

Minutes for the Meeting of the Benchers Held Friday, April 27, 2018 Bessborough Hotel, Saskatoon

Present:

Craig Zawada, Q.C., Leslie Belloc-Pinder, Erin Kleisinger, Q.C., Jeff Baldwin, David Chow, Perry Erhardt, Q.C., Monte Gorchinski, Glenn Hepp, Heather Hodgson, Foluke Laosebikan, Ph.D, John McIntosh, Q.C., Scott Moffat, Ronald Parchomchuk, David Rusnak, Q.C., Sean Sinclair, Gerald Tegart, Q.C. and Ian Wagner

In attendance:

Tim Brown, Q.C., Tim Huber, Valerie Payne, Stacey McPeek, Andrea Johnston, Christine Johnston, Melanie Hodges-Neufeld, Jenna Kraushaar, Kara-Dawn Jordan and Barbra Bailey

Call to Order:

The meeting commenced at 9 am on Friday, April 27, 2018.

1. Approval of the Agenda

Moved by David Rusnak, Q.C., seconded by Jeff Baldwin, to approve the Agenda as written. The motion carried unanimously.

1.1 Apologies for Absence

Apologies for absence were received from Brenda Hildebrandt, Q.C., Judy McCuskee, Ronni Nordal, Dean Martin Phillipson, Jay Watson and David Bishop.

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

- i. Investment Strategies
- ii. Special Fund
- iii. Bencher Self-Evaluation
- iv. Legal Services Task Team

2. Approval of the Minutes held February 9, 2018

Moved by Glenn Hepp, seconded by Perry Erhardt, Q.C., to approve the Minutes of the meeting held February 9, 2018 as written. The motion carried.

2.1 Amendments

2.2 Confirmation of Minutes

2.3 Business Arising from Minutes

3. Strategic Initiatives

3.1 Work Plan

For information, an updated work plan was provided by Barbra Bailey.

3.2 Improve Confidence in the Law Society among Stakeholders

i. Communications Strategy

a. Communication Reports

A Communication Report prepared by Anna Willey, Communications Consultant, was provided for information.

b. Law Society Publications

A copy of the [2017 Annual Report](#) was posted to our website in time for the Annual General Meeting.

The spring issue of the [Benchers' Digest](#) was also posted to our website.

c. Pre-Strategic Planning Environmental Scan

The staff held a retreat on April 12th & 13th in Elbow, Saskatchewan. The purpose of the retreat was for facilitated discussion to structure an environmental scan in advance of the *Strategic Planning Session* scheduled for June Convocation. Tim Brown, Q.C. provided an update.

ii. Aboriginal Graduates

The Dean at the College of Law brought it to our attention that Aboriginal graduates are finding it difficult to find articles.

This item was brought to the Benchers' attention at February Convocation. There are numerous factors to consider in addressing this issue and Administration is currently working with the Chairs of the Admissions & Education and Equity & Diversity Committees to determine ideas and

solutions to bring before the Benchers at a Convocation later in 2018. CPLED CEO Kara Mitchelmore is also keeping these considerations in mind as she works through the redevelopment of the CPLED program.

iii. Blanket Exercise

Law Society staff and Ronni Nordal, Chair of Equity & Diversity, attended a Blanket Exercise on April 4th to increase awareness regarding residential schools and colonization. A Blanket Exercise is scheduled for the Benchers at September Convocation.

iv. CPLED 2.0

Tim Brown, Q.C. updated the Benchers with respect to this initiative. The CPLED Board will be holding a strategic planning session with Kara Mitchelmore in June, with the plan to have the new program ready for a 2019 launch.

3.3 Improve Capacity, Competency and Knowledge of Members

i. Innovating Regulation – Update

The Prairie Provinces met on March 14th in Winnipeg, with the Executive in attendance.

The staff working group is working on a summary report based on the discussions held in Winnipeg on March 14th. The working group will also explore how the various options discussed in Winnipeg could be achieved or enhanced through an online platform and will gather more information. Once all the information is gathered, it will go to the Access Committee.

Barbra Bailey provided an update at the meeting, including the possibility of having another meeting of the Prairie Provinces to continue these discussions and arrive at some recommendations.

3.4 Improve Access to Legal Services

i. Legal Services Task Team – *In Camera*

This portion of the meeting was *in camera*.

ii. Access to Justice

Tim Brown, Q.C. reported on the Strategic Planning Session of the Saskatchewan Access to Justice Working Group facilitated by the Law Society on March 20, 2018. The session focused on the governance structure of the Working Group. They have re-named themselves a “Network” to better reflect their mandate and are working on setting up a communications hub that will be hosted by the Law Society.

4. Society Governance

4.1 Operational Reporting

i. President's Report

Craig Zawada, Q.C. reported that he attended at the following events:

- CSAE governance training with Tim Brown, Q.C. in Toronto in February;
- Court of Appeal Centennial Celebration on March 2;
- Federation meetings in Ottawa March 4-7, which included a discussion focused on maximizing the value of those meetings;
- ABA Tech Show in Chicago with Tim Brown, Q.C. March 8-10:
 - one of the themes was the importance of collection and analytics of data;
 - also highlighted was how far ahead the U.S. is in terms of legal tech, but provides a preview of what might be coming.
- Innovating Regulation meeting in Winnipeg on March 14;
 - Meeting with Deputy Minister of Justice Glen Gardner, Q.C. on March 23. They discussed the Public Representative Benchers appointment process, among other things;
- Swearing-in for Justice MacMillan-Brown in Saskatoon on April 2, where he brought remarks on behalf of the Law Society; Perry Erhardt, Q.C. represented the Law Society at Justice McCreary's swearing-in in Regina on March 28;
- Meeting with ISM Canada with Tim Brown, Q.C. in Regina on April 6:
 - They are the IBM data-processing arm in Canada, headquartered in Regina, and they do a lot of data analytics work;
 - Administration has commenced discussions with ISM about potential projects.
- He will be presenting the CBA Community Service Award in June.

ii. Executive Director's Report

Tim Brown, Q.C. provided his written report.

iii. Federation Council Report

Greg Walen, Q.C. reported the following about the March 6 Federation Council meeting in Ottawa:

- The Council approved a new NCA Assessment Modernization Committee to review the NCA program to address the success rates of NCA lawyers.
 - This was in response to the program review report that was released in 2017 which recommended the creation of a competency-based assessment system for NCA applicants.
 - Over 900 certificates are issued every year by the NCA.

- The Federation's CLE Committee that oversees the Federation's criminal and family law CLE program is reviewing whether they should continue to be involved in these programs.
 - They have been involved in those programs for 34 years.
 - It sounds like they will continue, but with some modifications to the programs, one being that everything should be offered in both official languages.
- The TRC Advisory Group has had a slow start due to some personnel changes.
- CanLII has completed the purchase of Lexum.

4.2 Financial Reporting

i. Financial Statements for the Period ended March 31, 2018

Financial statements for the period ended March 31, 2018 were provided for discussion.

ii. Quarterly Investment Report

The report for the period January 1 to March 31, 2018 were provided for discussion.

iii. Law Society Investment Strategies - *In Camera*

This portion of the meeting was *in camera*.

4.3 Special Fund - *In Camera*

This portion of the meeting was *in-camera*.

4.4 Results of the Bencher Self-Evaluation - *In Camera*

This portion of the meeting was *in-camera*.

4.5 Governance Policy Manual

i. Governance Policy Manual - *B-IV: Executive Director Policy, Executive Expectations section (ii)(d) regarding Finances*

Pamela Harmon, CPA, CA requested that the Governance Committee review the policy respecting the Executive Director's Executive Limitations regarding spending where there are variances from the annually approved budget. It is not clear whether the Executive Director is expected to report to the Benchers on budget variances of 5% or more with respect to a specific line item or the overall budget. Administration has been reporting on all significant variances, and while it is not onerous to report, they would like to clarify the Benchers' expectations about when they receive reports.

The Governance Committee discussed the policy and was of the view that, while they assume it should be by line item, it does not make sense to report on this level of variance for smaller line items. The Committee felt that decisions about reporting on budget variances could be left to the Executive Director's discretion and has recommended an amendment to the policy to reflect this.

Moved by Perry Erhardt, Q.C., seconded by Glenn Hepp, that the Executive Director be given discretion to report on budget variances by amending the policy as follows:

"The Executive Director shall provide regular written reports to the Executive Committee and the Benchers on the Society's financial situation that specifically advise of any material change in assumptions or expected deviation in projected revenue or expenditures ~~(material means variances from the annually approved budget that are greater than 5 per cent).~~

The motion carried.

An amendment to the Governance Policy Manual, Part B-IV: Executive Director Policy, Executive Expectations section (ii)(d) regarding Finances is also required to reflect this amendment to the policy.

4.6 Appointments

i. Designated Complaints Counsel (DCC)

At February Convocation, 14 DCC were appointed by the Benchers. Attached is a memo from Valerie Payne with additional interested volunteers for approval by the Benchers.

Moved by John McIntosh, Q.C., seconded by Gerald Tegart, Q.C., that the following individuals be appointed as Designated Complaints Counsel for a two-year term, from April 27, 2018 to February 10, 2020:

- Graeme Mitchell, Q.C.
- Susan Barber, Q.C.
- Michelle Ouellette, Q.C.
- Anil Pandila, Q.C.

The motion carried.

ii. Senate of the University of Saskatchewan

The Benchers elected Max Bilson to serve on the Senate of the University of Saskatchewan for a 3-year term, from July 1, 2018 to June 30, 2021 by secret ballot.

Moved by Erin Kleisinger, Q.C., seconded by Foluke Laosebikan, Ph.D, to destroy the ballots. The motion carried.

iii. Federation Council

The term for Gregory Walen, Q.C. will expire November 15, 2018.

A Nomination Committee will be tasked with the responsibility to find a suitable replacement and will consist of the President, Vice-President, Executive Director and two Benchers. Jeff Baldwin and Sean Sinclair were the only Benchers who expressed interest, therefore, they were elected by acclamation.

In the first week of May, an ad will be emailed to the membership and posted to the Law Society website to solicit interest for the position of Federation Council.

iv. Public Representative Benchers

During the first two weeks in May, ads will be published in 5 newspapers across the province to invite applications from the public. Ads will also be placed on websites of other organizations that may be able to assist us in broadening our search. Resumes will be collected until June 15th and the selection process will take place over the summer in a joint effort by the Minister's office and the Law Society Executive Director and President (or his designate).

5. Regulation

5.1 Legal Profession Act, 1990 - Amendments

A memo from Barbra Bailey on proposed legislative amendments was attached for information. The Benchers did not express any concerns about the proposed amendments.

5.2 Insurance Levy

The Benchers were asked to consider the proposed Insurance Levy for the year beginning July 1, 2018. In the absence of Brad Hunter, Q.C., Insurance Counsel, Perry Erhardt, Q.C., as Chair, explained the recommendation to the Benchers and proposed a resolution. To assist the Benchers in deliberation, a memo from Brad Hunter, Q.C. was included.

A recommendation was proposed to set the 2018 - 2019 Insurance Levy at \$1,093, plus GST; \$187 lower than the rate in place last year. The levy is payable by June 15th. Any member that has not paid by June 15th will be assessed a penalty of \$75/week for two weeks. Members who have not paid the insurance levy by June 30, 2018 will be suspended.

Moved by Perry Erhardt, Q.C., seconded by Ian Wagner, that the Benchers approve and set the Insurance Levy for 2018 – 2019 at \$1,093. The motion was carried unanimously.

The amount of the annual insurance levy is set out in *Schedule 1, Law Society Fees and Assessments*, to the Law Society Rules and required amendment by the Benchers.

Moved by Sean Sinclair, seconded by Erin Kleisinger, Q.C., that *Schedule 1, Law Society Fees and Assessments, Liability Insurance Assessment, Annual Assessment* be amended to the amount of \$1,093. The motion carried.

A motion to grant second reading on the same day was presented by Ian Wagner, seconded by John McIntosh, Q.C.

On second reading, the motion was presented by Scott Moffat, seconded by Perry Erhardt, Q.C., that amendments to *Schedule 1, Law Society Fees and Assessments, Liability Insurance Assessment, Annual Assessment* in the amount of \$1,093 be approved as written. The motion carried.

6. Committee Reports

- a. Access to Legal Services (provided by Gerald Tegart, Q.C.)
 - Covered in other agenda items.
- b. Admissions & Education (provided by Andrea Johnston)
 - The Committee met on March 22, where they:
 - Considered a rule waiver from someone who had taken the LPP course in Ontario; the applicant was granted a four-month reduction in articling requirement.
 - Approved changes to the CPLED Handbook – mostly cleaning up the language.
 - Approved further CPD policy review changes, including:
 - A travel discount for rural lawyers attending an in-person seminar (applies where there is travel of 100 km or more for sessions that are not being recorded).
 - Regarding the CPD non-compliance reinstatement fee, there will be a recommendation to raise the reinstatement fee from \$100 to \$500 and a late fee of \$200 for members who have completed their CPD requirements but have not reported their hours.
 - Reaffirmation that the LSS is aiming to fill gaps in CPD programming, rather than compete with other providers where content is already being offered.
 - The Committee discussed the possibility of requiring only ethics hours to be approved, but decided it was appropriate to continue with the current process.
- c. Audit (none).
- d. Conduct Investigation and Discipline Executive (provided by Jeff Baldwin)
 - The Committees held two joint conference calls in March regarding the approach to investigations and the role of CIC.

- Representatives of the LSS have visited the Law Societies of Manitoba and B.C. to observe their process to gather ideas about how we might restructure our process and the CIC and DEC will consider these and come back to the Bencher table with recommendations.
- e. Equity & Diversity (written report provided by Ronni Nordal)
 - Equity & Diversity will be meeting next week when they will be reviewing draft terms of reference for a TRC Advisory Group.
- f. Ethics (provided by Ronald Parchomchuk)
 - The Committee met yesterday and considered three requests for rulings.
- g. Executive
 - Covered in the President's report.
- h. Governance (provided by David Chow)
 - The Committee met on March 19, when they discussed the following:
 - The Committee will be reviewing the virtual meetings process and gathering feedback on the use of those meetings.
 - A sub-committee of out-going Benchers has been struck to review Bencher remuneration and will make recommendations to the Benchers at September Convocation.
 - The Committee reviewed a draft surplus policy regarding operating reserves.
 - The Committee continues to refine the risk management monitoring and reporting process.
- i. Insurance (provided by Perry Erhardt, Q.C.)
 - Covered in other agenda items.
- j. Legal Resources (provided by Scott Moffat)
 - The Committee met yesterday and discussed the following:
 - Use of Regina library space.
 - Redevelopment of the website which we hope to launch in the fall.
 - Preparing for this year's Law Foundation application.
- k. Professional Standards (provided by David Rusnak, Q.C.)
 - The Committee met on April 5 and discussed the following:
 - The Committee would like to change the process for Practice Advisor visits for new sole practitioners so there will be both a preliminary meeting and a follow up.
 - The Committee reviewed a quote for an opinion on cloud computing and have requested that other organizations provide quotes for consideration.
 - The Committee is making this a priority.

- Regarding PSC referrals, they discussed implementing a new protocol to ensure reviews occur expediently by identifying which part of the process is experiencing a delay.
- The Committee is gathering material about fee disclosure and contingency agreements to develop guidance for members on best practices in these areas.
- The Committee is considering a protocol for members who require repeat visits from a Practice Advisor.

- I. Trust Safety (provided by Monte Gorchinski)
 - Covered in other agenda items.

7. Informational Items

a. Equity & Diversity

[But I was Wearing a Suit](#) – a Youtube video the Equity & Diversity Committee recommended to the Benchers.

b. Technology

A memo from Tim Brown, Q.C. was provided for information.

c. Environmental Scan

Law Society priorities across Canada – an update on what each Law Society in Canada is working on.

d. Reports

- i. Law Foundation – Annual Report 2016-2017
- ii. Federation Report – from Valerie Payne, Complaints Counsel

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 – June 20 – 22, 2018 (Elkridge)
- 8.5 Motion to Adjourn

The Chair adjourned the meeting at 11:45 am.

9. Bencher *In-Camera* Session with Executive Director

10. Bencher *In-Camera* Session without Executive Director

Timothy J. Brown, Q.C.
Executive Director