

President Keefe called the meeting to order at 9:30 a.m. on Friday, July 25, 2008 at the Michael Franck Building in Lansing

Commissioners present:

Lori A. Buiteweg  
Beverly Hall Burns  
Laura Chappelle  
B. D. "Chris" Christenson  
Margaret Costello  
Bruce Courtade  
Francine Cullari  
Richard L. Cunningham  
Brian D. Einhorn  
James N. Erhart  
Robert K. Fergan  
Julie I. Fershtman, Treasurer  
Kiffi Y. Ford  
Robert C. Gardella  
W. Anthony Jenkins

Elizabeth M. Johnson  
Katherine Kakish  
Ronald D. Keefe, President  
Donald E. McGinnis, Jr.  
Hon. William B. Murphy  
Lambro Niforos  
Edward H. Pappas, President-Elect  
Michael J. Riordan  
Thomas C. Rombach  
Julie A. Sullivan  
Laurin C. Roberts Thomas  
Charles R. Toy, Vice-President  
Gregory L. Ulrich

Commissioners John J. Conway, Elias J. Escobedo, Jr., Eric Pelton and Kurt E. Schnelz were absent and excused.

State Bar Staff Present:

Janet K. Welch, Executive Director  
Marge Bossenbery, Executive Coordinator  
Kari Brandel, Manager Membership Services & Events  
Candace Crowley, Director, External Development  
Dawn Evans, Director, Professional Standards  
Cliff Flood, General Counsel  
James Horsch, Director, Finance, and Administration  
Elizabeth Lyon, Director, Governmental Relations  
Anne Vrooman, Director, Research and Development

Guests

Linda Rexer, Executive Director, Michigan State Bar Foundation

Consent Agenda

Minutes

The Board received the minutes from the June 3, 2008 Board of Commissioners meeting.

***President's Report***, Ronald D. Keefe, President

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

***Executive Director's Report***, Janet K. Welch, Executive Director

The Board received a written report on the Executive Director's recent activities.

***Finance***, Julie I. Fershtman, Chairperson

The Board received the financial reports through June 2008.

***Professional Standards***, W. Anthony Jenkins, Chairperson

The board members received the Client Protection Fund Claims.

A motion was offered, supported, and adopted to approve the consent agenda.

**Board Officer Elections**

A motion was made and supported to nominate Bruce A. Courtade as Treasurer for 2008-09. Motion carried.

A motion was made and supported to nominate Julie I. Fershtman as Secretary for 2008-09. Motion carried.

A motion was made and supported to nominate W. Anthony Jenkins as Vice President for 2008-09. Motion carried.

President Ronald D. Keefe announced that Charles R. Toy would be President-Elect for 2008-09.

President Ronald D. Keefe announced that President-Elect Edward H. Pappas would succeed him as President of the State Bar of Michigan for 2008-09.

**FY 2009 Proposed Budget**

Ms. Welch reported that the Finance Committee unanimously recommended the proposed FY 2009 budget. She indicated that there is very little change to what was presented to the Board in June except that the deficit has been reduced. Mr. Horsch presented detailed budget information to the commissioners. A motion was offered by Mr. Gardella and supported by Ms. Hall Burns to approve the FY 2009 budget as presented.

Ms. Johnson offered a motion to amend the budget to include a line item for the Bar Leadership Forum (BLF) so that each BLF committee member would receive reimbursement for attending and participating during the meeting. Ms. Johnson noted that although the request would be an exception to the SBM policy that only the committee chairs or anyone who is a speaker or leader of a group discussion are reimbursed for attending the meeting, she presented reasons for making such an exception. The amendment was not adopted. It was suggested by some commissioners that the reimbursement policy could be reviewed as it relates to all committees, and that if any adjustments were called for as a result of policy amendments, the Executive Director has the authority to reallocate funds within the budget to address the financial implications of a policy amendment, within the strictures of the budget amendment policy.

The motion to adopt the FY 2009 budget carried.

**COMMISSIONER COMMITTEES**

***Finance***, Julie I. Fershtman, Chairperson

**Financial and Investment Update**

Ms. Fershtman provided the board members with a financial and investment update.

**Proposed Michigan-Based Preference Policy**

The board members were provided with a proposed Michigan-Based Preference policy for contracting goods and services. A motion was offered and supported to approve the policy. Motion carried.

**Proposed Budget Control and Amendment Policy**

The board members were provided with a proposed Budget Control and Amendment policy. A motion was offered and supported to approve the policy. The board discussed this policy and an amendment to the motion was offered to add language to the policy that the policy be referred to the 2008-09 Finance Committee for its evaluation at the end of the FY 2008-09.

A motion was offered to include language to sunset this policy after a year. The motion did not pass.

A motion was offered to include language that would cap the total amount that the Executive Director could approve without a formal budget amendment. The motion did not pass.

Mr. Keefe called the question on the main motion. The motion carried to approve the policy as amended to provide for an evaluation at the end of the fiscal year.

Proposed Irrevocable Trust – Retiree Health Care Liability

The board members were provided with a proposed Irrevocable Trust – Retiree Health Care Liability policy. A motion was offered and supported to approve the policy. Motion carried.

Directors and Officers Liability Insurance

Ms. Fershtman reported that ACE Insurance is now the liability insurance for the directors and officers insurance.

Sewer Issue

Mr. Horsch informed the Board that an insurance claim would be filed for damages caused by the puncture of our sewer line during the installation of a fiber optic line in the late 1990's.

**Professional Standards.** W. Anthony Jenkins, Chairperson

Reconsideration of Ethics Rule -14

Ms. Evans provided the board members with a recommendation from the ethics committee to rescind a formal ethics opinion adopted by the Board in 1992 (Ethics Rule 14) and replace it with a new formal opinion on the same subject (Ethics Rule 20). The proposed new opinion seeks to clarify and expand upon the question of the obligations of an attorney and a judge when the attorney who is representing the judge appears before the judge representing a client in a separate matter. Motion offered and supported to adopt and reconsideration the ethics committee recommendation. Motion carried.

**Programs and Services.** Charles R. Toy, Chairperson

Mr. Toy provided the board members with information about the 50-year Honoree Golden Celebration, the Bar Leadership Forum and the Upper Michigan Legal Institute.

**Public Policy, Image and Identity.** Edward H. Pappas, Chairperson

Court Rules

ADM File No. 2007-24 – Proposed Amendment of Rules 2.301, 2.302, 2.401 and 2.506 of the Michigan Court Rules

Motion offered, supported, and adopted and to request that the MI Supreme Court insert originally recommended provision regarding safe-haven.

ADM File No. 2007-28 – Proposed Amendment of Rule 3.901 of the Michigan Court Rules, Proposed Adoption of New Rule 3.930 of the Michigan Court Rules

Motion offered, supported and adopted to support this change.

Legislation

HB 5905 Criminal Procedure

No action needed, item deferred

HB 6157 Civil Procedure

Motion offered, supported and adopted to support an increase based on inflation and a schedule of future increase.

Justice Initiatives Report

The board members were provided with a written report from Co-Chairs of the JI, Hon. Cynthia Diane Stephens and Ms. Terri Stangl.

NLADA Report Update

Ms. Lyon provided the board members with an update on the release of the NLADA report.

Reform Michigan Government Now

Ms. Welch provided the board members with an update on the Reform Michigan Government Now initiative.

Motion offered, support and adopted that the State Bar will speak to the importance of the rule of necessity and its application in the judicial review of the Reform Michigan Government Now Ballot proposal. Judge William Murphy refrained from discussing or voting on this matter.

Miscellaneous Report

The board members received a report from the Governmental Consultant Services, Inc.

**LEADERSHIP REPORTS**

**President's Report**, Ronald D. Keefe, President

Mr. Keefe recognized Elizabeth Lyon for her work on promoting the NLADA report.

**Executive Director's Report**, Janet K. Welch, Executive Director

2008 SBM Election Update

Ms. Welch provided the board members with an update on the 2008 SBM election.

Personnel Update

Ms. Welch reported that there are two new staff members in the Professional Standards Division. Ms. Evans introduced to the board members Nkrumah Johnson –Wynn, Professional Standards Service Counsel and Danon Goodrum-Garland, Professional Standards Investigative Counsel.

Supreme Court Update

Ms. Welch provided the board members with a Supreme Court update on three issues 1)Smith v Khouri – SBM submitted an amicus brief on this case, 2) Pro Hac Vice Rule – Supreme Court agreed to this rule and 3) ADM File No. 2008-26 – Supreme Court agreed to waive dues for active military members.

Members Not in Good Standing

Ms. Welch informed the board members that in the future, names of SBM members who are not in good standing would be reported on line.

SBM Standing and Special Committees 2008-09 Resolution and Matrix

The board members were provided with the SBM Standing and Special Committees 2008-09 Resolution and Matrix. A motion was offered, supported and adopted to accept the resolution.

Awards Policy

The board members were provided with a proposed Awards Policy. A motion was offered, supported and adopted to accept the policy.

SBM Access to Information Policy

The board members were provided with a proposed Access to Information Policy. A motion was offered, supported and adopted to accept the policy.

ABA History/Keller/Expenses

The board members were asked to authorize expenditures for hosting a meeting of the Michigan delegation to the ABA before the August and February meeting of the ABA's House of Delegates. A motion was offered, supported and adopted to accept the proposal.

Committee Applicants and Members Subject to Discipline Policy

The board members were provided with a proposed Committee Applicants and Members Subject to Discipline policy. A motion was offered, supported and adopted to accept the policy.

Publicizing the Good Deeds of Lawyers

The board members were provided with a presentation, "A Lawyer Helps" which describes a program that the SBM Communications Department developed to "publicize the good deeds of lawyers," as directed by the Strategic Plan. Motion was offered, supported and adopted to pursue this program.

Representative Assembly Report, Robert C. Gardella, Chairperson

Mr. Gardella provided the Board with an update on the September 18 Representative Assembly meeting.

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

Mr. Jenkins provided the board members with an ABA report.

Young Lawyers Section Report, Robert K. Fergan, Chairperson

Mr. Fergan provided the board members with an update on the activities of the Young Lawyers Section.

Comments or questions from Commissioners

Ms. Costello expressed her concern about an item that was on the June 13 board agenda that she felt was not sufficiently flagged as a controversial item. She asked that when the Executive Committee has discussed an issue it has reason to believe may be controversial, that the message be communicated to the entire board so that they are aware and can respond to other members in an informed manner.

Comments or questions from the public

There was none.

The Board entered into an Executive Session at 12:25 p.m.

Adjournment

The Board went into open session at and the meeting was adjourned at 1:00 p.m.