

FINAL

Environmental Law Section Council

Minutes

September 18, 2008 Annual Meeting

Officers and Council Members Present in Dearborn, Michigan: Susan Topp, Charles Barbieri, Christopher Dunsky, Kurt Brauer, Timothy Lozen, Anna Maiuri, James O'Brien, Michael Caldwell, Ken Gold, Dustin Ordway, Dennis Donohue, Patricia Paruch, Ernest Chiodo, Jeffrey Haynes

Section Chair Susan Topp called the meeting to order at 4:30 p.m.

1. MINUTES OF PRECEDING COUNCIL MEETING:

The July 2, 2008 draft minutes of the Council's June 14, 2008 meeting were posted on the Section's website. Tim Lozen moved, with support by John Byl, to approve the minutes. The motion passed unanimously.

2. SECRETARY-TREASURER'S REPORT:

Chris Dunsky distributed copies reports from the State Bar regarding the Section's finances for the eleven months ending August 31, 2008. The Section has a balance of \$59,630.04.

The Secretary-Treasurer's Report was accepted.

3. NOMINATING COMMITTEE REPORT:

Chair Susan Topp reported that the Nominating Committee she appointed before the June 14, 2008 Council meeting submitted a report recommending that the following be elected as Officers and as members of the Environmental Law Section Council for 2008-2009:

- Chair: Charles Barbieri by operation of the Section's By-Laws
- Chair Person Elect: Christopher J. Dunsky
- Secretary-Treasurer: Charles Denton
- To Serve Second Three Year Terms On Council: Kurt Brauer, Dennis Donohue, Matthew Eugster, Kenneth Gold, Patricia Paruch

The report of the Nominating Committee had been distributed electronically to all members of the Section on July 11, 2008. The Chair invited nominations from the floor. No nominations from the floor were received. John Byl moved to approve the

recommendations of the Nominating Committee. Anna Maiuri seconded the motion. The motion was approved unanimously.

4. **STANDING COMMITTEE REPORTS:**

A. Membership Committee.

Committee Chair Dustin Ordway reported that the Committee has prepared a revised form to be used by those applying for membership in the Section, and has requested comments from Council Members on it. He also reported that a list of Section members who have either completed 40 hours SCAO training in mediation, or have been certified by either the United States District Court for the Western District of Michigan or the Eastern District of Michigan, has been posted on the Section's website.

B. Program Committee.

Committee Chair Kurt Brauer reported that the next Section program will be on November 5, 2008 at the Kellogg Center in East Lansing. Recently appointed EPA Regional Administrator Lynn Buhl has agreed to be a luncheon speaker. The Committee is also planning a winter meeting to be held in February or March, 2009 in a ski area. The Committee will consider conducting that meeting as a joint meeting with the Real Property Section.

C. Environmental Law Journal.

Editor Bob Schroder reported that the third issue of the Michigan Environmental Law Journal is due to be published in October 2008. The Journal needs additional publishable materials and Schroder urged each subject matter Committee to submit an article for publication. The Journal also needs law students to prepare case notes.

Schroder reported that the writing competition sponsored by the Journal was very successful, with approximately twelve essays submitted by law students at law schools across the country. The winners of the competition, and the titles of their articles, are as follows:

- First Place: Linus Y. Chen, Emory University School of Law: "Entrusting Endangered Species Recovery In A Public/Private Trust"
- Second Place: Justin Waggoner, University of Kansas School of Law: "Why Transit Oriented Development Measures Have Merit"
- Third Place: Jim Roush, Wayne State University School of Law: "The Ban On Incandescent Light Bulbs"

The Chair acknowledged the third place winner, who was present at the meeting, and the Section membership applauded his accomplishment.

D. Technology Committee.

Committee Chair John Tatum briefly noted that the Committee had distributed DVDs of the Section's February program to approximately seven individuals and organizations that had requested it. Chair Susan Topp noted that Tatum has provided many years of valuable service to the Section on technology issues, in addition to his service as an officer of the Section. Section members applauded Tatum in recognition of his services.

E. Deskbook Committee.

Committee Chair Jeffrey Haynes distributed a chart listing chapters of the Deskbook that are available for review on the Section's website. He noted that sections of the Deskbook will have electronic links to judicial decisions, DEQ regulations, and other useful sources.

5. SUBJECT MATTER COMMITTEE REPORTS

A. Air Committee.

Section Chair Susan Topp reported that Committee Vice-Chair Kurt Kissling submitted a written report stating that the Air Committee is working on a program to be held on November 5, 2008 in Lansing in conjunction with the Air and Waste Management Association.

B. Environmental Litigation Administrative Practice Committee.

Committee Chair Ernest Chiodo reported that this year the Committee conducted a series of lectures on both the east side and the west side of the State, and plans to continue such lectures in the coming year. The Committee may use teleconference services provided by Varnum Riddering so that the programs can be conducted simultaneously in Varnum's Novi office and Varnum's office in Grand Rapids. It is also considering conducting some of its programs at law schools in the state.

C. Hazardous Substances and Brownfield Committee.

Co-Chair Charlie Denton reported that the Committee conducted several programs this year, including programs on Jeff Haynes' argument to the United States Supreme Court and on the ASTM due care standard. The Committee's next program will be on the report of the working group on Part 201 of NREPA.

D. Natural Resources Committee.

No report.

E. Water Committee.

Committee Chair Dennis Donohue reported that on September 15, 2008 the Committee co-sponsored a program with the University of Michigan Law School concerning the Great Lakes – St. Lawrence River Basin Water Resources Compact. The program was well attended, and Professor Sara Gorman, a lecturer at the University of Michigan Law School, has expressed an interest in becoming more actively involved in Section activities.

6. LIAISON REPORTS

A. Real Property Section.

Council Member Pat Paruch reported that the Real Property Section has established an environmental law committee which will work on alternative energy issues, among other environmental topics. She also reported that the Real Property Section would like to co-sponsor a program with the Environmental Law Section similar to the joint program that was conducted at Crystal Mountain in the past.

B. Bar Liaison.

Charles Toy was present for the Section program that preceded the Council meeting, but was unable to attend the Council meeting because of a schedule conflict.

7. CHAIRPERSON'S REPORT

On the Legal Milestones Project, John Tatum noted that the Legal Milestones Committee is moving slowly in selecting an environmental legal milestone.

Chair Susan Topp noted that proposed amendments to the Section's By-Laws were distributed by e-mail to all Section members on July 11, 2008. A redline version of the By-Laws showing the amendments is attached. The proposed amendments eliminate the \$2.00 annual dues for law student members of the Section. The members of the Section approved the By-Law amendments by a vote of more than two-thirds of the members present in person at the Annual Meeting. The amendment must be approved by the Board of Commissioners of the State Bar of Michigan to become effective.

Chair Susan Topp reported that the State Bar is looking for members of the Bar to help conduct a "law school for legislators." The program would consist of 90-minute classes for legislators on various legal matters, including environmental law. Any Section Members interested in participating in that program should contact Charles Barbieri.

The Chair also reported that the Department of Environmental Quality has asked the Section to assist with a program on floodplain management. The program will be presented by a FEMA attorney and is intended to teach lawyers and others how to deal with floodplain management issues. John Byl expressed the view that this is a topic of

interest and should be publicized on the Section's website, and that members of the Real Property Section may also be interested. It is unclear what sort of assistance DEQ is seeking from the Section. Susan Topp will inform DEQ that the Section is interested and that new Chair Barbieri will be in touch with DEQ on this issue.

The Chair thanked the Section for providing her the opportunity to serve as an officer of the Section for the past three years, and passed the gavel to incoming Chair Barbieri.

8. NEW CHAIRPERSON'S REPORT

New Chair Charles Barbieri presented Susan Topp with a plaque expressing appreciation for her service to the Section. Former Chair Grant Trigger also presented her with a copy of Russ Cobain's print memorializing milestones in Michigan environmental law.

Chair Barbieri reminded the members of the dinner to be held at Andiamo's restaurant after the meeting. Tim Lozen moved to adjourn the meeting, with support from John Byl. The members approved the motion and the meeting was adjourned at 5:15 p.m.