

Minutes
Midyear Meeting of the Executive Committee
Uniform Law Commission

Saturday, January 20, 2018

Carl H. Lisman, Chair of the Executive Committee, called the meeting to order on January 20, 2018, at 8:00 a.m. Eastern Time. The following members of the Committee were present: Diane Boyer-Vine; Thomas J. Buiteweg, Treasurer; Richard T. Cassidy, Immediate Past President; Gail Hagerty; Barry C. Hawkins; Ryan Leonard, Chair of the Legislative Committee; Daniel Robbins, Chair, Scope and Program Committee; Steve Wilborn, Vice President; and Nora Winkelman, Secretary.

Also present: Commissioner Howard J. Swibel, Chair of the Uniform Law Foundation Trustees; Liza Karsai, Executive Director; Elizabeth Cotton-Murphy, Chief Administrative Officer; Katie Robinson, Legislative Program Director; and Ben Orzeske, Chief Counsel. The following commissioner Division Chairs were present for part of the meeting: Mary M. Ackerly; William W. Barrett, Lead Division Chair; John T. McGarvey; Juliet M. Moringiello; Cam Ward; and Candace Zierdt.

1. Minutes

A motion was made and approved accepting the minutes of the Executive Committee meeting held December 7, 2017 and ballot minutes from December 7, 2017.

2. Requests for Name Changes

A motion was made and approved that the name of Amendments to Articles 1, 3 and 9 of the Uniform Commercial Code be changed to the Amendments to Articles 1, 3, 8 and 9 of the Uniform Commercial Code.

The Executive Committee considered but did not support the name change proposed by the Committee on the Uniform Commercial Code Article 8 Companion Act.

3. Requests for Uniform Designation

A motion was made and approved that the Uniform Commercial Code Article 8 Companion Act be designated a Uniform Act.

4. Consideration of Excused Absences

A motion was made and approved excusing the absences of the following commissioners from the 2017 Annual Meeting based on their written requests: Rob Bonta (CA); Scott Donaldson (AL); Thomas A. Edmonds (VA); Briggs Hopson (MS); Margit S. Kelley (WI); Klint Kesto (MI); Louise M. Nadeau (CT); Samuel J. Tenenbaum (IL); Mark Vucci (VA); and Bradley A. Wilkinson (NV).

5. Requests for Life Membership

A motion was made and approved nominating Cisco McSorley (NM) for election to life member of the Conference.

A motion was made and approved nominating Michele Timmons (MN) for election to life member of the Conference contingent upon her attendance at or excused absence from the 2018 annual meeting.

6. Requests for Technical and Other Amendments

- A. Amendments to the Uniform Trust Code and the Uniform Trust Decanting Act to conform them to the Uniform Directed Trust Act

This matter will be taken up at the next Executive Committee meeting.

7. Approval of the Audit Report

Treasurer Buiteweg reported on the audited financials. A motion was made and approved accepting the audit report.

8. Change to Personnel Policy Manual

Elizabeth Cotton-Murphy, Chief Administrative Officer, summarized proposed changes to the Personnel Policy Manual to comport with recent changes in the Illinois Employee Sick Leave Act. The proposed changes were reviewed by outside counsel. A motion was made and approved authorizing the changes to the Personnel Policy Manual.

9. Consideration of Continuation or Discharge of Standby/Other Committees

A motion was made and approved to discharge, with thanks, the Coordinating Committee to Draft Technical Amendments to ULC Acts.

10. Request for Waiver of Two Line-by-Line Readings

- A. Amendment to Revised Uniform Law on Notarial Acts

A motion was made and approved authorizing a waiver of two line-by-line readings of the Amendment to Revised Uniform Notarial Acts pursuant to By-Law 8.1A.2.b.

11. Decisions Regarding Request from Study Committee on Installment Land Contracts to Authorize a Drafting Committee

Chair Lisman reported that the Committee on Scope and Program recommended that a drafting committee be formed to address remedies for breach of Installment Land Contracts in July of 2017. At that time, the Executive Committee deferred action to this midyear meeting.

After discussion, a motion was made and approved that the Study Committee on Installment Land Contracts be discharged with thanks.

Discussion Items

12. Division Chair Reports

Commissioners Ackerly, Barrett, McGarvey, Morringiello, Ward, and Zeirdt reported on the drafting and study committee activities of their respective divisions.

Division Chairs recommend the development of an organizational chart to familiarize new members with ULC processes. They also recommend that a Division Chair Manual would help newly appointed chairs

to better understand their role and responsibilities, and guide work of division chairs throughout the appointment term. Commissioner Barrett will develop an initial draft of a division chair manual for Executive Committee consideration.

13. Legislative Updates

Legislative Committee Chair Leonard summarized the written reports submitted for the Committee's consideration and recognized the hard work of legislative staff. In 2017 the ULC had 198 introductions and 87 enactments. The Uniform Fiduciary Access to Digital Assets Act led with 17 enactments. In 2018 there are 261 introductions planned. The ULC's enactment record hinges on the quality of acts and the engagement of commissioners, which underscores the importance of the Scope process in turning out quality products.

At the request of the Executive Committee, the Legislative Council has given focus to strengthening state delegations. Several opportunity states were identified and Council members were tasked with specific action items in these states. Commissioner Leonard reported on the criteria used to assess the strength of individual state delegations: whether dues are being paid; if the state reimburses commissioner travel to the annual meeting; any membership vacancies; whether the delegation has a legislative member and/or legislative service; and assessment of the number of recent enactments and enactments over the last decade.

14. ULC Disaster Response to Puerto Rico and the USVI

In light of the devastation caused by hurricanes this year, and in response to the request received from Commissioner Bolt (USVI), a motion was made and approved to waive Puerto Rico and U.S.V.I. state dues for the 2017 – 2018 fiscal year. Executive Director Karsai will draft a notification letter for the President.

15. Budget and Finance

A. Proposed Revisions to the FY 2017-18 Budget

Action to adopt the revised budget was deferred to the next meeting of the Executive Committee pending further revision.

B. State Dues Collection

Vice President Wilborn reported on dues collection activities in several states. The ULC has engaged lobbyists in certain states to assist with dues collection. Commissioner Buiteweg raised the critical issue of state travel reimbursement to the annual meeting. The Committee on Innovation and Growth was asked to consider the issue of commissioner annual meeting travel expenses.

16. Discussion of Leadership Strategic Planning Session

Chair Lisman summarized the discussions and recommendations from the ULC Leadership Strategic Planning Meeting. Discussions included: Increasing the size of drafting committees; a possible decline in royalty revenue, and rising meeting costs, including the cost to commissioners to attend the annual meeting; hiring a grant writer to seek additional funding; legislative enactments; relationships with the ABA and ALI; and the role of the ULF. Greg Young, Information Technology Director, also gave a presentation on technological advancements and planning for future needs.

Commissioner Swibel reported on the current finances of the Commission and Foundation and led a discussion about commissioner travel to the annual meeting.

The Committee on Innovation and Growth had been asked to look at ways to reduce annual meeting expenses for commissioners. Ideas included: reducing, waiving or eliminating the registration fee; basing registration fees on different thresholds (first annual meeting, age, type or years of employment); or offering a lottery to reimburse travel expenses for a few commissioners otherwise unable to attend. The Committee on Innovation and Growth also had been asked to consider ways that the ULC might be able to reduce the number of days of the annual meeting, enactment strategies, and areas where the ULC could best invest their resources.

Members of the Executive Committee supported increasing the size of drafting committees to allow broader, more diverse participation, while continuing to engage experienced committee members to guide the drafting process. A motion was made and approved that the president be authorized to set as a goal 10-member drafting committees for the next fiscal year.

17. Guam Membership

Vice President Wilborn reported on an informal inquiry from the Guam Attorney General concerning Guam's possible inclusion as a member of the Uniform Law Commission. This subject has been a matter of discussion before the Executive Committee over the past years. If the Executive Committee choose to recommend inclusion of Guam, based on Guam's population of 162,000, the Conference could anticipate annual dues of approximately \$18,000. Active involvement in ULC activities would be logistically challenging given the expense and distance of air travel. The ULC's constitution would need to be amended to change the definition of "state."

The President will advise Guam that the ULC requires a formal expression from the Territory of its desire to become a member and its intention to pay dues on that basis. Such a statement would provide grounds necessary to seek an amendment to the constitution and bylaws to define Guam as a state. Until Guam is defined as a state Guam would not qualify for ULC membership.

18. Establishing Guidelines and Application Process for the Consumer Participation Fund

Liza Karsai, Executive Director, reported on the ULF's Consumer Participation Fund. The fund, established within the Uniform Law Foundation endowment, is intended to encourage diversity in the drafting process through funding consumer representative travel to drafting committee meetings.

After discussion, the Executive Committee determined that the appropriate body to develop criteria and process for application for and disbursement of any funds is the ULF.

19. Monitoring Committees

Commissioners Haggerty and Buiteweg reported on recent activities of the monitoring committees they chair. The Executive Committee discussed ways to increase the effectiveness of monitoring committees, including budgeting for in-person meetings, retaining Executive Directors or Research Directors for the committees, similar to positions held on Joint Editorial Boards inviting academics to advise the committees, and seeking relationships with advisors or partner organizations. President Ramasastry asked Commissioners Buiteweg and Haggerty to work with Ms. Karsai to develop a short proposal on how to best move monitoring committees forward.

20. Formation of a Committee on Personal Privacy Information

Chair Lisman reported on a recommendation received from the Committee on Scope and Program that a Committee on Personal Information Privacy be established in July of 2017. A growing number of ULC projects have related privacy issues. After deliberation, the Executive Committee decided to take no action.

21. Updates and Creation of Study Committee, Monitoring Committee and Drafting Committee Chair Manuals

Liza Karsai, Executive Director, summarized the draft manuals submitted for the Committee's consideration. Manual review and consideration will be added to the agenda for the February meeting of the Executive Committee.

22. Contract Renewal

A. Nelson Mullins

President Ramasastry reported that the contract with Nelson Mullins lapsed at the end of August 2016. To maximize the value of this relationship, avoid conflicts of interest, and to maintain client confidentiality, a formal written contract should be in effect. Committee members were asked to provide Ms. Karsai with items that should be encompassed in the relationship for preparation of a formal request for engagement for the Executive Committee's consideration.

B. Brennan Group

Ms. Karsai reported on recent lobbying activities to secure state dues undertaken in the Commonwealth of Massachusetts by the Brennan Group, Inc. After discussion, contract renewal was deferred pending Massachusetts developments and receipt of a renewal engagement letter.

23. Renewal of contract for Peter Lown, Executive Director of the ILDC and Director of Research for the IJEB

President Ramasastry reported on recent activities of Mr. Lown, the Executive Director of the ILDC and Director of Research for the IJEB.

After discussion, a motion was made and approved authorizing the president to request up to \$50,000 from the Uniform Law Foundation to renew funding for a second one-year term for Peter Lown as Executive Director of the ILDC and Director of Research for the IJEB contingent upon resolving work visa and other concerns.

24. International Projects

Written reports were submitted for the Committee's consideration. The reports were received by the committee.

25. Current and Past Presidential Priorities

A. ULC Video Pilot Project Proposal

President Ramasastry summarized the written proposal submitted for the Committee's consideration. The

proposal covers the production of up to five two to three-minute videos, each representing one uniform act. Each video would cover four main topics: 1) a brief explanation of what the ULC is and does; 2) the unique problem the act is designed to solve; 3) the various interests/stakeholders involved; and 4) the resolution of the problem as written into the finished draft and how it addresses those concerns. Three videos would be produced during a single 10-hour shoot with a budget of \$20,000; two additional videos could be added to the same shoot for a nominal cost increase.

Ms. Cotton-Murphy, Ms. Robinson and Mr. Young will look into what would be involved in ULC video production. Ms. Karsai offered to assist in this process in light of relevant work experience.

Ms. Cotton-Murphy reported on the installation of a new association management system and website development. The rollout of the redesigned ULC website is anticipated in April of 2018. President Ramasastry reported that representatives from the Uniform Law Foundation in attendance at the Strategic Planning Committee expressed strong interest in funding the cost of the new website. It is a highly visible, non-recurring project, ideal for Foundation underwriting.

After discussion, a motion was made and approved authorizing the President to seek funding not to exceed \$185,000 from the Uniform Law Foundation to cover the cost of video production and of phase one of the website design and implementation.

B. Fundraising

The issue was not considered during the meeting.

C. Strategic Planning

See Agenda item 16 above.

D. Review of Standing and Other Committees

The issue was not considered during the meeting.

26. State and Federal Relations

The issue was not considered during the meeting.

27. Website Design Progress Report

See agenda item 25.A.

28. Document Scanning Project

Ms. Cotton-Murphy reported on digital scanning progress to create an electronic back-up of hard copy historical records stored in the Chicago office. The ULF approved funding for the scanning project in November and document scanning began in December. ULC staff hopes to have the first third of the scanning project complete by the annual meeting.

29. Policy Review

A. Review of Proposed Revised Policy Statement on Transparency and Open Records

Policy Review was deferred until the February meeting of the Executive Committee.

B. Review of Conflict of Interest Policy

Policy Review was deferred until the February meeting of the Executive Committee.

C. Sexual Harassment Policy

Policy Review was deferred until the February meeting of the Executive Committee.

D. Retirement Plan Investment Policy Statement

Policy Review was deferred until the February meeting of the Executive Committee.

30. Report of the Committee on Scope and Program

Commissioner Robbins presented the report of the Committee on Scope and Program (“Scope”)

A. Recommendations Concerning the Establishment of New Study Committees

1. Scope approved the following resolution for consideration, recommending that a study committee on Rehoming be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of state legislation on unregulated transfers of adopted children, also known as rehoming.

After discussion recognizing the discretion of the President to determine the timing of committee convening and work, a motion was made and approved to appoint a study committee on rehoming.

B. Resolutions for Drafting Committees

1. Scope approved the following resolution for consideration, recommending that a drafting committee on Alternatives to Bail be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on Alternatives to Bail be formed.

The Executive Committee resolved to appoint a Drafting Committee on Alternatives to Bail.

2. Scope approved the following resolution recommending that a drafting committee on Easement Relocation be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on Easement Relocation be formed.

After discussion, the Executive Committee passed the following resolution:

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on Relocation of Nonutility Easements be formed.

C. Resolutions for Discharge

Katie Robinson, Legislative Program Director, reported on recommendations for the discharge of committees.

1. Scope approved the following resolution for consideration, recommending that the Study Committee on Identity Management in Electronic Commerce be discharged.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Study Committee on Identity Management in Electronic Commerce be discharged with a letter of thanks to the committee.

A motion was made and approved to discharge the Study Committee on Identity Management in Electronic Commerce.

2. Scope approved the following resolution for consideration, recommending that the Study Committee to Amend the Uniform Conservation Easement Act be discharged.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Study Committee to Amend the Uniform Conservation Easement Act be discharged with a letter of thanks to the committee.

A motion was made and approved to discharge the Study Committee to Amend the Uniform Conservation Easement Act.

3. Scope approved the following resolution for consideration, recommending that the Study Committee on the Right of Publicity be discharged.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Study Committee on Right of Publicity be discharged with a letter of thanks to the committee.

The Executive Committee took no action.

31. Other

A. Preparations for the American Bar Association Annual Meeting

President Ramasastry reported on preparations for the upcoming ABA meeting.

B. Activities of the Committee on Innovation and Growth

Secretary Winkelman reported on activities of the Committee on Innovation and Growth.

The Executive Committee was adjourned at 5:15 pm.

Appendix

A. Officer Reports

1. Report of the Vice President

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

2. Report of the Secretary

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

3. Report of the Treasurer

- a. State Dues Report
- b. Report on ULC Investments
- c. ULC November 30, 2017 Financial Report
- d. Royalty Projections

Written reports were submitted for the Executive Committee's consideration. Those reports were received by the Committee.

4. Report of the Chair of Legislative Committee

a. Report on Legislative Activities Since 2017 Annual Meeting

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

b. Legislative Council Minutes

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

c. Legislative Reports

A written report was submitted for the Executive Committee's consideration.

That report was received by the Committee.

d. Legislative Plans

A written report was submitted for the Executive Committee's consideration.
That report was received by the Committee.

e. Legislative Staffing Assignments

A written report was submitted for the Executive Committee's consideration.
That report was received by the Committee.

f. List of Enactment Committees

A written report was submitted for the Executive Committee's consideration.
That report was received by the Committee.

g. List of Target Acts

A written report was submitted for the Executive Committee's consideration.
That report was received by the Committee.

h. State Appointment Statutes

A written report was submitted for the Executive Committee's consideration.
That report was received by the Committee.

B. Committee Reports

1. Committee on State and Federal Relations and Other Organizations

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

2. Criminal Justice Reform Committee

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

3. Committee to Monitor Developments in Civil Litigation and Dispute Resolution

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

4. Committee to Monitor Health Care Law

No report was received.

5. Committee on Diversity and Inclusion

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

6. Committee on Innovation and Growth

Secretary Winkelman reported on the activities of this committee (see Agenda Item 32).

7. Committee on Technology

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

8. International Initiatives

a. International Legal Developments Committee

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

b. Joint Editorial Board for International Law

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

9. Tribal Law Activities

No report was received.

10. Ethics Working Group

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

11. Foundation Relations

No report was received.

12. Committee on Academic Partnerships

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

13. Joint Editorial Board for Uniform Trust and Estates Acts

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

14. Joint Editorial Board for Uniform Real Property Acts

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

15. Joint Editorial Board on Uniform Unincorporated Organization Acts

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

16. Joint Editorial Board for Uniform Family Law Acts

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

C. Meeting Report

1. Annual Meeting Schedule and Events

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

2. Report on Committee Meetings

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

3. Report on Annual Meeting and Midyear Meeting Dates and Locations

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee. The ULC will meet in Louisville, KY, Friday, July 20 – Thursday, July 26, 2018; the ULC will meet in Anchorage, AK, Friday, July 12 – Thursday, July 18, 2019; the ULC will meet in Madison, WI, Friday, July 10 – Thursday, July 16, 2020; and the ULC will meet in New York, NY, Friday, July 2 – Thursday, July 8, 2021.

The Executive Committee will meet in Palm Spring, CA, January 17 – 20, 2019.

D. Office Reports

1. Grants Report

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

2. Activity Report of the Executive Director

No report was received.

3. Activity Report of the Chief Administrative Officer

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

E. Reports of the Uniform Law Foundation

1. Financials

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

2. Fundraising

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

3. Trustee Minutes

Minutes from the recent Trustee meeting were received by the Committee.

F. Miscellaneous Reports

1. Report on the Work of ULC's Federal Government Relations Representatives, Nelson Mullins Public Strategies, and other Federal Relations Matters

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

G. Late Reports

1. Committee on Public Information

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.