

Oregon State Bar
Special Open Meeting of the Board of Governors
July 27, 2012
Minutes

The meeting was called to order by President Mitzi Naucler at 11:00 a.m. on July 27, 2012. The meeting adjourned at 1:45 p.m. Members present from the Board of Governors were Jenifer Billman, Barbara Dilaconi, Patrick Ehlers, Hunter Emerick, Ann Fisher, Michelle Garcia, Michael Haglund, Matthew Kehoe, Ethan Knight, Theresa Kohlhoff, Tom Kranovich, Steve Larson, Audrey Matsumonji, Maureen O'Connor, Travis Prestwich, Richard Spier and David Wade. Staff present were Sylvia Stevens, Helen Hirschbiel, Rod Wegener, Kay Pulju, Susan Grabe, Mariann Hyland, Judith Baker, Kateri Walsh, Catherine Petrecca and Camille Greene. Also present were Duane Bosworth, Davis Wright Tremaine; Caitlin Mitchel-Markley, Johnstone and Goodfellow; Therese Bottomly, *The Oregonian*; J. Brian Monihan, *Lake Oswego Review*; Norman Williams, OLF President; Charlie Williamson, OLF Past-President; and Howard Arnett, OLF President-elect.

1. Centralized Legal Notice System

Representing Oregon newspapers (ONPA), Mr. Monihan submitted a handout from State Representative Matt Wand, spoke in opposition to the bar's proposal, and answered questions regarding revenue from legal notices. Ms. Bottomly expanded on the subject by presenting the barriers to the internet for many older Oregonians. She also pointed out that all published legal notices have to be simultaneously submitted for posting on the ONPA web site. Mr. Bosworth presented feedback from journalism professor Tim Gleason on the OLF proposal. Mr. Williams provided the board with the Oregon Law Foundation's (OLF's) revised business plan for the Centralized Legal Notice System. Mr. Arnett spoke in favor of the proposal's ability to fund legal aid. **[Exhibit A]**

Ms. Naucler opened the floor to a vigorous and broad-ranging discussion. Issues discussed included how well we can gauge the likelihood of success, the political consequences of taking on the newspapers, the need for and cost of outside lobbying help, the possibility that the legislature could take the proposal and direct the funding elsewhere. Board members expressed concern over the potential loss of newspaper jobs, risking bar funds on a lobbyist if the legislature rejects the proposal, the lack of internet access in rural areas.

Other points made were that a fight with the newspapers in the legislature could possibly hurt the bar's credibility in Salem, the wisdom of spending member fees on such a risky venture, and, regardless of the merits, whether the bar is the appropriate agency to administer this system. Board members inquired whether there was a way to work collaboratively with the newspapers on what is an inevitable change, and whether other interested groups that would benefit from a centralized system (counties, cities, realtors, bankers and schools) are supportive.

Motion: Mr. Haglund moved, Mr. Kehoe seconded, to remove the proposal from the OSB legislative package. The board voted 11-6 to accept the motion. Ms. Naucler abstained.

No: Ehlers, Wade, Fisher, Kohlhoff, O'Connor, and Knight.

Yes: Haglund, Prestwich, Garcia, Kehoe, Spier, Larson, Dilaconi, Billman, Emerick, Kranovich, and Matsumonji.

Motion: Mr. Wade, Mr. Ehlers seconded, to recommend this to the HOD as a board resolution.

Motion: Mr. Haglund moved, Mr. Knight seconded, to table Mr. Wade's motion. The board voted 10-7 to accept the motion to table the previous motion. Ms. Naucler abstained.

Yes: Haglund, Knight, Kehoe, Prestwich, Garcia, Kehoe, Spier, Larson, Emerick and Matsumonji.

No: O'Connor, Dilaconi, Billman, Wade, Kranovich, Fisher, and Ehlers.

2. 2012 ABA HOD Agenda

ABA HOD Delegate, Marilyn Harbur, presented the ABA HOD Agenda and facilitated discussion on ABA HOD Resolution 10A. Requests for positions for and against the resolution were presented. The board had previously voted to support the resolution and continued to recommend that the Oregon delegates vote to support it, too.

OREGON STATE BAR
Board of Governors Agenda

Meeting Date: July 27, 2012
Memo Date: July 19, 2012
From: Oregon Law Foundation
Re: Centralized Legal Notice System

Action Recommended

Approve putting the Centralized Legal Notice System on the OSB's legislative agenda which if successful will allow the Oregon State Bar to create a website at which all legal notices required under state law would be made available to the public, the net revenue of which would be allocated to the Oregon Law Foundation (OLF) for distribution to organizations that provide legal services to persons of lesser means.

Background

Proposal

The proposal is to permit public entities and individuals to publish required legal notices on an online centralized notification system created and maintained by the OSB and permit the bar to dedicate any net revenue from such a service to the Oregon Law Foundation for the purpose of funding legal aid programs in Oregon. This proposal addresses two issues.

First, required legal notices must be published in printed newspapers. This is both extremely expensive for government entities and individuals required to publish notice and is less effective than in past years since newspapers do not have the circulation they once did and an ever increasing number of Oregonians instead choose to seek information online. This means that newspaper publication – while extremely expensive --does a less effective job of providing meaningful notice to lawyers and the public than would a centralized online legal notice system. Admittedly the Oregon Newspaper Publishers Association manages an online legal notice system that reposts legal notices that have been published in papers statewide. However ORS Chapter 193 currently does not permit publication on the Internet alone. This means that Oregonians must pay for physical newspaper publication, even if Internet notification would provide adequate notice.

Second, deep cuts to legal aid are destroying the core service delivery system at a time when the need for services is on the rise. Cuts have been made in both federal and state funding, and there have been reductions in filing fee and IOLTA revenue (\$1 million annually) as well. At the current time, additional state funding is not available, meaning that creative long-term solutions for legal aid funding must be sought.

Prior Business Plan

The OLF was asked to submit a business plan giving an overview of the start-up and ongoing operating cost of the Centralized Legal Notice System (CLNS). The OLF submitted a business

plan to the BOG on May 26 that included data gleaned from legal notice postings, a project estimate for building and maintaining the CLNS and a summary budget of the system.

There was a concern raised that the revenue generated from the business plan was inaccurate for two reasons. First, it was based on an elevated number of postings given the increased number of foreclosures and second, the staffing cost for maintaining the CLNS was too low and should be increased to accommodate the customer service needs of those entities required to post notices.

Revised Business Plan

Attached is the CLNS Revised Business Plan. It contains the following documents:

- Centralized Legal Notice System Projected Budget from startup through year 6. This budget reflects three changes from the budget submitted before. The first is a decrease in the number of annual postings from 40,900 to 26,489 based on a reduction of foreclosure numbers. Second is an increase in the amount each posting will cost from \$80 to \$130 (the current average cost to meet the statutory requirement for notices in the newspapers is \$783.16). Third, staff costs have been increased by two additional staff positions.
- Summary Budget of the system summarizing the external and staff cost to both build the website and the ongoing maintenance cost of the system. Two additional full-time staff positions have been added for a total of 3.25 FTE.
- Oregon Legal Notices - Project Estimate which outlines the project description for developing and managing the elements of the CLNS. There are no changes to this document from what was previously submitted.
- March/April 2012 Statistical Summary which summarizes the calculations made to determine the number of notices for budgeting purposes.

Conclusion

The CLNS business plan was revised by reducing the number of annual postings by 35% and tripling staffing. The impact is that the cost to post notices can be reduced by over 80%, saving government entities and private parties a substantial amount of money and still generate enough revenue to cover the cost of maintaining the CLNS and provide a committed revenue source for legal aid.

Centralized Legal Notice System Projected Budget

	Startup 1st year	2nd year	3rd year	4th year	5th year	6th year
Revenue						
26489 ads @ \$130 (a)	\$0	\$3,443,570	\$3,443,570	\$3,443,570	\$3,443,570	\$3,443,570
Expenses						
Startup costs (b)						
Internal (c)	97,620					
External/Out of Pocket	91,500					
Marketing	45,000					
Annual Maintenance						
External Support Costs		55,000	57,800	60,700	63,700	66,900
New personnel		185,500	194,800	204,500	214,700	225,400
Existing personnel (management) (d)		27,000	28,400	29,800	31,300	32,900
Administrative Costs		60,188	63,200	66,400	69,700	73,200
Total Expenses	234,120	327,688	344,200	361,400	379,400	398,400
Gross Revenue	(234,120)	3,115,883	3,099,370	3,082,170	3,064,170	3,045,170
Payback OSB Startup Costs		(234,120)				
Legal Aid Funding		(2,800,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)
Net Revenue	(\$234,120)	\$81,763	\$99,370	\$82,170	\$64,170	\$45,170
Accumulated Reserve	(\$234,120)	\$81,763	\$181,133	\$263,303	\$327,473	\$372,643

Notes

(a) Number of annual postings reduced from 40,900 to 26,489 due to reducing number of foreclosure postings. Cost of posting increased from \$80 to \$130. Current average cost to post a notice is \$783.16.

(b) Startup costs advanced by OSB

(c) Existing OSB IDT staff and contractors; may include using more outside contractors; full costs allocated as this project delays OSB projects

(d) Existing OSB manager absorbing this role

Summary Budget

****This estimate does not cover potential Marketing costs****

Project Budget					
Internal Costs		Internal Costs		External Costs	
L1	\$ 24.00	L3	\$ 69.00	WAM	\$ 85.00
L2	\$ 41.00	Mixed	\$ 45.00	WEB	\$ 95.00
Internal Cost					
Resource	Tasks	Hours	Cost		
BSA & Project Manager	Manage Project, Requirements Support	520	\$	21,320.00	
Stake Holder - OSB Management	Provide Guidance and Decision Making	500	\$	34,500.00	
Stake Holder - OSB Finance	Provide Guidance and Decision Making	250	\$	17,250.00	
Project Sponsor - OLF Director	Provide Guidance and Decision Making	130	\$	8,970.00	
Developer	Assist with OSB Application Integration	100	\$	4,100.00	
System/Network Administrator	Support Solution Design	40	\$	1,640.00	
OSB Support Staff (multiple resources)	User Acceptance Testing	80	\$	3,280.00	
OSB Support Staff (multiple resources)	Documentation, Training, Communication	160	\$	6,560.00	
		Total Hours	1780		
		Total Cost	\$	97,620.00	
External Cost					
Resource or Software	Hours	Cost			
Web Site Development Costs		\$	52,000.00		
Great Plains Business Ready Licenses for eCommerce		\$	15,000.00		
Great Plains Consultant	100	\$	20,000.00		
Staff Computer Equipment		\$	4,500.00		
		Total Hours	100		
		Total Cost	\$	91,500.00	
				Total Project Cost	\$ 189,120.00
Post Production Support Costs - YEAR 1					
Description on Cost	Cost				
Enterprise Software & Database Monthly Hosting Fee - \$2700 a month	\$ 32,400.00				
Search Engine Optimization - \$679 a month	\$ 8,148.00				
Maintenance & Support Plan - \$250 a month	\$ 3,000.00				
IBM Twice Daily Web Site Backups	Included				
Hardware (Server/Drives/OS)	Included				
1 Hour Per Month Of Custom Software Programming or Requested System Updates	Included				
Software Support Maintenance - Anticipated Enhancements - a year (50 hours x \$95)	\$ 4,750.00				
Digital Signature -\$199 a month	\$ 2,388.00				
Great Plains Business Ready Licenses Maintenance Cost	\$ 4,350.00				
		Total Support Costs	\$	55,036.00	
Staff Increase a Year					
Description on Cost	Cost				
FTE 3.0 at grade 10 so \$22.00 x .35 (benefits) = \$29.70 per hour	\$ 185,328.00				
FTE .25 to manage so \$38.00 x .35 (benefits) = \$51.30 per hour	\$ 26,676.00				
FTE .5 to for Finance staff at grade 8 so \$20 x .35 (benefits) = \$27.00	\$ 28,080.00				
		Total Staff Costs	\$	240,084.00	
				Total Yearly Maintenance Co	\$ 295,120.00

Oregon Legal Notices - Project Estimate

Project Name: Oregon Legal Notices Website	Submitted for Review:	Date Approved:
Project Manager:	Project Sponsor(s): Judith Baker	Project Stakeholder(s):

Executive Summary

The goal of the Website is to facilitate publishing and access of all statutorily required legal notices, making them readily available and searchable to the public while meeting disclosure requirements, thereby creating a unified state system for all legal notices in Oregon. Revenues from posting and a subscription-based alert feature will ultimately raise funds for the Oregon Law Foundation. This project is contingent on Oregon Legislation changes to legal notice laws, so the earliest we would know if this is approved is June 2013.

Project Description

Development Needs

- Create web components to support the posting, viewing and reporting of legal notices on an online web portal.
- Interface/Functionality to search and display legal notices
- Interface/Functionality to create and post notices with ability to pay online
- Interface/Functionality to subscribe to notices with ability to pay online
- Interface to support OSB administrative functions of the site such as content management and reporting
- Integration with OSB Financial System
- User Account Administration – secure self-service method to create and maintain login credentials to create & subscribe to notices
- Notification functionality for internal and external process workflows such as an affidavit used to prove legal notice.

Additional Features & Functionality

- Digital Signature integration
- Search Engine Optimization

Project Deliverables

Proposal from Legal Interactive



Oregon_State_Bar_
Open_Records_Propo

- Complete public notice management of posting, viewing and reporting
- Powerful Apache Solr that powers many of the largest sites online that includes rich document searches, content recommendations, hit highlighting, database integration and index replication
- Fully integrated, PCI e-commerce system that allows users to pay to post notices
- Membership subscription feature that allows members to subscribe to receive notices for a fee and manage account with login credentials
- Complete Content Management system that permits OSB staff to add, delete, and edit all content
- Complete Integration with the OSB financial system
- Workflow system allows you to tailor permissions and customize workflow to your organizational needs
- Digital signature integration for all requested areas of the site (Rightsignature subscription required)
- System can handle over a million postings per year by thousands of users.
- Accessibility and Section 508 Compliance. Site meets ADA guidelines.
- Upgrades and new features are included with every subscription.
- Government-level security requirements that include Passwords that comply with Level 2 of NIST'S
- Electronic Authentication Guidelines, https is pre-configured, and CAPTCHA comes standard on all forms
- KPI Dashboard reporting system provides real-time metrics for your data.

Example Tasks to Manage Program

Example work required by new program staff may include:

- Ensure program is meeting legal requirements through defined business rules implemented by the Oregon State Bar.
- Enhance the use and adoption of the product through means of communication to the potential audience of the website.

- Act as liaison with external organizations as needed to provide expertise surrounding public notices.
- Define training and education on the processes surrounding the use the tool both internal and external users.
- Assist in customer service related tasks as they arise.
- Create and manage reports as needed for management and finance.
- Troubleshoot website and process issues and bring attention to issues as they arise.
- Manage non notice website content as needed.
- Review notification and confirmation templates as needed to provide corrections, removals and/or additions.
- Potential audit or review of posted legal notices.

Example finance staff work:

- Account Management for institutions who create multiple postings a month, rather than having to provide a credit card for every post.
- Provide assistance with exceptions that result from the large volume of transactions.
- Support the additional eCommerce feature set in Great Plains.
- Support the new OSB staff that will manage the program overall.

Project Timeline - 1 Year

Initiation & Planning stages:

- Define detailed business requirements by translating legislation into understandable business rules for the overall program and software to operate
- Define marketing and communication plan

Execution stages:

- Execution of web development activities
- Execution of marketing and communication activities
- Staff training and procedural implementation activities
- User Acceptance Testing
- Web site implementation activities
- Website and system go-live

March/April 2012 Statistical Summary

Total # of First Runs		6751
Total # of First and Subsequent Runs		15020
Total Dollars Spent on Notices	\$	5,881,543.30
Average cost to run notice one time	\$	391.58
Majority of notices are run at least twice		
Average cost of running a notice	\$	783.16

Calculation to determine number of notices for budgeting puposes	
Non Foreclosure 1st Runs	3636
Foreclosure 1st Runs	3115
Total Number of 1st runs	6751
Estimate of future 1st runs (w/o Foreclosure increase)	
Non Foreclosure Plus 25% of Foreclosure	4415
Yearly 1st runs (4415 times 6)	26489