



COUNCIL MEETING

Videoconference Calgary/Edmonton Office

October 6, 2015

8:30 AM – 4:00 PM

APPROVED MINUTES

PRESENT

President: Connie Parenteau, P.Eng., FEC, FGC (Hon.), Chair
President-Elect: Steve Hrudey, P.Eng., PhD, FCAE – Calgary Videoconference
Vice-President : Nima Dorjee, P.Eng. – Calgary Videoconference
Councillors: Jeff DiBattista, P.Eng., PhD
Lisa Doig, P.Eng., MBA, FEC, FGC (Hon.) – Calgary Videoconference
Jennifer Enns, P.Eng. – Calgary Videoconference
George Eynon, P.Geo., FGC – Calgary Videoconference
Brad Hayes, P.Geol., PhD – Calgary Videoconference
Wenona Irving, P.Eng., FEC, FGC (Hon.)
Paul Knowles, P.Eng. – Calgary Videoconference
Craig McFarland, P.Eng. – Calgary Videoconference
Art Washuta, P.Eng.
Terry Waters, P.Eng. – Calgary Videoconference
John Rhind, P.Geol. – Calgary Videoconference

Public Members: Ross Harris, B.Com., FCA, ICD.D

Robert Lloyd, QC

Mary Phillips-Rickey, FCA

Geoscientists Canada President:

George Eynon, P.Geo., FGC – Calgary Videoconference

Engineers Canada Directors:

Jim Beckett, P.Eng., FEC, FGC (Hon.)

Staff: Mark Flint, P.Eng., Chief Executive Officer

Carol Moen, P.Eng., Registrar

Pat Lobregt, Director, Executive and Government Relations

Phillip Mulder, Director, Communications

Heidi Yang, P.Eng., Director, Member Services

Dianne Johnstone, Director of Legislative Review
Mark Tokarik, P.Eng., Deputy Registrar
Chelsea McNaughton, Executive Assistant to Council

REGRETS

Colin Yeo, P.Geo., FGC, FEC (Hon.)
Mahsoo Naderi-Dasoar, P.Eng.
Larry Staples, P.Eng., FEC, FGC (Hon.)

CALL TO ORDER

The Chair called the meeting to order at 8:30 AM.

ADOPTION OF AGENDA

The Chair amended the agenda by adding:

1. A motion regarding the formation of a Joint Act Review Task Force under item # 7.0
2. Discussion of an additional Council meeting in February or March 2016 under item # 8.0

ADOPTED by general consensus.

1.0 OVERVIEW

The Director of Legislative Review provided an overview of the legislative review timeline as confirmed to date by the government of Alberta

2.0 WHERE WE HAVE BEEN AND WHERE WE ARE GOING

The Director of Legislative Review provided background information on the legislative review project and consultation process.

3.0 FOLLOW-UP FROM JUNE AND SEPTEMBER COUNCIL

A. Regulatory Oversight

The Registrar provided information on statutory oversight and indicated that the Statutory Boards are accountable to Council. This means that Council is responsible for their oversight, the effectiveness of their processes, and the quality of their decisions.

Council did not support the creation of a new Committee to manage statutory oversight responsibilities. Rather, Council as a whole was in favour of further

clarification of the roles and responsibilities of statutory oversight so they can ensure those responsibilities are met.

B. Governance

The Director of Legislative Review provided feedback from recent meetings with the Government of Alberta regarding terminology in the Legislation. There is nothing precluding APEGA from combining the roles of the CEO and Registrar in the EGPA. There was discussion of this model's use by other provincial regulators and Constituent Associations.

C. Executive Committee

Currently Council terms, elections, positions, and size are spread throughout the Act, Regulations, and Bylaws. The intent is to move this information into the Bylaws, to provide flexibility. This will allow APEGA to grow and change in two year cycles (as necessary) instead of every 30 years when the Act is updated.

4.0 ROUND 1 – OUTCOMES

The Director of Legislative Review reviewed the six proposed recommendations from Members and Permit Holders in the round one (May 2015) consultations and the feedback received from them in the “We’re Listening” report:

1. Licensee – to eliminate the Licensee designation so that qualified individuals may be registered as Professional Engineers or Professional Geoscientists, regardless of whether they have Canadian citizenship or permanent resident status.

It was noted that Members and Permit Holders expressed concerns with the risks associated with the ability of non-citizens/non-permanent residents to vote on Governance matters and run for Council.

2. Members-in-Training (M.I.T.s) to be given all the privileges as Professional Members in APEGA governance matters. A second proposed recommendation was to remove the term to which an M.I.T. can remain a M.I.T. to provide flexibility for unique circumstances.

Members and Permit Holders expressed concerns regarding the number of seats reserved for MIT's on Council.

3. Eliminate the existing Professional Licensee designation. Anyone without an engineering or geoscience degree would apply for a P. Tech. designation through ASET. (Current P.L.s would be grandfathered). Create a new Limited License (L.L.) designation for those with an engineering or geoscience degree, and don't immediately qualify for the Professional Engineering or Professional Geoscience designations, but are qualified to practice within a limited scope.

Members and Permit Holders expressed concern with use of “Professional” in the title and that it should remain in the new designation as it refers to the “ability to practice independently”.

Council expressed the opinion that Professional should still be included in the title, since these individuals do have the ability to practice independently (within a limited scope).

4. Student Category: eliminate the special student member category. These individuals can pursue the new proposed Limited License or Professional Technologist designation.
5. Authority to Delegate: amend the *EGP Act* to expressly authorize Council, CEO, Registrar, and statutory boards and committees the authority to delegate as appropriate.
6. Building Code Exemptions: repeal the Building Code exemptions in the *EGP Act* and reference the current Alberta Building Code as the source for relevant exemptions.

MOTION 15-20

MOVED by George Eynon, and seconded, THAT Council endorse the recommendations regarding Members-inTraining, Professional Licensees, Licensees, Student Category, Authority to Delegate, and Building Code Exemptions from Members' and Permit Holders' round one May 2015 consultations, as presented in the October 6, 2015 Council agenda package.

Number of votes cast:	16
Necessary for adoption (majority):	9
In favour:	15
Opposed:	0
Abstained:	1

MOTION 15-20 APPROVED

MOTION 15-21

MOVED by Brad Hayes, and seconded, THAT Council endorse the recommendations regarding Licensees from Members' and Permit Holders' round one consultations, as presented in the October 6, 2015 Council Agenda Package.

There was debate on the problem that two-tiered Membership would imply.

Number of votes cast:	16
Necessary for adoption (majority):	9
In favour:	0
Opposed:	16
Abstained:	0

MOTION 15-21 DEFEATED

MOTION 15-22

MOVED by Wenona Irving, and seconded, THAT Council endorse the recommendations from Members' and Permit Holders' round one consultations regarding the removal of the Licensee category and removal of requirement for a Professional Member to be a Canadian citizen or have permanent residence status.

Number of votes cast:	16
Necessary for adoption (majority):	9
In favour:	14
Opposed:	2
Abstained:	0

MOTION 15-22 APPROVED

MOTION 15-23

MOVED by George Eynon, and seconded, THAT Council endorse the recommendations from Members' and Permit Holders' round one consultations regarding the requirements for Professional Members or Members-in-Training to require Canadian citizenship or permanent residence status to be eligible to run for Council or participate on statutory boards and committees.

There was clarification that this item could be captured in the Bylaws, instead of the Act.

Number of votes cast:	16
Necessary for adoption (majority):	9
In favour:	14
Opposed:	1
Abstained:	1

MOTION 15-23 APPROVED

5.0 ROUND 2 – DISCUSSION

The Deputy Registrar presented the themes for the fall consultation topics and invited questions:

1. Changes regarding orders, fines, and costs structures. Increase the discipline-related fines for Professional Members to a maximum of \$100,000 and increase the maximum discipline-related fine for Permit Holders to a maximum of \$500,000

There was discussion on whether the numbers should appear in the Regulations rather than the Act, and when the maximums should be applied. Concern was expressed that regardless of allowable maximum values, fines must be applied in a manner respecting the ability of the party being fined to pay. It was expressed that a provision should be added to the regulations specifying that APEGA can use the fine money to assist the deprived party.

2. Recommended Discipline Orders (RDO). Amend the *Engineering and Geoscience Professions Act* to make the Registrar the case manager for all proposed RDO's. Amend the Act to give the Registrar the express authority to review and approve, reject and refer the matter to the Discipline Committee for a formal hearing, or refer the matter back to the parties for further negotiation, with or without suggested amendments or other direction.

There was support for streamlining this process

3. Authority to inform the public of decisions of statutory boards and committees. It is recommended that the legislation be amended to expressly require that the Registrar make public, including the names of Members and Permit Holders when there are: Discipline Committee or Appeal Board discipline decisions; accepted recommended discipline orders; or the Registrar or investigative panel decisions to suspend or restrict licences in emergent situations.

It was noted by the Deputy Registrar that the government of Alberta is looking for more transparency in this area and has requested that the public shall be informed of all discipline orders with names. There was support for allowing names to be published once there are disciplinary findings, but there was concern about violating privacy rights. It was suggested that the Registrar have the discretion to publish names, and not make it a requirement.

4. A new authority (that currently does not exist) that allows the Registrar to inform the public of the existence of investigations and interim suspensions even if there have not been any findings yet. Policy will need to be set by Council as to what the criteria is for when this release would happen.

Caution was expressed over the potential of public shaming or tarnishing reputations if no disciplinary actions result.

5. A new authority to inform to allow the Registrar to inform the Public the Public of action against unlicensed use-of-titles and scope-of-practice violators

There was support for publishing the names of persons using restricted titles when they are not registered to do so.

6. Formalizing the mobility of discipline decisions. This would require members and permit holders to advise APEGA if they have had discipline orders made against them from other jurisdictions. Allow APEGA to share discipline decisions with other professional associations and regulators. Authorize the Registrar to use another provincial engineering or geoscience association's discipline record of proceedings, decisions, and orders

Including "territorial" in every section that refers to "provincial" was suggested. There was mention of similar legislation for the US and abroad, and to include criminal investigations as well. There will need to be a verification clause in policy for international people.

7. Capacity to Practise (fitness to practise). Authorize the Registrar to require a Member or applicant to undergo independent, third-party mental or physical examinations to assess the person's fitness to practise. Authorize the Registrar to restrict or suspend a Member's license pending receipt of the results of the medical assessment. Authorize the Registrar to maintain the restriction or suspension until the incapacity has been treated and addressed.

There was a question about substance abuse within permit holders. The Legislative Review team committed to adding this item to the list for further thought.

OIQ already has this policy in place, and BC just brought it forward at the AGM to put into place. It was suggested that the College of Physicians and Surgeons of Alberta may have insights regarding issues around substance abuse. The new CPA also has this provision.

8. Clarifying the role and authority of investigative panels. Investigators rather than investigative panels will investigate complaints and report the findings to the investigative panels. The panel will decide whether to dismiss the complaint, propose a recommended order, or refer to the disciplinary hearing.

The recommendation was supported by several Councillors

9. Compelling witnesses, producing documents and entering premises. As a part of the complaint investigation process, APEGA investigators be given the authority to:
 - Require any person, whether a member or non-member to produce documents related to a complaint
 - Require any person, whether member or non-member, to submit to an interview as part of the investigation
 - Bring civil contempt-of-court proceedings for failing to cooperate
 - Enter and inspect any place where a Member works as part of the investigation

Clarification was requested regarding the authority being allocated to investigators. Typically police officers require a search warrant to search a place of work.

10. Complaints against former members. It is recommended that the timeframe within which a complaint against a former Member or Permit Holder may be commenced be increased to 10 years (from two years) following the date of cancellation.

Many Councillors supported this recommendation.

11. Authority of the Registrar. Amend the *Engineering and Geoscience Professions Act* to give the Registrar the express authority to:
 - Initiate a complaint
 - Initiate an investigation into the activities of existing and former Members and Permit Holders
 - Appoint the APEGA Investigators to look into the matter and report findings to the Registrar
 - Report the results of the investigation to the Investigative Committee or other entity as the Registrar considers appropriate

There was some discussion on the recommendation.

12. Authority to suspend or impose conditions on an interim basis in emergent situations. It is recommended that the Act be revised to authorize the Investigative Committee and the Registrar to impose Interim conditions on a Member or Permit Holder on an expedited basis in emergent circumstances. The circumstances under which this power could be exercised would be based on criteria clearly described and established in the General Regulations.

Support was expressed for providing alternatives to suspending or cancelling a membership. It was expressed that the appeal process should be clarified in the Act.

Council requested time in the December meeting to discuss the remaining items.

6.0 ROUND 3 - PLANNING

The Director of Legislative Review provided background on the remaining items that will be discussed in the next Special Legislative Review Council meeting in February or March 2016.

Council expressed concern over liability insurance. Mr. Lloyd pointed out that the Law Society charges a fee which is used to provide minimum liability coverage for all members.

7.0 JOINT COUNCILS COMMITTEE

MOTION 15-24

MOVED by Brad Hayes, and seconded, THAT Council approves the appointment of APEGA's Executive Committee as APEGA's representatives to the Joint Councils Committee.

Number of votes cast:	16
Necessary for adoption (majority):	9
In favour:	15
Opposed:	0
Abstained:	1

MOTION 15-24 APPROVED

MOTION 15-25

MOVED by Steve Hruedy, and seconded, THAT Council approves the establishment of a Joint Act Review Task Force to work with ASET's Legislative Task Force on proposed changes to the EGP Act only (not the Regulations or Bylaws). The membership of this Committee will comprise Nima Dorjee, Art Washuta, Jennifer Enns, and Dianne Johnstone, Director of Legislative Review.

Number of votes cast:	16
Necessary for adoption (majority):	9
In favour:	15
Opposed:	0
Abstained:	1

MOTION 15-25 APPROVED

There was an in-camera session.

8.0 NEXT MEETINGS

December 2, 2015 (Edmonton)
Legislative Review and Strategy Special Meeting February 2016

A survey will be administered to collect the best dates for this meeting.

9.0 ADJOURNMENT

The meeting was adjourned at 3:03 PM.