



SBAND Board of Governors

SBAND Office

September 12, 2015

Minutes

Members Present: Joseph A. Wetch, President; Jack McDonald; Charles DeMakis; Aubrey Fiebelkorn Zuger; Daniel Traynor; Dean Kathryn Rand; Zach Pelham; Darcie Einarson; Lee Grossman; Jeff Nehring; Elizabeth Ebert; Peter Welte; Carrie Francis

Members Absent: Connie Cleveland; Meg Morley

Staff Members Present: Tony J. Weiler, Jeanne Schlittenhard

President Wetch called the meeting to order at 8:32 AM.

Welcome and affirmation of Carrie Francis, Representative from the North Central Judicial District

President Wetch welcomed Carrie Francis to the Board of Governors to replace Charles DeMakis as representative from the North Central Judicial District as a result of his election to President-Elect.

Action: It was duly moved and seconded to affirm the appointment of Carrie Francis to the SBAND Board of Governors. [C. DeMakis / J. Nehring] Motion carried.

Meeting Minutes June 17, 2015 [Attachment #1]

The minutes were reviewed and a correction will be made to reflect that Board Member Z. Pelham abstained from voting for the appointment to the North Dakota CLE Commission.

Action: It was duly moved and seconded to approve the minutes as amended. [D. Traynor / P. Welte]

Financial Statements and Vouchers - May 2015 June 2015 and July 2015 [Attachments #2]

Executive Director Weiler reviewed the financial statements.

Action: It was duly moved and seconded to receive the financials. [J. McDonald / J. Nehring]

Update on Fleck v. McDonald, et al [Attachment #3]

Executive Director Weiler reviewed the new Keller Policy and Notice Concerning Bar Dues Deduction and the Mediation Process documents. The Board has previously discussed opt-in versus opt-out. These were generated under the opt-out option.

Action #1: It was duly moved and seconded to approve the Keller Policy and Notice Concerning Bar Dues Reduction and Mediation Process documents as written. [D. Traynor / C. DeMakis]

Discussion followed. A. Zuger emphasized the importance of the June 2012 Knox decision and that all Board members should read the decision before a final vote

Action #2: It was duly moved and seconded to table the motion on the approval of the Keller Policy and Notice Concerning Bar Dues Deduction and Mediation Process documents until such time as each Board member has read the Knox decision; the Board will schedule a follow-up telephone conference meeting to call for the vote on Motion #1. [Z. Pelham / L. Grossman] Motion carried. Penny Miller and legal counsel Douglas Bahr will be invited to attend if possible.

Rule of Court 11.2 – Withdrawal of Attorneys - Consideration of Request to Joint Committee on Attorney Standards [Attachment #4]

The Board of Governors was asked to consider possible changes to Rule 11.2, of the North Dakota Rules of Court. The Board was specifically asked to request a change to the Joint Committee on Attorney Standards. The SBAND Ethics Committee recently issued an opinion stating that unless a case has been filed with a court, there is no ethical way for an attorney to withdraw, as leave of court is required. The Board has been asked to submit language to the JCAS adding language to Rule 11.2 (e) as follows: **Filing Required. This rule does not apply to attorneys representing parties in civil actions that have not been filed with the court.**

Recommendation/Discussion: The Board agreed that this is an issue, especially in light of the recent Ethics Opinion. The Board also discussed *pro hac vice* admission as having similar issues with respect to filing. Executive Director Weiler will come up with some language on *pro hac* admission and discuss that with Pelham and Wetch.

Action: It was duly moved and seconded to request the Joint Committee on Attorney Standards to include language in Rule of Court 11.2 to address *pro hac vice* representation and appearance” in a case that has never been filed with the court. [D. Traynor / J. Nehring]

Update on Lawyer Directory [Attachment #5]

Executive Director Weiler has provided the Board of Governors information on the costs associated with printing of the Directory of Lawyer and Judges. Specific information is outlined in the memorandum from Mr. Weiler dated September 12, 2015, as included in the meeting materials.

Recommendation / Conclusion: Although most of the information contained in the Directory of Lawyers and Judges is listed on the North Dakota Supreme Court website, with the exception of the listing of court reporters, overall this continues to be a value to SBAND members. It was recommended that SBAND survey members on their opinion of a printed Directory. It was suggested SBAND Staff work with printer(s) to see if sales of ads are also a part of the contract service of the printer.

Action: No action taken.

Board Appointments [Attachment #6]

Caseflow Management Committee workgroup appointment

SBAND Board member Lee Grossman expressed his interest in serving on this committee Work Group.

Action: It was duly moved and seconded to appoint Lee Grossman to the Caseflow Management Committee Work Group. [D. Traynor / J. Nehring] L. Grossman abstained. Motion carried.

Lawyer Assistance Program [unexpired term of Robin Huseby]

William Kirschner, Fargo, has expressed interest in serving on the Lawyer Assistance Program.

Action: It was duly moved and seconded to appoint William Kirschner to the Lawyer Assistance Program. [D. Traynor / C. DeMakis]

Executive Director Evaluation [Attachment #7]

Executive Director Weiler reminded the Board that at the November 2014 Board of Governors Meeting it was decided that a formal evaluation would be conducted of the Executive Director in 2015 before consideration of the 2016 budget and the salary line item. A. Zuger will gather evaluation information and report to the Board of Governors for consideration of Mr. Weiler's salary for 2016.

Recommendation / Conclusion: It was recommended that an additional rating option of Exceeds Expectations be added.

Action: It was duly moved and seconded to approve the Evaluation Documents with the addition of the Exceeds Expectations rating. [D. Traynor / J. Nehring] Motion carried.

Law School Report from Dean Kathryn Rand

Dean Rand reported 1st year student orientation was successfully conducted in the NEW Building. Postcards have been mailed to alumni of the UND School of Law for the Homecoming Events which include the Building Dedication. President Wetch encouraged all Board members to attend the Grand Opening.

ABA Update

D. Traynor reported on the ABA Annual Meeting. ABA President Paulette Brown has been invited to attend the 2016 SBAND Annual Meeting. North Dakota will host the 2018 Jack Rabbit Bar Meeting. He plans to attend the mid-year meeting in February 2016 as well as the ABA Day in Washington D.C. scheduled for April 2016.

Executive Director Report

- Executive Director Weiler updated the Board of Governors on the Odyssey survey. The results of the survey of SBAND members have been presented to the Court Technology Committee. Further information will be given to the Board as it is received.
- Mr. Weiler updated the Board on the activities of the staff of SBAND. He indicated in the future an additional full time employee may be necessary. Work continues on the 2016 budget for submission and approval at the November 2015 meeting. The financial information regarding the 2015 Annual Meeting shows a profit of approximately \$10,000.
- ABA's Celebrate Pro Bono Week is October 25-31st. SBAND will send out daily NewsFlash items promoting Pro Bono and Justice For All. Board members are encouraged to participate in pro bono activities.
- September 28, 2015, is the Admissions ceremony. Board members are invited to attend. President Joe Wetch will address the new members on behalf of SBAND. SBAND presents a three hour ethics and professionalism seminar for those individuals.
- SBAND has been working with Casemaker to promote the Pattern Jury Instructions on SBAND's website.

There being no further business, the meeting was adjourned at 11:13 AM

Respectfully submitted,

Jeanne Schlittenhard
Associate Director

Tony J. Weiler
Executive Director