



Minutes

Benchers

Date: Friday, September 6, 2019

Time: 1:00 pm

Location: Elkhorn Resort, Clear Lake, Manitoba

Present:

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| Anita Southall, President | Paul Grower |
| Lynda Troup, Vice President | Ashley Joyce |
| Kathy Bueti, Past President | Brian McLeod |
| Neil Cohen, Officer-at-Large | Christian Monnin |
| Dr. Amarjit Arneja | Wayne Onchulenko |
| Miriam Browne | Sacha Paul |
| Kyle Dear | Vincent Sinclair |
| Grant Driedger | Gerrit Theule |
| Jay Funke | Karen Webb |
| Brittany Goodman | Gerri Wiebe |

Teleconference: Richard Buchwald

Guests:

| | |
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| Judge Timothy Daley | Stacy Nagle |
| Cynthia Lau | David Swayze |

Regrets:

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| Dr. Jonathan Black-Branch | Patricia Kloepper |
| Susan Boulter | |

Staff Present:

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| Kris Dangerfield | Colleen Malone |
| Leah Kosokowsky | Sean Rivera |
| Pat Bourbonnais | Alissa Schacter |
| Tana Christianson | Darcia Senft |

1.0 President's Welcome and Treaty Acknowledgement

Ms Southall, President, called the meeting to order at 1:00 pm. Ms Lau and Ms Nagle, President and Executive Director, respectively, of the Manitoba Bar Association were welcomed to the meeting. Benchers were advised that Judge Daley, of the Nova Scotia Provincial and Family Court, would be joining the meeting later in the afternoon to facilitate the workshop on health and wellness in the profession.

2.0 In Memoriam

Benchers observed a moment of silence for Robert Dennis McDonald, Howard Chester George Pitts, and the Honourable Justice Donald Mark Little.

3.0 Consent Agenda

3.1 Minutes of June 27, 2019 Meeting

The minutes of the meeting held on June 27, 2019 were approved as presented.

Motion: That the Consent Agenda item be approved as presented.

MOVED: Ms Bueti
Seconded: Mr. Theule
Carried.

4.0 Guest Presentation

4.1 Remarks of Executive of the Manitoba Bar Association

Ms Lau and Ms Nagle remarked on the collegial relationship shared by the Manitoba Bar Association and the Law Society. They also expressed their appreciation for the support which the Benchers and staff provide to the members and staff of the Bar Association.

5.0 Executive Reports

5.1 President's Report

Benchers received for information Ms Southall's report dated August 27, 2019.

Mr. Onchulenko and Ms Webb joined the meeting at 1:15 pm.

5.2 Chief Executive Officer's Report

Benchers received for information Ms Dangerfield's report dated August 29, 2019. Ms Dangerfield confirmed that the sale of 219 Kennedy Street had closed on September 3, 2019 without incident. She also reported on the agreement that had been reached with the Province of Manitoba which will allow the Great Library to continue to occupy its current space within the Law Courts Building for a further three year term. Both parties have agreed to be bound by the terms of the most recent licensing agreement while the Province completes the drafting of the new license and services agreements. Ms Dangerfield confirmed that the Law Library Hub will be housed within the Library premises.

5.3 Strategic Plan Update

Benchers received for information the September 2019 update on the Strategic Plan.

6.0 Discussion/Decision

6.1 Bencher Vacancy

Benchers considered Ms Dangerfield's memorandum, dated August 26, 2019, which invited Benchers to provide direction on how they wished to fill the vacancy which had arisen in the Winnipeg Electoral District following the appointment of Ms Cornick as a judge of the Provincial Court of Manitoba. Flowing from discussion which had taken place at the May 23, 2019 meeting of Benchers, Benchers were also asked to provide direction on the review to be undertaken by this committee on the policies and processes for the election and appointment of benchers.

The following are the questions posed to Benchers and the direction provided in response:

1. Do you wish to approve the recommendation of the executive to appoint Jessica Saunders as the candidate to replace Ms Cornick for the remainder of her term as

bencher in the Winnipeg Electoral District or is there a different process you wish to follow to fill this vacancy?

Benchers agreed that in this instance it would be appropriate for Ms Saunders to fill the Bencher vacancy in the Winnipeg Electoral District.

Motion: That Ms Saunders be appointed to fill the existing vacancy in the Winnipeg Electoral District.

MOVED: Mr. Sinclair
Seconded: Mr. Paul
Carried.

2. Do you wish to appoint a nominating committee as early as your October meeting to begin its work and develop recommendations in relation to:
 - (a) the 2020 appointment/election cycle; and
 - (b) the composition of the nominating committee (keeping in mind any change to the current composition would require rule amendments and so those changes would not come into effect for the 2019/2020 nominating committee).

Mr. Funke joined the meeting at 1:40 pm.

Benchers agreed that the membership of the new nominating committee should be set at the October 31, 2019 meeting of Benchers to allow sufficient time for the committee to complete its review well in advance of the May 2020 election.

They also directed that, in addition to its current statutorily prescribed duties, this committee would consider and make recommendations to Benchers with regard to the following:

- whether the policies and skills matrices for appointed benchers, both practising and lay, require amendment;
- whether future nominating committees should be constituted earlier than the February meeting of benchers, particularly in years when an election is pending;
- the methodologies which should be utilized to recruit candidates for election and appointment as benchers, including designating responsibility for recruitment; and
- whether the membership of future nominating committees ought to be changed to include for example, as was previously the case, an independent person not connected to the Law Society.

Ms Southall confirmed that the Executive Officers would provide a recommendation to Benchers at their October 31, 2019 meeting regarding the membership of the new Nominating Committee.

7.0 Committee Reports

7.1 Complaints Investigation Committee

Benchers received for information the report of the Complaints Investigation Committee.

8.0 Monitoring Reports

8.1 Financial Statements

Benchers considered Ms Dangerfield's report, dated August 28, 2019, which provided a detailed overview of the Financial Statements of the Law Society for the four month period ending July 31, 2019.

8.2 Investment Compliance

Benchers considered Ms Dangerfield's report, dated August 29, 2019, which confirmed that investments in both the Reserve Fund and the Office Staff Pension Fund were in compliance with investment guidelines as at June 30, 2019.

9.0 Miscellaneous Business

9.1 Articling Survey

Benchers considered Ms Dangerfield's memorandum, dated August 26, 2019, which provided an analysis of the results of a survey which had been conducted, jointly with the Law Society of Alberta and the Law Society of Saskatchewan, in May and June of 2019 on the articling experiences of students, including the training and support provided to students and new lawyers in Manitoba. Survey participants included articling students, new lawyers, principals and mentors.

Benchers were advised that it is anticipated the new CPLED program will address many of the problems revealed within the survey results which pertain to training and entry-level practice, and the Equity Committee will be asked to consider how the Law Society should address the problems of harassment and discrimination also identified within the survey results. However, in light of these results, Benchers will need to consider the priority which should be given to conducting a review of the existing articling format as part of a new Strategic Plan.

Benchers expressed particular concern with respect to the survey results which indicated: (a) lack of awareness about mental health supports which are available to students; (b) the prevalence of discrimination and harassment experienced by students and a lack of awareness of the resources which are available to address these problems; (c) inadequate compensation; and (d) heavy workloads. Benchers recommended that the Law Society obtain as much of the raw data from the survey as possible as this information would be of value to the work of the Equity Committee and would also serve as benchmark data for future surveys.

9.2 Presentation to Student Bencher

Benchers were advised that this was the last meeting Ms Goodman would be attending in her capacity as student bencher. Ms Southall thanked Ms Goodman for her service to the Law Society and presented her with a gift in appreciation for her work as a bencher.

9.3 Meeting of Lay Benchers

Mr. Cohen advised that the lay benchers would be meeting with Law Society executive and staff to discuss their role as benchers and to identify areas where additional information and training would be useful to assist them in their work.

9.4 *In Camera* Discussion

Ms Southall advised that she wished to meet with benchers *in camera* to provide an oral report on the annual performance review of the chief executive officer. All staff and guests were excused from the meeting at this time, with the exception of Ms Bourbonnais.

Motion: That the meeting proceed *in camera*.

MOVED: Mr. Monnin
Seconded: Ms Bueti
Carried.

Ms Southall reported to Benchers on the CEO performance review which had been conducted over the summer and also provided information about the steps which have been taken by the executive to establish a formal process for future reviews.

Motion: That the meeting proceed *out of camera*.

MOVED: Ms Troup
Seconded: Ms Browne
Carried.

10.0 For Information

Benchers considered the materials provided for information.

Mr. Buchwald excused himself from the meeting at 2:25 pm.

11.0 Workshop

11.1 Health and Wellness in the Profession

Ms Southall welcomed Judge Daley to the meeting at 2:30 pm.

Benchers participated in a workshop presented by Judge Timothy Daley on proactive strategies which could be used to address matters which involve health and wellness concerns within the legal profession.

11.2 Lawyers Health and Wellness

The Benchers discussed one of several case studies prepared for this segment of the workshop which invited Benchers to consider different strategies which could be used to proactively address practice concerns stemming from health and wellness issues. Ms. Nagle suggested that there may be a role for the Manitoba Bar Association's Wellness Committee to play, in partnership with the Law Society, in developing a strategy which encourages members to seek early advice and assistance, whether it is for themselves or in aid of a colleague, when a member is experiencing or showing signs of difficulty which may stem from health and wellness issues.

There being no further business, Ms Southall adjourned the meeting at 4:30 pm.