

MINUTES
COUNCIL OF THE ASSOCIATION OF ONTARIO LAND SURVEYORS
Tuesday, June 8, 2021
9:00 AM – 11:25 AM
Zoom Virtual Meeting

Chair:	Gavin Lawrence, Andy Shelp, Andrew Mantha, Trevor McNeil, David Kovacs, Amar Loai, Simon Kasprzak, Saša Krcmar, Ron Berg, Martha George, Peter Meerveld, Andrew Dowie, John General, James Hunt, Bruce Clark,	President Vice President Past-President Senior Councillor Senior Councillor Intermediate Councillor Intermediate Councillor Junior Councillor Junior Councillor Lay Councillor Lay Councillor Lay Councillor Lay Councillor Lay Councillor Surveyor General	Newmarket Ottawa Windsor Stratford Thunder Bay Toronto Barry's Bay Toronto St. Catharines Kitchener Kitchener Tecumseh London Port Hope Peterborough
Staff:	Brian Maloney, Kevin Wahba, Penny Anderson,	Executive Director Registrar Recorder	North Kawartha Vaughan Mississauga

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

The Meeting was called to order at 9:04 AM

Council was reminded of confidentiality, and to declare any conflicts of interests.

If unsure, councillors were advised to ask the group.

It was noted that councillors A. Loai, and P. Meerveld will join this meeting later, and that Councillor M. George is only able to attend the first hour of the meeting.

2. Review Agenda

A slot for a bio-break be included at an appropriate time depending on the timing of the agenda.

The motion was called to approve the agenda.

Motion 21.29 MOVED: Andy Shelp SECONDED: Andre Mantha

BE IT RESOLVED THAT Council approves the agenda as provided.

DATE: June 8, 2021 Chair: Gavin Lawrence Carried: (Unanimous)

The Motion was carried.

3. Approval of Previous Minutes / Review of Action Items

The motion to approve the minutes of the previous meeting was called.

Motion 21.30 MOVED: Trevor McNeil SECONDED: James Hunt

BE IT RESOLVED THAT Council approves the Minutes from the meeting of April 27th, 2021, as amended.

DATE: June 8, 2021 Chair: Gavin Lawrence Carried: (Unanimous)

A correction to the spelling of Bruce Clark's name was made.

The Motion was carried.

The I&IT Strategy is in progress.

The Fees Mediation Manual of Practice is scheduled for discussion at this meeting along with a motion for it.

There are a couple of items addressing the recommendations from the Discipline Committee at this meeting. D. Kovacs continues to work on procedural changes with the Discipline Committee. This is still ongoing work.

The AGM directions went out to all Committee Chairs.

B. Maloney sent out the letter to the Applicants regarding the Application to the Compensation Fund.

B. Maloney also wrote a letter to the complainant with regards to the Discipline decision.

4. President's Report

President G. Lawrence attended two AGMS recently.

The P.Surv designation is now up and running. OLSs will have to arrange it individually with their PSC membership.

The Covid-19 Pandemic's impact on survey businesses and mental health were discussed.

The Professional Governance Act in BC is still ongoing.

Alberta has had some meetings with Self Governing Associations, and as well with the Engineers and Geoscientists in BC. The idea seems to be an overarching self-regulating act with individual pillars – with regulations that govern specific associations.

The impact is unknown on surveyors at this point.

New Brunswick is running into issues with non-members re-establishing property lines.

We also discussed the way surveyors are sharing their notes amongst themselves.

Manitoba has been running into some challenges with timing to register plans through Teranet.

5. Staff Reports

The Staff Reports were posted for Council on the website.

This week, specifications were sent to our website developer, Glacier Digital, to get a quote on developing a membership database that would be part of our website suite of tools.

We have yet to receive applicants for the SRD Manager position. B. Maloney made some cold calls yesterday. Hopefully we can get some applicants. The perception seems to be that the job of SRD Manager is more adversarial than is reality. T. Packowski, current SRD Manager, is willing to extend his contract at a maximum to the end of the year. We hope to see someone in place this summer or fall.

We had missed a breakdown in a question in the Salary Study and therefore were not able to separate between owners/partners and employed surveyors, and therefore had some potentially misleading numbers.

Registrar's Report

The past few meetings for AERC we have had a few less Articling Applications than what we usually receive. The Committee will be looking at a few more applications and academic evaluations coming

in. So far they have received 20 evaluations and 10 articling applications. The numbers are expected to level out.

We are pretty much on track in terms of complaints. There are a few less when compared to last year.

We have delivered the exam online for a second time. Everyone seems to be fine with the Oral component. We used the GoToMeeting platform for the Oral and Plan Check Exams.

The Plan Check exam is still done by hand however, it still seems to be working fairly well.

As for the written component, we use Prolydian. Students are giving mixed reviews of the system. Some had said that it is seamless, others say that they have connection type issues, and some complained that the proctors provided to them were a little too harsh.

Some students seem to be more used to using technology than others.

The introduction of a portion of one question was not properly uploaded to the system which caused some confusion. AERC eliminated that question. We do not expect this issue to happen again.

Generally, everyone seems satisfied. We were able to deliver the exams, and everyone was able to write and complete them.

We were able to retrieve responses and grade them accordingly.

As for the new questions – we try to develop one or two questions between exam periods and add them to the pool we already have. We are on the verge of having the question pool reviewed and updated. We are probably going to look at a consultant to review the questions.

The average seems to be pretty steady in comparison with past exams.

6. Surveyors General Report

The Regulations out of the Surveyors Act are expected to be enacted on July 2nd.

Michael Griffiths has retired from his Crown Surveyor position. We are looking to fill the position.

Michael Matthews joined MNRF on May 4th temporarily for an assignment.

Prakash Shrivastava joined us as a Senior Surveyor.

7. Financial Information / Investments

Council was presented the Operational Statements.

We are ahead of last year.

It looks like we are in good shape.

We had a planned surplus at the start of the year.

We fully anticipate that we will have a larger surplus than budgeted.

This could give us head room for the updates to Surveyors Act if we must go beyond the funds available through Council approved funding that were budgeted for.

We are still 11.3% to the good in our investments year to date.

The market has been doing well over the last little while.

We will not be collecting the self-insured retention fund again this year.

We may not be able to do the full 550K next year.

Our general fund is up.

The next investment report will be \$500K higher since we moved additional funds from our general bank account into our investment funds.

We should have a reserve of half to one year of operational costs to weather any storms.

We still continue to wrestle with the HST audit, but this should be resolved soon with the Auditor.

8. Risk Summary/Strategy Update/Dashboard Review

As a result of the last meeting, we moved a few items into a new Pending section.

B. Maloney requested Council to raise any concerns with items where we should have more action on.

CEC (Continuing Education Committee) has some upcoming training, and we are looking at another webinar in July with Ken Wilkinson and Dan Peteran and potentially someone else from LRO who will put on a presentation dealing with e-Plans. There has been a pretty good uptake on e-plans. We are looking for another technical session for Fall and Winter.

We are already thinking of the AGM. We are optimistic that we can have a face-to-face meeting. We had good feedback on the Asset Manager webinar.

In reviewing the PSRI and CPD programs there was a request that we should put out a guideline or documentation to help a technical staff do a proper search for a legal survey.

Brian noted that he had crafted something for the Professional Standards Committee and there will be a paper discussing that in the next quarterly which he hopes would start a conversation in this regard. We struggle a bit on what research of other private surveyor records is considered appropriate, particularly in the GTA. If we receive positive comments back, we suspect we will work this into best practice. It is not a really technical document but more of a philosophical view of what appropriate searching looks like. It builds on a similar view of what Anne and Izaak presented on the Cybrary presentation at the AGM. That Cybrary does have good examples for Land Registry Office searching that can be built upon for a technical training for staff.

Council reviewed the updated Dashboard.

We added another year to the Plans registered/deposited.

The salary median was updated based on the Salary Survey

Regarding Insurance, it looks like we are going to give back some money again. We had a good year and are down to two claims to be resolved and we should know later this year. We are likely to be able to hand out checks again at the AGM. There were no huge changes to the types of errors.

Complaints statistics get updated on a regular basis.

The Public inquiries report is updated.

Find a surveyor is now the most popular page on the website.

We topped 3M records on PSRI. There is a piece on In Sight Newsletter about this.

Sticker sales were updated.

We have 46 of the 74 planned comprehensive reviews in progress.

Tim Hartley, who does the Systematic Reviews, will be retiring.

Sticker sales are up which indicates a lot of work for surveyors

Council activities are shown as of January 2020. It showed the number of by-laws approved, statutory pieces done, and information items covered.

We are still doing ok on our website. We had a slight decline of users over 30 days.

FAQs is the second most visited page after the find-a-surveyor page on our website.

The Committees all get updated and are mostly on track.

The GRLC has struggled to have in-person presence at events due to COVID.

9. Update to Transparency Policy

There were two updates. The first addresses the discussion on when we would remove Discipline from a file that is open to the public and reflects the Council decision in April of 2020. There is an update to the policy to remove a discipline action after 10 years with conditions.

The second update relates to the Discipline Committee recommendation that were approved in principle and addresses when complaints will be made available to the Complaints Committee, Council and the Discipline Committee.

The motion was called to approve the update to the Transparency Policy

Motion 21.31

MOVED: Saša Krcmar

SECONDED: Simon Kasprzak

WHEREAS: Council has approved a Transparency Policy by Motion 19.23 in May 2019

AND WHEREAS: Council approved recommendations in principle from the Discipline Committee by Motion 20.75 on February 16, 2021, which required changes to the Transparency Policy,

AND WHEREAS: Council agreed that discipline decisions should be removed after 10 years if in accordance with policy adopted by Motion 20-19,

BE IT RESOLVED THAT: The Transparency Policy dated June 8th, 2021, be adopted and posted on the website.

DATE: June 8, 2021 **Chair:** Gavin Lawrence **Carried:** (Unanimous)

Action: B. Maloney to have the updated Transparency Policy posted on the website.

10. RFP for External Review related to the Update to the Surveyors Act

B. Maloney is seeking approval to issue a Request for Proposal for an external review of the AOLS regulatory activities. Although this is part of the information that will help inform potential changes to the Surveyors Act, it may also provide recommendations related to current practices that can be implemented without changes to our legislation. This review will go beyond a paper review, it will include interview with key players, and select file reviews. It will be publicly posted and sent to specific individuals that may have an interest in responding (e.g. Field Law, Steinecke Meciura LeBlanc).

Responses are expected within 4 weeks.

The Motion is called.

Motion 21.32 MOVED: Andrew Dowie **SECONDED:** Trevor McNeil

BE IT FURTHER RESOLVED THAT: Council approves the Executive Director to distribute and post the RFP as provided for an External Review of its regulatory activities.

DATE: June 8, 2021 **Chair:** Gavin Lawrence **Carried:** (Unanimous)

11. Update to the Registrar's Investigation Guidelines

This document was put together a year ago to assist the Registrar on when to trigger a Registrar's Investigation (RI).

Recommendations from the Discipline Committee had impacts to the RI Guidelines and these updates address their recommendations.

Some wording around reasonable and probable grounds was also added reflecting recent administrative case law.

Language was added to clearly identify the grounds for the investigation and spell out the areas for investigation.

The Motion was called.

Motion 21.33 MOVED: Ron Berg **SECONDED:** Peter Meerveld

WHEREAS: Council approved A Risk-Management Approach to Registrar's Investigations by Motion 20.39 on September 10, 2020

AND WHEREAS: Council approved recommendations in principle from the Discipline Committee by Motion 20.75 on February 16, 2021 which required changes to the Registrar's Investigation Guidelines,

BE IT RESOLVED THAT: Council approves the revisions to A Risk-Management Approach to Registrar's Investigations reflected in version 1.1 dated June 8th, 2021.

DATE: June 8, 2021 **Chair:** Gavin Lawrence **Carried:** (Unanimous)

12. Fees Mediation Committee Manual Revisions

The Fees Mediation Committee has been working on changes to its Manual of Procedures for some time.

They have moved it to true mediation and away from investigations to be consistent with the Surveyors Act.

They have cleaned up processes and added some definitions.

There are only three professional organizations in Ontario that still have Fees Mediations in their legislation.

Some members of Council had not had a chance to thoroughly review the material.

It was proposed to call the motion at the next meeting.

Motion 21.34 MOVED: Dave Kovacs **SECONDED:** Ron Berg

BE IT RESOLVED THAT: That Council approves the revised Manual of Procedures for the Fees Mediation Committee denoted as Version 1.4 dated May 28th, 2021.

DATE: **Chair:** Gavin Lawrence **TABLED:**

Motion 21.35 MOVED: Peter Meerveld **SECONDED:** Andrew Dowie

WHEREAS: Concerns were raised that Council had not had sufficient time to review the Fees Mediation Committee Manual of Procedures

BE IT RESOLVED THAT: That Council tables motion 21-34 regarding approval of the Fees Mediation Committee Manual of Procedures until its next meeting scheduled for July 13th, 2021.

DATE: June 8, 2021 **Chair:** Gavin Lawrence **Carried:** (Unanimous)

13. The release of Plans of Survey by Municipalities

Members have raised issues with the release of private survey plans by Municipalities under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

It comes down to a three-part test that the Information and Privacy Commissioner considers preventing a document from being released:

- a. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; and*
- b. the information must have been supplied to the institution in confidence, either implicitly or explicitly; and*
- c. the prospect of disclosure of the record must give rise to a reasonable expectation that the harms specified in paragraph (a) of section 10(1) will occur.*

The survey plan is often part of a notice process to the public and therefore there would be an expectation of the plan being available, but that is not on every plan that the municipality has access to.

Surveyors have not taken specific steps to say that a survey plan should not be passed on and is confidential. The Copyright provisions are specifically addressed in MFIPPA and privacy legislation is specifically mentioned in the Copyright Act, so that in itself does not pass the test for being confidential.

We typically have failed on test two.

We can raise an argument that the third test is an issue.

B. Maloney presented some options.

Perhaps we look at making different products that do not include the information that can be misused?

It was recommended to meet with IPC and discuss AOLS concerns and how potential changes could make a difference.

Short term work could include working with the Professional Standards Committee to develop a set of best practices regarding survey plans provided to municipalities.

We could work with Municipal Surveyors and Professional Standards Committee to develop alternative products and standards over the medium-term.

We could work with the Municipal Surveyors to develop a caution note to be included on plans.

We could work with Municipal Surveyors to develop a communication plan to encourage municipalities to adopt changes.

It was suggested to keep PSC (Professional Surveyors Canada) aware of actions and progress.

There was significant discussion ranging from considering new technical solutions such as non-fungible tokens to developing cautionary notes and formal electronic transmittals that are signed off digitally. There was a suggestion that the paper provided to Council be published in the Ontario Professional Surveyor Quarterly Magazine. Council ultimately agreed to pursue the development of a cautionary note through the Professional Standards Committee and the Municipal Surveyors Committee.

Action: B.Maloney to work with the Professional Standards Committee and Municipal Surveyors Committee to develop a cautionary note for use on plans that will go to municipalities.

14. Salary Survey

Council reviewed the Summary of the Salary Survey.

We received 169 responses from professional members to the Salary Survey resulting in approximately a 33% response rate.

The current survey results did not separate owners from employed surveyors and therefore results were combined. Although attempts were made, there was no way to separate the salaries for employed private practice surveyors.

There are two options; we either leave it the way it is or re-do the survey.

We would also like a better response rate from our members so we can get better results.

The majority of Council members agreed to re-do the Survey.

Action: B. Maloney to re-do the Salary Survey with appropriate adjustments to allow employed private practice surveyors to be separated from owners/partners.

15. Council Reading List

B. Maloney provided Council a collection of reading materials that are informative and pertinent for considering changes to the Surveyors Act. They ranged from regulatory standards published in the United Kingdom, to a paper from the Competition Bureau, to reviews of other regulators across Canada. Although they all are interesting from a regulatory review perspective, a few key documents provide a good overview of considerations for Council moving forward. It was suggested that Council read at least the key documents to help them develop further insight of the expectation on

regulators and to help put us consider decisions and directions regarding potential changes to the Surveyors Act.

16. Committee Appointments

The Motion was called.

There were no discussions.

Motion 21.36 MOVED: John General SECONDED: Amar Loai

WHEREAS: Peter Neilsen has resigned from the Expanded Profession Task Force, Kerry Johnston has resigned from the University and College Liaison Committee and Al Jeraj was erroneously removed from the Municipal Surveyors Committee.

BE IT RESOLVED THAT: The following appointments are made:

- Peter Neilsen be removed from the Expanded Profession Task Force,
- Kerry Johnston be removed from the University and College Liaison Committee
- Al Jeraj be appointed to the Municipal Surveyors Committee,
- Satish Lakhan be appointed to the Website Maintenance Committee.

DATE: June 8, 2021 Chair: Gavin Lawrence Carried: (Unanimous)

The meeting adjourned at 12:06 PM