

THE ROLE AND HISTORY OF PEO COUNCIL

By Chris Roney, P.Eng., BDS, FEC

Since its beginnings in 1922, PEO has been governed by a council of elected representatives.

Yet throughout council's long history entwined with numerous changes to the *Professional Engineers Act* one thing remains the same: the association's duty to protect the public by setting and maintaining high standards for professional engineering.

THE FIRST MEETING of a provisional council of the Association of Professional Engineers of the Province of Ontario (APEO, now known as PEO) was held on August 8 and 9, 1922. Council's primary role, as prescribed by the first *Professional Engineers Act* of 1922, was to organize the association and to administer its affairs until a sufficient number of members were enrolled to take over its management. Council established four committees, aimed at putting in place the necessary bylaws, fee structures, budgets and administration to begin enrolling members and moving toward the first elections of council. Within three weeks of that initial meeting, council appointed an association registrar and secretary. Annual fees were set at \$5, with an initial registration fee of \$10. Office space was rented at 96 King Street West in Toronto, and the doors opened on October 1. Applications for membership began arriving the very next day!

AN ELECTED COUNCIL

On January 8, 1923, just five months after the first council meeting, APEO held its first annual general meeting and council elections. Eighty-one members, out of 478 registered engineers, were in attendance.

At that time, APEO council comprised 18 members, each serving a one-year term. It included a president, vice president, immediate past president, and three councillors from each of the branches identified in the act: civil, mechanical, chemical, electrical and mining.

Two of the three councillors for each of the branches were elected by and from the members of the branch; the third was appointed by Ontario's lieutenant governor. The lieutenant governor-in-council appointee (LGA) was a member professional engineer registered in the branch.

The first elected council met on January 23, 1923, but only routine business could be conducted

since the government had not yet appointed the LGA. The government appointments were made February 15, and the full council first met on February 27.

Council's role was to administer the affairs of the association and to establish and carry out the conditions of registration. It was also responsible for discipline and penalties against members. The three council members within each branch were responsible for controlling the conditions for licensing and registration within the branch, subject to the concurrence of the entire council. Members were required to register in a particular branch, although they could register in more than one, provided they could demonstrate they possessed the requisite training, skills and experience.

COUNCIL PRIORITIES

Improving the image of the professional engineer became one of council's priorities in the 1920s. In those early days, most engineers joined the association to become recognized as professionals. It was important, therefore, for the association to demonstrate the value and role of engineering in society. In the 1920s, as today, engineering was one of the lowest paid professions. Council enlisted engineers to lecture at service clubs, such as Rotary, and to become active in their local boards of trade. They also sponsored a writing contest for Ontario teachers on the topic of "The value of the engineering profession to the community," and distributed to the public a brochure titled *The Engineering Profession in Ontario*.

The 1922 act did not grant the association the right to restrict the practice of engineering in the province to only registered members. Non-registered individuals were still free to practise engineering, and many chose not to become registered. On a personal note, my grandfather, Gerald VanLuven Roney, began practising after graduating from civil engineering at Queen's University in 1926. He rejected the concept of registration, as he felt that one's skills and actions demonstrated one's ability to practise, rather than having your name listed on a register. Obviously, he was not alone in this belief, as within three years, the membership grew to just over 1000, where it plateaued until the late 1930s.

In 1931, council decided to seek a change to the act to finally give the association the authority to restrict the practice of professional engineering to only registered professional engineers, as was the case in many of

the other provinces. After much effort, this right was eventually granted in 1937, and the role of the association dramatically changed. The association could now take action, and impose penalties, against any non-registered person who engaged in the practice of professional engineering.

CHANGES TO COUNCIL STRUCTURE

However, no changes were made to the structure of council until the *Professional Engineers Act* of 1946. Council's size was increased to 19 through the creation of a second elected vice president position. The term of LGAs was increased to five years and the name of the chemical branch was expanded to include metallurgical engineering. Council was still structured into five branches, representing each of the disciplines of professional engineering, and members were organized into each of those branches. Branch councillors were still responsible for establishing the credentials, examinations and exemptions for members within their branch, as had been the case since the beginning of the association.

The first significant change to the structure of council occurred with the passage of the 1968 act, when council moved from a branch-based model of representation to a regional representation model. It also heralded the introduction of non-engineer (lay LGA) appointees to council, in addition to the member (engineer) LGAs. Council's size increased to 23, comprising the following positions: president, past president, two vice presidents, two councillors-at-large, 10 regional councillors (two from each region), five professional engineer LGAs, and two non-engineer LGAs (one of whom had to be a lawyer).

The president and vice presidents were elected to a one-year term, while the elected councillors' terms were increased to two years. The LGAs' terms were reduced to three years. These term limits are still in effect today, although LGAs can be reappointed to serve an additional term or terms and elected members are often re-elected, sometimes for several additional terms.

Under the 1968 act, the professional engineer (member) LGAs were chosen from each of the five branches of engineering, identified at that time as: civil; mechanical, aeronautical and industrial; electrical; chemical and metallurgical; and mining and geology.

The move to a system of regional representation was intended to ensure that members living in rural areas obtained adequate representation on council. The intent of the branch-specific member LGAs was to ensure that all of the major disciplines of professional engineering were represented at the council table. This could not otherwise be assured with a regional model of governance and there were concerns that council could end up representing only the dominant disciplines. For example, in the early years, civil made up over 60 per cent of the membership, while chemical engineers comprised just 2 per cent.

REGULATION-MAKING AUTHORITY

The 1968 act also added an important aspect to the role of the association, and by extension the role of council. For the first time, the act outlined the objects of the association, explicitly stating that APEO's overriding purpose was to ensure that, where engineering is concerned, the public interest be served and protected. This clearly established APEO's role and responsibility as a regulator. The act also gave council the power to create regulations under the act, subject to the approval of the lieutenant governor-in-council. This regulation-making authority, which still exists today, was a significant and extraordinary power to be bestowed upon a non-governmental body.

Society gave professional engineers the right to look after their own affairs, but only if they maintained the confidence of the public. To maintain this confidence, and ensure that council did not neglect the overriding object to serve the public interest first rather than the self-interests of members, non-member LGAs were added to the composition of council.

In 1976, the Ontario government initiated a major review of the effectiveness of the self-regulating professions of public accounting, architecture, engineering and law, and their governing statutes. The government created a Professional Organizations Committee (POC) to review and make recommendations on statutes governing those professions. In its 1980 report, the POC espoused four principles to guide the formation of regulatory policy: protection of vulnerable interests, fairness of regulation, feasibility of implementation, and public accountability of regulatory bodies.

Based on this philosophy, an amended *Professional Engineers Act* was eventually drafted and passed in 1984. It changed the structure of council to what remains in effect to this day. Council is composed of the following positions: president, president-elect, past president, one vice president elected by the members, one vice president appointed by and from among council, three councillors-at-large, 10 regional councillors (two from each region), five to seven professional engineer LGAs, and three to five non-engineer LGAs.

THE ROLE OF LGAS

In following the principles of the government's regulatory policy, the act defined certain specific roles to be filled by the LGAs. For example, the individual serving as the complaints review councillor, whose role is to examine the procedures for the treatment of complaints by the Complaints Committee, must be a non-member LGA. Furthermore, representation by LGAs is mandated on the Complaints, Discipline and Registration committees.

A common question that has arisen from time to time since the 1984 act prescribed mandatory representation of LGAs on certain committees relates to what differences there are between the roles and responsibilities of

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LGA councillors and those of the elected members of council. Each councillor, whether elected or appointed, brings with them a wide range of life experiences, viewpoints, attitudes and personal perceptions about their role as councillors and the constituencies to whom they are responsible. Because of this confusion, at its meeting of November 12, 1993, council created a task force charged with examining and clarifying the role of LGAs.

The task force ultimately recommended that the attitudes of all councillors, both elected and appointed, are to be broad, open and without bias and that both groups are expected to protect the public interest through responsible governance. It clarified that the LGAs are neither beholden to government nor do they have any obligation to take direction from or report to government.

The task force determined that the appointment of professional engineer LGAs is useful to ensure all major engineering disciplines are represented on council—something that cannot be guaranteed through the election process. It is also a useful mechanism to gain representation on council for new or emerging disciplines, and to provide for diversity on council.

The task force found non-engineer LGAs to be a particularly valuable resource to provide council with the perspectives of non-practitioners, and concluded that this provision of alternative viewpoints that give balance to council's decision-making is their greatest contribution. The task force also found the presence of LGAs vitally important in maintaining credibility with the public, as they ensure that council is not acting, and is not perceived to be acting, with a self-interest rather than public-interest agenda.

The task force concluded there is no difference between the roles of elected and publicly appointed councillors when it comes to carrying out the objects of the association, and all serve as equals on council.

The *Professional Engineers Act* was revised in 1990 as part of a government revision of legislation to be gender neutral and available in both English and French, and has undergone a series of amendments since that time, the most recent in 2010. The role and structure of council has not changed substantively since the 1984 act, although there have been recent changes to the requirements for LGA representation on the Registration, Complaints and Discipline committees, which are awaiting proclamation to become effective. The changes permit the attorney general to appoint non-engineer members of the public to serve on these committees in place of the LGAs. This change is intended to reduce the large special burden placed on the limited number of available LGAs on council.

COUNCILLOR DUTIES

As it was in the beginning, council's role is to serve as the governing body and board of directors of the association and

to manage and administer association affairs. Today, each council meeting package includes an overview of council's governance tasks and councillors' roles. Councillors are reminded that they are, at all times, to govern in the public interest. They are expected to be fully informed about the issues facing the profession and to understand their impact. They must be knowledgeable of and uphold the *Professional Engineers Act*, and they have a communications role in supporting and communicating council decisions to both PEO members and external stakeholders. Councillors must also discharge these duties in accordance with PEO's core values of accountability, respect, integrity, professionalism and teamwork.

Common law and other statutes that impact the role and duties of council have evolved over time. Today, there are additional obligations under law to which councillors must adhere, including the duties of care, diligence, wisdom and loyalty. The duty of wisdom means that councillors are required to be thoroughly informed about the matters before council and must be satisfied they have all of the required information to make informed and reasonable decisions. Under common law, the duty of loyalty amounts, in the case of council, to a duty to demonstrate full allegiance to PEO's mission and to further its cause, and to place the interests of the association ahead of personal self-interest. It also includes the duty to avoid conflicts of interest, either real or perceived. Furthermore, there is a legal duty not to disclose confidential information acquired in connection with their position as councillor, or to take any actions that might be harmful to the interests of PEO.

Given the important role, responsibilities and duties councillors face, it is somewhat remarkable that council is composed entirely of unpaid volunteers, who donate their time, and billable hours, to serve the association and, by extension, the public interest. Non-member LGAs do receive a \$133-a-day allowance from the government for each day they attend a meeting in service of the profession—a mere fraction of what most of them would receive for a day's work.

Since the inception of the association, council has endeavoured to serve the welfare of the public of this province by setting and maintaining the high standards of professional engineering practice that have led to the development of the infrastructure, technological advancements, and other engineering works that we have all come to rely on and enjoy in our day-to-day lives. We all owe a great debt to the foresight of those who worked so very hard to create the *Professional Engineers Act*, and to those who have served on the association's councils over the past 90 years. We can only hope that we are as well served for the next 90! Σ

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