

MINUTES OF THE DECEMBER 7, 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 McGee/King to approve excused absences; approved unanimously.

2. Approval of Agenda

Motion by Brady/Mithani to approve; approved unanimously.

3. Minutes of the November 2, 2024, Regular Meeting (Attachments A and B)

Member Mithani noted correction to Council Comments to update Act 305 to Act 345.

Motion by Williams/King to approve minutes with noted correction; approved unanimously.

4. Treasurer's Report: (Attachments B1 and B2)

Secretary-Treasurer King noted no changes are expected from SBM to financials as presented.

5. Amicus Committee: Update (Attachments C and D)

Committee Chair Williams provided updates regarding the following two cases:

a. Smith v. County of Wayne (6th Circuit Court of Appeals)

Reverse conviction case. Committee recommendation not to file amicus. Committee Chair noted, based on committee discussion and quality of briefs filed to date, the issues were either not in GLS wheelhouse or already adequately briefed. It was also noted other entities were participating, including PAAM.

Motion by Williams/Nettleton to decline the request for GLS amicus participation; Motion adopted by 2/3 vote in compliance with the requirements of Article VII, Section 4 of the State Bar of Michigan Bylaws (12-0 with 4 abstentions):

| | | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|---|------------------------------|------------|-----------|----------------|---------------|
| 1 | Bluhm, Lori 2027 | | | | x |
| 2 | Brady, Michael 2024 | x | | | |
| 3 | Chubb, Anthony 2026 | | | | x |
| 4 | Fisher, Jerry 2026 | x | | | |
| 5 | Forbush, Audrey 2027 | | | x | |
| 6 | Forsyth, Chris 2027 Chair | x | | | |
| 7 | Joppich, Steve 2027 | x | | | |
| 8 | Kim, William 202 | x | | | |
| 9 | King, Dawn 2026 | x | | | |

* Replacement minutes updated to correct a scrivener's error regarding the incorrect meeting date.

| | | | | | |
|----|--|---|--|---|---|
| | Secretary-Treasurer | | | | |
| 10 | Kolb, Kristin 2026 Vice Chair | | | | x |
| 11 | McGee, Mike 2025 | | | x | |
| 12 | Mills, Lizzie 2026 | x | | | |
| 13 | Mithani, Soni 2025 | | | x | |
| 14 | Nettleton, Mark 2025 | x | | | |
| 15 | Pastula, Julianne 2027 Deputy Secretary-Treasurer | x | | | |
| 16 | Sluggett, Jeff 2027 | x | | | |
| 17 | So, Kester 2025 | x | | | |
| 18 | Thomas, Aaron 2025 | | | | x |
| 19 | Watza, Mike 2026 | | | x | |
| 20 | White-McDonnell, Elizabeth 2025 | | | | x |
| 21 | Williams, Eric 2025 | x | | | |

- b. Michigan Association of Home Builders v City of Troy (Michigan Supreme Court)
Discussion held; it was noted the issues presented have a large impact on municipalities as well as the Construction Code.

Motion by Joppich/Sluggett to authorize GLS amicus participation, with Member Mithani drafting, in *MI Assoc. of Home Builders v. Troy* with Michigan Municipal League (MML) and share cost on prorated basis with MML and any other organization that joins; Motion adopted by 2/3 vote in compliance with the requirements of Article VII, Section 4 of the State Bar of Michigan Bylaws (14-0 with 2 abstentions):

| | | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|----|--|------------|-----------|----------------|---------------|
| 1 | Bluhm, Lori 2027 | | | | x |
| 2 | Brady, Michael 2024 | x | | | |
| 3 | Chubb, Anthony 2026 | | | | x |
| 4 | Fisher, Jerry 2026 | x | | | |
| 5 | Forbush, Audrey 2027 | x | | | |
| 6 | Forsyth, Chris 2027 Chair | x | | | |
| 7 | Joppich, Steve 2027 | x | | | |
| 8 | Kim, William 202 | x | | | |
| 9 | King, Dawn 2026 Secretary-Treasurer | x | | | |
| 10 | Kolb, Kristin 2026 Vice Chair | | | | x |
| 11 | McGee, Mike 2025 | | | x | |
| 12 | Mills, Lizzie 2026 | x | | | |
| 13 | Mithani, Soni 2025 | | | x | |
| 14 | Nettleton, Mark 2025 | x | | | |
| 15 | Pastula, Julianne 2027 Deputy Secretary-Treasurer | x | | | |
| 16 | Sluggett, Jeff 2027 | x | | | |
| 17 | So, Kester 2025 | x | | | |
| 18 | Thomas, Aaron 2025 | | | | x |
| 19 | Watza, Mike 2026 | x | | | |
| 20 | White-McDonnell, Elizabeth | | | | x |

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|----|---------------------|---|--|--|--|
| | 2025 | | | | |
| 21 | Williams, Eric 2025 | x | | | |

6. Zoning Land Use and Local Control Committee: Update (*Attachment E*)

Committee Chair Fisher provided updates regarding the following two issues:

- a. Proposed amendment to the Michigan Zoning Enabling Act section related to conditional rezoning
Noting that the conditional rezoning statute does not have sufficient clarity and the *Jostick* case (GLS amicus participation) did not resolve the ambiguities. Committee discussed and prepared proposed statutory revisions to provide clear guidance. Key points are:
 - i. Site specific conditions have to be based on permitted use or special land use and more limited.
 - ii. Owner can propose conditions but the government cannot propose more restrictive conditions; it can only approve or deny.
 - iii. Minutes of the government meeting must reflect the concurrence of the property owner.
 - iv. There is no express authorization for local ordinance in the current statute. Revision proposes reflection on the record that special land use applies to the property. It was also noted that the development agreement be in recordable form.

Discussion held on substance of proposed revisions, options to move forward, and outreach done to date.

Motion by Williams/Watza to approve sending proposed statutory amendments to SBM and the SBM Real Property Section; approved unanimously. Chair Forsyth noted he would review bylaws, complete appropriate SBM forms and connect with Committee Chair Fisher.

- b. Proposed amendment to MCL 7.203, governing appeals as of right to the Court of Appeals
Court rules not clear once circuit court has entered opinion whether it is an appeal by right or by leave. The proposed amendment resolves that ambiguity by expressly allowing appeal by right. Discussion held on options to move forward. It was noted that, if adopted, this results in confirmation of a policy position that must go to SBM prior to MSC.

Motion by Fisher/Watza to approve proposed statutory amendments and forward to SBM, then MSC; approved unanimously.

7. Briefly: Update

Member Mithani connected with Kevin McQuillan. Targeting a January issue to include promotion of February conference. Discussion held; no formal action taken.

8. Old Business

- a. 2025 Winter Seminar - (February 21, 2025 – Location TBD) – Update (*Attachment F*)

Members Mills/Pastula provided updates:

- i. City of Troy Community Center. Acknowledged assistance of Member Grigg Bluhm. Discussion of alternate locations and cost savings/convenience of Community Center location. Preference to remain on site for post-seminar meeting. Invoice for \$1,435 noting it may increase slightly with additional room to accommodate on site post-seminar activities (happy hour & GLS meeting).

Motion by Sluggett/Nettleton to authorize Members Mills and Pastula to move forward with finalizing Troy Community Center location, send contract to SBM, and incur rental costs. Motion adopted by 2/3 vote in compliance with the requirements of Article VII, Section 4 of the State Bar of Michigan Bylaws (16-0 with 0 abstentions):

| | | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|----|--|------------|-----------|----------------|---------------|
| 1 | Bluhm, Lori 2027 | | | | x |
| 2 | Brady, Michael 2024 | x | | | |
| 3 | Chubb, Anthony 2026 | | | | x |
| 4 | Fisher, Jerry 2026 | x | | | |
| 5 | Forbush, Audrey 2027 | x | | | |
| 6 | Forsyth, Chris 2027 Chair | x | | | |
| 7 | Joppich, Steve 2027 | x | | | |
| 8 | Kim, William 202 | x | | | |
| 9 | King, Dawn 2026 Secretary-Treasurer | x | | | |
| 10 | Kolb, Kristin 2026 Vice Chair | | | | x |
| 11 | McGee, Mike 2025 | x | | | |
| 12 | Mills, Lizzie 2026 | x | | | |
| 13 | Mithani, Soni 2025 | x | | | |
| 14 | Nettleton, Mark 2025 | x | | | |
| 15 | Pastula, Julianne 2027 Deputy Secretary-Treasurer | x | | | |
| 16 | Sluggett, Jeff 2027 | x | | | |
| 17 | So, Kester 2025 | x | | | |
| 18 | Thomas, Aaron 2025 | | | | x |
| 19 | Watza, Mike 2026 | x | | | |
| 20 | White-McDonnell, Elizabeth 2025 | | | | x |
| 21 | Williams, Eric 2025 | x | | | |

- ii. Troy Marriott. Closet hotel to Troy Community Center. Zero cost incurred by GLS to facilitate a block of 10 rooms to be available to attendees at reduced rate of \$159/night. Any rooms not reserved by attendees 3 weeks prior to seminar are returned to the available room pool. Discussion held.

Motion by Sluggett/Nettleton to authorize Members Mills and Pastula to move forward with finalizing the Marriott contract and send it to SBM. Motion adopted by 2/3 vote in compliance with the requirements of Article VII, Section 4 of the State Bar of Michigan Bylaws (16-0 with 0 abstentions):

| | | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|---|------------------------------|------------|-----------|----------------|---------------|
| 1 | Bluhm, Lori 2027 | | | | x |
| 2 | Brady, Michael 2024 | x | | | |
| 3 | Chubb, Anthony 2026 | | | | x |
| 4 | Fisher, Jerry 2026 | x | | | |
| 5 | Forbush, Audrey 2027 | x | | | |
| 6 | Forsyth, Chris 2027 Chair | x | | | |
| 7 | Joppich, Steve 2027 | x | | | |
| 8 | Kim, William 202 | x | | | |

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|----|--|---|--|--|---|
| 9 | King, Dawn 2026 Secretary-Treasurer | x | | | |
| 10 | Kolb, Kristin 2026 Vice Chair | | | | x |
| 11 | McGee, Mike 2025 | x | | | |
| 12 | Mills, Lizzie 2026 | x | | | |
| 13 | Mithani, Soni 2025 | x | | | |
| 14 | Nettleton, Mark 2025 | x | | | |
| 15 | Pastula, Julianne 2027 Deputy Secretary-Treasurer | x | | | |
| 16 | Sluggett, Jeff 2027 | x | | | |
| 17 | So, Kester 2025 | x | | | |
| 18 | Thomas, Aaron 2025 | | | | x |
| 19 | Watza, Mike 2026 | x | | | |
| 20 | White-McDonnell, Elizabeth 2025 | | | | x |
| 21 | Williams, Eric 2025 | x | | | |

- iii. Cranks Catering Proposal. Used Zingerman's menu for prior Winter Seminar as guide (2024 proposal was \$8,403.35). Crank's was only full-service caterer that could accommodate breakfast, lunch, and happy hour on site for quote of \$7,388.64 (75 guests; includes gratuity). Discussion held.

Motion by Sluggett/Nettleton to authorize Members Mills and Pastula to move forward with finalizing the Crank's contract and send it to SBM. Motion adopted by 2/3 vote in compliance with the requirements of Article VII, Section 4 of the State Bar of Michigan Bylaws (16-0 with 0 abstentions):

| | | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|----|--|------------|-----------|----------------|---------------|
| 1 | Bluhm, Lori 2027 | | | | x |
| 2 | Brady, Michael 2024 | x | | | |
| 3 | Chubb, Anthony 2026 | | | | x |
| 4 | Fisher, Jerry 2026 | x | | | |
| 5 | Forbush, Audrey 2027 | x | | | |
| 6 | Forsyth, Chris 2027 Chair | x | | | |
| 7 | Joppich, Steve 2027 | x | | | |
| 8 | Kim, William 202 | x | | | |
| 9 | King, Dawn 2026 Secretary-Treasurer | x | | | |
| 10 | Kolb, Kristin 2026 Vice Chair | | | | x |
| 11 | McGee, Mike 2025 | x | | | |
| 12 | Mills, Lizzie 2026 | x | | | |
| 13 | Mithani, Soni 2025 | x | | | |
| 14 | Nettleton, Mark 2025 | x | | | |
| 15 | Pastula, Julianne 2027 Deputy Secretary-Treasurer | x | | | |
| 16 | Sluggett, Jeff 2027 | x | | | |
| 17 | So, Kester 2025 | x | | | |
| 18 | Thomas, Aaron 2025 | | | | x |
| 19 | Watza, Mike 2026 | x | | | |
| 20 | White-McDonnell, Elizabeth 2025 | | | | x |

| | | | | | |
|----|---------------------|---|--|--|--|
| 21 | Williams, Eric 2025 | x | | | |
|----|---------------------|---|--|--|--|

Additional discussion held regarding promotion of event.

Motion by Mithani/Joppich to authorize Members Mills and Pastula to incur costs of marketing the event. Motion adopted by 2/3 vote in compliance with the requirements of Article VII, Section 4 of the State Bar of Michigan Bylaws (15-0 with 0 abstentions):

| | | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|----|--|------------|-----------|----------------|---------------|
| 1 | Bluhm, Lori 2027 | | | | x |
| 2 | Brady, Michael 2024 | | | | x |
| 3 | Chubb, Anthony 2026 | | | | x |
| 4 | Fisher, Jerry 2026 | x | | | |
| 5 | Forbush, Audrey 2027 | x | | | |
| 6 | Forsyth, Chris 2027 Chair | x | | | |
| 7 | Joppich, Steve 2027 | x | | | |
| 8 | Kim, William 202 | x | | | |
| 9 | King, Dawn 2026 Secretary-Treasurer | x | | | |
| 10 | Kolb, Kristin 2026 Vice Chair | | | | x |
| 11 | McGee, Mike 2025 | x | | | |
| 12 | Mills, Lizzie 2026 | x | | | |
| 13 | Mithani, Soni 2025 | x | | | |
| 14 | Nettleton, Mark 2025 | x | | | |
| 15 | Pastula, Julianne 2027 Deputy Secretary-Treasurer | x | | | |
| 16 | Sluggett, Jeff 2027 | x | | | |
| 17 | So, Kester 2025 | x | | | |
| 18 | Thomas, Aaron 2025 | | | | x |
| 19 | Watza, Mike 2026 | x | | | |
| 20 | White-McDonnell, Elizabeth 2025 | | | | x |
| 21 | Williams, Eric 2025 | x | | | |

9. New Business

a. 2025 Joint Summer Educational Conference (June 27-28st Grand Traverse Resort) (Attachment G)

Chair Forsyth provided updates regarding the following two issues:

- i. Potential Agenda. Chair Forsyth, Vice Chair Kolb, and Vince Duckworth met. Zoom AI summary provided as Attachment G for reference. Discussion held; no formal action needed today.
- ii. Supreme Court Justice. Discussion held; no formal action taken. Consensus that Member Fisher would continue his efforts to secure Justice Viviano's participation. It was noted he would be a former Justice at the time of the Seminar and confirmed that normally the speaker's registration and hotel are covered.

- b. Potential Council vacancy Kester So and Recommended Appointment (*Attachment H*)
Chair Forsyth acknowledged Member So is stepping away and thanked him for his service as a member on the Council, serving as Chair (twice) and participation on the publications committee (twice). Discussion held to thank Member So; he offered parting words and reassured the Council we have the ability to call him. He politely declined to participate in the publication committee, stating he would instead “fold into the night.”
 - i. Aimee Gibbs Resume and MAMA Case Summaries. Chair Forsyth noted the consensus from the nominating committee was to recommend Aimee Gibbs for the vacancy on Council. She has a background in municipal law/litigation, school matters, and drafts case summaries for MAMA.
Motion by Fisher/McGee to accept Member So’s resignation effective immediately and appoint Aimee Gibbs to fill the vacancy; approved with one abstention (Member So).

10. Council Comments

- a. Member So noted there are approx. 130 bills introduced, and it is unknown what will move forward during lame duck. He highlighted SB 1023 which would amend OMA closed session provisions. 12/4/24 passed Senate and referred to House.
- b. Member Watza highlighted SB 70 requiring remote access for disabled.
- c. Member Mithani provided Act 345 update – oral argument was on Wednesday, and it went well. Case regarding dedicated police & fire pension and “other benefits” and whether community has discretion on what benefits they need to fund. More specifically, can Act 345 dollars be used for healthcare benefits?

Adjournment at 11:30 am

Next Meeting: January 11, 2025, at 10 a.m. via Zoom

MEETING ATTENDANCE SHEET

Government Law Section State Bar of Michigan (2024-2025)

Meeting Date: December 7, 2024, conducted via Zoom

Regular Monthly Meeting Begin: 10:02 a.m. **End/Adjourn:** 11:30 a.m.

| | | <u>Present</u> | <u>Present On Call</u> | <u>Absent Excused</u> | <u>Absent Unexcused</u> |
|----|---|----------------|----------------------------|---------------------------|-----------------------------|
| 1 | Bluhm, Lori 2027 | | | x | |
| 2 | Brady, Michael 2024 (prev. engagement left 11:04 am) | x | | | |
| 3 | Chubb, Anthony 2026 | | | x | |
| 4 | Fisher, Jerry 2026 | x | | | |
| 5 | Forbush, Audrey 2027 | x | | | |
| 6 | Forsyth, Chris 2027 Chair | x | | | |
| 7 | Joppich, Steve 2027 | x | | | |
| 8 | Kim, William 202 | x | | | |
| 9 | King, Dawn 2026 Secretary-Treasurer | x | | | |
| 10 | Kolb, Kristin 2026 Vice Chair | | | x | |
| 11 | McGee, Mike 2025 | x | | | |
| 12 | Mills, Lizzie 2026 | x | | | |
| 13 | Mithani, Soni 2025 | x | | | |
| 14 | Nettleton, Mark 2025 | x | | | |
| 15 | Pastula, Julianne 2027 Deputy Secretary-Treasurer | x | | | |
| 16 | Sluggett, Jeff 2027 | x | | | |
| 17 | So, Kester 2025 | x | | | |
| 18 | Thomas, Aaron 2025 | | | x | |
| 19 | Watza, Mike 2026 | x | | | |
| 20 | White-McDonnell, Elizabeth 2025 | | | x | |
| 21 | Williams, Eric 2025 | x | | | |

Quorum (8) Bylaws Section 5.5. (16 members present; 5 excused absences)

Others Present: N/A

Attendance taken by: Julianne Pastula