ENVIRONMENTAL LAW SECTION
ANNUAL MEETING
JANUARY 29, 2010

Minutes: submitted by Kevin Anthony Reilly, Secretary.

Attendance: Gary Abraham; Lou Alexander; Jeff Baker; Martin Baker; Terresa Bakner; Lisa Bataille; Kevin Bernstein; Justin Birzon; Megan Brillault; Lisa Bromberg; Jeffrey Brown; Gerard Cavaluzzi; Mark Chertok; Kelly Corson; Janice Dean; Philip Dixon; Robert Feller; David Freeman; Andrew Gershon; Drayton Grant; John Greenthal; Kevin Healy; Carl Howard; Robert Kafin; Kit Kennedy; Alan Knauf; Barry Kogut; Jan Kublick; Robert McLaughlin; Neal Madden; Wendy Marsh; Kathleen Martens; John Marwell; Joan Leary Matthews; Ruth Moore; Walter Mugdan; Phillip Musegaas; Adrienne Oppenheim; James Periconi; Erica Powers; Edward Premo; Telisort Putsavage; Kevin Reilly; Virginia robbins; Kevin Ryan; Larry Schnapf; Jim Sevinsky; Laurie Silberfeld; Gail Suchman; Reed Super; Howard Tollin; Miriam Villani; Cheryl Vollweiler; Maria Wieder; Kristen Kelley Wilson; Michael Zarin

Secretary's Report: Approval of the minutes from May 6, 2009, and October 24, 2009 Executive Committee meetings.

Treasurer's Report: Carl Howard (financial reports attached).

Chair's Report: Alan Knauf.
- Fall meeting 2009 received several positive responses.
- Discussion regarding Fall meeting 2010 (Cooperstown, October 1-3).
- Discussion regarding how to account for abstentions when the Section votes whether to take a position, and what the position should be. The conclusion was that an abstention is considered to be a non-vote for vote-counting purposes. The Chair suggested that members who intend to abstain may bring that fact to the Chair's attention if they wish to maintain confidentiality. Roberts Rules will be reviewed for further guidance.
- The Chair suggested that another program on the Marcellus Shale be conducted. If so, co-sponsorship with the Real Property Section might be explored. It was also suggested that a Committee be formed comprised of lawyers with backgrounds in, inter alia, environmental law, real estate law and municipal law.
- Alan initiated meetings with DEC General Counsel Alison Crocker, which have been very successful. The goal is to hold these meetings every two months or so, as circumstances warrant and scheduling allows. Alan noted that if a Section Committee has a particular issue to discuss, the Committee chair or a designee may attend the meeting. It would be helpful if prior notice can be provided to ensure an informed discussion on the particular topic. Either Alan or Barry Kogut can be contacted in this regard. A tentative agenda for future such meetings will

be prepared and e-mailed to members of the Executive Committee.
- A new Chair is needed for the Transportation Committee, and there is an opening on the Pollution Prevention Committee.
- The webinar seems to work well, but should be developed further. CLE credit would be an attractive feature for future webinar discussions. This is also a useful device for committees to present programs.

Journal/Essay Competition: Miriam Villani.
- The essay competition is presently underway, but there has been a shortage of participants recently, especially last year. Efforts will be made to encourage the participation of more students.
- The Journal will introduce a new "Open For Discussion" feature, by Dave Freeman and Larry Schnapf. Additionally, a Journal blog may be introduced.
- The Journal expects to publish electronic issues in the near future. Initially, there may be electronic as well as paper issues. The goal is to have readers elect for e-delivery. However, the default position would be to send paper issues, unless the reader opts out and selects e-delivery. Electronic issues likely will not be pdf, and likely will be made available as a link to e-mail. This will be explored further.

Green Real Estate: Joel Sachs.
Joel noted that the Real Estate Section has formed a Green Real Estate Committee, and several municipalities have been incorporating green issues into zoning and other areas of land use. As a consequence, the Real Estate Section and Municipal Law Section are forming a task force to address this new dimension of land use planning.

Co-Sponsorship: Alan Knauf.
Alan noted that the New York State Bar Association has indicated its intention of restricting co-sponsorships to NYSBA events. Moreover, while other bar associations might be eligible co-sponsors, law schools would not be. Additionally, the NYSBA has expressed a concern for restricting from non-NYSBA sponsors and other organizations the use of its mailing and e-mail lists.

Pro bono: Alan Knauf.
Alan noted that Judith Enk of EPA is encouraging pro bono representation on environmental matters. Alan, noting that Section members would be far more effective in this regard than in offering pro bono representation in other areas of law, recommended that the Section form a pro bono panel, and sought volunteers.

CLE Committee: Jim Periconi.
Jim suggested that it might be appropriate to present a program addressing updates in Brownfields law and policy. Jim also suggested that a future program could address practical skills.

NYSBA and Lobbying Rules: Lisa Bataille.
Lisa addressed the recent restrictions impacting how the NYSBA, as a lobbyist, and its constituent Sections, interact with New York State employees. The rules impose restrictions on providing any benefit to State employees (excepting coffee, tea and soda). Violations may invoke the jurisdiction of the Commission on Public Integrity. The Section's ongoing goal has been to interact with government attorneys for educational and informational purposes, and to attract the participation of more government attorneys in our meetings and programs. However, as a practical matter, the Section, for each social event, may now have to evaluate who is attending and what is being served. The Legislative Forum is such a function. The Section must explore how to operate the Legislative forum, which traditionally serves lunch, and other events.

Membership Committee: Janice Dean; Howard Tollin.
The Committee is trying to find the means of introducing law students to the Environmental Law Section. One hurdle has been that the NYSBA insists that all attendees of a program pay full fare, even if they are not seeking or receiving CLE credits. Hence, the potentially useful recruitment device of inviting students to attend for free, is not available.
As for general membership, the present baseline is 1193 members of the Section; the goal is to increase membership by 10% to 1311.

Global Climate Change: Virginia Robbins; Kevin Healy.
The Committee acknowledged the wider public acceptance that Climate Change is occurring, yet noted that the actual implementation of proactive public policy has been slow. The Fall program was designed to give municipal officials tools with which to prepare for climate change. There likely will be ample material for another program, in view of pending and proposed legislation, NEPA developments, and evolving state, local and federal policies. Kevin suggested that a future program, which could well be a conference, be holistic in approach, involving lawyers and other professionals, and possibly even religious leaders, in assessing and devising multi-disciplinary strategies and responses. It was also suggested that Columbia Law School, and others, might be approached for co-sponsorship (cf., Co-sponsorship, above).

SEQRA Statute of Limitations: Alan Knauf. The Committee will distribute a proposed recommendation to the Executive committee. Alan, noting the need for some certitude, recommended that the Executive Committee vote one way or the other.

Hazardous Waste/Site Remediation Committee: David Freeman and Larry Schnapf.
The Chairs recommended two initiatives: commenting on DEC's policy of dropping sites for the lack of progress, especially in the current economic downturn when lack of progress may result from economic rather than environmental factors; and reviewing new developments in New Jersey.

DEC/Environmental Law Section Anniversary: Barry Kogut.
Barry suggested that a program be planned for the summer of 2010 (handout distributed), to include CLE, speakers, lunch and field trips. Additionally, DEC's anniversary could be recognized with several different field trips, or other events, in various DEC regions. These ideas will be further explored.

NYCELLI: Chris Saporita. The program has been expanded to three cities.

Old Business: The pros and cons of distributing program materials on CDs, rather than in printed volumes, was discussed.