

Environmental Law Section Council
Minutes
February 3, 2007

Present: Anna Maiuri, John Byl, Scott Hubbard, Chris Dunsky, John Tatum, Charles Toy, Dustin Ordway, Steve Kohl, Ernest Chiodo, Grant Trigger, Lee Johnson, Chris Bzdok

On Phone: Pat Paruch, Tim Lozen, Joe Quandt, Dennis Donohue, Susan Topp, Steve Huff

Meeting called to order at 10:30 a.m.

1. MINUTES:

The minutes of the November 9, 2006 meeting as corrected were approved.

2. SECRETARY-TREASURER'S REPORT:

Chuck Barbieri presented the Secretary-Treasurer's Report. He reported that Section's account as of this meeting had a balance of over \$51,000 based on the State Bar records.

3. STANDING COMMITTEE REPORTS:

A. Membership.

Report by Dustin Ordway. Ordway passed out a summary of survey responses of Environmental Law Section Council members. Ordway indicated that the survey provided positive feedback on the programs offered by the Section. The survey also revealed that members were generally pleased with communications through Listserve. He also reported that the members which responded were primarily members of law firms. Discussion focused on increasing membership of government attorneys and students. Several participants urged the adoption of a new fee structure which would require bylaw changes for membership. A consensus developed on establishing a student fee of \$10.00, a fee for nonprofit and governmental attorneys of \$20.00, and a \$30.00 fee for all other practitioners. During this discussion, the participants also recommended that the treasurer prepare a budget.

Discussion then turned to Listserve. John Tatum outlined some of the options for providing announcements and procedures for subscribing and unsubscribing to the Listserve.

B. Program Committee.

Susan Topp reported that a winter environmental seminar would include a number of topics, including environmental due diligence, administrative law, environmental insurance, dispute resolution, water quality, mineral extraction, citizen suits, natural resource damages and other topics was planned for March 2, 2007 at the Otsego Club in Gaylord. President John Byl noted that the annual Higgins Lake meeting would occur on June 16-17 and that a program was being developed.

C. Michigan Environmental Law Journal.

Lee Johnson reported that he did not have enough articles yet for the next issue. Johnson also raised the possibility of reviving the Stat of the Law Summary which has been abandoned in recent years. Johnson proposed that he would secure commitments from the Section's subject matter committees and the State's law schools to help in reviving the State of the Law Summary.

D. Technology.

This topic was discussed during the membership committee report.

E. Desk Book.

Council members were told that a few chapters of the Desk Book have been submitted. Consideration is being given for blogs and podcasts to be added as a feature of the Desk Book effort.

4. SUBJECT MATTER COMMITTEE REPORTS:

A. Air.

Lee Johnson reported that the program of February 3, 2007 would focus on several significant United States Supreme Court cases, Massachusetts v EPA (regulation of greenhouse gases) and Environmental Defense Fund v Duke Energy Corp, and would include several guest speakers.

B. Environmental Litigation.

Report was provided by Ernest Chiodo and Steve Huff. Chiodo reported that the last presentation on law and medicine concerned asbestos which was held in Detroit and Grand Rapids. He indicated that the next presentation on law and medicine related to lead would be held in Detroit, Grand Rapids and one of the state law schools. Huff also discussed the topic of expert witness testimony in light of a new Court of Appeals decision.

C. Hazardous Substances and Brownfields.

No report.

D. Natural Resources.

No report was offered.

E. Water.

Dennis Donohue indicated that his group recently had a meeting focusing on the Nestle case. That case recently involved a Supreme Court argument on the standing issue and an MDEQ determination of no adverse impact for groundwater extraction.

5. LIAISON REPORTS.

A. Real Estate Section.

Pat Paruch indicated that the legislative session at the end of the year was quiet. She indicated that real estate section was having a winter conference in March.

6. CHAIRPERSON'S REPORT.

Report by John Byl. President Byl reported that he had been contacted about participating in a legal milestone recognition of Ray v Mason County, a Supreme Court case which was one of the first cases involving the interpretation of the Michigan Environmental Protection Act. President Byl also reported on possible legislation to adopt the Uniform Environmental Covenants Act which has been introduced by Senator Patterson. The Council recommended that discussions with the DEQ and Senator Patterson's office be pursued. The Council also considered a request to provide funds for a scholarship to a student through the Office of Administrative Hearings. Finally, President Byl reported that the State Bar meeting will be in Grand Rapids on September 27th, the meeting will be at DeVos Place.

7. VICE-CHAIRPERSON'S REPORT.

No Report.

8. OTHER NEW OR OLD BUSINESS.

None.

Meeting adjourned at approximately 12 noon.