

WEST VIRGINIA BAR FOUNDATION  
BOARD OF DIRECTORS MEETING  
TELEPHONE CONFERENCE CALL  
DECEMBER 5, 2019-12:00 NOON

MINUTES

The meeting of the West Virginia Bar Foundation's Board of Directors, conducted by telephone conference call, was called to order by President Ellen Cappellanti, on December 5, 2019, at 12:00 Noon.

Board Members participating were Vice President Chip Shaffer, Secretary/Treasurer Mary Clare Eros, Immediate Past President Rich Ford, Judge Alan Moats, Judge Mary Ellen Griffith, Judge Joyce Morton, Professor Marjorie McDiarmid, Teresa Dumire, Dave Jividen, Lucien Lewin, Christy Morris, Gerry Stowers and Tracey Weber, III. Bar Foundation Executive Director Tom Tinder was also on the call, as well as Independent Auditor Derek Godwin and Investment Counsellor Jamie O'Connor.

The first item on the Agenda was a review of the Minutes of the previous Board of Directors meeting which had been held on September 13, 2019. A motion was duly made, seconded and passed that the Minutes of the meeting be approved.

President Cappellanti called upon Secretary/Treasurer Eros to present the financial report. She stated that the Lunch and Laughs event on September 13 will end up with about a \$2,000 positive difference between income and expenses, as budgeted, but with lesser amounts of both income and expenses. The attendance was down from previous years. In addition, in mid-November, there were 10 invoices sent to Bar Foundation Fellows requesting a partial payment before the end of the year----if all 10 make a payment, more than \$6,000 will be received. A request will be sent to Antero for its Sponsorship again of the Lawyer Leadership Institute in May, 2020.

Regarding Expense items, she said that a payment of approximately \$5,000 will be made to Ken Gray's designated charity (the Veterans Clinic at the WVU College of Law) for the Lunch and Laughs event. Other items are under budget at this point in time. The checking account is satisfactory and will return to normal levels as the Bar Foundation Fellows payments are received.

Finally, the Justice Fund is \$725,663. The \$60,000 loan was made to the WV Bar Association in June, 2018, and is now valued at approximately \$49,000. The Justice Fund amount was \$636,966 at last year's Board meeting on December 6, 2018 and \$703,699 at the last Board meeting on September 13, 2019.

After some comments, a motion was duly made, seconded and passed to approve the Financial Report.

Mr. Godwin was called upon to present the Independent Audit for the July 1, 2018-June 30, 2019 fiscal year. He reported that the audit was unmodified, which is the best opinion that can be given. He highlighted the revenues and expenses with a positive amount of excess revenue. He talked about the Justice Fund and the loan with the WV Bar Association.

Then, he went through the Internal Revenue Service Form 990 and discussed the important aspects of that lengthy document. Both the Audit and the Form 990 had been provided to the Board members prior to the meeting and had also been reviewed by the Audit Committee.

A motion was duly made, seconded and passed to go into Executive Session to discuss financial matters. Mr. Tinder removed himself from the conference call. After several minutes, the Board came out of Executive Session with no action being taken and Mr. Tinder returned to the conference call.

During the Executive Session, the Board had received Mr. Godwin's expert opinion on salary levels for chief executive officers at WV non profit entities, it had reviewed a compensation study conducted by the National Conference of Bar Foundations and it was determined that Mr. Tinder's salary was satisfactory. Then, a motion was duly made, seconded and passed to approve the Audit and the Form 990.

The next item on the agenda was the report from the Strategic Planning Committee. President Cappellanti listed the upcoming planned events as the Bar Foundation Fellows Dinner on April 23, 2020, at the Charleston Marriott Hotel and the Antero Lawyer Leadership Institute on May 15-17, 2020, at Stonewall Resort.

President Cappellanti reviewed the actions needed to be taken relating to the 2020 Lunch and Laughs With A Legal Legend event. There had been two suggestions made for the persons to be the honorees at the event---Ellie and Ed Flowers or Professor Vince Cardi. After some comments were made, a motion was duly made, seconded and passed that Ed and Ellie Flowers be selected as the honorees for the 2020 Lunch and Laughs.

It was reported that a hold had been placed on Friday, September 11, 2020, at the Erickson Alumni Center in Morgantown, but that there was only one meeting room available, as occurred for the 2019 event. After discussion, it was agreed that the date and location should be confirmed with the understanding that it may be a packed room.

President Cappellanti also mentioned that she is working on an article to be placed in a future issue of the WV Lawyer magazine and that news releases for the Bar Foundation Fellows class and the Lunch and Laughs event will continue to be sent. In addition, there will be consideration given to changes in the Bar Foundation grant to the WVU College of Law for the Public Service Scholarship to see if providing grant money to the student legal clinics in Beckley and Charleston would be a better utilization of the funds.

President Cappellanti requested that Mr. O'Connor review the Justice Fund Annual Report for 2019 that has been provided to the Board prior to the conference call. He stated that the return on investment had been 35% since the inception of the Fund in 2012, that 2019 was significantly better than 2018. He mentioned the four separate accounts within the Justice Fund---Cash/Bonds/Stocks/Loan Repayment---all of which are now interest bearing, the Fund contained approximately \$735,000 as of October 25, 2019 and that the Fund was growing in line with the Fund's goals.

When asked about the future, he mentioned that, for many years, Merrill Lynch has used a group of nineteen financial indicators and when 80% of them are declining, it signals a bear market. In December, 2018, the figure was 79%. However, by October, 2019, the figure was 49%. History has been that a 49% figure means that it would be at least two years before a major economic downturn.

Regarding the Merrill Lynch administrative fee, he explained that it was 1% for non profits with less than \$1 million in assets. In addition, there is a .27% fee for third party managers that are used for their specific investing expertise for non profits, for their detailed review of markets and to provide due diligence from Merrill Lynch. The total administrative fee in 2018 was \$8,289 (less than \$7,000 for Merrill Lynch and the remainder for the third party managers.)

The next item on the agenda was the report from the Grants Committee and it was given by Judge Griffith, a member of the Committee. During her report, she stated that the approved Grants budget for the current fiscal year (July, 2019-June, 2020) is \$50,000. Previously, the Committee and the Board had approved continuing the Public Service Scholarship at the WVU College of Law for \$25,000, so \$25,000 remained to be spent. There will be two more opportunities to make grants this fiscal year at the March and June Board meetings.

The quarterly deadline for grant applications was November 1 and three applications were received:

1. WV Judicial Lawyer Assistance Program-\$5,000  
Earlier, the Bar Foundation made a \$25,000 commitment to WVJLAP to be paid in five equal annual payments. Three payments have already been made and this is a request for the fourth year. The funds have been used for WVJLAP Board of Directors training and educational meetings. The evaluation reports have been positive.
2. WV Public Defender Services-\$4,500  
The grant would be used to pay a national expert to provide training for new assistant public defenders and a criminal practice refresher course.
3. Mountain State Justice-\$5,000

The grant would be used for a language accessibility and out reach project to reach West Virginians with limited English proficiency and/or vision and hearing disabilities.

After some comments were made, a motion was duly made, seconded and passed to approve the three grant requests, as recommended.

The next agenda item was the report of the Bar Foundation Fellows Nominating Committee. Judge Moats gave the report on behalf of the Committee with the following persons recommended to be the members of the 2020 class:

Perri Jo DeChristopher-Morgantown  
Barbara Fleischauer-Morgantown  
Carte Goodwin-Charleston  
Michele Grinberg-Charleston  
Anne Harman-Wheeling  
William Huffman-Princeton  
Karen Kahle-Wheeling  
Judge Patricia Keller-Huntington  
Judge H. L. Kirkpatrick-Beckley  
Judge Thomas Kleeh-Clarksburg  
Charles Loeb-Charleston  
Melissa Luce-Charleston  
Christopher Luttrell-Martinsburg  
Sandra Murphy-Charleston (Carryover)  
Larry Rowe-Malden  
Gloria Stephens-Welch (Carryover)  
Teresa Tarr-Charleston  
Professor John Taylor-Morgantown  
Chief Justice Beth Walker-Charleston  
Cathy Wallace-Princeton  
Brenda Waugh-Charles Town

A motion was duly made, seconded and passed to approve these persons as the members of the 2020 class of Bar Foundation Fellows.

President Cappellanti reminded the Nominating Committee (Shaffer, Eros and Lewin) that it will give its report at the next Board meeting on March 5. The nominations will be for three year terms on the Board of Directors and one year terms for Officers.

Mr. Tinder had no comments to make for his Executive Director's report.

There were no matters to be discussed under Other Business.

President Cappellanti announced the dates and times for the remaining Board of Directors meetings which will be held exclusively by telephone conference call:

Thursday, March 5, 2020-12:00 Noon

Thursday, June 4, 2020-12:00 Noon

There being no further business to transact, the conference call was terminated.