

MINUTES

**State Bar of Michigan
Environmental Law Section Meeting
University Club – Grand Rapids
June 7, 2017 – 5:30 pm**

Meeting called to order at 5:30pm

In attendance:

Scott Steiner – Vice Chair	Sue Sadler (by phone)
Jim Enright	Dennis Donohue (by Phone)
Mary Anne Parks-Administrator	Kurt Kissling (by phone)
	Dustin Ordway (by phone)
	Doug McClure (by phone) Todd Schebor (by phone)

1. **Chairman’s Report.** Dennis Donohue was on the phone with the following report:
 - a. Bylaw Amendments: We will need a special meeting to take a vote on the new bylaws because we didn’t have a quorum.
 - i. State Bar provided us their comments; Jim Enright and Tammy Helminski provided additional comments: We decided to delete first paragraph and replace with Tammy’s paragraph. Tammy suggests a rewrite of Section 4 to change the title and the first sentence to be: Section 4. Diversity and Inclusion. The section shall work to increase the diversity of its membership and make the section inclusive of its diversity. The last sentence can remain the same.
 - ii. Jim brought up term limitations with council members. We may want to give the council the ability to serve another term if they desire; allows us more flexibility, with the exception of officers.
 - iii. If we change the quorum requirement from 8 to 4, which is one half of the voting council present at a meeting, we can vote. Dennis suggests 2 years terms implies that they will serve more than 2 years but it should be up to the section chair to determine if they want the person to serve more years.
 - iv. Dennis will schedule a special meeting to take a council vote sometime in August-30 days in advance of our annual meeting on Sept. 28.

** The council members voted electronically and approved the updated and amended bylaws on June 28, 2017 to be presented for a vote of the members at the annual meeting in September 2017. See attached electronic vote solicitation and approval.*

b. Webinars/Events Calendar.

Hazardous Waste Committee is hosting a Conceptual Site Model webinar on June 21.

2. April 2017 Minutes-

To be approved at an upcoming special meeting.

3. Standing Committee Reports.

- a. Program Committee – Todd is finalizing two different topics and two different sessions. Dennis recommended the topic of the M-5 Pipeline. He's still working with the Ontario Bar Assoc. to do a joint program.
- b. Natural Resources Committee, Sue Sadler had to leave the meeting early but reported that the last Committee seminar was on March 7, 2017, entitled "Endangered Species Act and Land Use," and attendance was very good. No other webinars scheduled and will probably wait until late summer or early Fall for the next webinar. Sue has been approached about interest in pursuing either a pipeline and/or a green chemistry webinar.
- c. Desk Book Committee, Jeff Haynes reported that three chapters of the desk book are in process:
 - i. Dustin Ordway's very detailed UST chapter is in edit (longer than it should have been) before revisions to discuss recent developments. I expect editing to be done by the end of June.
 - ii. Susan Topp and Bill Horn revised the Oil and Gas chapter, which is in edit.
 - iii. Paul Bohn's update of the Wetlands chapter has been through one round of edits.
 - iv. No news to report on the "missing" chapters. I expect to be able to report more fully before the September meeting.
- d. MELJ – Chris has retired as editor of the MELJ, Dennis has reached out to others but no one has expressed interest. Dennis commented that it is a big job but survey revealed it was of value to section members. Doug has someone on his committee who might be helpful editing the cases for the MELJ.
- e. CLE credit-Mary Anne shared her report and Dennis suggested that we send an announcement to the list serve to determine if this is a need. It may be worth it for us to do something every other year
- f. Nomination Committee-We will need to solicit members at our August meeting so we can vote on them at the annual meeting. The new bylaws will give us flexibility so we won't need as many council and board members. If we don't add any next year we will have 12 council and 9 board members; 2 of the 3 are rotating off this year if we have the ½ quorum requirement we will have a challenge. Perhaps we should change the quorum requirement to 5.

4. Secretary/Treasurer's Report.

Financial reports provided by the State Bar of Michigan for the period ending April 30, 2017 are attached. **Net income to date is \$15,120. The Section earned \$2,396.21 from the Michigan Manufacturer's Association – Clearing the Air Program in April.** This revenue was submitted in early May; therefore, it will appear on the May financial report from the State Bar of Michigan.

Total expenses through the end of April 2017 were \$5,864.01, with the primary expenditures being administrator, seminar expenses, and the final edition of the ELS Newsletter edited by Chris Dunskey.

The Section fund balance as of the end of April is \$47,486.78, which still exceeds the final ending fund balance for FY 2016.

Membership: Section membership is **down by 34** members compared to the end of the last fiscal year. **The ELS currently has 587 members.** However, this is an improvement from the last quarter when membership was down by 51 members from the last fiscal year. We added four free members since the last quarter and one law student, in addition to paid members

5. Administrator's Report.

Mary Anne is working on preparations for the annual meeting on September 28. We have changed our program time to be from 1- 3 p.m. and our annual business meeting time to be from 3-4 pm. She is also working on coordinating and promoting webinars.

6. Subject Matter Committees.

- a. Air Committee, Kurt and Paul are currently planning the Fall Joint Conference, scheduled for Wed., Nov. 8 at Lansing Community College.
- b. Environmental Litigation and Administrative Practice Committee, Doug McClure is coordinating with Ross Hammersley of the Great Lakes and Inland Waters Committee on a June 15 conference call for something at Wayne State. Possibly the feasibility and planning of a panel discussion and/or other in-person event at Wayne State Law School (or a webinar) on the topic of aquaculture in Michigan and the Great Lakes (initial hope is to hold the event sometime later this summer or in the fall);

- i. Discussion of Forthcoming Pipeline Safety Advisory Board Report on the Enbridge Line 5 pipeline beneath the Mackinac Straits;
 - ii. Recent developments in Nestle Waters North America permit application and public input process before DEQ; and
 - iii. Additional water law/policy news and information of note for Committee members.
- c. Hazardous Substances and Brownfields Committee, Tammy Helminski/Jim Enright, The Committee has presented or arranged for 3 webinars, as follow:
- i. Environmental Lawyers' Next Frontier: Vapor Intrusion Webinar — March 30, 2017. Speakers: Abby Hendershott and David O'Donnell, MDEQ, and Megan Napier, AKT Peerless.
 - ii. Vapor Intrusion Issues in Transactional Due Diligence and Due Care — April 25, 2017. Speakers: Jeanne Schlauffman, MDEQ, and Megan Napier, AKT Peerless.
 - iii. Conceptual Site Models — scheduled for June 21, 2017. Speakers: Sara Pearson, MDEQ, and Nick Welty, Arcadis. Webinar attendance has been excellent and feedback from attendees has been complimentary.

We had one glitch in the first webinar, in which audience questions were not visible to the moderator or speakers. That has been resolved. There are 2 - 3 recurring issues regarding webinars that merit further discussion: a) should the webinar audio recordings and visual material be made available on the Section's web page and, if so, when; b) which also covers other SBM/ELS web page materials, is whether non-ELS members should pay for access to these materials; c) can/should arrangements be made so that webinar participants can claim CLE credit for them in states where CLE is required?

7. Strategic Planning. No report

8. Miscellaneous/General Discussion.

No new business or miscellaneous discussion. Dennis will circulate the new proposed by laws for a vote.

Next Meeting – September 28, 3-4 p.m., at the State Bar of Michigan's annual meeting in Detroit, Cobo Center

Meeting Adjourned at 6:30 pm

The screenshot shows a Microsoft Outlook window titled "Environmental Law bylaws - Message (HTML)". The interface includes a ribbon with "File", "Message", and "Mimecast" tabs. The "Message" tab is active, displaying various actions like "Ignore", "Delete", "Reply", "Forward", "More", "Reply & Delete", "Create New", "Move", "Actions", "Mark Unread", "Categorize", "Follow Up", "Translate", "Select", "Zoom", "Save", and "Ship to Sender".

Below the ribbon is a "Metadata Assistant" pane with the message: "Detected one cleanable attachment." and the "Payne Group" logo.

The email content is as follows:

You replied to this message on 6/16/2017 5:04 PM.

From: Donohue, Dennis <DDonohue@wnj.com> Sent: Fri 6/16/2017 11:56 AM

To: Anna M. Maiuri; AnnMarie Sanford (sanforda@pepperlaw.com); Christopher J. Dunksy; Donohue, Dennis; Douglas G. McClure (McClure@cmplaw.com); Dustin Ordway (dordway@ordwaylawfirm.com); James P. Enright (enright@me.com); Jeffery K. Haynes; Brauer, Kurt; Kelly M. Martorano; Kohl, Steven; Kurt A. Kissling; Mary Anne Parks (Parks.maryanne@gmail.com); Nicholas J. Schroek (nschroek@wayne.edu); Paul Michael Collins (collins@millercafield.com); Rebecca J. Cassell (rcassell@myers2law.com); Ross A. Hammersley (ross@enlaw.com); S. Lee Johnson (sljohnson@honigman.com); Scott J. Sinkwitts (scott.sinkwitts@cmsenergy.com); Watson, Scott; Scott Steiner; Susan J. Sadler (ssadler@dmms.com); Susan L. Johnson; Tammy L. Helminski (tammy.helminski@btlaw.com); Timothy J. Lundgren; Todd Schebor; William R. Schikora (wrschikora@gmail.com); Margrethe Kearney (MKearney@elpc.org)

Cc:

Subject: Environmental Law bylaws

Message: Environmental Law bylaws--SBM Staff Redline 4-14-2017-1.docx (31 KB)

All:

Since we did not have quorum of council members present at our last meeting, I am circulating the amended bylaws for your review and approval via email. I looked our current bylaws and I think we are permitted to circulate these, vote and approve by email. I put the last few tweaks we talked about at the last meeting in tracked changes so you can see them.

Have a great weekend.

Dennis J. Donohue | Partner
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Retention Policy: DIW Inbox Delete (1 year) Expires: 6/16/2018

The Windows taskbar at the bottom shows the time as 12:47 PM on 9/25/2017, with various application icons and system tray icons.

The screenshot shows an Outlook window titled "Bylaws - Message (HTML)". The interface includes a ribbon with "File", "Message", and "Mimecast" tabs. The "Message" tab is active, showing various actions like Ignore, Delete, Reply, Forward, and Meeting. The "Mimecast" tab shows options like Hamtramack Publi..., To Manager, New Contact Infor..., Done, Reply & Delete, and Create New. Below the ribbon is a toolbar with icons for Move, Actions, Mark Unread, Categorize, Follow Up, Translate, Find, Related, Select, Zoom, Save, and Ship to Sender. The email header shows: From: Donohue, Dennis <DDonohue@wnj.com> Sent: Wed 6/28/2017 9:10 AM; To: Scott J. Steiner (Sec-Treas); Kelly M. Martorano; Cc: Mary Anne Parks; Subject: Bylaws. The body of the email contains the following text: "The council passed the bylaws." "Scott—I neglected to address who was keeping the minutes from the last meeting we had—hopefully you were taking notes but I guess I can put something together if you can't. We should note the bylaws passing by electronic vote as an addendum or something to the minutes." "I will check for formatting and typos (I noticed a couple) and Mary Anne can get them on SBM Connect in the next week or so." Below this is a signature block for Dennis J. Donohue, Partner at Warner Norcross & Judd LLP, with contact information for Grand Rapids, MI. A notice at the bottom of the email states: "Notice: This e-mail message and any attachments are for the confidential use of the intended recipient. If that isn't you, please do not read the message or attachments, or distribute or act in reliance on them. If you have received this message by mistake, please immediately notify us and delete this message and any attachments. Thank you." At the bottom of the Outlook window, a retention policy is noted: "Retention Policy: DW Inbox Delete (1 year) Expires: 6/28/2018". The Windows taskbar at the bottom shows the Start button, taskbar icons for Outlook, Word, and other applications, and the system tray with the date and time: 12:51 PM 9/25/2017.