

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
DEVELOPMENT COMMITTEE

OPEN SESSION

Friday, April 15, 2011

4:00 p.m.

The Westin Hotel - Richmond
6631 West Broad Street
Richmond, Virginia 23238

COMMITTEE MEMBERS PRESENT:

John G. Levi, Chairman
Robert J. Grey, Jr.
Charles N.W. Keckler
Martha L. Minow
Father Pius Pietrzyk, O.P.
Herbert S. Garten (Non-Director Member)
Thomas Smegal (Non-Director Member)
Frank B. Strickland (Non-Director Member)

OTHER BOARD MEMBERS PRESENT:

(None)

STAFF AND PUBLIC PRESENT:

Victor M. Fortuno, Vice President for Legal Affairs,
General Counsel, and Corporate Secretary

David L. Richardson, Treasurer and Comptroller

John A. Constance, Director, Office of Government
Relations and Public Affairs

Katherine Ward, Executive Assistant, Office of Legal
Affairs

Michael A. Genz, Program Counsel III, Office of Program
Performance

Linda Perle, Center for Law & Social Policy (CLASP)

Terry Brooks, Standing Committee on Legal Aid and
Indigent Defendants, American Bar Association
(by telephone)

Atitaya Pratoomtong, Staff Attorney, Office of Legal
Affairs (by telephone)

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Motions: 4, 5, 26

1 PROCEEDINGS

2 (4:00 p.m.)

3 CHAIRMAN LEVI: Charles Keckler, John Levi,
4 Martha Minow, Father Pius. On the phone is Herb. Is
5 anyone else on the phone?

6 MS. PRATOOMTONG: Atitaya is on here.

7 CHAIRMAN LEVI: Howdy.

8 MS. PRATOOMTONG: Hello.

9 MR. BROOKS: I'm Terry Brooks from ABA.

10 CHAIRMAN LEVI: And you're not here in
11 Richmond. I thought you were coming to Richmond.12 MR. BROOKS: Sorry. I needed to get home
13 after three days at ABA Day.14 CHAIRMAN LEVI: I'm sure that would do it to
15 you.16 Well, I think we'll get started. So can I
17 have a motion to approve the agenda?

18 MOTION

19 DEAN MINOW: So moved.

20 FATHER PIUS: Seconded.

21 CHAIRMAN LEVI: All in favor?

22 (A chorus of ayes.)

1 CHAIRMAN LEVI: Can we approve the minutes? A
2 motion to approve the minutes?

3 M O T I O N

4 DEAN MINOW: So moved.

5 FATHER PIUS: Second.

6 CHAIRMAN LEVI: All in favor?

7 (A chorus of ayes.)

8 CHAIRMAN LEVI: We're trying to end by 4:30
9 because of other scheduling issues.

10 There were two, and they're really meant to be
11 alternatives. One is a description of a development
12 officer position. The other is an RFP if we were to
13 try to have a consultant come in. And, of course, we
14 haven't put it out for bid, so we don't know what the
15 expense of that would be.

16 And I wondered -- I wanted to have some
17 discussion of -- which way does the committee want to
18 go? And Victor Fortuno is here. Jim Sandman is in the
19 other meeting. I'd be interested in hearing also what
20 the LSC staff might think or executives might think
21 about which way we should go on this.

22 I certainly have heard in the last -- as an

1 aside here, the other day I had a meeting with an
2 individual who I'm not going to name here. And I've
3 had conversations with other like individuals in the
4 last three months, who basically say two things: You
5 ought to have an honorary board. You ought to have an
6 alumni association.

7 There's so many people who have been in legal
8 services in one way or another or actually worked for
9 this Corporation who still have great affection for it.

10 But there's no way for them to stay linked. They
11 would like to.

12 The idea of an honorary board is part of
13 getting information out, just what we were talking
14 about here at the table before the meeting began, that
15 folks still think we're criminal. What is civil? What
16 is Legal Services? Is it criminal? Is it civil? What
17 is it?

18 And the more opportunities an organization has
19 to articulate for the public and for people not in the
20 field, and so the more links you have to folks, the
21 better off you are in being able to spread -- so in any
22 event, I just throw that out there.

1 DEAN MINOW: Martha Minow. It strikes me that
2 we have three immediate needs. And if we're trying to
3 figure out whether to go for an RFP or a staff
4 position, it might be helpful to see if people agree
5 with me about these needs or there are other needs.

6 So the first is to sketch a development
7 strategy, of which the examples you just gave, John,
8 are good ones. The second is to survey the capacity
9 out there to figure out if there is an interest in
10 development, and particularly in relationship to local
11 efforts that are already underway. And the third is to
12 identify and maybe even start some of the work to be
13 done, to actually start doing some of the work.

14 So I don't know if people agree with me. But
15 if that's right, I guess in my view the choice between
16 a consultant versus a staff member is less important
17 than getting a really good person, and the important
18 thing about if it were to be a consultant, someone who
19 starts doing work as opposed to someone who simply
20 studies the problem.

21 CHAIRMAN LEVI: I agree with that. And I
22 could give even other -- I don't know if, Atitaya,

1 you've been looking at this, too. But I don't know how
2 much staff there is at this juncture. Currently, on
3 the premises, I don't believe there is staff to support
4 this function. My sense is that staff is stretched
5 pretty thin. Am I incorrect?

6 MS. PRATOOMTONG: This is Atitaya. From what
7 I understood initially with, you know, if we want to go
8 out and solicit contributions, that would have required
9 a lot in terms of registering in all the states that we
10 could actually go out there and solicit contributions.

11 MR. GARTEN: We're getting a substantial echo
12 on the phone.

13 MS. PRATOOMTONG: Can you hear me?

14 CHAIRMAN LEVI: I think you're going to have
15 to dial back in. I don't know if you're on a cell
16 phone or what's going on, but your phone has got some
17 reverberation.

18 MS. PRATOOMTONG: Okay. I'm sorry. I'll dial
19 back in.

20 MR. STRICKLAND: Hey, John. Frank Strickland
21 joining the call.

22 CHAIRMAN LEVI: Thank you, Frank.

1 MR. FORTUNO: This is Vic Fortunato, for the
2 record, with the Office of Legal Affairs. We, I think,
3 are spread fairly thin right now. In terms of getting
4 started, I haven't discussed it with Jim.

5 I suspect that our position would be to defer
6 a possible hire of a position -- you know, if someone
7 could fill the position as a regular appointment, and
8 if there's some expertise or some work to be done that we
9 don't have the resources in-house to do, is to have a
10 consultant do it. It wouldn't be a long-term contract,
11 necessarily, although we could retain that option.

12 But I think that gives us the greatest
13 flexibility, and also brings in some expertise that we
14 don't have in-house.

15 CHAIRMAN LEVI: I should have mentioned a
16 couple of other things that have come up in the last
17 two months, actually, that grantee programs have
18 actually mentioned to me.

19 A couple of them have said, you know, these
20 big, large foundations, we aren't in and of ourselves
21 sufficiently -- and what we would want -- sufficiently
22 large. But on behalf of a group of us, we would love

1 to have the ability to make a proposal on behalf of a
2 large group of us.

3 Then the other thing that I heard is, for
4 example, even in understanding what other federal
5 entity grants might be available on behalf of LSC
6 grantees, or that some grantees are getting but others
7 don't know about, that possibly a development function
8 in-house would be able to help. And that's a big job
9 to pull together for us.

10 But there's a sense by some grantees that
11 they're missing out on the possibilities because they
12 don't actually know about them and don't have the
13 ability in-house to follow them.

14 And so I'm happy to have a consultant come in.

15 I wanted to make sure that everybody else was on the
16 same page, and we can put the RFP out there, if people
17 have changes or suggestions, and see what we get back
18 in terms of the pricing.

19 When you say "short-term," what are you
20 thinking? I don't think anybody can do this job and
21 really come in and see what we need and get started in
22 less than six months. I mean, they'd need six months,

1 I think. I think three months is too short, but
2 that's --

3 MR. FORTUNO: This is Vic Fortuno again. And
4 I think that would qualify as short-term, the way I was
5 thinking, simply giving us sufficient time to find out
6 what our financial picture's going to be in the next
7 year and not making any long-term commitments beyond
8 that; but I think bringing someone in who could bring
9 in the expertise and get us started.

10 I think the point you mentioned about
11 identifying federal funding that would be available to
12 our grantees, of which some may be aware and some are
13 not, it seems to me that we should be in a position to
14 do that, and moreover, that we should be doing that.

15 So I see no reason to delay that. I think we
16 can do that internally.

17 CHAIRMAN LEVI: Martha?

18 DEAN MINOW: It sounds good to me. But I
19 would hope that the RFP would specify some very
20 concrete delivers within a six-month period that would
21 include building those two pools of potential donors
22 that you identified, John, the alumni and the other

1 group.

2 And then secondly, to the extent that it's
3 possible to work with existing staff on identifying
4 some national sources and actually doing some
5 grant-writing to get some grants written and delivered
6 out there; and only later, after that, to consider
7 anything on the order of a plan of fundraising, which I
8 think we're just not in a position to do yet.

9 And on the fourth issue that's come up,
10 changing our legal status or filing for approval to
11 raise funds in 50 states, that seems like the lowest
12 priority imaginable.

13 CHAIRMAN LEVI: I also was struck
14 today -- Frank and Herb particularly, I don't know if
15 you've visited the Virginia programs in your tenure.
16 Boy, we had just wonderful presentations here today.
17 And at one point, though, I asked them about
18 development.

19 Some of the programs have a development
20 function; some of them don't. It's not clear to me
21 they fully share their best practices, and how the best
22 practices among grantees are being shared; what kind of

1 benefits; what kind of fundraising campaigns. Are
2 there capital initiatives, for example? And how to
3 think about capital initiatives or our programs.

4 I didn't hear that at all in response to my
5 question today. So I wanted to let you guys know that
6 we had heard a bit about that today, and that I'd asked
7 them about some of these questions when we were meeting
8 with them.

9 MR. STRICKLAND: We did not meet in Richmond,
10 and I think we observed at least some fundraising
11 efforts by local programs. It varied by degree. Very
12 successful in Atlanta, for example, with fundraising;
13 two-thirds of the program's budget is raised from other
14 sources.

15 CHAIRMAN LEVI: Yes.

16 MR. GARTEN: We've got a very substantial
17 development office here at Legal Aid in Baltimore, and
18 they're raising a good deal of money through various
19 activities, including an annual fundraising activity,
20 with funds coming in from lawyers, substantially, and
21 law firms.

22 FATHER PIUS: Just a couple thoughts.

1 Obviously, I mean, we've got different ways of -- the
2 primary reason for this development officer is to raise
3 private funds. Okay? And so one source is going to be
4 government funds and foundations which you don't need
5 long-term relationships with, necessarily. You need
6 somebody to be able to write grants, and that can be
7 done right out the door.

8 Long-term private funds in terms of friends
9 who are in high places, that is cultivating long-term
10 relationships. All right? So depending on what you
11 want to do, if you're interested in, just for the time
12 being, hiring on a consultant, it's not setting up a
13 huge development office where you have a database of
14 people that you contact, building up a board just yet.

15 But it means, with a consultant, I think focusing more
16 on the grant-writing and those sorts of things as well.

17 So it depends on --

18 CHAIRMAN LEVI: I was hoping that the
19 consultant would come in, get started on some of these
20 things, and help tell us what we need to do all of that
21 carrying forward so we can be successful.

22 FATHER PIUS: Right. And that's the other

1 half, is figuring out what the possibilities are,
2 getting us a realistic notion of where we might get
3 development support. Our experience with the
4 developments office in our province is that for the
5 first while, they don't make money. They are money
6 losers, and it takes them a little while to get going.
7 Eventually they'll be self-sufficient, you hope. If
8 they're not, you've got a real problem.

9 But we do eventually have to have concrete
10 deadlines. How long before this development office
11 gets self-sufficient? What are we expected in terms of
12 the fundraising? At some point, do we realize this is
13 simply a dead end and there aren't these funds that are
14 available, and if so, how long, what time that is? And
15 that's really got to be especially considered.

16 CHAIRMAN LEVI: I agree with that.

17 MR. KECKLER: I think that -- and this is, as
18 you'll recall, from last time -- that eventually,
19 partly for the reasons that we saw today and just heard
20 about, that there's significant variation in the
21 programs in their development success.

22 But it's going to be critical for them in a

1 time of limited resources, and critical for them for
2 community involvement, for them to have some really
3 good practices in private development. And that's an
4 area where we can and should be helpful, more helpful
5 than we have been.

6 In addition, even if we don't get vast amounts
7 of money, the capacity to get some private money to
8 support special projects, to support training and
9 technical assistance, to support a variety of things,
10 to encourage some kind of best practices in key
11 areas -- we heard about domestic violence and child
12 abduction, things like that where development could be
13 useful to us -- means that at the end of the day, there
14 should be a development office at LSC.

15 Now, that's at the end of the day, though.
16 The question is how to get there, and I can see how we
17 would want to have a consultant come in, I think, as
18 long as part of their goal is, as you say, to think
19 about what kind of development office we can have, to
20 think about that.

21 And that's a separable function from actually
22 being the development officer, thinking about what kind

1 of development officer -- I mean, it doesn't have that
2 kind of existential flavor in which the development
3 officer comes in and says, what kind of development
4 officer should I be?

5 You know, we have somebody else to help us as
6 a board and, with their own experience, think about
7 that. And then when they've made their
8 conclusions -- and I also think they should help us
9 with the fundraising piece of the strategic plan. I
10 think that should be part of -- they don't need to come
11 up with a strategic fundraising plan.

12 CHAIRMAN LEVI: I agree.

13 MR. KECKLER: But the fundraising piece of our
14 strategic plan should be part of -- maybe specifically
15 part of the RFP, but part in any way of their duties.

16 But given that, I think that it's -- I'm fine
17 with a consultant.

18 FATHER PIUS: My only cause for concern, if
19 I'm the new development director that's hired two years
20 from now, is that you still need -- make sure that
21 there's some flexibility. You don't hand them a binder
22 and say, here's your job. I mean, it doesn't work that

1 way. They have to have some ability to create an
2 office that works with the way they're doing things.

3 DEAN MINOW: I think Charles just make a
4 wonderful point about including the RFP in the
5 strategic planning portion. I think that makes a lot
6 of sense because that's specialized expertise.

7 I guess I have a slight dissent in that I
8 would be worried if there wasn't a piece of this RFP
9 that actually had a deliverable that involved raising
10 some money.

11 MR. GREY: What sources would you (inaudible)?

12 DEAN MINOW: Could be foundations. Could be,
13 exactly, grants. And minimally --

14 CHAIRMAN LEVI: Maybe a grant from one of the
15 types of foundations --

16 DEAN MINOW: Exactly.

17 CHAIRMAN LEVI: -- that support the
18 establishment of development offices, which there are.

19 DEAN MINOW: There are such things?

20 CHAIRMAN LEVI: Yes, there absolutely are.

21 DEAN MINOW: There definitely are? That's
22 definitely one. And another is I would actually leave

1 it to you, John, and Jim Sandman to figure this out.
2 But among the possible priorities for a short-term
3 activity, I think there would be foundation or even
4 just private funding would be to do a proof text to
5 show that it's possible to have a kind of resource at
6 the LSC to share best practices. That would be one, in
7 one or more of these areas.

8 A second would be to come up with a template
9 for a kind of local grant in a particular area where we
10 know that there's a need, and there's potentially local
11 resources, but they don't have the ability to write the
12 grants.

13 So those are the two kinds of things that I
14 can imagine perfectly reasonable to expect someone to
15 do while they're also doing a capacity-building design
16 of what a development office would be.

17 CHAIRMAN LEVI: Frank and Herb, do you have
18 any comments?

19 MR. GARTEN: I would say that it seems to me
20 that there are consultants out here that would be glad
21 to advise us as to the success in developing this type
22 of office for a corporation such as ours. And we could

1 learn a lot from just learning about what they've done
2 in the past and how successful they've been.

3 MR. STRICKLAND: I certainly agree with the
4 notion of involving a consultant at the outset as
5 opposed to a staff person. I joined the discussion a
6 little bit late, and I thought that was what you were
7 talking about when I joined.

8 CHAIRMAN LEVI: It is. It is. And when I
9 threw out the question -- because I got a note from a
10 grantee saying, you know, we've never run a capital
11 campaign, and maybe we ought to. And we never even
12 have thought about it.

13 And then I asked the question, do we know
14 whether any of the grantees ever have or have thought
15 about it? And I can't answer that question. They must
16 have done some.

17 MR. GARTEN: It seems to me we've had
18 discussions about whether we'd be in competition --

19 CHAIRMAN LEVI: Some have. I mean when
20 they're building a building or something.

21 DEAN MINOW: Yes.

22 CHAIRMAN LEVI: They have. Yeah.

1 MR. STRICKLAND: John, it's Frank again. May
2 I inject one other comment? At one point, on a very
3 limited basis, we got approval to raise funds within
4 the District of Columbia only. I mean, I heard Martha
5 say a minute ago about the notion of trying to get that
6 approval in all 50 states was way down on the agenda,
7 and I think she's correct.

8 But on a limited basis, we tried to raise a
9 small amount of money for the purposes of having
10 functions for which we could not expend any federal
11 funds. We were unsuccessful in that effort, but it
12 drew a comment from, I think -- well, let's say it drew
13 a comment from the Hill, without trying to remember
14 which office it came from, to the effect of, well, if
15 you're going to be raising money, maybe we'll just take
16 the equivalent amount out of your budget.

17 CHAIRMAN LEVI: Right.

18 MR. STRICKLAND: So that's something that we
19 should at least keep on the table to consider before
20 getting too far down the road in raising funds.

21 CHAIRMAN LEVI: We have to be careful about
22 that, obviously.

1 MR. STRICKLAND: Somebody else may have
2 already brought that up, but I did want to mention it.

3 MR. GARTEN: Herb Garten here. We've also got
4 to consider whether we're competing with any of our
5 programs that have the same idea, or like in Maryland
6 here where they're raising over a million dollars a
7 year.

8 CHAIRMAN LEVI: Yes.

9 MR. GARTEN: But my recollection of our prior
10 discussion is we're going after the major foundation
11 and the major contributors that would be difficult for
12 individual programs to look for funds from.

13 CHAIRMAN LEVI: That's the objective. Okay.
14 Well, then --

15 MR. GARTEN: Where do the Friends of LSC fit
16 into this? Has any discussion --

17 CHAIRMAN LEVI: Well, they have a more
18 limited -- they can only give their funds in the
19 District of Columbia, as I understand it. And I don't
20 believe that they can give funds to the grantees or
21 help with grantee fundraising. I don't think they can
22 do that.

1 MR. FORTUNO: This is Vic again. I'm
2 certainly not in a position to speak for Friends of
3 LSC. I think, as a condition of their bond financing,
4 they're supposed to be good corporate citizens and
5 provide assistance to worthwhile events in the District
6 of Columbia.

7 That's not to say that they would be limited
8 to the District in terms of funding. But since they
9 don't have very much in the way of discretionary funds
10 with which to make grants, they really find that what
11 they do have they need to use in the District.

12 I believe that -- and Linda's here. She may
13 have some information on this. But I believe they did
14 give some money to NLADA at one point to fund some
15 training. I think it was in the order of \$50,000. So
16 they have some flexibility in terms of what they can
17 fund. The problem is what they have with which to fund
18 it. They don't have a whole lot.

19 MR. GARTEN: Have we discussed what specific
20 project we would be seeking funds for?

21 CHAIRMAN LEVI: I suppose we could talk with
22 them about helping us fund a consultant. But I don't

1 know whether -- I'm not clear that when we talked with
2 them last about funding some research, they turned us
3 flat down. So I'm not quite sure how to manage that.

4 And I don't really think, as a management
5 matter, that you can have a separate entity,
6 ultimately, that doesn't really report to the head of
7 LSC. As an institutional matter, I don't like that
8 kind of governance.

9 What I would suggest here is that there have
10 been a couple of -- I think the group here prefers to
11 move in the direction of a consultant. And based on
12 that, what I would ask is that the committee members
13 take a look at the draft, and rather than doing it now,
14 e-mail me their suggested changes to it. We'll collect
15 them, and then recirculate a draft to people that we
16 can move forward.

17 Does that seem fair? I'd like to try to move
18 it forward within ten days or so. So if you could
19 please get that to me. And then what I thought we
20 could do is pass it around via e-mail, the revised
21 draft, and I'll ask Vic what do we have to do to get it
22 approved. Can I have a notational vote or do we have a

1 vote? What do we --

2 MR. FORTUNO: You can certainly have a
3 notational vote.

4 CHAIRMAN LEVI: I don't need the whole board.
5 I just need the committee because we've got to
6 recommend it to --

7 MR. GREY: (Inaudible.)

8 MR. FORTUNO: Not necessarily. This would
9 be -- the board can do so, but can also simply charge
10 management with doing so. And the president can go
11 ahead and carry out the instructions.

12 CHAIRMAN LEVI: Well, we'll make a
13 report -- I'll make a report to the board in the
14 meeting tomorrow.

15 DEAN MINOW: I think -- right.

16 CHAIRMAN LEVI: And we'll see -- and suggest
17 that, within range, hopefully, the board can advance
18 approve it so we don't have to have a delay.

19 DEAN MINOW: Yes. That's what I would hope,
20 is that we could get, in principle, board approval of
21 asking the president to move ahead with the hiring of a
22 consultant.

1 MR. KECKLER: That sounds sensible to me. And
2 I think we can approve the issuance of an RFP for a
3 consultant, and then we don't need board approval of
4 the particular RFP. We don't normally do that. So I
5 think that we actually can proceed, actually, and then
6 the actual RFP, we'll provide comments, management, and
7 so on. And then they'll issue it when we're ready.

8 CHAIRMAN LEVI: Okay. Does that sound good to
9 you on the phone?

10 MR. STRICKLAND: Yes, sir.

11 CHAIRMAN LEVI: Okay. Any other issues to
12 come before us here today? New business?

13 (No response.)

14 CHAIRMAN LEVI: Public comment? Terry?
15 Linda? Anybody in the room?

16 (No response.)

17 CHAIRMAN LEVI: Okay. Can I have a motion to
18 adjourn?

19 M O T I O N

20 DEAN MINOW: I so move.

21 MR. GREY: Second.

22 CHAIRMAN LEVI: All in favor?

1 (A chorus of ayes.)

2 CHAIRMAN LEVI: We stand adjourned. Thank
3 you.

4 MR. STRICKLAND: Thanks very much, folks.
5 Bye-bye.

6 (Whereupon, at 4:27 p.m., the committee was
7 adjourned.)

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