

MINUTES

Public Session **Washington State Bar Association** **BOARD OF GOVERNORS**

Winthrop, WA
October 26, 2007

The Public Session of the Board of Governors of the Washington State Bar Association was called to order by President Stanley A. Bastian at 10:50 a.m. on Friday, October 26, 2007, at the Sun Mountain Lodge in Winthrop, Washington. Governors in attendance were:

Russell M. Aoki
Liza Burke
Eric C. de los Santos
G. Geoffrey Gibbs
Lori Haskell
David Heller
Peter J. Karademos
Douglas C. Lawrence
Salvador A. Mungia
Edward F. Shea Jr.
Jason T. Vail
Kristal K. Wiitala
Brenda Williams

Also in attendance were President-elect Mark Johnson, Immediate Past-President Ellen Conedera Dial, Executive Director and Meeting Secretary Paula C. Littlewood, and General Counsel Bob Welden.

LIAISONS, GUESTS AND STAFF IN ATTENDANCE:

Judge Richard McDermott	Superior Court Judges Association
Judge Brian Gain	Superior Court Judges Association
James Macpherson	Washington Defense Trial Lawyers
Jeff James	King County Bar Association
Judge Richard Fitterer	District and Municipal Court Judges Assn.
Mark Christianson	Family Law Section

Judge Paul Bastine	Practice of Law Board
Michele Radosevich	Legal Foundation of Washington
Michael Heatherly	Bar News Editor
Judge Gregory Tripp	ATJ Board
Tim Burkhart	RPPT Section
Judge Marlin Appelwick	Council on Public Legal Education, Co-Chair
Judith Billings	Council on Public Legal Education, Co-Chair
Pam Inglesby	Council on Public Legal Education
Gregg Hirakawa	Deputy Director for External Relations
Gail Stone	Director, Justice and Diversity Initiatives
Judy Berrett	Director, Member and Community Relations
Julie Mass	Deputy Director of Finance and Administration
Donna Sato	WSBA Executive Assistant

WELCOME AND INTRODUCTIONS

Officers, governors, liaisons, guests, and staff introduced themselves.

APPROVAL OF MINUTES FROM THE SEPTEMBER BOARD MEETING

Governors Karademos, Lawrence, Mungia, Vail, and Wiitala offered corrections to the minutes. The minutes were adopted as amended.

REPORT ON EXECUTIVE SESSION

President Bastian reported that in Executive Session the Board adopted the Executive Session minutes of September 20, 2007; received the Litigation and Executive Director's reports; discussed policy regarding the Statewide GAAP proposal; approved the recommendations of the Judicial Recommendation Committee; and discussed the Executive Director's performance evaluation.

CONSENT CALENDAR

The following items were approved by the circulation of a written consent form:

- a. Proposed Bylaw Amendments submitted by the Senior Lawyer Section;

- b. WSBA Banking Resolution;
- c. Reappointment to the Legal Foundation of Washington Board of Trustees;
- d. Appointment to the Statute Law Committee; and
- e. Two Lay Member Nominations to the Character and Fitness Board.

FISCAL MATTERS – Treasurer Douglas Lawrence and Deputy Director of Finance and Administration Julie Mass

WSBA Fiscal Policies and Procedures Manual

Deputy Director of Finance and Administration Julie Mass presented the key changes to the WSBA Fiscal Policies and Procedures Manual and some further changes to the draft included in the Board book. Discussion transpired regarding the Expense Policies for the spouses/domestic partners/guests of WSBA Officers and Board of Governors (specifically, what expenses should be paid with regard to spouses/guests of BOG members) and the general guidelines for lodging reimbursement (how “prudent” would be interpreted).

Governor Gibbs moved, seconded by Governor Mungia, that the Board adopt the WSBA Fiscal Policies and Procedures Manual with the understanding that the Expense Policies for the WSBA Officers and Board of Governors and the lodging policies will be revisited by the Board in December. The motion passed with a vote of 13-0-0.

Governor Haskell suggested that a fiscal impact statement be prepared outlining the various options for the Board’s review and consideration in December.

COUNCIL ON PUBLIC LEGAL EDUCATION REPORT – Co-Chairs Judge Marlin Appelwick and Judith Billings and WSBA Public Legal Education Manager Pam Inglesby

President Bastian reported that the WSBA Director Team is currently engaged in a comprehensive strategic and program review of the services the WSBA provides. In light of this review, the Board needs to be apprised of how and what various programs do in relation to our guiding principles and how they fit with the WSBA’s future plans.

Judge Marlin Appelwick, Co-chair of the Council on Public Legal Education (CPLÉ), provided the Board with background and history relating to the creation of the CPLÉ; Co-chair Judith Billings then presented the CPLÉ’s work regarding civics in the classroom and the

“LawforWA.org” website. Pam Inglesby concluded with a presentation on Youth Courts and Street Law and a well-received interactive exercise.

Discussion transpired on the future goals of the CPLE to raise its statewide profile. Judge Appelwick, Judith Billings, and Pam Inglesby were applauded and thanked for their efforts.

GOVERNORS’ FORUM

President Bastian – 2008 ABA Margaret Brent Award

President Bastian announced the 17th Annual Margaret Brent Women Lawyers of Achievement Award is calling for 2008 nominations. The award will be presented on August 10 in New York City at the ABA Annual Meeting. The WSBA will be submitting the nomination of Justice Bobbe Bridge for this prestigious award that recognizes and celebrates the accomplishments of women lawyers who have paved the way to success for other women lawyers.

Governor Jason Vail – Former Formal Opinion 167

Governor Vail raised an issue regarding the use of threats by attorneys to report opposing parties to immigration agencies to gain an advantage in litigation where such reporting has nothing to do with the case. Vail is currently working with the Latina/o Bar Association on this matter and welcomes assistance in his research on the history of Formal Opinion 167 and its revocation.

Governor Eric de los Santos – BOG Diversity Committee

Governor de los Santos reported on the first meeting of the BOG Diversity Committee as being a heartfelt and collaborative discussion with amazing ideas to re-establish communications and define the goals for the current Board year. Governor de los Santos announced there remains one vacancy on the committee for a third-year governor.

Governor David Heller – Status Change Fee

Governor Heller questioned the new \$100 fee being imposed on judges who wish to return to active status. Executive Director Littlewood explained that it is an investigative fee to cover staff’s time to make sure all requirements have been met by the requesting party. The process takes an extensive amount of time to fully investigate, and staff reports that a number of requestors change their mind after the review has been completed. The new policy is intended

to cover the cost of staff time and ensure that those who commence the process are committed to completing it.

President-elect Mark Johnson

President-elect Johnson presented his concerns regarding the review and use of meta-data and his position that the WSBA needs to begin work on this issue by providing guidance for lawyers.

LIAISONS' FORUM

James Macpherson - WDTL

James Macpherson reiterated his desire to begin a dialogue between plaintiff, defense, and health care providers. Immediate Past-President Dial suggested that King County Bar Association may be able to assist in the formulation of a coalition. President Bastian reported that he will consider the matter under advisement for further discussion at the next WSBA Officers' Meeting in November.

Judge Gregory Tripp – ATJ Board

Judge Tripp thanked the Board for recognizing him with the 2007 Outstanding Judge's Award and accepted the award on behalf of the entire access to justice community.

Judge Brian Gain

Judge Gain announced that Judge Vicky Churchill serves as this year's President for the Superior Court Judges Association and is Member-Chair of the Board of Judicial Administration.

MARRIAGE AND THE LAW

President Bastian reminded the Board that at the March 2007 Board meeting, during the context of discussing various legislative issues, the marriage equality bill was discussed. It became apparent to the Board that the WSBA was not in a position to participate in a meaningful fashion in the 2007 legislative session and it was the consensus of the Board to place the matter on the agenda for a possible public forum in December 2007.

President Bastian reported that the subcommittee of the Board considering this issue offers the following thoughts in deciding whether or not to proceed with holding a public forum in December 2007: (a) it does not appear likely that the Legislature will address this issue in the 2008 session; (b) it may not be wise to take action on legislation when there is no legislation; (c) it would be possible between now and the 2009 session to foster and encourage discussion of

the issue through additional articles in Bar News, CLE, and/or forums in partnership with law schools.

Governor Mungia moved, seconded by Governor Gibbs, that the Board cancel the December public forum on Marriage and the Law. The motion passed with a vote of 11-2-0. Governors Karademos and Williams voted no. President Bastian reported that the subcommittee intends to continue to foster dialogue on this issue and return to the Board with a recommendation.

Governor Karademos moved, seconded by Governor Heller, that the Board schedule a public forum in conjunction with the Board meeting in Tacoma in March 2008 and a public forum in conjunction with the Board meeting in Spokane in April 2008. The motion passed with a vote of 9-4-0. Governors Aoki, Lawrence, Mungia, and Vail against.

BOG MATTERS

Judicial Salary Restoration Initiative

Governor Lawrence moved, seconded by Governor Mungia, that the Board support the recommendation to secure salary restoration for the federal judiciary. The motion passed with a vote of 11-0-2. Governors Heller and Shea abstained. President Bastian reported that a letter will be sent to each member of Washington State's Congressional delegation in support of the bill on salary restoration for the federal judiciary.

Lawyers' Fund for Client Protection Committee – Petition to the Supreme Court

General Counsel Welden presented the Lawyers' Fund for Client Protection Committee's request to petition the Supreme Court to authorize the Trustee in the Barry Hammer bankruptcy proceeding to transfer unidentifiable client funds from the Hammer trust account to the Lawyers' Fund for Client Protection.

Governor Shea moved, seconded by Governor Lawrence, that the Board approve filing a petition to the Supreme Court. Motion passed with a vote of 11-0-2. Governors Aoki and Gibbs abstained.

Legal Foundation of Washington – Trustee Appointment

Governor Lawrence moved, seconded by Governor Gibbs, that the Board approve the appointment of Judge Theodore Spearman to the Board of Trustees of the Legal Foundation of Washington. Motion passed with a vote of 13-0-0.

Commission on Judicial Conduct Appointment

Governor Mungia moved, seconded by Governor Karademos, that the Board appoint Michael Pontarolo to a regular member position on the Commission on Judicial Conduct. Motion passed with a vote of 13-0-0.

Governor Mungia moved, seconded by Governor Aoki, that the Board appoint Tom Morris to the alternate member position (vacated by Michael Pontarolo); Governor Vail moved, seconded by Governor Lawrence, that the Board appoint Olivia Hathaway; and Governor de los Santos moved, seconded by Governor Karademos, that the Board appoint Carl Carlson.

Tom Morris received a majority of 7 votes and will be appointed to the alternate member position on the Commission on Judicial Conduct.

Lawyers' Fund for Client Protection

Governor Lawrence moved, seconded by Governor Shea, that the Board appoint Thomas Lerner and Paige Pratter to the Lawyers' Fund for Client Protection Committee. The motion passed with a vote of 13-0-0.

Duties of Chairs, Staff Liaisons, and Board of Governors Liaisons

Executive Director Littlewood presented a narrative report on the suggested duties of chairs, staff liaisons, and BOG liaisons to WSBA's various committees, boards, and panels. The document results from the ongoing program review being conducted by the WSBA Director Team.

Immediate Past-President Dial emphasized that the intent for standing committees is to help the Board with the work of the Bar Association. Therefore, it is appropriate to hear from our committees. The Board was presented earlier with a report from the Council on Public Legal Education and learned of their extraordinary work. It's important for the Board to continue to receive reports from standing committees and sections.

Additional 2007-2008 Committee Appointments

Director of Member and Community Relations, Judy Berrett, was present to address any questions the Board had concerning the additional appointments as detailed on page 366a (late materials). Governor Gibbs moved, seconded by Governor de los Santos, that the Board

approve the slate of appointments with the exception of Robert Taylor. Motion passed with a vote of 13-0-0.

Robert Taylor's appointment to the Committee for Diversity will be before the Board in December when further details of his application can be provided similar to others on the slate approved in October.

Disciplinary Board Appointment

Governor Gibbs moved, seconded by Governor Heller, that Seth Fine be appointed to the Disciplinary Board. Motion passed with a vote of 13-0-0.

Governor Lawrence moved, seconded by Governor Gibbs, that Melinda Anderson and Norris Hazelton be nominated to the Supreme Court for appointments to the Disciplinary Board as non-lawyer members. Motion passed with a vote of 13-0-0.

EXECUTIVE DIRECTOR'S REPORT – Paula Littlewood

Staff Updates

Executive Director Paula Littlewood reported that Moni Law has been hired for the Bar Leaders Manager position; and Elizabeth Turner has accepted the position of Assistant General Counsel.

Pattern Jury Instructions Committee

Executive Director Littlewood provided an update on the Supreme Court Pattern Jury Instructions Committee's discussions with West Publishing regarding a two-year pilot project proposed to place Washington pattern jury instructions on a free, public website operated by West Publishing. It appears that West Publishing will be proceeding with a two-year pilot free of cost.

Member and Public Outreach Proposal

As requested by the Board at its September Board meeting, Executive Director Littlewood and Deputy Director for External Relations Gregg Hiramawa presented a proposal for member and public outreach. The goal and purpose for outreach is to educate Washington citizens and WSBA members about WSBA activities, services, and the positive role lawyers have in the legal system and society. Of critical need is: consistent messaging to promote an accurate and

positive image of the WSBA; a public outreach strategy to deliver the message; and a communications policy to address issues as they arise.

OFFICERS' REPORTS (Written Reports)

By written report only.

ADJOURNMENT

There being no further business, the Board of Governors meeting was adjourned at 4:45 p.m. on Friday, October 26, 2007.

Respectfully submitted,

Paula C. Littlewood
WSBA Executive Director