

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

TELEPHONIC MEETING OF THE  
BOARD OF DIRECTORS

OPEN SESSION

Monday, October 19, 2015

5:01 p.m.

Legal Services Corporation  
3333 K Street, N.W.  
Washington, D.C. 20007

BOARD MEMBERS PRESENT:

John G. Levi, Chairman  
Martha L. Minow, Vice Chair  
Robert J. Grey Jr.  
Charles N.W. Keckler  
Harry J.F. Korrell, III  
Victor B. Maddox  
Father Pius Pietrzyk, O.P.  
Julie A. Reiskin  
Gloria Valencia-Weber  
James J. Sandman, ex officio

## STAFF AND PUBLIC PRESENT IN THE CORPORATION'S OFFICES:

Ronald S. Flagg, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary

Lynn Jennings, Vice President for Grants Management

Rebecca Fertig Cohen, Chief of Staff

Mayealie Adams, Special Assistant to the President for  
the Board

Rebecca Weir, Senior Assistant General Counsel, Office  
of Legal Affairs

David L. Richardson, Comptroller and Treasurer,  
Office of Financial and Administrative Services

Carol A. Bergman, Director, Office of Government  
Relations and Public Affairs

Traci Higgins, Director, Office of Human Resources

Jeffrey E. Schanz, Inspector General

Martin Polacek, Accountant Manager, Office of  
Financial and Administrative Services

Robin C. Murphy, National Legal Aid and Defender  
Association (NLADA)

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## 1 PROCEEDINGS

2 (5:01 p.m.)

3 VICE CHAIR MINOW: The meeting of the full  
4 Board is in session to hear a report from the Finance  
5 Committee. Mr. Chair?6 MR. FLAGG: Martha, I think you should get  
7 approval of the agenda first.8 VICE CHAIR MINOW: I'm sorry. Approval of the  
9 agenda. Is there a motion?

## 10 MOTION

11 FATHER PIUS: So moved.

12 VICE CHAIR MINOW: Second?

13 MS. REISKIN: Second.

14 VICE CHAIR MINOW: All in favor?

15 (A chorus of ayes.)

16 VICE CHAIR MINOW: Okay. And now the first  
17 item is the recommendation from the Finance Committee.18 MR. GREY: Madam Chairman, the Finance  
19 Committee met and considered the collective bargaining  
20 agreement, presented to it by the General Counsel along  
21 with a proposal to amend the operating budget.

22 Both matters were considered. Separate

1 resolutions were passed, first recommending that the  
2 collective bargaining agreement be adopted by the  
3 Board, along with the adjustment in the financial  
4 standing of the organization as it relates to the 2015  
5 budget.

6           And then a second resolution was adopted and  
7 is recommended to the Board on a continuing -- what's  
8 the exact style of it, Mr. General Counsel?

9           MR. FLAGG: On the temporary operating budget  
10 and special circumstance operating authority for fiscal  
11 year 2016.

12           MR. GREY: A fairly long title. But it was  
13 considered and adopted. And so we recommend both  
14 resolutions to the Board at this time.

15           VICE CHAIR MINOW: Thank you. Is there  
16 discussion?

17           MR. KORRELL: Martha, this is Harry.

18           VICE CHAIR MINOW: Yes, Harry?

19           MR. KORRELL: I don't know if Father Pius is  
20 going to repeat his commentary, but I thought his point  
21 about the increases in salary provided for by the  
22 collective bargaining agreement were quite good. And I

1 didn't even notice that, and it's an important point.

2           And second, I'd like to echo Vic's concern or  
3 his observations and reservations about the union  
4 security clause, union shop clauses. I am in favor of  
5 approving the collective bargaining agreement because  
6 Management wants it, and they've done a lot of work,  
7 and this is what we're told they need.

8           And so I'm going to vote to approve it because  
9 I support what they want to do, not because I have made  
10 an independent assessment of the individual terms and  
11 think that they are all wise, just in the aggregate.  
12 If it's what Management wants, I think we ought to  
13 support it.

14           VICE CHAIR MINOW: Thank you. Duly noted. I  
15 think several other people feel similarly.

16           Yes, Julie?

17           MS. REISKIN: Yes. Thanks. I appreciate  
18 Father Pius pointing out about the grantees, and that's  
19 absolutely true, and I feel the same. I'm going to  
20 support this, but I also just wanted to point out on  
21 the record that \$5,000 is more than 50 percent of the  
22 annual income of most of the people that I represent,

1 which is people living on SSI. Many of our clients,  
2 their annual income is \$8,000-something a year.

3 MR. MADDOX: Martha, Victor Maddox here.

4 VICE CHAIR MINOW: Victor. Yes?

5 MR. MADDOX: Thank you, and thank you, Julie,  
6 for pointing that out.

7 I want to reiterate my comments from the  
8 Finance Committee meeting and voice a few other  
9 concerns. One has to do with the overall tenor of the  
10 agreement.

11 First of all, like everyone else, I think, I  
12 am immensely grateful to Management and appreciative  
13 for the effort they've put in over the last four years,  
14 I guess, or more to negotiate this, and I fully support  
15 their efforts. I don't mean to micromanage their  
16 efforts in any respect. I do have some concerns,  
17 though.

18 One, I did not realize until we looked at this  
19 agreement that the average work week -- that the  
20 typical, standard work week for LSC employees is about  
21 93 percent of the private sector work week, and  
22 presumably about 93 percent of the standard work week

1 for many private sector nonprofit organizations.

2 My view is that LSC is a nonprofit  
3 Corporation. It's chartered under D.C. law. It is not  
4 a federal agency. And so I'm not entirely sure that  
5 comparing LSC operations to federal agencies is in  
6 every respect or in all cases appropriate.

7 Coupled with the increases that the agreement  
8 is providing, well over a million dollars in the first  
9 year, my view is that the agreement is generous. I  
10 would not vote against the agreement if that were my  
11 only concern.

12 My biggest concern has to do with official  
13 time, and I've looked into the official time issue a  
14 good bit. I don't think it's appropriate for an  
15 organization that gets its money from the taxpayers to  
16 be donating that money to a union to conduct its own  
17 business.

18 I know we've talked about the number of hours.  
19 It looks like it's about 1200 hours. Every union  
20 members gets three hours to attend union meetings I  
21 don't understand to be a public function; I understand  
22 that to be a purely private function. And then there's

1 another 1,040 hours for union business.

2           If the goal, then, and actions of the Union  
3 were entirely nonpartisan, I might feel differently.  
4 But I looked into their political contributions, and  
5 some 95 percent of the IFPTE political contributions  
6 over the last ten years have been exclusively to  
7 Democrats, 3 percent to Republicans. So there's no  
8 sense in which the Union is nonpartisan.

9           The website of the Union says, "We exist to  
10 give our members an effective voice in the legislative  
11 process on issues that affect their careers. We exist  
12 so our members can join in solidarity with other  
13 professionals in the United States."

14           So far as I can tell, that means that one of  
15 the principal purposes of the Union is to engage in  
16 partisan political contributions and lobbying, which I  
17 don't think is appropriate with taxpayer funds.

18           Finally, I looked at the position of the Union  
19 with respect to legislation that would do away with  
20 official time. There's a letter from Greg Junemann,  
21 the president of the Union, July 8, 2015. He says,  
22 "Our leaders are elected directly by their members to

1 provide effective representation and accountability to  
2 workers, as well as work with management in an effort  
3 to maintain, streamline, and create safe, efficient,  
4 and productive work environments free from  
5 discrimination and retaliation against whistleblowers."

6 I agree with all of that. I think those are  
7 appropriate.

8 The letter then says, "Without official time,  
9 these productive relationships will vanish, as well as  
10 the resulting efficiency and productivity increases."

11 I don't believe that last statement to be true. And so  
12 I can't support the provision of official time with  
13 taxpayer dollars.

14 I have some other concerns about the  
15 agreement. I would again reiterate my comments about  
16 the burden on religious liberties. And even though it  
17 may be minimal in the view of some, I think it's  
18 totally unnecessary. And so I can't support it for  
19 that reason, either.

20 And so I'll be voting against the agreement  
21 even though I very much appreciate the effort everyone  
22 on both sides, including the employees at LSC, have put

1 into the negotiation.

2 MR. FLAGG: Martha, this is Ron.

3 VICE CHAIR MINOW: Yes, Ron?

4 MR. FLAGG: This is Ron. I'd just like to say  
5 a couple things. One, I want to thank Vic for his  
6 careful review of the agreement. We've had lengthy  
7 communications over the last two weeks. I know he has  
8 studied this very hard, and I am, for one, grateful for  
9 his engagement on the issue.

10 I do want to clarify one aspect of his  
11 comments. The official time that we're talking about  
12 does not go to the Union. There's no payment made by  
13 LSC to the Union. These are hours that individual  
14 members can bill their time to and get credit for.

15 And in terms of the propriety of the practice  
16 in general, this is a very widely used and applied  
17 policy. In fact, the United States Code recognizes the  
18 propriety of it explicitly and directs federal agencies  
19 to agree to official time to the extent appropriate.

20 Rebecca Weir of my office, who spoke earlier,  
21 mentioned the GAO collective bargaining agreement,  
22 which we have used at various times as a source. And

1 the GAO collective bargaining agreement provides for  
2 quite large numbers of hours for official time.  
3 Obviously, GAO is quite a bit bigger than LSC.

4 But the point is, this is not a novel  
5 arrangement that has been subject to any legal  
6 challenge, to my mind. And again, the hours are  
7 credited to individuals, not to the Union.

8 VICE CHAIR MINOW: If it --

9 MR. MADDOX: So, Ron -- I'm sorry, Martha.

10 VICE CHAIR MINOW: Vic, go ahead. But I was  
11 just going to ask, isn't there a monetary value to the  
12 employee from having the hours credited?

13 MR. FLAGG: Oh, of course. But the point is  
14 that what I wanted to make clear is LSC is not  
15 monetizing those hours and sending the money to the  
16 Union. If there's a grievance, for example, or if  
17 there's a negotiation over a particular material term  
18 of employment, the reasonable hours that a union  
19 official or union member might devote to those  
20 activities could be billed to official time, and so  
21 their time for those hours would be spent on those  
22 activities rather than on LSC hours.

1           Obviously, it's something that we will  
2 carefully monitor, as do all federal agencies, almost  
3 all of whom, those that have collective bargaining  
4 agreements -- I would think all of them have official  
5 time.

6           MR. MADDUX: Yes. Just to jump in real quick,  
7 thank you, Ron, for that. I certainly appreciate that  
8 the official time is not unique to this agreement. And  
9 so far as I can tell, it became part of the law in 1974  
10 and maybe again in 1980.

11           But that doesn't mean that it's good public  
12 policy necessarily. It's part of the U.S. Code. I  
13 certainly recognize that. I think it's not an  
14 appropriate public policy, using tax dollars that could  
15 go to support other actions for LSC's grantees. So I  
16 just want to be on record for that.

17           And I appreciate as well, Ron, your very  
18 thorough and quick response to my many questions over  
19 the agreement, you and Traci Higgins. You were very  
20 helpful and very thorough, and again, I appreciate it.

21           VICE CHAIR MINOW: Well, thank you. And Vic,  
22 we appreciate your careful reading of the agreement.

1 Other comments?

2 MR. KECKLER: Martha, this is Charles.

3 VICE CHAIR MINOW: Charles?

4 MR. KECKLER: Yes. I am sympathetic to the  
5 concerns that Vic has expressed, and thank him for his  
6 work. But my sense of it is somewhat more along the  
7 lines of what Harry mentioned, which is that there are  
8 problematic concerns, but nevertheless, LSC is in a  
9 certain environment in that although it's not a federal  
10 agency by statute, it's obviously a federal entity.  
11 And it has to compete for its workforce with federal  
12 agencies.

13 And so the fact that its market matches a lot  
14 of the issues, including provisions like official time  
15 and the salary scale, that are present in Washington,  
16 D.C. with federal agencies, it reflects a larger  
17 concern about these issues that might be applicable to  
18 the federal sector as a whole.

19 But I guess my sense is that LSC still has to  
20 pay the hand that it was dealt. And so in that sense,  
21 I appreciate the work of Management in coming to this,  
22 and in my own review of the agreement, I would say that

1 although some of the concerns that Julie and Harry and  
2 others have said are certainly there, there are some  
3 positive things in getting to a collective bargaining  
4 agreement.

5           And I would in particular commend Management  
6 for putting in place, and the union, for agreeing to  
7 what I think is at least the beginnings, the  
8 foundations, of a robust performance management system  
9 within the CBA.

10           So on balance, although there are certainly  
11 concerns, I'm going to support the CBA.

12           VICE CHAIR MINOW: Thank you, Charles.

13           Other comments?

14           PROFESSOR VALENCIA-WEBER: This is Gloria.

15           VICE CHAIR MINOW: Yes, Gloria?

16           PROFESSOR VALENCIA-WEBER: I appreciate  
17 hearing from other people's perspectives, and I  
18 understand and sympathize with a number of them,  
19 especially from the external world west of the  
20 Mississippi. A \$5,000 or \$15,000 raise seems quite  
21 extravagant.

22           But I appreciate that it took our Management

1 four years plus because of the situation, and they had  
2 to bargain, as the term "substantively" means, with the  
3 conditions we live in, as Charles has noted. We're not  
4 an agency, and yet have to live in the world where we  
5 compete with those federal agencies for the skilled  
6 employees that we need.

7 I think we have to deal with that reality, and  
8 I accept that. This agreement looks to me like it was  
9 bargained for as hard and as honestly as we could get  
10 from both sides. And so I have no problem voting for  
11 it.

12 VICE CHAIR MINOW: Thank you.

13 Any other comments?

14 (No response.)

15 VICE CHAIR MINOW: Are we ready to accept the  
16 recommendation and then vote on it? Yes? Okay. And  
17 we don't need a motion; it's a recommendation from a  
18 Committee. So all in favor say aye.

19 (A chorus of ayes.)

20 VICE CHAIR MINOW: All opposed, say nay.

21 MR. MADDOX: No.

22 VICE CHAIR MINOW: No. That's good. No

1 counts just like nay. Anyone abstaining?

2 (No response.)

3 VICE CHAIR MINOW: No one abstaining. I don't  
4 know if you want to roll call. Anybody? No, we don't  
5 need that? Okay. Then the recommendation carries.

6 Now public comment?

7 MR. FLAGG: Martha, we should get -- I took  
8 that to be an approval of the collective bargaining  
9 agreement and the revision for the fiscal 2015 budget.  
10 We need a separate approval for the effect of the CBA  
11 for the temporary operating budget.

12 VICE CHAIR MINOW: Temporary operating budget.  
13 Got it. It's not broken down on our agenda as two  
14 items; it was for the Committee. So I'm happy to have  
15 a separate vote on that.

16 So all in favor of the recommendation of the  
17 Committee on the temporary operating budget for FY  
18 2016. All in favor, aye.

19 (A chorus of ayes.)

20 VICE CHAIR MINOW: All opposed?

21 (No response.)

22 VICE CHAIR MINOW: I think it carries.

1           Now public comment.

2           (No response.)

3           VICE CHAIR MINOW: Hearing no public comment,  
4 I would invite a motion to adjourn the meeting.

5                               M O T I O N

6           MR. KECKLER: So moved.

7           VICE CHAIR MINOW: And before I have a second  
8 and vote on it, let me just add my words of thanks to  
9 both Management and the Union representatives in  
10 working out this very complicated deal and arrangement.

11          And now may we have a vote to adjourn?

12           CHAIRMAN LEVI: And let me add my  
13 congratulations, too, as gravelly as they are.

14           PROFESSOR VALENCIA-WEBER: Take care of  
15 yourself, John.

16           VICE CHAIR MINOW: Please. Chicken soup,  
17 John. Okay. All in favor?

18           (A chorus of ayes.)

19           VICE CHAIR MINOW: The meeting is adjourned.  
20 Thank you all.

21           (Whereupon, at 5:21 p.m., the Board was  
22 adjourned.)                   \* \* \* \* \*