

Kentucky Equal Justice Center

Board Minutes

September 25, 2020

Board Members Present: Aka Kpla, Tiffany Pyette (Client Members); Bob Brown, Rick Clewett, Lisa Gabbard, John Rosenberg (Community Members); Joshua Crabtree, Robert Johns, Neva Scott, Amanda Young (Program Directors); Kristin Brooks, Jacob Taulbee (Staff Reps).

KEJC Staff: Miranda Brown, McKenzie Cantrell, Ben Carter, Nathalie Dietrich, Leah Engle, Allison Hight, Michelle Haubner, Tyler Offerman, Lizz Perkins, Betsy Stone, Paola Schwartz, Rich Seckel, Alexandra Werner Winslow.

Guests: Nan Hanley, Glenda Harrison (Kentucky Access to Justice Commission).

Welcome and Introductions

As the group gathered on Zoom, members greeted each other. Chair Bob Brown said he was pleased to see several new board members present. He invited KEJC Director Rich Seckel to recognize the new members for introductions, as follows:

- New Client Member Aka Kpla said he was from West Africa and now lived in Lexington with his family. Aka said his first language was French.
- New Client Member Tiffany Pyette said she was an indigenous person, living in Eastern Kentucky and engaging in advocacy on multiple human rights and environmental issues.

Rich said that new member Lilia Osnaya Vega was unable to join. He thanked new and recent members for participating in a board orientation session the day before. Rich said he hoped it was useful. Rich also thanked Miranda Brown and Lisa Gabbard for joining the orientation as an informal welcoming committee.

Bob invited Rich to conduct a roll call so each participant in the meeting could introduce themselves. Rich invited each member to say a little about themselves and their connection with the board. Bob also invited a moment of silence and reflection on the passing of Justice Ruth Bader Ginsberg.

Approval of Minutes

A quorum being present, Chair Bob Brown invited a motion on the minutes of the previous board meeting.

- Motion:** John Rosenberg moved to approve the minutes of the July 16, 2020, board meeting.
- Second:** Robert Johns
- Action:** Approved unanimously

Highlights of Recent Activity

Rich said he would offer brief highlights and save time for staff reports later in the meeting. He said that, for him, highlights included:

- The hiring process that brought new Resource Organizer Raaziq El-Amin on board
- The creativity that went into Ben’s eviction prevention app
- The welcome turnaround after a “scary” financial start to the year
- The new members joining the board to provide oversight and guidance

Rich also welcomed strategic planning facilitator Marian Guinn to the meeting. Marian said the planning process would begin October 6 with an online discussion with board members focused on performance under the last plan, including key accomplishments and strengths but also things that might have held KEJC back.

Resolution in recognition of Justice Ruth Bader Ginsburg

Bob thanked board member John Rosenberg for drafting a resolution honoring the life, work, and accomplishments of Justice Ruth Bader Ginsburg, as follows:

“The board and Staff of the Kentucky Equal Justice Center mourn the passing of Justice Ruth Bader Ginsburg. Her life and her judicial opinions embody the very words in the Mission of KEJC, Equal Justice for All. Let us continue to be inspired by the memories and legacy she has left us.”

- Motion:** Joshua Crabtree moved to adopt the resolution in honor of Justice Ginsberg.
- Second:** Neva Polley Scott
- Action:** Approved unanimously

Resolution in recognition of Breonna Taylor

Bob called for a moment of silence in appreciation of the life of Breonna Taylor and in reflection on the tragedy of her death. He asked Rich to read a draft resolution, as follows:

“For 196 days, Kentuckians from Hazard to Paducah have demanded #JusticeforBreonna and accountability for her death at the hands of police. The Board and Staff of Kentucky

Equal Justice Center express our deep disappointment in the failure of our institutions so far to deliver. Equal Justice demands much more.”

John Rosenberg noted that Ms. Taylor’s family was holding a press conference at the very time of the board discussion.

Motion: John Rosenberg moved to adopt the resolution in honor of Breonna Taylor.

Second: Bob Brown

Action: Approved unanimously

Recused: Kristin Alexander, Joshua Crabtree, Robert Johns, Neva Scott, Jacob Taulbee, Amanda Young

Note: Board members associated with civil legal aid programs refrained from discussion or action on the motion. For the benefit of new members, Josh Crabtree explained that programs funded by the Legal Services Corporation have federal restrictions that they must observe.

Administration and Development: Financial Report through August 31

Bob next recognized Rich to give the financial report. Rich began with a walk-through of the cover sheet of the financial report in the board package, as follows:

Profit and Loss Budget Overview FY 2020: anticipated a gain of \$44 counting only \$80,000 of the \$250,000 in Public Welfare Foundation funds eventually received.

Profit and Loss through August 31: showed a gain of \$329,022 compared to the expected gain of \$65,812—a positive variance of \$263,211 including Vanguard brokerage account gains.

Balance Sheet as of August 31: showed Total Current Assets of \$688,806, up from \$675,948 on June 30 and up 77.69% percent from \$387,636 on August 31, 2019.

Income and Expense Charts: 84.60% of spending was payroll. 74.29% of income was from grants.

Rich said he had revised his end of year carryover prediction to take into account (a) the extra \$170,000 from Public Welfare that was not included in the budget and (b) a negative uncertainty factor of 5% of budget. The resulting carryover prediction for December 31, 2020, was \$478,535.

Rich said that estimated unrestricted funds had risen dramatically, apparently driven by use of Paycheck Protection Program loan proceeds instead of unrestricted reserves. Rich estimated

unrestricted funds at \$161,532 at the end of August, their highest level in several years. He said that they might go down again quickly after the end of the Paycheck Protection loan period in October.

Walking through the supporting documents in the financial report, Rich noted that:

- **Budget vs. Actual:** Income YTD was running at 128% of budget, while expenditures were at 94.8%, a favorable ratio.
- **Balance Sheet:** The high balance of \$696,364 was buoyed up by several large, restricted funds:
 - \$125,000 in Public Welfare Foundation funds to be saved for a grant year beginning July 1, 2021;
 - about \$100,000 in the Mason Fund “quasi endowment” for Maxell Street Legal Clinic; and
 - about \$50,000 in Paycheck Protection loan funds.
- **Months of reserves:** Rich said that unrestricted funds would last about 1.95 months in the unlikely event that KEJC would have to live on them alone. He said total current assets would last 8.31 months if KEJC received no new income.

John Rosenberg suggested breaking out salary and benefits in the expense pie chart, so that people could see the cost of fringes. Rich said it might be hard to do in the chart, which was generated automatically in QuickBooks, but that it would be easy to generate the numbers.

John said that people sometimes wonder why salaries aren't higher. He said fringes are part of the explanation. Rich said that for full-time KEJC staff, the cost of benefits for individuals ran from 40 percent to over 50 percent of salary, making it especially hard to convert a part-time job without benefits into a full-time job with them.

Josh Crabtree asked whether KEJC had had any trouble pulling down its full allotment of federal VOCA funds. Rich said that for the previous year, ending last September, it had proven hard to generate in-kind match from volunteer time on victim of crime cases, which were quite complex. As a result, KEJC couldn't generate full match and claim the full corresponding federal allotment, leaving about \$13,000 on the table.

Rich said that, in the current year, he had filed a grant adjustment lowering in-kind match and replacing it with cash match to make sure the program wouldn't run into the same dynamic again. He said a worthy side effect of the change this year was an increase in funds that could be used for training.

Bob Brown asked whether KEJC would be able to use its entire Paycheck Protection Program loan on forgivable expenses during the 24-week forgiveness period. Rich said that, of just over \$142,000, KEJC would use at least an amount in the \$130,000 range.

Administration and Development: Audit and 990 Update

Rich said that he had provided all the materials requested by auditor Vickie Richardson. He said Vickie would prepare the IRS 990 by the November 15 extended deadline. He said he would circulate it to the board for review before submission. Rich said the 990 would be based on Vickie's audit figures and that the audit report should be ready for presentation to the Audit Committee before the December board meeting.

Administration and Development: Budget Assumptions for 2021

Bob invited Rich to address the topic of budget assumptions. Rich reviewed the assumptions he had set out in a handout. He said he would use the assumptions as rules or guidelines to construct a budget for 2021 for consideration by the board at its December meeting.

Rich said the assumptions were similar to those in earlier years and mostly reflected commonsense rules like "operate in the black" and "protect adequate reserves" (about \$80,000). In addition, Rich said, he would raise the maximum health insurance employer contributions by about \$20, so that individual coverage would be free and family coverage slightly cheaper.

Rich explained what he meant by "grant funded positions." He said some positions at KEJC were a "monoculture" funded by just one or two grants, with jeopardy that KEJC couldn't keep the position going should the grant(s) disappear. Rich said a key strategy for sustainability of positions or projects was to diversify funding from a monoculture to multiple grants to support positions.

Governance and Strategic Planning: Attorney Staff Rep Election

Bob next invited Rich to address the vacancy in the Attorney Staff Representative position on the board. Rich explained that Attorney, Paralegal and Support Staff Representatives were nominated and elected by their peers in the four regional legal aid programs in the state.

Rich said the last incoming class of elected Reps had been paralegal Kristin Blair from AppalRed, administrator Jacob Taulbee from Legal Aid of the Bluegrass and attorney Colt Sells from Legal Aid Society in Louisville.

Rich said that Colt had left his job at Legal Aid and no longer qualified as Attorney Staff Rep. Rich said that more than a year remained in his term. Rich said that the Bylaws required a special election to fill the slot. He said he would issue a call for nominations from the programs and conduct online voting.

Governance and Strategic Planning: Strategic Planning Next Steps

Rich said that facilitator Marian Guinn had given a good summary earlier in the meeting. He said that strategic planning would begin with an assessment phase focused on what had been accomplished or not under the last plan. Rich said the process would begin with three discussion sessions facilitated by Marian: one with the Board (October 1), one with staff (October 6), and one with stakeholders (date not set). Rich said staff had made suggestions about stakeholders. "So, we're about to get started," he said.

Governance and Strategic Planning: Report of the Personnel Committee

Committee Chair Neva Polley Scott reported for the Personnel Committee. She noted that the cover page of KEJC's current policies was dated October 1984. She said the policies had been updated since then through memos and amendments, but it was time for a comprehensive update. Neva said that an attorney had prepared a draft, recreating the policies in current language for her and Rich to review. Neva said it wasn't quite ready for circulation as a draft. She said COVID-19 had slowed down the project.

Neva invited Rich to report on salary comparability discussions. Rich said the process was "not quite at the point where we have new scales," but outlined elements of the discussion. Rich said key ingredients to get the job done included time and a committee process. He said Bob had helped define the process by creating a personnel subcommittee for Rich to work with, including Neva and Chris Frost as members.

Rich said the subcommittee had identified 105 percent of average Kentucky legal aid program salaries as a benchmark for a new attorney scale, with the idea in mind that KEJC may wish to attract emerging leaders from the programs. Rich said the program data "doesn't quite yield a smooth scale" from zero to five years and five years to ten, so there was some "spreadsheets" ahead.

Rich said the subcommittee had looked at factors that might increase a salary, like supervisory responsibilities. He said the sense of the committee was not to have too many variables, so the scale itself wouldn't get overshadowed.

Rich said the discussion had revealed two different uses of a scale: to set an incoming salary and to set salary expectations over time. He said that in some programs, annual increments were driven by performance evaluations rather than a scale. He said he favored using a scale.

Rich said the group had not yet looked at variables like the regional programs' required employee health contributions. He added that he had heard from Ben, who made a case for a relatively "flat" structure, in which non-attorney salaries were not too far below attorney salaries. Ben noted that non-attorneys bring multiple skills and capacities to KEJC's work.

Rich said that, along with time and process, money was a key ingredient. "It may be that we have to implement in phases the improvements that we'd like to do," he said.

Big Picture: Access to Justice

Bob invited Glenda Harrison to introduce herself. Glenda said she was the director of the Kentucky Access to Justice Commission formed by the Kentucky Supreme Court. Glenda said her colleague Nan Hanley was the Commission's Communications and Training Coordinator.

Glenda said the Commission had been around for a while but only had staff since 2017 “and Nan and I are it.” Glenda described the role of the Commission as affording access to the courts, including access for people without a lawyer who were representing themselves.

Glenda said that the Commission had received a grant in 2018 from the National Center for State Courts to create a strategic plan to improve access. She said the grant project had moved through the study and input phase to the point of implementation of eight initiatives. She said the project she wanted to share today was a joint venture with the Kentucky Council of Churches.

Glenda said the Commission would create training programs and videos to help faith leaders know how to identify legal issues when congregants talk with them and how and when to refer for legal help. She said the work would be guided by an inclusive advisory committee and would emphasize helping marginalized Kentuckians.

Glenda also talked about updating the website kyjustice.org. She said it had been around a long time but had grown stale in content. She said that Legal Aid of the Bluegrass had received a grant to help undertake an update. She said LABG would look to other programs, too, to create and vet updated information with a focus on serving consumers rather than lawyers.

John Rosenberg asked whether there was a connection between the website update and the American Bar Association’s legal answers program. John said the ABA program had thousands of volunteer lawyers lined up to answer questions. He said the ABA listed Kentucky as a participant.

Glenda said there was a link on kyjustice.org to the Kentucky “ask a lawyer” project. She said the Kentucky program was housed at Neva’s program, the Legal Aid Society in Louisville. Neva said the Kentucky program was linked to the ABA initiative.

John said the ABA project had generated large numbers of volunteers and calls. He asked Glenda whether faith-based groups that weren’t members of the Kentucky Council of Churches could participate in the Commission’s faith-based initiative, including Jewish congregations. Glenda said the Council was a starting point, but she’d be happy to talk with other groups

Big Picture: Legal Services Funding

Rob Johns filled in the group on federal funding for the Legal Services Corporation. He said the House had voted an increase of \$25 million in funding, but the Senate had not yet acted. Meanwhile, Congress adopted a Continuing Resolution with funding at current levels.

Rob said that the LSC-funded Kentucky programs did receive supplemental funding in the CARES Act on pandemic relief. He said that filing fee proceeds from state courts had gone down during the pandemic but could go up again as the pandemic eased. Looking ahead, Rob said that state funding for legal aid programs through the General Assembly would be up for renewal in the 2021 Session.

Staff Reports

The board heard staff reports on multiple issues and projects. No board action was required in response to the reports. For details, see the [Staff Reports](https://www.kyequaljustice.org/board-meetings) on the KEJC Board web page under the September 25, 2020, heading at: <https://www.kyequaljustice.org/board-meetings>. Leah Engle said that Nathalie Dietrich was leaving Maxwell Street after working there since 2012. Chair Bob Brown thanked Nathalie for her service. John Rosenberg offered a “shout out” for KEJC’s Zoom Town hall on unemployment insurance. John suggested meeting for two hours instead of 90 minutes to have more time for staff reports.

Adjournment

Motion: Rob Johns moved to adjourn the meeting.
Second: Neva Scott
Action: Approved unanimously

Reported by:

Richard J. Seckel, Director
December 7, 2020