

The regular meeting of the Board of Commissioners was called to order by President Brinkmeyer at 9:30 a.m. on Friday, April 23, 2004, at the State Bar of Michigan, Lansing, Michigan. Commissioners present were:

Scott S. Brinkmeyer, President	
Lori A. Buiteweg	Craig H. Lubben
Kimberly M. Cahill, Secretary	Richard D. McLellan
Thomas W. Cranmer, Vice President	Hon. William B. Murphy
Kathryn M. Day	Lambro Niforos
Nancy J. Diehl, President-elect	Edward H. Pappas
Kim Warren Eddie	Randolph P. Piper
Elias J. Escobedo, Jr.	D. Andrew Portinga
Michael S. Hohausner	Kurt E. Schnelz
Elizabeth A. Jamieson	Hon. Cynthia D. Stephens
W. Anthony Jenkins	Charles R. Toy
Ronald D. Keefe, Treasurer	Gregory L. Ulrich
Daniel M. Levy, Assembly Chair	Debra A. Walling

Commissioners James N. Erhart, Julie I. Fershtman, Allyn D. Kantor, Stephen J. Murphy, III, Angelique Strong Marks and Rodger D. Young were absent and excused.

State Bar Staff Present:

Lisa Allen-Kost – Director, Programs & Services
John T. Berry – Executive Director
Nancy Brown – Director, Communications
Thomas K. Byerley – Director, Professional Standards
Candace A. Crowley – Access to Justice Manager
Kathleen Fox – Director, Human Resources
James C. Horsch – Director, Administration and Finance
Elizabeth K. Lyon – Legal Secretary
Caryl Markzon – Events Planner
Susan McMann – Sections and Committees Coordinator
Glenna D. Peters – Executive Coordinator
Chad E. Sluss – Member Services Manager
Naseem Stecker – Media Specialist
Janet K. Welch – General Counsel

Present for such portions of the meeting as pertained to a specific agenda item were Lynn Chard, Executive Director, ICLE; John R. Oostema and E. Thomas McCarthy of Smith, Haughey, Rice & Roegge, outside counsel on behalf of the State Bar in the Dean, Dubuc and Lawrence cases.

CONSENT AGENDA

A motion was made and seconded to approve the Consent Agenda. Motion carried.

Minutes

The Board approved the minutes of the January 16, 2004 Board of Commissioners meeting.

The Board accepted the minutes of the following Executive Committee meetings:

- January 26, 2004
- February 17, 2004
- March 8, 2004
- March 29, 2004

President's Report – Scott S. Brinkmeyer, President

The Board received the President's written report.

Executive Director's Report – John T. Berry, Executive Director

The Board received the Executive Director's written report.

Finance and Human Resources – Ronald D. Keefe, Chairperson

The Board received the following written information:

- Year to Date Financial Results through February 29, 2004
- FY 2004 Financial Forecast
- Dues Status Update
- Retirement Plan Summary Descriptions
- 2004-05 Budget Process Update

Professional Standards – Kimberly M. Cahill, Chairperson

The Board approved payment of the following Client Protection Fund claims:

<u>Claim Number</u>	<u>Amount</u>
CPF 1936	\$3,500.00
CPF 1971	25,000.00
CPF 1903	24,616.39
CPF 1953	25,000.00
CPF 1928	25,000.00
CPF 1904	25,000.00
CPF 1922	450.00
CPF 1862	4,500.00
CPF 2050	<u>1,750.00</u>
TOTAL	<u>\$134,816.39</u>

Commissioner Liaison Reports

Written reports by the following Commissioner Liaison were included in the board agenda packet:

Jim Erhart: Electronic Filing Task Force, Bar Leadership Liaison, Aviation Law Section and Computer Law Section.

Bylaw Amendment – Janet Welch, General Counsel

The Board received notification of the following Bylaw Article amendments:

- Bylaw Article III – Board of Commissioners Section 1- Election Districts (Appendix A)
- Bylaw Article III – Section 7 – Meetings (Appendix B)
- Bylaw Article XI – Amendments (Appendix C)

LEADERSHIP REPORTS

President's Report – Scott S. Brinkmeyer

Mr. Brinkmeyer reported that we would be submitting an emeritus status proposal to the Court, hopefully within the next thirty days. We will be asking them to consider an adjustment to their Order that would most likely allow senior lawyers over the age of 70 and are retired to retain active membership in the Bar at no cost. Mr. Brinkmeyer also noted that we would be seeking the remaining \$20.00 dues increase.

Representative Assembly Chairperson's Report – Daniel M. Levy

Mr. Levy thanked State bar officers and staff who participated in the Representative Assembly meeting on Saturday, March 27th. He reported that two proposals were considered, one involving an amendment to MCR 2.112 regarding non-party fault issue that was defeated, and the other was a proposed revision to juvenile guardianship court rules that the Assembly supported. Mr. Levy asked commissioners to help recruit Assembly members for vacancies prior to the April 30th deadline for petition submissions.

Executive Director's Report – John T. Berry

Mr. Berry deferred to Kathleen Fox, who provided an update on the retirement plan. She reported that it was going well with Pension Trend, the new administrator, and the transfer process was nearing completion.

Mr. Berry provided an update regarding the issue of specialty certification. He and Mr. Brinkmeyer reported that at a meeting on March 23rd with several section leaders there was strong interest with some sections and opposition with others. It was determined that this matter will not currently be pursued due to the fact that 1) this is not an initiative of the Strategic Plan, 2) there is not currently a unified voice in regard to the issue, and 3) other states that offer certification have had low interest.

Ms. Welch reported that the Big Four Portrait will be on permanent loan to the Michigan Historical Society and will hang in the Hall of Justice on the first floor in the conference area of the rotunda. The contractual language will be finalized to include that a plaque will be displayed acknowledging that it is on permanent loan from the State Bar of Michigan, and a ceremony is planned when it is hung. Board members will be invited.

Mr. Horsch reported that the budget is primarily status quo, and a first review is planned for the June Board meeting, with finalization to occur at the July Board meeting. Mr. Berry noted that if the remaining dues increase does not occur, a myriad of options will be presented to the Board as to still implementing the Strategic Plan and the consequences it would have on existing programs.

Mr. Berry provided an informational powerpoint presentation regarding the Strategic Plan that is attached hereto as Appendix D.

Mr. Brinkmeyer reiterated that we will be seeking the remaining \$20.00 of the dues increase to fully implement the Strategic Plan.

Special Closed Session – Litigation Update – John R. Oostema, E. Thomas McCarthy

A motion was made and seconded to go into closed session. Motion carried.

A motion was made and seconded to come out of closed session. Motion carried.

Young Lawyers Section Report – D. Andrew Portinga

Mr. Portinga provided a brief report on the section's recent and upcoming activities, including;

Pro Bono Day at the Detroit Legal Services Clinic on April 8th, ABA Affiliate Outreach Program in Memphis on April 30th, annual luncheon for Imprint (a program developed by Kathryn Day where lawyers read and discuss books with high school students) on May 20th in Southfield, and co-hosting with the Senior Lawyers Section the 50-year honoree celebration at the Dearborn Inn on May 21st.

COMMISSIONER COMMITTEES

Justice Initiatives Committee – Kimberly M. Cahill, Thomas W. Cranmer, Co-Chairpersons
Ms. Cahill led a discussion on the Structure Report, explaining that the proposed layout includes four separate areas; Legal Aid, Pro Bono, Equal Access, Resource Development, with the addition of a planning workgroup with a limited one-year life span. She thanked Commissioners McLellan and Stephens and all who participated in reaching this proposal, and noted that it was the consensus of all groups that were previously involved in the Open Justice Commission.

A motion was made and seconded to accept the report as presented and implement the structure outlined to move forward with justice initiatives. Motion carried.

The committee recommended that the commitment to service poster be produced and distributed through the auspices of the State Court Administrators Office, which they have agreed to distribute. A budget of \$10,000 has been allocated for the printing and production of the poster. A motion was made and seconded to approve the recommendation. Motion carried.

Candace Crowley provided an update on the ATJ Campaign report materials that were included in the board agenda packet. Ms. Crowley also reported briefly on ABA Day and the planned visits with legislators.

Mr. Brinkmeyer thanked Commissioners McLellan and Stephens for co-chairing the Standing Committee on Justice Initiatives.

Programs and Services – Thomas W. Cranmer, Chairperson
Lynn Chard provided an update on Michigan Law Online, reporting that 1,602 lawyers have logged into the service and signed the licensing agreement. Additionally, there have been over 5,600 hits on the site. Ms. Chard shared positive testimonials received and thanked State Bar staff for their cooperation in providing the service.

Mr. Cranmer deferred to Caryl Markzon, who provided a brief report on the annual meeting program and noted that more information would be available in the June issue of the Bar Journal. She also reported on the Golden Celebration on May 21st at the Dearborn Inn honoring 50-year members of the Bar, and provided an update on the registrations for UMLI and the Bar Leadership Forum on June 11th and 12th.

Ms. Diehl asked if more publicity could be extended to the 50-year honorees. Nancy Brown indicated that a news release could be distributed that would include local bar associations.

Mr. Brinkmeyer explained that Bar will be covering more costs than last year associated with Mackinac Island, however there is a deadline of July 13th for submission of reimbursement requests. There will be no exceptions.

Finance and Human Resources – Ronald D. Keefe, Chairperson
Mr. Keefe reported on the implementation of the investment policy and noted that we are invested in a Charles Schwab account with the new allocations previously approved by the board.

Mr. Keefe also reported that the committee was still reviewing the reimbursement policy and hopes to have a recommendation at the June board meeting.

Mr. Keefe provided an update on the prefunding of retirement health care liability and the committee plans to have a conference call to discuss and approve a proposal that will be submitted at an upcoming meeting.

Finally, Mr. Keefe reported that we are in the process of implementing the audit recommendations and will be providing additional information at a future meeting.

Professional Standards – Kimberly M. Cahill, Chairperson

Ms. Cahill reported that the nominating committee recommends the following appointments to the ABA House of Delegates: Marjory G. Basile, Kathryn M. Day and Miles C. Gerberding. A motion was made and seconded to approve the recommendations. Motion carried.

Public Policy, Image and Identity – Nancy J. Diehl, Chairperson

Ms. Diehl asked for comments about the Bar's legislative program, but there were none.

Michigan Court Rules

There was nothing new to report.

Legislation

A motion was made and seconded to approve the following Board actions:

HB 5307 – Probate; trusts; uniform principal and income act; create.

Removed from agenda

HB 5381 – Liens; other; a judgment lien; provide for.

No position

Recommendation to grant authorization to the Civil Procedure and Courts Committee to advocate its position; opposed by Civil Procedure and Courts Committee and Real Property Law Section

HB 5390 – Libraries; state; requirement for certain public documents to be provided to state libraries; eliminate when documents are available on the internet.

Oppose in principle

SB 932 – Children; custody; custody jurisdiction; clarify when parent with custody relocates.

Oppose in principle

SB 941 – Civil procedure; civil actions; authority of circuit court to remand cases in which damages appear to be within the jurisdictional limits of the district court to district court; provide for.

Removed from agenda

SB 968 – Criminal procedure; pretrial procedure; pretrial services program act; create.

Support in principle

SB 1051 – Probate; wills and estates; general amendments to the estates and protected individuals code; provide for.

Removed from agenda

Child Support Legislation: SB 621, SB 888-890, HB 4120, HB 4634-4636, HB 4650, HB 4654, HB 4768-4770, HB 4772-4776, HB 4785, HB 4792, HB 5259, HB 5261-5262, HB 5368-5373

Tabled

Subcommittee chaired by Kurt Schnelz has been created to review and report back to the board with recommendations at future meeting. Lori Buitiweg has been appointed to the committee and any commissioner who has an interest is encouraged to participate and should contact Janet Welch.

Drug Courts: HB 5399-5401, HB 5647, HB 5674, HB 5716, SB 998-1000 and File No. 2003-04 - Proposed Amendments of Rules 2.511, 6.001, 6.004, 6.005, 6.102, 6.104, 6.106, 6.107, 6.110, 6.112, 6.113, 6.201, 6.302, 6.303, 6.304, 6.310, 6.311, 6.402, 6.412, 6.414, 6.419, 6.420, 6.425, 6.427, 6.429, 6.431, 6.433, 6.440, 6.445, 6.501, 6.502, 6.503, 6.504, 6.506, 6.508, 6.509, 6.610, 6.615, and 6.620; and the adoption of Rules 6.006, 6.111, and 6.428 of the Michigan Court Rules

Support in principle with the following statement:

That the State Bar of Michigan support the institutionalization and availability of drug treatment courts

Ms. Diehl reported that the committee had a preliminary discussion on a potential tax on legal services and suggested a future board briefing on the topic, as well as engaging section chairs who would be interested in assisting with the development of a policy or position.

Ms. Welch reported that the State Bar has entered into a contract with Governmental Consultant Services, Inc., following extensive interviews with nine outstanding governmental consulting firms. Our principal consultant is Nell Kuhnmuench. Informational materials were distributed. Ms. Welch thanked Commissioner Eddie who participated in the interview process and provided valuable input.

Nancy Brown provided an image and identity presentation that highlighted improvements to the Public Policy Resource Center, as well as website re-design. The new design removes the frames currently used and offers easier navigation. The website will include a secure online pay system, and will provide future expanded capabilities such as e-commerce.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

Mr. McLellan asked about the implications of the Ward Connerly Initiative if it passed and noted that we should be prepared. Ms. Welch explained that at this point it doesn't look as if it will be on the ballot, but we will continue to monitor it and would then determine which committee would be responsible for considering it. Ms. Welch and Brinkmeyer believed that it would probably fall under the purview of the Justice Initiatives Committee.

Commissioner Ulrich commented about the redistricting item that was on the consent agenda and asked if in the future, the board could be notified in advance.

Comments or questions from the public, old or new business

Mr. Brinkmeyer asked for comments or questions, but there were none.

The meeting was adjourned at 12:55 p.m.