

President Cranmer called the meeting to order at 9:45 a.m. on Friday, June 9, 2006, at the Grand Hotel, Mackinac Island, Michigan.

Commissioners present:

Lori A. Buiteweg, Assembly Chairperson
Kimberly M. Cahill, President-Elect
John J. Conway
Margaret A. Costello
Bruce A. Courtade
Thomas W. Cranmer, President
Francine Cullari
Richard L. Cunningham
Brian D. Einhorn
Elias J. Escobedo, Jr.
Julie I. Fershtman
Kiffi Y. Ford
Robert C. Gardella
Michael S. Hohausser

W. Anthony Jenkins
Craig H. Lubben
Ronald D. Keefe, Vice-President
Jeffrey E. Kirkey
Richard D. McLellan
Hon. William B. Murphy
Lambro Niforos
Edward H. Pappas, Secretary
Kurt E. Schnelz
Scott C. Strattard
Charles R. Toy, Treasurer
Laurin' C. Roberts Thomas
Gregory L. Ulrich
Debra A. Walling

Commissioners Edward L. Haroutunian, Allyn D. Kantor, Angelique Strong Marks, and Rodger D. Young were absent and excused.

State Bar Staff Present:

John T. Berry, Executive Director
Marge Bossenbery, Executive Coordinator
Nancy Brown, Director of Communications
Gregory Conyers, Program Administrator Pro Bono Initiative
Candace Crowley, Development & External Affairs Manager
Dawn Evans, Director of Professional Standards
Kathleen Fox, Director of Programs and Services
James Horsch, Director of Finance and Administration
Elizabeth Lyon, Public Policy Program Analyst
Susan McMann, Sections and Committees Coordinator
Jerome Reide, Director of Justice Initiatives
Linda Rexer, Executive Director, Michigan State Bar Foundation
Anne Smith, Administrative Assistant
Naseem Stecker, Media and Public Relations Manager
Anne Vrooman, Director of Research and Development
Janet K. Welch, General Counsel

Guests Present:

Lynn Chard
Kay Fitzpatrick
Nell Kuhnmuench
Hon Cynthia Diane Stephens

CONSENT AGENDA

Minutes

The Board received the minutes of the April 7, 2006 Board of Commissioners meeting.
The Board received the minutes of the following Executive Committee meetings:
February 27, 2006 Executive Committee meeting as amended
March 7, 2006 Executive Committee meeting as amended
March 20, 2006 Executive Committee Meeting
April 3, 2006 Executive Committee Meeting
April 10, 2006 Executive Committee Meeting
May 2, 2006 Executive Committee Meeting
May 15, 2006 Executive Committee Meeting

President's Report – Thomas W. Cranmer, President

The Board received the written President's recent activities report.

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

The Board received the written Executive Director's activities report and the litigation status report.

Finance and Human Resources – Charles R. Toy, Chairperson

The Board received the financial reports through March 31, 2006 and the year-end financial forecast.

Section Bylaw Proposed Amendments-- Janet K. Welch, General Counsel

The Board received the information regarding the Probate and Estate Section Dues Increase.

A motion was offered, seconded, and carried to approve the items on the Consent Agenda.

Section/Committee Reports

President Cranmer recognized Bruce Birgbauer, Chair of the International Law Section, who provided the Board members with a section report.

LEADERSHIP REPORTS

President's Report - Thomas W. Cranmer, President

ABA Day President Cranmer discussed the trip that he, along with Greg Conyers and John Berry, took to Washington DC to discuss funding for civil legal aid with Michigan legislators.

6th Judicial Circuit Conference President Cranmer attended the 6th Judicial Circuit Conference that was held in Detroit. It had been 25 years since it was held in Detroit and all reports indicate that the attendees were pleased with the reception they received in the city and that SBM along with the Federal Bar Association contributed to the conference's success.

National Bar Association The National Bar Association (NBA) is holding their Annual Conference in Detroit, August 5 - 12. Reggie Turner, former State Bar of Michigan President, is the 2006 President of the NBA. This is opportunity for the SBM to partner with the NBA and show support for this conference. President Cranmer asked the Hon. Cynthia Diane Stephens to provide the Board with an update on the conference. She discussed how the SBM is co- sponsoring a seminar on Alternative Dispute Resolution and that all SBM members are invited to attend even if they have yet to become a member of the NBA. President Cranmer discussed an opportunity for the SBM to further support the NBA by sponsoring the Judicial Council reception at a level of \$15,000. A motion was offered, supported and carried to sponsor the Judicial Council reception.

PMRC President Cranmer continues to highlight the PMRC whenever he attends various meetings and encouraged all Board members to talk about and make people aware of the PMRC.

Alex Sanders President Cranmer mentioned his May 2006 column in the State Bar Journal. It highlights a speech given by Alex Sanders, who allowed him to reprint the speech, and he encouraged all members to read the article.

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

Succession Plan Mr. Berry reported to the Commissioners that a final draft of the Executive Director's Succession Plan is included in the Board materials. Many associations were contacted and information gathered that was used to develop this plan. Mr. Berry indicated that if there were any further comments to let him know. After discussion, the Board decided that this document is intended to provide guidance to allow for flexibility and because it is not an official policy does not need approval from the Board. A motion was offered, seconded and carried to modify the language of the Termination or Resignation section of the plan to reflect that the notice requirement should conform to the E.D. contract currently in effect.

Disaster Planning Mr. Berry discussed the SBM Disaster Response Plans that are being developed. Two committees are in operation: a Professional Standards subcommittee chaired by Mike Hohausser is developing a model plan for members and law firms, and an internal SBM committee led by Jim Horsch is examining and improving the Bar's disaster response plans. Reports are expected to be available for the Board's review at the September meeting.

Law School Deans SBM leaders met with the Law School deans in April. The Deans want to meet twice a year instead of once a year. A meeting will be scheduled for December 2006.

Budget Mr. Berry provided the Board with the preliminary FY 2006-07 budget and budget assumptions and indicated that the final budget is expected to come before the Board in July for action. He provided the Commissioners with an overview of the budget process and noted that the Finance, Budget, and Executive committees have already reviewed these materials twice. He asked the Commissioners to review and provide him with any comments or concerns prior to the July meeting.

Section Compensation Janet Welch provided the Commissioners with an update on the proposed bylaw revision concerning section compensation. This item is for action at this meeting and reflects the Board's decision at the April BOC meeting to allow compensation to section officers and council members who render services to the sections, providing that those services are not defined as duties of the person who is being compensated. Members must follow a procedure to obtain that compensation. If the compensation is to an officer or council member, the decision to compensation must be made by a two-thirds vote of the council without the vote of the member to be compensated, and the minutes published on the website. Articles VII and IX require amendments. She noted that in reviewing the language as presented, the word "dues" needed to be deleted in the first sentence of Section IX. A motion was offered, supported and carried to approve the changes to the bylaws, omitting the word "dues" in Section IX.

Committee Appointments Ms. Welch reported to the Commissioners that there is a proposed bylaw revision concerning committee appointments in the materials. Current bylaws prohibit the reappointment of any standing committee member who has served three terms, but does not include a provision to override the term limitation. At its May 15 meeting, the Executive Committee authorized the posting of a proposed amendment that would preserve term limits as the norm but allows for exceptions to be made by a two-thirds vote of the Board. This proposed amendment will be eligible for Board consideration and passage at the July 28th Board meeting.

Character and Fitness Lawsuits Janet reported that the materials regarding the Lawrence case are for informational purposes. Lawrence is the last of the three Character and Fitness challenges that SBM has faced over the last five years. A very favorable decision by the District Court was appealed by Lawrence to the 6th Circuit Court, which upheld the district court.

Pension Plan Administration Janet Welch provided the Commissioners with a history of the administration of the SBM pension plan. She is recommending that the Retirement Trust and 457(b) Plan Trust Plans that the SBM administers for the Attorney Grievance Commission (AGC) and the Attorney Discipline Board (ADB) be amended. A draft resolution is included in the Board materials. Currently, all trustees for the plans are representatives from the SBM. The amendment would add trustee representation from the AGC and the ADB. Those entities are in agreement with this amendment. Additionally, Janet Welch would resign as a trustee and Cliff Flood would assume that role. A motion was offered, seconded and carried to adopt the resolution.

Representative Assembly Report - Lori A. Buiteweg, Chairperson
Ms. Buiteweg provided the Board with an update of the April 29, 2006 Representative Assembly meeting.

COMMISSIONER COMMITTEES

Finance Charles R. Toy, Chairperson

Mr. Toy referred the Board that a list of the budget assumptions is in the Board's packet and asked the commissioners to review these materials and provide any comments to him. He informed the Board that the Finance committee will meet for a half day meeting in mid-July to review the budget in anticipation of providing the Board with a budget recommendation at the July 28th Board meeting. Mr. Toy asked Jim Horsch to provide the Board members with a financial update.

Jim Horsch informed the Commissioners that the FY 2005-06 budget is projected to end with a surplus amount. This is due to interest rates that have almost doubled since last year, and vacancies in staffing levels. The SBM also received a recovery from AIG insurance company that increased the surplus.

Professional Standards - Edward H. Pappas, Chairperson

PMRC Mr. Pappas informed the Commissioners that he agrees with President Cranmer's comments regarding the importance of the Practice Management Resource Center (PMRC). He asked Dawn Evans to provide the committee with an update on the PMRC. She informed the Commissioners that there were 38,600 pages viewed and 12,836 articles downloaded from the website since 2-1-06. Staff has received over 100 help line calls and presented 3 seminars. She reported that Jo Ann Hathaway is attending the BLF and is in the vendor area providing attendees with a PMRC demo. She reported that a marketing plan has been developed and is under review of the President and President-elect.

The Commissioners indicated that they would like to be informed if there are programs taking place in their area.

Disaster Planning Mr. Hohausser reported to the Commissioners that his committee sent out letters to law firms, members, COA, requesting information regarding how others are handling disaster planning. Response has been slow.

Programs and Services - Ronald D. Keefe, Chairperson

Annual Meeting Mr. Keefe reported to the Commissioners that the proposal they received in the Board packet regarding future locations for the 2008 through 2012 SBM Annual Meetings has been amended. The 2011 and 2012 SBM Annual meetings were proposed to be held at the Marriot in Detroit but they have withdrawn their contract. The current proposal for the Board's approval is for the Meeting to be held at the Amway Grand Plaza Hotel in 2010, and the 2008 and 2009 Annual Meeting to be held at the Hyatt Regency in Dearborn. A motion was offered, seconded and carried to adopt the proposal.

Member Programs Mr. Keefe reported that the SunTrust proposal regarding Student Loan Consolidation was tabled and the Auto Rental Program and the Centennial American Inn of Court proposals were referred back to the Membership Services Committee for further review and information.

Public Policy, Image and Identity - Kimberly M. Cahill, Chairperson

Ms Cahill provided the Commissioners with the revised agenda of the Public, Policy and Identity committee.

Ms. Cahill reported that the committee is referring the proposed amendments to Court Rules 5.104, 5.402 and 5.403 to the Executive Committee for consideration.

Legislation The following legislation was discussed and action taken:

HB 5132 (Baxter) – **Libraries, state; Communications, internet.** Libraries; state; requirement for certain public documents to be provided to state libraries; eliminate when documents are available on the internet. Amends sec. 9 of 1982 PA 540 (MCL 397.19).

STATUS: 6/15/06 Referred to Senate Local, Urban and State Affairs

POSITION: Support in Principle. The State Bar's previous position was reconsidered.

Motion supported unanimously

HB 5625 (Mortimer) – **Courts, district court; Occupations, real estate; Housing, landlord and tenants.**

Courts; district court; small claims division; allow real estate agents to represent landlords in small claims court in security deposit disputes under certain circumstances. Amends sec. 8408 of 1961 PA 236 (MCL 600.8408).

STATUS: 2/1/06 Referred to House Judiciary

POSITION: Active Opposition

Motion supported unanimously

HB 6001 (Hildenbrand) – **Civil procedure, civil actions; Civil procedure, costs and fees; Occupations, attorneys.** Civil procedure; civil actions; sanctions for frivolous lawsuits; increase. Amends sec. 2591 of 1961 PA 236 (MCL 600.2591).

STATUS: 4/26/06 Referred to House Tort Reform

POSITION: Active Opposition

Motion supported unanimously

Proposed Constitutional Amendment from the Michigan Civil Rights Initiative Committee

A proposal to amend the State Constitution to ban affirmative action programs that give preferential treatment to groups or individuals based on their race, gender, color, ethnicity or national origin for public employment, education or contracting purposes.

POSITION: Oppose in Principle

Motion supported unanimously

Review of HB 5633, HB 5852, SB 1266, and FY 06-07 Appropriations: Judiciary were deferred to the July meeting.

Awards Ms. Cahill presented the Commissioners with a list of the recommended recipients of the Roberts P. Hudson, the Frank J. Kelley Distinguished Public Servant, the Champion of Justice and the Liberty Bell awards. A motion was offered, seconded, and carried to support the recommendations. Mr. McLellan refrained from voting on the Frank J. Kelly award.

E-Journal Survey The Commissioners were provided with the results of the e-Journal Survey, a report on the SBM Law Day activities and an update on the Otis Smith legal milestone ceremony.

Legal Milestone All commissioners are invited to attend the Legal Milestone event being held in Flint on Wednesday, June 21st.

Presidents Advisory Council President Cranmer expressed his appreciation to the members of the President's Advisory Council for all of the work they provided to the Board.

OTHER REPORTS

American Bar Association Report (ABA), W. Anthony Jenkins

Mr. Jenkins reported that the ABA Annual Meeting is scheduled in August. He indicated that he had just received the agenda and will provide the Board with an update after the meeting.

Justice Initiatives Report - Richard D. McLellan, Co-Chair

Mr. McLellan provided the Commissioners with a copy of the Justice Initiatives Annual Report.

Mr. McLellan reported to the Commissioners that Michael S. Callahan had been selected as the 2006 recipient of the John W. Cummisky Pro-Bono Award.

Young Lawyers Section Report - Jeffrey E. Kirkey, Chairperson

Mr. Kirkey provided the Board with an update on the Young Lawyers Section.

Officer Election Committee - Bruce Courtade, Chairperson

Mr. Courtade provided the Commissioners with a copy of the final report of the Officer Election Committee. This report contained the recommendations of the Committee regarding the procedures for future officer elections. Three recommendations were proposed: 1) Anyone seeking office for any position other than President-Elect or Vice-President should submit a Letter of Interest to the President and the Executive Director. This information will be included in the materials sent for the July 28th Board of Commissioners meeting; 2) At the July meeting a candidates' forum will take place where each of the candidates will have 5 minutes to address the Commissioners followed by a 15 minute question and answer session; and 3) A matrix will be developed that will focus on issues such as: length of service on the Board; prior Board experience; attendance at Board and committee meetings; etc. This part of the process will not be implemented until next year's election. After some discussion it was determined that the officer election process is available to candidates but does not exclude other candidates from being nominated the day of the election. A motion was offered, seconded and carried to support the adoption of the procedures proposed in the Officer Election Committee memo.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

There were none.

Comments or questions from the public

There were none.

Executive Session

The Board went into an Executive Session at 12:30 p.m.

Adjournment

The meeting was adjourned at 1:00 p.m.