

Kentucky Equal Justice Center

Board Minutes

April 21, 2015

Board Members Present: Jamie Abrams, Robert Brown, Chris Frost, Mary O’Doherty, John Rosenberg (Community Members); Jeff Been, Josh Crabtree, Rob Johns (Program Directors); Loree Stark (Staff Representative).

KEJC Staff: Miranda Brown, McKenzie Cantrell, Amanda Hitt, Guion Johnstone, Sara Moreles, Rich Seckel, Cara Stewart, Daniel Welsh.

Guests: Rebecca Ballard DiLoreto (Children’s Law Center), Nan Hanley (Access to Justice Foundation).

Welcome and Introductions

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

Highlights of Recent Activity

Chris invited Rich to give highlights of recent activity. Rich focused on five items:

We got TV sets! Rich said that Guion called him one day with exciting news. He thought she said “We got two TV sets!” He wondered why she was excited. But as Guion went into the details, he realized she had said “T visas.” Approval of the visas was a breakthrough for Maxwell Street Legal Clinic and for the clients, who had been victims of labor trafficking.

Workers’ Rights Next Steps Summit: It was organized quickly. It drew great speakers and panelists and a worthy crowd. Rich said KEJC’s first attempt to “scale up” on a workers’ rights meeting drew about 60 people. It featured:

- a guest speaker from A Better Balance on family friendly work places
- numbers gurus Ron Crouch and Jason Bailey offering a portrait of working families
- a stakeholder panel including Rep. Sannie Overly

Rich thanked McKenzie for her work on the event, including her performance as MC.

kynecting the dots: Rich described an exchange with kynect that showed the value of engaging in on the ground enrollment and linking it with advocacy in Frankfort. Before a kynect Education and Outreach advisory meeting, he had asked Miranda for a short list of problems to bring up. He had figured he might be able to raise one or two items for discussion. Instead, Education and Outreach Director Jean Klinge asked for the whole list

and assigned it to a top staffer to investigate. The staffer was in touch with Rich and Miranda by the next day.

Non-judicial non-starter: Rich said that sometimes a single issue makes clear the value of KEJC’s “watchdog” role in the General Assembly. This year, he said, the issue was non-judicial foreclosure. He praised Anne Marie for a quick response to a bill, which was withdrawn by its sponsor just a few days after it was filed. Rich said the primary lobbyist for the Kentucky Bankers Association made something like half a million dollars in a 12 or 18 month period from multiple clients, almost the same as KEJC’s entire budget for an entire year. Rich said that KEJC had lived up to its Consumer Reports award, providing high quality advocacy for consumers on a modest budget.

Nonprofit voice award shared with Rep. Burch: During the Session, the Kentucky Nonprofit Network held an awards ceremony in the Capitol Rotunda. KEJC was one of several nonprofit awardees. Rich said each awardee was invited to name a legislative champion to share the award. Rich said he had named Rep. Tom Burch, chair of the House Health and Welfare Committee. Rich said Rep. Burch had sponsored one of his favorite bills a few year back. It supported enrollment of TANF parents in college and led to Kentucky’s well-regarded Ready to Work program. Rich said he was genuinely pleased to shake Rep. Burch’s hand as the award was given.

Approval of Minutes

Faced with a time crunch, Rich had sent “mini-minutes” to the board by mail and followed up by posting detailed minutes online before the meeting. He said the mini-minutes focused on financials and motions. He asked for feedback on two questions:

- whether streamlined minutes were good enough
- whether distribution by mail was needed in the age of email

In discussion, Josh Crabtree and Chair Chris Frost said that the mini-minutes were fine. Chris said that the motions were the essentials of board business. On the question of mail versus email distribution, the consensus seemed to be that email was good enough.

Board member John Rosenberg said that it would be good to have hard copies of the financials available at the meeting to facilitate review. Rich agreed that hard copies help with the financial “walk through.” He said it would save him time not to have to do a full mailing before each meeting.

Chris invited a motion on the detailed minutes of the previous meeting:

- Motion:** Mary O’Doherty moved to approve the minutes of the December 11, 2014 board meeting.
- Second:** Loree Stark
- Action:** Approved unanimously

Administration: Financial Report for FY 2014

Chris next recognized Rich to give the Financial Report. Rich said he would offer two reports: one for FY 2014 as a whole and the other for FY 2015 through the first quarter. Rich first drew the board's attention to the handout for FY 2014. The cover sheet offered summaries as follows:

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

Profit and Loss Budget vs. Actual through December 31: showed a gain of \$60,496 compared to the expected gain of \$9,059—a positive variance of \$51,437.

Balance Sheet as of December 31: showed Total Current Assets of \$270,772, down from \$278,423 on November 30 but up 24 percent from \$218,364 on December 31, 2013.

Income and Expense Charts: 76 percent of spending was payroll. 51 percent of income was grants.

Rich said that KEJC's carryover of \$270,722 at the end of the year fell slightly short of the \$287,423 he had predicted at the last meeting. He said the difference showed the wisdom of budgeting for a slight surplus.

Offering more detail, Rich said the positive net income of \$60,496 was higher than the Mason Fund restricted donation of \$50,000 but didn't quite reach the additional \$9,059 in surplus and \$10,000 remainder from the Consumer Reports award that he had hoped.

Rich added that it was hard to complain about a year with a \$60,000 surplus.

Rich said he estimated year-end unrestricted funds at \$66,389, a pretty healthy level. He said that he would meet with Brenda Combs of Legal Aid of the Bluegrass to review allocation of CHIPRA child health enrollment funds. If more funds properly could be allocated to CHIPRA, he said, the balance of unrestricted funds would rise accordingly.

Rich then offered a brief walk-through of supporting QuickBooks printouts in the report. Regarding Budget vs. Actual, he said that income had come in at 111 percent of budget and expense at 102.5 percent, a positive ratio. He said the income figure was driven mainly by the \$50,000 Mason Fund contribution and \$25,000 Consumer Reports award.

Rich said the 2.5 percent 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 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

Finally, Rich said, the program had paid for two audits during the year: one for 2012 at the beginning of the year and one for 2013 at the end. Rich said that the 2012 audit had been delayed due to illness of auditor Vickie Richardson’s father.

Rich said he would take the opportunity to explain a snafu with the IRS—but added that all had ended well. As background, he reminded the board that in 2014 it had considered audit bids. During the bidding process, Rich said, he had filed the May 15 “automatic” request to extend the due date for the IRS 990 until August 15.

After the bid process was complete and Vickie Richardson was retained as auditor, Rich said, he asked whether she could file the August 15 extension request. She said yes, but a couple of days after the deadline Rich checked with her and found she hadn’t. He filed immediately, hoping for the best, since the request was just a couple of days late. Nevertheless, IRS imposed a penalty of \$20 a day for late filing.

Rich said he must have written a good letter to appeal because ultimately the IRS forgave the late filing and returned the penalty.

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, along with changes in accrued leave.

Administration: Financial Report for First Quarter

Rich then reviewed the report for the first Quarter of 2015. The cover sheet stated that:

Profit and Loss Budget Overview: budget for the year anticipated a gain of \$5,003.

Profit and Loss Budget vs. Actual through March 31: showed a loss of \$24,390 compared to the expected loss of \$8,632—a negative variance of \$15,758.

Balance Sheet as of March 31: showed Total Current Assets of \$251,850, down from \$270,772 on December 31 and down 1.17 percent from \$256,127 on March 31, 2014.

Income and Expense Charts: 79.4 percent of spending was payroll. 53 percent of income was grants.

Rich said that the budgeted \$5,003 surplus represented “wiggle room” available if “everything else came true.” He said it was less than the surplus in the previous year’s budget.

Rich said the first Quarter performance illustrated the ups and downs—in this case downs—of cash flow. The budget approved by the board had built in “risk:” \$30,000 in new grants from as yet unknown sources. Rich said that he had spread the \$30,000 out across the budget year. Since no new grants had been funded yet, the first Quarter bottom line was affected accordingly (by \$7,500).

As well, Rich said, he had budgeted United Way funding monthly, even though the initial award had been made midway in the prior year and the new one wouldn’t come until the summer.

Overall, Rich said, income in the first Quarter had come in at 89 percent of budget, while expense was almost exactly on target at 100.9 percent—not the perfect ratio but one that likely would be made up later in the year. He said that spending was normal so far with no significant trends or variations, positive or negative.

Immigration Attorney Guion Johnstone asked where client fees appeared in the budget versus actual report. Rich said they were a subcategory of the Program Services line. He said the line was slightly below budget, not due to client fees but because he had spread out a modest estimate for other attorneys’ fees across the year. Rich said that he could check, but his impression was that Maxwell Street client fees for services were on track at about \$1000 a month.

John Rosenberg asked about the amounts of Maxwell Street client fees for services. Guion said they were lower than those charged by comparable nonprofit immigration law programs. Board members then discussed how client service fees compared with the third party fees that nonprofit attorneys could receive in fee-generating cases.

Employment Law Attorney McKenzie Cantrell said that KEJC’s agreements with private firms on joint wage claims built in a Lodestar formula, with a proposed hourly rate for each attorney based on experience. Josh Crabtree said third party fee hourly rates should be set with an eye toward rates prevailing in the area where the case was filed.

Chair Chris Frost asked whether Maxwell Street waived client fees in case of hardship. Guion said the program offered waivers of its own fees and support for filing fees in Deferred Action for Childhood Arrival (DACA) hardship cases. The support for filing fees came from individual donors rather than from the program operating budget.

Rich reminded the board that he had described two “wild cards” when outlining the 2015 budget. Each represented an opportunity. Neither was represented in the budget itself. The first was the potential for Lexington city funding for Maxwell Street.

Rich said that he had gone to all the meetings and filed for consideration of Maxwell Street as an “External Social Resource” for the city. He said the application met with an unexpected response. Shortly after he filed, he received a short email note from Social Services Commissioner Beth Mills saying that Maxwell Street offered legal rather than social services and therefore was ineligible for consideration.

Rich said it was “tragic distinction” that didn’t recognize community need.

Chris Frost noted that the city now had a new social services commissioner, who might view things differently. Guion said that Latino and immigrant community advocates planned to meet soon with the new commissioner.

John Rosenberg suggested getting new Vice Mayor Steve Kay involved in the budget process. Rich noted that it was a formal process, now pretty far along, to govern allocations for two years, though he understood that Council members and the Mayor sometimes proposed changes late in the budget process.

Guion said that the Lexington Department of Law had been considered as an alternative to the social services department as a funding agency for Maxwell Street but had been concerned about “conflict of interest.”

Guion said that, after the decision, Commissioner Mills suggested that legal services programs partner with social services agencies. Josh Crabtree noted that his former employer, Children’s Law Center, had received Lexington city funds two cycles earlier, so perhaps the standards varied.

Jeff Been commented that “it’s a mindset.”

Turning to the other budget wild card, Rich said that summer intern Sarah Adkins (now back at Harvard Law) was under consideration for a Harvard public interest fellowship at Maxwell Street, to start by September. Under the Fellowship program, Harvard would pay the Fellow’s salary while KEJC would pay fringe benefits and operating costs.

Rich then commented on the chart “Months of Reserves 2013-2015” 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. Each time period was up slightly since the last report. Rich said the program had reached a healthy level of both total and unrestricted reserves.

Administration: Development Update

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

- In 2014, KEJC had received \$315,772 while seeking \$290,411 through grants and fundraising campaigns, or 109 percent of what it sought.

- Since 2011, KEJC had received \$1,163,388 of \$1,509,139 sought, or 77 percent of what it sought.
- So far in 2015, KEJC had received one grant it sought: \$45,000 from the Foundation for a Healthy Kentucky for the Health Law Fellowship.

Meanwhile in 2015, Rich said, major grants were pending with the Foundation for a Healthy Kentucky (\$50,000) and Public Welfare Foundation (\$80,000). The first was for renewal of the Boots on the Ground health outreach and advocacy project. The second was for a sixth year of support for KEJC’s workers’ rights initiative.

Rich said he was evaluating whether to file two more grants: a two-year \$250,000 USCIS grant for citizenship assistance and a \$150,000 grant through the Center for Law and Social Policy (CLASP) for policy work to streamline and align benefits enrollment and recertification in SNAP and Medicaid.

Update: In the end, KEJC did not apply for the citizenship grant, which appeared to be targeted to areas with higher density immigration populations. KEJC did apply for the CLASP grant, for a joint project with Kentucky Center for Economic Policy, Kentucky Voices for Health and Kentucky Youth Advocates. Sixteen states had been invited to apply for five potential grants through CLASP. Kentucky did not make it to the finals.

Governance: Report of the Nominating Committee

Staff Rep Loree Stark reported for the Nominating Committee. Minutes of the committee’s meeting had been included in the board mailing. Members serving were Loree, Scott Crocker and Jamie Abrams.

Loree said the committee nominated current Community Members Jamie Abrams, Bob Brown and Chris Frost for new two-year terms on the board.

- Motion:** John Rosenberg moved to approve the nominations of Jamie Abrams, Bob Brown and Chris Frost to new two year terms on the Board.
- Second:** Jeff Been
- Action:** Approved unanimously

Loree reported that current officers Chris Frost (Chair) and Mary O’Doherty (Treasurer) were willing to serve new one year terms. She said the committee voted to nominate them.

- Motion:** Jeff Been moved to approve the nominations of Chris Frost as Chair and Mary O’Doherty as Treasurer for new one-year terms.
- Second:** John Rosenberg
- Action:** Approved unanimously

Governance: Staff Rep and Client Member Nominating Process

Rich reported that Client Member Clarence Henry planned to move back to his home country of Grenada later in the year and thought it best not to begin a new term on the board. Rich suggested that KEJC issue a call for nominations for client members, perhaps as early as the summer.

Rich noted that the complement of legal services Staff Reps on the board was down to one: Loree Stark as Attorney Staff Rep. He said the positions for Support Staff and Paralegal Staff Rep were now vacant. The reason: Support Staff Rep Jennifer Guzman had moved to California and long-time Paralegal Staff Rep Kim Murphy had retired.

Rich said the Staff Rep election process normally would be run in the fall but that with two vacancies it might make sense to start in the summer. He noted that Loree would face re-election slightly sooner than two years if she chose to run.

Big Picture, Joint Concerns, Joint Projects: CHIPRA

Access to Justice Foundation director Nan Hanley reported on the status of the two-year statewide legal services CHIPRA grant. She said the grant period was scheduled to end on July 14. Nan said that several programs had not spent all their CHIPRA funds and were interested in a grant extension. Nan said that CMS grant officers had told her that unfunded extensions of six months or twelve months were possible, but not extensions of other lengths.

Nan said she would examine the budget, including unspent travel funds, to see whether it could be reworked to reach six months. She said she would talk with CMS officials again and hold a conference call with directors of the CHIPRA-funded programs. (Update: there were not enough funds left over to support a six month extension.)

Big Picture, Joint Concerns, Joint Projects: Legal Services Funding

On legal services funding through the state budget, Nan said that continuation funding was set out in contract for the next state budget year, July 1, 2015 through June 30, 2016. She said it was not clear when Justice Cabinet would distribute the funds. Nan noted that 2016 was a budget year for the General Assembly.

John Rosenberg began the discussion of funding through Congress for the Legal Services Corporation (LSC). He said he had attended “ABA Days” in Washington, DC, during which delegations from every state visit with their members of Congress.

John said the Kentucky group had included himself, Dick Cullison, past ABA President Bill Robinson, Gene Vance from Stoll Keenon (who also served as Treasurer for the Legal Aid of the Bluegrass board), Marcia Ridings and Louisville Bar Association President Angela Edwards.

John said that President Obama had proposed \$452M in funding nationwide for LSC and that the LSC board had asked for \$480M. John said current year funding was \$375 million but if it had been indexed for inflation since 1981 it would be over \$800M.

John described generally supportive responses from members of the Kentucky delegation and their staff. He noted, however, that Congress might allow a new round of “sequestration” starting October 1, with a resulting 13 percent budget cut. He recommended that programs keep in touch with Congressional offices. He said the ABA also sought reauthorization of Juvenile Justice Act and sentencing reform to lower minimum sentences.

Guion Johnstone congratulated John on his receipt of an award at the Supreme Court building in Washington, DC. The Award was the ABA Grassroots Advocacy Award, presented April 15. John said that Nan Heald of Pinetree Legal Assistance also received the award.

Strategic Planning

Rich recalled that the Board had a great brainstorming and discussion session on communications several meetings back, with rating sheets for different options and investments. He asked whether board members would be interested in a similar discussion of options for development at the next meeting.

Josh Crabtree said that in his experience that development staff were well worth their cost. Chris said it would be great to find someone to take the pressure off Rich to do multiple proposals. Rich said that given KEJC’s pretty strong success rate with proposals, it would also make sense to “up the volume.”

There being general interest, Rich said he would structure a discussion on development similar to the communication discussion, to be held at the next meeting.

Adjournment

KEJC staff and partners 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, Mary O’Doherty moved to adjourn. The motion was approved by acclamation.

Reported by:

Richard J. Seckel, Director
July 10, 2015