

Kentucky Equal Justice Center

Board Minutes

April 21, 2017

Board Members Present: Christopher Frost, Mary O’Doherty (Community Members); Neva-Marie Polley, Amanda Young (Program Directors).

KEJC Staff: Miranda Brown, McKenzie Cantrell, Nathalie Dietrich, Leah Engle, Anne Marie Regan, Rich Seckel, Cara Stewart, Marcie Timmerman.

Guests: Acena Beck (Children’s Law Center); Scott Crocker (Director Emeritus of Kentucky Legal Aid).

Welcome and Introductions

A quorum not being present, Chair Chris Frost invited members to proceed through the agenda for information and discussion only. Chris invited Rich to share highlights of recent activity. Rich’s addressed several topics, as follows:

Welcome Leah Engle: Rich welcomed Leah Engle as the new Program Director Attorney for Maxwell Street Legal Clinic. Rich said he was impressed with how quickly Leah had plugged into her new role. He described a recent “get to know you” meeting in Frankfort with VOCA grant officials. Rich said the KEJC had team consisted of Leah, Nathalie and himself. He said that Leah and Nathalie’s knowledge and enthusiasm were abundantly evident during the meeting. Another good sign: the key grant budget official had looked over a sample budget and said “You need to ask for more money.” (KEJC did.)

“Yuge:” Rich said that Kentucky was among the states with the most to lose from Congressional action to repeal and replace the Affordable Care Act, with coverage for hundreds of thousands of people at stake. He said the decision of House leaders in late March to delay a vote on their bill was “yuge.” He said the unpopularity of the measure illustrated Abraham Lincoln’s maxim that “You can’t fool all the people all the time.” (The House later passed its bill but a similar Senate plan stalled.)

“I am a Kentuckian.” Rich described the “I am a Kentuckian” video and its release party at Smiley Pete Publishing in Lexington. Rich said that Lexington chef and artist Dan Wu had led the effort to create the video and organize the event. Rich said that proceeds from the release party went to KEJC and Kentucky Refugee Ministries. He said that Mr. Wu had been inspired by immigrant speakers at a rally at the Capitol in Frankfort. Many had introduced themselves saying “I am a Kentuckian.” Rich said KEJC board member Sandra Martinez was one of the Frankfort speakers. He said it was great to see members of the arts, food and cultural community support legal and policy work.

“You guys were relentless!” Rich said that KEJC first had ramped up social media to help protect Kentucky’s health gains. He said that Health Communications Coordinator Marcie Timmerman now was spending a couple of hours a week on workers’ rights and consumer issues, too. Rich said he was often unsure whether messages got traction out in cyberspace. He said a nice form of recognition had come during a national call on worker’s rights. The host had said of KEJC “You guys were relentless!” with messaging on the nomination of fast-food czar Andrew Puzder as Secretary of Labor. (Mr. Puzder had withdrawn from consideration.)

You never can tell: Rich said that social media posts sometimes drew unexpected positive reactions—and perhaps helped build relationships. He said that conservative state Senator John Schickel had favorited and retweeted KEJC’s thank you to Senator Julia Raque Adams. Senator Adams had co-sponsored bills to cap payday loan interest rates and strengthen penalties for violations of existing pay day loan law.

Every number just what it should be: Rich thanked Treasurer Mary O’Doherty for plugging away at the less than glamorous task of reconciling KEJC bank accounts. He said her efforts usually went without recognition or fanfare. But, he said, he couldn’t help but note that the last reconciliation session was especially satisfying: every account balanced on the first try.

Rich said that the KEJC Bylaws allowed the board to take action by unanimous written consent. He said that members present could make motions during the day’s discussion and he would circulate them to the full board by email.

Approval of Minutes

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

- Motion:** Mary O’Doherty moved to approve the minutes of the December 8, 2016, board meeting.
- Second:** Neva-Marie Polley
- Action:** Approved later by unanimous written consent

Administration: Financial Report for FY 2016

Chris next recognized Rich to give the Financial Report. Rich said he would offer two reports, one for FY 2016 as a whole and the other for FY 2017 through the first quarter. He then drew the board’s attention to the handout for FY 2016. The cover sheet offered a summary as follows:

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

Profit and Loss through December 31: showed a loss of \$67,224 compared to the expected loss of \$42,760—a negative variance of \$24,464.

Balance Sheet as of December 31: showed Total Current Assets of \$311,418, down 14% percent from \$361,976 on December 31, 2015.

Income and Expense Charts: 76.5% of spending was payroll. 54.6% of income was grants.

Rich said the negative Profit and Loss variance of \$24,464 corresponded almost exactly to the budgeted proceeds of \$25,000 from a 40th anniversary event. He said the event had been delayed from the fall so as not to conflict with holiday fundraising. Factoring out the missing event, Rich said, the program was almost exactly on budget.

Turning to the Balance Sheet, Rich said that a decline in Total Current assets had been expected in 2016 as KEJC spent down funds received in 2015 for the Harvard and CLINIC Fellowships. Rich said the Harvard Fellowship consisted of one-time funds. He said that CLINIC had provided \$50,000 in the first of two grant years and \$25,000 in the second.

Rich said he said that he had worked with Immigration Fellow Nathalie Dietrich to create a sustainability plan for the CLINIC Fellowship. Under the plan, the position would go from reliance on a single funding source to a more diverse portfolio.

Rich said that unrestricted assets appeared to decline during the year, from an audited figure of \$93,513 to an estimated \$55,656. Part of the story: KEJC spent over \$13,000 to fill a gap in the renewal of the workers' rights grant. Rich said he would return to the topic of unrestricted assets in his report on the first Quarter of 2017.

On Budget vs. Actual, Rich said that income had come in at 102% of projections—a nice figure—but expense at 105.7%, slightly “upside down” from ideal. He said that an income highlight was the strong figure for Maxwell Street client fees, over \$30,000. He then highlighted several spending lines, as follows:

Consultants: Rich said an overage of \$8,600 in the consultant line was driven by payments to videographer Ryan Morris for stories on consumer concerns about and experiences with health coverage. He said the activity was grant funded and did not affect the rest of the budget.

Rent: Rich said an overage on rent reflected an extra \$200 a month for the new office space in Louisville, starting midyear, plus inclusion of the value of in-kind rent for Maxwell Street Legal Clinic at \$16,000 a year. He said the \$16,000 also appeared as in-kind income, offsetting the spending figure.

Equipment: Rich said that the overage on equipment reflected a good decision to procure a much better printer for Maxwell Street Legal Clinic when the old lease ran out.

On months of reserves, Rich said that Total Current Assets as of December 31 would last about five and a half months (5.48 months) and unrestricted reserves just under one month (0.98 month) under the hypothetical scenario that no new funds would come in. Rich said the figures were close to his goal of 6 months and 1 month.

Rich noted 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 spending.

Administration: Financial Report through March

Turning to the current year, Rich did a walk-through of the First Quarter report, as follows:

Profit and Loss Budget Overview: the budget adopted by the board for 2017 anticipated a loss of \$16,273, smaller than during the previous year.

Profit and Loss through March 31: showed a loss of \$88,052 compared to the expected loss of \$88,250, a positive variance of \$199, almost exactly on budget.

Balance Sheet as of March 31: showed Total Current Assets of \$223,867, down from \$311,418 on December 31 and down 39% percent from \$365,046 on March 31, 2016.

Income and Expense Charts: 76% of spending was payroll. 73% of income was from legal services programs.

On the Profit and Loss statement, Rich said that if one factored out the expected spend-down of \$20,000 in second-year funds from CLINIC for the immigration fellowship, the budget would be about a positive \$3,000 for the year.

Rich said the first quarter of the year normally was not a “big income time,” so the apparently large loss of \$88,052 was an expected function of cash flow. He said that half of funding for the Health Law Fellowship had not come in yet, but would soon.

Rich pointed out that a high proportion of income in the first quarter came from legal services programs, at 73%. He said he appreciated the programs’ investment in KEJC.

Rich predicted carryover at the end of the year at the budgeted amount of \$295,145. He said it was too early in the year to identify trends that would change the prediction. Turning to unrestricted funds, he noted that they had declined since the last report, from \$55,565 to \$45,384—still too little to take unbudgeted initiatives.

To build the unrestricted total, Rich said two strategies would help: finding sources of unrestricted income, like proceeds from an event, and finding new restricted sources to pay for portions of salary now covered with unrestricted funds.

On the latter point, he said there was good news on the horizon, with sub-grants to KEJC grants in the works from the national Legal Impact Network and from Kentucky Center for Economic Policy (KCEP). (See detail below.)

Turning to the Budget vs. Actual report, Rich said that income had come in at 84.4 percent of budget, due to the delay in the Fellowship and to a monthly allocation under the budget for unspecified new grants to be sought during the year. He said that spending had come in at 94.9% percent of budget and that net income was almost exactly on budget.

Rich said that the line for travel was high, in part occasioned by travel during the General Assembly. He noted that the line for donations was strong, driven by contributions to support Maxwell Street efforts to address immigrant communities' concerns about emergency preparedness.

Turning to the Balance Sheet, Rich said the decline in Total Current Assets from the previous year represented a combination of slow first quarter cash flow, the delay in funding for the Health Law Fellow and expected spend-down of the CLINIC Fellowship.

Rich noted that the Mason Fund contribution had been transferred to Vanguard, the firm selected by the Investment Committee. He said the funds were in a money market account and that the Committee would next consider investment in stocks and bonds, with an emphasis on index funds and socially screened funds.

On months of reserves, Rich said that Total Current Assets as of December 31 would last just over 4 months (4.21 months) and unrestricted reserves just under one month (0.85 month) under the hypothetical scenario that no new funds would come in. He noted again that the figures had declined and that he would like to build them up above a threshold of 10% of budget.

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 2016 KEJC had received 91 percent of what it sought through grants and fundraising campaigns (\$344,344 of \$378, 401).
- From 2011 through 2016, KEJC had received 75 percent of what it sought (\$1,907,521 of \$2,456,274).
- So far in 2016, KEJC had received a total of \$54,010 of \$175,064 sought, 31 percent of what it sought.

Rich said the low percentage return for the current year was not due to grants being turned down. Instead, most were still pending, awaiting a decision. Rich said that a bright spot in April was the good response to Kentucky Gives Day, at over \$3,000.

Looking ahead, Rich said that KEJC had been encouraged to apply for VOCA funds. Given the encouraging meeting in Frankfort, he said, the amount proposed would likely be more than the \$160,000 listed on the handout.

Rich said the agency reportedly had \$26 million more to distribute in the current year than the year before, so there was plenty to go around. He said that KEJC would propose launching a practice team to help immigrant victims of crime, likely including two case handlers and a full-time Legal Assistant.

Rich provided more detail on anticipated sub-grants from LIN and KCEP. He said LIN had received funds from a large foundation to work with the Center for Community Change and LIN members to encourage “lawyers to work with organizers.” He said that KEJC and Kentuckians for the Commonwealth were the partners in Kentucky.

Rich said that funds had come to Kentucky Center for Economic Policy through the Center on Budget and Policy Priorities, with sub-grants intended to foster partnerships around safety net issues—most urgently, to protect health gains under the Affordable Care Act.

Rich said each sub-grant could help boost unrestricted funds by picking up part of Anne Marie’s salary and his own, neither of which was supported by a large grant.

Administration: Audit and IRS 990 for 2016

Chris invited Rich to discuss plans for the audit and IRS 990 for 2016. Rich said that the services had been provided for the last three years by Vickie Richardson, who had been selected by the Audit Committee in 2014 after consideration of several bids.

Rich said that Ms. Richardson’s three-year bid was actually her second successful bid. He said he wasn’t exactly sure, but thought that she had provided the services for at least seven years. Rich said that best practice suggested that boards seek new auditors every few years to bring fresh eyes to the books and ensure that relationships did not become too “cozy.”

Former KLA director Scott Crocker said that changing firms was not necessarily required, since a new look also could be provided by a firm assigning new members to the task. Rich said that Vickie was a solo practitioner, though she had used an assistant for the 2015 audit and 990. Board members discussed whether to seek bids.

Motion: Neva-Marie Polley moved that KEJC Director Rich Seckel should obtain bids to perform an audit and complete the IRS 990 for FY 2016 and some combination of subsequent years, including a bid from current auditor Vickie Richardson.

Second: Mary O'Doherty

Action: Approved later by unanimous written consent

Governance: Community and Client Member Nominations Update

Chris invited Rich to address the governance topics on the agenda. Rich said that he had reviewed the terms of current board members and found that three two-year Community Member terms were coming to an end and one Client Member position was available.

Rich said that the KEJC Bylaws provided for up to three Client Members and the Board last year had approved nominees for two of three positions.

Rich said that he would check with Community Members with expiring terms about their wishes to continue and, before the next meeting, issue a call for nominations. He said that the Nominating Committee usually consisted of one member each from the four types of board membership: a Program Director, Client Member, Community Member and Staff Rep.

Rich suggested that the board appoint a Nominating Committee for the coming year with the same type of representation. He noted that the charge of the Nominating Committee also would include nominating officers for one year terms. He said he also would check with current officers about their wish to continue and let the committee know their response.

Motion: Mary O'Doherty moved to constitute the KEJC Nominating Committee to include members from each membership segment of the board, and, should anyone not be able to serve, to authorize Chair Chris Frost to appoint a replacement, as follows:

Client Member: Rosa Martin (if available)

Community Member: Bob Brown

Program Director: Neva-Marie Polley

Staff Representative: Angela Zeek

Second: Amanda Young

Action: Approved later by unanimous written consent

Governance: Proposed Meeting Dates 2017

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

April 21

July 20 (later moved to July 25)

October 6
December 14

Big Picture, Joint Concerns and Joint Projects

Scott Crocker reported that the Trump administration budget proposed “zeroing out” the Legal Services Corporation, a proposal that, like others in the budget, appeared to come from the wish list of the Heritage Foundation.

Treasurer Mary O’Doherty said that, with other organizations, she had participated in several meetings with Republican House members or staff. Mary said they had indicated that their chamber would not follow the President’s budget but instead make its own.

Scott said that the Kentucky Congressional delegation generally was supportive of civil legal services. He said that the week after the board meeting the American Bar Association would hold its Day at the Capitol, with funding for LSC at the top of its agenda. Scott said that John Rosenberg, Gene Vance, Bill Robinson and others from the Kentucky bar would travel to DC for the ABA event.

Looking ahead, Scott said there was a good chance Congress would not complete work on a budget by the start of the federal fiscal year on October 1 and therefore would instead pass a Continuing Resolution (CR). Legal Aid Society director Neva-Marie Polley noted that the current CR would expire in just a few days, on April 28.

Chair Chris Frost said that debate over passing a new CR by April 28 could get hung up on any of several issues, including the Trump administration’s insistence on funds for “the wall.” Health Law Fellow Cara Stewart commented on the ongoing health care debate, saying that a Kaiser poll now showed that 64% of respondents said the new Republic majority “owned” health care.

Strategic Planning

Rich said that the Board had held good discussions on a variety of topics and that he had compiled notes and survey responses. He said he hoped to write them up soon and also could also bring up high profile ideas one by one for consideration and action.

Rich said that there was still time for a 40th anniversary celebration before the next KEJC birthday arrived in November. He said he was leaning toward an event that might be simpler than a big dinner. One idea was to hold a symposium on poverty law at Lexington’s Lyric Theatre, followed by a reception there. A variation of the idea: initiate awards for contributions to the cause of equal justice.

Staff Reports

KEJC staff and guest Acena Beck 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 April 21, 2017, heading at:

www.kyequaljustice.org/Board+Meetings.

Adjournment

The agenda being completed, the meeting was adjourned by acclamation.

Reported by:

Richard J. Seckel, Director
July 16, 2017