

President Cahill called the meeting to order at 9:30 a.m. on Friday, March 30, 2007 at the State Bar of Michigan, Michael Franck Building, Lansing, MI.

Commissioners present:

Lori A. Buiteweg	Craig H. Lubben
Beverly Hall Burns	Ronald D. Keefe, President-Elect
Kimberly M. Cahill, President	Jeffrey E. Kirkey
John J. Conway	Donald E. McGinnis, Jr.
Margaret A. Costello	Hon. William B. Murphy
Bruce A. Courtade	Lambro Niforos
Richard L. Cunningham	Edward H. Pappas, Vice-President
Brian D. Einhorn	Eric J. Pelton
Elias J. Escobedo, Jr.	Michael J. Riordan
Robert K. Fergan	Thomas C. Rombach
Julie I. Fershtman	Kurt E. Schnelz
Kiffi Y. Ford	Scott C. Strattard
Robert C. Gardella	Charles R. Toy, Secretary
Edward L. Haroutunian	Gregory L. Ulrich
W. Anthony Jenkins, Treasurer	
Katherine Kakish	

Commissioners Francine Cullari and Laurin' C. Roberts Thomas were absent and excused.

State Bar Staff Present:

Marge Bossenbery, Executive Coordinator
Kari Brandel, Events Manager
Nancy Brown, Director of Member Services and Communications
Candace Crowley, Development & External Affairs Manager
Dawn Evans, Director of Professional Standards
James Horsch, Director of Finance and Administration
Victoria Kremski, Deputy Director of Professional Standards
Catherine O'Connell, Assistant Professional Standard Counsel
Jerome Reide, Director of Justice Initiatives
Janet K. Welch, Interim Executive Director and General Counsel

Guests Present:

Linda Rexer, Executive Director, Michigan State Bar Foundation
Brad Vauter, State Bar of Michigan member

Consent Agenda

Minutes

The Board received the minutes of the January 24, 2007, Board of Commissioners meeting.
The Board received the minutes of the January 16, 2007, January 30, 2007, February 14, 2007, February 27, and the March 13, 2007 Executive Committee meetings.

President's Report, Kimberly M. Cahill, President

The Board received the written President's recent activities report.

Interim Executive Director's Report, Janet K. Welch, Interim Executive Director

The Board received the written Interim Executive Director's activities report and the litigation status report.

Professional Standards, Charles R. Toy, Chairperson

The Board received the Client Protection Fund Claims, the nominations for appointments to the District Character and Fitness Committee, the nominations for appointments to the ABA House of Delegates, and the nominations for the Governor's appointment to the Appellate Defender Commission.

Finance, W. Anthony Jenkins, Chairperson

The Board received the Financial Reports through February 2007, the Year-end Financial Forecast, and the Annual Retirement Plan Report.

Proposed Bylaw Amendments, Janet K. Welch, General Counsel

The Board received proposed bylaw amendment regarding Article III (Commissioner Committees) and Article VIII (Public Policy.)

Proposed Section Bylaw Amendments, Janet K. Welch, General Counsel

The Board received proposed section bylaw amendments from the Public Corporation Law and the Children's sections.

A motion was offered, supported, and carried, to approve the consent agenda.

Keller Challenge

Brad Vauter, State Bar of Michigan (SBM) member, addressed the Board to discuss his challenge to the Keller decision as it relates to the proposed tax on legal services. Mr. Vauter indicated to the Board that he did not necessarily support the proposed tax, but suggested that the Board revisit the position they have taken and opt for a more neutral position. Mr. Vauter indicated that he understands that supporting the tax on legal services proposal will not be a popular one among the members. However, he stated that he would rather see the Board withdraw general support on this legislation and remain neutral.

Ms. Welch responded briefly to Mr. Vauter's presentation, elaborating on points made in an explanatory memo distributed to the Board and Mr. Vauter. She emphasized that the position taken was opposition only to the portion of the tax on services that applies to legal services, that the State Bar realizes the serious nature of the State's budget crisis, and is urging all members to communicate to their representatives in the Legislature the measures they support for addressing the crisis.

A motion was offered and supported to dismiss the Keller challenge motion with an explanation. Discussion between the Board members took place and a roll call vote was taken to decide whether the Board supports dismissing the Keller challenge.

Commissioners Ed Pappas, Tony Jenkins and Judge William Murphy recused themselves and a roll call vote was taken. The result of the vote is 26 yea votes, 0 nay, 2 commissioners absent and excused, 1 commissioner was out of the room at the time the vote was taken, and 3 commissioners recused themselves.

The motion to dismiss the challenge was adopted.

A motion was offered, supported and carried, for the Board to enter into an Executive Session to conduct interviews with the two candidates for the Executive Director position of the State Bar of Michigan. The Board went into executive session at 10:00 a.m. The Board returned to open session at 1:15 a.m. and took a break for lunch. The Board meeting continued at 2:07 p.m., at which point Ms. Cahill announced the Board's appointment of Ms. Welch as Executive Director.

COMMISSIONER COMMITTEES

Finance - W. Anthony Jenkins, Chairperson

Financial Update

Mr. Jenkins provided the Board with a financial update.

Investment Policy

Mr. Jenkins reported that a question has been raised about the conformity of the SBM's investment policy with the requirements of PA 20 of 1963. The committee received preliminary information from staff and plans to study the issue and the requirements and provide the BOC with a report and a recommendation.

Mr. Jenkins informed the Board that at a recent Executive Committee meeting, the committee authorized the renewal of line of credit of Chase Bank to March of 2009.

Professional Standards – Charles R. Toy, Chairperson

Practice Management Resource Center (PMRC)

The Board was provided with a Practice Management Resource Center (PMRC) statistical update.

Character and Fitness Update

The Board was provided with a Character and Fitness statistical update. Mr. Toy reported to the Board that the application materials for the bar exam candidates are online and that the SBM is now able to handle the Character & Fitness applications on line.

Lawyer Referral Service Update

The Board was provided with a Lawyer Referral Service statistical update.

Mr. Toy highlighted the results of an election that was on the consent agenda. He reported to the Board that Reggie Turner was appointed to the ABA House of Delegates as a representative from Michigan. Mr. Toy responded to questions from Commissioners regarding the Appellate Defender Commission.

Programs and Services – Edward H. Pappas, Chairperson

Event Update

Mr. Pappas reported to the members that there was a written update at their places concerning upcoming member events sponsored by the State Bar. Mr. Pappas asked that the members respond to the Member Services division as soon as they can regarding their attendance at the 50-year honoree event.

Public Policy, Image, and Identity – Ronald D. Keefe, Chairperson

ADM File No. 2006-33 – Proposed Amendment of Rule 2.116 of the Michigan Court Rules

A motion was offered, supported and carried to support this amendment and to concur with the amendments set forth by the Civil Procedure section.

ADM File No. 2006-40 – Proposed Amendment of Rule 2.222 of the Michigan Court Rules

A motion was offered, supported and carried to support this proposal provided that the amendment offered by the Michigan Association of Circuit Court Administrators is incorporated.

Mr. Keefe indicated that the suggested amendment reads: “require a party moving for a change venue to tender a negotiable instrument, payable to the court to which the case is to be transferred, at or before the time the order changing venue is entered. The transferring court can then send the instrument with the case documents so that the new court does not have to engage in special handling of the transfer. The new court can open the case immediately has jurisdiction.”

Service Providers Excise Tax Act

HB 4368 Sales tax; collections; tax on services and admission transmission transactions; provide for. Creates new act.

SB 307 Sales tax; collections; tax on services and admission transmission transactions; provide for. Creates new act.

A motion was offered and supported to actively oppose this legislation to the extent that it imposes a tax on legal services. Discussion between the Board members took place and a roll call vote was taken. Commissioners Ed Pappas, Tony Jenkins, Margaret Costello, and Judge William Murphy recused themselves. The result of the vote is 26 yea votes, 0 nay, 3 commissioners absent when the vote was taken, and 3 commissioners recused themselves.

The motion to actively oppose these bills to the extent that they impose a tax on legal services, carried.

SB 105 Courts; state court administration; authority for magistrates to oversee arraignments
A motion was offered, supported and carried to support in principle.

HB 4208 Disabilities; qualified interpreter for deaf or deaf-blind individual; define and provide in certain circumstances.

A motion was offered, supported and carried to support this bill in principle provided that the language does not create a conflict with the delivery of legal services. Mr. Keefe explained that the State Bar will offer technical support. Ms. Welch indicated that the SBM has already been providing technical support and that Keller allows for the SBM to do this.

Frivolous Lawsuits in Michigan

Mr. Keefe indicated to the members that there were materials at their place regarding a proposal to address exploration of the occurrence of frivolous lawsuits in Michigan.

A motion was offered, supported and carried to support this project.

Added Item: Appellate Defender Commission Item on Consent Agenda

Concern was raised from the Commissioners regarding the appointment process of the Appellate Defender Commission. A motion was offered and supported to reconsider the recommendations provided in the Board materials due to the confusion of the process and the fact that some commissioners did not receive complete packages of information. A roll call vote was taken. The result of the vote is that 20 voted yea, 9 voted nay with three commissioners absent. The motion to reconsider the recommendations carried.

A motion was offered and supported to refer the recommendation package for the Appellate Defender Commission back to the professional standards sub committee for a review consistent with the normal practices including inviting comments from commissioners. The motion carried.

LEADERSHIP REPORTS

President's Report - Kimberly M. Cahill, President

President Cahill referred the members to a Legislative Update report at their places from Nell Kuhnmuensch, Director of Governmental Consultant Services, Inc.

President Cahill asked the Commissioners to submit their registration materials for the Bar Leadership Forum to Marge Bossenbery prior to the end of the meeting.

President Cahill reported that the Commissioners should complete the survey that was sent from Dale Lefever, facilitator for the strategic planning retreat, as soon as possible. The information received from the survey will be used to develop the agenda for the strategic planning retreat on April 16 & 17.

Executive Director's Report - Janet K. Welch, Interim Executive Director
Staff Update

Ms. Evans introduced Thomas Faulkner, new Investigator for Character and Fitness.

Mr. Horsch introduced Melissa Fishbeck, new Facilities and Administrative Services Manager.

Ms. Welch reported that Lesa Smith from ATJ/JI and Andrena Reid, file analyst for Character and Fitness have resigned.

Pension Plan Amendments

Ms. Welch referred the Board to the resolution at Tab 15 – B of the Board book, to appoint Mary Froom as administrator of both of the pension plans as well as a co-trustee of the 457 plan trust agreement, and to authorize Ms. Welch to make technical amendments to the language of the resolution.

Motion was offered, supported and carried to adopt the resolution.

FY 2008 Budget Process, Roles, and Calendar

Mr. Horsch reviewed the budget process, the role of the Board and Executive Committee, and the calendar that will be followed. The first review in June and will be presented to the Board in July for adoption by the Board.

State Bar of Michigan Directory Update

Ms. Brown provided the Board with an update on the process the SBM staff uses to develop the annual directory. Board members heard that within a one-year period there are over 19,000 changes made to the information in the directory and that from the time the data is pulled for inclusion in the directory and the time it is printed, over 1,000 address changes take place, making the directory dated when it is distributed. Ms. Brown reported that the directory is scheduled to be mailed to members around April 12.

Internal Cabinet Meeting

Ms. Welch reported that the an Internal Cabinet was convened to provide direction to the Access to Justice campaign. The membership consists of representatives from the State Bar, the Michigan Bar Foundation, and legal aid providers. Meetings were held in January and February and the next meeting is scheduled for April 12.

Representative Assembly (RA) Report – Edward L. Haroutunian, Chairperson

RA Agenda Items for April 21, 2007 meeting

Mr. Haroutunian provided the Board with an overview of the agenda for the April 21 (RA) meeting.

(RA) 35th Anniversary Celebration Plans

Mr. Haroutunian reported to the Board that the RA was formed in 1972 and plans are underway to celebrate and recognize the 35th anniversary. Ideas for this recognition include: an article in the Bar Journal, recognition of some of the chairs of the RA perhaps somewhere in the Bar building, and a reception as part of the annual meeting. Mr. Haroutunian will inform the Board once plans have been finalized.

Mr. Haroutunian reported that on behalf of the RA he presented a plaque honoring Judge Gene Schnelz's many years of service as RA parliamentarian to the judge at his retirement party.

OTHER REPORTS

American Bar Association Report (ABA) – W. Anthony Jenkins, State Delegate

Mr. Jenkins provided the Committee with an update on the ABA mid-winter conference. He indicated that Mr. Ulrich provided each of them with a final written report. Mr. Jenkins also reported that the annual conference is scheduled to take place in August and is being held in San Francisco. He will circulate the tentative agenda once he receives it from the Rules and Calendar committee.

Justice Initiatives Report - Hon. Cynthia Diane Stephens, Chairperson

Mr. Reide referred the Board to an annual report in their materials.

Young Lawyers Section Report - J. J. Conway, Chairperson

Mr. Fergan, on behalf of Mr. Conway, referred the Board to a written report on the activities of the Young Lawyers Section at everyone's place.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

There was none.

Comments or questions from the public

There was none.

Adjournment

The meeting was adjourned at 3:10 p.m.