

# **MINUTES OF THE MEETING OF THE BOARD OF GOVERNORS OF THE REAL PROPERTY SECTION OF THE VIRGINIA STATE BAR**

**Virginia Beach, Virginia  
June 19, 2009**

The summer meeting of the Board of Governors of the Real Property Section of the Virginia State Bar, and Section Area Representatives, with section members and other attendees, was held at the Holiday Inn SunSpree in Virginia Beach, Virginia on Friday, June 19, 2009.

The following persons were in attendance: Randy Howard (Chair), Joe Cochran (Vice Chair), Paul Bellegarde (Sec'y/Treas), Grice McMullan, Larry McElwain, Lawrence Daughtrey, Philip Hart, Court Traver, Susan Pesner, Paul Melnick, Jean Mumm, Susan Walker, Doug Dewing, Ed Waugaman, Rick Richmond, Pia Trigiani, Steve Gregory, Steve Romine, Rachel Downs, Larry Schonberger, Cynthia Nahorney, Ray King, Mike Barney, Chuck Lollar, Kathryn Byler, Joe Durant, James Webb Jones, Kelly Daniels Sheeran, Sharon Pandak, Gary Peterson and Jeremy Pryor.

Randy Howard called the meeting to order and asked all to introduce themselves.

## **Minutes of Last Meeting**

Randy Howard presented the minutes of the February 27, 2009 meeting of the Real Property Section (at Kingsmill Resort Conference Center in Williamsburg) and upon motion duly made, and seconded, the minutes were unanimously approved as written.

## **Financial Report**

On the "Agenda" circulated by Randy Howard prior to the meeting, it was noted that the "5-31-09 Section balance" did not reflect \$2,011.63 submitted as an expense incident to the May 2009 publication of the *FEE SIMPLE*. It was also noted that any expense charged against the 2008-2009 Operating budget should have been submitted to VSB prior to Friday, June 26, 2009.

At the meeting Randy reported that even allowing for expense related to the FEE SIMPLE, Speakers (at the Summer Program and others), Dinner at Steinhilber's etc, the worst case economic scenario would be that we are left with \$10,000 in the 2008-2009 Operating Budget.

Given this "surplus", discussion ensued on whether and to what extent it would be prudent to use these funds to purchase the Virginia Title Examiners Manual at discount before the volumes are discarded. This has been a subject of discussion at prior meetings with no definitive result. Upon a motion made by Susan Pesner (and seconded by many) Doug Dewing was given "complete discretion" to cut a deal with MICHIES for a bulk discount purchase in any amount that does not exceed \$10,000 (including any shipping charges).

**Area Rep Nominations** – Jean Mumm (immediate Past Chair) was formally approved to once again serve as an Area Rep.

## **Future Meeting Dates**

The Fall Meeting will be held on Friday, September 11, 2009, at 10:00 a.m., at the VA CLE Office in Charlottesville [105 Whitewood Road, Charlottesville, Virginia, 22901 – 434-296-5056].

## **New Business:**

### **Subcommittee Reports:**

**MEMBERSHIP** – Attendant to the new Area Rep Handbook that Larry McElwain drafted in collaboration with Joe Cochran, Joe has begun the process of conducting a series of meetings statewide with groups of present Area Reps. His first meeting convened in May in the Hampton Roads area and was very successful.

The purpose of these meeting is to deliver the book personally to the Area Reps who attend these meetings, while at the same time explaining in some detail what is expected of an Area Rep (per some of the ideas espoused at prior meetings, most notably the Fall 2008 Meeting), and securing from those attendees a pledge to abide by those expectations. The hope here is that those who are no longer interested in being Area Reps will either not attend the meetings or decline to participate after attending (and learning what is expected) and that anyone moving forward will exhibit the energy and commitment to fully participate in the RPS. The long-term goal is to re-energize and invigorate the Section with new blood, which hopefully will both increase the number of participating Area Reps and the geographic coverage by Area Reps. On this latter goal, there is presently no coverage in areas south and west of Roanoke, as well as Stanton and Harrisonburg – but Joe is hopeful of establishing at least some new Area Reps here.

For those who are invited but cannot attend these meetings, Joe’s plan is to mail the Handbook and ask the individuals for the same “commitment.” At the same time, we should all be on the lookout for new individuals to replace any Area Reps that drop off the roles.

**FEE SIMPLE** – No report – but always looking for new topics.

**TECHNOLOGY** – No report.

**PROGRAMS** – Through VA CLE:

- Thanks to Phil Hart and his group for presenting a segment of the Annual Spring Seminar in May 2009;
- Though additional “Program” information was imparted to the group, unfortunately the same was not properly recorded in these Minutes; the Secretary apologizes for this unfortunate circumstance.

**COMMERCIAL REAL ESTATE** – No report.

**CREDITOR’S RIGHTS AND BANKRUPTCY** – Phil Hart reported that all but one of his subcommittee members contributed to that group’s participation in the 2009 Annual Spring Seminar, as either authors or speakers. He expects that his group will also contribute an article to the Spring 2010 FEE SIMPLE.

**EMINENT DOMAIN** – Chuck Lollar reported that his group met in Richmond on April 23. His group has expanded to 40 members, with half being from the government side, and the other half having “property owner” practices. Chuck reported that Stephen Clarke had a recent article in the FEE SIMPLE, and that Paul Turpak is presently working on a CLE handbook for Eminent Domain – all chapters have been assigned and it is progressing well.

**ETHICS** – Susan Pesner reported that there was a recent opinion out from the Attorney General’s Office stating that any practitioner working “solely” on mortgage workouts is required to have a Mortgage Broker’s License.

**LAND USE AND ENVIRONMENTAL** – Steve Romine reported that his group convened a conference call in May. The group expects to conduct regular, quarterly conference calls, and plans to submit at least one article for each upcoming FEE SIMPLE publication. Steve added that he was trying to expand the sub-committee with new members.

**RESIDENTIAL REAL ESTATE** – No report.

**TITLE INSURANCE** – Paul Caplinger did not attend the meeting, but informed Randy Howard that her group will be convening a conference call in the Fall.

**Orderly Transfer of Power** – In a model-display of the democratic process – the likes of which is only a dream in many far-away countries – Randy Howard peacefully transferred the reins of power to Joe Cochran as the new incoming Chair of the RPS. Randy Howard will now occupy the position vacated by Jean Mumm as “Past Chair” on the Board of Governors, and as such will also serve on the Nominating committee for the upcoming 2009-2010 year (which will be charged with nominating Board Members for the 2010-2011 year).

### **Board of Governors**

This year’s Nominating Committee – consisting of Jean Mumm, Randy Howard, Joe Cochran and Paul Bellegarde – nominated the following individuals to the Board of Governors:

Bill Nusbaum and Cooper Youell for second terms, and Neil Kessler to fill a vacancy.

However, a lengthy discussion ensued at the Summer Meeting regarding Neil Kessler’s nomination, since Neil has (in the past) already served two successive terms on the Board. In this regard, the By-Laws state that no one can serve more than two successive terms, and a debate ensued as to whether that language meant forever, or simply not more than two terms in a row; in other words, could someone serve two successive terms, then after a break in service serve once again.

After a fair amount of discussion on whether the By-Laws should be amended on this point, it was decided that Joe Cochran would in due course appoint a special *ad hoc* sub-committee to study the By-Laws and make a report with recommendations to the Chair.

**UPDATE NOTE** – Joe ultimately appointed the following individuals to serve on the ad hoc By-Laws sub-committee - Michael Barney, Larry McElwain, Kathryn Byler, Susan Walker, and Larry Schonberger.

In light of the foregoing, Neil’s nomination was withdrawn, pending the results of the special sub-committee’s efforts and any subsequent action taken. That said, Bill Nusbaum and Cooper Youell were approved on motions seconded by many members to serve second terms.

Additionally, Grice McMullan has replaced Ed Waugaman as the RPS’s new VBA Liaison. Thanks to Ed for his past service in this post and welcome Grice to this position.

### **Officers for 2009-2010**

As already noted, per the Nominating Committee's nominations (which were seconded by all in attendance), Joe Cochran will serve as Chair for the upcoming 2009-2010 year, with Paul Bellegarde as Vice Chair and Paul Melnick as Secretary/Treasurer.

In his opening remarks Joe thanked Randy for his effective and diligent service, noting that he ran things very smoothly on his watch. Joe presented Randy with a plaque and gavel as small tokens of the Section's appreciation for his hard work.

Joe announced the meeting dates for the upcoming year and asked for everyone's continued support. In addition to the standard Chair-related duties, Joe declared that he will continue to focus on his Area Rep road-shows and executing the plan already started for bolstering Area Rep participation and increased Section membership.

### **Miscellaneous**

Please note that Steve Gregory has a new e-mail address – [75cavalier@gmail.com](mailto:75cavalier@gmail.com).

There being no further business, upon motion duly made, and seconded by a host of others in attendance, the meeting was adjourned.

Respectfully Submitted:

Paul Bellegarde, Secretary/Treasurer 2008-2009