

MINUTES
COUNCIL OF THE ASSOCIATION OF ONTARIO LAND SURVEYORS
Monday, November 30, 2020
9:00 AM to 1:00 PM
Teleconference GoTo Meeting

Chair:	Andrew Mantha,	President	Windsor	1
	Gavin Lawrence,	Vice-President	Newmarket	2
	Al Jeraj,	Past-President	Mississauga	3
	Andy Shelp,	Senior Councillor	Ottawa	4
	Anna Aksan,	Senior Councillor	Toronto	5
	Trevor McNeil,	Intermediate Councillor	Stratford	6
	David Kovacs,	Intermediate Councillor	Thunder Bay	7
	Amar Loai,	Junior Councillor	Toronto	8
	Simon Kasprzak,	Junior Councillor	Barry's Bay	1
	Patricia Meehan,	Lay Councillor	Sudbury	9
	Peter Meerveld	Lay Councillor	Kitchener	10
	Martha George	Lay Councillor	Kitchener	11
	John General,	Lay Councillor	London	12
	Andrew Dowie	Lay Councillor	Stouffville	13
	Susan MacGregor,	Surveyor General	Peterborough	14
Staff:	Brian Maloney,	Executive Director	North Kawartha	1
	Kevin Wahba,	Registrar	Vaughan	2
	Penny Anderson,	Recorder	Mississauga	3

1. Call to Order; Reminder of Conflicts of Interest and Confidentiality

The Meeting was called to order at 9:02, Councillors were reminded to declare any conflicts of interest and of confidentiality provisions.

2. Review Agenda

The Meeting Agenda was circulated to Members of Council in advance of the meeting. There were no additions or changes to the Agenda.

Motion 20.51 MOVED: Gavin Lawrence SECONDED: Al Jeraj

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

DATE: November 30, 2020 Chair: Andrew Mantha Carried: (Unanimous)

3. Approval of Previous Minutes / Review of Action Items:

Council was provided a draft copy of the Minutes of the October 20, 2020 Council Meeting.

They were amended to remove the former member's name where discipline was discussed. It was proposed to use the File Number to refer to discipline matters from this point forward. It was proposed to switch the order of the first couple of lines on Item 17.

Motion 20.52 MOVED: Dave Kovacs SECONDED: Amar Loai

BE IT RESOLVED THAT: Council approves the Minutes from the meeting of October 20th, 2020 as amended.

DATE: November 30, 2020 **Chair:** Andrew Mantha **Carried:** (Unanimous)

*Action Items: I&IT Strategy has been currently set aside. It will come back in the next year.
The Online Survey related to discrimination has been drafted and will go out at the end of the week.
We have not dealt with the detailed guidelines with respect to complaints that could be considered professional misconduct or incompetence in Fees Mediation. Instead, we took a more wholistic view of the Committee, which includes this component.
The Terms of Reference for the Task Force for reviewing old Survey Plans is on this agenda.
PSRI Searching limitations were discussed with the Committee and a solution has been proposed. A change order has been initiated.*

4. Financial Information and Investments

*We had taken a bit of a drop in our investments this last month, but we are still 2% ahead this year.
The Operational Statements were provided. We are well on the positive side of the ledger given the lack of travel related to the pandemic and reduced office expenditures due to staff working from home. We are expected to finish the year over \$200,000 ahead, which will help build a reserve.*

5. Presidents' Report

*President A. Mantha had published an article for the OPS Magazine recently.
He discussed proposals for a task force with Councillors A. Loai and A. Shelp.
He is working diligently with the AGM Planning Committee.
A President's Roundtable meeting will be scheduled during the AGM.*

6. Staff Reports

Executive Director's Report

*We got the changes in to Bill 213 related to the Surveys Act addressing narrowing the proposed definition of Survey Records.
We have been working on the Regulation changes with the Surveyor General's Office and MNR lawyers. We expect to get the proposed regulation changes back in the next week and hope to have a final review with the Legislation and Regulations Task Force shortly. We expect to have them in front of Council for a vote in the next meeting in January. We were not able to include our Interpretive Guides that could be changed without legislative changes.
We have acquired the Technology for the AGM.
ED, B. Maloney and Registrar, K. Wahba met with the Fairness Commissioner. The meeting went well but we have committed to some additional work to meet their expectations.
As noted above we are moving forward with removing the 500 record limitation for searching in the PSRI. To prevent data mining, it will be necessary to enter a plan number or concession number in most townships (i.e. we will remove the ability to search all). There were around 100 queries with over ~~the~~ 500 records but many were searching entire townships.
The Task Force for Expanded Profession had met last week and will return with further recommendations.
There is still a lot of uncertainty in the membership with regards to a one-licensed model. The Task Force was looking to build a case around problems that occurred (e.g. geodetic problems with non-surveyors). 60% of the issues identified on the on-line member survey were related to cadastral surveys that we already regulate. This percentage was even higher where specific problems were identified. This is still a work in progress.*

Registrar's Report

*There is not much to report related to the Statutory Committees.
The Exams went fairly smoothly last week. We held the exams on Wednesday, Thursday, and Friday.
The Plan check exam on Wednesday was conducted through Go-To-Meeting. There were instances where the connection was freezing, and some had difficulty connecting audio/video.*

On Thursday, the professional exam was provided using Prolydian. There were a few difficulties but for the most part it went fine. One student was ejected from the exam system. We got him back on and he was able to complete the exam. Everyone was able to complete the exam and their responses are all in the system. On Friday we conducted the Oral Exams. We had the staff involved starting the sessions. It was a success for our first-time attempt using a new online system.

7. Surveyor General's Report

Their office is working on Bill 213.

The Surveyor General's office is working with Izaak DeRijcke on the Title Searching manual. They were tasked with pulling together the huge document on title searching and working on a training module.

SG Sue MacGregor is due to retire in April and the 2021 AGM will be her last.

Bruce Clarke will be appointed as Surveyor General after the AGM.

The SG consulted with AOLS Council on when ~~we~~ to have B. Clarke attend the Council meeting.

It would make sense to have him attend the January Meeting.

The SG requested to have a preview of what the Fairness Commissioner is going to report. If the SG has a report or preview, it would help the SG answer questions to the Minister. They take a fair bit of interest in that.

Action: E.D. B. Maloney will send the deck and action plan that they presented to the Fairness Commissioner to SG MacGregor.

Brian noted that the AOLS has not received a report from the Office of the Fairness Commissioner this year.

They have not had an analyst assigned to us. We are dealing with a manager/director. We created our own self-evaluation and action plan. They are changing their strategy and moving into a risk based approach. If they see us as high-risk, they could have us audited and we would have to pay for it.

The SG received approval for Lay Councillors to attend the Annual General Meeting in-person.

The AOLS has not made bookings yet due to the COVID-19 numbers. The venue sent the AOLS a contract with heavy cancellation penalties. A decision will be made closer to the date.

8. Strategic Planning and Dashboard.

Strategic Planning Items

Succession planning training is still pending.

Several items from AERC are on hold pending better evidence – we sent an online survey to the participants of the lecture course. There were a few questions that were not answered very well. We will see how that relates to the exams we had recently. They were asked which EAKS they had signed off, and which EAKS they needed help with. Unfortunately, there were many incorrect or non-answers to questions related to signed off EAKS and where they said they did not need any additional help with.

There is still some outstanding work required with CEC but this has yet to make their priority list.

The Foresight exercise is something to consider next year with Council

We should have some examples of different surveys on the website.

The Salary survey was held off because of COVID but will move forward early next year.

Dashboard:

A lot of the first several slides do not get updated until the beginning of the year.

The Insurance Advisory Committee had a meeting. They discussed actions around reducing the number of claims and harm to the public. For example, if we had a repeat offender with similar claims, then their deductible can be increased. We also have the surcharge tool for claims with value of over \$10K. They are looking to raise that from 4% to 5% (per year for three years). We would really like to understand why claims are happening. Often, we know that an error has occurred, but not why. It is important to understand the cause of claims to help our members avoid them in the future. The Committee developed a form that was used on occasions which gets to the problems. They intend to make this a requirement in the future and include it in an agreement with the insurance renewal. Overall, there are no significant changes in the types of errors we are seeing.

In Complaints, we had one complainant that launched several complaints contributing to the higher number this year. We continue see contractual type complaints.

In terms of Public Inquiries, they are mostly Directory type related, and general questions.

Professional Misconduct is very broad, so it becomes a catch-all for complaints that do not fall into the other categories. The Registrar will consider breaking it down to Allegations, Ongoing, Decisions etc. It was suggested to note which ones were dismissed as perhaps frivolous or vexatious category. There was an observation that during the professional exams there were often failures related to the subject of contracts.

*The Committees are working well. There is concern with **the** Monument Protection Task Force, which has not been meeting. We asked them to consider Deferred monumentation but have not heard back. The only chair we need to fill is the Chair for UCLC. Murray Purcell has resigned from that Committee. We are having difficulties getting a replacement for Chair. We will rotate the role of Chair within the Committee for the time being. We received approval regarding the ACLS led project to develop an online University program. There is work ongoing towards reviewing the curriculum. This will involve the Registrar and AERC.*

9. Consideration of CPD Category for Discipline Panel.

The regulation is very clear and specific. To be considered formal CPD, it needs to be a course. Time spent on a discipline panel is certainly committee time but is just not considered formal.

10. Fees Mediation Committee Direction

A discussion was initiated by Peter Meerveld in 2018 regarding Fees Mediation. There was an expectation that a mediator dealing with an HR issue in the AOLS office could help provide recommendations. That did not happen and this item fell off the agenda. The recent question regarding the subject of potentially disciplinary complaints in front of the Fees Mediation Committee brought this back to life.

Several questions were raised:

Is the Fees Mediation process as outlined in the Act warranted to protect the public and does it still make sense in today's environment? If not, how should this be addressed given the current requirements in the Surveyors Act?

*Is **the** Committee functioning as effectively as was intended by the Legislation and Regulations? How should the Fees Mediation Committee address complaints that are related but go beyond fees?*

In answering the first question we investigated other professions. It only exists in two other professions in Ontario. The Architects have it but do not use it. The Engineers very rarely use it. The AOLS averages about one case per year. We had 22 referrals in the last 20 years. Out of the 22 only 9 have resulted in changes to fees.

It was asked if we should open the Surveyors Act to get rid of Fees Mediation. This is not warranted on its own.

In considering the question "Is the Fees Mediation Committee is functioning as intended by the Legislation", a discussion was had with the Chair and their Manual of Procedures was reviewed. The Committee is in the process of reviewing their Manual of Procedures. The Manual speaks to Mediation but is not necessarily required.

Their meetings are mostly over emails. They are not truly performing Mediation. We do need to clarify the Manual of Procedures.

We must be upfront with the public on how this works and make it available to the website.

It was noted that a case should not go to Arbitration if Mediation has not occurred.

It was recommended that matters can move to Complaints where Mediation feels that the public will be at risk if there are actions of potential professional misconduct or incompetence.

There were concerns expressed about the changes of power to the Committee regarding Complaints. It was noted that if our Members execute proper contracts then there should not be surprises. As a profession, we should be open to scrutiny; we should be able to listen to the public's complaints about fees.

In most cases it is mostly about the client understanding what is involved in the estimate. Part of the process is providing clarity.

We have problems compounding here; standards of practice; contract language, communication, and timing.

We also need to provide access for the public to be heard.

The Committee should be functional with a fine-tuning of the Manual and making sure that there is Mediation taking place.

The motion was presented and discussed

The motion was amended to state rather than 'removal' considered for alteration.

There was a poll within council to consider what to do with the Mediation Committee.

- 7 voted to drop
- 6 voted to fix

It was noted that we should be clear on what constitutes a Fee Issue.

Motion 20.53 MOVED: Sue MacGregor SECONDED: Peter Meerveld

BE IT RESOLVED THAT: Council approves the following recommendations regarding the Fees Mediation Committee:

- In the next opportunity for changes to the Surveyors Act, the provisions for the Fees Mediation Committee should be considered for removal or alteration
- The Fees Mediations Committee be asked to work with the Executive Director and the Registrar to update the Manual of Procedures:
 - Parties are made aware of the results of the investigative phase including the opinion of the Fees Mediation Committee
 - If the matter is not resolved at the investigative stage arrangements are made for mediation including discussions (not email) with both parties individually and/or together depending on the circumstances. If the surveyor chooses not to participate the file is closed and the complainant/client is informed of such
 - Arbitration will only proceed following mediation. If mediation has not occurred, the option for arbitration will not be entertained. (Civil litigation is prohibited once arbitration has been agreed to)
 - The Registrar ensures the complainant and surveyor are aware of the process through a summary page before it goes to the Fee Committee to manage.
 - Include guidelines on referrals to the Complaints Committee
- When the Manual of Practice is updated and approved by Council it be posted on the website along with plain language public expectations surrounding mediation and arbitration.

DATE: November 30, 2020

Chair: Andrew Mantha

Carried: (Unanimous)

11. Budget 2021

The Canadian Revenue Agency has changed our Fiscal Year to the end of October.

They did not inform us that the change was made.

The new fiscal year starts November 1st.

We received a call from the GST collections looking for our reports. They were filed but with an inappropriate filing period and therefore were not recognized.

We have to refile all our HST/GST filings.

We have to refile our income tax as well. It will cost us some money for our accountant to come back.

Our year-end report to the members will not line-up with the Financial report from our auditors.

Hopefully, we will be back to normal in the new calendar year.

The Committee travel related expenses, were cut to half since travel is not expected until much later in the year.

We are hopeful that many of the more than 40 Articling students who took the exam will be sworn in.

We saw the budget increased for SRD due to a large, anticipated workload next year.

We do not have a lot of reserve (beyond those that we considered controlled). It is good to see our reserve built up this year.

Some of the Committees have some significant requests but have been scrutinized. As an example GRLC, PAC and UCLC have detailed tactical plans aligning with their budgets.

We have support again for the Professional Standards Committee to undertake projects.

We are projecting a surplus of approximately \$180K with the current proposed budget.

It was suggested to have more technology considered as part of the AERC evaluation process. It was noted that we paid for the front end work for the Prolydian system this year for the Online exams.

We have built in a large number related to the Exam audit. It is not under AERC, it is under Cost Related Expenses.

We have put 10K again for building renovation and repair for the Office building.

The Motion to accept the budget was called.

Motion 20.54 MOVED: Dave Kovacs SECONDED: Trevor McNeil

WHEREAS: The Canadian Revenue Agency has changed the fiscal year of the AOLS to November 1st to October 31st.

AND WHEREAS: The AOLS was not notified of this change and only became aware of this in the last two weeks and therefor has prepared the budget based on a calendar year

AND WHEREAS: The overall annual budget is not expected to change significantly based on the change in fiscal year

AND WHEREAS: Council recognizes that the year end numbers for 2020 in the budget are based on projections for the year ending December 31st, 2020

BE IT RESOLVED THAT: That Council approves the budget presented for 2021, recognizing that year end numbers for 2020 will need to be updated.

DATE: November 30, 2020 Chair: Andrew Mantha Carried: (Unanimous)

12. Rescind By-Laws 88-5, 88-6

By-Laws 88-5 and 88-6 are no longer relevant but we need to have the membership vote to rescind them. 88-5 was for the Survey Records Index, and it is based on the old Act. The second one is addressing CCLS and it no longer exists.

Motion 20.55 MOVED: Gavin Lawrence SECONDED: Andy Shelp

WHEREAS: By-law 88-5 (Survey Records Index) was created under the previous version of the Surveyors Act and is not a valid by-law under the current Surveyors Act

AND WHEREAS: By-law 88-6 addresses membership in the Canadian Council of Land Surveyors that no longer exists and for maintaining a research and development fund that has not existed for years

BE IT RESOLVED THAT: By-laws 88-5 and 88-6 be removed from the website and rescinded the next time a by-law is sent to the membership for a vote.

DATE: November 30, 2020 Chair: Andrew Mantha Carried: (Unanimous)

13. Complaints Review Councillor's Report

A copy of the Review was forwarded to all members of Council.

The Complaints Review Councillor provided an overview:

The Review had started out from a complaint around a particular surveyor. It had become larger than ~~the~~ just one particular surveyor.

The Complainant's concerns were not particularly addressed in the first Complaint.

It could have been resolved with a bit of creativity, if we had considered what he was looking for from the Surveyor at the start.

The Complaints Committee referred the matter to Council, and when it came to Council for consideration, it was referred it to mediation instead of a Discipline hearing. It was noted that Council ~~were~~ was not made aware of previous disciplinary action with the member.

The Complainant declined to participate in the Mediation.

If the Complainant had declined mediation the Mediation should not have been the process used.

His second complaint was dismissed as frivolous and vexatious.

Pursuant to the Legislation, Council has the right to defer to mediation. If it was proposed, both Complainant and Member should participate.

If neither is willing to participate, then Mediation is not the best solution.

A different set of members in the Complaints Committee dealt with the second complaint.

It was suggested that an area for improvement is also regarding the reasons provided. Even if the Complaints Committee does find all the complaints warranted, it should at least include a note that the other complaints were considered.

If the Complainant and Discipline Committee are not satisfied –procedurally, it did not go exactly the way it should have.

The Complainant does not know how the Mediation will work.

Perhaps we should have a Policy around how the Complainant should participate in Mediation.

The Executive Director noted that we have a Guideline in respect to Mediation which speaks to that.

The wording in the Act says s that Council could send it to Discipline with refined Issues.

The Mediator had reported that there was a resolution.

There was nothing from the Mediator whether or not it should go to Discipline.

There was an assumption made that it would not go to Discipline.

The details were lacking in the report.

It was recommended that the Mediation Guidelines include improvements in the reporting requirements of the Mediator and strengthen the involvement of the interested parties.

The Motion was called.

The Motion was amended.

Motion 20.56 MOVED: Peter Meerveld SECONDED: Sue MacGregor

WHEREAS: The Complaints Review Councillor has completed a review of the treatment of a complaint and has made recommendations to Council

BE IT RESOLVED THAT: Council tasks the Executive Director with updating the Mediation Guideline to improve the reporting requirements of the Mediator and strengthen the involvement of the interested parties and

That the Registrar be tasked with ensuring that any relevant information on the file of the member subject to a complaint be provided to Council before the matter is deliberated and to the Discipline Panel after a finding of professional misconduct or incompetence is rendered and before any sanction is agreed to.

DATE: November 30, 2020 Chair: Andrew Mantha Carried: (1 Abstain)

Action: Brian to update the Mediation Guidelines and bring them back to Council for approval

14. Appointments (no material)

We had a member of the CEC resigned.

The Motion was called.

Motion 20.57 MOVED: Gavin Lawrence SECONDED: Andy Shelp

WHEREAS: Fereidoon Khosravirad resigned from the Continuing Education Committee.

BE IT RESOLVED THAT: Fereidoon Khosravirad be removed from the Continuing Education Committee.

DATE: November 30, 2020 Chair: Andrew Mantha Carried: (Unanimous)

15. Task Force review provision of old survey plans

The proposed Terms of Reference for a Task Force were presented to Council.

The proposed Task Force was looking to move away from the mentality of treating Old survey records and notes as commodities.

The Task Force proposed to help the member of the public understand what an old survey plan is.

Objectives were outlined for this new Task Force, such as creating a database of incidents, and issues brought by old survey plans; developing a program of ongoing interaction via the AOLS website and social media to inform the public of limitations of old survey plans.

The Task Force proposed to develop materials/bulletins from AOLS and information that will be distributed to municipal staff and also to develop a program of communication with other AOLS Committees that may apply who can input information of any issues they come across into the database.

The Task Force proposed to have members participate in larger conferences that are focused on development, partnerships, such as those of Architects and Engineers to inform them.

The Task Force also would focus on reviewing existing bulletins and current AOLS policies on the redistribution of old survey plans and update them considering new technologies, etc.

The Motion did not have a seconder and did not proceed.

16. Application to the Compensation Fund

Section 33 of the Surveyors Act requires the Association to maintain a compensation fund.

A complainant has filed an application.

Grants may be made in consequence of dishonesty or incompetence.

There was no evidence of dishonesty or incompetence on the part of the former member involved.

The survey was done in 1965.

The Association had not fine tuned its practices regarding water boundaries in 1965.

There was so much uncertainty around water boundaries then that a task force was formed in 1985 to address this.

There was no disciplinary action against the former member.

This application does not satisfy the test for a grant under the Compensation Fund.

Motion 20.58 MOVED: Andy Shelp SECONDED: Simon Kasprzak

WHEREAS: Council has received an application to the Compensation Fund

AND WHEREAS: Council has reviewed the application and found no evidence of dishonesty or incompetence on the part of the former member involved

AND WHEREAS: Sub-section 33(5) of the Surveyors Act states that grants may be made "in consequence of dishonesty or incompetence"

BE IT RESOLVED THAT: The application to the Compensation Fund is denied and that the Executive Director be tasked with informing the applicant

DATE: November 30, 2020 Chair: Andrew Mantha Carried: (Unanimous)

17. Proposals for Psychometric review of Exam questions

The Office of Fairness Commissioner had questioned how fair our exams were and asked that we perform a psychometric analysis. Many regulators are trained in this area to ensure they are following prescribed

standards. Although the AERC makes an excellent attempt to ensure that exams are fair, they are not experts in this regard.

We received a quote last fall from an expert in this field.

The price was somewhere between \$20-22K.

There is a risk if we do not move this forward. There is a benefit in knowing that our exams are fair and if they are not then we will have to take corrective action.

Two additional quotes were received providing three quotes overall (two Canadian and one American).

The pricing is different for all of them, but the processes and offerings were very similar.

The two Canadian quotes were substantially higher.

The US based proposal was much more affordable and seemed to meet the needs. The psychometrician had performed reviews on dozens of regulatory organizations.

The E.D. recommended Professional Testing Inc. (the American Company)

Although they are an American company, the international standards are very similar.

One of the Councillors asked if this was a one time process. It was noted that unless we have any substantive changes to the process or receive reports of issues, then we will not perform another analysis. If we find substantive issues, we may have to have a follow up review specifically to the processes that were changed.

Motion 20.59 MOVED: Gavin Lawrence SECONDED: Dave Kovacs

WHEREAS: The Office of the Fairness Commissioner has asked the AOLS to review its examination processes to demonstrate that they are fair

AND WHEREAS: Council has a desire to ensure that the examination processes are fair to the candidate and provide protection to the public

BE IT RESOLVED THAT: Council approves the Executive Director entering into a contract with Professional Testing Inc. to perform an audit of the AOLS examination program

DATE: November 30, 2020 Chair: Andrew Mantha Carried: (1 Abstain)

Adjournment

Meeting is adjourned at 1:15pm.