

Kentucky Equal Justice Center

Board Minutes

September 27, 2019

Board Members Present: Hailey O’Hair (Client Member); Robert Brown, Rick Clewett, Lisa Gabbard, John Rosenberg (Community Members); Joshua Crabtree, Neva-Marie Polley Scott, Robert Johns (Program Directors); Brenda Combs, Angela Zeek (Staff Reps).

KEJC Staff: Miranda Brown, McKenzie Cantrell, Ben Carter, Maddy Clark, Nathalie Dietrich, Leah Engle, Allison Hight, Adam Kuhn, Rich Seckel, Betsy Davis Stone.

Welcome and Introductions

A quorum being present, Chair Bob Brown called the meeting to order, welcomed the group and invited attendees to introduce themselves. Director Rich Seckel welcomed new board Community Member Lisa Gabbard, noting that she continued a tradition of having a representative from Kentucky Coalition Against Domestic Violence on the board.

Rich said he had held a board orientation call with Lisa and was impressed that she had read lots of materials on the KEJC website. Lisa said she was delighted to join the board and looked forward to her new role. Rich also welcomed KEJC Food Justice Fellow Tyler Offerman, who had joined the program on August 23. Tyler introduced himself briefly and greeted the group.

Approval of Minutes

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

Motion: John Rosenberg moved to approve the minutes of the July 11, 2019, board meeting.

Second: Joshua Crabtree

Action: Approved unanimously

Highlights of Recent Activity: New Staff and General Assembly

Bob recognized KEJC Director Rich Seckel to share highlights of recent activity and a preview of the General Assembly. Rich reported first on the Food Justice Fellowship, as follows:

Food Justice Fellow: Rich said that, since the last meeting, KEJC had completed the hiring process for a new staffer funded by MAZON Foundation to build coalition activity and policy advocacy focused on ending hunger in Kentucky.

He again welcomed Food Justice Fellow Tyler Offerman, who had come to KEJC after three years at Kentuckians for the Commonwealth building support on tax and budget issues. Rich

said the capsule job description for the Fellow, as set out in the grant proposal, was “policy smart coalition organizer.”

Rich noted that at the last meeting he had pledged to share KEJC staff thoughts about issues and priorities in the 2020 General Assembly. He set the stage for the discussion by observing that the 2020 Session would be a 60-day, budget-making Session. Rich said the two candidates for Governor had different philosophies and priorities, with implications for multiple issues affecting low income and working Kentucky families—Medicaid, teachers, schools, pensions and immigration among them.

Regarding advocacy priorities, Rich said that long ago KEJC did detailed surveys of legal services program staff to determine high priority issues. He said that after the 1995 Congress imposed more restrictions on lobbying by programs, it no longer made sense to have a process in which legislative priorities appeared to be controlled by votes from the programs.

Rich added that survey results in reality had always been balanced with multi-factor judgments about impact, support from allies, potential legislative champions and more. He said that today KEJC drew on multiple touchstones to identify issues: task force discussions; calls from the programs about recurring problems; guidance from trusted national partners; and discussions with state allies and community partners.

Rich said that most substantive areas of KEJC legislative and administrative advocacy fell within longstanding subject matter areas of statewide legal services task forces: health and public benefits, consumer, housing, and family law. He said KEJC’s grounding in immigration law services through Maxwell Street Legal Clinic brought immigration issues into the mix. He said the Workers’ Rights Task Force connected KEJC with diverse non-legal aid partners.

Rich said one set of new and emerging issues for KEJC came at the intersection of civil and criminal law, including support for re-entry, bail reform and improvement in expungement fees. He then highlighted a handful of policy topics the program might work on including:

- Surprise medical bill protection (unless federal proposals took the wind out of state sails)
- Due process in collection of UK Hospital debt by the Department of Revenue
- Exemptions in debt collection and garnishment
- Expungement fees
- Statewide Uniform Residential Landlord Tenant Act (a long shot)
- New attempts to diminish UI benefits

Rich said one bright spot was potential bipartisan support for a bill to end the current ban on drug felons receiving SNAP, an item that fit the re-entry theme. More troubling, the legislative Public Assistance Reform Task Force—with a report due before the Session—might recommend new barriers to K-TAP, SNAP and Medicaid, including work requirements, photo IDs, drug testing and more.

Bob Brown asked for details on the debt collection exemptions. Ben said that a new report to be issued soon by National Consumer Law Center would show that Kentucky got an “F” in how

much of earnings, bank accounts and the value of homes was protected in debt collection. Ben said that “the state is using criminal penalties to extract cash from predominantly poor people.” Bob said he was interested in issues of criminal forfeiture of assets.

Bob also took the opportunity to pass along compliments he had received about KEJC’s policy advocacy, saying the program was seen by seasoned observers in Frankfort as constructive, competent and effective in its work.

Administration and Development: Financial Report and Development Update

Rich reviewed the cover sheet for the financial report, as follows:

Profit and Loss Budget Overview FY 2019: anticipated a loss of - \$59,389 offset by \$80,000 in advance Public Welfare grant funds.

Profit and Loss through August 31: showed a gain of \$26,800 compared to an expected loss of -\$46,183—a positive variance of \$72,983.

Balance Sheet as of August 31: showed Total Current Assets of \$387,636, down from \$430,146 on June 30 and up 50.54% percent from \$257,505 on August 31, 2018.

Income and Expense Charts: 81.67% of spending was payroll. 66.48% of income was from grants.

Rich said that he had revised his end-of-year carryover forecast slightly to \$345,971 in order to take into account projected year-end balances of \$42,689 in new grants.

Rich said that estimated unrestricted assets had declined slightly from \$54,011 at the end of June to \$48,144 at the end August, in part reflecting a normal mid-year slump in unrestricted donations. He noted that his goal had been to keep unrestricted assets at 10 percent of budget. He said the goal had proven elusive, especially with the large VOCA grant now raising the denominator and requiring cash match.

For several years, Rich said, the plan had been to build unrestricted assets above 10 percent of budget and then invest the excess above 10 percent in development and a deeper administrative bench. Rich said that KEJC might need a new strategy to invest in new things, including a more aggressive approach to building operations into grants and a search for capacity-building grants.

Rich said the picture might change mid-2020, if and when Public Welfare Foundation made good on its promised transition support as its worker’s rights project ended. The Foundation president had told Rich that KEJC would receive a \$250,000 transition grant. Rich said that she and the program’s grant officer seemed to like the idea of using part of the transition grant to build development capacity.

Rich said that the Foundation for a Healthy Kentucky “Boots on the Ground” grant had now been paid. He said the grant award was retroactive to April 1, the day after previous grant year

ended, so that KEJC recouped what it had spent out of pocket. He said KEJC had fronted the money in the meantime as new staff at the Foundation worked through their review process.

Turning to the Budget vs. Actual figures, Rich said income was running at 104.9% of budget and expense at 93.7%, a favorable ratio. He said the low spending figure was brought about mainly by the temporary vacancy in the Health Law Fellowship. He said another factor was the sub-grant KEJC paid to the legal aid programs under the “Boots” grant. He said he had held off paying it until the Boots money was in hand.

Good news on income, Rich said, came from a series of new grants that had not been in the base budget. Rich said they were easy to spot among the income lines on the Budget vs. Actual page because they had a zero budget amount but a positive actual. He said the biggest one was MAZON Foundation support for the Food Justice Fellowship (\$64,712).

Rich said that the balance sheet now included the value of equipment purchases made in 2018 and depreciation for equipment for the year ending December 31, 2018.

Rich said unrestricted reserves would last 0.65 months if the program received no new income and lived solely off its unrestricted funds, down slightly from 0.73 months at the end of June. He said total reserves would last 5.22 months, again down slightly. The figures were set out in a spreadsheet, with the trends illustrated in a chart.

Rich’s handout on “KEJC Recent Fundraising Effort” showed \$620,962 sought so far in 2019, with \$398,669 awarded (64%) and one large grant still pending: the VOCA grant (\$215,426 in federal funds). Rich said that award of the VOCA funds would bring KEJC close to 100 percent in effective return.

Rich said he had made a good run at pulling off a Maxwell Street 20th anniversary event on November 14 at the Lyric Theatre, but ultimately decided it was too much of a stunt to do it. He said that a later date in March or April, past the holiday fund-raising season, would be better. The good news, he said, was that he had met with consultants who could help plan and carry off the event, including:

- An event planner recommended by former KEJC director Rona Roberts
- An fundraising assistant recommended by Tyler

Rich noted that the event planner had made clear that the event would require staff and volunteer help beyond just her and Rich. He said he was pleased with staff response about helping the “day of.”

Rich said that the ticket price for the Maxwell Street event was still under consideration. He said that in 2009, staff and volunteers for the Maxwell Street 10th anniversary wanted to set the price at \$75, perhaps because funding was short. Rich said he would consider a lower price this time or a simpler alternative event geared to friends and family rather than donors.

Administration and Development: Audit and 990 FY 2018

Rich said he had compiled and delivered the materials requested by auditor Vickie Richardson. He said the KEJC 990 would be prepared, circulated to the board and filed by the November 15 deadline. He said the audit would be finalized shortly thereafter for review first by the KEJC Audit Committee and then by the board.

Administration: Proposed Budget Assumptions for 2020

Bob next invited Rich to address plans for the 2020 budget. Rich said he had included a one page sheet of “KEJC Proposed Budget Assumptions for 2020” in the board package. He said he wanted to review the assumptions with the Board before using them as guidelines to prepare a budget for the coming year.

The first budget assumption laid a foundation for the budget process, stating that the “goal is to make a budget than can be paid for with known or predictable income while maintaining unrestricted reserves of about 8 percent of budget.

Rich said he had lowered the reserve percentage from 10 percent to 8 in light of the big new VOCA figure in the denominator. Additional assumptions:

- Identified a core staff of Director, Senior Staff Attorney and Maxwell Street attorney who could be paid for by grants, unrestricted income or reserves above the target
- Specified that workers’ rights, health, outreach, VOCA and communications positions were grant funded
- Said that KEJC would pursue the sustainability plan it had submitted to CLINIC for the DOJ Accredited Rep position
- Said that Maxwell Street Legal Assistants would be paid from Maxwell Street grants or unrestricted Maxwell Street income
- Proposed that, to the extent permitted, new grant proposals would include funding for communications, development and administrative assistance
- Called for numerical goals for both fundraising and reserves

Item 10 said that staff salary increments would take into account findings of the board committee on salary comparability as set out in sample salary scales, with a target increase of 2% and a goal to update the scales during the year in preparation for FY 2021. Rich said he had begun to gather salary scales from the programs for the comparability study and might propose some initial adjustments based on what he saw.

Neva Polley Scott said that for her program, Legal Aid Society (Louisville), she had reached out to legal services programs for salary comparability data. Rob Johns of AppalRed said that the Legal Services Corporation made available useful data in its online fact book. Josh Crabtree said that Legal Aid of the Bluegrass had hired a consultant to help develop new salary scales.

Bob Brown observed that the value of benefits packages was a factor in comparability. Josh said that the Legal Aid of the Bluegrass study found that no one was underpaid and that benefits were good, but that entry and early year salaries should be brought up.

Governance and Strategic Planning: Staff Reps Election Process

Bob next recognized Rich to address the election process for Staff Reps from the legal services programs to the KEJC board. Rich said Staff Reps were nominated and elected by their peers in the programs once every two years. He said the two year terms of current Staff Reps were nearing their end. He said would soon post a call for nominations followed by an online voting process to be completed by the next board meeting in December.

During discussion, members of the board revisited the idea of forming Executive Committee to work with Rich in between meetings. John Rosenberg noted that all the LSC-funded programs in the state had executive committees. He said the composition was often the officers plus the immediate past chair and a representative or two from the board at large.

Several members endorsed the idea of the Executive Committee, while adding that the intent was not to micro-manage the program. Member Rick Clewett said an Executive Committee could help and advise Rich with “mid-level” matters that did not need the attention of the full board. Rich said he would look at what the bylaws required for creation of a new committee and review ideas for next steps with Bob before the next meeting.

Governance and Strategic Planning: Strategic Planning Proposal

Rich said that KEJC’s last strategic planner, Karen Rignall, was up for tenure this year at UK and therefore felt she wouldn’t have time to assist with the new round of planning. Rich said that Karen had recommended several people, that he had spoken to one and that she in turn had prepared a preliminary proposal and an estimate for consideration.

Rich said he liked the proposal, which called first for an assessment of the current plan and performance, to be followed by participatory planning and crafting of the new plan. He said the estimated total fee for both phases exceeded \$10,000. Members weighed in on the cost. After energetic discussion, a consensus appeared to emerge that the rate was within market expectations and the value of planning worth it.

Several other points were raised during the discussion. Josh said that his program had done an LSC-mandated needs assessment as a prelude to strategic planning. He said the plan in turn was developed in house, taking up several hundred hours of his time. Josh said the needs assessment “kind of wrote the strategic plan.”

Neva noted that her predecessor Jeff Been had used consultants from the Kent School of Social Work at U of L. Josh said that his program’s “gaps in services” report drew on the Center for Economic Analysis, with staffing by a Kennedy School graduate student. Chair Bob Brown suggested that Rich work with the consultant to fine tune the proposal, perhaps to whittle down the number of planning sessions from four to a lesser number.

Governance and Strategic Planning: Report of the Personnel Policy Committee

Committee Chair Neva Scott said that the committee had recognized the need for outside legal analysis and recommendations as a foundation for the update of the policies. She said that having a foundation of compliance and best practice set out by outside counsel would leave the committee room to consider discretionary elements of the policy.

Josh Crabtree said that Kathleen Carnes of Dinsmore and Northern Kentucky University had done a good job reviewing personnel policies for Legal Aid of the Bluegrass for a reduced rate. Rich said that he would contact her before the next board meeting to explore potential work for KEJC.

Governance and Strategic Planning: Report of the Legal Work Oversight Committee

In the absence of committee chair Chris Frost, there was no formal report from the committee. Instead, Senior Counsel Ben Carter brought the board up to date on KEJC's internal staff-based Legal Work Committee. Ben said the committee had met and paged through KEJC's professional liability policy as a touchstone for current—and sound—practice.

Ben said he had obtained from Rob the latest AppalRed case acceptance policies and had begun to adapt them for KEJC. He said the internal work group favored the idea of setting aside asset tests, in part to be consistent with KEJC's advocacy on public benefits. Ben said the draft policy would allow KEJC to represent people at higher income levels if the issues and resolution in their cases would help low income people, as might often be the case in addressing medical debt.

Next Meeting Date

Rich said the next meeting was scheduled for December 12.

Staff Reports Summaries

KEJC staff reported on activities, issues, projects and successes. The reports followed the new format begun in 2018, featuring fewer but longer reports and allowing more time for board discussion. The topics at the current meeting included:

- a Public Benefits Catchup, with details from Betsy, Miranda and Tyler
- an update on Maxwell Street Legal Clinic

No board action was required in response. For more detail, see written staff reports—including reports from other staff—on the KEJC board web page under the September 27, 2019, heading at: <https://www.kyequaljustice.org/board-meetings>

Adjournment

Motion: Brenda Combs moved to adjourn the meeting.
Second: John Rosenberg

Action: Approved by acclamation.

Reported by:

Richard J. Seckel, Director
December 7, 2019