

**MINUTES OF THE BOARD OF DIRECTORS MEETING
OF THE MARITIME LAW ASSOCIATION OF
THE UNITED STATES**

Held at the Wyndham Gettysburg Hotel
Gettysburg, Pennsylvania
on
Saturday, August 13, 2011
at
9 a.m.

The August 13, 2011 meeting was called to order by President Patrick J. Bonner at 9:00 a.m. In addition to President Bonner, the following officers were also present:

Robert B. Parrish, First Vice President
Robert G. Clyne, Second Vice President
Harold K. Watson, Secretary
William Robert Connor, III, Treasurer
David J. Farrell, Jr., Membership Secretary
Warren J. Marwedel, Immediate Past President

The following directors were also present:

Joshua S. Force	Bradley A. Jackson
Dennis Minichello	Arthur J. "Skip" Volkle
Francis X. Nolan, III	Thomas J. Muzyka
Susan Dorgan	George W. Nowell
Edward J. Powers	Robert B. Fisher, Jr.

Also present at the invitation of the President was Raymond P. Hayden.

SECRETARY'S REPORT

On motion duly made and seconded, the minutes of the May, 2011 meeting of the Board of Directors were approved. Mr. Watson also reported that the November 2010 Proceedings and the MLA Report were both at the printer, and should be mailed soon.

TREASURER'S REPORT

Mr. Connor reported that the Association currently has approximately \$630,000. Of this amount, \$19,225 is registration fees for the Hawaii.

Mr. Connor also reported that approximately \$196,000 is being held in United States Treasury notes that earn virtually no interest, and that he intends to move these to an insured money market account. This generated a discussion of whether there might be safe investments that might generate better rates of return, particularly in view of the fact that the Association now has a sizeable reserve that should not be needed for normal operations. President Bonner asked Messrs. Nolan, Volkle, Clyne and Connor to investigate this issue and report at the next Board meeting.

Mr. Connor reported that HSBC may have a check scanner available next month, and that the audit has been completed and that we are awaiting their report. No issues were raised, although the auditors did inquire regarding the fact that the Association posts receipts for the May dinner in one fiscal year, which ends April 30 because of the change of officers at the May meeting, whereas the payment for the May dinner is made in the next fiscal year after the dinner.

With regard to the May dinner, Mr. Connor reported that the Association made a small profit of approximately \$5000 on this year's dinner. Since the expenses of the May meeting are almost twice this amount, Mr. Connor recommended raising the ticket price by \$5 next year.

The Board also continued the discussion of the feasibility of paying dues by credit card or PayPal. There was a general consensus that this was desirable, but that it was premature to move forward until the Association concluded how its outside management should be handled going forward.

Mr. Connor reported that members delinquent in their dues would be written a letter, and that members who are three years in arrears would be removed from the rolls at the end of the year.

On motion duly made and seconded, the Treasurer's report was approved.

MEMBERSHIP SECRETARY'S REPORT

Mr. Farrell reported that the following applications for membership had been received:

Academic (1)

Professor John T. McDermott
Loyola Law School
Los Angeles

Associates (20)

Gavin R. Black, Providence, Rhode Island
John D. Blaisdell, Newton, Massachusetts
M. Andrew Boran , Norfolk
Lawrence R. DeMarcay, III, New Orleans
F. Robert Denig, New York
Stephen W. Dummer, Gulf Port, Mississippi
R. Michael Ethridge, Charleston
Adelaida Ferchmin, New Orleans
John Flym, Paris, France
Trey R. Kelleter, Norfolk
Christopher R. Koehler, Tampa
Jeffrey R. Kuhns, Punta Gorda, Florida
Timothy J. Nast, New York
Timothy B. Parlin, Basking Ridge, New Jersey
Svetlana Spivak, Seattle
Christopher C. Storm, Boston
Katherine Walker Sullivan, Charleston
Alessandra Tebaldi , New York
Kelley Leann Tiffany, Washington, D.C.
Lisa Torron-Bautista, Orlando, Florida

Non-Lawyers (4)

Jon-Peter LaMore, Caledonia, Michigan
Capt. Jorge Pecci, New York
Bill Pinchak, Caledonia, Michigan
Robert G. Tower, Jr., Caledonia, Michigan

Law Students (1)

Christian A. Packard, University of Florida

Mr. Farrell also regretfully reported that the following members had passed away since our New York meeting:

David J. Kadyk, of Tampa, FL; Life Member: elected 1969
Henry S. Morgan, of Annapolis, MD; Proctor Member:
elected 1979
Hon. Jamie Pieras, of San Juan, PR; Life Member: elected 1967
Prof. Wallace S. Reed, of Castine, ME; Academic Member:
elected 1995
Francis W. Turner, of New York, NY; Associate Member:
elected 2003

Mr. Farrell reported that the membership now stands at 2,967, down from 3,073 one year ago. This is the result of the purging of the rolls of members who owed three years dues.

Mr. Farrell reported that over the summer he has have sent out invitations to join the MLA to lawyers from the following groups: AMC subscribers who are not MLA members (nine); Golden Gates Ports Handbook (four); maritime lawyers in Massachusetts (five).

He also reported that George Nowell suggested that admiralty CLE programs such as Tulane, Houston, PAS, and SEALI should be fertile grounds for MLA recruitment. If we could get access to attendance lists for their last two sessions we could directly target non-MLA members with emails and/or letters inviting them to join, and requested that Board members affiliated with these organizations assist in obtaining these lists.

President Bonner then requested a discussion of whether the current procedure for attaining Proctor status should be retained or altered. A majority of Associate members who are eligible for Proctor status never apply to become Proctors. It was pointed out that separate Proctor and Associate status had its origins in the early 1980's to counter the Florida Bar Association's move towards certifying maritime law as a specialty. After discussion, President Bonner asked the newest class of Board members to review the issue and report back at the next meeting of the Board.

SECOND VICE PRESIDENT'S REPORT

Mr. Clyne presented the following amendment to Section 5 of the By-laws of the Association to clarify that only Standing Committee reports are entitled to consideration by the Association:

SECTION 5

STANDING COMMITTEES

501. RESPONSIBILITIES OF COMMITTEES

All Standing Committees shall discharge their responsibilities in conformity with the Association's objectives

502. ELIGIBILITY TO SERVE ON STANDING COMMITTEES

All members of the Association in good standing, with the exception of Law Student members, may become members of the Standing Committees of the Association and vote in the proceedings of such Standing Committees. However, no member shall serve simultaneously on more than three Standing Committees in any capacity other than as representative of the Board of Directors, unless, in the President's sole opinion and discretion, there are exceptional circumstances. Membership on the Young Lawyers Committee shall not prevent a member from serving on three additional Standing Committees.

The right to vote on the business of any Standing Committee does not accrue until 90 days have elapsed from the date that the mem-

ber joins such Standing Committee. Provided that the limitations pertaining to membership on three-Standing Committees and the time limitations pertaining to voting as stated in this By-Law are observed, Association members are free to join or withdraw from Standing Committees at will.

Only a Proctor member or a Non-Lawyer member shall be eligible to serve on the Board of Directors or as a Committee Chair or Vice-Chair of a Standing Committee, Special Board Liaison Committee or Special Committee unless, at the request of the President, the Board of Directors shall waive this requirement.

503. APPOINTMENT AND TERM OF OFFICE OF STANDING COMMITTEE CHAIRS

No Standing Committee chair or Subcommittee chair, or other officer, shall serve as such for more than four consecutive years unless, in the President's sole opinion and discretion, there are exceptional circumstances that justify reappointment for an additional year.

504. CONSIDERATION OF STANDING COMMITTEE REPORTS

Unanimous Standing Committee reports may be acted upon at any meeting of the members

In the event of a dissent, a majority report requesting action must be sent to the Secretary at least 45 days prior to the date of the meeting at which it is to be acted upon. Abstentions shall not be considered as dissents. A minority report must be submitted to the Secretary at least 30 days prior to the date of the meeting at which it is to be acted upon.

If not less than one-third of the members of a divided Standing Committee so request in writing, the President shall authorize proxy voting in accordance with Section 212 of these By-Laws.

The Secretary shall, at least 20 days prior to the date of the meeting at which such reports are to be acted upon, send copies of both reports, together with a notice of such action by the President, to each member of the Association.

[16432]

The requirements of this By-Law or any part thereof may at any time be waived or suspended by action of the Board of Directors for good cause.

On motion duly made and seconded, the Board unanimously adopted this amendment to the bylaws.

DISCUSSION ITEMS

Association administration

The Board discussed how the administrative functions that are currently outsourced to Ms. Robin Becker should be handled in the event that Ms. Becker's services should become unavailable. There was general agreement that Ms. Becker is continuing to provide the support that the Association needs, but that steps need to be taken to ensure a smooth transition when and if that becomes necessary. Mr. Parrish agreed that he would visit with Ms. Becker in South Carolina and take steps to ensure that the Association would have access to physical records that she maintains there in the event of an emergency.

Charges for e-mail blasts

After discussion, the Board voted to continue in place the previously agreed prices for sending announcements of seminars, etc. to the members of the Association.

Name and responsibilities of Website and Technology Committee

The Board discussed the recommendation of the chair of the Website to change the name of the committee to the Technology Committee and to focus more on issues other than the Association website. No action was taken on this request.

Uniformity Committee

On motion duly made and seconded, the Board passed a resolution changing the Uniformity Committee from a Special Committee to a Standing Committee.

Contents of Breaking News

The Board discussed what items should be posted on the Breaking News page of the website. The Board agreed that the following items should be considered for inclusion: firm mergers, splitting up or dissolving; deaths of members; members receiving awards; changes of address or phone numbers; retirements; new partners; members becoming judges; books and law review articles authored by members; and speeches before industry groups. The Board agreed that purely personal matters such as marriages and births should not be considered for inclusion.

Open Houses at May meeting

The Board discussed the open house that was held by a German law firm at the May meeting, and agreed that such receptions could be listed on the schedule of events so long as they were open to the entire membership.

Event Planner for Spring and Fall Meetings

There was a discussion regarding the activities that are outsourced for the May meeting. Messrs. Clyne and Connor have been asked to review this and make recommendations for future meetings. Mr. Parrish reported that he is working with Jerry Janove to find a venue for a dinner dance in New York in the fall of 2012.

Amicus Brief Filing

Two requests for amicus curiae briefs were voted on. In the first case, *Minton v. Exxon*, the Association was asked to file an amicus in support of a writ of certiorari to the Virginia Supreme Court in a case involving the Longshore and Harbor Workers Compensation Act. While a number of members of the Board expressed the view that the decision being appealed might be inconsistent with existing law, it was pointed out that the decision being appealed was merely a jury verdict rather than a reported decision, and thus had no precedential value. Accordingly, the Board did not believe that Association participation at this stage of the proceedings was appropriate.

The Association was also requested to file an amicus brief in *Cape Flattery v. Titan Maritime* in support of a request for an en banc rehearing in the United States Court of Appeals for the Ninth Circuit. The case involved the question of whether a clause in a salvage contract requiring arbitration of "any dispute arising under this Agreement" required arbitration of tort claims arising out of the salvage operations. In view of the fact that there was a split among the circuits that could not be resolved by a decision by the Ninth Circuit, the Board did not believe that Association participation at this stage of the proceedings was appropriate.

Maritime Law Subcommittee Report

The Maritime Law Subcommittee of the Board made a presentation of the discussions that they have had regarding how the Association is fulfilling its core mission to work for improvement and uniformity of maritime law. Issues included the Association's participation in shaping the law by amicus curiae briefs, participation in the legislative process, education of judges, and serving as a forum where issues can be discussed.

New Board Member Orientation

A number of Board members indicated the desire for a document that would provide guidance to new Board members regarding what is expected of them. This will be given further consideration to see if an appropriate document can be created.

REPORTS

Rotterdam Rules status

It was reported that the Rotterdam Rules are currently at the State Department. A transmittal package is being prepared to send to the Senate.

MARAD Forum members

President Bonner announced that he has named Board members Volkle, Nolan, and Marwedel, and Robin C. Minturn, Marjorie F. Krumholz and H. Clayton Cook, Jr. to serve as the Association's representatives on the MARAD Forum.

UNCLOS status

President Bonner reported that the State Department is hopeful that the United Nations Convention on the Law of the Sea will be presented to the Senate for ratification this fall. Doug Burnett is the Association's point person for monitoring developments in this regard.

American Marine Highways

Mr. Farrell reported that he had attended a meeting of port authority officials, where the view was expressed that the widening of the Panama Canal is likely to overburden land-based transportation. Accordingly, there is some hope that the Marine Highways initiative may gain traction.

CMI Working Group on Recognition of Foreign Judicial Sales

Mr. Nolan reported that problems have arisen in connection with judicial sales when there are difficulties in getting the flag state to deregister the vessel after the sale. The issue will be addressed at the CMI meeting in Beijing in 2012. Also, the Practice & Procedure and Marine Financing Committees will make a presentation on this issue in Hawaii.

OFAC

Mr. Volkle reported that there is growing concern in the shipping community that as intelligence identifies the ringleaders of organizations involved in piracy in Somalia, there may be more risk for owners that ransom payments will violate the Executive Order forbidding payments to groups involved in terrorist activities. The Piracy Subcommittee of the Committee on Regulation of Vessel Operations, Safety and Navigation will be asked to look into this issue.

Respectfully submitted,

Harold K. Watson, Secretary