



MINUTES
268th MEETING
OF THE
BOARD OF DIRECTORS

9:00 a.m.
September 22, 2009
#1800, 639 – 5th Avenue SW
Calgary AB

Members in Attendance

Colin Kloot
John Bachinski
Pierre Boileau
Oceanna Hall
Sean Johnson
Dennis Kalma
Richard Luciani
Kirk MacDonald
Kristine Robidoux, Q.C.
Perry Sirota
Pat Stopa, Q.C.

Members Absent

Staff in Attendance

Jacquie Schaffter

The Meeting came to order at 9:00 a.m.

The Chair advised that as the Board will be meeting in camera during large parts of the day and as a cost savings measure, it was his decision that the President and CEO would be the only Executive member to attend this meeting.

1. **Approval of Agenda**

It was duly Moved and Seconded to adopt the agenda as circulated. Carried Unanimously.

2. Approval of Minutes

Mr. Kloot stated that at Page 4, Report on Unbundling, Gillian Marriott was to put together a retainer letter. Ms. Schaffter advised that Ms. Marriott is presenting the draft retainer letter to the Law society today in Edmonton and it is anticipated that it'll be presented to Legal Aid shortly after that.

Mr. Kloot noted that on Page 9, Client Survey - a comparison report for the past three years was to be prepared. Ms. Schaffter advised that the comparison report has been requested and is on the pending list.

It was duly Moved and Seconded that the Minutes of the 267th Directors Meeting be approved. Carried Unanimously.

3. Meeting Dates

a) December 8, 2009 – Edmonton

b) *Proposed dates for 2010*

- February 23, 2010 – Video Conference
- May 4, 2010 – Edmonton
- June 17, 18 and 19, 2010 - Sylvan Lake
- September 21, 2010 – Calgary
- December 7, 2010 - Edmonton

c) *Conference Call meetings*

Mr. Kloot noted that it had previously been discussed that the February Board meeting will take place by video-conference but that may be changed if an in-person meeting is deemed more expedient. Ms. Schaffter advised that the February video-conference may be scheduled at the Law Society offices as they have better equipment and would facilitate a better meeting.

It was duly Moved and Seconded that the Board move into an in camera session. Carried unanimously. It was duly moved and seconded that the Board come out of in camera session. Carried Unanimously.

Board Priorities

4. Governance (external) stakeholders and partners

a) *Steering Committee in LAA Review*

Ms. Schaffter reported that the Review Report is a draft copy with daily amendments. The Report will be going to the Review Steering Committee for considerations at its next meeting scheduled October 6, 2009. The Steering Committee consists of representatives from Alberta Justice, The Law Society, Glenda Graham, Colin Kloot and Jacquie Schaffter.

Ms. Schaffter provided some historical background on the Review advising that the questions to be answered were:

- What are the legal needs of Albertans
- Prioritization of those needs
- Who are the clients
- What services should be provided
- How should those services be provided
- Compensation for lawyers
- Other funding resources for Legal Aid Alberta

The needs of Albertans were compiled through a review of available research. The legal needs that were identified were well supported by the consultations. The legal needs are predominately:

- Debt
- Family Law
- Landlord/Tenant
- Immigration
- Although Legal Aid Alberta's funds are largely expended on criminal law, it was not identified as a strong need.

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Ms. Schaffter advised that through comments made by the Minister it is clear that Legal Aid Alberta will not receive increased funding and may realistically receive a reduction. Legal Aid Alberta will not be able to provide the one on one representation model that it is currently using. She highlighted the various research findings and recommendations in the draft for Board discussion which included:

- Reductions to financial eligibility guidelines so fewer Albertans will qualify.
- Develop a process where issuing a certificate is the last resort. The Legal Aid Offices would essentially become Community Legal Centres with much more analysis, triage to determine what is the legal need, what can the client do for themselves, what can be handled by Duty Counsel, limited scope services through Law Line and proper referrals to other agencies (unbundling).

- Opinions could be done in-house which would save approximately \$3 million.
- Bail Representation program is being terminated by the Crown by the end of October which will free up about \$1.2 million.
- Duty Counsel, both criminal and civil, be expanded into a formal office. This option as acceptable at the consultations whereas the development of Adult Criminal Staff Lawyer Offices was not well received.
- Possible cutting some services to Immigration. Federal Government provides some funding for immigration however Legal Aid Alberta tops that amount up by approximately \$1.3 million each year.
- Develop a high cost case management system
- Request for additional government support i.e. space in the courthouse.
- Legal Aid Alberta administers a Court Ordered Counsel program for Alberta Justice and the costs come out of Legal Aid Alberta's budget. Other Provincial Legal Aid Plans administer a similar program but in all other cases the funding is not out of their budget but it comes out of the Department of Justice separately.
- Legal Aid Alberta is the third lowest per capital funded plan in Canada (it would take approximately \$30 million per year to bring Alberta up to the average).
- Imposing a fee on lawyers who do not accept legal aid certificates was received with mixed reviews.
- Approach Alberta Law Foundation for a larger % of interest on trust accounts and this was not met favourably by either the Law Foundation or the Law Society and would require a change in legislation. The Alberta Law Foundation did advise that it is prepared to consider providing a grant and suggested that Legal Aid Alberta submitted a proposal for some of the cost for Alberta Law Line.

The Chair advised that the Review is driven by Legal Aid Alberta and although it does not own the process, it is the driver. He stated that as this is the future of Legal Aid Alberta, it is critical that the Board members take the time to review the report and provide creative and substantive input prior to October 6, 2009.

b) Law Society re: funding

The Chair pointed out that Legal Aid Alberta had from the outset of the Review maintained that it did not have the funds for the consultations. It had always been agreed implied that the three partners would share the cost which has been confirmed by the letter received from the Law Society. The Consultants used for the consultation process was Marcomm Works.

c) Law Society re: review process

The Law Society is taken the Review very seriously and has suggested a meeting with of the three partners including the Minister be scheduled to discuss initial responses/reactions to the report. The Chair advised that the Board needs to recommend the report go to the Steering

Committee. Ms. Schaffter noted that it is recognized that there may be dissent within the report between the three partners and any dissents will be noted in the report.

d) Consultation Report

The Chair reported that the only thing coming out the consultations that dismayed him was the view expressed that clients were not served well because they were Legal Aid clients. It was pointed out by members that the outcomes can be set by who is in attendance at the focus groups. It was also very clear that Legal Aid Alberta needs to do more to meet the needs of the clients, more public legal education.

5. Board Appointment of Officers

The Chair advised that at the AGM, Sean Johnson was appointed as Treasurer but Legal Aid Alberta does not have the position of Treasurer on the Board and asked if that practice should continue or be amended. It was pointed out that Legal Aid Alberta has a finance department and that Sean Jonson, as Chair of the Audit Committee has oversight of the finances in that position.

It was duly Moved and Seconded that the motion made at the AGM be rescinded. Carried Unanimously.

6. Bail Representation Update

Ms. Schaffter had reported under item 4 that the Bail Representation project was being terminated by the Crown. The Duty Counsel hired for this project will have to be relocated within the organization or terminated. Ms. Schaffter advised that they duty counsel have been given notice of termination for the end of November 2009 but will re-deploy the lawyers if possible.

By consensus this was received by the Board of Directors for information.

Financials

7. Budget Update

The Chair referred to the letter received from the Minister with respect to the Budget and sets out restrictions. He advised that there will be a freeze on hiring, unless approved through proper processes, as well as a freeze on all Management upgrades.

By consensus this was received by the Board of Directors for information.

8. Financial Statements for August 2009

Mr. Johnson advised that given the requirement of Alberta Justice regarding advance notice regarding any drawdown of cash, a cash flow statement of changes needs to be added to the financial package. He undertook to attend at the Legal Aid office and review the statements with the finance staff.

Ms. Schaffter reported that e-billings is a huge success but the private bar expense is over budget by almost \$1 million due to the number of interim billings that have been submitted. This does decrease the contingent liability however Legal Aid Alberta operates on an accrual basis. Legal Aid Alberta will be requesting lawyers to interim bill only on accounts of no less than \$1000.

The Chair referred to the news article indicating that Legal Aid funding may be cut, he received a telephone call from the Assistant Deputy Minister to assure him that this was premature in the extreme and that no decision had been made. He assured that the Government has undertaken the Review in good faith and the article is a total misrepresentation.

By consensus it was agreed that the Chair send a letter to the Minister setting out the Board's concerns over her comments as reported in the news.

Ms. Schaffter advised during the consultations that a large number of stakeholders indicated that they would feel a huge impact if Legal Aid Alberta was not able to provide the current level of service. The Judiciary and Prosecutors indicated that any cuts will make their jobs will be much more difficult and will impact access to justice. They asked if they could lobby on behalf of Legal Aid Alberta.

It was duly Moved and Seconded that the stakeholders be advised that with reference to the new article that no decision has been made on the budget but that this is their opportunity to express their views to the government. Carried Unanimously.

Board Committee Reports

9. *a) Audit Committee*

Sean Johnson advised he will be meeting with the finance department to go over the financial statements as well as commence the necessary steps to send RFP (Request for Proposals) to auditors

b) HR Committee

It was duly Moved and Seconded that the Board move into an in camera session. Carried unanimously. It was duly moved and seconded that the Board come out of in camera session. Carried Unanimously.

c) Governance Committee

Dr. Sirota advised that over the summer the Governance Committee did follow-up on the Board Training at the AGM. The Committee also did some debriefing with new Board members which went well. Mr. Kloot pointed out that in the past orientation of new Board members has been overlooked and it is so important as they become more productive members much quicker.

Dr. Sirota suggested the Governance Committee meet in the near future and discuss a course of action to make use of the information collected by MSA. The initiative would include some Management and Board.

d) AGM Task Team

The chair advised that the AGM Task Team has to meeting fairly quickly so bookings can be made. Ms. Schaffter advised that some of the Regional representatives that they did not find the AGM to be as useful as could be and would find it more beneficial if the Chair or designate and the CEO could attend an a Regional Committee meeting and meet with all the members.

Ms. Hall, Chair of the AGM Task Team, advised that it would be useful to receive a costing of the AGM.

e) Standards Committee Task Force

Mr. MacDonald spoke with five Regional Representatives and there was tepid likings for the draft standards and felt that it might be an impediment in recruitment. Mr. Stopa agreed that the Standards may not be well received however it costs Legal Aid more to pay two lawyers to handle a serious matter rather than one very experienced. This may be impeded be choice of counsel. Ms. Schaffter noted that Alberta is the only province to offer open choice of counsel to clients. Mr. Stopa suggested it be change to choice of qualified lawyers.

By consensus this item was tabled to the next meeting for further discussion.

Operational Committees

10. a) *Calgary Regional Legal Aid Committee*

It was duly Moved and Seconded that David Finley be appointed as a member of the Calgary Regional Legal Aid Committee. Carried Unanimously.

b) *Edmonton Regional Legal Aid Committee*

It was duly Moved and Seconded that Kent Teskey, Christopher King, Lori Johnson and Lauren Garcia be appointed as members of the Edmonton Regional Legal Aid Committee. Carried Unanimously.

c) *Wetaskiwin Regional Legal Aid Committee*

It was duly Moved and Seconded that Marilyn Littlechild be appointed as a member of the Wetaskiwin Regional Legal Aid Committee. Carried Unanimously.

d) *St. Paul Regional Legal Aid Committee*

It was duly Moved and Seconded that Victor G. Findlater be appointed as a member of the St. Paul Regional Legal Aid Committee. Carried Unanimously.

e) *Appeals Committee North*

It was duly Moved and Seconded that Craig Spencer and Ravi Prithipaul be appointed as members of the Appeals Committee North. Carried Unanimously.

f) *Appeals Committee South*

It was duly Moved and Seconded that Lisa Silver be appointed as a member of the Appeals Committee South. Carried, two abstentions.

Management Reports

11. Operation Reports

a) Report of CEO

Ms. Schaffter highlighted her report noting that many issues have been discussed in earlier discussions. She noted that the Women's Shelters project has commenced, number of applications have increased, any changes to the FEG's would have to take place soon in order to see any savings.

Ms. Schaffter reported that a Business Continuity program which was worked on in collaboration with Alberta Justice. The program is in place and will be instituted and covers all emergencies and not just H1N1. As for H1N1, Legal Aid Alberta has installed hand sanitizers in several locations through the offices as well as individual containers for each staff. Staff has been provided with updates on the provincial plans for vaccinations.

She further reported that she is in process of developing a monthly management report to submit to her by all managers.

It was duly Moved and Seconded that there a hiring, reclassification, and contract freeze be implemented in all programs of Legal Aid including YCDO and FLO. Carried Unanimously.

By consensus the Operations Reports by the CEO was received for information.

b) Report of Senior Counsel of FLO

The Chair is concerned that the in the report Ms. Miller advised that FLO Managers is meeting with Human Resources to develop a new compensation model. He advised she can go into discussions but there is a total freeze at this time.

Dr. Sirota noted that the hiring freeze extends to articling students and contract renewals. Ms. Schaffter advised that contracts are hired for maternity leaves and during the freeze those positions will not be contracted out.

By consensus the Operations Reports by Senior Counsel for the Family Law Office was received for information.

c) Report of Senior Counsel of YCDO

By consensus the Operations Reports by Senior Counsel for the Youth Criminal Defence Office was received for information.

Strategic Planning

12. Strategic Planning

Mr. Kloot advised that the Board does need to follow up with MSA advising that a detailed account is required. He will draft a letter to MSA in collaboration with Mr. Kalma and will circulate to the Board for input.

List of Pending items

No items were pending.

Items for Information

Mr. Kloot apologized for not given the members a heads-up on the additional items to be dealt with in-camera. All attempts will be given in the future to advise the Board if it is anticipated that the Board meeting will be extended.

The meeting adjourned at 2:25 p.m.

Jacqueline Schaffter
President & CEO