

APPROVED 2/5/09

Environmental Law Section Council

Minutes

November 5, 2008

Present in East Lansing, Michigan: Charles Barbieri, Kurt Brauer, Charlie Denton, Christopher Dunsky, Matthew Eugster, Kenneth Gold, Joshua Gubkin, Jeffrey Haynes, Scott Hubbard, Lee Johnson, Kurt Kissling, James O'Brien, Dustin Ordway, Robert Schroder, John Tatum

Present by Phone: John Byl, Michael Caldwell, Timothy Lozen

Section Chair Chuck Barbieri called the meeting to order at 4:30 p.m.

1. MINUTES OF PRECEDING COUNCIL MEETING

The draft minutes of the Council's September 18, 2008 meeting were prepared and submitted by Chris Dunsky. Item 5A of the draft minutes were changed to note that Kurt Kissling is Vice-Chair (not Chair) of the Air Committee. As revised, it was moved by Tim Lozen and seconded by Dustin Ordway to approve the minutes. The motion passed unanimously.

2. SECRETARY-TREASURER'S REPORT

The final financial report for the fiscal year ended September 30, 2008 was discussed by Chris Dunsky, including noting that the increased fund balance was due to expenses being less than budget (*e.g.*, Deskbook and Journal expenses previously approved were not spent). It was moved by Jeff Haynes and seconded by Scott Hubbard to approve the Secretary-Treasurer's final financial report for 2007-2008 and the motion passed unanimously.

New Secretary-Treasurer Charlie Denton presented the draft 2009 budget. The discussion items included an estimated 5% decline in dues revenue; Deskbook expenses previously approved and estimated to be expended in the amount of \$15,000 during this year; expenses for a plaque and incidental costs relating to the Legal Milestone Event; and a full year of 4 Journal issues. Potential revenue from the Environmental Deskbook was also discussed, but is not anticipated to be a possibility until next year. Based on the discussion, a revised draft budget for fiscal year ending September 30, 2009 will be presented for action at the next Council meeting.

3. STANDING COMMITTEE REPORTS

A. Membership Committee

Dustin Ordway discussed Membership Committee activities including website updates and outreach to government and student members (with waiver of Section membership dues). There was further discussion as to whether this membership outreach should also include non-governmental organizations (*e.g.*, Sierra Club, National Wildlife Federation). There was also a question as to whether these new government and student members are on our ELS list-serve to receive information about our Section activities.

B. Program Committee

Kurt Brauer and Jim O'Brien reported on the joint program with AWMA which had been held on the day of the Council meeting in East Lansing, with approximately 150 attendees.

A February or March program is being planned with the Real Estate Section, which might also include coordination with a floodplains association.

In June we will again have our annual Higgins Lake meeting and program.

There was also discussion of a possible Business Law Section joint program on sustainability issues. Chuck Barbieri asked Kurt Brauer to have initial communications with Craig Hupp of our Section and Diane Akers who is the chair of the Business Section about working with that Section,

C. Michigan Environmental Law Journal

Michigan Environmental Law Journal Bob Schroder described his plans to publish 4 issues during this year, and that he is in need of articles from our membership to fill upcoming editions. Law students prepare case notes. Electronic publishing is proceeding well with fewer hard copies being requested.

D. Technology Committee

John Tatum described plans to update the Deskbook on the website, and also to provide a blog opportunity to discuss and comment on environmental and regulatory matters.

E. Deskbook Committee

Deskbook Committee Jeff Haynes, with John Tatum, updated the Council on the status of submittal of chapters for the Deskbook, which will be electronically posted as completed. The Deskbook Committee has targeted September 2009 for

completion of all approximately 20 chapters. They are working on searchable rules and links to case decisions included in the chapters. The Council also discussed possible revenue opportunities, which may be more meaningful once the Deskbook is substantially complete.

4. SUBJECT MATTER COMMITTEE REPORTS

A. Air Committee

Lee Johnson and Kurt Kissling reported on the joint program with AWMA conducted during the day preceding the Council meeting. The Air Committee is also planning a January 21 meeting and program, as well as a possible MDEQ Climate Change Program in the Spring.

B. Environmental Litigation Administrative Practice Committee

No report.

C. Hazardous Substances and Brownfield Committee

Charlie Denton and Josh Gubkin reported on the upcoming December 11 meeting and program in Lansing with MDEQ-RRD discussing Part 201 program developments.

D. Natural Resources Committee

No report.

E. Water Committee

No report.

5. LIAISON REPORTS

A. State Bar of Michigan Board of Commissioners

Charlie Toy is State Bar President-Elect, and his input is discussed below on Legal Milestone and Section Issues.

B. Real Estate Section

Real Estate Section Pat Paruch provided her report by the following e-mail to the Council in advance of the meeting:

1. The Environmental and Energy subcommittee of the RPLS is still in the formative stages, although they have identified that they intend to focus on alternative energy issues. I notice that you have this topic on your Agenda as well. There may be some opportunities for collaborative work here.

2. I spoke with Kurt Brauer this morning about a possible joint RPLS/ELS sponsorship of a winter program. Kurt and the Program Committee are considering an all-day Saturday seminar rather than an up-north weekend. The sooner the RPLS knows the details, the sooner they can get notices and publicity out to their Section members. Let me know what I can do to help. The RPLS requires Council approval for co-sponsorship even when it doesn't involve the expenditure of funds. The next RPLS Council meeting is in early December.

6. CHAIRPERSON'S REPORT

A. Goals for 2008-2009

Chuck Barbieri described and discussed his goals for the Environmental Law Section during the 2008-2009 year, including continued emphasis on launch of the Deskbook; increasing breadth and number of Section participants; establishment of a committee on alternative energy/climate change/sustainability; and expansion or changes of existing areas and committee leadership. The Council's discussion focused on climate change as a cross-disciplinary effort, possibly including coordination with other State Bar Sections; it was preliminarily decided to have an informal organizational call among interested ELS members to see if someone was interested in establishing and leading this new Committee. George Curran was identified along with Courtney Goldberg as possible leaders or chairs for this new sustainability/climate change committee. There was also discussion of possible changes in other subject matter committee leadership.

B. Community Legal Resources

There was discussion of in-kind services to be contributed to Community Legal Resources on a *pro bono* basis; Ken Gold will investigate and report back at our next Council meeting.

C. Judicial College

Volunteer teachers to educate judges on environmental law issues through the State Bar were solicited; it was suggested that when the judicial college is scheduled an e-mail be sent to the ELS list serve asking for volunteers.

D. Legal Milestone

The Pigeon River Legal Milestone for the Environmental Law Section will be dedicated during the coming year with a plaque or other roadside marker.

E. Section Issue

The October 2009 issue of the State Bar Journal will have an environmental law theme. It was discussed and agreed that articles would be submitted from each of subject matter committees, with commitments necessary by January 2009.

F. Law School for Legislators

Volunteer teachers through the State Bar for educating legislators on environmental law issues will again be coordinated once a date is set for the program.

7. CHAIRPERSON-ELECT'S REPORT

Chris Dunsky had no additional report.

8. NEW/OLD BUSINESS

There was no new or old business to come before the Council.

The next meeting of the Environmental Law Section Council will be in February 2009.

The meeting was adjourned at 6:15 p.m., and was followed by dinner.

Respectfully submitted,

Charles M. Denton
Secretary-Treasurer