Good Giving was to raise \$18,000 in donations, not counting any prizes. He said the goal for the holiday letter was \$10,000. (Later, each came in above the target.)

Rich said that KEJC would reframe its proposal to the city of Lexington to emphasize health outreach and related enrollment for at risk populations, including immigrants and the homeless. He said that Maxwell Street U and T visa services would be elements of the project “toolkit” to achieve coverage for vulnerable people.

Rich said staff at the Legal Impact Network operated with a sense that their member programs had limited “bandwidth” for new activities and issues. Rich said the returns on grant writing and reporting had been strong, but that limits on bandwidth might have been reached. He thanked Nathalie for handling most of the reporting for the CLINIC Fellowship and Miranda for her help on “Boots on the Ground” reports.

#### **Administration: IRS 990 for 2015**

Rich said that the IRS 990 had been completed by auditor Vickie Richardson, circulated to the board, then filed with the IRS and posted on the board page on the KEJC website. He said the 990 was based on figures from the recently completed audit for FY 2015.

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

Rich passed around copies of the FY 2015 audit report prepared by auditor Vickie Richardson. Chris recognized Treasurer Mary O’Doherty to report on behalf of the KEJC Audit Committee. Mary said that the Committee had held a conference call with Vickie on Tuesday, December 6, to review the audit, absent Rich as management.

Mary said Vickie had described the report as a “good clean audit.” Committee member Bob Brown said he believed the word was “awesome.” Mary said Vickie had recommended two Adjusted Journal Entries, one to record the year’s change in Temporary Restricted Net Assets and a second to enter a correction of just over \$100 in the program’s depreciation schedule for equipment. Rich said the Vickie each year calculated the TRNA and gave him an entry for posting.

Chair Chris Frost drew the board's attention to Note 8, which said that during the year KEJC had gone about \$8,000 above the FDIC insured limit in its bank accounts. Chris said "that's something to watch." Rich said that he would keep an eye on the balance. He said that KEJC had spent down one-time funds for the Harvard Fellowship, so high balances were less likely going forward.

Rich said that KEJC would soon transfer the Mason Foundation 2015 donation of \$50,000 from savings to a brokerage account for investment, also lowering balances at the bank.

- Motion:** Josh Crabtree moved to accept the FY 2015 audit as prepared by auditor Vickie Richardson.
- Second:** Robert Johns
- Action:** Approved unanimously.

### **Administration: Investment Committee Report**

Committee member John Rosenberg reported for the new KEJC Investment Committee. The committee had been charged by the board to (a) select an investment firm to receive the Mason Foundation donation and (b) choose initial investments and (c) develop an investment policy to guide investments, disbursements and oversight.

John said the committee had met by phone and selected Vanguard as the brokerage firm. Once the account was established, he said, the investments would likely be a mix of mutual funds, with an emphasis on index funds and socially screened funds. John said that Appalachian Citizens Law Center had an endowment and might be a good source of ideas.

Rich said that he had reviewed the Vanguard account application form with the committee during its last conference call and just needed a couple of additional signatures to complete it for submission. (Minutes of the November 14, 2016, Investment Committee meeting were included in the Board package.)

### **Administration: Proposed Budget for 2017**

Rich presented a proposed budget for FY 2017, using a projector to display the details. He said he had prepared it guided by the budget assumptions discussed at the last meeting. He said he had held a budget briefing for staff by webinar earlier in the week.

Rich briefly reviewed the budget assumptions, including the goal of making a budget that could be paid for with known or predictable income while maintaining unrestricted reserves of 10 percent of budget.

Turning first to salaries, Rich said the budget included increments of \$900 a year for newer full-time staff, with additional adjustments of (a) \$480 for the Senior Staff Attorney to bring salary closer to comparability and (b) \$66 for the Health Law Fellow to bring the increase to 2%. He said all full-time staff would receive at least a 2% increment.

Rich said the budget included a 50 cent an hour increase for part-time staff, effective on their anniversaries, with the new Legal Assistant to receive an extra increment after her first six months. Rich said the Legal Assistant would hit \$15 an hour at the end of her first year, allowing KEJC to “practice what it preached” on wages. Rich said that the increments proposed for part-time employees ranged from 2.6% to 7.1%.

For his own salary, Rich said, he relied on the board’s recommendation the previous year of a 5% increase in both 2016 and 2017. He said he appreciated not having to decide his own salary.

Rich said that the figures for FICA, UI and fringe benefits were driven by known rates. Rich said operating expenses were based on rates where available or trended across the last two years.

Rich said the biggest change in the budget would see McKenzie go part-time in stages, by agreement, to take into account her new responsibilities as a member of the Kentucky House. He said McKenzie would step down to 60% time in January and February, enough to keep her benefits in place until new benefits from her legislative role started.

After February, Rich said, McKenzie would go half-time, focusing on litigation. In turn, to build the workers’ rights project, the budget added Outreach Coordinator Miranda Brown about half-time and a couple of hours a week of Marcie’s time for social media. Rich said the combination of functions resembled what KEJC would have done had Public Welfare Foundation doubled its grant.

Rich said that the budget provided for Miranda to go from part-time employment as Health Outreach Coordinator to full-time employment as Outreach Coordinator for both health and workers’ rights. He said that the health team had benefited from deploying a full range of functions from outreach to policy advocacy to communications. He said he’d like to use the same model for workers’ rights advocacy.

Rich said that to help pay for the change, he proposed reducing the “Boots on the Ground” health outreach sub-grants to legal services programs from \$20,000 to \$12,000. He said the Lexington city grant might help pay for part of Miranda’s position going forward. Rich said the forms for the city application seemed to require board approval.

On the income side of the budget, Rich said he had made cautious assumptions about grant renewals. He said the budget featured a \$36,000 “risk level” of new grants to be sought from sources not yet identified, an amount he felt could be achieved. It also included the now-delayed anniversary fundraising event, with \$25,000 in projected net proceeds.

Rich said that when he began the budget process, he was very concerned about having a large negative bottom line. To his relief, he said, it hadn’t turned out that way. He said the net income was negative \$16,273, less than the negative amount approved for 2016. Rich said that if the expected spenddown in CLINIC Fellowship funds was factored out—about \$20,000 in remaining, non-renewable dollars—the net was a positive \$3,727.

By way of background, Rich said that the two-year CLINIC Immigration Fellowship had come with first year funding of \$50,000 in 2015-2016, followed by a drop to \$25,000 for the grant year starting October 2016. He said that he had worked with Nathalie to submit a sustainability plan for the Fellowship to CLINIC. Under the plan, the position would transition from reliance on a single funding source to a more diverse portfolio.

Brenda Combs said she had examined the budget and felt it was well-constructed and based on reasonable assumptions. She said she could approve it. Board members then made and approved a series of motions.

**Motion:** John Rosenberg moved to approve the executive director salary increment included in the proposed budget.

**Second:** Joshua Crabtree

**Action:** Approved unanimously.

**Motion:** Brenda Combs moved to approve the proposed budget for 2017.

**Second:** Robert Johns

**Action:** Approved unanimously.

**Motion:** Joshua Crabtree moved to approve KEJC submitting a grant proposal to Lexington-Fayette Urban County Government.

**Second:** John Rosenberg

**Action:** Approved unanimously.

### **Governance: Conflict of Interest Forms**

Rich next drew the group's attention to the KEJC Conflict of Interest (COI) forms included in the Board package. He passed around copies. Rich said that the Board had adopted a Conflict of Interest policy requiring board members and staff to declare business interests or memberships other than KEJC. The idea was to encourage decision-making with KEJC's best interests foremost and other interests disclosed.

Rich said the policy called for new COI forms from Board and staff each year. He said the time for updates had come. A number of board and staff members completed and turned in the forms during the meeting.

### **Governance: Proposed Meeting Dates 2017**

Rich passed around a sheet with proposed dates for four board meetings in 2017, as follows:

April 14

July 20

October 6

December 14

Several members said that the April date would not work for them. Following discussion, the group settled on April 21 instead.

### **Big Picture: Legal Services News**

Legal Aid of the Bluegrass director Josh Crabtree said the Congress had adopted a Continuing Resolution extending the federal budget to April 28, 2017, with no rescission imposing additional cuts. Josh said that the Legal Services Corporation (LSC) historically had experienced cuts on the order of 25-30% when the Republican Party controlled the Presidency, House and Senate.

Josh noted that even in difficult times, “We have won the battle of survival.” He reported that the Congressman who often filed a bill to repeal the Legal Services Corporation Act had retired. He said that 2017 was not a state budget year.

Josh said that Scott Crocker was retiring soon as director of Kentucky Legal Aid and that Amanda Young had been chosen to succeed him. He said that Amanda had been intake director at KLA for several years.

Access to Justice Foundation director Nan Hanley said she had talked with the Justice Cabinet and the “check is supposed to be sent this week” for the state appropriation to legal services programs. John Rosenberg said that Secretary Tilley of the Cabinet had met with the advisory commission for public advocacy. John said that Secretary Tilley was very supportive of public defenders and of efforts to help with re-entry of incarcerated people into the community.

Regarding Congressional funding, John said “You’d be surprised how many staffers don’t know legal services programs” and the services they provide. Josh said that among members of the Kentucky Congressional delegation “everybody voted for us all or most of the time.”

On fundraising, Board member Jamie Abrams said that it might be hard to attract national foundation grants to red states. She note an upsurge in individual donations to organizations like ACLU that made aggressive and targeted appeals stressing determination to oppose Trump administration positions.

In discussion, members discussed the tone and content of potential fundraising appeals. Chris Frost said that there were two ways to be aggressive: in tone or in how much to ask for and how many appeals to make to the public. Jamie suggested the idea of “circles” of donors based on donation level, offering contributors recognition.

AppalRed director Robert Johns said that the Bank of America settlement “couldn’t have come at a better time” to help Kentucky’s LSC-funded programs weather a funding storm. Josh explained that the programs divided up \$6 million in settlement funds passed down to them through the Kentucky Bar Association IOLTA program, to be used over several years.

## **Thank you, Guion Johnstone**

To general applause, Chair Chris Frost took the prerogative to thank Maxwell Street Program Director Guion Johnstone for her service to Maxwell Street and KEJC. He said that Guion had done an extraordinary job in a demanding situation, including her work on cases and her leadership with staff, students and volunteers. Chris said Guion had accepted the position of director of the Kentucky Bar Foundation.

Guion said that she had grown a lot in her work with KEJC. She said hadn't planned to leave but the new opportunity proved too good to turn down.

## **Staff Reports: Thank You**

KEJC staff reported on activities, issues, projects and successes. Because no board action was required in response, summaries are reported separately. As well, written staff reports are posted on the KEJC board web page under the December 8, 2016, heading at:

[www.kyequaljustice.org/Board+Meetings](http://www.kyequaljustice.org/Board+Meetings).

## **Adjournment**

The agenda being completed, the following motion was made and approved.

<b>Motion:</b>	Bob Brown moved to adjourn the meeting.
<b>Second:</b>	Joshua Crabtree
<b>Action:</b>	Approved unanimously.

## **Reported by:**

Richard J. Seckel, Director  
April 19, 2016