

**STATE BAR OF MICHIGAN
ENVIRONMENTAL LAW SECTION COUNCIL**

**Dickinson Wright
Troy, Michigan**

March 12, 2018

MINUTES

**(Includes record of Council vote by email on questions presented by Chair Scott Steiner on
Feb. 23, 2018)**

Began 5:30 pm Ended 6:30

Present:

Voting members, officers, and voting ex officio:

Present in person: Scott Steiner, Chair; Kelly Martorano, Chair-elect; Jim Enright, Secretary-Treasurer.

Present by phone: Tammy Helminski (until 5:55); Dustin Ordway; Todd Schebor; Sue Sadler; Scott Sinkwitts; Ross Hammersley.

A quorum was present.

Also present: Mary Anne Parks, Administrator.

1. Approval of December 11, 2017 Meeting Minutes (Enright): approved on motion (Tammy), second (Kelly), and unanimous vote.
2. Acceptance of Committee Reports Received: Scott accepted written reports of the Great Lakes & Inland Waters Committee, Hazardous Substances & Brownfields Committee, and Natural Resources, Energy, & Sustainability Committee (all are attached).
3. Chair's Report (Steiner)
 - a. SBM Request for comments on SB 653; policy/procedure regarding positions on legislation and litigation; ELS Mission statement: Scott reviewed the course of events stemming from SBM's request to ELS for review and possible comment on pending legislation, SB 653, which would create a stakeholder committee to review certain DEQ actions. That was the third request to ELS during the 2017-18 year. He suggested that we consider having a policy and procedure for such situations. When this was put to a vote via the email procedure created by our most recent by-laws amendment, we had a number of Council members who did not vote. It also came to light during that vote that our mission statement may be inconsistent with our by-laws

with respect to commenting on proposed legislation, and that the by-laws do not expressly allow for commuting on proposed legislation, so there may be a need to amend our by-laws on this.

b. Summer Program: Scott suggested that we include law schools/students, and try to make the event more fun.

4. Secretary/Treasurer's Report (Enright): Jim briefly reviewed the financial reports from SBM (attached).

5. Administrator's Report (Parks): Mary Anne reviewed her report. (Attached.) She reported that she is working on the joint conference with MMA, the MELJ, social media, the HS/B Committee webinar scheduled for March 13, and updating the website.

6. Ad Hoc Committee for Recruitment of Law Students and Young Lawyers (Martorano): Kelly reported that, in a call with Nick Maloof and Amanda Urban, there had been a consensus favoring a gathering of attorneys and law students. She also suggested there be an event combined with our summer program. A gathering at the Detroit Hopcat location was also suggested. The Ad Hoc Committee will keep working.

8. Standing Committee Reports:

a. Deskbook (Haynes): No report.

b. Program Committee (Schebor/Kearney): Todd reported there had been some discussion of a venue and dates for a summer program, and he welcomed further thoughts from the Council. There was discussion.

c. Environmental Law Journal (Urban): Scott reported for Amanda Urban that she is working on the spring issue, has added new co-editors, and that there will be fall and spring issues.

9. Subject Matter Committee Reports:

a. Air (Kissling/Collins): No report.

b. Environmental Litigation and Administrative Practice (McClure): Scott reported that Doug McClure said he needs to resign from the Council and be replaced, and asked for suggestions from anyone for a replacement.

c. Hazardous Substances and Brownfields (Enright/Helminski): Jim reported events (see written report).

d. Natural Resources, Energy and Sustainability (Sadler/Lundgren): Sue sought recommendations from the Council for an attorney or engineer to speak on natural resource damages or pipeline regulations.

e. Great Lakes and Inland Waters (Schroeck/Hammersley): Ross reported there will be a conference call for planning, and 1 or 2 webinars later in the year.

10. Old Business/New Business: Scott said he accepted Doug's resignation and there was no need to fill that position immediately. He said there may be a need to develop a policy and procedure about taking positions on pending legislation and possible amicus appearances. Jim suggested that doing so should be authorized by an amendment of our by-laws. Ross suggested modeling that on the by-laws of the Real Property Law Section. Scott said that such a change should address both the Section's purpose and its voting procedure, perhaps by allowing for action by less than a supermajority in an email vote. Scott Sinkwitts stated that the supermajority is important, and that those in favor of amending the by-laws provide a redline of their suggestion at the next Council meeting.

Recap of motions made/approved, and other items decided/voted on: Approval of minutes of Council's Dec 11, 2017 meeting. (Nothing further.)

**Record of Council vote by email on questions presented by
Chair Scott Steiner on Feb. 23, 2018**

By his email on Feb 23, 2018 (attached), Chair Scott Steiner sought the Council's vote by email on 2 questions regarding taking a position on certain pending legislation. The Section's Bylaws require that, when a vote is taken by email, there be a majority of the Council's members in favor, in order to take action. Thus, with 15 voting members, the minimum need to act is 8. The result of the vote was reported by Secretary Jim Enright to the Council in a March 1, 2018 email stating, in essence, that neither question received enough votes in favor, therefore no action could be taken.

Attachments:

1. Report of the Great Lakes & Inland Waters Committee
2. Report of the Hazardous Substances & Brownfields Committee
3. Report of the Natural Resources, Energy, & Sustainability Committee Committee
3. Financial reports from SBM
5. Administrator's report
6. Detailed record of Council vote by email