

# THE LAW SOCIETY OF BRITISH COLUMBIA

## MINUTES

- MEETING:** Benchers
- DATE:** Friday, March 4, 2011
- PRESENT:**
- |  |                     |
|--|---------------------|
| Gavin Hume, QC, President                              | Nancy Merrill       |
| Bruce LeRose, QC, 1 <sup>st</sup> Vice-President       | David Mossop, QC    |
| Art Vertlieb, QC, 2 <sup>nd</sup> Vice-President       | Suzette Narbonne    |
| Haydn Acheson  | Thelma O'Grady      |
| Rita Andreone  | Lee Ongman          |
| Kathryn Berge, QC                                      | Gregory Petrisor    |
| Robert Brun, QC  | David Renwick, QC   |
| Tom Fellhauer  | Claude Richmond     |
| Leon Getz, QC  | Alan Ross           |
| Stacy Kuiack   | Catherine Sas, QC   |
| Jan Lindsay, QC  | Richard Stewart, QC |
| Peter Lloyd, FCA                                       | Herman Van Ommen    |
| David Loukidelis, QC, Deputy<br>Attorney General of BC | Kenneth Walker      |
| Benjimen Meisner                                       |                     |
- ABSENT:**
- |                 |                      |
|-----------------|----------------------|
| Satwinder Bains | E. David Crossin, QC |
| Joost Blom, QC  | Carol Hickman, QC    |
| Patricia Bond   |                      |
- STAFF PRESENT:**
- |                     |                  |
|---------------------|------------------|
| Tim McGee           | Bill McIntosh    |
| Deborah Armour      | Jeanette McPhee  |
| Robyn Crisanti      | Doug Munro       |
| Lance Cooke         | Lesley Pritchard |
| Su Forbes, QC       | Alan Treleaven   |
| Jeffrey Hoskins, QC | Adam Whitcombe   |
| Michael Lucas       |                  |
- GUESTS:**
- Chris Axworthy, QC, Faculty of Law Dean, Thompson Rivers University  
Dom Bautista, Executive Director, Law Courts Center  
Mark Benton, QC, Executive Director, Legal Services Society  
Johanne Blenkin, Executive Director, BCCLS  
Jeremy Hainsworth, Reporter, Lawyers Weekly  
Azool Jaffer-Jeraj, President, Trial Lawyers Association of BC  
Jamie Maclaren, Executive Director, Access Pro Bono  
Stephen McPhee, President, CBABC  
Mayland McKimm, QC, Board Chair, Legal Services Society  
Caroline Nevin, Executive Director, CBABC  
Andrew Petter, QC, President, Simon Fraser University  
Heather Raven, Associate Dean, Academic and Student Relations, UVIC  
Wayne Robertson, QC, Executive Director, Law Foundation of BC

## **NEW BENCHER OATH OF OFFICE:**

The President of the Law Society of British Columbia, Gavin Hume, QC administered the swearing of the Bencher's Oath of Office by Nancy Merrill, Nanaimo County Bencher.

## **CONSENT AGENDA**

### **1. Minutes**

The minutes of the meeting held on January 28, 2011 were approved as circulated.

### **Consent Resolutions**

The following resolutions were passed unanimously and by consent.

### **2. Amendment to Rule 1-6: Annual General Meetings**

***BE IT RESOLVED to amend Rule 1-6 by rescinding subrules (5), (8) and (9) and substituting the following:***

- (5) At least 60 days before an annual general meeting, the Executive Director must distribute to members of the Society by mail a notice containing the following information:
  - (a) the date and time of the meeting;
  - (b) the text of the resolution recommended by the Benchers to set the practice fee under section 23 [*Annual fees and practising certificate*] of the Act.
- (8) At least 21 days before an annual general meeting, the Executive Director must make available to members of the Society,
  - (a) by mail, a notice containing the following information:
    - (i) the locations at which the meeting is to be held, and
    - (ii) each resolution and amendment received in accordance with subrules (6) and (7), and
  - (b) by electronic or other means, the audited financial statement of the Society for the previous calendar year.
- (9) The accidental failure to comply with any requirement under subrule (5) or (8) does not invalidate anything done at the annual general meeting.

### **3. Approval of Thompson Rivers University and Lakehead University Law Degrees**

***BE IT RESOLVED to approve the law degree programs at Thompson Rivers University and Lakehead University for purposes of entry into the Law Society of BC Admission Program.***

**4. External Appointments: Appointment to the Board of Directors of the Legal Services Society and Nomination to the Board of Directors of the Vancouver Foundation**

***BE IT RESOLVED to appoint Suzette Narbonne to the Board of Directors of the Legal Services Society, for a three-year term commencing May 1, 2011.***

***BE IT RESOLVED that:***

- a. the Law Society shall hereby nominate Anna Fung, QC to the Board of Directors of the Vancouver Foundation for a three-year term, effective May 1, 2011; and
- b. future nominations to the Board of Directors of the Vancouver Foundation on behalf of the Law Society shall be made by the Benchers, on the advice of the Executive Committee.

**REGULAR AGENDA – for Discussion and Decision**

**5. President’s Report**

Mr. Hume referred the Benchers to his written report — circulated by email prior to the meeting — for an outline of his activities as President during the month of February 2011.

Mr. Hume briefed the Benchers on his attendance on behalf of the Law Society at the Commonwealth Law Conference in Hyderabad, India (February 5-9). He commented on the evident importance of the Federation’s work in coordinating and projecting the unified presence of Canada’s provincial societies on the international stage. Mr. Hume noted the interest and support of members of the bar and judiciary in major Commonwealth countries like Britain, Australia and Canada is greatly appreciated by members of the bar and judiciary from smaller countries where the rule of law is not as well-respected or practised.

Mr. Hume also reported on his recent attendance with Mr. McGee at a conference on governance of non-profit organizations. Mr. Hume noted that the program emphasized the importance of strategic planning as the foundation for decision-making, and the value of clear definition of directors’ roles and responsibilities.

**6. CEO’s Report**

Mr. McGee provided highlights of his monthly written report to the Benchers (Appendix 1 to these minutes), including the following matters:

1. 2010 Annual Financial Statements
2. 2010 Key Performance Measures (KPMs)
3. Professional Regulation Briefing
4. Public Survey Results
5. Public Education Program
6. Updated Law Society website
7. Continuing Professional Development (CPD) Update
8. Land Title and Survey Authority (LTSA) Required E-filing Announcement
9. Green.Wise Update

Mr. McGee asked Jeanette McPhee, Chief Financial & Director of Trust Regulation, to review the draft 2010 financial statements with the Benchers. Ms. McPhee did so, and advised that the Audit Committee will meet on May 3, 2011 to receive the report of the Law Society auditors on the draft 2010 financial statements and to approve them for publication and distribution.

Mr. McGee asked Adam Whitcombe, Chief Information and Planning Officer, to brief the Benchers on the results of a survey of 800 randomly chosen BC residents that was conducted in late 2010.

Mr. Whitcombe reported that the 2010 survey was patterned after surveys conducted in 1998 and 2004, and examined public perception of BC lawyers across six categories:

- Expertise
- Trustworthiness
- Client service
- Efficiency
- Value for money
- Commitment to public service

Mr. Whitcombe observed that, across all categories, the 2010 results are generally more favourable than the 1998 and 2004 results, and indicate perceptions generally more positive than those conveyed in the media. Mr. Whitcombe noted that public confidence in the Law Society's ability to regulate lawyers has improved fairly consistently since the first survey was conducted in 1998. He concluded by noting that the survey responses indicate the strength of public concern regarding issues involving access to justice and legal services, and confirm the importance of ensuring that the Law Society avoids complacency, particularly in relation to those issues.

Mr. McGee asked Robyn Crisanti, Manager of Communications and Public Relations, to brief the Benchers on plans for a Law Society public education program.

Ms. Crisanti presented a plan for development of a Law Society public education program with the following objectives:

- Meet public expectations for accessible legal information
- Increase public understanding of the value provided by independently-regulated lawyers
- Increase public awareness of the role of the Law Society in the legal community

Ms. Crisanti outlined a three-pronged strategy, with three key messages:

- Strategy
  - Comprehensive public education program focused on the rule of law and the regulation of lawyers
  - Maximize reach of program
  - Reserve public forums for targeted events

- Key Messages
  - The Law Society is committed to access to justice and the education of the public on legal issues
  - Self-regulation of the legal profession protects the rule of law
  - Well-regulated lawyers provide services on which the public can rely

Mr. McGee noted that the public education program is a deliverable within the current Communications strategic plan.

## **7. Report on Outstanding Hearing and Review Reports**

The Benchers received and reviewed a report on outstanding hearing decisions.

## **GUEST PRESENTATION**

### **8. Presentation by Mayland McKimm, QC, Board Chair of the Legal Services Society (LSS)**

Mr. Hume invited LSS Chair Mayland McKimm, QC to speak to the Benchers.

Mr. McKimm presented the Benchers with an overview of the LSS's latest research on the barriers to accessing justice that ordinary people face and the current challenges facing the organization in delivering legal aid. Mr. McKimm told the Benchers they can assist by identifying opportunities to integrate legal aid with other community programs, such as addiction and housing services, and by working together with others in the legal community to reign in the costs of mega-trials, which he noted consume disproportionate resources and are a major threat to LSS's ability to fund conventional criminal defence work.

Mr. Hume noted that Mr. McKimm is retiring from the LSS board at the end of April and thanked him on behalf of the Benchers and the Law Society for his dedication to the cause of enhancing access to justice over the years.

### **9. Presentation by Andrew Petter, QC, President and Vice-Chancellor of Simon Fraser University (SFU)**

Mr. Hume invited SFU President Andrew Petter, QC to speak to the Benchers.

Professor Petter delivered a presentation on SFU, including narration for a brief video presentation on SFU's progress and plans for development as a community-focused research university. Prof. Petter referred the Benchers to [www.envision.sfu.ca](http://www.envision.sfu.ca) for information about SFU's 2011 strategic visioning project. He advised that the result of the project will be SFU's next five-year strategic plan, which should be ready by the fall.

**STRATEGIC PLANNING AND PRIORITIES MATTERS – for Discussion and/or Decision****10. Independent Oversight of the Law Society's Regulatory Functions**

Mr. Lucas briefed the Benchers on the background of this matter. He reminded them that the subject of independent oversight was the main topic of discussion at the 2009 Benchers' Retreat, following which the Executive Committee directed staff to prepare a paper analyzing a number of policy options for that Committee's consideration. Over the intervening period of time, the Executive Committee considered various options, and settled on examining three in further detail. Mr. Lucas reported that in November 2010 Ms. Ensminger presented a paper to the Executive Committee that addressed three policy models for regulatory oversight of the Law Society's core regulatory functions: oversight and review by the BC Ombudsperson; a Voluntary External Review process; and a Performance Audit or Peer Review of Best Practices. He noted that the Executive Committee then asked Ms. Ensminger to re-work her paper to develop the Performance Audit or Peer Review of Best Practices model; which she did, and which the Executive Committee approved at its February 2011 meeting.

Mr. Lucas referred to the report at page 10000 of the meeting materials for background, and to page 10022 for the Executive Committee's recommendations to the Benchers:

**The Executive Committee recommends a two-pronged strategy for improving the public's confidence in how lawyers are regulated in British Columbia:**

- 1. The Law Society of BC should begin work on developing an oversight framework for British Columbia that is based on a performance audit and review of best practices model.**
- 2. The Law Society of BC should enhance its communications with the public about the important role the Office of the BC Ombudsperson plays in reviewing the Law Society's handling of complaints against lawyers.**

Mr. Meisner moved (seconded by Ms. Berge) that Recommendations 1 and 2, as set out at page 10022 of the meeting materials be approved and adopted by the Benchers.

The key points raised in the ensuing discussion were:

- Work on a BC-based oversight model could be considered in 2011 in the form of a concept paper, building provision for a project into the 2012-2014 Strategic Plan
- Starting with a BC-based pilot project approach avoids administrative, resourcing and political difficulties and delays inherent in attempting to start the process at the national level through the Federation of Law Societies of Canada
- The transparency of the proposed oversight model is a key strength and would enhance public confidence in the Law Society's regulation of lawyers
- It would be more effective to go to the Federation with a working model that's been tested in British Columbia
- Long term success of any independent oversight model will require national scale and coordination

- Enhancing public communication and awareness of the Ombudsman's Office role in reviewing the Law Society's handling of complaints is an operational matter, and would be an element of the public education program being developed by the Communications department

The motion was carried.

## **OTHER MATTERS – For Discussion and/or Decision**

### **11. 2010 Key Performance Measures (KPMs): Report on 2010 Performance**

Ms. Andreone, 2011 Audit Committee Chair, briefed the Benchers on the scope of the Audit Committee's role in monitoring Law Society performance and enterprise risk. She described the process of developing the 2010 KPM report as productive and interactive, with early, detailed and open dialogue being a major key to the successful outcome. Ms. Andreone thanked Vice-Chair Peter Lloyd, FCA and the other members of the Audit Committee (Paul Albi, QC, William MacLeod and Phillip Marshall, for their dedication and hard work.

Mr. McGee reviewed highlights of the 2010 KPM report (presented at page 11000 of the meeting materials) and advised that management is satisfied with the overall results. He noted that the report indicates that performance generally exceeded targets, with a number of small negative variances.

### **12. Regional Call Ceremonies: Bencher Attendance**

Mr. Hume briefed the Benchers, noting that at present there is no formal policy for the attendance of non-District Benchers at regional call ceremonies. Mr. Hume confirmed the Executive Committee's conclusions that:

- the attendance and involvement of Benchers at call ceremonies— Vancouver, Victoria and regional—may have public engagement and outreach implications and value
- a Bencher attendance policy for regional call ceremonies, with guidelines and criteria is needed.

Mr. Hume referred the Benchers to Ms. Small's memorandum at page 12000 of the meeting materials (Appendix 2 to these minutes) for background, and for the following summary of the Bencher attendance policy, guidelines and criteria developed by the Executive Committee (page 12001):

[...]Regional call ceremonies will continue to be organized by the local Bencher with access to Law Society staff for assistance, where necessary, with the following provisos:

1. All regional call ceremony locations and dates will be posted on the website and BencherNet as soon as they are known to staff
2. If a Bencher, other than the local Bencher, wishes to attend a regional ceremony, the Bencher must contact the President. In considering a Bencher request to attend, the President will generally take the following criteria into consideration:
  - a. whether there is any specific or special connection to the region or the persons involved;

- b. the number of Benchers already scheduled to attend;
- c. the overall scope and scale of the event, for example whether it is intended as an intimate vs. wide open event;
- d. the reasonable budget impact for attending, including any event costs, travel, accommodation and things of that nature.
- e. Other factors taken into consideration will be the strategic priorities set by the Benchers and whether Bencher attendance will enhance those goals including, for example, the focus on the retention of Aboriginal lawyers in the legal profession.

Mr. Hume also noted the Executive Committee's ongoing assessment of the possibility of investing additional staff resources to assist local Benchers with the organization of Victoria call ceremonies. Further discussions are scheduled to take place with the local Benchers in this regard and the results of those discussions will be brought back to the Benchers at a later date.

Mr. Hume asked the Benchers to confirm their approval of the policy, guidelines and criteria for Bencher attendance at regional call ceremonies as set out in Ms. Small's memorandum.

The Benchers approved unanimously.

***IN CAMERA SESSION***

The Benchers discussed other matters *in camera*.

WKM  
2011-03-16

The Law Society  
of British Columbia



## ***Chief Executive Officer's Monthly Report***

A Report to the Benchers by

Timothy E. McGee

March 4, 2011

## **Introduction**

My report this month covers the annual report to the Benchers on the 2010 Financial Statements, our report on Key Performance Measures (KPMs) for 2010, and updates on several other items of interest. Jeanette McPhee, our Chief Financial Officer, will provide detailed information about the Financial Statements at the meeting, and members of Management Board will be available to answer questions regarding the KPM results.

### **1. 2010 Annual Financial Statements**

A copy of the draft 2010 Annual Financial Statements and Management's report thereon is attached to this report as Appendix 1. The Audit Committee will be meeting on May 3, 2011 to receive the Report of the Auditors on the Financial Statements and to formally approve the Statements for publication and distribution. In accordance with our governance policies, the draft financials are being presented to the Benchers for review and information.

### **2. 2010 Key Performance Measures (KPMs)**

Rita Andreone, the Chair of the Audit Committee, will be presenting the 2010 Report on KPMs as a separate agenda item at the meeting. The report was reviewed by the Audit Committee at its last meeting. Management Board members will be available at the meeting to answer questions about KPM results specific to their departments.

Overall, there were positive results in 2010, with a few measures falling just short of target.

### **3. Professional Regulation Briefing**

Deborah Armour, Chief Legal Officer, will be updating the Benchers on progress under her new plan for the Professional Regulation department during the in-camera portion of the meeting.

### **4. Public Survey Results**

In November 2010, the Law Society commissioned a survey of the public to assess current perceptions of lawyers and the Law Society. This is a survey we have conducted several times before, beginning in 1998. Its primary purpose is to provide us with an assessment over time of public perceptions so that we can explore further any trends in public opinion. Our most recent results show a positive, albeit modest, trend in the public's perception of lawyers and the Law Society's ability to regulate the profession. The survey

will be made available to the public via our website and a news release shortly.

**5. Public Education Program**

The Communications team has developed a plan to foster public knowledge about the rule of law and importance of an independent and well-regulated legal profession. The plan will address gaps in the public legal education marketplace that are otherwise aptly filled by legal services organizations throughout the province and centralized via the Clicklaw website. Implementation of the plan will occur over the balance of 2011.

**6. Updated Law Society website**

As the Benchers are aware, our updated Law Society website will be launched on Monday, March 7. The revamped and renovated site has been in development for nearly six months and is a combined project of the Communications and Information Services departments. In addition to a more contemporary look and feel, the site has been reorganized to be more user-friendly and to take advantage of current best practices in web design. Over the past week, the Benchers, staff and lawyers, and members of the public have had the opportunity to try out the updated site and provide comments and suggestions. Ongoing feedback is most welcome.

**7. Continuing Professional Development (CPD) Update**

In my January 2011 report, I reported on the number of members with outstanding CPD requirements. The following updates that information as of February 8, 2011:

- 176 members have reported no hours;
- 12 members need only to complete the ethics requirement; and
- 117 members have reported some but not all required hours.

Alan Treleaven, Director, Education and Practice, will be available at the meeting to discuss these results and to report on the efforts his department is making to follow up with members with absent or incomplete results.

## **8. Land Title and Survey Authority (LTSA) Required E-filing Announcement**

On March 11, the LTSA will formally announce its Required E-filing initiative at the Association of BC Land Surveyors' Annual General Meeting in Victoria. This initiative arises from recent amendments to the *Land Title Act* authorizing the Director of Land Titles to require that certain classes of applications be filed electronically. Required E-filing is necessary to permit the LTSA to address demographic changes to its workforce by automating examination of common land title application types. This automation is required for the LTSA's sustainability. Required E-filing also enables a secure and consistent approach to Land Title Office filing. The roll out of Required E-filing will be phased, with the first transactions involving lawyers to begin as early as January 1, 2012.

As a key stakeholder, the Law Society actively participated in the consultation process leading up to this announcement. We also assisted the LTSA in surveying affected members in December 2010 to assess member usage of the Land Title Registry. Adam Whitcombe, Chief Information and Planning Officer, has been the Law Society's liaison with the LTSA during the consultation process, and will be available at the meeting to answer any questions you might have about the roll out of the E-filing requirements.

## **9. Green.Wise Update**

The Law Society received a certificate (attached as Appendix 2) from the David Suzuki Foundation recognizing our commitment to sustainable workplace practices and our ongoing participation in the David Suzuki at Work Program. The Green.Wise steering committee participated in a David Suzuki at Work workshop last November. This interactive workshop was facilitated by a Suzuki Ambassador and provided hands-on information, consultation, and the best tips for going green at work and developing sustainable work practices.

Our Green.Wise Committee was started just over a year ago as a staff initiative and this success shows what can be done in a short period of time when people are passionate about a worthwhile cause.

I would like to congratulate the Green.Wise Committee, chaired by Christine Gergich, for this achievement and thank them for their ongoing efforts to green our office by implementing sustainable business practices.

You may be interested to know, on a related note, that Iron Mountain reports that 57 tons of paper was shredded for the Law Society in 2010. All of this paper was shredded and recycled to save approximately 968 trees and 3,418 lbs. of air pollutants.

Timothy E. McGee  
Chief Executive Officer



To Benchers  
From Lesley Small  
Date February 23, 2011  
Subject **Regional Call Ceremonies**

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The Executive Committee recently considered whether public awareness of the role of the Law Society would be raised by having more Benchers attend regional call ceremonies, and what budgetary considerations ought to be taken into consideration.

### **Current Practice**

Staff currently organize four ceremonies in Vancouver on a yearly basis, and invitations are sent out to the Benchers advising of the scheduled dates. On average, six to eight Benchers (including the incumbent President) attend each ceremony (although staff call on Life Benchers on short notice when it appears that Bencher attendance will be insufficient). For the most part, it is the Vancouver and Westminister County Benchers who attend the Vancouver ceremony, although an out-of-town Bencher who is in Vancouver on other matters will attend, if convenient.

All other ceremonies are organized by the local Benchers, and the only involvement by staff is to provide the call certificate and a roll book to sign. Most ceremonies are organized four to six weeks in advance, although some are conducted on short notice.

Victoria has also formalized four call and admission ceremonies per year that occur shortly before or after the Vancouver ceremony, and the dates are posted. Approximately 50 candidates are called in Victoria on an annual basis. Excluding Victoria, statistics indicate 19 regional ceremonies in 2007, 22 in 2008, 23 in 2009 and 17 in 2010.

### **Underlying Question**

The call ceremony is the final step in a candidate's pursuit of becoming a lawyer, and the occasion for celebration with family, friends, staff and other lawyers from their community. Regional call ceremonies were designed to ensure that candidates, at no additional expense, could enjoy that celebration in their own communities. As such, the Executive Committee considered whether a potential increase in the attendance of Benchers at local call ceremonies would be an effective means for Benchers to reach out to the public.

### **A Change to the Current Practice**

The Executive Committee decided that, for the most part, the status quo will be maintained in relation to call ceremonies. Specifically, staff will continue to organize the

Vancouver call ceremonies and send out invitations to the Benchers. Given the size and location of the Vancouver call ceremonies, all local Benchers are encouraged to attend as well as out-of-town Benchers, if convenient. Regional call ceremonies will continue to be organized by the local Bencher with access to Law Society staff for assistance, where necessary, with the following provisos:

1. All regional call ceremony locations and dates will be posted on the website and BencherNet as soon as they are known to staff
2. If a Bencher, other than the local Bencher, wishes to attend a regional ceremony, the Bencher must contact the President. In considering a Bencher request to attend, the President will generally take the following criteria into consideration:
  - a. whether there is any specific or special connection to the region or the persons involved;
  - b. the number of Benchers already scheduled to attend;
  - c. the overall scope and scale of the event, for example whether it is intended as an intimate vs. wide open event;
  - d. the reasonable budget impact for attending, including any event costs, travel, accommodation and things of that nature.
3. Other factors taken into consideration will be the strategic priorities set by the Benchers and whether Bencher attendance will enhance those goals including, for example, the focus on the retention of Aboriginal lawyers in the legal profession.

### **Victoria Call Ceremonies**

Given that Victoria has over the years formalized the call and admission ceremonies to four per year that occur shortly before or after the Vancouver ceremony, and that approximately 50 candidates are called in Victoria on an annual basis, the Executive Committee noted that it may be worth considering whether additional staff resources should be expended to assist the local Benchers with the organization of these events. Further discussions are scheduled to take place with the local Benchers in this regard and the results of those discussions will be brought back to the Benchers at a later date.