



MINUTES
270th MEETING
OF THE
BOARD OF DIRECTORS

9:00 a.m.
February 23, 2010
#1800, 639 - 5th Avenue S.W.
Calgary, AB T2P 0M9

Members in Attendance

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

Members Absent

Staff in Attendance

Jacquie Schaffter
Deb Miller
Greg Francis
Katherine Weaver
Jennifer Fowler
Pat Bard

Presentation

Martin Ostensen

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

1. **Approval of Agenda**

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

2. Approval of Minutes

It was duly Moved and Seconded that the Minutes of the 269^h Directors Meeting and the January 25, 2010 Directors Meeting be approved as circulated. Carried Unanimously.

3. Meeting Dates

- May 4, 2010 – Edmonton
- June 17, 18 and 19, 2010 - Sylvan Lake
- September 13, 2010 – Calgary
- December 7, 2010 - Edmonton

Board Priorities

4. LAA Review Updates

a) Legal Services Centre (LSC)

Ms. Schaffter advised that the Legal Services Centre in Edmonton is on track for commencement of services on April 6, 2010. There will be a reduction of intake in the Edmonton Regional office for two weeks in March while staff attend critical and intensive training. Intake will still continue for criminal matters, child welfare and emergency family/civil matters during those two weeks.

b) Enhanced Duty Counsel Criminal

Mr. Francis reported that office space is being looked at in Calgary has been narrowed to two location neither of which requires significant improvements. Don Davidge is assisting with the negotiations and space should be available no later than May 15. Expanded Duty Counsel is currently operating in Edmonton out of the Legal Aid Office and will be operating in Calgary on April 1, 2010 regardless of office space. Mr. Francis explained that Expanded Duty Counsel is already seeing clients at court and obtaining disclosures and there is space available in the same building that Calgary Legal Aid Office is located to store files.

c) Enhanced Duty Counsel Civil

Ms. Schaffter reported that the Enhanced Civil Duty Counsel is entwined with the Legal Services Centre and unbundling project. She thanked John Bachinski for attending the Unbundling session presented by Sue Talia and advising that training is on-going. A meeting with the Provincial Court Judges has been scheduled for March 15th.

d) Mediation Project

Ms. Miller reported that 10 couples have been identified to go through the Mediation Project. A meeting has been scheduled with Judge Easton to discuss mediation and unbundling. A meeting to discuss limited scope certificates has also been set with Justice Read.

The Mediation Project Committee meets every week and are in the process of discussing a fee structure for clients. As well, the Committee would like to develop a roster of Mediation Lawyers and are looking at developing standards. Training staff is on-going and consideration is being given to charging an up-front flat fee for opposing parties not qualifying for legal aid services where the other party qualifies for Legal Aid.

- Immigration Project

The Immigration Project will be kept within the \$800,000 expenditure which amount reduces LAA expenditures to brings them closer to the amount of Federal Funding received by the Province received. The Immigration and Refugee Committee is looking a restructuring the project to ensure the cost of services provided will be within this allocation of funds.

e) Wetaskiwin Law Office

Ms. Schaffter reported that the Wetaskiwin Staff Law Office and the Civil law Office both form part of the Business Plan. At this time, priority is being given to other initiatives and once the priority projects are implemented, effort will be directed towards the implementation of these staff law offices. The Wetaskiwin Law Office may be implemented at the same time as the roll out of the Legal Services Centre in Wetaskiwin which will allow for a smoother transition.

Ms. Schaffter reported that in light of change management and dealing with staff concerns, meetings with the Executive members and Project Leads have been held with staff on a weekly basis in the Edmonton office where most changes are taking place. She and Wanda Fish are also meet regularly with the Regional Administrators. A questions and answer item is on all agendas. Ms. Schaffter advised that the staff are engaged and want to provide service to clients.

Ms. Schaffter advised that meetings have been scheduled with the Judiciary in order to discuss the limited scope certificates and answer any of their questions. Mr. Kloot pointed out that unbundling of services is a concept that the judiciary is aware of. Mr. MacDonald felt that it is imperative that the limited scope certificate clearly states that it is limited and that the lawyer advises the Court he is retained for limited services only. Ms. Schaffter advised that initially all limited scope certificates will be given to FLO and obviously Legal

Aid Alberta will require roster lawyers to represent the opposing party. It is anticipated that 5 or 6 roster lawyers will be provided very intensive training and will receive these certificates on a trial basis. .

Costs for all projects are being closely monitored.

5. Legal Aid Rules Amendments

Recommendation re: Choice of Counsel

It was duly Moved and Seconded that the Board approve the amendment to choice of counsel in Legal Aid Rules as set out in the recommendation and that the CEO be directed to forward the amendment to Alberta Justice for approval and advise that time is of the essence. Carried Unanimously.

Financials

6. Budget Update

Ms. Schaffter reported that Finance is commencing the development from a high level budget to project operating level. The Provincial Grant will remain at \$54 million, Alberta Law Foundation has advised that the grant will be \$802,000 for 2010 and it is projected to increase to \$1.1 million for 2011. She further reported that a meeting has been scheduled for February 25, 2010 with Neil Dunne, Alberta Justice to discuss the budget further.

7. Financial Statements for January 2010

Ms. Schaffter reported that the vacancy rate is currently standing at YCDO – no vacancies; FLO – 4 vacancies and LAA – 34 vacancies (*includes FLO and YCDO*).

Mr. Johnson questioned if following the meeting in January, 2010, budget scenarios have been prepared which reflect various possible expenditure outcomes, given the concerns expressed regarding cost savings. Ms. Schaffter advised that this has not been done as yet but the CFO did amend the cost savings based on a lesser amount for year one and there have been changes made to the vacancy rate, cost of living and increase as it will not be approved by Alberta Justice at this time. Legal Aid Alberta has \$15 million sitting in reserve and it is anticipated that approximately \$7.5 million of that will be expended.

Mr. Johnson expressed his concern that there are 40,000 outstanding certificates and irrespective of what reorganization is done within the operations Legal Aid, nothing will change the cost of the outstanding certificates. According to the financial statements, the

liability to complete those 40,000 outstanding certificates is \$27 million. Scenario 3 of the budget provided , total private bar expenditure for the next year is \$27 million which means if those 40,000 clear within the year, we are going to spend all the funds on clearing those certificates and not be able to spend a dime on the 30,000 certificates which will be issued this year.

Ms. Schaffter advised that the forecasting that is done in developing the budget is based on historical forecasting; i.e. how many certificates that we clear every year, what the cost of that is every year. This then figures into our private bar expenditure calculation. Mr. Johnson questions whether or not given scenario 3 of the budget that we tracked the higher cost multiples that will flow through the next 12 months as well as overlaying costs of the 30, 000 certificates which will be issued. The budget has to be a cash budget and benefits from the new operations will not be realized right away.

Ms. Schaffter advised that the forecasting outstanding liability for certificates issues is based on a formula using average cost of outstanding certificates. Mr. Johnson wants it laid out how the tracking is actually completed. The formula used to determine the outstanding liability and projections will be sent to the Board members by email. Mr. MacDonald suggested that Alberta Justice be explicitly advised of the assumptions upon which LAA has made the calculation of outstanding liability and that if any of these assumptions prove to be wrong, then we may require additional funds in the budget.

Ms. Schaffter reported that Administration has been looking at delivering the financials in a new way. It is important to be much more diligent on monitoring the programs as there is no historical data to rely on. Monitoring of the projects will be done on a weekly basis so that any necessary adjustments can be made. She introduced Martin Ostensen, Managing Lawyer at Alberta Law Line, who is also a lead in the establishment of the Legal Services Center.

Mr. Ostensen presented the Performance Metrics advising that there are three areas of focus:

- 1) Clients - who are the clients
 - point of entry
 - type of matter
 - assessed legal need

- 2) Assessment and process decisions
 - External referrals
 - Information and referral volumes
 - Advice volumes
 - Brief services volume
 - Opinions
 - Granting/denying certificate coverage
 - Mediation
 - Time tracking
 - Certificates issued, limited and full

- Billings – timing and amount
- 3) Outcomes of processes
- Client matter outcomes
 - Leakage from lower cost client outcomes to high cost client processes
 - Applications for increased hours for certificates.

Mr. Ostensen noted that at the assessment level it is anticipated that the lower cost option would be selected and any leakage would be to a higher cost option i.e. mediation referrals if 50% are successful the other 50% may entail further coverage. Ms. Miller pointed out that if mediation is unsuccessful due to the client being unreasonable, coverage may in fact be denied.

Ms. Schaffter reported that she will work with Mr. Ostensen and a preliminary report, following the above performance metrics will be presented to the Board at the May meeting.

By consensus the financial statements for the month ended January 2010 were received for information.

Board Committee Reports

8. *a) Audit Committee*

Mr. Johnson reported that the Audit Committee will be meeting with the Auditors on March 4th to review the Audit Plan.

b) HR Committee

Mr. Bachinski advised that the HR Committee is in the process of developing the evaluation process for performance appraisals for the CEO and Senior Counsels.

c) Governance Committee

Dr. Sirota reported that the Governance Committee will be holding discussions on Board training at the AGM, succession for committees and recruitment of three new Board members.

d) AGM Task Team

Ms. Hall reported that there were diverse opinions within the Committee. She advised that the cost of the 3 day meeting was \$25,000. A questionnaire was sent out to the Committee and the consensus is to:

- Continue to go to Sylvan Lake
- Board and Administrative staff attend only. Regional Delegates will not be invited to attend.
- 3 days to include Board Orientation and training
- Continue to either use Kristine Robidoux's cabin and/or the rental cabin for team building

It was felt by the Committee as well as raised by the Regional delegates at last year's meeting that it would be more beneficial if the CEO and Chair attended at the Regions and met with the full Committee rather than one Regional delegate at the AGM.

e) Standards Committee Task Force

Other than recommendation on choice of counsel no other report was presented and the committee was dissolved.

f) Nominating Committee

Ms. Robidoux advised that the Board should start putting the word out informally to fill upcoming Board vacancies with 2 lawyers and 1 non lawyer. Advertising will also be undertaken. Fred Fenwick will be a representative of the Law Society on the Nominating Committee.

Mr. Bachinski raised the issues of terms of Board members given that at the end of the AGM, the two most senior Board members will be non-lawyers. Discussions were adjourned to the in camera session.

g) Governance Agreement Review Committee

The Board discussed the issues outlined for discussion at the Governance Review Committee Meetings and topics raised by members included:

- the threshold for related lawyer is too low at \$75,000 for a law firm and it was suggested that the statistics for roster lawyers be reviewed and that a figure reflecting 95% of the threshold be used as the limit. Ms., Schaffter undertook to review the statistics and put rationale to a recommendation.

- terms of Board members and the rationale of staggering the years at 1, 2 or 3 years for the first term and that perhaps the total number of years a Board member may serve should be reflected in the Agreement. The terms of the Board members are at the discretion of the Nominating Committee.
- the possibility of setting a cap on the amount that Legal Aid Alberta should pay for a Court Ordered Counsel matter.
- using a percentage of Alberta Law Foundation funds for operational and the rest to be used for projects within Legal Aid Alberta's discretion.
- Amend the final clause in the exhibit to state that Legal Aid Alberta shall provide the Minister within 90 days of the end of each fiscal year, an estimate of the amount of liability outstanding pursuant to issued certificates..."
- The issue of amending the Legal Professions Act to change that funding amount from Alberta Law Foundation could be placed on the table for discussion.

Mr. Francis reported that the staff at the Youth Criminal Defence Office would like to have the opportunity to make representation to the Governance Agreement Review Committee with respect to issues that will impact their office and in particular reporting structures that may impact independence. Mr. Kloot advised that any representations to the Committee would be decided by the Committee but he would bring it to the table.

Ms. Schaffter undertook to make the changes to the issues list and email it to the Board members for approval for forwarding to the Law Society and Alberta Justice representatives on the Committee.

Operational Committees

9 Medicine Hat Regional Legal Aid Committee

It was duly Moved and Seconded that Leslie Mayer be appointed as a member of the Medicine Hat Regional Legal Aid Committee. Carried Unanimously.

10. Red Deer Regional Legal Aid Committee

It was duly Moved and Seconded that Maria Buchanan and Bradley Mulder be appointed as members of the Red Deer Regional Legal Aid Committee. Carried Unanimously.

Management Reports

11. Operation Reports

a) Report of CEO

Ms. Schaffter advised updates on the projects were provided under item 4. A resolution on whether or not to reduce the financial eligibility guidelines (FEG's) is required. She noted that Legal Aid Alberta does not want to roll back the FEG's, and although it is in the Budget and Business Plan for 2010 the Business Plan proposes that they FEGs will be revisited in 2011 with a view to increase them in 2011 when there is data to show the results of the initiatives being implemented.

The Board discussed the FEG's and felt that the Minister needs to understand that the Board does not want to roll-back the FEG's and that it is temporary only.

It was duly Moved and Seconded that the financial eligibility guidelines be amended to reflect the 30% roll-back adjust effective April 1, 2010. Carried. Ms. Hall and Mr. Kalma opposed and Mr. MacDonald and Dr. Sirota abstained.

Mr. Kloot directed that any communication regarding the Financial Eligibility Guidelines be seen by the Board of Directors prior to its release.

Ms. Schaffter reported that Legal Aid Alberta has partnered with the University of Alberta Law School to undertake a pilot for the provision of a credit course in Low Income Individuals and the Law. Law students in the course will be entering placements at Legal Aid Alberta, Edmonton Community Legal Centre and Student Legal Services. Katherine Weaver will be one of the instructors.

Ms. Schaffter also reported that she has a draft Organizational Chart that she will discuss with the Board in camera.

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

b) Report of Senior Counsel of FLO

Ms. Miller highlighted her report as exhibited and noted she will be down two more staff lawyers in July. She advised that training is on-going for the Mediation project and unbundling of services.

Ms. Miller advised that she has been asked to sit on the Family Law Advisory Committee.

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

c) Report of Senior Counsel of YCDO

Mr. Francis highlighted his report and pointed out the Mission Statement for YCDO as set out in his report. Mr. Bachinski questioned why, in a time of restraint and cuts, YCDO would be providing services to By-law offenses and 1st appearance court. Mr. Francis pointed out that part of the mandate of YCDO is preventive and the By-law offence initiative involves approximately 3 hours of work once a month. He pointed out that youth often do not have the composure to properly advance their case to the courts and to work out suitable options or deals.

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

Strategic Planning

12. Strategic Planning

Ms. Schaffter highlighted the draft Business Plan advised that there are only two main priorities, to maximize access and to deliver a sustainable plan. She advised that she has taken the liberty of providing a copy to Neil Dunne at Alberta Justice.

The Board was in agreement that the wording in the Business Plan be amended to indicate that eligibility guidelines will be reviewed with a view to increasing them.

It was duly Moved and Seconded that the Business Plan be approved as amended. Carried Unanimously.

Mr. Francis asked the Board if the hiring freeze was to carry forward. He has staff going on leave and would like to replace those staff members. The Board advised that once the budget targets have been set for the programs then replacement hiring can be done if it is within the program's budget. The hiring freeze for all current vacant positions is to continue.

List of Pending items

No items were pending.

Items for Information

13. Lawyer wants legal aid boost – Edmonton Sun

This item was received for information only.

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 move out of in camera session. Carried Unanimously.

The meeting adjourned at 1:40 p.m.

Jacqueline Schaffter
President & CEO