



Minutes

LEGISLATION COMMITTEE MEETING

Friday, October 14, 2016 - 11:00 a.m.

PEO Offices - Room 1C

Members:

Ewald Kuczera, P. Eng. (Chair)

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

Christian Bellini, P. Eng. *[from 11:44 a.m.]*

George Comrie, P. Eng. (President, Ex-Officio Member) *[via teleconference]*

Roydon Fraser, P. Eng. *[via teleconference until 1:00 p.m.]*

Gary Houghton, P. Eng.

Bill Kossta

Staff:

Jordan Max, Manager, Policy

Andrew Tapp, Policy Analyst

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

1. PROCEDURAL

1.1 Opening Remarks

The Chair called the meeting to order at 11:09 a.m., and welcomed and thanked everyone for attending. He also thanked the Vice-Chair for chairing the last meeting.

1.2 Approval of Agenda

The members were asked if there were any additions or changes to the agenda.

J. Max requested that an information item on the National Framework Task Force be added, and J. Zuccon requested that a discussion item on Building Code Update be added.

The additions were agreed to, and the agenda was approved as revised.

1.3 Approval of Minutes of September 9, 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 September 9, 2016 meeting as written.

Moved by: B. Dony Seconded by: G. Comrie CARRIED

1.4 Action Items Update from September 9, 2016 Meeting

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

Removal of a Councillor for Breach of Council Policy

Report back on the Human Resources Committee's progress on this issue, or to seek rescinding of the original Council motion. [Completed]

Check on the original request to the Human Resources Committee, and to report back at the next meeting. [Completed]

J. Max reported that he received a response from the advisor of the Human Resources Committee, re-iterating the original rationale. He sent the PRIA questionnaire to the advisor to complete for the Legislation Committee's forthcoming review and recommendation to Council. He also noted that the original request to the Human Resources Committee was staff-to-staff communication.

Water Taking Requirements

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. [Completed]

J. Max reported that B. Dony had forwarded comments from Associate Professor Andrea Bradford at the University of Guelph, who indicated concerns regarding the water discharge plan activities being done by non-engineers. Her comments were included in the meeting package.

Reports Requirements of O. Reg. 63/16

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 this follow-up is still pending as staff, internally, have been discussing the new requirements and whether they are the exclusive practice of professional engineering.

There was considerable discussion regarding if and how the Committee should proceed with responding to the Ministry, given that the Regulation was already in effect, and that it might be a lower priority of concern compared to other possible regulatory conflicts in other legislation. G. Comrie indicated that he would raise this issue with the Executive Committee at its meeting on October 18, 2016, but that this was part of a pattern of the government offloading its responsibilities onto “qualified persons”.

Action: Staff to discuss next steps with the Registrar, and report back to the Committee at the next meeting.

“References to Engineers and Engineering in Other Ontario Statutes” Table

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. [Completed]

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. [Completed]

J. Max reported that both actions had been completed.

There was discussion regarding the need to prioritize the references based on the level of regulatory conflict, and to identify appropriate responses.

Action: Staff to review the References table and prioritize based on the level of regulatory conflict, and report back to the Committee at the next meeting.

By-Law Development Protocol

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.
[Completed]

J. Max reported that this material was for discussion under Item 2.1 later in the meeting.

Act Change Proposal - Regulatory Compliance Department

Draft an alternative motion for Council on this proposal that complies with the Act Change Protocol. [Completed]

J. Max reported that this motion had been supplied to the Regulatory Compliance Department, but ultimately was not required as Council approved the Act Change motion as presented. There was no further work required by the Legislation Committee until such time as the Attorney General staff provided an opportunity to review the draft language.

Status Report - Implementation of 2016-2017 Work Plan

Revise the 2016-2017 Legislation Committee Work Plan to list only items that the Committee had control over. [Completed]

J. Max reported that he had revised the Work Plan to focus on tasks that were the exclusive purview of the Committee, and to move all May 2017 completion dates to April 2017 to match the Committee's term. The Committee reviewed the revised Work Plan, and agreed that it be forwarded to the Secretariat for presentation to Council in November 2016.

Action: Staff to forward revised 2016-2017 Legislation Committee Work Plan to the Secretariat for inclusion in the November 2016 Council package for approval.

2. FOR DISCUSSION

2.1 Moving of Fees from Regulation to By-Laws

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

J. Max reported that staff had received the official memo from the Finance Committee, authorizing the Legislation Committee to take over the drafting of the By-Law changes for fees currently in the Regulation. The memo was included in the meeting package. He also reviewed the draft table illustrating all of the references to “fee” in the Regulation, and noted that some would require rewording from “prescribed in this Regulation” to “specified in the By-Law”.

The next step would involve engaging outside legal counsel to draft the By-Law, which would then be sent to the Attorney General staff to begin drafting the complementary Regulation deletions. The exacting sequence and timing of the Act proclamation [Sections 7(1)25 and 8(1)16], change to Section 8(3), and Regulation and By-Law changes approval by Council would have to be determined in discussion with the Attorney General staff.

A motion was made to forward the table included in the agenda package to external legal counsel to draft By-Law changes, and to seek a legal opinion on the impact of Section 8(3) of the Act in making those changes.

Moved by: B. Kossta

Seconded by: B. Dony

CARRIED

Action: Staff to engage outside legal counsel to draft the By-Law changes for future review by the Legislation Committee prior to submitting to Council for approval and to the Attorney General to commence drafting the necessary Regulation changes.

Staff to work with the Attorney General to determine sequencing of approvals and effective dates for implementation.

2.2 Complaints Committee Memo re Act Changes Arising from the Complaints and Discipline Task Force Final Report - 2011

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

J. Max reported that he had received an official memo from the Chair of the Complaints Committee, which advised that the original motions approved by Council were no longer required as the Committee had found other workable solutions. He had replied to the staff advisor to indicate that the next step would be for the Complaints Committee to ask Council to rescind the three original motions.

The Committee reviewed the memo from the Chair of the Complaints Committee, and discussed the suggestion on the last page that Section 28 of the Act be amended to give the Discipline Committee the authority to cancel or withdraw a complaint already referred to it, where warranted. The members

questioned what evidence had been compiled to support this suggestion, and directed staff to draft a memo to the Chair of the Complaints Committee to request further evidence to that effect, and to copy the Chair of the Discipline Committee to see if the Discipline Committee agreed with the proposal. The members also agreed that the Chair of the Legislation Committee should formally request the Chair of the Complaints Committee to draft a Briefing Note to Council to rescind the three original Council motions from 2011.

Action: Staff to draft a memo from the Chair of the Legislation Committee to the Chair of the Complaints Committee to request further evidence for its proposal for changes to Section 28 of the Act, and to copy the Chair of the Discipline Committee to see the Discipline Committee agreed with the proposal.

Staff to draft a memo for the Chair of the Legislation Committee to formally request the Chair of the Complaints Committee to draft a Briefing Note to Council to rescind the three original Council motions from 2011.

2.3 Building Code Act Changes

J. Zuccon reported that PEO's Registrar had received a request from a local building official regarding the application of the term "gross area", as defined in Section 12(4) of the *Professional Engineers Act* and Building Code. The Registrar is engaging outside legal counsel to determine next steps. An amendment to the *Professional Engineers Act* may be required.

3. FOR INFORMATION

3.1 Updated Act and Regulation Request Log

J. Max reported that the Log had been updated to reflect the recent Council decisions and responses to the Committee from other committees as of this meeting date. It would be subsequently updated after each Council and Legislation Committee meeting.

3.2 Update on National Framework Task Force

In the interest of providing early intelligence of possible future legislative change, J. Max reported that the National Framework Task Force had been revived by the Executive Committee, and had met two days earlier to discuss its mandate. Engineers Canada's "Canadian Framework for Licensure" had been renamed "Framework for Regulation", and that its 13 current Elements for

Legislative change were no longer mandatory, but recommended (there are another 9 pending, and 26 already approved). Members R. Fraser and C. Bellini are also on the National Framework Task Force, and corroborated this information. At the National Framework Task Force meeting held on October 11, 2016, members requested that Engineers Canada staff work with PEO to draft Problem Statements, and to supply evidence that would be necessary should PEO or other engineering regulators wish to propose changes to their respective Attorney General. PEO staff would locate and supply any previous PEO positions or recommendations on the subject matter. The National Framework Task Force members had also requested that all comments on the Elements be posted on the Engineers Canada website for future reference.

4. NEXT MEETING AND ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 2:01 p.m.

The next meeting is scheduled for Friday, November 4, 2016 at 11:00 a.m.