

COUNCIL TO CHOOSE PRESIDENT AND CHAIR FROM AMONG ELECTED COUNCILLORS

466TH MEETING, NOVEMBER 18, 19, 2010

By Jennifer Coombes

AT THE NOVEMBER MEETING, council defeated a communications plan and membership referendum question regarding council annually appointing the president and officers from among the elected councillors.

Instead, council approved a motion that it elect the president and vice presidents from among elected councillors immediately following the 2013 annual general meeting.

The communication plan and draft referendum question were the result of a successful motion at council's September 2010 meeting: "That the Human Resource and Compensation Committee be directed to draft a referendum question and outline of a communications plan regarding council appointment of the president and all officers to accompany the ballots for the 2011 elections for the November 2010 meeting of council."

This motion was prompted by a July 2010 survey of members that showed 43 per cent of 4177 respondents in support of council's decision in February 2010 to endorse the concept of council annually selecting its chair from among the elected members of council. The concept was one of several recommendations for change put forward in an Executive Committee review of PEO's governance structure. Among the benefits noted for having council appoint the president and officers was that it would enable council to more effectively implement a long-term strategic direction and policy initiatives for PEO, because it would ensure the president would enjoy the confidence of council and would enter the office with a clear mandate and council's support to implement that mandate (see *Engineering Dimensions*, March/April 2010, p. 48). Also at the February meeting, council approved a role statement for the office of the president that included chairing council meetings.

Lively discussion at the November meeting of the possible referendum question produced arguments both for and against the concept, with Councillor Rick Hilton calling on councillors "to have the courage to do what's best for PEO and the public interest."

Included in the briefing materials for the debate was a submission by the East Central Regional Congress (ECRC), comprising representatives of the six chapters in that region, that urged a go-slow approach, noting the congress' belief "that there has been insufficient consultation between council and the membership in relation to proposed changes to the election of the president," as well as "that the proposed motion to limit voting for the president to members of PEO council requires further study and consideration. While some practitioners have expressed acceptance to the idea, some members argue the proposal is undemocratic and leaves the membership out of this important decision process."

A compromise position was proposed by Councillor Bill Kossta, who urged council to reconsider the notion that the president should automatically be

council chair. In Councillor Kossta's proposal, the elected president could become the meeting chair, if it were the desire of both council and the elected president. In support of his proposal, which would effectively enable both members to continue to elect a president and council to determine who would be best suited to chair its meetings each term, he prepared a document titled *PEO Council Meeting Chair*, which councillors agreed to review and provide comments to the Human Resources and Compensation Committee (HRC) by December 15, so that HRC might consider the input and provide a final document outlining the role, responsibilities and selection process for a council meeting chair for council's consideration at its February 2011 meeting.

In Councillor Kossta's proposal, the chair of council would:

- be the presiding officer of council and produce a highly effective meeting of council, in general accordance with an approved *Guide to Effective Chairing*;
- ensure council operates as an engaged board focused on policy and fully understands the strategy and risks;
- make good councillors better;
- be the role model in good governance for the rest of the council; and
- preside over the annual general meeting.

The chair would also have a responsibility to:

- prepare the agendas for council meetings, in consultation with the general secretary and CEO/registrar;
- preside at council meetings, making sure they run smoothly;
- ensure councillors have the information they need to make informed decisions, and that all new councillors get a proper orientation to council;
- delegate responsibilities, making sure they are spread equitably among councillors, in general accordance with an approved *Guide to Council Delegation*;
- organize council's committees;
- maintain contact with committee chairs, helping them stay on track, monitoring whether they need additional support, and seeking reports for each council meeting;
- ensure all council committees are properly served by councillors, other members and staff;
- ensure delegation of council authority to committees and task forces to conduct work on council's behalf is consistent with

- council policy and to remind council of its responsibility for such work; and
- maintain familiarity with the Council Manual, Weinberg's Rules of Order and Council's Special Rules, as they apply to council meetings.

If council approves the final document in February, the procedure could be put into effect for the next council term, or whenever council decided.

had committed to a referendum, while others said council had not. On a reading of that section of the minutes of the September meeting, it was determined that council had simply directed the Human Resources and Compensation Committee (HRC) to develop a question for a possible referendum, rather than endorsed a referendum regardless of the question. As Freeman said at the special meeting: "We didn't want to commit to a referendum if the question wasn't right. There was no motion that a referendum would be done." In November, then, council simply rejected the possible referendum question developed by the HRC.

During the committee-of-the-whole discussion of the November motion at the teleconference, councillors were each given an opportunity to voice their opinions.

As in November, council was divided on the issue, with councillors wanting to reconsider the November motion, citing inadequate peer review and discomfort with a council decision that appeared to run contrary to the results of the July survey soliciting feedback on the concept of council selecting the president and chair. These councillors remained firm in calling for a referendum on the matter.

Other councillors expressed the view that whether to hold a referendum to decide if the president should be chosen from among the elected councillors is a decision council should make. They stated that councillors are voted in to make decisions in the best interests of PEO as an organization and of its licence holders. They said they believe the November decision will help put to rest a misconception among members that presidents elected on a platform will be able to implement his or her strategy, despite the will of council as a whole. As one councillor put it: "Council runs PEO, not the president."

In the end, a motion to reconsider the November motion did not achieve the necessary two-thirds vote to put the matter back on the table.

At the meeting, council also approved the minutes of the November meeting for immediate publication to PEO's website at www.peo.on.ca, as well as approving that the draft disposition of motions from the special meeting be sent to all candidates for 2011 council election.

A full audio recording of the special December meeting is available at www.peo.on.ca/council/AgendaMinutes.html.

COUNCIL DECIDES NOT TO RECONSIDER ELECTION OF PRESIDENT DECISION AT SPECIAL MEETING

467TH MEETING, DECEMBER 21, 2010

At a special meeting of council convened December 21, council met to reconsider the decision made at the November meeting for council not to undertake a referendum of the membership associated with the election of the president. After a long discussion and defeat of a motion to reconsider, the decision made by council in November stands.

President Diane Freeman, P.Eng., FEC, opened the teleconference by explaining the meeting had been called to give the decision a "sober second thought" and to clear up misunderstandings of the decisions on the issue taken at the September and November meetings.

The main misconception appears to have been the belief that council had passed a motion to hold a referendum on the election of the president. At the teleconference, some councillors said they believed council

MEMBER CONFIRMATION OF BYLAWS

At its November meeting, council approved amendments to PEO's By-Law No. 1 that commit council to seeking "confirmation by the members of the association of a bylaw passed by the council pursuant to the act pertaining only to annual fees for licence holders."

A member survey in October revealed that the 2767 respondents overwhelmingly supported the idea that council seek confirmation of bylaws only when it deems appropriate. The survey responses indicated levels of support for council alone approving bylaw changes ranging from 59 per cent for specifying the amount for annual fees to 85.5 per cent for prescribing forms. Other aspects of PEO operations on which council may make bylaws under section 8 of the *Professional*

Engineers Act, include prescribing the seal and other insignia of the association, prescribing the duties of officers of the association, and the application of, investment and reinvestment of funds of the association.

Amendments to PEO's legislation passed by government as part of the *Open for Business Act, 2010* included changes to PEO council's bylaw-making authority such that bylaws passed by council are now effective when passed by council, unless "the bylaw so specifies." The bylaw amendments approved by council in November are its first use of this new authority and guarantee that any changes to the annual licence fee approved by council must be confirmed by members to become effective.

COMPLAINTS AND DISCIPLINE TASK FORCE

Council passed a motion at the November meeting to establish a Complaints and Discipline Process Task Force (CDPTF), to provide advice to council on ongoing improvements to PEO's complaints and discipline processes.

The idea was initially discussed at the 2010 Council Workshop, where council agreed that progress towards PEO's goal of becoming the global leader in professional self-regulation requires continuous improvement to the complaints and discipline processes, notwithstanding that PEO has conducted reviews and audits of the processes and implemented many of the resulting recommendations. As a starting point, council agreed the processes must serve both the public interest and the respondent's interest, and be fair, transparent and carried out in a timely manner.

The new task force will seek members' input relating to PEO's complaints and discipline processes with a view to strengthening the processes and the public's and members' confidence in them.

Specifically, the CDPTF will:

- review court judicial review and appeal decisions related to PEO discipline matters, including the Lim Judicial Review, expected in December 2010;
- review all letters to the editor published in *Engineering Dimensions* in the past decade related to complaints and discipline processes to identify recurring themes;
- review the complaints and discipline processes, including the improvements that have been recently implemented and the improvements that are in process;
- identify possible improvements to strengthen the process and the public's and members' confidence in the process;
- document the legislative limitations of the *Professional Engineers Act*, to achieve the desired improvements; and
- make recommendations.

The task force will comprise a chair, four members recommended by PEO's Advisory Committee on Volunteers, including one member each from the Complaints and Discipline committees, and members who have had more than 20 years of responsible practice in engineering. Council approved a task force budget of up to \$100,000 and access to legal counsel up to the amount of the budget, in addition to any staff assistance it requires.

The CDPTF is scheduled to report its recommendations to PEO council at its April 2011 meeting (see the Call for Input, p. 22).

LABOUR MOBILITY

On the recommendation of PEO's Legislation Committee (LEC), council has suspended certain "additional requirements" for licensing of engineers transferring to Ontario from other parts of Canada, to comply with the *Ontario Labour Mobility Act, 2009*.

The act is the Ontario government's implementation of the provincial premiers' pact to amend the Agreement on Internal Trade to eliminate mobility barriers for Canadians in all occupations, and has supremacy over all other acts governing regulators.

As required by the act, PEO posted on its website the additional requirements council approved in September 2009 on the recommendation of PEO's National Mobility Task Force (see *Engineering Dimensions*, November/December 2009, p. 51). The approved additional requirements took into account provincial differences in approach to assessing academic and experience requirements for licensure. The Ontario government then had

until December 2010 to approve each occupation regulator's additional requirements. The government rejected those of PEO's additional requirements applying to holders of P.Eng. licences in other provinces.

However, holders of temporary, limited or provisional licences in other provinces or territories applying for the equivalent licence in Ontario will be assessed by PEO to ensure each applicant meets the requirements prescribed by Ontario Regulation 941 made under the act, because the requirements for these licences vary widely province to province.

In its recommendation to council, the LEC also requested the CEO/registrar to convene a meeting of the PEO National Framework Task Force to analyze the impact of the *Ontario Labour Mobility Act* requirements, and provide recommendations to council.

As a result of council's suspension of the additional requirements relating to P.Eng. transfers from other provinces, those P.Engs licensed in another province or territory who applied for licensure between December 9, 2009, and November 18, 2010, and who are in good standing with the other association of professional engineers by which they are licensed, will no longer be subject to any additional requirements, involving training, experience, examinations or assessments, as of November 19, 2010.

FORENSIC ENGINEERING GUIDELINE

At the November meeting, council gave the go-ahead for the Professional Standards Committee (PSC) to begin developing a PEO guideline for practitioners providing forensic engineering services.

The PSC recommended that a guideline describing best practice be developed and used by all practitioners investigating failures of products, systems, processes, and other engineered artifacts, to ensure that such work is carried out in a consistent manner.

The committee will now form a subcommittee comprising four to six professional engineers who are engaged in the practice of providing forensic engineering services.

During development of the guideline, PEO staff and subcommittee members will consult with practitioners and other parties, including members of the public affected by professional engineers carrying out this work. When a draft is completed, it will be posted to www.peo.on.ca for general consultation. Σ