

**OSB ENVIRONMENTAL AND NATURAL RESOURCES SECTION
EXECUTIVE COMMITTEE MEETING**

Thursday, July 16, 2020 – 9:00 a.m.

By Zoom: Caylin Barter, Ashley Carter, Maura Fahey, Sarah Liljefelt, Kirk Maag, Ilene Munk, Chris Thomas, Mike Freese, John Mellgren, Alia Miles, Avalyn Taylor, Ryan Shannon, Stacy Owen (Bar liaison), Dani Edwards (OSB), and Ana Ching (non-EC member).

Quorum (minimum of 9 of 17) reached.

Excused: Dominic Carollo, Sara Ghafouri, Kate Moore, Stephanie Regenold, and Mark Strandberg.

MINUTES

1. Approval of Minutes (Ashley Carter)

Maura brought up that past minutes and financial statements need to be posted to the website. Maura moved to approve the June minutes and Chris seconded. All in favor. No one opposed. No one abstained. (Ilene Munk and John Mellgren not present for vote).

2. Chair's Report (Sarah Liljefelt)

Written communications now need to go to the Public Affairs department at the Bar. Dani and Stacy are here to provide clarification after our last meeting. The Policy is related to ongoing litigation involving the Bar and what their activities can entail – all their activities must be related to the practice of law (*Keller* case). A few years ago, some members of the OSB felt like the Bar was going beyond that. In a meeting this month, CEO Helen Hierschbiel led a meeting about the policy and shared that OSB is getting more conservative about communications. Amber Hollister gave examples of topics from case law that are “no-goes” for mandatory state bars (opinions about gun rights and state bar fees to enroll members in life insurance both held to be “no-goes” for mandatory state bars). The Bar is not saying it is going to take control on CLE content, but this particular concern arises more often in certain sections, including civil rights, diversity section, and sustainable futures. This policy is not addressing the listserv (except for the section itself posting on the listserv – disseminating a section position).

Chris just worked with Public Affairs for case notes and they were approved, but E-Outlooks is the main newsletter. At the meeting introducing this policy, the Bar emphasized that if an article has a viewpoint, the section should present both sides. Other sections have had newsletters altered. Another section was not allowed to republish statements made by a legislature. And a disclaimer saying the article is not the opinion of the section may not resolve the issue. But for our section, it seems like the procedural issue would be the bigger concern. The oversight adds time and burden and can be problematic. We're hoping the Bar will put more meaningful thought into how to handle noncontroversial publications and streamline this process. Perhaps it can exempt certain publications wholesale. Also, “this is the opinion of the author” disclaimer should be factored into the Bar's considerations.

Dani Edwards - The Bar created this policy for its 41 sections as a whole. The goal is to get newsletters out as soon as possible. Hopefully, there is not too much additional red tape. The goal for Bar's meeting about the policy this month was to gather info and concerns from sections. Its decision to review content was in response to some recent issues – issues on certain section's websites and things sent out via newsletters that were controversial and not germane to the practice of law. So they applied this policy to all sections. The Bar will put together guidelines as to things that are controversial or divisive. This doesn't mean you can't engage at all; it just means sections have to be more cautious.

Would moving our E-Outlooks, Case Notes, and other content to the listserv (as the means of distribution) avoid the oversight?

Dani- Listservs are limited public forums. If something is posted by an individual, the Bar is not regulating that. If the EC or EC member distributes it, it is a part of the Bar and then anything put together by EC member/EC becomes Bar speech. So if the author publishes/distributes something on their own through listserv, that's fine. But if the EC is gathering articles, editing them, and then issuing it on the listserv, then that's Bar speech.

CLEs. One section was set to have a "public forum" – not a CLE– and that does not change the fact that the information is Bar speech. Section speech must be related to/germane to the practice of law. Sections do that by supporting lawyers – not educating the public. The Bar wants to make sure sections are offering a balanced approach (police misconduct example). So with CLEs, the Bar wants sections to offer multiple viewpoints; usually sections will want to do this so the information is as useful to members as possible. Content of CLEs is less concerning than newsletters, written communications, etc.

One concern raised: this requirement related to CLEs may shut down conversations around certain topics. There should be a due diligence exception – despite best efforts, one viewpoint won't attend. It would be a shame, if we can't have any discussion about the issue. For instance, government sometimes can't talk about certain issues. We try to have an NGO, private, and gov't perspective, but not everyone can participate and there is not always times for all viewpoints.

Dani will share these concerns with Helen. The BOG is engaging in full review of sections and support Bar provides to sections. The Bar is also developing guidelines to help identify areas or topics of concern. Some of this will be on a case-by-case basis, however.

The ABA's Education Services Group handles these types of issues Bar is wrestling with here. Recommended looking to the ABA's model for this without reinventing the wheel.

Bar Liaison Report (Stacy Owen)

See above.

3. Treasurer's Report (Caylin Barter)

The end of June balance was \$15,137, which represents an increase of \$2,150 from the May financials. This balance reflects revenue of \$100 in Section membership dues and \$57 in corresponding expenses assessed by OSB for support services (\$9.50/member, whether paid or complimentary). The \$2,000 deposit for our planned October CLE at McMenamans Edgefield was refunded in June following the decision to transition to a virtual format in response to the COVID-19 pandemic and is reflected in this month's report.

Our year-to-date revenue of \$11,975 from membership dues is very close to our budget estimate of \$12,500 (95.8%). We are well ahead of our June 2019 membership revenue, which stood at \$9,280. The year-over-year change is attributable to the increase in Section dues for 2020.

Since May, we have experienced a 1% increase in overall membership. Section membership at the end of May was 475 paid and 34 complimentary, for a total of 500. At the end of June, we had 479 paid and 36 complimentary, for a total of 515. By comparison, memberships at the end of June 2019 were 464 paid and 69 complimentary, for a total of 533.

5. Publications

a. ENR Deskbook (Kirk Maag/Mark Strandberg)

No update yet. The next step is meeting with the Bar to kick off Volume 3.

b. Case Notes (Chris Thomas)

Case Notes went out yesterday. The Bar was very responsive with its review. It got feedback to Chris within 48 hours.

c. E-Outlooks (Chris Thomas/Ashley Carter)

Two out of three articles are ready for publication and the third is coming. Chris will let us know how it goes with the Bar with E-Outlooks.

6. Education/CLE

a. Brownbags (Ryan Shannon/John Mellgren)

The Otter CLE in June was moved from in-person (pre-COVID) to a Zoom meeting. The tech side of things went well. Ryan hosted and presenters were seamless. The platform allowed for good interaction with presenters. Benefits of online: The average past attendance for a Brownbag was 15-20 people. We had over 40 participants online. Part of it was the subject matter and part of it is that folks are starved for content. There are not a ton of new CLEs being put out right now. Also, something to consider for future CLEs - video/Zoom options for people outside of Portland seem better than phone options for attending CLEs. It would be nice to continue doing web content in the future (if in person, we could stream powerpoints and presenters). We can't use the Bar's BlueJeans platform. Phone conference lines are available to sections but no access to video conferencing (for CLEs or meetings).

CLE accreditation for sea otter CLE should be all set. Ryan will follow up with the Bar. We've followed all steps for applying for accreditation but if they haven't seen it yet, Ryan will make sure it's there before the end of the year. It is not listed in the bar database yet, but things with bar have been delayed.

The Bar's registration services made things a lot easier on our end. The section effectively broke even after paying for registration services. Also, we can remind people you can just become a member when they want to register for the CLE. We used to include that on CLE notices. Members can't renew that way, but Stacy doesn't know if there are any restrictions to asking people to sign-up as a member. Past information about signing up as a member was approved by the Bar.

Possible upcoming Brownbag topics. Governor Brown's recent Climate Action executive order (hosting with sustainable futures section). Diversity subcommittee – I-5 Rose Corridor and Transportation and broader legacy of infrastructure projects in Portland. The earliest date for these would be September. If anyone else has ideas about CLE, let Ryan and John know.

b. Field Trips (Caylin Barter/Alia Miles)

All field trips are on hold for now due to the pandemic.

c. Annual CLE (Maura Fahey/ Ilene Munk/Stephanie Regenold/Avalyn Taylor/Alia Miles/Kate Moore)

We received the deposit back from McMenamins and cancelled that contract. Maura is moving forward with the Bar's co-sponsorship of our annual CLE. We are waiting for more info from the Bar on next steps. We still need one panel filled out and we're moving forward with receiving materials from panelists. We would like the Save the Date sent out soon. The Bar got back to Maura about their registration rates. 2019 rate we charged was \$145. We discussed subsidizing attendees: not subsidizing non-OSB members (leave that at \$160 for this year). Last year we subsidized section members (\$115). This year we could consider a \$95 rate to members and a discount to ONLD members. Continue discount for government/NGO attorneys regardless of membership (\$60 discount). We could perhaps incentivize early registrations with subsidies (a certain number of subsidies). Maura will follow up with the Bar about an early registration discount. In the past, students were fully funded but no students took advantage of that. There might be more interest since this is virtual. Treasurer recommendation: We don't subsidize outside of ENR members because that is a fixed number and we would know how many people we're potentially subsidizing (even if new members sign up).

Considerations: More people may attend online than in person and it's hard to estimate that in advance. Also, the CLE will be recorded so others can view later. We do not receive revenue for online events – any money we put in we will not get back. Our budget contains \$5,325 in revenue for all CLE seminars including the annual CLE. So now there will be no/much less revenue. Income and expenses from the CLE are expected to break even. If we look at \$0 revenue from the annual CLE, Treasurer urges caution at using expenses as only data point informing subsidy decisions.

What does the Bar anticipate their direct cost would be for hosting this virtual event? Seems like most costs are fixed regardless of number of registrations. The resources will be used to get panelists set up. The Bar should offer profit sharing at a certain point, but it does not appear to at this time.

d. Legislation (Mike Freese/Ilene Munk)

No updates.

7. Committees

a. Pro Bono (Ashley Carter/Ryan Shannon/Chris Thomas)T

No in-person opportunities right now. Ryan will let us know if anything changes at Friends of Trees. We need to follow up with Eric at the Bar about getting the Pro Bono list and updating it.

b. Diversity (Ashley Carter/Maura Fahey/Kate Moore/Sara Ghafouri)

Maura is taking the lead on reaching out to law students. Let them know the section is here and would like to work with groups on how we can support their students (maybe match students up with mentors). We are also looking at OLIO participation.

CLE Brownbag (possibly with Diversity Section) – EJ and including impacted communities in environmental decisions. We'll work on identifying content and speakers together. Other possibilities: Racial equity and servicing historically disadvantaged communities - Metro 2019 bond. They just hired program lead Seth Cohen and new community engagement lead. They could be good presenters. We also have access to other presenters not in Oregon. Susie Ruel, EJ coordinator under Obama administration – how to access free EPA materials on EPA website so community groups can access free resources that already exist. Ilene can connect us.

The membership committee should look for diverse candidates for EC membership. There is no official criteria for membership. We should put out a general announcement asking who might be interested in becoming more involved with the EC. We can look for diverse candidates, but we should let everyone know. We normally send out a notice to our entire section when we have openings. Maybe some years we haven't sent emails when we already have a lot interest. What we haven't included before is a diversity message. This crosses both the Diversity committee and EC membership. We can look at the Bar's diversity action plan to see if there are any tips on how to recruit more diverse membership. We don't know if the Bar could tell us about diverse make-up of the section since members can provide that information. It would be good to know the data we have. We do not want to tokenize people; we want the EC to reflect the diversity of the section and Bar. Also, with our CLE panels, we could have more panelists from diverse backgrounds.

This year we could at least send out an email about joining the EC. If the Bar can provide the diverse make-up of section, consider how to use the data for future membership.

c. Executive Committee Membership (Mark Strandberg – Laura Maffei (non-EC member))

Sarah will mention the conversation above to Mark. We also like people who have addressed interest in our section. We should be up front about that.

d. Annual Award/Meeting (Dominic Carollo/Ashley Carter/Alia Miles)

The announcement about the annual award is set to go out soon. We need to consider how we can do the event meeting.

8. Other/New Business (Sarah Liljefelt)

We will meet in August this year since we did not meet in May.

OREGON STATE BAR
Environmental & Natural Resources - 813
Statement of Revenue and Expense
For the Six Months Ending June 30, 2020

Description	June 2020	YTD 2020	Budget 2020	% of Budget	June Prior Year	YTD Prior Year
REVENUES						
Membership Fees	\$100	\$11,975	\$12,500	95.8%	\$40	\$9,280
Registrations - Conferences/Seminars	110	110	5,325	2.1%	(125)	(105)
Total Revenue	210	12,085	17,825	67.8%	(85)	9,175
EXPENSES						
Annual Meeting			2,300	0.0%		
Case Law Summaries			400	0.0%		
Committee - Subcommittee			300	0.0%		
Computer - Internet / Web			100	0.0%		
Conferences / Seminars Expense	(2,000)		5,900	0.0%		40
Education			1,000	0.0%	80	616
Gifts & Awards			600	0.0%		
Telephone - Conference Calling		105	200	52.5%	13	89
OSB Support Services Assessment	57	4,893	5,938	82.4%	80	4,264
MCLE Sponsorship Application Fee			315	0.0%		
Credit Card Fee	3	3		0.0%		
Miscellaneous Expense			500	0.0%		
Total Expense	(1,940)	5,001	17,553	28.5%	173	5,009
Net Revenue (Expense)	2,150	7,084	273		(258)	4,166
Beginning Fund Balance		8,052				
Ending Fund Balance		15,137				
Section Member Count - Paid	4	479				464
Section Member Count -	2	36				69
Section Member Count - Total	6	515				533

E & NR Detail

Account Number	Account Description	Date	Vendor	Reference	Debit Amount	Credit Amount
813-4405-000	Membership Fees	6/30/2020		Aptify BatchID = 740	\$0.00	\$100.00
813-4565-000	Conferences / Seminars-Conf/Seminar Registrations	6/30/2020		Aptify BatchID = 740	\$0.00	\$110.00
813-7245-000	Conferences / Seminars	6/30/2020	McMenamins-Edgefield	200630 / ck# 230511	\$0.00	\$2,000.00
813-7745-000	OSB Support Service Assessment	6/30/2020		Jun OSB sect admin fee	\$57.00	\$0.00
813-7747-000	Environmental & Nat. Resources-Credit Card Fee-	6/30/2020	BluePay	Jun 2020 BluePaay CC Trans Fe	\$3.11	\$0.00
813-U001-000	Environmental & Nat'l Resource Section Member Coi	6/30/2020		Jun Sec HC adj	4	0
813-U004-000	Environmental & Nat'l Resource Sect Comp Member	6/30/2020		Jun Sec HC adj	2	0