

# **Minutes for the Meeting of the Benchers Held Friday, September 16, 2016 Radisson Hotel, Saskatoon**

## **Present:**

Perry Erhardt, Q.C., Jeff Baldwin, Leslie Belloc-Pinder, David Bishop, David Chow, Monte Gorchinski, Rennie Harper, Brenda Hildebrandt, Q.C., Heather Hodgson, John McIntosh, Q.C., Scott Moffat, Rosanne Newman, Q.C., Ronald Parchomchuk, Martin Phillipson, David Rusnak, Q.C., Sean Sinclair, Gerald Tegart, Q.C., Ian Wagner, Jay Watson and Craig Zawada, Q.C.

## **In attendance:**

Donna Sigmeth, Q.C., Tim Huber, Stacey McPeek, Kiran Mand, Jody Martin, Melanie Hodges Neufeld and Jackie Lane. Greg Walen, Q.C., Federation Council, was also present.

## **Call to Order:**

The meeting commenced at 9:01 am on Friday, September 16, 2016.

President Erhardt, Q.C. introduced new Bencher Dean Martin Phillipson and Public Representative Benchers Heather Hodgson, Monte Gorchinski and Rennie Harper. He also introduced Jackie Lane, Complaints Counsel, who is covering Stacey McPeek's position; Stacey is filling in for Valerie Payne who is currently on maternity leave.

## **1. Approval of the Agenda**

Moved by Ian Wagner, seconded by Ronald Parchomchuk, to approve the Agenda as written.

The motion carried unanimously.

### **1.1 Apologies for Absence**

Apologies for absence were received from Erin Kleisinger, Q.C. and Judy McCuskee. Ronni Nordal was present for Committee meetings on Thursday only. Rosanne Newman, Q.C. will be absent from the PSC meeting and will arrive late for Access to Legal Services due to prior obligations.

### **1.2 Confirmation of Agenda**

### **1.3 Bencher Conflict of Interest Disclosures**

None.

**1.4 Agenda Items, Committee Reports and Documents Which Are Not Open to the Public**

None.

**2. Approval of the Minutes of June 17, 2016**

**2.1 Amendments**

None.

**2.2 Confirmation of Minutes**

Moved by Scott Moffat, seconded by David Bishop, to approve the Minutes of the Bencher meeting held June 17, 2016.

The motion carried unanimously.

**2.3 Business Arising from Minutes**

None.

**3. Strategic Planning**

**3.1 Improve Confidence in the Law Society among Stakeholders**

Informational items:

- i. Trust Accounting Rules

Substantive Trust Accounting Rule amendments made by the Accounting Department were handed out to committee members at the meeting, and since the changes are extensive, members will review and discuss at the upcoming meeting in November.

Perry Erhardt, Q.C. provided an overview. The committee met for the first time at this Convocation and John Allen, CPA provided an update. A review by John Allen has begun and there will also be a review of the Special Fund. The main topic will be getting the current Rules in order.

**3.2 Improve Capacity, Competency and Knowledge of Members**

Informational items:

- i. Lawyers Concerned for Lawyers

At June Convocation, the Executive Committee was tasked to come back to the Bencher table in September with recommendations concerning the future of LCL. The Executive recommended that funding for LCL be terminated at the end of the fiscal year, December

31, 2016, and that SLIA be tasked with operation of a member support group, as is done in other jurisdictions.

The memo from Donna Sigmeth, Q.C. was discussed by the Benchers.

Moved by Brenda Hildebrandt, Q.C. seconded by David Chow, that:

- Funding for Lawyers Concerned for Lawyers be terminated at the end of this fiscal year, December 31, 2016;
- The contract with Homewood Human Solutions be renewed for one year, ending December 31, 2017, with SLIA managing the Homewood contract and any subsequent contracts;
- Toward the end of 2017, requests for proposals be sent out to Homewood and other service providers; and
- The Lawyers Concerned for Lawyers board be requested to review its articles of incorporation to ascertain where surplus funds would be directed in the event it is wound up.

The motion carried. There were two opposed and one abstention.

#### ii. Code of Professional Conduct

For discussion, a memo from Stacey McPeek regarding proposed re-numbering of the *Code of Professional Conduct* to align with the current numbering system adopted by a majority of other law societies was reviewed by the Benchers. Only Saskatchewan and Alberta still use the former numbering system.

On February 10, 2012, the Benchers adopted the *Code*, and on December 20, 2012, the LSS received a memo from the Standing Committee, indicating that the Federation had approved a new numbering scheme for the *Model Code*. At the time, members in Saskatchewan were participating in mandatory training for the *Code*, and the Ethics Committee determined that it be postponed once the training was completed and the *Code* was more established. This issue was diarized as a priority for early 2016.

The Ethics Committee passed a motion to approve the re-numbering of the *Code* and recommend approval by the Benchers.

Moved by Sean Sinclair, seconded by Ian Wagner, to approve re-numbering of the *Code of Professional Conduct*, as outlined in Ms. McPeek's memo. The motion carried.

A motion to grant second reading on the same day was presented by Ronald Parchomchuk, seconded by Brenda Hildebrandt, Q.C. The motion was carried unanimously.

On second reading, the motion was presented by Ronald Parchomchuk, seconded by Craig Zawada, Q.C. The motion was carried unanimously.

### 3.3 Improve Access to Legal Services

Informational items:

i. Paralegal/Non-Lawyer Legal Service Providers

A memo from Barbra Bailey was provided to the Benchers for information.

Gerald Tegart, Q.C., Chair of the Access to Legal Services Committee, provided his update, as follows:

- The Terms of Reference for the task force were agreed to.
- The task force members list is being refined and they are visiting with prospective members.
- There will be nine members of the task force in three groups: the legal community, paralegals/non-lawyer legal service providers and the public.
- The task force will first meet at the end of October and 5 - 6 full-day sessions will be subsequently held.
- By February or March 2017, the task force will produce a report for consideration by the Benchers before it is finalized.

ii. Innovating Regulation

For information, attached is a copy of *Innovating Regulation, Consultation Report, September 2016*. It contains results of the compliance-based entity regulation consultation survey. The Access to Legal Services Committee approved the publication of the report for review by the members in October.

## 4. Society Governance

### 4.1 Performance Measures

All committees were asked to address performance measures at their meetings and report to Convocation.

### 4.2 Pre-Budget Planning

All committees were asked to have a budget discussion and report to Convocation. To assist in the discussion, a copy of the 2015 Work Plan was provided, along with an updated Activity Report from Barbra Bailey.

### 4.3 Appointments

i. Federation of Law Societies of Canada

The term for Federation Council, Gregory Walen, Q.C., expires December 31, 2016. Mr. Walen is prepared to serve a 3<sup>rd</sup> term. Mr. Walen left the room and a vote was taken.

Moved by Leslie Belloc-Pinder, seconded by Ian Wagner, that Gregory Walen, Q.C. be approved to serve as Federation Council for a final two year term from January 1, 2017 to December 31, 2018. The motion was carried unanimously.

## **5. Reports**

### **5.1 President's Report**

Perry Erhardt, Q.C. provided a verbal report outlining the activities he was involved in since the last Convocation. His report was for information.

- The Executive will provide an update on the Executive Director search in-camera.
- September 19 – will attend the Law Foundation meeting in Regina to discuss the Law Society's 2017 grant requests.
- September 21 – will attend the College of Law's 1<sup>st</sup> year welcome.
- September 26 – attending the CBA Articling Student session.
- October 28 – President's Dinner in Regina.

### **5.2 Executive Director's Report**

A written report from Tom Schonhoffer, Q.C. was provided to the Benchers for information. Donna Sigmeth, Q.C. provided a brief verbal report regarding operations and continuity at the Law Society and that she and Jody Martin (due to the Legal Education focus) would be attending the Federation meeting in October.

### **5.3 Federation Council Report**

Gregory Walen, Q.C., Federation Council, reported the following:

- There have been no Council meetings since the Benchers last met.
- The Public Affairs Committee has been preparing reports on the judicial appointment process.
- On September 15<sup>th</sup> the international Financial Action Task Force rendered a report on money laundering that was critical of the legal profession's successful challenge of releasing client names. The Public Affairs Committee has responded with a press release.
- The next Council meeting will be held October 19 - 22 in New Brunswick. Perry Erhardt, Q.C., Erin Kleisinger, Q.C. and Donna Sigmeth, Q.C. will attend.

## **6. Committee Reports**

### **a. Admissions & Education – provided by David Chow, Chair**

- The committee is working on a process to address principals who do not submit their approval forms on time, resulting in students requesting a waiver of Rule 154.
- The reading requirements for the reading list have been updated.

- For measuring strategic success, project measures will be the tool utilized by the committee.
  - The budget is similar to last year, with the addition of \$35,000 for the automation of CPD.
  - The subcommittee for Truth and Reconciliation will be holding an early 2017 seminar.
- b. Audit – None.
- c. Conduct Investigation – provided by Jeff Baldwin, Chair
- The committee is looking at training opportunities with the Discipline Executive Committee and timeliness of investigations.
- d. Discipline – provided by Brenda Hildebrandt, Q.C.
- The committee would like to accelerate work on remedial programs in the work plan to potentially tie-in with legislative amendments.
  - Working on tribunal training, focusing on investigation training.
  - For performance measures, the ultimate goal is to lower the number of complaints. The committee will report further on this item at next Convocation.
  - There were two concerns with respect to hearing committees:
    - Dissenting opinions and their worth
    - Role with respect to joint submissions and penalty
- e. Ethics – provided by Ronald Parchomchuk, Chair
- The committee dealt with one return matter and made a ruling on disbursements being shown as a percentage in lawyer's accounts.
  - There may be a budget item for the committee's review of trust conditions.
- f. Executive – provided by Perry Erhardt, Q.C.
- The Executive Committee has been occupied with the Executive Director search.
- g. Governance – provided by Craig Zawada, Q.C., Chair
- The committee has begun a review of the Benchers election process. A special facilitated session of the Benchers may be held to address this item, possibly at the December Convocation.
- h. Insurance – provided by David Rusnak, Q.C., Chair
- Greystone Investments provided a summary of investments and a proposal to shift the investment portfolio.
  - The committee is trying to determine the purpose of the SLIA surplus.

- i. Professional Standards – provided by David Rusnak, Q.C. (in Ronni Nordal’s absence)
  - Brent Gough, Q.C. spoke to the committee about paperless office issues for practice advisors and whether approved accounting systems should be expanded.
  - The Information Technology Working Group is working on a report and looking at guidelines.
  - Referrals to Professional Standards are down.
  - The speed at which matters are moving is at a more efficient pace.
  - Practice Advisor, Linnea Goodhand, will not be continuing in the position past 2016. The Law Society will advertise to fill the position.
- j. Library Review – provided by Jay Watson, Chair
  - The main topic for the committee was the upcoming Law Foundation grant meeting on September 19, 2016.
  - The Library will present its budget at the October 28, 2016 meeting.
- k. Access to Legal Services – provided by Gerald Tegart, Q.C., Chair
  - Martin Phillipson provided an update on the Dean’s Forum and the potential Access to Justice Research Centre at the College.
  - The committee discussed an invitation for the Law Society to appear before the Senate Standing Committee on Legal and Constitutional Affairs and determined to decline the invitation, as it is not within the Law Society’s jurisdiction.

## **7. Informational Items**

The following were provided for information:

- a. *Opinion: Self-regulating professions must regulate in the public interest – or else*, Federation of Law Societies of Canada website
- b. CanLII Interim Strategic Plan Proposal and copy of letter to CanLII with comments

## **8. Meeting Finalization**

### **8.1 Review Actions to be Taken**

### **8.2 Confirm Items under 1.4**

### **8.3 Meeting Evaluation**

### **8.4 Next Meeting**

The next Convocation is a budget meeting scheduled Friday, October 28, 2016 at the Hotel Saskatchewan in Regina. The President's Dinner will take place in the evening.

### **8.5 Motion to Adjourn**

A motion to adjourn was presented by David Chow, seconded by Ronald Parchomchuk. The meeting adjourned at 11:46 am.

## **9. Bencher In-Camera Session**

**DONNA SIGMETH, Q.C.**  
**Acting Executive Director**

DRS/el