

COLORADO OFFICE OF THE PUBLIC GUARDIANSHIP COMMISSION

PUBLIC MEETING

January 12, 2018

Record of Proceedings

CONVENE

The meeting of the Colorado Office of the Public Guardianship Commission was convened in the Ralph L. Carr Judicial Center, 1300 Broadway, Conference Room 1B, Denver, Colorado 80202 at 10:05 AM by Commission Chair Shari Caton.

A quorum of the Board was present.

Board Members Present

Shari Caton, Chair

Kelsey Lesco

Marco Chayet

Deb Bennett-Woods, Vice-Chair

Karen Kelley

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

Steve Allen, Joint Budget Committee Staff Member

AGENDA ITEMS

I. Public Comment

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

II. Approval of December 11, 2017 Minutes

Commissioner Chayet moved for adoption of the December 11th meeting minutes. Commissioner Kelley seconded. The motion passed unanimously.

III. Approval of December 28, 2017 Minutes

Commissioner Lesco moved for adoption of the December 28th minutes. The motion was seconded by Commissioner Kelley. The motion passed unanimously.

IV. Update on Budget Supplemental

Vice-Chair Bennett-Woods and Commissioner Lesco updated the group on a recent meeting with Representative Young. The following people attended the meeting at JBC offices: Representative Young, Commissioner Lesco, Vice-Chair Bennett-Wood, Jeremy Schupbach, Richard Sweetman, Hugh Wilson, Terry Scanlon, Sherry Stwalley and Steve Allen. The purpose of the meeting was to ask Representative Young about his willingness to pursue strategies to remedy the lack of spending authority for the Office/Commission and to help clarify whether the \$1.7M requirement in the Act constituted a threshold or bar from spending lesser amounts of funding if a lesser amount is donated. Representative Young indicated that he would not favor asking JBC staff director, John Zeigler, to write a letter to the Treasurer clarifying that it was the JBC's intent for the bill to create cash spending authority. Instead, he suggested pursuing an emergency supplemental for spending authority.

Representative Young is supportive of running more legislation if it is needed to fix the appropriation problem and other mechanical problems identified by the Commission.

After the Representative left the meeting, the group referenced above discussed possible fund raising options. Jeremy Schupbach suggested inviting target stakeholders to provide initial seed money at an event hosted by the Commission. To avoid the problem of donated funds reverting to the General Fund if not spent, it was suggested that a 501(c)(3) might act as an intermediary, holding funds until the \$1.7M threshold is met and depositing funds with the State only in that event.

After the update of the meeting with Representative Young, the Commission discussed various fund raising tactics such as inviting target donors and stakeholders to a future commission meeting.

Steve Allen, JBC Staff Member, was invited to brief the Commission on the state budgeting process. He explained that his role is advisory to the JBC. When the JBC makes a budget decision, it needs to be voted on by the full legislature. In 99% of cases, JBC decisions are adopted by the full General Assembly.

Judicial presented a supplemental budget request on behalf of the Office of Public Guardian in the amount of \$300,940 and 2 FTE. If approved, the Commission would have the ability to spend any donated funds up to that amount and hire up to 2 employees. The supplemental will not provide General Fund revenue. In recommending supplemental spending authority, Mr. Allen will use two criteria: 1) does the request conform to statute, and 2) is it viable.

Mr. Allen provided a hand-out that showed the original and amended language of HB 17-1087. He explained that this bill was drafted in a unique way and the phrase “annually appropriated,” was creating some ambiguity as to whether the bill itself created spending authority or whether the JBC needed to grant spending authority. This is not ideal budget language and JBC staff will not try to clarify the meaning. He suggested the easiest way to remedy the ambiguity was to seek supplemental spending authority. If granted the issue will no longer be relevant and the commission can be sure it has the proper spending authority.

As to whether the Commission needs to raise the entire 1.7 million before any funds can be expended, he compares the original and amended language and believes the current language expresses an “end point” of when action needs to be taken, meaning funds can be spent prior to receiving the full amount contemplated by the Act. If the supplemental is approved, the Commission can begin spending money as it is received. Donors should be advised that money not spent will revert to the General Fund. He suggested the funds may be used to hire a contract fundraiser to assist in securing the full \$1.7M required. Judicial will assist in the administrative functions of receipting donations and paying contractors. Mr. Allen reviewed this interpretation with the primary sponsors (Representative Young and Senator Lundberg) and they agree this is a viable path forward.

If approved, the supplemental will take effect in March 2018. Funds not expended this fiscal year will remain in the Office of Public Guardian account until 2021. At that time, if the Office is demonstrated to be successful in their mission, legislation can be run to extend the account and prevent the remaining funds from reverting to the General Fund.

Commissioner Chayet asked if a foundation is used as an intermediary to hold the money until the full \$1.7M is received, can a portion be used to pay for a potential fundraiser. Mr. Allen clarified that money spent by the Commission must be deposited into the cash fund prior to spending. AAG Johnson asked if money deposited and spent prior to making the \$1.7M mark will count toward the ultimate

total. Mr. Allen responded that this would be a reasonable interpretation, that the donations are cumulative.

Commissioner Chayet asked if in-kind donations (volunteer time) can be counted toward the total. Mr. Allen believes this might require an amendment to the statute but noted he does not have authority to make this decision independently.

Mr. Allen noted that the Commission will need to raise \$1.7M each year. AAG Johnson pointed out the bill says "as well as any appropriation by the General Assembly," opening the option of making a general fund budget request. Mr. Allen agreed and noted that the bill does not say "no General Fund money may be appropriated." This phrase is specifically included in some pieces of legislation. He noted, however, that it is his understanding that the members do not expect to fund this through General Funds but a request is not precluded by the Act.

The Commissioners expressed their thanks to Mr. Allen for his very informative presentation and asked if he had suggestions for needed statutory changes. Mr. Allen told them his goal was to find a path forward under the existing statutes.

David Kribs, Chief Financial Officer for Judicial was asked about procurement rules in hiring a fundraiser. He informed the Commission that purchases under \$25,000 do not require a competitive process. Purchases at \$25,000 to \$150,000 require a documented quote from 3 vendors and services over \$150,000 require a full RFP. Ms. Johnson suggested that the Chair and Vice Chair may want to meet with Judicial staff to better understand the process and services available to them.

V. Meeting Dates

The Commission chose to amend its By-Laws to meet regularly on the fourth Wednesday of each month from 10 to noon.

VI. Approval of the Amended By-Laws

The Commission discussed whether it was advisable to have a requirement in the By-Laws that there be fundraising guidelines in place prior to fundraising attempts. It was mentioned that development of guidelines can take a very long time and the need to begin fundraising is urgent. Members noted the importance of adopting guidelines for the long term, especially when Commission staff is charged with fundraising duties. After discussion it was suggested that the By-Laws should be amended in Article 5.2 so that the language is mandatory that the Commission has fundraising duties, but permissive with respect to development of fundraising guidelines.

The Commission also noted that the By-Laws would be amended in Article 4.1 to reflect that regular meetings are held the fourth Wednesday of the month.

Commissioner Chayet made a motion to approve the By-Laws as amended. The motion was seconded by Commissioner Bennett-Woods. The motion passed unanimously. The Commission requested that AAG Johnson begin drafting fundraising guidelines and a document retention policy.

VII. Update on Memorandum Of Understanding

Sherry Stwalley, Director of Court Services at Colorado Judicial, was asked to discuss information on mailing address and phone for the Office. Ms. Stwalley provided a handout with a temporary address, instructions for a voicemail box for the Office and a list of contact information within Judicial. She noted that Judicial does not allow non-judicial employees to use their e-mail system and suggested a temporary solution through free mail services such as Google. Commission members were uncomfortable with an unsecured mail service and discussed using a small portion of funding to procure an e-mail provider with better security and storage.

AAG Johnson noted that Judicial had returned the Memorandum of Understanding with no further changes since the last meeting. The Commission had asked for two changes and Judicial has agreed.

Commission Bennett-Woods moved, and Commissioner Chayet seconded, adoption of the final Memorandum of Understanding with Judicial. The motion passed unanimously.

VIII. Tax Deductible Information Request for an IEC Advisory Opinion

At 11:51 AM, Commissioner Caton requested a motion to enter into executive session to receive legal advice from counsel, AAG Johnson, from the Colorado Attorney General's Office. The legal advice included the tax deductible status of donations that the OPG Commission may receive from donors and whether the OPG Commission would request an IEC Advisory Opinion. Commissioner Lesco made the motion to enter into executive session. Vice-Chair Bennett-Woods seconded the motion. The motion passed unanimously.

**Executive Session was held to protect
the Attorney-Client Privilege.**

Executive Session was recorded

Return to open meeting

At 12:52 p.m., the Commission returned to Open Session.

IX. Adjourn

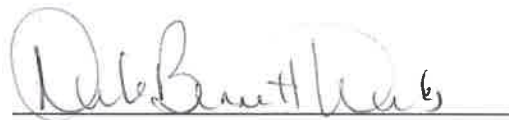
At 12:55 PM, Commissioner Chayet moved to adjourn the meeting. The motion was seconded by Commissioner Lesco. The meeting was adjourned.

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



Deb Bennett-Woods, Commission Vice-Chair

2.28.18
Date

2-28-18
Date