

Minutes for the Meeting of the Benchers Held Friday, June 22, 2018 Elkridge Resort, Waskesiu Lake

Present:

Craig Zawada, Q.C., Leslie Belloc-Pinder, Erin Kleisinger, Q.C., David Bishop, David Chow, Perry Erhardt, Q.C., Monte Gorchinski, Glenn Hepp, Brenda Hildebrandt, Q.C., Foluke Laosebikan, Ph.D, Judy McCuskee, Scott Moffat, Ronald Parchomchuk, Martin Phillipson, David Rusnak, Q.C., Sean Sinclair, Gerald Tegart, Q.C., Ian Wagner and Jay Watson

In attendance:

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

Call to Order:

The meeting commenced at 8:34 am on Friday, June 22, 2018.

1. Approval of the Agenda

The Agenda was approved by consent.

1.1 Apologies for Absence

Apologies for absence were received from Jeff Baldwin, John McIntosh, Q.C., Heather Hodgson and Ronni Nordal.

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. Strategic Planning Session
- ii. Legal Resources
- iii. Legal Services Task Team

2. Approval of the Minutes

Three sets of Bencher Minutes were enclosed for approval, as follows:

- i. *In-Camera* Minutes from the conference call held March 29, 2018 to approve the audited financial statements for the year ended December 31, 2017.
- ii. Minutes from the Bencher meeting held April 27, 2018.
- iii. *In-Camera* Minutes from the Bencher meeting held April 27, 2018.

Moved by Perry Erhardt, Q.C., seconded by Erin Kleisinger, Q.C., to approve the three sets of Minutes outlined above 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

The updated work plan and risk management tracking document was provided to the Benchers for consideration at the Strategic Planning Session, as well as the Bencher meeting on Friday.

3.2 Improve Confidence in the Law Society among Stakeholders

i. Strategic Planning (*in-camera*)

An in-depth Strategic Planning Session was held at June Convocation all day Wednesday, continued into Thursday, concluding at 2:30 pm.

ii. TRC Advisory Group

The *draft* terms of reference for a TRC Advisory Group from the Equity & Diversity Committee, approved at their May 2, 2018 meeting, was presented to the Benchers for consideration.

Discussion:

- The Benchers had a discussion about the length of the mandate for this Advisory Group and whether to include a sunset clause in the terms of reference; the draft specifies that members of the Advisory Group may be appointed for up to three two-year terms, so the terms of reference contemplate at least a six-year mandate.
 - o It is difficult to set a date for the mandate of this Group to be completed, as this issue will be a continuous journey.
 - o The Benchers suggested that the terms of reference should be amended to state that the Advisory Group will help to initiate the Law Society's reconciliation process; the process may continue indefinitely, but the Advisory Group may reach a point where that level of active involvement is no longer necessary.

- Another suggestion was that the limit on the number of terms could be eliminated.
- The Benchers also recommended that the language about the co-chairs be amended to make it clear that the co-chairs should consist of one Bencher and one non-Bencher and that at least one of them must be Indigenous.
- The intention is also to allow the group itself to review the terms of reference and they may want to suggest other revisions.
- The Committee will incorporate the suggested revisions to the terms of reference over the summer and they will be shared with prospective members of the Advisory Group for further input before coming back for approval by the Benchers in September.
- At this time, the Committee is seeking a motion to approve the creation of the Group so that outreach to prospective members may begin and the terms of reference can then be finalized in September.

Moved by Erin Kleisinger, Q.C., seconded by Judy McCuskee, to approve the creation of an Advisory Group. The Society can now begin reaching out to potential members for the creation of this committee. The motion carried unanimously.

iii. Legal Resources – Regina Court House Space (*In-camera*)

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

iv. Gladue Database

On April 25, 2018, Tim Brown, Q.C. and Kara-Dawn Jordan attended the launch of the Gladue Database hosted by the Faculty of History at the University of Saskatchewan. Included in the Convocation material was a memo updating the Benchers with respect to recent discussions to acquire access to the tool for the membership. This could be a valuable tool for TRC education.

Discussion:

- Administration will determine how much funding to provide, in consultation with the government and legal aid, who may also be interested in making contributions.

v. Communications Strategy

For information, a communications report from Anna Willey was provided to the Benchers.

3.3 Improve Capacity, Competency and Knowledge of Members

i. Innovating Regulation – Update

The Prairie Provinces met on March 14th in Winnipeg to review the evaluation of the pilot project and discuss next steps. A summary report from the meeting was attached for information. Barbra Bailey provided an update.

ii. CPLED 2.0

Tim Brown, Q.C. provided an update.

iii. Digital File Management

PSC is assessing whether the standards we are currently using (from the Law Society of British Columbia) need to be updated and/or adapted for Saskatchewan. PSC has sought professional advice on cloud storage and what issues the Law Society needs to be aware of as a regulator.

Stacey McPeck obtained a few proposals/cost estimates from IT companies/organizations to obtain an opinion for the Benchers. PSC reviewed the proposals and determined that they needed to refine what had been asked of the IT companies. Updated proposals were sought.

An article from the February 2018 issue of LawPro titled “How to safely put your data in the cloud” was provided for information.

Discussion:

- This area is continuously developing, so the information needs to be kept up-to-date.
- Expenditure of some resources will be required to develop some guidelines based on a consultant’s advice.

David Rusnak, Q.C. moves, Jay Watson seconds, to allocate up to \$25,000 to engage a consultant to develop guidelines on best practices for digital file management for members. The motion carried.

iv. Membership Analytics

Tim Brown, Q.C. provided an update on the Data Project being conducted by ISM Canada. The Law Society has entered into a data sharing agreement with SLIA to analyze the relationship between claims data and complaints/discipline data while maintaining confidentiality to the extent necessary. We are also conducting analysis on when to expect a decline in membership due to an aging membership. We hope that all of this can be used to be predictive and also to do some benchmarking to measure progress.

Tim has been speaking with other law societies and insurers about the potential for analyzing this type of data nationwide and he will be making a presentation at the Federation meeting in October on this topic. There should be some potential to combine resources with these organizations and share the cost of some of this analysis. The bigger the dataset, the better insights the analysis can provide. This might also help with our discussions with governments. Tim plans to provide a proof of concept analysis report at September Convocation.

v. Practice Management Course for the Membership

Purchase of the Practice Management Course was approved by the Executive at their March 29, 2018 meeting and reported to the Benchers in the Executive Director's Report at April Convocation.

Over the summer, staff will review the course to determine what is required to Saskatchewan-ize it and to determine which delivery platform to use. Once this process is complete and the Course is functional for our purposes, it will be made available to our members.

3.4 Improve Access to Legal Services

i. Legal Services Task Team (*In camera*)

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

Gerald Tegart, Q.C. led the discussion regarding the final report to be released to the public over the summer. At September Convocation, the Benchers will be asked to make a decision about whether or not to accept the recommendations of the Task Team.

ii. Access to Justice

The next meeting of the Saskatchewan Access to Justice Working Group is scheduled for June 26th in Regina.

4. Society Governance

4.1 Operational Reporting

i. President's Report

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

- Swearing-in ceremonies for Judge McAuley in Prince Albert and Judge Crooks in Saskatoon; Brenda Hildebrandt, Q.C. will represent the Law Society at Justice Zerr's swearing-in ceremony in Saskatoon next week.

- Law Societies Equity Network dinner at the Remai Modern in Saskatoon in May.
- Law Society of Alberta retreat in Jasper with Tim Brown, Q.C., where the focus was on Truth and Reconciliation and technology/innovation.
- QB Bar Judicial Council meeting with the Chief Justice, as well as representatives from the STLA and CBA.
- CBA AGM, President's dinner and meeting with executives of the CBA and LSS
 - The two organizations are planning to have regular meetings between leadership, as they have the same membership.

ii. Executive Director's Report

Tim Brown, Q.C. did not provide a written report for this Convocation. Following is his report:

- He attended CLIA Board meetings in Toronto in May where he spoke with attendees about data collection.
- Administration has been busy working on communications, development of the new website and visual identity, the data project, and preparing for strategic planning in addition to our regular operations and initiatives.
- With regard to staffing:
 - Both auditors will be taking maternity leave shortly, so we are looking to hire a replacement and are also considering engaging an accounting firm to take on some of the audit work during those leaves;
 - Jenneth Hogan is back from maternity leave at the library;
 - Linda Euteneier is retiring at the end of the month;
 - Kelly Chiu is retiring at the end of August;
 - Andrea Johnston will be moving to Saskatoon and working from home, with a focus on Admissions & Education policy.

iii. Federation Council Report

Greg Walen, Q.C. reported the following on the June 11th meeting in Ottawa:

- National Discipline Standards amendments: two new standards and two revised standards (will be in place January 2019).
 - New: appropriate interim measures to protect public interest; and early resolution strategy;
 - Revised: the committee is reviewing the consultation process for reviewing adverse findings against a Law Society by a tribunal or court with respect to the duty to regulate in the public interest – it will go to the Discipline Administrators Conference group for revisions;

- The Anti-money Laundering Working Group has concluded its review of the Rules, but they are still conducting consultation – the recommendations should be ready for Council review in October.
- The National Committee on Accreditation Assessment Modernization Committee is developing a working plan that should be complete by September 15th.
- The TRC Calls to Action Advisory Committee has a number of sub-committees, including a Cultural Competency Committee, which is primarily working on a definition; and a National Requirement Review Committee, which is looking at curriculum requirements for responding to Call to Action 28 respecting law schools.
- With respect to the Trinity Western University law school decision, the Federation was not an intervenor, as it is involved in the accreditation process and they have not met since the decision came down, but they will likely not be making a public statement.

4.2 Financial Reporting

i. Financial Statements

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

ii. Quarterly Investment Report

None.

4.3 Surplus Policy

A *draft* operating reserve policy was approved by the Governance Committee at their meeting on June 1, 2018. The *draft* policy was attached for consideration by the Benchers, along with an accompanying memo from Kara-Dawn Jordan.

Moved by David Chow, seconded by David Bishop, to approve the *draft* operating reserve policy as approved by the Governance Committee on June 1, 2018. The motion carried with one opposed.

Discussion:

- The three-month's operating expenses reserve is based on best practices for non-profits – the general amount is usually between 3 and 6 months' operating expenses, but because it is unlikely that the Law Society would have to wind up, the Governance Committee thought a minimum of three months was appropriate

4.4 Conduct Investigation Committee Review

The Discipline Executive (DEC) and Conduct Investigation Committees (CIC) have jointly conducted research on various models for complaints investigation and issuing

formal complaints across Canada. Tim Huber and Leslie Belloc-Pinder had the opportunity to observe the BC Law Society process, while Valerie Payne and Stacey McPeck had the opportunity to observe the Manitoba Law Society process. The Committees have concluded that some changes to our process are necessary and would like to have them in place by the end of this year.

Brenda Hildebrandt, Q.C. moves, Jay Watson seconds a motion, as follows:

As the Benchers agree in principle with a re-structuring of the CIC, whereby the CIC members act collectively as a charging body, the DEC is directed, in conjunction with Law Society of Saskatchewan staff, to develop a proposal for such re-structuring and bring a recommendation to the September Convocation to enable implementation prior to 2019. The motion was carried unanimously.

Discussion:

- The proposal that will come forth in September will propose a basic structure as outlined in the motion, with some options within it for the Benchers to consider.
- The proposal will be jointly presented by the DEC and CIC.
- Following September Convocation, the proposal can be finalized in time for a decision to be made at December Convocation, so that the new process can be in place for January 2019.
- The DEC and CIC are also consulting with non-Bencher members of CIC who have been doing such work for a long time.
- Further changes may be implemented if legislative amendments are passed next year.

4.5 Law Foundation Grants 2019

Legal Resources and the CPLED Bar Admission Program will begin working on their grant requests over the summer. This was informational to the Benchers.

4.6 Appointments

i. Law Foundation Auditor

Pursuant to Rule 76(7), the Benchers appoint the Law Foundation auditor. Bob Watt, FCPA, FCA, Law Foundation CEO, advised that the board recommends re-appointment of Deloitte as auditors for 2018.

Moved by Ian Wagner, seconded by Ron Parchomchuk, that Deloitte be re-appointed as auditors of the Law Foundation of Saskatchewan in 2018. The motion carried unanimously.

ii. Queen's Counsel Selection Committee

The Committee consists of the past President, a Bencher, a Public Representative and a member-at-large.

The precedent is to elect a Bencher by secret Ballot at Convocation. Only David Rusnak, Q.C. and Glenn Hepp expressed interest in being on this committee, therefore, both were acclaimed.

The Benchers considered applications from 5 interested members and Jeff Grubb, Q.C. was selected as the member-at-large on the Queen's Counsel Selection Committee for 2018 by secret ballot.

Moved by David Bishop, seconded by Jay Watson, to destroy the ballots. The motion carried.

iii. Federation Council

The deadline for Federation Council applications ended June 15th. The Nomination Committee will meet over the summer to conduct interviews, if necessary, and prepare a list of potential candidates for the Benchers at September Convocation.

iv. Public Representative Benchers

The deadline for Public Representative Bencher applications also ended June 15th. Tim Brown, Q.C. and Craig Zawada, Q.C. (or his designate) will meet with Scott Harron, Executive Assistant to the Minister, to interview potential applicants and to prepare a short-list for the Minister's final selection.

5. Regulation

5.1 Legal Profession Act, 1990 - Amendments

Barbra Bailey provided an update.

6. Committee Reports

- a. Access to Legal Services (provided by Gerald Tegart, Q.C.)
 - Nothing further to report.
- b. Admissions & Education (provided by Sean Sinclair)
 - The Committee is working with the Equity & Diversity Committee to examine issues faced by Aboriginal students seeking articles.
 - The Benchers were asked to help promote upcoming CPD activities focusing on equity and diversity.
- c. Audit – nothing to report.
- d. Conduct Investigation
 - Nothing further to report.

- e. Discipline (provided by Brenda Hildebrandt, Q.C.)
 - Nothing further to report.
- f. Equity & Diversity (written report provided by Ronni Nordal)
 - Nothing further to report.
- g. Ethics (provided by Ronald Parchomchuk)
 - The Committee will be meeting next week.
- h. Executive - covered in the President's Report.
- i. Governance (provided by David Chow)
 - The Committee is working on developing an exit interview process for Benchers who will not be returning next year, to be used anytime a Bencher departs the Board to help with continual evaluation and improvement.
 - The Committee has been preparing for the upcoming Bencher election and orientation, including some updates and changes to the orientation process and developing a strategy for Bencher election recruitment that will include personal outreach to potential candidates.
 - The Committee will be developing a standard operating procedure for all Law Society virtual meetings.
 - A sub-committee made up of outgoing Benchers has been reviewing Bencher remuneration and a recommendation will come to the Benchers for consideration in September.
 - The Committee is also working with Administration to evaluate our Board software to make sure it is working as optimally as possible.
- j. Insurance (provided by Perry Erhardt, Q.C.)
 - The Committee will be working with Anna Willey to communicate to members about the Lawyers Concerned for Lawyers (LCL) program to make sure it is clear that SLIA and the LSS are separate entities, that LCL is facilitated by SLIA and that no information is provided to the LSS.
 - Reviewing the evaluation questions for their committee.
- k. Legal Resources (provided by Scott Moffat)
 - Nothing further to report.
- l. Professional Standards (provided by David Rusnak, Q.C.)
 - The Committee is considering the possibility of having a practice advisor program that provides more of a mentor role for new sole practitioners upon request.
- m. Trust Safety (provided by Monte Gorchinski)
 - The Committee has been working on updating the Rules and policies relating to the Special Fund; they will be meeting over the summer to review an initial draft of Rule revisions.

7. Informational Items

- a. University of Saskatchewan Senate – report from Alma Wiebe, Q.C.
- b. PLEA Board – report from Maya Scott
- c. Saskatchewan Legal Aid Commission – report from Ray Wiebe
- d. Equity & Diversity Committee – report from Ronni Nordal

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 – September 12 – 14, 2018, Hotel Sask., Regina**
- 8.5 Motion to Adjourn**

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

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

Timothy J. Brown, Q.C.
Executive Director

TJB/el