

NAVAJO NATION BAR ASSOCIATION, INC.
BOARD OF BAR COMMISSIONERS ANNUAL MEETING MINUTES
10-13-2017

Friday, October 13, 2017, 10:00 AM - 3:00 PM MDT
Karigan Office Building—St. Michaels, Navajo Nation (Arizona)

Note: Motions are in bold face.

MINUTES

Meeting called to Order by President Lawrence Ruzow @ 10:11 am

In attendance:

Mariana Kahn, CH
Cassie Fleming, CR (phone)
Dorothea Denetsosie, KY (phone)
Patricia Williams, ART (phone)
Esther Keeswood, Sr., by proxy given to Patricia Williams until 2:00 pm. Thereafter on the phone.
Cecelia Tallman, TC
Dennis Glanzer, TC
Colin Bradley, WR (phone)
Colleen Silversmith, WR
Julia Guarino, WR, left at 2:18 pm, proxy given to Colleen Silversmith

QUORUM (6 required) 5 present + 1 proxy = 6 commissioners attending at time meeting was called to order. Ms. Fleming, Ms. Williams, Ms. Keeswood (by proxy given to Ms. Williams), Ms. Silversmith, Ms. Guarino, and Ms. Kahn were present when meeting was called to order. Ultimately, all members were present or on the telephone.

Officers:

Lawrence Ruzow, NNBA President
Casey Watchman, Vice President
David Jordan, Secretary
Brian K. Nichols, Treasurer-Designate

All officers were present.

NNBA Adm. Staff: LaVerne Johnson, NNBA Manager (present)
Yolanda Wauneka, NNBA Administrative Assistant (not present)

Visitors: Paul Spruhan, Ron Haven, Ray Etcitty.

I. Invocation (TBA) – David Jordan

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II. Adoption of Agenda for Board Meeting: [] Regular; [] Special; [x] Annual

Motion to approve Mariana Kahn. Second. Julia Guarino. Unanimous. Proposed agenda is adopted.

III. Acting Chief Justice Thomas J. Holgate addressed the Board by Invitation

Assumed responsibilities 7/21/13. Working on budget issues. Budget negotiations went well. Budget is supplemented by 638 monies. NNIGISP. Discussion e-filing. E-payment set up on a pilot project in Kayenta. April to July 30%-35% increase in revenues for traffic violations. Working next with Shiprock.

Now, 2 Supreme Court Justice, 10 District Court Justices. Pueblo Pintado opening soon. Judge Livingston covers Crownpoint in light of Judge Toledo's retirement. Judge Sloan also retired. Number of judges has dwindled. Judge Benally will retire at the end of the year.

Oversight Committee discussed streamlining the judge approval process. Justice Holgate has suggested to put a timeline on the appointment. Oversight committee is considering removing the requirement of presidential appointment. Most important, finding people to be appointed.

Title VII requires minimum two years Associates Degree to be a judge. Suggestion: eliminate two-year degree requirement for experienced NNBA practitioners.

Hired two hearing officers. Victor Clyde is now a hearing officer for WR District. Dorthea Denetsosie will be a hearing officer for Tuba City. Help with DAPA cases. Suggestion: have hearing officers cover multiple coverages.

Chief Justice. President Begaye recommended Joanne Jayne. Justice Holgate has not been involved in the process of her confirmation.

Records. Some discussions come across in Navajo. Program for transcription in Navajo. Sometimes judges explain things in Navajo. Transcribers will help non-Navajos.

Looking at \$31 million budget. Question on how to distribute the funds. Unmet needs of \$425,000. We asked for \$3.1 million appropriation. Rules are outdated. Need cooperation between Bench and Bar to update rules. There are local rules, but they are inconsistent.

Some money coming in from Ramah Settlement. Part of the funds will go to the NNIGISP system. This will involve information sharing.

Reporter 9 is out. Reporter 10 is in the works.

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Need a Digest System.

Finished the Pueblo Pintado building. There were defects in the building. It was vacated; it got flooded. They are doing repairs. Minor issues left to be completed. Staff are taking cases for that Court, but they are stationed in Crownpoint.

Supreme Court building is almost completed. Minor repairs necessary. Hopefully will do November swearing in in new Court building. Laid everyone off at facilities. The laborers had to re-apply. Location is same as old Supreme Court building.

Dzil Lijiin. Call themselves "gypsies". Chapter appropriated land, but the land was not properly described. We need land title, which required a proper survey. Survey completed end of September. We are fully supporting completion of this project. Completed 2018.

Very serious backlog of cases. We have committed to five cases per quarter. We have completed several cases. Backlog at District level, this will be discussed at Judicial Conference and in evaluations.

Criminal case, defendant may not have the money for private counsel. He may say, "I'll just go ahead and plead guilty. Move on." There is a disparity in sentencing for Native Americans. Human Rights Commission is dealing with profiling. It is a serious problem. We need to discuss how criminal cases are handled to make sure they are fair to our people.

TAP. Tribal Access Program. DAPA. Our system is civil. Is it ever purged? Should a civil decision be used a criminal reference? Justice Holgate does not believe so. Will be discussed at Judicial Training.

11/8/17 is swearing in. We need to file a formal motion to change from 11/4 to 11/8. We have one appeal pending.

Title 17 revision underway.

- IV. Welcome New BOBC Members
 - A. Colleen Silversmith—WR District
 - B. Julia Guarino—WR District

- V. Old Business
 - A. Approve Minutes of June 8, 2017

No one made a motion on this.

- B. Approve 2017-2018 Officers

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1. David R. Jordan—NNBA Secretary

Motion to confirm: Julia Guarino Second: Dennis Glanzer Vote: 4 in favor, 2 opposed, 4 abstaining.

2. Brian K. Nichols—NNBA Treasurer

Motion to confirm: Dennis Glanzer Second: Julia Guarino Vote: 4 in favor, 2 opposed, 4 abstaining.

Motion for discussion in executive session, excluding all but Commissioners. Mariana to temporarily chair in absence of the president. Colin Bradley. Second: Patty Williams. Vote: Unanimous.

Commissioners came out of executive session. Report. Recommendation: Ad hoc committee on the bylaws. Committee shall study how officers are selected, and the possibility of limiting discussions in meetings by non-commissioners. Resolution on this subject to be brought to next meeting.

VI. Reports

- A. Treasurer's Report—Financial Statements; 2018 Budget-Brian K. Nichols

Delivered by Mr. Nichols. Mr. James J. Mason requests reimbursement of some administrative expenses. We have done this for years. Question on revenues. There is a line item for "other types of income". Mr. Nichols will report back on this. Question on revenues from bar conference. There is a document that outlines all revenues, except \$5,000 from Navajo Nation Gaming Enterprise. Mr. Bradley would like a final profit and loss statement from the conference. Request: to look at Navajo accounting and payroll firms on the Economic Development list.

- B. Bar Manager's Report—Office Remodeling; Bank Accounts; Copier; Website; Delinquent Members

Submitted in writing.

- C. President's Report—General Update

Published financial information to be more open about such information with the membership. We need to close out a disciplinary appeal, because requested information has not been provided.

- D. Vice-President's Report—NPEA; NNLC—HEHSC Request

Health and Human Services Committee – NPEA is being possibly revised. We received a letter

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dated 10/9/17 from Winonna Benally with the HEHSC. They have been holding public hearings. They started in Crownpoint and Ramah. We have a resolution presented for our consideration. All five Labor Commissioners now must be NNBA members. Two must be state bar members. The Commission has been dissolved. This may be further changes to the NPEA. The HEHSC is requesting the NNBA members to comment on proposed changes.

E. Committee Reports –

1. CLE Committee—Judy Dworkin (telephonic)

Ms. Dworkin did not appear. There is an issue of a request for a deputy Attorney General for after the fact approval of a CLE. Another issue, which apparently has been solved, was the decision not to give any credit for NITA training. They had a meeting, and they learned that Navajo Rules of Evidence were discussed, and the Committee gave 4 hours of Navajo CLE credit. Roderick Begay noted that the audience for his seminar on Local Governance Act included lay people. Question on whether lawyers could get CLE credit on a presentation designed for non-lawyers.

There is no report at this meeting.

2. Training Committee Report. Paul Spruhan delivered the report. Low pass rate this year, but this is anomalous. Bar pass rates are down nation wide. We may want to have a discussion about the bar exam generally. The exam is not necessarily the best way to test lawyering ability.

After receiving the Training Committee report, Patty Williams made a motion, recognizing that the goal is to have a bar of qualified practitioners, that the Board of Bar Commissioners direct the Training and Admissions committee to study the contents of the bar exam, looking at the possibility of eliminating subjects and adding a multistate component, and come back with recommendations for changes as soon as possible, with a report on progress at the next meeting. Colin Bradley seconded. Passed unanimously.

3. Admissions Committee Report. Ray Etcitty, Chair, delivered this report. Exam administered in March 2017. Admissions committee has an appeal pending, there may be more. Admissions Committee also deals with change of status. No vacancies as to the persons on the Committee itself. Members: Ray Etcitty, Howard Brown, Marcino Gomez, Emery McCabe, Michelle Begay, Ron Haven, Tamsen Holm.

There were 20 applicants. 3 did not take the test. 9 passed. 8 failed. All 9 that

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passed were attorneys. 3 attorneys did not pass, 5 non-attorneys failed. The failing attorneys may appeal. Appeal process was described. After the exam, because of the fail rate, the exam was re-graded. The results are after the re-grading. Thoughts about the fail rate: 1. Next time, we will ask them to provide their analysis, as opposed to just providing the answer. 2. We looked at the outlines from the bar review. They are working on improving the exam.

- VII. New Business (all new business, except for personnel matters, was tabled until the next meeting).
- A. Dues Increase—\$200 for Regular Members and other budgetary matters
 - B. Possible action Re: CLE matters
 - C. 2017-2018 Committee Chairs and Members
 - D. Location for 2018 Bar Conference
 - E. Possible grant of authority to Judicial Evaluation Committee to make specific recommendations to LOC Committee
 - F. Possible Establishment of a Pro Bono Committee
 - G. Discussion of August 2017 Bar Examination. Addressed above with Committee Reports.
 - H. Personnel Matters (Executive Session).

Motion to go into executive session. Members, manager and president only, made by Esther Keeswood. Second Patty Williams. Vote: Unanimous in favor.

Exit executive session at 4:39 pm.

Colin Bradley moved to ask for Larry Ruzow's resignation. Esther Keeswood seconded.

The president yielded the chairmanship to the vice-president to conduct discussion and a vote.

Passed: 9 in favor 0 against 1 abstention

Mr. Ruzow will respond by October 20, 2017.

The vice-president passed chairmanship of the meeting back to the president.

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LaVerne Johnson stated that she withdraws her resignation until Mr. Ruzow's decision on the Board's request for his resignation.

Mr. Glanzer had made a motion that he withdrew when Ms. Johnson withdrew her resignation.

Mr. Ruzow delegates supervision of the office to Casey Watchmen. Mr. Watchman accepts.

VIII. Next Regular Commissioners' Meeting DATE:

Motion to adjourn and table remaining agenda items to the next meeting. Esther Keeswood moves, Dorothea Denetsosie seconds. Vote 9-0-1

IX. Adjournment @ 4:51 pm.