



ARIZONA BOARD OF FINGERPRINTING

Mail Code 185 • Post Office Box 6129 • Phoenix, Arizona 85005-6129
Telephone (602) 265-0135 • Fax (602) 265-6240

Final Minutes for Public Meeting

Held August 21, 2009, at 10:00 a.m.

3839 North 3rd Street, Suite 107, Phoenix, Arizona

Board Members

Charles Easaw, Department of Education, Chair
Kim Pipersburgh, Department of Health Services, Vice Chair
Ellen Kirschbaum, Administrative Office of the Courts
Mike LeHew, Department of Economic Security
Arthur W. Baker, Department of Juvenile Corrections

Executive Director

Dennis Seavers

CALL TO ORDER AND ROLL CALL

Mr. Easaw called the meeting to order at 10:05 a.m. The following Board members were present: Charles Easaw, Kim Pipersburgh, Ellen Kirschbaum, Mike LeHew, and Arthur W. Baker. No Board members were absent.

Also in attendance were Dennis Seavers, Executive Director, and Christopher Munns, Assistant Attorney General.

CALL TO THE PUBLIC

Mr. Easaw made a call to the public. There were no members of the public present.

APPROVAL OF MINUTES

Mr. LeHew made a motion to approve the draft minutes (open and executive session) from June 26, 2009. Ms. Kirschbaum seconded the motion, which passed 5–0.

ADMINISTRATIVE-HEARING PROCESS

Mr. Easaw said that the question had come up during good-cause-exception determinations about whether the Board should revisit its policy on whether to accept new testimony or evidence at the administrative hearing where the Board decides whether to adopt the hearing officer's recommendation (hereafter, "Board hearing," as opposed to the evidentiary hearing presided over by the hearing officer). (Currently, the Board's policy is to permit the applicant to submit a written response but not to offer new evidence or testimony at the Board hearing.)

Mr. Easaw noted that the Board could go into executive session to receive advice on this matter. Mr. Munns requested that Board members express some of their concerns or ideas before going into executive session so that he could have a sense of what issues his advice would need to address. The Board members expressed some of the following concerns and ideas.

- Mr. LeHew said that Board members may have questions that the hearing officer's recommendation doesn't address. He said that he may not have those questions addressed if he doesn't ask the applicant at the Board hearing.
- Ms. Kirschbaum wondered how the good-cause-exception application process would be impacted if the Board received new evidence or testimony at the Board hearing.
- Mr. Baker expressed concern that the Board would receive new information that the applicant already had failed to present for the expedited review or the evidentiary hearing.
- Mr. Easaw reiterated Mr. LeHew's point that when he reads the recommendations, he may have questions that the recommendation doesn't address.

Mr. LeHew made a motion to go into executive session under A.R.S. § 38–431.03(A)(3) for the purpose of receiving legal advice. Ms. Kirschbaum seconded the motion, which passed, 5–0. The Board went into executive session at 10:11 a.m.

The Board returned to open session at 10:29 a.m.

Mr. Baker said that he was comfortable with the Board not permitting additional testimony or evidence at the Board hearing. He noted that applicants are allowed to respond to the hearing officer's recommendation in writing. Ms. Kirschbaum concurred. Mr. LeHew and Mr. Easaw both predicted that instances of receiving additional testimony or evidence would be infrequent. Mr. Munns suggested that the Board could focus solely on serious questions that, if the case were reviewed by a court, the Board could justify asking.

Ms. Kirschbaum said that if a policy were passed to allow applicants to submit evidence or testimony at the Board hearing, she would still want applicants who wish to respond to the hearing officer's recommendation to submit written responses ahead of the Board hearing.

Mr. Easaw asked Mr. Seavers to prepare a draft policy for the Board to consider. The policy would describe a hearing process that would allow applicants to submit testimony or evidence at the Board hearing. The Board would consider this draft policy at a subsequent meeting.

The Board recessed at 10:48 a.m. and reconvened at 10:58 a.m.

FISCAL YEAR 2010 BUDGET

Mr. Easaw referred Board members to Mr. Seavers's August 18, 2009 memo on the fiscal year ("FY") 2010 budget (see Attachment 1). The memo included a budget proposal.

Mr. LeHew said that the Board had previously authorized the executive director to relinquish the lease on the conference room, which the landlord had expressed interest in renting to another tenant. Mr. Seavers responded that the landlord did not pursue the offer to relinquish the lease. Mr. Seavers assumed that the potential tenant decided not to rent space in the building. He noted that it seemed unlikely that the landlord would need the conference-room space again because the Governor's Council of Developmental Disabilities, which was terminated on July 1, 2009, had vacated space in the building. Mr. Seavers said that he is still working with the Department of Administration on possible ways to reduce rent expenditures.

Mr. LeHew made a motion to adopt the proposed FY 2010 budget, and Ms. Kirschbaum seconded. The motion passed 5-0.

ADJOURNMENT

Mr. LeHew made a motion to adjourn the meeting, and Ms. Pipersburgh seconded. The motion passed, 5-0. Mr. Easaw adjourned the meeting at 11:07 a.m.

Minutes approved on September 18, 2009

Dennis Seavers, Executive Director



Arizona Board of Fingerprinting Memo

TO: Board members
FROM: Dennis Seavers, Executive Director
C:
Date: August 18, 2009
SUBJECT FY10 budget proposal

This memo discusses a proposed budget for the Board to adopt at its August 21, 2009 meeting. The memo also provides financial information to assist the Board in its deliberations about the budget.

SUMMARY

- The Board should adopt a budget that includes \$559,971.54 in expenditures and \$67,100 in legislative fund sweeps. The total expenditures would be \$627,071.54.
- The proposed budget projects \$560,000 in revenues. This projection assumes that DPS will receive 80,000 fingerprint-clearance-card applications in FY10.
- The Board should reduce its FTEs from 7.0 to 6.75 based on one employee's offer to voluntarily reduce her hours to 30 hours a week.

FUND BALANCE

- As of July 31, 2009—the last date when there was an end-of-month reconciliation with AFIS (the state accounting system) data—the BOFF balance was \$100,996.13.
- As of August 18, 2009, the BOFF balance was \$84,346.40, with no pending deposits (the Board had not yet received the revenue transfer from DPS) and \$1,967.11 in pending expenditures.
- As of June 18, 2009, the Board's annual-leave liability was \$20,327.59.

BUDGET PROPOSAL FOR FY10

FY10 expenditures and revenues

Attachment 1 proposes a budget that includes \$559,971.54 in expenditures and assumes \$560,000 in revenues. (The budget also includes \$67,100 in fund sweeps, which are discussed in the section below.)

Attachment 1 also provides a comparison of FY09 actual expenditures and revenues with the FY10 budget proposal. The list below explains areas where there are notable differences in spending between FY09 and FY10.

- 6000 – Personal Services. This category refers to expenditures from wages and salaries. In FY2010, there are 27 pay periods; normally, a fiscal year includes 26 pay periods. As a result, in a year when the Board faces a significant sweep of funds, there will be an increase in personnel-related costs. However, one of the Board's administrative law judges has voluntarily requested a reduction in hours from 40 to 30 per week, even apart from budget considerations. Therefore, if the reduction in hours takes place by mid-September, the Board's personnel costs would decrease by about \$10,500, thereby helping to mitigate the effect of having 27 pay periods.
- 6299 – Other Professional and Outside Services. This category primarily refers to consulting services. Last year, the Board upgraded its database to reflect significant changes in its business process. This project was completed in FY09, so the Board does not need to budget for expenses in this category. In addition, under this proposal, the Board would eliminate translation services for applicants (apart from American Sign Language interpreters, whose services may be required by the Americans with Disabilities Act). Applicants would be responsible for bringing a translator.
- 7110 – Insurance and Related Charges. This category includes risk-management costs. In FY09, the Board's risk-management premium, which is determined by ADOA, was \$1,000. (It appeared in the category 9101 – Operating Transfers Out rather than 7110 – Insurance and Related Charges.) However, the Board's premium increased in FY10 to \$2,900, primarily because of an increase in FTEs and because of a property-loss claim in FY09 from a 2008 burglary at the Board office.
- 7129 – Property Insurance Premium. This category covers payments on risk-management claims. In FY09, the Board received a payment of \$2,227.64 from risk management from the property-loss claim following the 2008 burglary. The FY10 budget assumes that the Board will not have to file property-loss claims.
- 8521 – Furniture (Non-capital). The Department of Corrections inadvertently overcharged the Board for furniture purchased in 2007. The Department of Corrections had credited the Board for the overpayment, but I requested a refund.

Fund sweeps and cuts to personnel costs

Laws 2009 (First Regular Session), Chapter 11 (SB 1188), Section 110, requires the Board to transfer \$29,500 from spending reductions and \$37,600 from salary reductions to the General Fund, or a total transfer of \$67,100. Since the Board's fund is nonappropriated, the Board is required to transfer the \$67,100 but does not need to reduce spending or personnel-related costs. The legislation required agencies to transfer the funds before June 30, 2010, as soon as practicable to avoid a shortfall in the funds. Agencies that are able to transfer the funds will do so by September 15, 2009.¹

For the purpose of managing the Board of Fingerprinting Fund, it would be prudent for the Board to assume lower-than-average revenues for the next several months, with higher-than-average revenues later in the fiscal year. Under this assumption, the Board would still collect \$560,000 in revenues over the course of FY10, but the revenue collections would be low at the beginning of the year. This assumption allows the Board to see what could happen to the Board of Fingerprinting Fund, even in an improbable set of circumstances. If the Board were not to plan for these circumstances, it could face a grave cash-flow problem.

If the Board were to transfer the full \$67,100 in September, the Board's fund balance could drop to about \$14,000 in December. This amount is less than the Board's annual-leave liability, and it does not account for the possibility of a lower fund balance in December before the monthly revenue transfer from DPS. In addition, the end-of-month fund balance would not exceed \$50,000 until May. Finally, even under an optimistic projection of Board revenues—that is, one that assumes average monthly collections early in the fiscal year, rather than one that assumes lower-than-average monthly collections early in the year—the Board would have an end-of-month fund balance of \$38,606.77 in December.

Given this possible outcome, the Board should delay at least a portion of the transfer until later in the fiscal year, relying on the provision in the legislation that allows agencies to make transfers later in the year to avoid a shortfall in the fund. In order to comply with the legislation as quickly and fully as possible, while responsibly managing the fund balance, I recommend that the Board transfer \$37,600 (the salary-reduction portion of the fund sweep) by September 15, 2009, and transfer the remaining \$29,500 (the spending-reduction portion of the fund sweep) in April 2010. Under this schedule of transfers, the lowest that the end-of-month fund balance would drop is \$43,776.77. (However, if the Board were to transfer the \$29,500 in March rather than April, the end-of-month fund balance would drop as low as \$37,348.41.) Even under this proposal, the mid-September fund balance could drop close to the level of annual-leave liability, so it would be imprudent to transfer more than \$37,600 in September.

¹ The Legislature preferred that agencies transfer the funds by July 15, 2009. However, the legislation did not pass until July 1, 2009, so GAO did not announce the schedule for transfers until this week.

Attachment 1 - FY10 Budget Proposal (Compared with FY09)

	FY09 Actual	FY10 Proposed	Difference
REVENUES			
4900 - Operating Transfers In			
Prior FY Carryover	\$ 213,329.17	\$ 162,934.42	\$ (50,394.75)
4901 - Oper. Transfers In	\$ 560,916.00	\$ 560,000.00	\$ (916.00)
Total 4900 - Oper. Trans. In	\$ 560,916.00	\$ 560,000.00	\$ (916.00)
TOTAL REVENUES	\$ 560,916.00	\$ 560,000.00	\$ (916.00)
EXPENDITURES			
6000 - Personal Services			
	\$ 310,480.84	\$ 316,234.56	\$ 5,753.72
6100 - Employee-related exp.			
	\$ 119,941.12	\$ 117,571.63	\$ (2,369.49)
6200 - Prof. & Outside Svcs.			
6211 - Bond Issuance Cost	\$ 2,353.62	\$ 3,945.98	\$ 1,592.36
6271 - Education & Training	\$ 48.00	\$ 100.00	\$ 52.00
6299 - Other Prof. & Out. Svcs.	\$ 9,426.00	\$ -	\$ (9,426.00)
Total 6200 - Prof. & Outside Svcs.	\$ 11,827.62	\$ 4,045.98	\$ (7,781.64)
7000 - Other Operating			
7110 - Insurance & Related Chgs	\$ -	\$ 2,900.00	\$ 2,900.00
7129 - Property Insurance Prem.	\$ (2,227.64)	\$ -	\$ 2,227.64
7153 - Internal Svc. Data Proc.	\$ 10,491.40	\$ 10,932.33	\$ 440.93
7172 - Ext. Comm. Long Dist.	\$ 12,548.26	\$ 14,554.86	\$ 2,006.60
7179 - Other External Comm.	\$ 2,937.39	\$ 1,879.74	\$ (1,057.65)
7221 - Rental of Land & Bldgs.*	\$ 65,124.60	\$ 65,124.60	\$ -
7266 - Repair/Maint-Other Equip	\$ 1,746.52	\$ 1,449.32	\$ (297.20)
7321 - Office Supplies	\$ 6,181.26	\$ 6,150.00	\$ (31.26)
7481 - Postage & Delivery	\$ 10,413.54	\$ 11,611.74	\$ 1,198.20
7511 - Awards	\$ -	\$ 100.00	\$ 100.00
7531 - Dues	\$ 94.00	\$ 200.00	\$ 106.00
7541 - Books, Subscr., & Pubs.	\$ 8,904.64	\$ 8,810.80	\$ (93.84)
Total 7000 - Other Operating	\$ 116,213.97	\$ 123,713.39	\$ 7,499.42
8500 - Non-capital Equipment			
8551 - EDP Equip. Non-cap.	\$ 138.80	\$ -	\$ (138.80)
8521 - Furniture Non-cap	\$ -	\$ (1,719.02)	\$ (1,719.02)
8583 - PC/LAN Softw. Non-cap.	\$ 708.40	\$ 125.00	\$ (583.40)
Total 8500 - Non-capital Equip.	\$ 847.20	\$ (1,594.02)	\$ (2,441.22)
9100 - Transfers Out			
9101 - Oper. Transfers Out	\$ 1,000.00	\$ -	\$ (1,000.00)
9101 - Op Trans Out: Fund Sweeps	\$ 51,000.00	\$ 67,100.00	\$ 16,100.00
Total 9100 - Oper. Trans. Out	\$ 52,000.00	\$ 67,100.00	\$ 16,100.00
TOTAL EXPENDITURES	\$ 611,310.75	\$ 627,071.54	
NET INCOME	\$ (50,394.75)	\$ (67,071.54)	