



COUNCIL MEETING
February 5, 2016
Edmonton (APEGA Office)
Lindberg Conference Centre (15th floor)
8:30 AM – 1:30 PM

APPROVED MINUTES

PRESENT

President: Connie Parenteau, P.Eng., FEC, FGC (Hon.), Chair
President-Elect: Steve Hrudehy, P.Eng., PhD, FCAE
Vice-President : Nima Dorjee, P.Eng.
Past-President : Colin Yeo, P.Geo., FGC, FEC (Hon.)
Councillors: Jeff DiBattista, P.Eng., PhD
Lisa Doig, P.Eng., MBA, FEC, FGC (Hon.)
Jennifer Enns, P.Eng.
George Eynon, P.Geo., FGC, FEC (Hon.)
Brad Hayes, P.Geol., PhD
Paul Knowles, P.Eng.
Craig McFarland, P.Eng.
Mahsoo Naderi-Dasoar, P.Eng.
Terry Waters, P.Eng.
John Rhind, P.Geol.

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

Staff: Mark Flint, P.Eng., Chief Executive Officer
Carol Moen, P.Eng., Registrar
Heidi Yang, Director, Member Services
John Corriveau, P.Eng., Manager of Regulatory Operations
Pat Lobregt, Director, Executive and Government Relations
Pal Mann, P.Eng., Director, Corporate Services
Philip Mulder, Director, Communications
Krista Nelson-Marciano, Director of Operations
Chelsea McNaughton, Executive Assistant to Council
Colette Fernandes, Executive Assistant to the Director, Executive and Government Relations
Dianne Johnstone, Director of Legislative Review
Mark Tokarik, P.Eng. Deputy Registrar

Regrets: Wenona Irving, P.Eng., FEC, FGC (Hon.)

Mary Phillips-Rickey, FCA
Robert Lloyd, QC
Jim Beckett, P.Eng., FEC, FGC (Hon.)
Art Washuta, P.Eng.
Larry Staples, P.Eng., FEC, FGC (Hon.)

1.0 CALL TO ORDER

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

2.0 LEGISLATIVE REVIEW ROUND 2 OUTCOMES

MOTION 16-01

MOVED by Steve Hrudehy, and seconded, THAT Council endorses the following proposed principles to guide recommendations (as presented on February 5, 2016 and included as item 2.1 in the Agenda Package):

2.2 to expressly require that the Registrar make public, including the names of Members and Permit Holders, the:

- discipline decisions of the Discipline Committee and the Appeal Board
- accepted recommended discipline orders
- decisions of the Registrar or investigative panel to suspend or restrict licences on an interim basis in emergent situations.

2.3 to indicate the APEGA Register will include:

- whether a Member or Permit Holder is currently subject to a disciplinary order
- the details of any active disciplinary order, including whether the Member's or Permit Holder's licence or permit has been cancelled, suspended, or restricted, or has had other conditions placed on it
- a record of the discipline history of each Member and Permit Holder.

2.4 to expressly authorize the Registrar to inform the public that APEGA is taking action against an unlicensed individual or company for use-of-title and scope-of-practice violations, even where Court decisions have not been made.

2.5 to require Members and Permit Holders to advise APEGA if they have had discipline orders made against them in other jurisdictions.

2.6 to authorize APEGA to share discipline decisions with other professional associations and regulators.

2.10 to authorize the Registrar to maintain the restriction or suspension until the incapacity has been treated and addressed.

2.11 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 investigators to investigate the matter and report the findings to the Registrar
- report the results of the investigation to the Investigative Committee or other entity as the Registrar considers appropriate.

2.12 to expressly authorize the Registrar to suspend a Member or Permit Holder on an expedited basis in emergent circumstances. The circumstances under which this authority could be exercised would be based on criteria clearly described and established in the General Regulation.

2.13 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 authority could be exercised would be based on criteria clearly described and established in the General Regulation.

2.14 to make the Registrar the case manager for all proposed Recommended Discipline Orders.

2.18 to authorize APEGA to file discipline orders with the Court if the order includes fines or costs. These orders would be enforceable as Orders of the Court.

2.19 to increase fines for unlicensed individuals for scope-of-practice or use-of-title violations to a maximum of \$100,000.

2.20 to increase fines for unlicensed companies for scope-of-practice or use-of-title violations to a maximum of \$500,000.

2.21 such that APEGA investigators be given the authority to require any person, whether a Member or non-member, to produce documents related to the complaint.

2.22 such that APEGA investigators be given the authority to require any person, whether a Member or non-member, to submit to an interview as part of the investigation.

2.25 to enable investigators, rather than investigative panels, to investigate complaints and report the findings to the investigative panels.

2.26 to enable investigative panels to become the decision-makers and have the same powers and decision-making authority as the Investigative Committee currently has. The panels will review investigation reports and decide whether to dismiss a complaint, propose a recommended order, or refer the complaint to a disciplinary hearing.

2.27 to ensure the Investigative Committee is the pool or roster from which Members of the investigative panels will be drawn.

2.28 to give APEGA additional settlement and dispute resolution mechanisms to resolve complaints.

2.29 to expressly authorize the Registrar to directly settle complaints, with the consent of the complainant and the subject of the complaint, without needing the Investigative Committee's approval.

2.31 to authorize the Board of Examiners to place conditions on an approved registration if it is in the public interest to do so.

2.32 to authorize the Board of Examiners to impose additional conditions other than examinations or more experience before registering an applicant.

2.33 to allowing an individual, whose application for registration is not approved by the Board of Examiners, to request a review of that decision be done by an appeal panel of the Appeal Board.

2.34 to authorize the Board of Examiners to become the decision making body for both reinstatement applications and resumption applications irrespective of the length of time since the cancellation or the member moving to non-practicing status.

2.35 Council recommends that the Engineering and Geoscience Professions Act should be amended to authorize the Board of Examiners to delegate to the Registrar the authority to make decisions on reinstatement and resumption applications according to pre-determined criteria established in policy.

2.36 to authorize the Board of Examiners to delegate to the Registrar the authority to make decisions regarding certain types of applications for registration.

2.37 to authorize the Registrar to cancel a false or fraudulent registration.

2.38 to authorize APEGA Council to establish through policy the criteria that Members and permit holders must meet to renew their annual registration.

2.39 to authorize the Registrar to cancel the registration of individuals and Permit Holders according to criteria established by Council through policy, in cases not involving discipline matters.

2.40 to authorize the Registrar to dismiss complaints where there are not sufficient grounds to warrant proceeding with a further investigation or hearing, without the need to refer such complaints to the Investigative Committee.

2.41 to give the complainant the right to appeal the decision to the Appeal Board if the Registrar dismisses a complaint.

2.42 to give the Investigative Committee the ability to similarly dismiss a complaint on the basis that the conduct is too minor to warrant a sanction or there are not sufficient grounds to proceed with further investigation or hearing rather than on the basis of the current "frivolous or vexatious" and "insufficient evidence" wording.

Number of votes cast: 14
Necessary for adoption: 8
In favour: 13
Opposed: 0
Abstained: 1 (Ross Harris)

MOTION 16-01 APPROVED

MOTION 16-02

MOVED by Steve Hrudehy, and seconded, THAT Council endorses the following proposed principles to guide recommendations (as presented on February 5, 2016 and included as item 2.1 in the Agenda Package):

2.1 to expressly authorize the Registrar to inform the public that APEGA is conducting an investigation, inquiry, or practice review into a Member's or Permit Holder's practice.

2.7 to authorize the Registrar to use another provincial or territorial engineering or geoscience association's discipline record of proceedings, decisions, and orders to make equivalent orders without conducting a full investigation and disciplinary hearing.

2.8 to 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.

2.9 to authorize the Registrar to restrict or suspend a Member's licence pending receipt of the results of any required medical assessments on the person's fitness to practise.

2.15 to give the Registrar the express authority to review and approve proposed Recommended Discipline Orders, reject proposed Recommended Discipline Orders 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.

2.16 to increase discipline-related fines for Members to a maximum of \$100,000.

2.17 to increase discipline-related fines for Permit Holders to a maximum of \$500,000.

2.23 such that APEGA investigators be given the authority to bring civil contempt-of-court proceedings for failing to cooperate; and

2.24 such that APEGA investigators be given the authority to enter and inspect any place where a Member works, as prescribed in the regulations.

Council requested a review of the policy on investigations and practice review.

Number of votes cast: 14
Necessary for adoption: 8
In favour: 12
Opposed: 0

Abstained: 2 (Ross Harris and Mahsoo Naderi-Dasoar)

MOTION 16-02 APPROVED

MOTION 16-03

MOVED by Steve Hrudey, and seconded, THAT Council endorses the NEW proposed recommendations 2.30 (as presented on February 5, 2016 and included as item 2.1 in the Agenda Package):

2.30 to clarify that a complaint against a current or former Member or Permit Holder may be commenced within the limitation periods provided under the Alberta Limitations Act.

MOTION 16-03 APPROVED UNANIMOUSLY

3.0 BYLAW 37(3) – ELECTRONIC VOTING

MOTION 16-04

MOVED by Colin Yeo, and seconded, THAT Council approves that APEGA Bylaw 37(3) be amended to read: “A vote by mail on a matter shall be declared valid if at least 100 Professional Members respond and the matter shall be carried or defeated on the basis of a simple majority of the votes returned.”

Number of votes cast:	14
Necessary for adoption:	8
In favour:	14
Opposed:	0
Abstained:	0

MOTION 16-04 APPROVED UNANIMOUSLY

4.0 STATUTORY OVERSIGHT [Why and How]

There was generative discussion on the survey conducted on Council in the September Council meeting.

The types of metrics that the Council is interested in seeing, as the governing body, should be discussed at the Governance Committee level.

5.0 ACCOUNTABILITY OF THE REGISTRAR

The purpose of this discussion is to decide which positions are to be named in the Act and which ones are to be named in Bylaws. The current situation has a CEO and a separate Registrar; the two positions were split on June 17, 2010.

A legal opinion was sought on this issue, which specified that the appointment of a person to a position will be specified in the Act, but that person may hold additional titles. Council has the ability to pass Bylaws that take a person specified in the Act and grant them additional titles.

MOTION 16-05

MOVED by Colin Yeo, and seconded, THAT Council ensure the following be encapsulated in the new Act:

1. The Act will empower the Council to appoint a Registrar with specific roles and responsibilities;
2. The Act will authorize Council to make bylaws to create a management structure that describes positions and accountabilities to implement the above responsibilities

Number of votes cast: 14
Necessary for adoption: 8
In favour: 13
Opposed: 0
Abstained: 1 (George Eynon)

MOTION 16-05 APPROVED

6.0 ADJOURNMENT

The meeting was adjourned at 1:20 pm

ACTION AGENDA ITEM 2.0: Council would like regular reviews of the three column document being used to track changes (i.e. incremental updates will be required throughout the Legislative Review process)

ACTION AGENDA ITEM 2.0: Council would like to see the final recommendations for the Act before it is approved by government

ACTION AGENDA ITEM 2.0: The Legislative Review team will look into Securities Commissions instruments, as they relate to timelines on investigations

ACTION AGENDA ITEM 4.0: Governance Committee will discuss which metrics Council would like to monitor