

FINAL

Environmental Law Section Council

Minutes

November 10, 2007

Present in Lansing: Susan Topp, John Byl, John Tatum, Scott Hubbard, Chuck Barbieri, Chris Dunsky, Jeffrey Haynes, Bob Schroder, Grant Trigger, Charles Toy

Present by phone: Craig Hupp, Mike Caldwell, Anna Maiuri, Matt Eugster

Susan Topp called the meeting to order at 10:10 a.m.

1. MINUTES:

John Tatum moved, with support by John Byl, to approve the minutes of the September 27, 2007 meeting. The motion passed unanimously.

2. SECRETARY-TREASURER'S REPORT:

Chuck Barbieri presented the Secretary-Treasurer's Report and advised that the Section's account had a balance of \$45,368.70 based on State Bar records. John Tatum moved to accept the Treasurer's Report and John Byl seconded. The motion passed unanimously.

Grant Trigger recommended that the Officers and Council plan a budget for revenues and expenditures for the upcoming year.

3. STANDING COMMITTEE REPORTS:

A. Membership Committee.

Susan Topp reported on behalf of Committee Chair Dustin Ordway that there was no Committee Report.

B. Program Committee.

Susan Topp reported that the Section will co-sponsor a seminar on November 28, 2007, along with the East and West Michigan Chapters of the Air and Waste Management Association ("AWMA"). She also reported that Steve Chester, Director of the Michigan Department of Environmental Quality ("MDEQ"), had sent her an e-mail expressing his surprise that the program for the seminar did not include any presenter from MDEQ. Craig Hupp noted that Vince Helming of MDEQ is a member of the Board of the East Michigan AWMA, and presumably

could have obtained an appropriate MDEQ presenter for the program. John Tatum proposed that Susan Topp respond to Mr. Chester's e-mail and urge MDEQ and the Department of Attorney General ("MDAG") to participate more actively in Environmental Law Section activities. Chris Dunsky suggested that a telephone call might receive more attention than an e-mail response. The matter was concluded when Susan Topp requested John Tatum to call Mr. Chester to invite an MDEQ presenter to participate in the November 28, 2007 seminar and to welcome greater participation by MDEQ and MDAG in Environmental Law Section matters.

Finally, Susan Topp noted that the Program Committee also plans to hold a "nuts and bolts" winter program at a ski resort or other location in northern Michigan, perhaps Otsego or Boyne, in late February or early March, 2008.

C. Environmental Law Journal.

John Byl noted that Lee Johnson, the current Journal editor, has material from several sources ready for publication, but has not published the Michigan Environmental Law Journal since Summer of 2006. Bob Schroder, former editor of the Journal, expressed concern that the Journal had not been published for a year and wondered whether Lee Johnson needs help. John Byl reported that he had discussed the status of the Journal with Lee Johnson, and that Johnson's busy work load may be a factor. Chris Dunsky volunteered to speak with Johnson on this issue and to suggest several alternatives for him to consider, including an offer by Bob Schroder either to provide assistance or to resume responsibility for the Journal.

D. Technology Committee.

John Tatum reported that the Family Law Section had begun a "wiki" site operated by the State Bar which enables members to create and revise articles of interest to that Section in a manner similar to the popular "wikipedia" online encyclopedia. Tatum suggested that the Environmental Law Section may want to establish a similar "wiki." There was much discussion concerning how such an online service would operate and who would control and/or edit the content of such a site. No action was taken.

John Tatum noted that Section Member Charles Toy will become President of the State Bar on October 1, 2009, and suggested that the Section should seek to have the October 2009 version of the State Bar Journal devoted to environmental law issues. John Byl and Anna Maiuri offered to see what can be done to achieve that result.

E. Deskbook Committee.

Jeff Haynes wants to publish a new Deskbook both in print and on the State Bar website where access would be free for State Bar Members. He suggested that the Deskbook could be published one chapter at a time, perhaps with preliminary versions given to Council members for review. The online version could contain

links to reported cases and statutes, and possibly include links to a “wiki” where readers could be allowed to supplement the text of the chapter with comments. Haynes is working with Tatum on the “wiki” issue.

So far Haynes has received a chapter on water pollution from Tom Wilczak and has a draft chapter from Paul Bohn. Joe Quandt has nearly completed a draft chapter on takings. Haynes has received outlines of chapters from all other attorneys who have assignments.

Trigger suggested that the Section use its budget to provide more support for completing the Deskbook project. He also questioned whether allowing non-authors to publish comments in a “wiki” format would be appropriate for a scholarly project like the Deskbook. Haynes suggested that the Section sponsor a web log (“blog”) as an alternative to including a “wiki” feature in the Deskbook. Bob Schroder suggested that sponsoring a blog could be a way to stimulate articles for publication in the Michigan Environmental Law Journal. Charles Toy stated that Ann Vrooman, an employee of the State Bar, is available to help Sections with “cutting edge” technological issues including blogs, and wikis, and offered to put Tatum and Haynes in touch with her.

4. SUBJECT MATTER COMMITTEE REPORTS

A. Air Committee.

No report.

B. Environmental Litigation Administrative Practice Committee.

No report.

C. Hazardous Substances and Brownfield Committee.

Craig Hupp reported that Charlie Denton has taken over as new Chair of the Committee and intends to plan a meeting to discuss a recent Sixth Circuit decision.

D. Natural Resources Committee.

No report.

E. Water Committee.

No report.

5. LIAISON REPORTS

A. Real Estate Section.

Pat Paruch submitted a report by e-mail on November 7, 2007. The reported noted that Melissa Papke of Varnum Riddering and Richard Sundquist of Clark Hill are Co-Chairs of the Environmental and Energy Law Committee of the Real

Property Law Section, and that Pat will continue as the Committee Coordinator with the Environmental Law Section. She also noted that the Environmental and Energy Law Committee is looking for an author to produce an article for the spring 2008 Michigan Real Property Review.

6. CHAIRPERSON'S REPORT

Sue Topp reported that the Section is responsible for part of the costs for the AWMA seminar to be held in November at Lansing Community College. The total costs are about \$6,000. Chuck Barbieri stated that we should inform law schools about this event. John Byl noted that professors at law schools are our best contacts and offered to provide a list of our law school contacts.

Grant Trigger suggested that the Section should offer two scholarships (at a cost of \$40-\$50 each) for two law students to attend the AWMA program. Grant Trigger made a formal motion to this effect, supported by John Byl. The motion was passed unanimously.

John Tatum and Craig Hupp noted that they are working on a Clean Air Act mock negotiation session at one or more law schools.

Susan Topp reported that she had received a survey from the Computer Law Section asking what web-based tools the Section uses to serve our members. John Tatum had discussed this with the Computer Law Section. Topp delegated this issue to Tatum for further handling.

Peter Holmes noted that according to the Section's by-laws, recent Section Chairs should be listed as ex officio members of the Environmental Law Section Council, and requested that Section documents be corrected accordingly.

Sue Topp informed the Council that John Byl had recently been listed in Who's Who – International for Environmental Law, and expressed congratulations to him on behalf of the Council for that accomplishment.

Sue Topp directed a discussion of goals for the Section to achieve during the coming year as follows:

- Deskbook Committee: Have one chapter up on the web by the next Council Meeting, and several additional chapters done by the June Council Meeting.
- Michigan Environmental Law Journal: Publish three or four times during calendar year 2008.
- Continue to hold quarterly Council Meetings. The next Council Meeting will be on February 23, 2008 at Michigan State University Law School.
- Develop plans for revenues and expenditures.

- Propose a State legal milestone related to environmental law.

7. NEW BUSINESS

Sue Topp presented John Byl with a copy of Russ Cobane's print in recognition of his service as Council Chair for the past year.

8. OLD BUSINESS

Anna Maiuri offered the use of Miller Canfield's video conferencing facilities in Grand Rapids, Lansing and/or Detroit for Council purposes, possibly including Council meetings.

The meeting adjourned at noon.

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