

**COLORADO OFFICE OF THE PUBLIC GUARDIANSHIP COMMISSION**

**PUBLIC MEETING**

**March 9, 2018**

**Record of Proceedings**

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**CONVENE**

The meeting of the Colorado Office of the Public Guardianship Commission was convened in the Ralph L. Carr Judicial Center, 1300 Broadway, 2<sup>nd</sup> Floor, Platte Room in the Headwaters Suite, Denver, Colorado 80202 at 10:10 AM by Commission Chair Shari Caton.

A quorum of the Commission was present.

**Commission Members Present**

Shari Caton, Chair

Deb Bennett-Woods, Vice-Chair\*

Kelsey Lesco\*

Karen Kelley\*

*\* Appeared by Telephone*

**Others Present**

Sherry Stwalley, Office of the State Court Administrator

David Kribs, Office of the State Court Administrator

Sueanna Johnson, Office of the Attorney General

**Public Attendance**

None

**AGENDA ITEMS**

**I. Public Comment**

The floor was open for public comment. No public comment was offered.

## II. Approval of February 28, 2018 Minutes

Commission Vice-Chair Bennett-Woods moved for adoption of the February 9, 2018 meeting minutes. The motion was seconded by Commissioner Lesco. The motion passed unanimously.

## III. Chair Announcements

The Chair updated the Commission about the status of the Next 50 grant application.

***Review of the Application.*** The application must be submitted electronically. This complicates the review process for the Commissioners. Commission Chair Caton has created an application and a unique e-mail address that is now associated with the grant. The e-mail address and password will be confidentially communicated to Commission members so they can review the application.

***Tax exempt letter - Update from AAG Johnson.*** David Kribs has both the state and judicial EIN number. To get the authorization letter, we need a mailing address associated with the EIN. Mr. Kribs suggests requesting an EIN specifically for OPG. AAG Johnson agrees that may be best option for certainty of communication with IRS. She will follow up with Hugh Wilson and David Kribs after the meeting. Commissioner Caton reminds of deadline next week for the application. If unable to obtain the government tax exempt letter by the deadline, the backup plan will be that the AAG Johnson will write a letter to indicate that letter has been requested. The deadline for the letter is Tuesday of the coming week. AAG Johnson will supply a draft letter under the assumption the IRS letter may not be received in time.

Mr. Kribs then determined he could request an EIN during the meeting. The Commission voted to authorize Mr. Kribs to apply for an EIN on behalf of the commission. Commissioner Bennett-Woods made the motion to approve, and Commissioner Lesco seconds the motion. The motion was adopted unanimously. This vote will allow Mr. Kribs to facilitate getting the EIN and IRS letter.

***Certificate o Good Standing.*** Commission Chair Caton asked whether OPG must submit a Certificate of Good standing. AAG Johnson advised this is not applicable for a governmental organization. She suggests attaching a copy of the OPG statute in lieu of the certificate. The Commission members concur.

***Non-discrimination policy.*** Commission Chair Caton wondered whether State Judicial's non-discrimination policy will cover OPG for the purposes of this grant submission. Commissioner Bennett-Woods suggests that the application explain the Office is in the organizational phase and applicable policies are currently under development. Ms. Stwalley reported that Judicial's policy is contained in Chief Justice Directive 08-06.

Chairman Caton suggests noting policies are in the developmental process and attaching the organic statute to demonstrate the status of the organization. AAG Johnson suggests that at this point there are no employees but once employees exist, a Director will be required to develop an anti-discrimination policy. Commissioners Bennett-Woods, Kelley and Lesco concur.

***Reviewed Main Sections of Grant:***

- List of commissioners
- Geographical area served.
- Completion of form 990 (Schedule B) – likely not applicable to government agencies but AAG Johnson will confirm.
- Discussion of attachments to the grant – the organic OPG statute, advisory committee reports, but a packet will be circulated among the Commissioners with final draft of the application
- Suggested additions: original Elder Law Task Force Report, the Governor's Strategic Action Planning Group on Aging – the recommendations to Governor for creation of the OPG.

AAG Johnson suggests adding the Commission's By-Laws and Interim Fundraising Guidelines, possibly minutes and the MOU with State Judicial. Commissioner Bennett-Woods suggests limiting additions to most relevant documents. The Commission agree to three documents: the By-Laws, Interim Fundraising Guidelines, and the MOU.

***Letters of Support.*** Letters of Support have been solicited from the Elder Law Section of the Colorado Bar, members of Trust and Estate Section of the Colorado Bar, Rep. Young, Judge Leith, Judge Dagenhart and Judge MacDonnell. Commissioner Bennett-Woods has requested letters from COPIC, the Hospital Association, and the Colorado Care Association.

***OPG Budget.*** The budget had to be formatted as required by Next 50 guidelines. Mr. Kribs provided a budget based on the original fiscal note information. AAG Johnson suggests making the statement that the initial money request will be used to contract with a fundraiser to allow the \$1.7 threshold to be met allowing for the

hiring of a director. Mr. Kribs notes that fund raising can be paid from the personal services line of the budget, which has \$1.1 million included in the planned budget.

The Commission reviewed the following grant requirements for applicability with Mr. Kribs:

- Projected budget – Complete
- Audited financials – N/A
- Current statement of financial position – N/A
- Current statement of activities P&L – N/A
- Project budget – Complete
- Organizations current operating budget covering project period – Same as project budget

#### **IV. Interim Fundraising Guidelines**

AAG Johnson incorporated most of the Commissioners' comments that she received as a starting point to the draft Interim Fundraising Guidelines. Commissioners Bennett-Wood and Commissioner Chayet had previously asked for a provision for in-kind donations. AAG Johnson noted that this is problematic because it doesn't count toward the \$1.7 M and the goal should be to meet the 1.7 M goal first in order to get the Office up and running. She suggests exploring this more after the \$1.7 M is obtained. It will become a distraction and is not normally done in governmental organizations. Mr. Kribs adds that it may not help the Commission meet the budgetary threshold, but there is nothing to prohibit someone helping the board out for free.

Reviewed changes as presented by AAG Johnson and members:

- In the Preamble, AAG Johnson added a sentence "Any monies received after appointment of the Director shall be used for overhead of the Program" in response to a request by Commissioner Chayet to make clear that monies raised will be used for overhead.
- In Article II, AAG Johnson added a definition section for "Program" to refer to the "Pilot Program."
- Commissioner Chayet had wanted a definition of gift, grant or donation, but AAG Johnson thought it was defined in Article III, Sec. 3.2. AAG Johnson indicated that in her research she found that some charities distinguish between gifts as generally smaller than donations. There is not necessarily a legal distinction. The organic statute of OGP uses both terms, and the bill drafter indicated that this is standard statutory language when allowing an agency to receive gifts, grants or donations.

- In Article III, Section 3.2, the donation right now must be in the form of a check. Mr. Kribs would check to see if donations could be made by Electronic Funds Transfer and credit cards, but those two latter forms are currently not possible.
- In Article IV, Section 4.1, Section 3.1, the Commission wants to delete the word “fiduciary.”
- In Article III, Section 3.5, conditions as to use of money/unconditional
- There was discussion again about the form of the gift or donation. The Commission Chair wanted to change the term “negotiable instruments” to acceptance of any permissible form, but based on discussion that only cash or check are now available, other forms will be explored (e.g. credit cards, GoFundMe, EFT, etc.).
- The Commissioners wants to remove the language that donations shall be approved by majority vote of the Commissioners prior to acceptance.
- Article II, Section 3.5, the Commission wants to make the donor list available “upon request” as opposed to creating a duty to provide such information. While the government cannot keep the donor list confidential, like a non-profit, it does not also have to publicize the information but just make it available to those who request it.
- As to the disclaimers, AAG Johnson stressed that the disclosures need to be made at the beginning before the gift, grant or donation is made because the money is non-refundable once it is deposited in the OPG Cash Fund. Commission Chair Caton suggests receipts contain all the disclosure language.
- In Article III, Section 3.8, the second bullet is changed to reflect that the intent of the donations is to fund the program.
- AAG Johnson indicated that the last bullet under Article III, Section 3.8 must be included in the disclosures in case the OPG Program is not continued.
- The last paragraph in Article IV, Section 4.2 is omitted dealing with consent from donors to alter the transactions.
- In the guidelines, the Commission wants the term “Interim” put in.

A motion to adopt the fund raising guidelines as amended was made by Commission Vice-Chair Bennett-Woods. The motion was seconded by Commissioner Lesco. The motion was unanimously approved.

## V. Adjourn

Commissioner Bennett-Woods moved for the meeting to adjourn. The motion was seconded by Commissioner Lesco. The meeting was adjourned at 12:07 PM.

**ATTESTATION**

As Commission Chair and Commission Vice-Chair, we attest that these minutes of the open public meeting of the Colorado Office of the Public Guardianship Commission substantially reflect the substance of the discussion and action taken related to the matters under the authority of the Commission.



Shari Caton, Commission Chair

4.24.18

Date



Deb Bennett-Woods, Commission Vice-Chair

4-24-18

Date