



## **NYSBA**

### **MINUTES OF THE OCTOBER 21, 2018 EXECUTIVE COMMITTEE MEETING OF THE NYSBA ENVIRONMENTAL AND ENERGY LAW (EELS) SECTION**

The meeting of the NYSBA Environmental and Energy Law Section (“EELS”) Executive Committee was convened on October 21, 2018 at the EELS Fall meeting at the Emerson Resort in Ulster County, New York. A list of the meeting attendees is attached at the end of the Minutes. Katrina Kuh, Melissa Valle, Claudia Braymer, David Quist and Robert Stout were on the phone. [NOTE: If anyone else was on the phone we apologize for missing your name!]

#### **1. Welcome**

Chair Marla Wieder (“MW”) provided a general welcome to the attendees, and reminded everyone to send Lori Nichols who worked at the NYSBA for 39 years via email a “thank you” since she left the conference before the meeting.

#### **2. Approval of Minutes**

The Minutes from the Section’s May 23, 2018 Executive Committee meeting were attached to the agenda packet and reviewed by the members. A motion to approve the Minutes was made and the minutes were unanimously approved.

#### **3. EELS Branding**

Marla explained that she has spent some time in conversations with the “Big Bar” about branding the Section and how it can help to attract newer and younger members. She explained that the Big Bar has a guidance document suggesting we cannot have our own logo. However, but it is 10 years old and there was discussion (and laughter) that it was only guidance. We want to move beyond the guidance since is it ten years old and we know that social media can help our marketing. Larry Schnapf and Marla will be approaching the Big Bar to change the policy. Lisa B. admitted that membership is a problem so if we really think it will help our marketing to create a logo, she indicated that the Big Bar might be swayed. Marla added that we have also been talking about use of recycled paper for all of our marketing. Linda Shaw asked Lisa B. if we should adopt a resolution that would go to the Big Bar on these two issues so that Amy Kendall can take the resolution to the House of

Delegates (HOD). Linda Shaw moved for 2 resolutions on the EELS branding logo and recycled paper issues. Rosemary Nichols seconded, and each motion passed unanimously.

#### **4. Financial Report**

Treasurer Nick Ward-Willis indicated that the section's budget is doing well largely due to sponsorships. The budget penciled out ending \$25,000 under budget. We did go over our meeting budget for the January 2018 Annual Meeting because of the off-site luncheon, but we have agreed to increase the budget for this year to keep the off-site luncheon.

Nick explained that the Cabinet has been drafting a policy on travel expenses for speakers. The policy will indicate that there will be no reimbursement for members since members obtain name recognition for being a speaker. In addition, the policy will state if you are a state employee, you cannot be reimbursed. However, Judges and federal employees can be reimbursed. The travel budget concept is no more than \$500 for travel and lodging for speakers. Some of the other sections have policies in place that our section is reviewing. Nick asked for comments but no one added any new ideas to the discussion.

Nick indicated that the Big Bar is entering contract negotiations with Hilton. Since we are having our luncheon off-site, we will not have a large Hilton budget for food but our reception on Thursday night is still at issue. Lisa explained that the Bar is limited with hotel options since so many of the attorneys attending this Annual Conference come from NYC and therefore do not book enough rooms to make many hotels amenable to hosting this conference. As a result, the Hilton overcharges for food. Therefore, the bar is looking to renegotiate the food and refreshments budgets as much as possible. The committee agreed that we will keep the Thursday night reception at the Hilton but we did not discuss how we might change the food/drinks.

#### **5. Minority Fellowship Program**

Kevin Bernstein spoke for Ginny Roberts, who could not make it to the conference, about the idea of increasing the fellowship financial benefit from \$6000 to \$7500. An applicant, who would otherwise be working for free with an NGO or agency, would receive this grant. Marla indicated that we need help to marketing the program. Last time it was awarded was 2015. We are going to start publicize it right away. For example, the EPA has 12 unpaid internship slots that are getting filled now. John Greenthal mentioned that the Diversity Committee could help.

#### **6. NYCELI Donation**

NYSBA has supported the NYC Environmental Leadership Institute with a \$1500 donation. Walter indicated that there are generally 12-15 very excited students who are educated to become environmental leaders by the organization. Walter Mugdan asked for a motion to

approve the donation, which was seconded and passed unanimously. Marla added that what we do need to do is make sure that NYCELI leaders become NYSBA EELS members. Margaret Macdonald suggested that we allow some NYCELI students to present their projects at the conference.

## **7. Membership Report**

Robert Schofield from the Big Bar attended the Executive Committee meeting. Howard has provided Robert with some of our section's membership plans. Robert suggested that we get the Section Caucus behind the recycled paper and logo ideas first, and then go to the House of Delegates.

Robert Stout on our Membership Committee indicated the Section we lost 52 members as of May, but we Big Bar's 3% requested increase, we need 92 new members as of the end of 2018. Therefore, we need to work on a "hard push" to get new members over the next 3 months. Marla added that we have been reaching out to energy attorneys. Marla added that if we had an EELS logo then we can give them an EELS mood changing pencil as an added incentive to join!

Amy Reichhart indicated that if we wanted to have energy attorneys we have to change our panels. Lisa B. suggested that we co-sponsor with the Energy Bar attorneys, which have a standing committee, but are not a section. Therefore, we agreed to reach out to the Energy Bar.

Howard Tollin added that the Bar has lists of attorneys, and we are going to review these lists to see who historically was a member and who has dropped off the list. Our other big membership push related to law schools over the last few years but Amy Reichhart, Amy Kendall and Ed McTiernan all concluded that recent membership events they held at UC, Cornell, and City Law School were not overly successful and were a "heavy lift" for each to organize and pull off.

Linda Shaw suggested that instead of holding events at law schools, it might make sense to have each of us on the Executive Committee contact our own alma mater or a school of choice to obtain law school contacts and to coordinate with each law school for the purpose of obtaining student Bar members for the one year of free membership. Then if a student joins, that person will be responsible to contact them a year later to try to encourage them to become a paying member. If this becomes our process, John Greenthal suggested that it can become institutionalized. John Greenthal agreed to provide Lisa B. with a list of the law school contacts that he has collected.

Amy Kendall indicated that she and Jeff Stravino have contacts at University of Buffalo from the session she held last year. Amy Kendall has contacts at Cornell and Ed McTiernan at City Law School. Katrina volunteered to coordinate on behalf of Pace, Mike Bogin indicated that Pam Esterman was now an educator and he would reach out to her. Mike Lesser did track how many student members we added as members, but no one knew what the numbers were. Nick and Howard collected names of volunteers to contact a law school of their choice at the meeting. We will follow up with all who volunteered.

**8. Amendments to the NYS Constitution - Guaranteed right to clean air and clean water (i.e. Proposed Amendment to Article 1 to establish the right to a clean environment in the NY Bill of Rights which would create a new Section 19 to Article 1)**

Marla reminded the Executive Committee that Kingston was the capital of NY and the British were so outraged that NY passed its own Constitution, this action led the British to burn Kingston to the ground in 1777.

Katy Kuh explained that the NYSBA Committee on the State Constitution would like a representative(s) of our Section to brief the Committee about proposed amendments to Article 1 of the NYS Constitution to establish the right to the environment in the NY Bill of Rights (a new Section 19 to Article 1). She reminded us that this in no way affects the “forever wild” provisions in Article XIV (except maybe to strengthen them in directly). Katy Kuh chaired a taskforce on this topic, whose report was published in the Pace Law Review. Judge Karen Peter, chair of the NYSBA Committee on the Constitution, sent the attached note to the committee members.

A bill passed the Assembly but not the Senate last legislative session. In order to amend the Constitution, a bill would need to be adopted by BOTH the Senate and Assembly 2 consecutive sessions in a row. Therefore, even if a bill was passed by both the Senate and Assembly in 2019 and 2020, the Constitution would not be amended until after that time. There was no motion that resulted from this discussion.

**9. 2018-2019 Programs**

The revised sponsorship form was well received by consultants and we believe it helped to attract sponsors. The Cabinet also did a lot of personal outreach to consultant contacts to get sponsors, which did help our Sections’ budget. Howard Tollin reminded the committee that there is still an opportunity to sponsor, particularly the Brownfield conference in December 2018.

Marla then reviewed the list of upcoming conference events, including the EJ and Climate Change panels which will unfortunately occur on the same day.

Amy R. asked if the NYC Climate Change event has a link to forward to interested parties. Marla explained where to find the link. Kevin Healy explained the purpose of the panel.

Marla next noted Howard's environmental insurance program in November and the Brownfield program in December.

Linda Shaw reviewed the various topics that will be covered at the January 2019 Annual meeting. Kevin Healy expressed concern about the lack of significant attendance at the Thursday evening event and that we should give awards to important people at the luncheon and not at the Thursday event. All agreed.

Marla mentioned that we might do a program with NJ in the early part of 2019 and noted the Oil Spill symposium in April.

Marla apologized that this Fall Meeting conflicted with the ABA program. She asked the committee to advise the Cabinet if there are any conflicts so we can avoid this happening in the future.

Howard added that we do want to push law firm sponsorship at the Annual meeting.

Committees and Task forces will soon be asked if they have any updates via their liaisons who are noted in the attached chart.

Marla welcomed Sarah Lobe as new co-chair as the Diversity Committee along with Christine Leas, who will be collectively working to promote the Minority Fellowship.

David Freeman wanted to add an update on the Future of Federal Environmental Policy Task Force. He indicated that there are not a lot of legal issues at the moment. The Task Force did provide comments on the "secret science rules". There are a lot of technical issues at the moment but not legal ones. He thinks there will be a lot to comment on after the election. David concluded that the Task Force has 22 members but it could use new members willing to prepare comments.

## **10. Publications & Essay Contest**

Miriam Villani indicated that the new publication would be ready in a few weeks and she would be soliciting for articles after that. Therefore, she would commence the 32nd Essay Contest.

## **11. Awards**

Marla asked everyone to congratulate Walter Mugdan, who received the "Government Attorney of the Year" award from ABA. Nick Robinson also got an award along with Paul Gallay.

## **12. House of Delegate's Report**

Amy Kendall indicated that the most significant event at the HOD meeting was that the HOD agreed to create a new section for Woman in the Law. Many people expressed an interest in joining. The Big Bar may offer free membership for the first year.

She added that in the Section Caucus, a new membership idea is to get a list of people who attended Environmental CLEs last year and compare this with the Section's membership list.

Telisport Putsavage added that since the Cannabis Committee is not a section they have created a Friends of the Cannabis Law Committee so you can join and get updates.

### **LIST OF ATTENDEES AT THE OCTOBER 21, 2018 EXECUTIVE COMMITTEE MEETING IN PERSON OR BY PHONE**

Lisa Bataille, Section Staff Liaison  
Robert Schofield, NYSBA EC Liaison  
Marla E. Wieder  
Nicholas M. Ward-Willis  
Howard M. Tollin  
Linda R. Shaw  
Kevin M. Bernstein  
Claudia Braymer (phone)  
David J. Freeman  
John L. Greenthal  
Amy K. Kendall  
Telisport W. Putsavage  
David W. Quist (phone)  
Melissa M. Valle (phone)  
Sarah Lobe  
Margret MacDonald  
Frederick Eisenbud  
Miriam Villani  
Walter Mugdan  
Susan Amron  
Michael Bogin  
Rosemary Nichols  
Dan Kranin  
Dan Ruzow  
Edward McTiernan  
Amy Reichhart  
Carl Howard  
Kevin Healy  
Patrick Carroll  
Robert Stout (phone)  
Katy Kuh (phone)