

STATE BAR OF MICHIGAN
ENVIRONMENTAL LAW SECTION COUNCIL

Rhoades McKee
Grand Rapids, Michigan

December 11, 2017 Began 5:35 pm Adjourned 6:30 pm

Present:

Voting members, officers, and voting ex officio: in person: Steiner; Helminski; Kearney; Enright.

By phone: Martorano; Donohue; Schebor; Sadler; Sinkwitts. A quorum was present.

Ex officio: Schikora.

Committee chairs: Kissling; Urban.

Administrator: Parks.

MINUTES

1. Approval of Annual Meeting Minutes (Enright) — approved on motion, second, and unanimous vote.
2. Acceptance of Committee Reports Received — Scott accepted reports of the Deskbook Committee and the Environmental Litigation and Administrative Practice Committee (both are attached).
3. Chairman's Report (Steiner):
 - a. Bylaw amendments — the amendments are in effect since the SBM Commissioners approved them on November 17.
 - b. Ad hoc Committee for Recruitment of Law Students and Young Lawyers — the Committee consists of Kelly (chair), Scott, Amanda, and Nick Schroek. They will contact law schools and student groups.
 - c. Environmental Law Journal & SBM Connect Section Page — the upcoming issue of the Journal is complete, in SBM's hands, and should be issued any day now. We are trying to organize use of the SBMConnect system, and held an instructional webinar for the Section.
 - d. Committee Annual Plans and seminars/webinars — one was received (Haz Substances/Brownfields Committee). The other committees are urged to provide these, because they help planning generally, and especially the Program Committee.
4. Treasurer's Report (Enright) — Jim briefly reviewed the financial reports from SBM (attached).
5. 2018 Annual Budget (Enright/Steiner) — Jim reviewed the draft budget sent to the Council on December 7 and revised on December 11. The December 11 draft was approved to become the Section's budget upon motion, second, and unanimous vote. (Attached.)

6. Administrator's Report (Parks) — Mary Anne reviewed her report. (Attached.)
7. Standing Committee Reports
 - a. Deskbook (Haynes) — Attached.
 - b. Program Committee (Schebor/Kearney) — Todd and Margrethe reported that the get-together after the annual meeting was a good event. Margrethe said they will review holding a summer program. Todd said they are still working on a possible meeting with our Ontario counterparts, and Dennis described the contacts he is attempting to make with them.
 - c. Environmental Law Journal (Urban) — Amanda said that the next Journal issue should be released any day now. For the next issue, she is considering some reformatting of the product, and producing a limited number of hard copies of the Journal for some possible users. She is trying to recruit Section members to write articles and work on the Journal. [Note: Members are encouraged to volunteer by contacting Amanda at ajurban@umich.edu.
8. Subject Matter Committee Reports
 - a. Air (Kissling/Collins) — Kurt submitted a written report (attached). Kurt said the annual air program meeting will be in the second week of April 2018, after spring break. Also, they are trying to set a date for the annual joint conference with the Air & Waste Management Association chapters. Our Section will lead the conference organizing this year.
 - b. Environmental Litigation and Administrative Practice (McClure) — Doug sent a written report (attached). Scott reported that Doug is looking for someone to replace him as Committee chair and possibly as a Council member, and that interested persons should contact Doug.
 - c. Hazardous Substances and Brownfields (Enright/Helminski) — Tammy said the committee is holding a conference call this week to discuss topics for webinars or articles this year.
 - d. Natural Resources, Energy and Sustainability (Sadler/Lundgren) — Sue said they have been trying to develop a webinar but the initial proposed topic of natural resource damages did not work out. They are looking into a possible cross-topic presentation reviewing the first year of the Trump administration. They are also considering a webinar on the 3 bills changing the process for administrative rules and permitting, depending on the fate of those bills.
 - e. Great Lakes and Inland Waters (Schroeck/Hammersley) — no report.
9. SBM Request for comments on SB 653 (Steiner) — Scott provided a detailed review of SBM's request that we consider providing information to the Legislature on SB 653, which would provide for an Environmental Appeals Board to review permit issuance disputes between DEQ and applicants. Scott's presentation covered the details of SBM's implementation of the Keller decision in this situation. We have until January 12 to respond but can request an extension. Sue said the bill (which is among the 3 bills covered in her committee report, above) is on a fast track. There was a long discussion. Dennis said that it would be desirable if a Michigan EAB was less burdensome on hearing from out-of-state attorneys than are similar boards in other states. Jim said that the bill does not provide for attorneys to serve on the EAB, although many legal issues could come before the EAB. Margrethe pointed out that the EAB process does not provide for input from interested persons other than DEQ and the permit

applicant, and Kurt added that a proponent of the bill apparently wants to have a narrow range of participants in the EAB process. Kurt suggested that there should be an ability to raise a legal issue in the EAB process, which could be done via a simple change in the bill. Bill pointed out that it would be useful to advise all Section members about this agenda item, seek their input, and give them an opportunity to object. The first decision was whether to request an extension of time from SBM. On motion, second, and unanimous approval, Scott was authorized to request an extension of time from SBM.

10. Administrator's contract (Steiner) — This topic was moved to the end of today's agenda, and Mary Anne dropped off the conference call when we reached this topic. Scott discussed the duration of Mary Anne's contract, the amount of her compensation, and her general performance. On that basis, Scott proposed increasing Mary Anne's compensation by \$5 per hour, and giving her the option of signing a new contract lasting until the end of September 2018 or working on a month-to-month basis. Scott's proposal was approved on motion, second, and unanimous vote.

Sue asked the officers to tell Mary Anne how well people think of her.

11. Old Business/New Business — none.

Recap of motions made/approved, and other items decided/voted on:

1. Approval of annual meeting minutes
2. Approval of Section's 2017-2018 budget as set forth in draft dated December 11, 2018
3. Authorization to Scott to request an extension of time from SBM on its request for Section input on SB 653.
4. Increase Administrator's compensation by \$5 per hour, and giving Administrator the option of signing a new contract lasting until the end of September 2018 or working on a month-to-month basis.

Attachments:

1. Report of the Deskbook Committee
2. Report of the Environmental Litigation and Administrative Practice Committee
3. Section budget for 2017-18, as approved
4. Financial reports from SBM
5. Administrator's report
6. Air Committee report

Next Meeting – tentatively March 12, 2018 Detroit