

Attachment A



GOVERNMENT LAW SECTION

DRAFT MINUTES OF THE NOVEMBER 2, 2024 REGULAR MONTHLY MEETING

Call to Order by Chair Forsyth at 10:02 am

1. Attendance and Excused Absences

See attached attendance roll call sheet.

Motion by King/Watza to approve excused absences; approved unanimously.

2. Approval of Agenda

Motion by Mithani/Fisher to approve; approved unanimously.

3. Minutes of the October 5, 2024, Regular Meeting (Attachments A and B)

Motion by Williams/Fisher to approve minutes; approved unanimously.

**4. Treasurer's Report Unaudited Draft Financial Report and Detailed Expense Report
(Attachments C and D)**

Treasurer King reported that the year-end financials are in good shape. After consulting with the SBM representative and reviewing the details, no changes were made to the submitted reports.

5. Amicus Committee: Update

Committee Chair Williams reported that "all was quiet on the amicus front." Member Bluhm indicated she would likely have at least one request at the next Council meeting and would raise the *Homebuilders* case during Council Comments today.

6. Zoning Land Use and Local Control Committee: Update

Committee Chair Fisher shared "good and bad news." The good news is that the Committee has been engaging in lively discussions. The bad news is that these discussions have been so robust that they are still fine-tuning proposed legislative amendments. These amendments aim to address the ambiguous statute in the conditional zoning case (*Jostock v. Mayfield Twp., et al.*) and clarify the appeal process for permitted or special land use decisions. The Committee is leaning toward recommending that such appeals be granted as of right.

Member Watza provided an update on the proposed legislative fix for *City of Taylor v. DTE*. He and Chair Forsyth have reached out to several entities but have not yet received any responses.

They anticipate hearing back after the election. Discussion was held; no formal action was taken.

7. Briefly: Update and Co-Editor Discussion

Chair Forsyth thanked Nicole Tabin for volunteering to serve as co-editor and appointed her to the Committee. He noted she is with the Oakland County Corporation Counsel's office and primarily handles civil rights litigation. Attorney Tabin introduced herself and indicated that she will be connecting with Kevin McQuillan next week.

8. Old Business

a. 2025 Winter Seminar - (February 21, 2025 – Canton Township) - Update

Presentation of updated draft Agenda by Pastula. Discussion held for Council input on the following areas:

- i. Event Location. Canton unavailable. Member Bluhm exploring Troy Community Center (caterers on site or they provide a list of recommended caterers); Member Pastula reaching out to The Graduate (Lansing) and the Lansing Convention Center.
- l. Marijuana Panel. Member Fisher suggested Clyde Robinson as moderator. Member Pastula to reach out to Robinson and Director Hanna of CRA for participation from Atty Jennifer Piggott or Derek Sova. Member Chubb volunteered to contact former East Lansing City Manager George Lahanas (or an East Lansing planner if he is not available) for the administrative perspective on the panel. Member White-McDonnell is reaching out to Chuck Murphy in Clark Hills' weed practice group.

Discussion held; no formal action taken.

9. New Business

a. 2025 Joint Summer Educational Conference (June 20-21st Grand Traverse Resort)

Vice Chair Kolb provided update and opened discussion on potential meeting topics:

- i. Acknowledging it could be controversial, Member Williams suggested lessons to be learned from Gotion EV battery plant. State via MEDC hired the Right Place and local officials signed NDAs so they couldn't talk to constituents about the proposed project. Noting that not informing or engaging local units is an outmoded template that results in them having to find a way to make it work after the grant is awarded or buck the State. Member Brady suggested expanding it to the State generally and that local units are brought in at the end. Package bills in lame duck dealing with Part 201 rules and economic development broadly. Past 10-20 years all administrations have campaigned on job creation and put forth large development projects. Suggestion to include a representative from MEDC to provide the State's perspective of projects. Member White-McDonnell mentioned two of her colleagues represent the Marshall battery plant. Joe Colaianne is the lead; Vice Chair Kolb will reach out to him.
- l. Noting the GA legislation, Member Bluhm suggested pre-emption in other States.

2. Chair Forsyth suggested cybersecurity, citing a ransomware attack on Grand Traverse County and the subsequent challenges it presented. The attack, carried out by the European criminal organization "Blacksuits," involved the FBI due to its severity. He noted that cybersecurity is a broad subject encompassing privacy laws, disclosure requirements, and cybersecurity insurance mandates, as well as a criminal law component. Wayne and Oakland Counties, the City of Flint, and local school districts were also mentioned as potential sources of lessons learned content based on their experiences as victims of similar attacks.

Vice Chair Kolb suggested including the impact of cybersecurity attacks on litigation, sharing her experience with a case where a defendant corporation suffered a ransomware attack. This incident significantly disrupted the discovery process in complex litigation and also involved the FBI.

Member Brady proposed including best practices, lessons learned, and training. He shared his experience with a cyberattack on a national vendor that disrupted auto dealers statewide. The attack caused a 6-8 week service outage, forcing dealers to handle title transactions in person at SOS branches instead of online.

3. Atty Tabin suggested exploring reverse conviction cases, noting that Wayne and Oakland Counties have established Conviction Integrity Units. She also mentioned that similar units may exist in other areas.
4. Atty Tabin noted they are still receiving a lot of questions about drones. Chair Forsyth indicated they are looking at drone delivery of medication in rural areas.

Discussion held; no formal action taken.

Council Comments

- a. Bluhm argued 2010 *MI Assoc. Home Builders, et al v City of Troy* case (again) and expecting another COA decision. Headlee/fee challenge. Discussion on enforcing agency definition and whether other municipalities recoup fees from building department only or also other departments.
- b. Kester So noted that oral arguments had taken place before the Michigan Supreme Court in *Heos v. City of East Lansing*, a class action involving the Headlee Amendment and the Foote Act. The case addresses whether franchise fees constitute impermissible taxes, standing, and the applicable statute of limitations. The City imposed a surcharge on water and light bills. Justice Kavanaugh raised questions about whether the surcharge is a fee or a tax, while Justice Clement, an East Lansing resident, recused herself. Kester also mentioned that he and Mithani are involved in Act 345 cases. Depending on the outcome of these cases, the impact on local government budgets could be significant.

Adjournment at 11:07 am

Next Meeting: December 7, 2024, at 10 a.m. via Zoom