

BY JENNIFER COOMBS

The latter half of the Council meeting on Thursday evening was devoted to the issue of new designer qualification and registration requirements under Reg. 305/03 under the *Building Code Statute Law Amendment Act* (Bill 124/02). As of January 1, 2006, these amendments to the *Ontario Building Code* (OBC) were scheduled to become effective. They require professional engineers to qualify and register through exams administered by the Ministry of Municipal Affairs and Housing (MMAH) to continue to engage in designs related to building permits.

At the December meeting, Council was updated on the most recent round of negotiations with the MMAH and the attorney general, which had shown promise that a mutually satisfactory memorandum of understanding (MOU) could be reached to exempt professional engineers from the MMAH requirements.

Accordingly, Council was told, PEO's Bill 124 Task Force had moved ahead with the creation of an MOU that would exempt professional engineers from the MMAH regulation and require PEO to set up its own Building Design Specialist (BDS) designation instead.

Council approved motions to:

- authorize the Bill 124 Task Force to proceed with establishing a BDS designation system;
- authorize the President to sign an MOU between PEO and the government once the Bill 124 Task Force is satisfied with the conditions;
- direct the CEO/Registrar to prepare and present the regulations to establish the BDS designation for Council's approval once an MOU between PEO, the attorney general and the ministry has been signed by all parties;
- direct the CEO/Registrar to develop a public and members communication plan to introduce the BDS system as a flexible alternative to MMAH requirements;
- direct the Executive Committee to revise PEO's position statement on Bill

## Council approves development of Building Design Specialist designation

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124 and present it to Council at its March 2006 meeting;

- direct the CEO/Registrar to provide the resources necessary to carry out the items above on a priority basis; and
- authorize the necessary additional expenditure from the 2005 and 2006 Council contingency funding.

As it happened, negotiations between PEO and MMAH broke down soon after the Council meeting, leading the Bill 124 Task Force to conclude that PEO should not sign the MOU with the government, and instead first obtain official marks on the terms Building Design Specialist and BDS, which P.Engs who have qualified and registered under the MMAH requirements might license from PEO. PEO would then be able to take its time in establishing its new Building Design Specialist designation and writing the regulations to support it, obtaining input from experienced practitioners in doing so. Once the BDS is established in regulation, PEO will work with the attorney general to have engineers exempted from the MMAH qualification system (see News, p. 11).

### Complaints and discipline matters Disclosure of expert reports

In March 2005, Council received a report by then Complaints Review Councillor (CRC) David J.D. Sims, Q.C., entitled *Examination of Procedures for the Treatment of Complaints*, in which he recommended that "PEO should disclose experts' reports to both complainants and engineers who have been complained against, using precautions to minimize unintended uses of the report." The CRC's feeling was that a failure to disclose the reports might be seen as protecting members; however, he also acknowledged the risks of release, which

include breaching the confidentiality provisions of Section 38(1) of the *Professional Engineers Act* (PEA), and the possible use of reports for civil litigation.

Based on the CRC's recommendation, Council, at its June meeting, directed the Complaints Committee (COC) to examine the issues surrounding the disclosure of expert reports in the investigation phase of a complaint, to revise its procedures and practices accordingly, and to report its findings at the December 2005 meeting of Council.

Council dealt with the COC recommendations at its December meeting. After investigation, the COC came to the conclusion that PEO is bound first and foremost by the confidentiality provisions of the PEA. Further, the committee concluded that the complaints process can be administered fairly without disclosing expert reports, and that no changes to the COC procedures or practices are warranted.

Council received the COC's report at the meeting and supported the committee's conclusions. The current practice of not releasing expert reports obtained by PEO in the investigation of complaints, except as directed by the Complaints Committee, will continue.

### Discipline cost awards

A resolution regarding the awarding of discipline costs was proposed at PEO's 2005 AGM (AGM Resolution #6) but, due to lack of time, was not debated. In general terms, the resolution proposed that discipline panels should levy reasonable costs only in egregious cases of obstruction, and that whenever costs are levied, detailed written reasons should be published.

At the December meeting, Council considered a motion that would direct the

Registrar as to the circumstances under which PEO should seek costs at the conclusion of a discipline hearing. Council was presented with three options: in all cases where there is a finding of guilt (current practice), never, or where specific criteria are met. Ultimately, Council carried the motion that directs the CEO/Registrar to seek cost awards in all cases where there is a finding of guilt, which is the current practice.

## Financial matters

### Financial statement format

When members receive PEO's financial statements in the March/April 2006 issue of *Engineering Dimensions* they will notice some changes to the format. The statements will now include expenses in the natural account format for funds from normal operations and the operating reserve, in accordance with the generally accepted format for industry-based financial statements for not-for-profit organizations. The new format will offer higher visibility of the use of PEO's financial resources, increasing transparency, relevance and consistency in PEO's financial reporting.

Financial management reports issued to the Finance and Audit committees and to Council will also be changing. These reports will be issued in the activity-based costing format, and will include a summary of major variations and corresponding explanations, and will show all revenue items with comparison to the budget.

A summary of management financial reports related to PEO's annual departmental activities will be included in the annual report.

### 2005-2009 Financial Plan

PEO's five-year financial plan, which Council approved at the December meeting, envisions that increases in operating costs due to inflation, the possible purchase of office facilities, increased complexity in the regulatory environment, and Council's commitment to deliver both current programs and implement strategic initiatives for the profession's future necessitate an immediate fee adjustment to ensure PEO's reserves are maintained at a healthy level to meet the regulator's short- and long-term needs.

The Finance Committee reached its conclusion in conjunction with a review of the 2006 draft operating budget in early November. When PEO's 2006 budget was carefully reviewed, no significant opportunities for short-term cost reduction were identified that would come close to closing the gap between projected revenues and expenditures.

The committee therefore recommended all miscellaneous fees in Regulation 941/90 be increased by 30 per cent as an interim measure to offset operating costs due to inflation, until Council has an opportunity to review and rationalize these fees.

In addition, the Finance Committee recommended that the annual licence fee be increased by \$20 in each of 2006 and 2007.

As a result of Council's approval of the Five-Year Financial Plan, Council subsequently approved an amendment of section 39(2) of By-Law No. 1 (which prescribes annual membership fees), and amendments to sections 80 to 86 of Regulation 941/90 under the *Professional Engineers Act*, which prescribe certain miscellaneous fees. An Order-in-Council containing the approved amendments to Regulation 941/90 has since been sent to the Attorney General for the approval of the Lieutenant Governor-in-Council. The amendment to section 39(2) of By-Law No. 1 will be put to members for confirmation in conjunction with the PEO Council elections.

Council also rescinded its November 2004 motion that would have amended By-Law No. 1 to enable Council to increase the annual licence fee from time to time.

### Budgets approved

Council approved both the 2006 operating budget and the 2006 capital budget.

The 2006 operating budget is balanced. The budget does not include funding for initiatives deriving from the 2005-2009 Strategic Plan. When the plan was unanimously approved by Council in March 2005, Council directed that these initiatives be funded from a Strategic Investment Fund within the operating reserve.

For 2006, revenues are budgeted at \$16,212,767, and expenditures from all PEO departments at \$16,122,657, resulting in a net income of \$90,110.

## Licensing Process Task Force

At the March 2005 meeting, Council established a Licensing Process Task Force (LPTF) to review the licensing issues raised in a then just completed Registrar's Licensing Review, and to make recommendations to Council on how to deal with the issues. The task force was to bring its terms of reference back to Council for formal approval, which Council did at its December meeting. The goals of the task force are to ensure that PEO's admissions criteria and licensing processes are:

- clear, consistent and defensible in terms of what is necessary to protect the public;
- compatible with licensing processes across Canada;
- compatible with guiding principles and fundamental philosophies of the Evolution of Engineering Admissions (E<sup>2</sup>A) Task Force report;
- supported by legally sound and clearly articulated legislation;
- implemented in a logical and efficient manner;
- founded upon peer review as appropriate for a self-regulating profession; and
- containing an appropriate appeals process that reflects the need for fair and natural justice.

The LPTF has been working in accordance with these terms of reference since its establishment, despite their lack of formal approval (Council received a draft in June in an interim report of the task force), and expects to complete its work this year.

## Agenda management

The 2005-2009 Strategic Plan approved by Council in March 2005 is now well underway. One of the plan's strategic goals is to strengthen Council's ability to be an effective and efficient policy-making body. Under that banner, an Agenda Management Protocol project was initiated to devise ways to improve the efficacy and efficiency of Council meetings. The project team has developed various tools, procedures and guidelines to ensure items presented at Council meetings are appropriate for Council's and PEO's legislated roles, and that committee and task force reports and briefing notes support informed decision-making. Council approved the package at its December meeting. ❖