

NEW HAMPSHIRE BAR ASSOCIATION  
BOARD OF GOVERNORS MEETING  
Monday, May 6, 2019  
Bar Center, Concord, NH

**MINUTES**

Present for all or part of the meeting were:

David W. McGrath	Christopher T. Regan
Edward D. Philpot, Jr.	Lanea A. Witkus
Daniel E. Will	Jennifer L. Parent (phone)
Peter E. Hutchins	Andrew R. Hamilton (phone)
Robert R. Howard III	Hon. Gary E. Hicks
John A. Curran	George R. Moore
Sandra L. Cabrera	Jennifer Pinckney
Jonathan M. Eck	Joanne Hinnendael
Richard C. Guerriero, Jr.	Paula Lewis
Cathy E. Shanelaris	Ginny Martin
James P. Cowles	Deborah Hawkins
Leslie C. Nixon	Allison Borowy
Donald H. Sienkiewicz	Scott Eaton
Susan Aileen Lowry	

A meeting notice reminder, a link to the preliminary agenda and related materials were emailed to all Governors on April 29<sup>th</sup>. Additional materials were posted May 3<sup>rd</sup> and distributed at today's meeting. The agenda is duplicated below in the order of consideration of agenda items. Unless otherwise noted, all motions reported are deemed to have been appropriately proposed, seconded and voted upon by those present.

A. Call to Order David McGrath

President David McGrath called the meeting to order at 4:04 p.m.

**PRESENTATION / DISCUSSION / ACTION ITEMS**

B. Public Protection Fund Assessment Justice Gary E. Hicks

Senior Associate Supreme Court Justice Gary Hicks spoke to the board regarding the Public Protection Fund and Court's funding concerns. While the fund has paid claims well below the annual \$1,000,000 ceiling as per NH Supreme Court Rule 55 over the past few years, this fund year there are several six-figure awards that will be made from current claims totaling approximately \$780,000. Paula Lewis, staff liaison to the Public Protection Fund and Director of Business Operations felt the large claims received this fund year are an anomaly. The practice has been to keep at least two million dollars in the fund. The concern is that if additional six-figure claims are received in the upcoming fund year, the fund balance may dip below the required \$1,000,000 available fund balance, this will result in a significant assessment to New Hampshire attorneys. Justice Hicks informed the board that the Court has decided to hold off assessing the membership this year, but an assessment the following fund year(s) may very well be necessary to build the fund back up to \$2,000,000.

C. Election Results

David McGrath

President McGrath stated that the results of the 2019 Board Election were distributed at today's meeting.

D. Appointment of Out of State, Sullivan County, and Governor at Large members

David McGrath

1. Out of State Governor – Jason B. Dennis - appointment to year 2 of the 3-year term. Appointee can run for the remaining year of the 3-year term in 2020.
2. Sullivan County Governor – Geoffrey M. Gallagher – appointment to year 2 of the 2-year term.
3. Governor at Large – Christine M. Hanisco- appointment to year 2 of the 3-year term. Appointee can run for the remaining year of this term in 2020. (This seat was vacated by Richard C. Guerriero Jr. to run for Vice President.)

There was a brief discussion about the qualifications of these attorneys being recommended for appointment to the board.

**ACTION**

On motion to appoint the above attorneys to seats on the board of governors as stated above. Passed. Unanimously.

E. Treasurer's Report- Budget Approval

Peter Hutchins/Paula Lewis

1. Operating Budget

Treasurer Peter Hutchins presented the 2019-2020 operating budget for approval. He stated that the Finance Committee voted unanimously to recommend the proposed budget to the board for approval. The budget is conservative, meaning that initiatives or programs are budgeted at their fullest extent based upon current assumptions as is any revenue associated with such initiatives or programs.

Treasurer Hutchins then discussed the significant changes in revenue anticipated for the upcoming year. More dues revenue is projected due to a slight expected net increase in membership. Registrations and fees have increased due mostly to the continued success of live and online CLE programming. Leadership Academy revenue was decreased, as it is a biennial program, and there will no class in 2020. There were some slight changes in grant revenue for the NH Pro Bono Referral system; the Bank of America funds for the foreclosure program have ended but there were some increases in other awards that offset the lost revenue. The last item noted was that no upfront cash donation was budgeted from the NHBA to the NH Bar Foundation, as has been done in the past two years as present donations have assisted the NH Bar Foundation with increasing their reserves.

Director of Business Operations, Paula Lewis reviewed the significant changes to the expense portion of the 2019-2020 proposed budget. The highest line item in this area is

personnel costs (salaries, wages, payroll taxes and benefits), which increased by 3.19% this year due to staff changes, cost of living and merit wage adjustments. Benefit cost increases were held to less than 2%. Occupancy costs were increased slightly as were NHBA Annual Meeting costs. Member outreach expense has been reduced as the logo and branding projects are complete.

**ACTION**

On motion to approve the NHBA 2019-2020 Operating Budget as presented. Passed. Unanimously.

2. Capital Budget

Director of Business Operations Paula Lewis presented the 2019-2020 Capital Budget, noting that the Finance Committee voted unanimously to recommend the proposed budget to the board for approval. It includes funding for a network switch replacement, replacement/upgrade to the phone system, and document management software and implementation.

**ACTION**

On motion to approve the 2019-2020 Capital Budget as presented. Passed. Unanimously.

3. Operating and Condominium Reserve updates

Treasurer Peter Hutchins spoke about the proposed updates to the operating and condominium reserve policies. The Finance Committee is recommending a change to the Operating Reserve Policy from the current two-month reserve to a three-month reserve, backed by a recommendation from the NHBA's external auditors, O'Connor & Drew, P.C. The board discussed, and some expressed a thought that a three-month operating reserve was the bare minimum. It was noted by some board members that this issue may need to be revisited in the next 3 – 5 years to determine if an additional increase is warranted.

The board also discussed the condominium reserve policy. Treasurer Hutchins stated that the finance committee is recommending increasing the condominium reserve from its present level of \$250,000 to \$300,000. The NHBA space is aging and will need refurbishment at some time in the future. There may also be a special assessment in the next few years from the 2 Pillsbury Street Condominium Association that the NHBA should be prepared for as the current 2 Pillsbury Street Condominium Association reserve is about \$250,000. The reserve was used to purchase and build the parking-lot a few years ago at Dakin Street, and thereby reducing the reserve significantly.

**ACTION**

On motion to approve the increase to the operating and condominium reserves, and the accompanying revisions to the respective policies, as proposed above. Passed. Unanimously.

The revised polices are attached to these minutes.

4. Citizen's Bank Mortgage Maturity

Treasurer Peter Hutchins spoke about the recommendation of the Finance Committee that the Citizens Bank mortgage be paid off. There is an additional mortgage with the NH Bar Foundation on the office condominium. There is a line of credit available as part of the

Citizens Bank mortgage. The line of credit will have to be replaced with a new line of credit with the expectation of using the NH Bar Center office condominium as collateral.

### ACTION

On motion to approve the Finance Committee's recommendation to pay off the Citizens Bank mortgage on the NH Bar Center Office Condominium. Passed. Unanimously.

#### 5. Financial Summary

Treasurer Peter Hutchins reported that actual revenues over expenses is positive to budget by \$276,552, with a positive contribution of \$118,811.

#### F. Recommendation of Sections Special Committee

Edward D. Philpot, Jr.

President-Elect Edward Philpot, chair of the Sections Review Committee recapped action taken at the April Board of Governors meeting. The board gave the committee permission to check with the members of the sections that were being recommended for elimination and merger and asked that it report back to the board.

The Public Sector Law, Military Law and International Law Sections have been recommended for elimination. There has been no leadership, no meetings and no activity in more than just last year. In addition, no one has posted on the Public Sector Section List serv in the past year. Feedback was received opposing the elimination of the Public Sector Law Section. Members of the Military and International Law Sections expressed a desire to keep the list servs. (Note the NHBA is in the process of converting to a more updated platform, forums, which will replace the list servs.)

The Sections Review Committee remains unanimous in their recommendation to eliminate these three sections. Scott Eaton, former chair of the Public Law Section spoke to the board and expressed his opposition to the elimination of this section at that time. He also appeared before the board several years ago opposing elimination of this section. The board held off on elimination at that time due to information in the 2016 NHBA member survey but requested that the section work to revitalize itself. It was noted this section contains lawyers whose practices/jobs are quite different (i.e. public defenders and prosecutors). Board members felt this is a barrier to the success of the section.

The following section mergers were recommended by the committee:

1. Children's Law (29 members, inactive) with Family Law.
2. Mental and Physical Disabilities law (40 members, no leaders, inactive) with the Health Law (also not very active but 89 members, low participation and only two meetings last year).
3. Business Litigation (129 members, but no meetings) with Corporations, Banking and Business (199 members but only 1 meeting last year).
4. Condo Law (31 members) with Real Property.
5. Telecommunications, Energy and Utilities Law (66 members, no leadership, no meetings) with Environmental and Natural Resource Law.

There were very few negative responses to the proposed merger of #1, 2 and 5 above. However, members of the Business Litigation Section and Corporate Law Section (#3) felt this merger did not make sense as the type of lawyers in each section were very different. One serves members that are mostly transactional attorneys and the other, mostly litigators. There was also negative feedback about the proposed merger of the Condo Law Section and the Real Property Section

(#4) above. Emails from members stated that the law governing condominiums and homeowners' associations is very different than laws regarding real estate, and therefore these sections should not be combined. In addition, there are not many other places where lawyers who practice condo law can come together to share knowledge. This is a relatively new area of law, stated one of the emails in support. The current chair of the Condo Law Section stated he has received positive feedback from bar members, and this section takes little in the form of bar center resources.

Current Chair Philpot has asked that a new chair be named, and the committee review and revise the sections manual and requirements for NHBA Sections, so as to be more flexible in meeting minimum requirements.

### **ACTION**

On motion to terminate the Military Law Section and the International Law Section and merge the follow sections: Children's Law with Family Law; Mental and Physical Disabilities Law with the Health Law Section; and Telecommunications, Energy and Utilities Law with Environmental with the Natural Resources Law Section. Passed. Unanimously.

Discussion continued about what action should be taken with the Public Sector Law Section, as well as the proposed merger of the Business Litigation Section with the Corporations, Banking and Business Law Section, and the proposed merger of the Condo Law and the Real Property Section. Executive Director George Moore stated there should be a firm timeline for resolution of these recommendations.

A motion was made to give the Public Sector Law Section one year to become active and revitalized; and to leave the Business Litigation Section and the Condo Law Section as is for the next year and to study the problem and come up with a solution.

An amendment was then proposed to terminate the Public Sector Section, leave the Business Litigation Section and the Condo Law Section as is and if they fall short, combine in one year.

### **ACTION**

On amendment to original motion to terminate the Public Sector Law Section, leave the Business Litigation Section and the Condo Law Section as is and if they fall short, combine in one year. Failed. 4 – Yes, 6 – No, with one abstention (Peter Hutchins).

### **ACTION**

On motion to give the Public Sector Law Section one year to become active and revitalized; and to leave the Business Litigation Section and the Condo Law Section as is for the next year and to study the problem and come up with a solution for the issue of sections without defined leadership and/or regular meetings. Passed. 10 – Yes, 0 - No.

A new chair will be named for the Sections Review Committee. The Committee's charge will be to review the sections manual and bylaws and update to reflect current section activity and best practices. There was some discussion about whether sections must hold meetings or could simply utilize the forums (in the process of being implemented to replace the old outdated list serv platform) as many now do and whether there would be a different fee for this.

**REGULAR BUSINESS – CONSENT ITEMS**

G. Membership Status Changes for April 2019

Paula Lewis

The board received the membership status changes, which are attached as a permanent part of these minutes.

H. Minutes of April 1, 2019 Meeting

Robert Howard

The board approved the minutes as presented.

**ACTION**

On motion to accept the consent agenda. Passed. Unanimously.

I. Adjournment

The May 6, 2019 Board of Governors Meeting adjourned at 6:05 p.m.

Respectfully submitted,



Deborah J. Hawkins, for

Robert R. Howard, III, Secretary

New Hampshire Bar Association

Membership Status Changes

Presented to the Board of Governors May 6, 2019

**Active to INACTIVE:**

- 20773 Tanner, Courtney G., Bedford, NH (Effective April 1, 2019)
- 270944 Sia, Beverly S., Bedford, NH (Effective April 1, 2019)
- 270913 Regis, Melanie C., Amesbury, MA (Effective April 8, 2019)
- 295 Abbott, Winslow Kirk, Henniker, NH (Effective April 15, 2019)
- 20521 Homoleski, Kristina, Aburndale, MA (Effective April 16, 2019)

**Active to INACTIVE RETIRED:**

- 918 Geiger, Nancy, Concord, NH (Effective March 18, 2019)
- 2173 Robertson, Cindy, Hooksett, NH (Effective March 27, 2019)
- 1466 Lenehan, Gary, Stuart, FL (Effective March 20, 2019)
- 266207 Hayes, Jillian, Manchester, NH (Effective April 18, 2019)
- 15715 Russell, Nancy, Etna, NH (Effective April 19, 2019)

**Active to DECEASED:**

- 4826 Keable, Steven, Dover, NH (Effective October 27, 2018)

**Inactive to ACTIVE:**

16464 Kowalewski, Melissa, Merrimack, NH (Effective March 22, 2019)  
265424 Sheldon, Gary, Hartford, CT (Effective April 1, 2019)  
269590 Severance, Ethan, Boston, MA (Effective April 12, 2019)  
264832 Dydzak, Theresa, Newport, RI (Effective April 8, 2019)  
270956 Hepburn, Jack, Miller Place, NY (Effective April 15, 2019)

**Inactive to INACTIVE RETIRED:**

2414 Spickler, Sharon A., Dover, NH (Effective April 1, 2019)

**Inactive to PRO BONO LIMITED ACTIVE**

269709 Hospod, Thomas, Derry, NH (Effective April 08, 2019)  
19574 Mudrick, Melissa, Rindge, NH (Effective April 03, 2019)

**Inactive Retired to DECEASED**

234 Connor, Leila, Gemme, Manchester, NH (Effective March 29, 2019)

**Honorary Inactive to DECEASED:**

1094 Harkaway, William, Silver Springs, MD (Effective June 8, 2016)

**New Hampshire Bar Association**  
**Condominium Reserve Policy (last updated 5/6/2019)**  
Reserve and Amount of Reserve Approved by NHBA Board of Governors

**PURPOSE**

The purpose of the Condominium Reserve Policy for New Hampshire Bar Association and its Subsidiary is to fund the replacement of building components considered to be capital items as well as major repairs. It is not intended for items that would be considered routine in nature.

The amount approved by the NHBA Board of Governors on May 6, 2019, to be set aside as the Condominium Reserve is \$300,000.

**USE OF RESERVES**

Use of the Condominium Reserves requires four steps:

1. The Executive Director, in consultation with the Director of Business Operations, is responsible for ensuring that the Condominium Reserve is maintained and used only as described in this Policy.
2. The Executive Director and staff will identify the need for use of the Condominium Reserve and confirm that the use is consistent with the purpose of the reserves as described in this Policy. Prior to considering use of the Condominium Reserve, review of the Condominium Agreement and verification of expense ownership (New Hampshire Bar Association v. 2 Pillsbury Street Condominium Association) must be determined and communicated to the Board of Governors.
3. Upon approval for the use of Condominium Reserve funds by the Board of Governors, the Executive Director will maintain records of the use of funds and plan for replenishment.
4. Regular reports to the Finance Committee of progress to restore the Condominium Reserve to the target minimum amount will be made on a quarterly schedule and subsequently reported to the Board of Governors.

Adopted by the NHBA Board of Governors, May 6, 2019



## **PURPOSE**

The purpose of the Operating Reserve policy for New Hampshire Bar Association is to ensure the stability of the mission, programs, employment and ongoing operations of the organization. The Operating Reserve is intended to provide an internal source of funds for situations such as a sudden increase in expenses, one-time unbudgeted expenses, unanticipated loss in funding, or uninsured losses. The Operating Reserve may also be used for one-time, nonrecurring expenses that will build long-term capacity, or investment in infrastructure.

The goal for a target minimum Operating Reserve is equal to three months of average operating costs. The calculation of average monthly operating costs includes all recurring, predictable expenses such as salaries, benefits, occupancy, office, travel, program and ongoing professional services. Depreciation, in-kind, and other non-cash expenses are not included in the calculation. The calculation also excludes one-time or unusual expenses and capital purchases.

The amount of the Operating Reserve target minimum will be calculated each year after approval of the audited financial statements by the Board of Governors, will be reported to the Finance Committee and Board of Governors, and be held in a separate reserve account of the organization.

## **USE OF RESERVES**

Use of the Operating Reserves requires four steps:

1. The Executive Director, in consultation with the Director of Business Operations, is responsible for ensuring that the Operating Reserve is maintained and used only as described in this Policy.
2. The Executive Director and staff will identify the need for use of the Operating Reserve and confirm that the use is consistent with the purpose of the reserves as described in this Policy. Analysis of the reason for the shortfall, the availability of any other sources of funds before using reserves, and evaluation of the time period that the funds will be required or replenished will be communicated to the Board of Governors.
3. Upon approval for the use of Operating Reserve funds by the Board of Governors, the Executive Director will maintain records of the use of funds and plan for replenishment.
4. Regular reports to the Finance Committee of progress to restore the Operating Reserve to the target minimum amount will be made on a quarterly schedule and subsequently reported to the Board of Governors.

Adopted by the Board of Governors, May 6, 2019

