



LOUISIANA PUBLIC DEFENDER BOARD

Friday, May 29, 2020

12:00 p.m.

Zoom¹

<https://us02web.zoom.us/j/87093265639>

Minutes

1. A meeting of the Louisiana Public Defender Board, pursuant to lawful notice, was called to order by its Chairman Frank Holthaus on Friday, May 29, 2020, via ZOOM video-conference (see footnote) at approximately 12:05 p.m. Mr. Holthaus acknowledged quorum.

The following Board members were present²:

Zita Andrus

Pat Fanning

Frank Holthaus

Moses Williams

Chris Bowman

W. Ross Foote

Donald North

Flozell Daniels

Michael Ginart

Chaz Roberts

The following Board member was absent:

Lyn Lawrence

The following members of the Board's staff were present:

Rémy Voisin Starns, State Public Defender

Barbara Baier, General Counsel

Natashia Carter, Budget Administrator

Jean Faria, Capital Case Coordinator

Anne Gwin, Executive Assistant

Richard Pittman, Dep. Public Defender, Dir. Juvenile Defender Services

Erik Stilling, Information and Technology Director

Tiffany Simpson, Legislative Director – Juv. Compliance Officer

2. Adoption of the Agenda. Professor North moved to adopt the agenda which was seconded by Mr. Pat Fanning and passed unopposed.

¹ This meeting is being held via a ZOOM video-conference pursuant to Executive Proclamation 59-JBE-2020, Section 2(C).

² Mr. Daniels arrived at approximately 12:12 pm and Ms. Andrus arrived at approximately 12:28 pm. Voting on action item prior to their arrival was not affected as quorum was noted with 7 members present.

3. Call for Public Comment. Mr. Holthaus indicated public comment would be taken up with each item.

4. Adoption of the Minutes. Mr. Flozell Daniels moved to adopt the Minutes of the May 8, 2020 meeting as presented. Judge Foote seconded the motion which passed unopposed.

5. Budget Committee

a. Financial Report. SPD Starns introduced Budget Officer Natasha Carter who reported on the financial report as of April 30, 2020 as presented to the Budget Committee. She indicated \$37,519,578 expended or encumbered; \$1,931,749 expected to be spent by the end of the fiscal year; \$567,136 available for reallocation; and, and \$490,519 in personal services monies being requested for use from the Division of Administration for a total of \$1,057,655. Professor North indicated the Budget Committee adopted the financial report at the May 21, 2020 meeting. Chairman Holthaus indicated as a recommendation from the Budget Committee a vote is not required. Professor North moved to accept the report as presented by Ms. Carter and on page 229 of the materials. There was no opposition, the report was adopted.

b. Reallocation of \$490,519. SPD Starns reported that the \$490,519 is the result of unused salaries for the two executive, statutory positions. He indicated these monies would be used to shore up insolvencies in the district and staff has submitted a waiver to the Division of Administration to release those funds; however, after discussions, the Division is asking for LPDB to provide specific information on how the money is going to be spent before releasing it. Mr. Starns indicated that to meet the specificity requirement to get the waiver from the Division he had discussions with staff on where the best use of the money would be and, as a result, is recommending the allocation of those funds to the following three districts:

District 15 (Acadia, Lafayette, and Vermilion Parishes) - \$305,418.68

District 25 (Plaquemines Parish) - \$44,069.93

District 41 (Orleans Parish) - \$137,299.40

If approved by the Board, Mr. Starns indicated staff would submit the waiver with the specific information to get access to these funds.

Mr. Chaz Roberts indicated that in light of everything that the Board has been told regarding the use of this extra money that he would move that the Board follow that recommendation. Mr. Chris Bowman seconded the motion. Chairman Holthaus clarified that the Division has asked for the specificity of the use of this money so that the motion is to give SPD Starns the authority to tell the Division that this is how the Board will use the funds in order to persuade the Division to give us access to the funds. Professor North inquired why this did not come before the Budget Committee. SPD Starns indicated that it was at the Budget Committee meeting on May 21 and, at

that meeting, he was asked to come back to the full board with a recommendation. Mr. Ginart agreed.

Professor North expressed concern with giving this full amount to just those three districts, how staff selected just these three districts, and if these funds could have been spread to more districts. Mr. Roberts reported that the original plan was to make the smaller districts solvent and to use the remaining funds to allocate to these three districts.

SPD Starns clarified that these funds were specifically originally earmarked for salaries for the TLCO and DOT positions but has been unused. In order to redirect those funds to anything else, he has been told to provide the specific districts that will receive the funds before it will be released. Additionally, the Board can consider these amounts when allocating the other reserve monies. He further clarified that the \$490,519 has never been a part of the monies in reserve which the Board can allocate to the districts in need.

Professor North urged that the issue be brought before the Budget Committee to determine if more districts should be allocated some of the \$490,519. Chairman Holthaus agreed that the Budget Committee should be consulted on which districts received the allocation and should have a chance to study the recommendation before the Board acts. He indicated he would relegate the issue back to the Budget Committee for further study.

Budget Officer Natasha Carter reported that the use of \$490,000 requires special approval from the Division and in order to get that approval we are being required to provide them with exactly how the funds will be distributed. She further clarified that if that information is not provided, the agency will not be able to use money and it will go back into the State General Fund.

Mr. Daniels urged that everyone consider the urgency of the districts' needs, that this conversation was had at the Budget Committee meeting and SPD Starns has provided the recommendation asked for at that meeting. He asked Professor North to reconsider the SPD's recommendation to move these resources. He also stated that the Board should consider moving some of the additional resources to other districts at this time.

Mr. Starns reported that projections have been made and that solvency issues are based on the reserve funds that are available -- none of those calculations include this other money. Further, this allocation should play directly into the Board's decisions as to what monies these three districts would get from those other funds.

Mr. Mike Ginart stated that time is running out for the Board to provide the requested information to get the Administration to approve the release of

funds, Mr. Starns has provided his recommendation, and the time has come to reallocate or face issues with obtaining the funds.

Professor North withdrew his objection. Upon a vote, Mr. Roberts' motion to adopt the recommendation of SPD Starns to allocate the \$490,519 in personal services money to Districts 15, 25 and 41 in the amounts of \$305,418.68, \$44,069.93 and \$137,299.40, respectively, passed unopposed.

c. Salary – Fenwick Swann, District 29, (St. Charles Parish). Mr. Starns reported that the Budget Committee is recommending a salary of \$95,000 for the District Defender in St. Charles Parish. He requested that the approval be retroactive to Mr. Swann's hire date of May 8, 2020. Upon vote the recommendation passed unopposed.

6. Policy Committee. Committee Chairman Foote indicated the Policy Committee would continue to work with the working group on structural changes.

7. Chairman's Working Group. This issue was not addressed.

8. Executive Position Interviews. Mr. Starns indicated that it is imperative that these positions be filled by the end of the fiscal year. If not filled by end of the fiscal year, there is a risk of not having the funds renewed next fiscal year. He asked that they be filled as quickly as possible and asked that interviews be held at the next meeting with action at that time. Mr. Holthaus indicated the Board needs the resumes of all candidates well in advance and next week may be too soon. Staff was directed to send all resumes to the Board members after which the Board will have better idea of timing for a decision. Mr. Ginart indicated some applicants had removed their names from consideration and wanted to make sure that those applications are not included.

Mr. Bowman reminded everyone of the potential to lose the ability to meet by Zoom and indicated the interviews may need to be done next Friday. Chairman Holthaus stated that the more time to study the resumes, the more likely Friday could work. If Mr. Starns has completed his interviews and he has a recommendation before next Friday then there may be time to make a mature, detailed decision. Mr. Starns indicated he has completed his interviews and would provide the list of names. He indicated he could notify the candidates so they can participate and be interviewed by the Board next Friday. Mr. Holthaus stated that he envisions using Zoom as much as possible and on Friday conducting the interviews as the Board in an Executive Session. If satisfied after these interviews, then the Board can come out of that session and make a decision. If the majority is not ready to decide, the Board will address that at that time.

9. DD and (c)3 Contracts. Chairman Holthaus indicated this item was on the agenda to make sure consideration and discussion about the contracts continues.

Mr. Daniels inquired if there was a reason not to entertain the approval of a motion to move the contracts forward and have staff prepare them so they would be ready

when the details were decided. Chairman Holthaus indicated there was no reason not to. Mr. Daniels submitted the motion which Judge Foote seconded but asked for clarification. Mr. Daniels stated his motion is to prepare for the renewal of the contracts. Judge Foote seconded the motion. Mr. Bowman asked to clarify if the motion is to prepare the contract document and not the actual awarding of them. Mr. Daniels stated that his position is to approve staff to prepare the document for Board approval, but that at this point it is going to be really difficult to get them through the process and, as a Board, the conversation needs to be had about what to do with the contracts and how much those amounts are, preferably today.

Mr. Moses Williams indicated that at the Policy Committee meeting he believed the decision was that the contracts would be prepared for renewal with anticipation of renewing them. Then the Board would continue trying to decide the final result and would reserve the right to cancel those contracts or amend them with a 30-day written notice. Mr. Daniels agreed.

Mr. Starns stated his appreciation wanting to move things forward and that the contracts he has recommended for renewal are ready to go; however, the others still have unknown terms that are being worked on.

Chairman Holthaus indicated he understood Mr. Daniels' motion is to reissue the contracts as they have existed this fiscal year, then for the Board to consider Mr. Starns' recommendation as it moves forward with the 30-day option. Mr. Daniels clarified that the motion still gives the Board the option to go back and review.

Professor North expressed his opposition and stated that the Board needs to be clearer about its position. He indicated the Board should let the contractors know that the contracts are being renewed and approved as they are.

General Counsel Barbara Baier asked for a restating of the motion so that the record is clear on what is being voted.

Mr. Daniels restated that his motion is to move the contracts forward as they currently exist for renewal in the new year.

Mr. Ginart indicated he was, in fact, unclear and asked if the Board is moving the drafting of the contracts forward -- to have a document to approve at a later date -- and not voting to approve them. Mr. Holthaus clarified that the motion is to approve the contracts for next FY and if the Board adopts the same contracts this year for next year, that new FY contract has the same 30-day window for the Board to revisit any part of.

Mr. Fanning indicated that the Board is to be very clear to the contractors that the Board is approving the contracts but that the Board would not be put in the position later that it cannot cancel or amend the contract down.

Judge Foote indicated that the Board is proposing structural changes that have not been approved and is out of time to get the contracts moving at this point. The

programs are aware of the issues being addressed and while the same contracts are being approved, none of the directors should go forward thinking that it is business as usual for the whole year. He indicated there is a lot of work being done examining how, why, and who delivers services and there are no promises. He stated he would support Mr. Daniels' motion but would not be sympathetic to contractors coming back later and saying they have one-year contracts.

General Counsel Baier reported that all of the contracts have always had a clause for termination for convenience with a 30-day notice and a termination of less than 30 days for budgetary reasons and all the program contractors know that is in their contract.

Professor North strongly expressed concern regarding the Board's 30-day option. He stated that Mr. Daniels' motion is that the Board is going to approve and renew these contracts as they exist giving clear direction to the contract directors.

Mr. Daniels clarified that there has always been the cancellation option to reduce resources and his motion would allow the Board to set up across the entire public defense system a way to continue to operate until further notice so as to not be caught with a gap in place.

In response to Ms. Andrus' inquiry, Ms. Baier stated that the contracts should be submitted to State Purchasing the first week of June in order to be approved by July 1, 2020 for payment in July.

Mr. Williams stated that he would support Mr. Daniels' motion. For process purposes the Board should approve the contracts, then consider SPD Starns recommendation and any other recommendations and continue to work with the working group. Should the working group submit structural change recommendations, the Board should take time to decide and not rush. The contract programs know that the Board is in the process of reconsidering things which could include cancelling their contracts, which puts them on notice

Mr. Ginart stated he would support Mr. Daniels' motion but the issue is going to be revisited and fine-tuned the way the Board wants.

Professor North stated that people are complaining about the delivery of services from one of the contract organizations. He stated anyone coming to the Board to talk about what they are not doing to be sure to have documentation so that the Board is able to put them on notice as to specific issues.

Chairman Holthaus called for a vote on the motion. The motion was clarified to read: to renew the contracts as they exist for FY21. Upon vote, the motion carried with nine in favor and one against (Bowman).

10. Legislative Update. Dr. Simpson reported the Legislature has called themselves into a special session. Staff is working with LACDL and their lobbyist and others to push in the special session LPDB being included in the supplemental

bill for 2020 and the increased appropriation of FY21. Staff has presented an ask for an additional \$3.5M for supplemental FY20 funding and an additional \$28M-- the entire conviction and user fees for 2019 -- to be included within FY21 appropriations. She indicated the call for the special session was 41 items – a very extensive call. Mr. Daniels indicated he heard another special session will be called in September. HB105 is out but there is no HB1. HB105 passed through House Appropriations and the House floor. It has not been heard in Senate Finance. LPDB funding is essentially a standstill from FY20.

Professor North asked that the Board be able to sit down with Mr. Starns to determine the direction he wants to go so everyone is of one accord. He wants Mr. Starns to know that the Board supports him. More communication is needed to move in the same direction. Mr. Holthaus indicated that would be a meeting, but it would be an Executive Session meeting. Mr. Bowman suggested strategic planning. Mr. Williams suggested a retreat. Professor North indicated wanting to know Mr. Starns' vision and where LPDB is headed. Mr. Ginart indicated talk about employment of staff is allowed and how they are going to be assigned.

Mr. Daniels asked Professor North when there might be another Budget Committee meeting. His intention is to answer the question that of the remaining small districts and large districts, there are a handful that are not going to make it to June 30 and need money before June. Mr. Starns indicated staff could not prepare for a Tuesday meeting and suggested having it the same day as the Board meeting. Mr. Holthaus indicated that did not allow time to put Budget Committee results on the Board agenda. Mr. Daniels suggested bringing the entire conversation to the Board meeting considering the time constraints getting the resources out the door. Chairman Holthaus indicated every item that would go on the Budget meeting agenda could be put on the Board agenda and the Budget Committee address the items then. But, Chairman Holthaus also indicated this meeting would include interviews for the two statutory positions. Professor North inquired if staff could prepare for a budget meeting. Mr. Starns reported the stress on staff and time constraints to prepare for two meetings. Professor North indicated he did not want a Budget Meeting and asked for all the budget issues to be brought to the full board on June 5, 2020.

Ms. Baier asked to clarify if the motion on the contracts provided for the authority for her to send out the contracts for signature. That was granted.

11. Announcements. There were no announcements.
12. Next Meeting. Friday, June 5, 2020 at 12:00 p.m. via Zoom video conference.
13. Adjournment. Professor North moved to adjourn. Mr. Daniels seconded and the motion passed unopposed.

Mr. Ginart asked again for the Capital report he has been requesting for some time and expressed his frustration. He wants the report in the form agreed to. Chairman Holthaus indicated he thought it had been provided to Mr. Ginart and

Mr. Fanning and he would get with Mr. Starns and make sure it is provided. Professor North asked that it be provided at the next board meeting. Mr. Holthaus indicated he wanted Mr. Ginart to have it as soon as possible. Mr. Ginart indicated once it is received, he would share it with the Board.

GUESTS: See attached Zoom participants record.

I HEREBY CERTIFY that the foregoing is a full, true, and correct account of the proceedings of the Louisiana Public Defender meeting held on the 29th day of May 2020, as approved by the Board on the 5th day of June, 2020³.

C. Frank Holthaus, Chairman

³ The meeting at which these minutes were approved was held by Zoom video-conference pursuant to Executive Proclamation 75 JBE 2020 Section 2(C).

LPDB Board Meeting
 May 29 2020

Name (Original Name)

eve hampson	15046697446	
deirdrefuller	david marcantel	
Paul C Fleming Jr	Annie Flanagan	Board
Jacqueline DeRobertis	Thomas Gernhauser	
G Paul Marx	Conor Gaffney	Frank Holthaus
Anonymous	MAC's iPhone	Mike Ginart
Natalie Lawton	Andrea Stentz	Chaz Roberts
Angela Claxton	Christopher Aberle	Moses Williams
Richie Tompson	John Lindner	Donald North
Robert Noel	Brett Brunson	Flozell Daniels
Trisha Ward	SWLA Chapter	Pat Fanning
Michael Miller	nicholas trenticosta	Zita Andrus
Don Kneipp	crystal	Ross Foote
laurenjames	Richard Stricks	Chris Bowman
Harry Fontenot	Maggie LeBlanc	
Emily Zolynsky	Kyla Romanach	
Renee Bourg	Cecelia Kappel	Staff
Anthony Champagne	Chuck Reid	
Jee Park	Tony Tillman	RVStarns
Kristin Wenstrom	Joshua Newville	AGwin
Derwyn Bunton	slee	Richard Pittman
Aaron Clark-Rizzio	kerry cuccia	Chase May
Michael A. Mitchell	Kenn Barnes Jr.	Erik Stilling
Fire Tablet	Andrew Hundley	NCarter
emily ratner	Molly Fowler	Tiffany
Matilde Carbia	Elizabeth	Jean Faria
Angie's iPad	Jeremy McDaniel	BBaier
CHall	Bettye	
Bruce Unangst# II	15045209695	
Reginald McIntyre	Alan Robert	
Steven Thomas	J.Albert Ellis	
Herman Castete	Dannielle Berger	
Mickie AndrePont	Chanel	
Carol Kolinchak	derrick carson	
Darrilyn Favorite	Fen Swann	
Aliseia Williams (2)	Olivia Woollam	
Rhonda Covington		
Jill Pasquarella (Aaron Clark-Rizzio)		
Hannah Van De Car		
iPad (7)		
Steve Robinson		
Gary Clements		
W Ross Foote		
Lindsay Blouin		
rlcan		