

DRAFT 7/2/2008

Environmental Law Section Council

Minutes

June 14, 2008

Present At Ralph McMullen Center, Higgins Lake: Susan Topp, Chuck Barbieri, Christopher Dunsky, John Tatum, Kurt Brauer, Timothy Lozen, Anna Maiuri, Craig Hupp, James O'Brien, John Byl

Present by phone: Scott Hubbard, Dustin Ordway, Kurt Kissling, Matthew Eugster and Michael Caldwell

Susan Topp called the meeting to order at 10:00 a.m.

1. **MINUTES OF PRECEEDING MEETING:**

Secretary-Treasurer Chris Dunsky distributed copies of the May 19, 2008 draft of the Council's February 23, 2008 meeting, which had previously been distributed for review by e-mail. Tim Lozen moved, with support by Anna Maiuri, to approve the minutes of the February 23, 2008 meeting. The motion passed unanimously.

2. **SECRETARY-TREASURER'S REPORT:**

Chris Dunsky distributed copies of the report from the State Bar for the Section's finances for the eight months ending May 31, 2008. The Section has a balance of \$62,603.32, much of which the Council authorized at its last meeting for use on the Deskbook. John Tatum noted that he and Jeff Haynes have just hired a law student to work for the Section on cite-checking chapters for the Deskbook. Susan Topp reported that Jeff Haynes has received first drafts of Deskbook chapters for water, takings, and wetlands, and expects to receive drafts of two more chapters soon. However, there are some chapters for which the authors have not yet submitted outlines. Haynes expects three chapters to be ready for publication in electronic form soon, and all chapters may be ready for electronic publishing by the State Bar annual meeting in September. Susan Topp suggested, and the Council agreed, that chapters should be published electronically when available rather than waiting for all chapters to be completed.

The Secretary-Treasurer's Report was accepted.

3. STANDING COMMITTEE REPORTS:

A. Membership Committee.

Dustin Ordway reported that a membership directory of Section members has been circulated, and that he received appreciative comments from many members.

Ordway also reported that 14 individuals have requested to be listed on the Section's web page as "certified mediators," and that he will confirm that each of them has some sort of certification before listing them. Discussion followed concerning various forms of certification available to mediators. Several Council Members were of the view that we should not insist on any particular form of certification as long as the individual to be listed has some formal training in the skills necessary to be an effective mediator. After discussion, Ordway moved to send the list to the Council for approval prior to posting. The posting will indicate what certification or qualification each mediator has, with an explanation that the Section makes no representations concerning the adequacy of any particular individual's training or qualifications to serve as a mediator. Craig Hupp seconded, and the motion was approved.

It was noted that the Section's Bylaws establish annual dues of \$2.00 for law students, although the Council has waived collection of those dues because the amount is too small to make it worthwhile to collect them. Craig Hupp moved that Council: (1) continue its current practice of waiving dues for students, pending possible change in the Section's Bylaws; and (2) direct the Chair to start the process of amending the Bylaws to waive dues for law student members of the Section permanently. The motion passed.

Chuck Barbieri moved that the Council waive dues for the 2008-2009 year for all employees of the State of Michigan. Dustin Ordway moved to amend the motion to provide for the waiver of dues for 2008-2009 for employees of all governments. Barbieri accepted the amendment. After discussion, the motion, as amended, was passed. It was suggested that the Membership Committee broadcast this information to the Michigan Municipal League and state agencies as soon as possible so that we can determine whether the waiver of dues substantially increases participation in Section activities by government employees.

B. Environmental Law Journal.

No report.

C. Technology Committee.

John Tatum reported that he is trying to post a video of the Council's February program on agency decision making on the Section's website, but the State Bar has difficulties making sufficient bandwidth available for a file of that size.

Tatum said that he can provide copies of the program on DVD. He also noted that Mark Cooney of Cooley Law School has offered to let the Section use its facilities again for programs.

D. Program Committee.

Kurt Brauer distributed the attached one-page report on Program Committee activities dated June 12, 2008, with information concerning the program held on June 13, 2008 regarding the Grayling Stormwater Project, the MDEQ Environmental Bond Program, and updates to the Michigan brownfield program. His report also identifies three topics for discussion at the September annual meeting, and a proposed joint program in November, 2008 with the East and West Michigan Chapters of the Air and Waste Management Association.

Brief discussion followed on whether the Council should continue its tradition of having a program and meeting at Higgins Lake in June in 2009. Early June has been found to be a bad time because it conflicts with school graduations. This years meeting conflicted with the Bar Leadership Forum, the Upper Michigan Legal Institute, and the Chairs presentation of report to the Board of Commissions on Mackinac Island. The Council scheduled next year's meeting for June 19-20 and agreed that we need to do a better job promoting and marketing the program both for its educational value and as an opportunity for a family weekend.

E. Deskbook Committee.

Issues concerning the Deskbook were discussed above.

4. SUBJECT MATTER COMMITTEE REPORTS

A. Air Committee.

Kurt Kissling reported that the Air Committee is working on a fall program to be held in conjunction with the Air and Waste Management Association. The program is expected to cover Maximum Achievable Control Technology and other air issues. The Air Committee is also considering a program for this Winter.

B. Environmental Litigation Administrative Practice Committee.

No report.

C. Hazardous Substances and Brownfield Committee.

Craig Hupp reported that Chair Charlie Denton postponed a program that the Committee had scheduled for the first weekend of June and expects to hold that program in the Fall.

D. Natural Resources Committee.

No report.

E. Water Committee.

No report.

5. LIAISON REPORTS

A. Real Estate Section.

Pat Paruch was not present but distributed the attached report by e-mail to Council Members before the meeting.

B. Bar Liaison.

Charles Toy was not present.

6. CHAIRPERSON'S REPORT

Chair Susan Topp noted that she filed the attached Annual Report for the Section which will be published in the September Bar Journal.

Topp also noted that she needs a 75 word summary of Council activities for the next Bar Journal, and asked John Tatum to write a short statement concerning the work the Technology Committee has been doing, which she considers to be outstanding.

Concerning September's annual meeting, Topp noted that we need to select a place for dinner in or near Dearborn. She appointed a Committee of Craig Hupp and Chris Dunsky to suggest several appropriate restaurants that could be reserved for this event.

On the Legal Milestones Project, John Tatum noted that the Legal Milestones Committee Chair is interested in an environmental legal milestone connected to the Great Lakes, rather than the Ray Township or Pigeon River cases that have been discussed previously. One possibility is the Supreme Court decision regarding access to Great Lakes shorelines. The Council took no specific action on this issue.

Topp noted that the American Arbitration Association would like to make a presentation concerning the availability of its services, and referred this issue to the Program Committee for consideration.

Topp reported that a Nominating Committee consisting of her, Chair-Elect Barbieri, Secretary-Treasurer Dunsky, and Council Member Anna Maiuri was not able to propose a slate of new Council Members because it had incomplete information concerning how many current Council Members must be replaced. The Nominating Committee will complete the discussions it has started after it obtains the necessary information from the State Bar and will propose a slate to Council by e-mail for its approval.

7. **NEW BUSINESS**

Susan Topp presented comments from Jim Olson about a new EPA final rule that would eliminate the necessity for NPDES permits for certain transfers of water from one water body to another. Brief discussion followed.

8. **OLD BUSINESS**

Chair Topp reported that Grant Trigger had offered to investigate an offer to sponsor a joint program with the American Bar Association's State and Regional Environmental Cooperation Committee (SRECC), but that she had heard no report from him. Mike Caldwell and Jim O'Brien both offered to contact Trigger and the SRECC to offer to help with this issue. Topp will e-mail both of them information that she received from the SRECC.

The next Council meeting will be 5:00 p.m. on September 18, 2008 in Dearborn at the State Bar Annual Meeting.

The meeting adjourned at noon.

MEMORANDUM

TO: SBM Environmental Law Section/Program Committee
FROM: Kurt M. Brauer
DATE: June 12, 2008

RE: **Environmental Law Section -- Program Committee Meeting Minutes June 11, 2008**

Attendees: Kurt Brauer
Bill Shikora
Kurt Kissling

1. Kurt Brauer advised the Committee that the Jun 13, 2008 program at Higgins Lake would include a tour of the Grayling Storm Water Project, followed by lunch at a local eatery. In the afternoon, the program would continue at the RAM Center with guests from the Michigan Department of Environmental Quality (Bob Wagner, Patti Brandt and Pat McKay). The MDEQ guests will discuss the current environmental bond request and follow up on the Part 201 on working group discussions. In addition, John Byl will present an update to the Brownfield Act. As of June 11, 2008, 24 people had signed up for the program, including the tour.

2. Kurt Brauer outlined the Annual Meeting program. The program will be held in conjunction with the Annual Meeting, which is on September 18, 2008 from 2:00 – 5:00 p.m. Topics to be discussed at the meeting will include:

(a) Climate Change-State of the Law (45 min.)(George Curran and Cortney Goldberg)

(b) Brownfield Redevelopment – Updates and Board Clay Mine Project (45 min.)(John Byl and Grant Trigger)

(c) Legislative update from the Hon. Patricia Birkholz (30 min.)

3. The Committee discussed a potential November 12, 2008 fall program. Kurt Brauer has reserved a room at the State Bar Building for a full day program on November 12, 2008. Messrs. Kissling and Shikora noted that the East and West Michigan Chapters of the Air and Waste Management Association would be holding a joint fall program in Lansing in early November. Mr. Kissling will contact Mr. Johnson to determine whether the State Bar of Michigan would also be welcome to participate in the joint program. He will provide an update at the ELS Council meeting. The joint program would be similar to the very successful joint program held in the fall of 2007. In the event that there was participation in a joint program with the AWMA, the Committee thought it would be appropriate to reconsider whether to hold an additional program through the State Bar. That topic will be discussed at the next Committee meeting.

4. The Committee discussed potential topics and partnering with other organizations (potentially Michigan Association of Environmental Professionals) for a February program. The consensus was that a full-day program located in Lansing would be appropriate.

5. Next Meeting-July 9, 2008 at 5:30 p.m. Call in number (800) 270-1153; PassCode 123915.

Dunsky, Christopher

From: envirolaw-council-bounces@groups.michbar.org on behalf of Pat Paruch [Pat.Paruch@kkue.com]
Sent: Thursday, June 12, 2008 11:34 AM
To: envirolaw-council@groups.michbar.org; susan@topplaw.com
Subject: [EnviroLaw-Council] Real Property Section Report
Attachments: ATT200666.txt

Susan and Council Members,

I won't be able to attend the ELS Council meeting this weekend at Higgins Lake, so I'm emailing a very brief report from the Real Property Law Section.

The RPLS Council is on summer hiatus and won't meet again until July at its summer conference at Grand Traverse Resort. In terms of ongoing projects, the RPLS is initiating contact with law schools in an effort to develop liaison relationships with all of the schools. So far, U-D Mercy and MSU have expressed strong interest. The RPLS would like to sponsor an essay/article contest with possible publication of winning articles in the *Real Property Review*. The RPLS would also like to expand its co-sponsorship of programs with other sections – so far, RPLS has successfully con-sponsored programs with ELS, the Business Law Section, and the Young Lawyers Section.

Have a great weekend!

Pat Paruch

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**STATE BAR OF MICHIGAN
SECTION ANNUAL REPORT**

Bar Year: 2007-2008

Section Name: Environmental Law

Mission Statement: The Environmental Law Section of the State Bar of Michigan provides education, information, and analysis about issues of concern through meetings, seminars, this site, public service programs, and publication of the *Michigan Environmental Law Journal*. Membership in the Section is open to all members of the State Bar of Michigan. Statements made on behalf of the Section do not necessarily reflect the views of the State Bar of Michigan

Officers and Council Members:

Officer	Name	Address	Telephone	Email
Chair	Susan L. Hlywa Topp	213 E Main St, Gaylord, MI 48734	989 732 4014	susan@topplaw.com
Chair-Elect	Charles E. Barbieri	313 S. Washington Sq Lansing, MI 48933	517 371 8155	cbarbieri@fosterswift.com
Secretary	Christopher J. Dunsky	660 Woodward Ste. 2290, Detroit, MI 48226	313 465-7364	cjd@honigman.com
Treasurer	Christopher J. Dunsky	660 Woodward Ste. 2290, Detroit, MI 48226	313 465-7364	cjd@honigman.com

Member	Term	Member	Term
Kurt M. Brauer	2008	Christopher M. Bzdok	2010
Dennis J. Donohue	2008	Michael L. Caldwell	2010
Matthew B. Eugster	2008	R. Craig Hupp	2010
Kenneth C. Gold	2008	Anna M. Maiuri	2010
Patricia Paruch	2008	Dustin P. Ordway	2010
Ernest P. Chiodo	2009		
Jeffrey K. Haynes	2009		
Scott D. Hubbard	2009		
Timothy J. Lozen	2009		
James K. O'Brien	2009		

Council Meeting Schedule:

Please attach any additional information needed regarding Council meetings as an addendum.

Meeting Type	Date	Location
Council Meeting	November 10, 2007	Cooley Law School, Lansing
Council Meeting	February 23, 2008	Cooley Law School, Auburn Hills Campus
Council Meeting	June 14, 2008	Ralph McMullen Center
Council Meeting/Annual Meeting	September 18, 2008	Dearborn

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SECTION ANNUAL REPORT**

General Budget Information: Section Account Balance as of April 30, 2008 was \$62,655.32.

Events and/or Seminars:

Please attach any additional information needed regarding events and/or seminars as an addendum.

Event or Seminar Title	Date	Location
Climate Change & Alternative Energy: Joint Program with East and West Chapters of AWMA.	November 28, 2007	Lansing Community College
Administrative Agency Rejection of Staff Recommendations and the California's Request to Regulate Greenhouse Gas Emissions	February 23, 2008	Cooley Law School, Auburn Hills Campus
Grayling Stormwater Project Tour followed by a short program comprised of a MDEQ Forum and Brownfield Update.	June 13, 2008	Ralph McMullen Conference Center, Higgins Lake
Legislative Update; Brownfield Redevelopment (Case Study: Fairlane Green, Allen Park, Michigan); Climate Change State of the Law.	September 18, 2008	Dearborn Hyatt Regency

Legislative issues:

Recommendations for next Council:

It has been the objective of the current Council and the Deskbook Committee to achieve the publication of the Environmental Law Deskbook in both electronic and hard copy format. If the

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authors of the Deskbook fail to meet their deadline of September 17, 2008, that task will fall upon the next Council to complete. It is also recommended that the next Council continue efforts to expand the number of younger attorneys and students that participate in the Section. The ELS Council will need to develop theme articles for the October 2009 Bar Journal and complete the dedication of the Environmental Law Legal Milestone. The current Council made great advances in the use of technology and began initiatives to partner with larger associations to put on programs to address Climate Change and Global Warming. It is hoped that the next Council will continue these efforts to address these multi state issues, especially the impacts to the Great Lakes region. I would like to thank all the Committee Chairs, Council Chair Elect Chuck Barbieri, and Council Secretary-Treasurer Chris Dunsky for their hard work. I would also like to thank Past Chair John Byl for showing me the way. It is my hope that the next Council will find the strength to guide the Section through what appears to be a very challenging time for our environment.

Susan Hlywa Topp, ELS Chair

Other Information:

The Environmental Law Section has an active committee structure which consists of:

Air:

Chair: S. Lee Johnson, Honigman Miller Schwartz & Cohn LLP

Vice-Chair: Kurt Kissling, Pepper Hamilton

Deskbook:

Chair: Jeffrey K. Haynes, Beier Howlett, PC

Vice-Chair: Gene Smary, Warner, Norcross & Judd LLP

Environmental Litigation and Administrative Practice:

Chair: Steven H. Huff, Of Counsel Donnelly W. Hadden, PC

Vice-Chair: Ernest P. Chiodo, Ernest Ciodo PC

Hazardous Substances and Brownfields:

Chair: Charles M. Denton, Varnum, Riddering, Schmidt & Howlett LLP

Vice-Chair: Joshua W. Gubkin, Office of the General Counsel, Chrysler LLC

Journal:

Chair: Robert Schroder, ArvinMeritor Inc.

Vice-Chair: Peter D. Holmes, BorgWarner Inc.

Membership:

Chair: Dustin Ordway, Miller Johnson

Vice-Chair: Christopher M. Bzdok, Olson Bzdok & Howard PC

Natural Resources:

Chair: Joseph E. Quandt, Zimmerman Kuhn Darling Boyd Taylor Quandt & Phelps PLC

Vice-Chair: Matthew D. Zimmerman, Varnum, Riddering, Schmidt & Howlett LLP

Program:

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Chair: Kurt M. Brauer, Bodman LLP

Technology:

Chair: John L. Tatum, John L. Tatum, PC

Vice-Chair: Chris Bzdok, Olson Bzdok & Howard PC

Water:

Chair: Dennis J. Donohue, Warner, Norcross & Judd LLP

Vice-Chair: Scott J. Steiner, Rhoades McKee

Reports must be submitted before May 31 of each year, to:

Heather K. Anderson
Sections and Committees Administrator
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