

MINUTES
COUNCIL OF THE ASSOCIATION OF ONTARIO LAND SURVEYORS
Tuesday, February 25, 2020
9:00 am to 4:20 PM
Deerhurst Resort, Huntsville, ON

Chair:	Al Jeraj,	President	Mississauga	1
	Andrew Mantha,	Vice President	Windsor	2
	Dan Dzaldov,	Past-President	Thornhill	3
	Trevor McNeil,	Senior Councillor	Stratford	4
	Gavin Lawrence,	Senior Councillor	Newmarket	5
	Andy Shelp,	Intermediate Councillor	Ottawa	6
	Anna Aksan,	Intermediate Councillor	Toronto	7
	David Kovacs,	Junior Councillor	Thunder Bay	8
	Patricia Meehan,	Lay Councillor	Sudbury	9
	George Wortman,	Lay Councillor	Stouffville	10
	Peter Meerveld,	Lay Councillor	Kitchener	11
	Susan MacGregor,	Surveyor General	Peterborough	12
Staff:	Brian Maloney,	Executive Director	North Kawartha	1
	Kevin Wahba,	Registrar	Vaughan	2
	Penny Anderson,	Recorder	Mississauga	3
Absent:	Miranda Paquette,	Lay Councillor	Ottawa	1

1. Meeting Called to Order

The Meeting was called to order at 9am and Council was reminded of the confidentiality of this meeting and to declare any conflicts of interest that may arise.

2. Review Agenda

Motion 19.77 MOVED: Gavin Lawrence SECONDED: Andrew Mantha

BE IT RESOLVED THAT: Council Approve the Agenda as provided.

DATE: February 25, 2020 Chair: Al Jeraj Carried: (Unanimous)

3. Reflection of Thanks

Council held a roundtable of gratitude and shared what they were thankful for.

4. Approval of Minutes of Council

Motion 19.78 **MOVED:** Gavin Lawrence **SECONDED:** Andrew Mantha

BE IT RESOLVED THAT: Council approves the Minutes from the meeting of January 28th, 2020.

DATE: February 25, 2020 **Chair:** Al Jeraj **Carried:** (Unanimous)

There were no discussions on the minutes.

The Technical Award is still a work in progress.

Website – The E.D. (Executive Director) will be sending it off to Sue MacGregor when the website is in better shape. There is still a bit of work to be done. The Member Portal side is still lacking. They have not migrated the content over to the Member Portal yet. The ED will meet with Glacier Digital after he returns from vacation.

The Insurance Advisory surplus fund activities are complete, and this item is on the agenda.

Statistics from Insurance Advisory; Brian agreed to meet with Mark Sampson in early April to categorize the Insurance claims for the last 5 years. We would like to set up a dashboard for Council for updates and this will be included.

RFP for Consultant regarding Fees for Field Notes – we have not succeeded in finding a consultant but are still looking.

The Registrar has followed up with the member requesting that a discipline decision be removed from the website.

The letter to the ADM of Corporate Management and Information Division regarding the proposed regulation changes has been sent.

The letter to Municipalities is still a work in progress.

The Expanded Task Force discussions will happen at this Annual General Meeting.

5. Financial Information – Audit – Investments

Our investments gained 1.9% in this last month. We're still doing fine. We'll keep watching it.

We meet with LWM once a quarter. We should be meeting with her in March.

We have 40%-50% in bonds which helps protect us. The insurance investments have 60% in equities and 40% bonds. The general investments are split 50%/50% between equities and bonds. We have a relatively low risk tolerance.

We got the final audited financial statement. The only change from the draft audited statement is that they increased the amount in the donations category. They had included the \$7K donation to Women in Engineering at York University, but then added the \$6250 donation to the University of Toronto for the survey camp. We sent the draft out to the membership just shortly before the final audited statement was received. We did not bother resending it and will deal with it at the AGM.

In terms of year-end, it looks like we were approximately \$6k to the good, however the Survey Review Department had a \$22k deficit, that was filled in with deferred revenue. As a result, we had a slight deficit, which was very close to the budgeted deficit.

The year-end figures were incorporated into the 2020 budget, which other than the year-end revisions for 2019, remains the same as approved at the last meeting.

The CRA disregarded the Executive Director's letter about moving the fiscal year.

There have not been changes made to the list of Executive Officers since before Blain arrived and they will not talk to us without the proper authority in their record. The ED has the instructions from the Accountant to provide the proper documentation.

6. Insurance Reserve

We have a self-insured retention fund that has been put in place to be able to pay our deductibles as they are called for.

We have an overall \$550K annual deductible within our insurance policy and therefore we never have more than \$550k liabilities through the policy for a given year.

We also have a deductible of \$150K for individual claims, which includes the deductible paid by the member of \$5k.

It often takes many years for claims to be resolved and the AOLS has invested the funds in the meantime.

This has resulted in a surplus amount of funds.

The E.D. had completed a review of the funds and liabilities we have. There currently is an excessive in the order of \$1M, much of it acquired in the last 5 years. They are restricted funds.

The Insurance Advisory committee recommended several policies which included giving the excess back to members considering appropriate cautious reserves.

The E.D. consulted with a lawyer and our accountant. There could be tax implications of giving it back since it could be considered profit sharing and thereby put our not-for-profit tax status at risk.

We would be in compliance with the provisions of the Corporations Act that apply to us but we could have problems with the CRA. The Accountant advised that the funds would be better used to offset future insurance costs.

On a related note, we are handing back \$130K to the members for their involvement back in 2009. That is the money we did not spend as a result of not using the deductible. This is essentially a return to members of the moneys not required and is not profit.

Several policy questions were considered.

How much to invest versus keeping in the Bank: Keep all funds invested with LWM except for \$550K to be left in the bank which can cover short term calls for payments on claims. Given that our liabilities are a maximum of \$550k annually, this is a reasonable approximation of likely requirements to satisfy the Insurance company. We paid out \$350K last month in claims.

Size of Reserve – what do we do in terms of investments? We need to make sure we are protected and have the funds available to pay the insurance company when called upon. Investments have the potential for loss, which needs to be considered. The minimum capital test guideline for insurers discounts investment by 18% in the worst case. Our Financial Advisor reviewed our portfolio and predicted a 13.3% reduction if the stock market declined by 35%, which has happened only once in the last 20 years. A 20% discount rate would be a cautious amount to ensure we would retain enough funds to meet the insurance company's needs.

Another consideration is members leaving the program, which could leave the AOLS on the hook for bills not collected. We had the first case of this, just this last year. A \$300k reserve provides certainty that we will not be left short.

Based on the advice that we received from the Accountant; we should use the funds to offset the self-retention fund.

It would be calculated on the proportional basis, based on the premiums paid over the last five years excluding claim surcharges.

If a company buys another company (including their liability), whatever the previous company paid in premiums would be considered for the purchasing company.

We need to ensure that these reductions are clearly indicated to each member so that they understand the full costs of the premiums to avoid surprises in the future.

Should this be done by By-Law? We have a section that allows for by-laws dealing with professional Liability insurance.

The only by-law we have is for late fees with respect to professional liability insurance. The remainder of policies have been set without by-laws.

We could do this by Council Motion or by By-Law. The By-Law requirements in the Surveyors Act are permissive.

This really impacts C of A holders only. There is a risk that in using a by-Law, that requires a vote by all Members (not just C of A holders), it could be defeated by those not impacted.

On the other hand, a By-Law would allow a comprehensive policy to be defined. It would take more work to put together and would not happen until April at the earliest, making it unlikely that the surplus could be used this year.

It is a pretty complicated subject to walk the Members through in an Open Forum and we should likely use a Webinar.

ACTION ITEM: ED to arrange a Webinar to C of A Holders to present this topic.

Motion 19.79 MOVED: Andy Shelp SECONDED: Dan Dzaldov

WHEREAS: The self-insured retention fund has grown significantly beyond the liabilities

AND WHEREAS: There have been no specific policies addressing how to invest the funds, how much to retain and what to do with funds beyond the amount that is required

BE IT RESOLVED: That Council adopts the following policies with respect to the self-insured retention fund:

- One-years' worth of reserves be retained in the bank (at year start) to allow for the payment of deductibles as called upon by the insurer and the remainder to be invested in investments as agreed to by Council
- Funds invested be discounted by 20% when considering the amount of funds required in the retention fund
- The self-insured retention fund be maintained at the sum of potential liabilities of the AOLS plus \$300,000 to deal with unforeseen changes (e.g. loss of members in the program)
- Surplus funds, beyond those noted previously, shall be used to offset membership payments for the self-insured retention fund (currently \$550,000)
- Offsets for individual companies shall be calculated proportionally based on premiums paid over the previous five years excluding any surcharges
- Where a company purchased the assets and liabilities of another company within the five-year period, the acquiring company will be entitled to the proportional refund of the acquired company
- Offsets to bills shall be clearly indicated on invoices so that companies understand the full cost of premiums

DATE: February 25, 2020 Chair: Al Jeraj Carried: (1 Opposed)

7. Presidential Report

Nothing to Report

8. Staff Reports

The Annual Report has formed the basis of the report to the Membership. Reports from the Executive Director, Registrar, Manager of SRD and Surveyors General have been provided to the membership. Each will provide a short presentation on the Friday morning.

There was a brief discussion on the state of the recent Divisional Court decision. The Member's appeal period has not run out yet. The rules of Civil Procedure allow 15 days for appeal. We do not know if this Member has applied or not. The Stay is still in effect. Back in November/December, the member applied for a stay which was granted.

Council discussed the challenges we could face in recovering the money from this Member if the appeal is dismissed.

SRD Report

Tom Packowski, SRD Manager has done a great job catching up.

We had 71 active files, and we are down to 30 now.

We had 8 applicants apply to act as consultants to perform reviews. We selected 3 to move forward for interviews and were pleased with all three. We have two existing consultants, but one is anticipated to resign this summer.

There was some question about government reviews. Service Ontario does not get reviewed because they do not produce plans.

The SRD's activities are defined by regulations.

Council discussed challenges regarding government approvals and decisions.

It was pointed out that the opinions that come from Service Ontario should be reviewed. There has to be some oversight.

Government has been struggling to hire people.

It was also suggested to have conversation with the three government agencies (MGCS, MTO, and MNRF) since there is a perceived risk.

If they agree to reviews it would help us move forward. We need to provide examples and participants are advised to stay away from any court proceedings.

ACTION ITEM: Brian to set up a conversation with MGS (Ken), MTO(Ron), and MNRF (Sue), TTC, and Municipalities.

ACTION ITEM: Brian to look into other Professional Associations on how they oversee government organizations.

9. Commission Reports

Professional Standards and Practice Commission Reports.

The Report will start by going through the Acronyms.

The Theme is Risk Management.

Different committees will address different things.

We started a closer look at counts of the type of complaints. The Registrar's Report covers most of it. Discipline is costly. They can average around 15K in costs.

The Digital Plans Task Force has disbanded. Kudos to them for completing their work.

Fair Fees for Field Notes Task Force – a report was provided to Council which showed average costs and fees charged.

Monumentation Task Force – the video is now posted on the Website and it will be on the new website as well.

Professional Standards is a very busy committee

PSRI Task Force – the By-Law was passed, and they are working to get the regulations in place. We have 128 firms that have input records of approximately 190 firms (including government). There are about 2.5 Million Records loaded.

It was accessed 1,020 times, to conduct 7,382 searches this year.

SRD would have the facility to check if they have accessed the PSRI; until the regulations are passed, they do not have grounds to go there yet.

When the regulation goes through, the SRD should have access to it.

We have the facility to generate administrative reports.

Our intention is to do a review; the committee will review statistics to see if our members are using the system. The Regulation will have to be in place first.

Andrew Mantha will thank Alister Sankey for steering the South-Central SRI Task Force.

SRD Committee – the Recommended Sticker fees will be mentioned. They have a proposed \$120K deficit in the budget. The last fee increase was in 2012. We discussed how to fund Construction Reviews. It was suggested that we do it with stickers and not complicate this any further.

SRD Committee created a Self-Assessment to start the C or R holders' reviews. The reviews are not expected to be as detailed as the current comprehensive reviews.

Underground Utilities – they have been working with this new version of the CSA S250:20 standard – document on common utility drawings. It talks to the different specifications, four different levels for what can be shown on construction drawings. The CSA standard addresses descriptions of what those standards are in those different levels. In the US, where this is derived from, it speaks to underground engineering. It speaks to engineers as opposed to surveyors; there is a desire to ensure Surveyors have the right to do this work as well.

The Committee members in this Commission will be named and will be thanked for their work for the Association.

Governance Commission Report:

Legislation/ Regulation Task Force had a summary of the proposed changes. One of the changes will make sure that there is a lay councilor on Executive Committee.

The CPD, we will come up with more standard courses and allow delegation. Currently the programs should really be approved by Council.

CPD Audit Task Force had presented their recommendations to Council.

We will introduce the Legislation/Regulation Task Force members and thank them for their work.

There are 10 minutes for the presentations Friday Morning.

The Outreach and Profession Education Commission Presentation will be about 15 minutes.

AERC – the Registrar's Report will cover most of the highlights. They met four times with one of those lasting two days.

The Expanded Profession Task Force did not have any formal meetings.

10. Surveyor General's Report

The SG (Surveyor General's) Report is in the Annual Report and posted.

Susan MacGregor will just speak to it and will not have a deck.

A member had asked for a card that speaks to right of entry to present to residents.

Their Office had completed a review of the physical vault in the MNRF building.

They looked at structural support, the HVAC system, and the sprinkler system to ensure that the documents are properly protected. The Government is taking their obligations to manage those records seriously.

Their office has been working at scanning them for 8 years and they are only 60% complete.

The cost of scanning the records and the amount they have invested are significant.

It is a multi-year project.

The Surveyor General is currently waiting for Lay Councillors to be assigned.

They are working on reissuing crown-survey instructions with better guidance to mining applications.

Burden Reduction – they will no longer ask for a purchased copy of a plan from the Registry Office.

Next year, they want to look at the report format. The SG Office asked what Council would like to see in the SG report. No specifics were provided.

E.D. expressed the need for changes to the Surveys act in respect to survey records. It is out of date. The SG is supportive and can flag that.

E.D. has not received feedback from the Minister on previous letters sent; he has however, received a response back from the Minister of OMAFRA, which was included in the Council package.

SG can help with a case for change and present the issues and how we perceive the change.

It was noted it is up to the Deputy to bring the Minister along.

11. Discipline

This portion is intentionally left blank and is included in the Council restricted site.

12. Policy with respect to removal of Discipline from the website

The ED reached out to other regulators in Ontario. 15 responded back.

These responses were summarized in a PowerPoint presentation.

- *13 regulators responded (7 were governed under the Code under the Regulated Health Professions Act)*
- *All responders posted disciplinary decisions of their website*
- *8 of the 13 did not remove decisions – in most cases they did not have a policy in this regard – 4 were covered by the Code under the Regulated Health Professions Act which does have a clause on removal addressed below)*
- *8 allowed decisions to be removed if they were deemed obsolete or no longer relevant (this was the case for all covered under the Code of the Regulated Health Professions Act and for the Ontario College of Social Workers and Social Service Workers)*
- *4 had specific restrictions on removal*
 - *Chartered Professional Accountants and Pharmacists can remove decisions after 10 years if there was no revocation*
 - *College of Respiratory Therapists of Ontario allow removal if no similar concerns have been raised in 6 years and no sexual abuse is involved*
 - *College of Early Childhood Educators allow removal for decisions involving reprimand, counselling or fine after 3 year*
- *Those with policies generally required an application and some charged an application fee to address the removal (e.g. Royal College of Dentist charge \$3500 for the application)*
- *Many required the Discipline Committee to decide on removal*

The following policy questions were raised:

- *Should removal be allowed?*
- *If so, is there a time limitation?*
- *What considerations should be given to removal?*
- *Who should make the decision on removal?*
- *What should the application process be?*

The following principles were suggested for consideration:

- *Transparency of the profession's actions is important to maintain trust in the profession*
- *The public deserves relevant information about surveyors to support them in making informed decisions*
- *The onus to provide rationale for removal rests with the applicant and needs to consider the public implications*

Recommendations contained in the motion below were discussed.

Motion 19.81 MOVED: Andrew Mantha SECONDED: Gavin Lawrence

WHEREAS: A request to remove a discipline decision from the AOLS website

AND WHEREAS: Although the AOLS transparency policy requires discipline decisions to be posted to the website, no policy on removal exists

BE IT RESOLVED: That Council adopts the following policy with respect to removal of discipline decisions from the AOLS website:

Discipline decisions should be able to be removed from the website under the following conditions:

- The decision is obsolete or no longer relevant from a public protection perspective (e.g. the member is deceased)
- 10 years has passed since the decision and the decision did not result in suspension or revocation of membership and no similar concerns have arisen
- A discipline decision has been overturned
- May jeopardize the safety of a member

Under no circumstances will decisions involving suspension or revocation be removed unless considered obsolete or no longer relevant

Applications for removal will require a written request to the Registrar, who will bring the matter to Council; the application needs to articulate why the public should not have access to this information

Council will determine at its sole discretion, based on the conditions noted above, whether to remove the discipline decision from the website

The discipline decision will remain on the register in any event

DATE: February 25, 2020

Chair: Al Jeraj **Tabled:** (For the next full Council Meeting)

It was noted that the onus needs to be on the Applicant to make the case on why the information is obsolete or should be removed.

There was agreement to keep the 10 years in the recommendation.

Applications should be accompanied by an application fee of \$750, given the time it will take to consider these.

Council agreed that the Motion needs more refinement.

The Motion was tabled for the next full Council meeting.

13. SRD Fees By-Law

This was raised by the SRD Committee as a result of SRD funding problem.

The original fees by-law was put in place in 1994 and is out of date.

The last increase was in 2012 and was referring to the 1994.

SRD is projecting a shortfall this year of \$118K.

The bylaw as it exists is for plans and does not address sketches or other products.

We have options:

- *Do not pass a by-law and continue to use the deferred revenue that has accumulated - This is a short-term fix that will result in a greater increase in the future. This does not resolve the sketches issue and does not address a significantly out-of-date by-law.*
- *Pass a status-quo by-law like 2012-3 that addresses only the fee – This has been done in the past. It resolves the financial problem for SRD but does not resolve the sketches issue. It does not address a significantly out-of-date by-law.*

- *Update the by-law but leave the products that require plan submission forms the same as the current by-law – This is likely palatable to the membership. It resolves the financial problem for SRD and addresses the out-of-date by-law. It does not resolve the sketches issue.*
- *Update the by-law and broaden the products that require plan submission forms - This may be controversial with the membership. The number of additional plans that would attract a plan-submission form is uncertain (SRD could overachieve or underachieve its funding needs). It brings sketches under review allowing the profession to better understand the appropriate uses and prevent inappropriate uses. It modernizes the by-law*

Council deliberated on the issue and proceeded with the following motion:

Motion 19.82 MOVED: Trevor McNeil SECONDED: Sue MacGregor

WHEREAS: The Survey Review Department is projecting a deficit this year and for the next several years

BE IT RESOLVED: That Council approves the by-law shown as Option 3 in the presentation attached to the meeting materials.

DATE: February 25, 2020 Chair: Al Jeraj Carried: (Unanimous)

Option 3 By-Law

Be it hereby enacted that, effective June 1, 2020

1. *By-Laws 94-4 and 2012-3 are hereby rescinded.*
2. *A Plan Submission Form (see Fig. 1) or a digital reproduction of a Plan Submission Form including the unique number that is to be purchased from the Survey Review Department of the Association of Ontario Land Surveyors is to be placed on one print of every deposited or registered plan, and on every original plan of a Surveyor's Real Property Report and/or Plan of Survey.*
3. *The fee for either Submission Form shall be \$19.00 per sticker, plus Harmonized Sales Tax (HST).*
4. *Any increase in the Submission Form fee shall require approval by ratification of a by-law*

14. Fees for Field Notes Discussion

The RFP for a consultant went out but received no responses.

The E.D. contacted 5 potential firms directly. 3 expressed interest and were provided the RFP.

2 of 3 responded but were not able or willing to take it on. 1 has yet to respond and may be interested. If we removed the travel component it might be more appealing.

Prices for survey records have gone up on websites since our meetings on this matter.

It was suggested that we bring back the policy we were discussing at previous meetings before.

The number has to be defensible.

The competition bureau could review this, and we need to be able to defend it.

It was suggested that we can put this policy up as an interim until we figure this out.

We do not have a motion prepared for this meeting.

We have recommendations from the Task Force.

At the next full Council meeting, we will bring a motion to the table.

Council reviewed the Committee recommendations again.

- *The fixed fee would be no more than \$150 and the hourly rate cannot exceed \$100/hour*
- *The existing by-law related to the acquisition of field notes allows the member to attend your office. The option for pick-up must be available.*

Council discussed what was a reasonable fee.

It was suggested that giving full records as a bundle should be part of it also.

It was noted that Government provides their records for free.

We have to define what we are getting for \$150, is it the plan, the field note, or the plan and field notes

ACTION ITEM: Brian will craft a motion for next full Council meeting.

15. Strategic Plan Review

There continues to be progress for the potential on-line surveying program. The Association of Canada Land Surveyors, that has been leading this, received approval to further document requirements for funding to help make this a reality. It is looking positive.

The remaining initiatives have not changed.

16. Risk Management Summary

The ED put together a summary of all the activities that have evolved from the risk management work to date this year. He reviewed the progress, or lack thereof, on the 35 initiatives that have been suggested.

The following highlights progress made to date:

- Work has begun on a best practices' checklist for construction*
- We are working with someone to develop updated field note standards and to offer party chief seminars*
- SRD Committee has approved moving forward with construction related work and reviews for C of R holders*
- SRD Committee has recommended a sticker fee increase*
- Seminars have been set for the AGM on GPS, Searching and Business Communications*
- An On-line survey has been prepared and will be issued shortly regarding salaries for technical staff*
- AERC is developing a new assignment on business*
- A regulation change was proposed addressing timeliness of delivery*

The following items are expected to start and/or be completed shortly:

- Development of a policy on survey record pricing*
- Development of a Council dashboard*
- Development of a seminar on time management*

Work is still required on:

- Updating the Interpretive guide related to the use of equipment*
- Developing a seminar on succession planning*
- AERC refinements such as improved data and additional policies*
- Development of further technical programs*
- Training on survey methods*
- Discussions with the Nominations Committee with respect to diversity*
- Development of a Policy and Governance Manual for Council*
- Improve communications between Council and Committees*
- Development of Foresight exercises for Council to improve innovation and help them adopt change*

The E.D. will keep the summary up to date and keep track of this. We will look at combining this with the tracking of strategic planning activities this year.

17. AGM Presentations

Presenters briefly discussed their presentations.

The ED noted he will spend a bit of time on Right-touch regulation – an approach adopted by Professional Standards in the UK. He will also note our continued emphasis on Continuing Education.

The Registrar will go through statistics for AERC and complaints. We have been keeping statistics on phone-calls and informal complaints from the public.

GeoEd and CPD should be ready to be turned over in March.

The President noted that the cross- jurisdictional MOU on collaboration will be signed by the attending presidents of other Associations.

18. AGM Logistics (meetings, Thursday Sessions, moderators)

A Council “Schedule at a Glance” was provided.

We need facilitators on Thursday to introduce and thank the speakers (about 3 or 4 people). The E.D. will assign them and send them an email.

Convocation Luncheon – There will be reserved seating for the VIPs, who will be sitting at different tables. Council is encouraged to sit with them and engage them.

19. Next Year’s Meetings

The E.D. distributed the proposed schedule to Council.

There is no confirmed location yet for the Summer Meeting.

The Strategic Plan will be in Niagara Falls along with the AERC meeting.

20. Replacement for Colin Bogue

Colin Bogue sent in his formal resignation last week.

Trevor McNeil agreed to replace him.

Motion 19.83 MOVED: Trevor McNeil SECONDED: Dan Dzaldov

WHEREAS: Colin Bogue has resigned from Council

AND WHEREAS: The Surveyors Act allows Council to appoint a replacement for the remainder of the term;

BE IT RESOLVED: That Council appoints Trevor McNeil to replace Colin Bogue as Councillor for the remainder of Mr. Bogue’s term

DATE: February 25, 2020 Chair: Al Jeraj Carried: (Unanimous)

21. Comments from the Table

It was suggested that we should have some sort of whistleblower protection. Council should be encouraged to investigate some sort of policy that would allow a complaint to be filed anonymously. This is something that the Registrar and potentially the Complaints Review Councillor can investigate. There was a suggestion that SRD could be involved.

Action: The Registrar to consider some form of whistle blowing policy (he may reach out to the Complaints Review Councillor)

Meeting adjourned at 4:30 PM

DRAFT