



Minutes

LEGISLATION COMMITTEE MEETING

Friday, September 9, 2016 - 11:00 a.m.

PEO Offices - Room 1C

Members:

Christian Bellini, P. Eng.

George Comrie, P. Eng. (President, Ex-Officio Member) *[via teleconference until 1:00 p.m.]*

Bob Dony, P. Eng. (Vice-Chair/President-Elect, Ex-Officio Member) (Acting Chair)

Gary Houghton, P. Eng.

Bill Kossta *[at 1:50 p.m.]*

Ewald Kuczera, P. Eng. (Chair) *[via teleconference]*

Guests:

Linda Latham, P. Eng., Director, Regulatory Compliance

Leah Price, Counsel, Regulatory Compliance

Regrets:

Roydon Fraser, P. Eng.

Staff:

Jordan Max, Manager, Policy

G. McDonald, Registrar

Andrew Tapp, Policy Analyst

Johnny Zuccon, P. Eng., Deputy Registrar, Tribunals and Regulatory Affairs

1. PROCEDURAL

1.1 Opening Remarks

Upon prior agreement, the Vice-Chair served as Acting Chair for the meeting. The Acting Chair called the meeting to order at 11:07 a.m., and welcomed and thanked everyone for attending.

1.2 Approval of Agenda

The members were asked if there were any additions or changes to the agenda. No additions or changes were provided. The Acting Chair also gave notice that the agenda order might need to be varied to accommodate the guests' presentation.

A motion was made to approve the agenda as written.

Moved by: G. Houghton Seconded by: G. Comrie CARRIED

1.3 Approval of Minutes of August 5, 2016 Meeting

The members were asked if there were any additions or changes to the Minutes. No additions or changes were provided.

A motion was made to approve the Minutes of the August 5, 2016 meeting as written.

Moved by: C. Bellini Seconded by: E. Kuczera CARRIED

1.4 Action Items Update from August 5, 2016 Meeting

The members were referred to the Actions Items Update document included in the agenda package.

Past Chair's Remarks and Orientation for Members

(i) Member in Good Standing Definition

Draft a Briefing Note to Council proposing to rescind the original motion directing the Legislation Committee to use its regulation-making powers to define "member in good standing". [Completed]

J. Max noted that the Briefing Note was drafted for, and signed off by, the Chair, but that the Secretariat had revised the motion to address the

unique situation of the original Council Minute, and that the Registrar had requested some additional information regarding the March 2015 Briefing Note content. The Chair approved the resulting minor changes to the Briefing Note. The revised Briefing Note will be considered by Council at its September 2016 meeting.

- (ii) Central Election and Search Committee Quorum

Update the log to note the “hold” status of this issue. [Completed]

J. Max reported that this had been done. The members expressed some concern regarding the Central Election and Search Committee’s delay in addressing this issue.

- (iii) Removal of a Councillor for Breach of Council Policy

Continue to follow up with the Human Resources Committee staff advisor regarding this item. [Completed]

J. Max reported that the Human Resources Committee has not yet responded to the Legislation Committee’s request. G. Comrie noted that the Human Resources Committee had met recently, and that this item had not been on the agenda. He advised that he would inquire at the next Human Resources Committee meeting. Staff was requested to check whether the original request was made on a Chair-to-Chair or staff-to-staff basis.

Action: G. Comrie to report back on the Human Resources Committee’s progress on this issue, or to seek rescinding of the original Council motion.

Action: Staff to check on the original request to the Human Resources Committee, and to report back at the next meeting.

2. FOR DISCUSSION

2.1 Act Change Proposal - Regulatory Compliance Department

The members were referred to the correspondence documents included in the agenda package.

The Acting Chair welcomed L. Latham and L. Price from the Regulatory Compliance Department.

G. McDonald introduced the item as a regulatory gap that was identified in the course of a Discipline Motion panel decision in the PEO v. Wood case, and that needed to be closed through an Act change. The Briefing Note proposal is being brought to the September 2016 Council meeting. There is some urgency to the proposal to be able to include it in a governmental Elliot Lake package.

L. Price gave a slide presentation on the origin of the issue and the evidence supporting an Act change to Section 5 to add continuing jurisdiction for disciplining revoked and suspended members. She also noted that the Wood case is unique, and no other cases would be impacted. L. Price answered a number of questions from the members regarding the Registrar's Investigation, process decisions, legal interpretations of the Act, the urgency of the request, and how this compares to the powers of other regulatory colleges and bodies. The members also expressed concerns with the proposal by-passing the Act Change Protocol passed by Council, and the absence of peer review by the Complaints and Discipline Committees prior to seeking a Council decision on the policy intent for an Act change. J. Max noted that the proponent had supplied answers to the five questions from the Attorney General, which were contained in Appendix C of the Briefing Note, and that Legislation Committee's role from this point on would be limited to reviewing any draft language of the Act change.

L. Latham responded that the Complaints Committee had reviewed the proposal and was in agreement with it. The Acting Chair noted that this Briefing Note would have to be sponsored by a member of Council on the Complaints or Discipline Committee, and not the Legislation Committee. It was agreed that a member of one of those committees would be sought as a sponsor. G. McDonald suggested that an alternative motion be drafted in case Council wished to refer the proposal to the Legislation, Complaints, Discipline or other Committees for comment first, in accordance with the Act Change Protocol.

Action: Staff to draft an alternative motion for Council on this proposal that complies with the Act Change Protocol.

1. PROCEDURAL (cont'd.)

(Resuming discussion of August 5, 2016 Action items)

1.4 Action Items Update from August 5, 2016 Meeting

Draft Legislation Committee Work Plan 2016-2017

- a) **Follow up with the staff advisor for the Licensing Policy Committee to determine what materials would be made available to the Legislation Committee, and at what time.** [Completed]

J. Max reported that the staff advisor for the Licensing Policy Committee indicated that the materials would more likely be ready for the October 2016 Legislation Committee meeting.

- b) **Share the Water Taking requirements with other Water Resource Engineering professors at the University of Guelph to clarify the work requirements and whether they fell within the definition of the practice of professional engineering in the *Professional Engineers Act*, and report back to the Legislation Committee.** [Pending]

Action: B. Dony to share the Water Taking requirements with other Water Resource Engineering professors at the University of Guelph to clarify the work requirements and whether they fell within the definition of the practice of professional engineering in the *Professional Engineers Act*, and report back to the Legislation Committee.

- c) **See if the Ministry had published any guidelines around Water Taking work for this Regulation, and report back to the Legislation Committee.** [Completed]

J. Max noted that G. Houghton had submitted his report in the agenda package.

- d) **Follow up with staff of the Ministry of the Environment and Climate Change to clarify the reports requirements of O. Reg. 63/16 and how it protects the public interest, and report back to the Legislation Committee.** [Pending]

J. Max reported that a new internal staff process had been developed to seek determinations by the Enforcement unit whether the identified activity was, in fact, the practice of professional engineering in these

situations, and that the unit's comments were included in the attached e-mail correspondence from C. Knox. Further contact with the Ministry was pending.

It was further recommended, and agreed, that the Committee's discussion of O. Reg. 63/16 be deferred until the next Committee meeting.

Action: Staff to follow up with staff of the Ministry of the Environment and Climate Change to clarify the reports requirements of O. Reg. 63/16 and how it protects the public interest, and report back to the Legislation Committee.

- e) **Remove the "Regulatory Conflict?" and "Issue" columns in the table, to add relevant section references to the legislation mentioned in the table, and forward it to staff to publish the revised table (labeled as "References to Engineers and Engineering in other Ontario Statutes") on the PEO website.** [Completed]

J. Max reported that the table had been revised to include active hyperlinks to the government's "e-Laws" website for referencing, and was included in the Committee's agenda package. He also suggested that it be placed on the PEO website's "Act, Regulations, and By-Laws" page. J. Zuccon recommended that the "Engineering Activity?" column also be removed from the website version to avoid potential confusion or misinterpretation. It was also recommended that the Chair include this in his Legislation Committee update at the September 2016 Council meeting. The Committee agreed to all of these proposals.

Action: Staff to remove the "Engineering Activity?" column and forward this document to the Communications Department to be posted on the PEO website's "Act, Regulations, and By-Laws" page.

Action: Chair to include notice of the "References to Engineers and Engineering in Other Ontario Statutes" table on the PEO website in his Committee update at the September 2016 Council meeting.

Registration Committee Proposal for Act Change

Draft a memo from the Chair of the Legislation Committee to the Chair of the Registration Committee, as noted in the motion, to be signed by the Chair of the Legislation Committee. [Completed]

J. Max reported that the memo had been signed and sent to the Chair of the Registration Committee on August 23, 2016, but no response had been received as yet.

By-Law Development Protocol

Revise the Diagram and Protocol as directed by the Legislation Committee, and to wait until after Council's consideration of the Fees to By-Law changes to bring the Protocol to Council. [Completed]

J. Max reviewed the revised diagram and reminded the Committee that the draft By-law Protocol would be presented to Council for adoption after the Fees changes to By-Law No. 1 were completed.

At this time, G. McDonald reported that the Finance Committee met on September 8, 2016 and agreed to allow the Legislation Committee to take over the drafting of the By-Law changes for fees. He indicated that a memo from the Chair of the Finance Committee would be forthcoming.

Based on this information, the Committee agreed that staff should commence drafting By-Law changes moving all fees from Regulation to By-Law, and present it at the next meeting.

Action: Staff to draft the necessary By-Law changes to move all fees from Regulation 941 to By-Law No. 1 and present it at the next Legislation Committee meeting.

Draft Legislation Committee Work Plan 2016-2017

Forward the amended 2016-2017 Legislation Committee Work Plan to Volunteer Management for approval by Council at its September 2016 meeting. [Completed]

2. FOR DISCUSSION (cont'd.)

2.2 Status Report - Implementation of 2016-2017 Work Plan

The members were referred to the documents included in the agenda package.

J. Max reported that the Chair had requested that an update be provided. J. Max noted that there were only three items with a deadline earlier than May 2017, one of which (the Belanger Act Changes) was outside of PEO's control.

J. Zuccon recommended that the Work Plan be revised to reflect the completion of the Committee's work, and to remove timelines that were independent of the Committee (e.g. the Attorney General's drafting or the Legislature's passage of bills). This was accepted by the Committee.

Action: Staff to revise the 2016-2017 Legislation Committee Work Plan to list only items that the Committee had control over.

3. NEXT MEETING AND ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 1:59 p.m.

The next meeting is scheduled for Friday, October 14, 2016 at 11:00 a.m.