



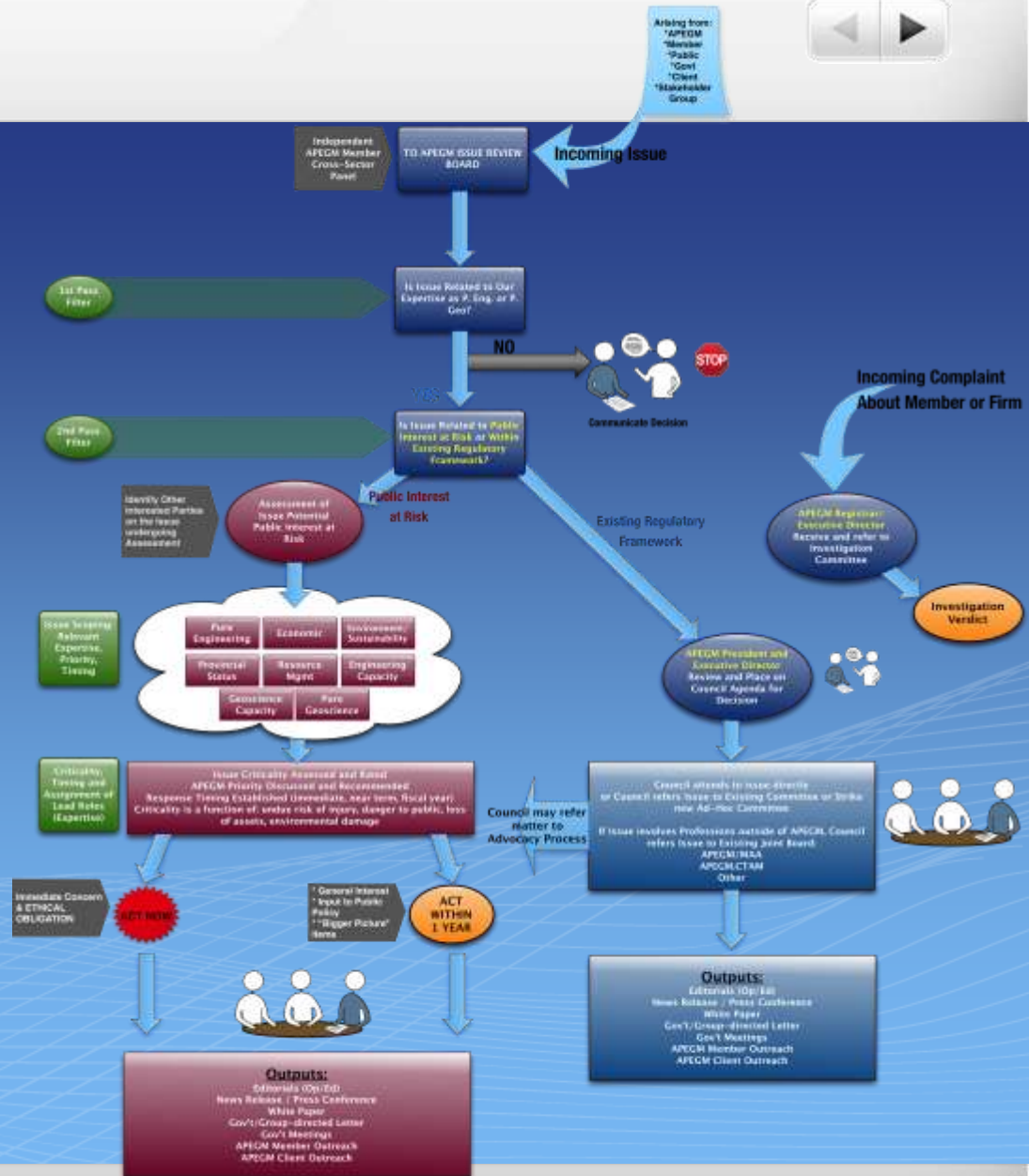
Advocacy Task Force

APEGM Member Info Events:

February 19 & 26, 2013

APEGM Offices

Winnipeg, MB Canada





Who Serves on APEGM's Advocacy Task Force?

ATF volunteer roster includes:

- **John Woods**, FEC, P. Eng.
- **Peter Washchyshyn**, FEC, P. Eng.
- **Dave Ennis**, FEC, P. Eng.
- **Councilor Rick Lemoine**, P. Geo
- **Lorraine Dupas**, APEGM
- **Mary-Ann Gibson**, Public Representative (and APEGM Investigations Committee member)
- **Chair: Councilor Roger Rempel**, FEC, P. Eng.

◆ **3 APEGM Past-Presidents**

◆ **3 CEM (now ACEC Manitoba) Past-Presidents**

◆ **2 Past-Directors - Engineers Canada**

◆ **Public Representative with extensive experience in association management and governance**

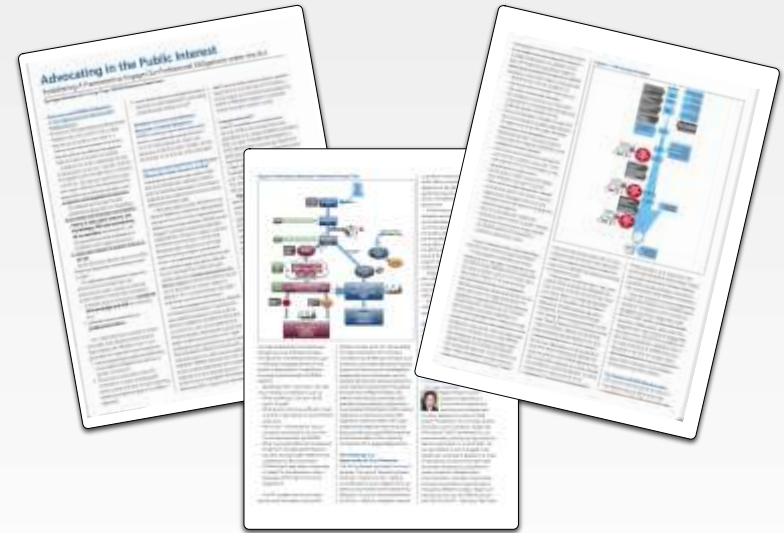
◆ **Public Representative also served on APEGM's Investigative Committee for over 10 years**

◆ **1 Past-Executive Director of APEGM**



ATF, in Winter 2012 KP Article, outlined status and tasks completed thus far.

- Provided ATF recommendations to Council Spring 2012
- Hosted APEGM member info night on June 26, 2012
- Reviewed feedback from June Member Info Event and spoke with members post-event
- Developed Preliminary Advocacy Process framework
- Presented Prelim. Advocacy Process Framework to APEGM members, including Q&A, comments (*two sessions: Oct. 25 Ingenium PD Seminar and Oct 26 report at AGM*)
- Published ATF article on proposed framework in *Keystone Professional* Dec, 2012.
- **Today:** Member Info and Input: Framework and Proposed Bylaw & Policy (two noon-hour sessions)

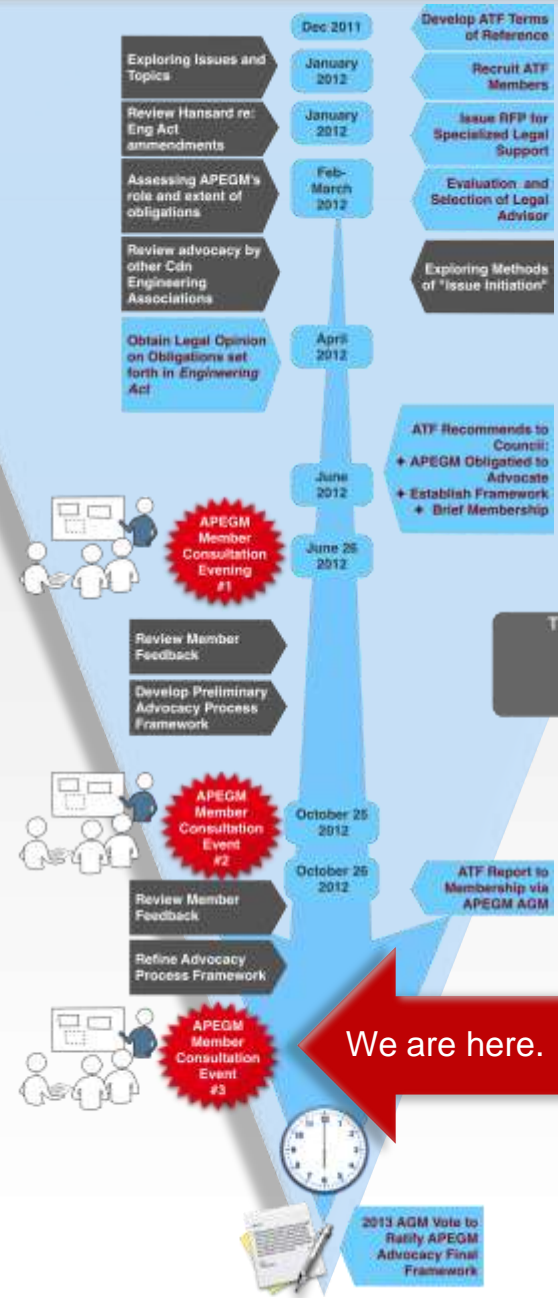


ATF article: *Keystone Professional*:
Winter 2012 issue



Timelines and ATF Progress re: APEGM Advocacy

Briefing our colleagues on ATF's timeline, consultations and deliverables.



THIS FIGURE IS ON YOUR
HANDOUT PAGE 1





Professional Regulation: Uniqueness of Manitoba

The **Manitoba Legislative scheme**, as a result of the 2004 amendment, **is now different from the professional regulation scheme across Canada.**

Many provinces elsewhere also have in their **Code of Ethics**, the concept of a “**paramountcy**” of the public welfare (over and above the public interest in the regulation and improvement of the professions), ***but it is not brought forward into the legislation itself*** governing the profession for elsewhere in Canada.

Section 3 The purposes of the association are to

- (a) govern and regulate the practice of professional engineering and professional geoscience in Manitoba;
- (b) promote and increase, by all lawful means and in the public interest, the knowledge, skill and competency of its members and students in all things relating to the professions of engineering and geoscience; and
- (c) advocate where the public interest is at risk.



ATF Information Provided to Council

- ATF received legal opinion & supplementary comments on legal opinion. **ATF considered information available and made recommendations to APEGM Council:**
 - **APEGM is obligated to advocate on issues related to its professions and expertise when the public interest is at risk**
 - **APEGM should develop a framework to support a recognized obligation of APEGM to advocate in the public interest**
 - **APEGM should establish this framework such that it meets APEGM's obligations under the Act while minimizing risk to the Association.**

Received via email
May 16-2012 4:50PM

Roger, I have received and quickly reviewed Mr. Peever's comments in his memorandum of May 15, 2012. Because of the shortness of time, I will address these as fundamentally as possible and try not to get into any extended debate. I am, of course, always open for discussion or clarification if need be.

I think there are eight points worth addressing:

1. On page 1, Mr. Peever apparently agrees with my opinion, which was that Manitoba has added the obligation on the Association to speak out where the public interest is considered to be at risk, etc. However, he does not believe the opinion answers the question that is posed at the beginning of the resolution, which is: "What is the nature and extent of permissible advocacy where the public interest is at risk". In my view, that question is not answered by the resolution. APEGM should have a by-law addressing the point, as authorized by s. 12(1)(c.3) of your Act. In that way, APEGM will put parameters around both the nature and extent of permissible advocacy.

2. At the bottom of page 1 and over to page 2, Mr. Peever's opinion states "I do not think in these circumstances that subsection 3(c) is ambiguous and I do not believe resort to Hansard is appropriate. It is generally true that a court will start with the wording of the legislation and if it is satisfied that the meaning is clear, will not resort to Hansard. However, if there is any lack of clarity or doubt as to the intention of the Legislature in using the words that it has, then Hansard is resorted to on a regular basis. The point is, my opinion indicated that, in my view, the wording in the Act itself was clear. However, if need be, and if one were to assume some lack of clarity, and therefore resort to Hansard, the meaning of the Act as originally

DATE:	March 17, 2011
TO:	Grant Kozepantich, F.Eng., Registrar and Executive Director of APEGM
AND TO:	APEGM Council
FROM:	Wells Peever
SUBJECT:	AGM Resolution Reporting B/Pole III (October 25, 2010)

At the request of the Executive Director, I provided a legal opinion to the Association at the October 29, 2010 annual general meeting to the effect that the captioned resolution was null and void. The following is a summary of how I came to that opinion:

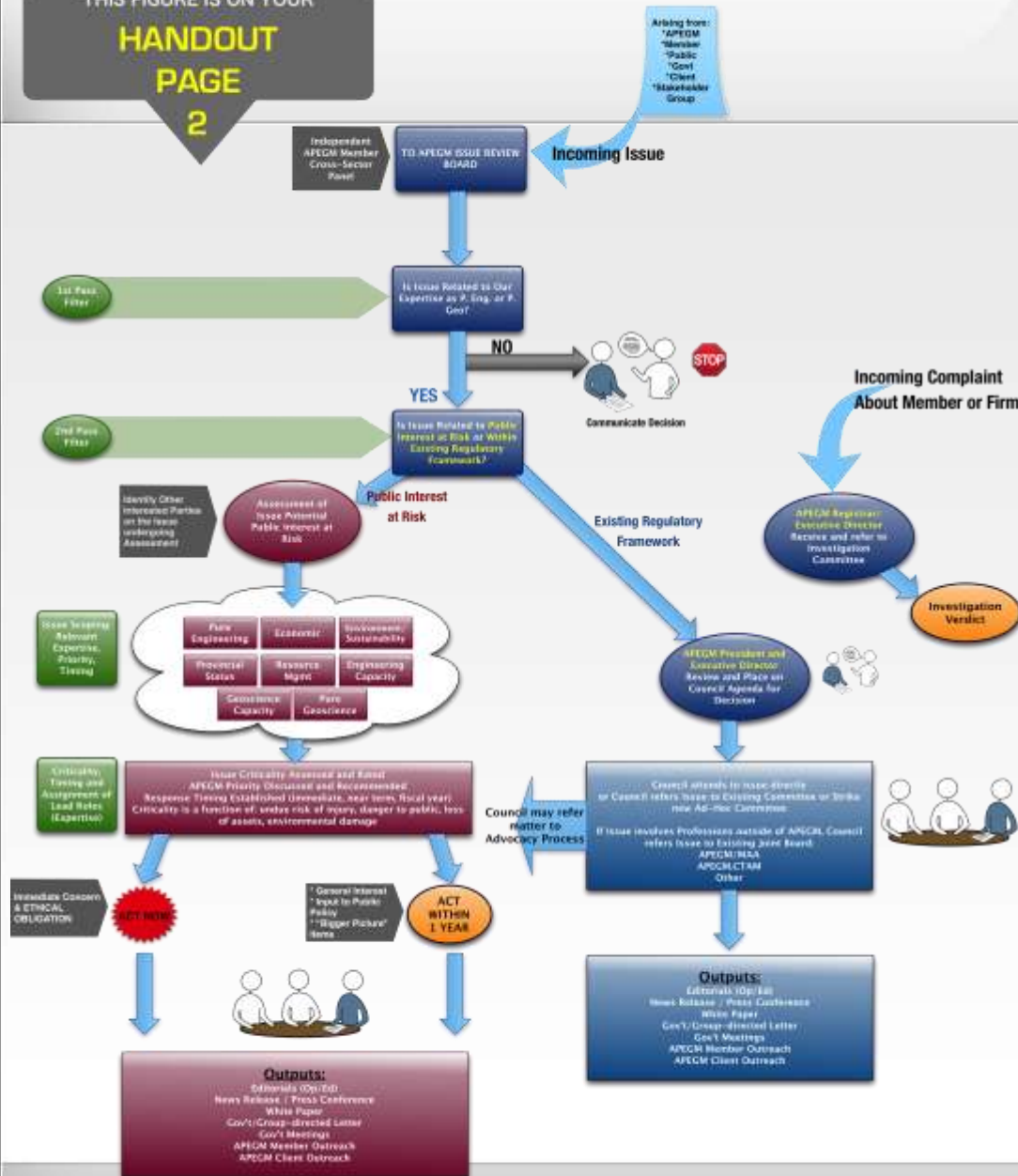
1. The resolution states that it is made pursuant to paragraph 3(c) of the Act. Section 3 of the Act is the section that sets out the purposes of the Association. As the Association is what is known as a "body corporate" it has no inherent powers or purposes and can only do those things that are authorized to it under its governing Act, and in particular under Section 3. Anything that is not within the scope of the purposes specified in Section 3 is beyond the power of the Association.
2. Under paragraph (a) of Section 3, one of the purposes of the Association is to "advocate where the public interest is at risk". At first blush, the resolution appears to come within the scope of the advocacy function. However paragraph 3(c) cannot be read in isolation but must be read in the context of the Act as a whole, in particular, and the provisions of paragraphs 3(a) and (b). Paragraph 3(a) states that one of the purposes of the Association is to "promote and regulate the practice of professional engineering". Similarly, paragraph (b), which relates to increasing knowledge of the members of the Association, is limited to "things related to the professions of engineering and geoscience". In addition, the Act as a whole is designed to regulate the practice of professional engineering in Manitoba. In short, the purposes and powers of the Association, including its advocacy function under paragraph 3(c), must be exercised for purposes related to the practice of engineering in the Province of Manitoba.
3. The question of whether the resolution falls within the stated purposes of the Association is resolved by determining whether the advocacy that is proposed in the resolution falls within the scope of professional engineering in Manitoba. While the "practice of professional engineering" is fairly broadly defined in the Act, in order to fall within the definition, the proposed action must relate to the "application of engineering principles" as they "concern the

Legal Opinions available to APEGM members for their review via written request to APEGM Executive Director

APEGM ATF ADVOCACY FRAMEWORK PROCESS FLOW

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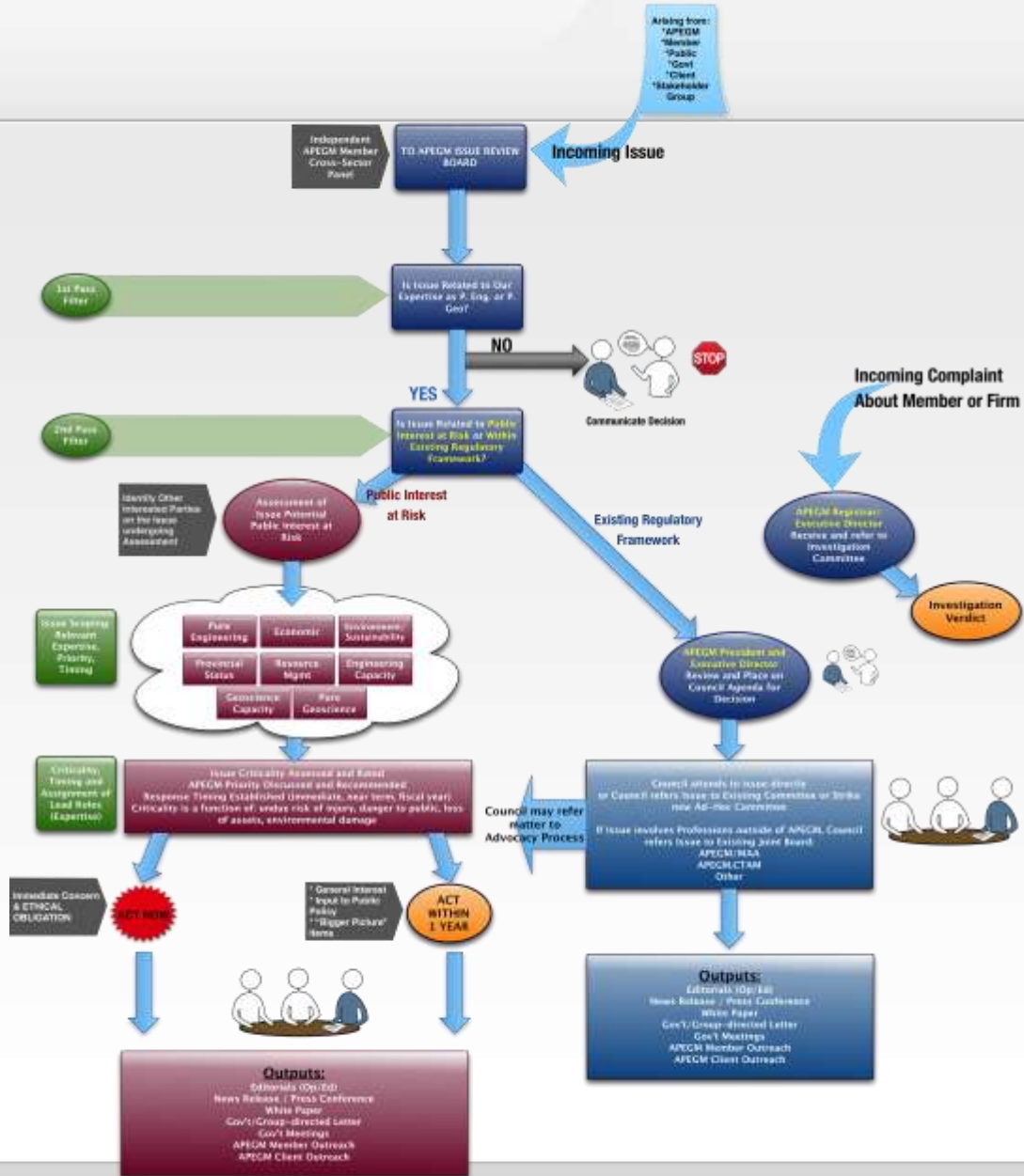
**HANDOUT
PAGE
2**



Framework drivers:

- APEGM has ethical obligation, as do its licensed members
- Ethics as a fundamental consideration
- Council composition changes annually, but APEGM and integrity of professions must remain constant
- Continuity and consistency desired over the life of a given issue
- Some public interest issues are bigger than APEGM or any given Council. Public & member perception and perceived conflict of interest must be aggressively managed
- Distinct processes for:
 1. **Issues of Public Interest at Risk**
 2. **Issues within Existing Regulatory Framework**

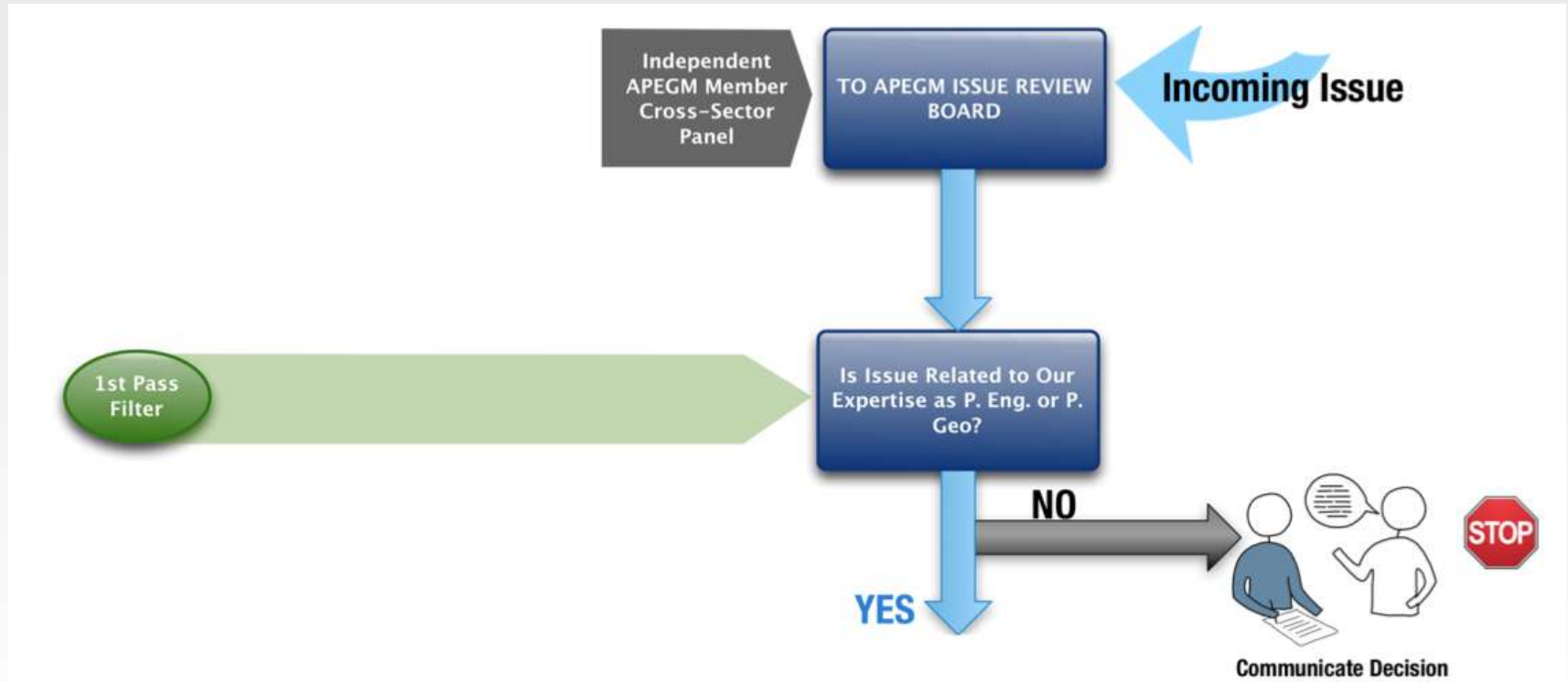
APEGM ATF ADVOCACY FRAMEWORK PROCESS FLOW





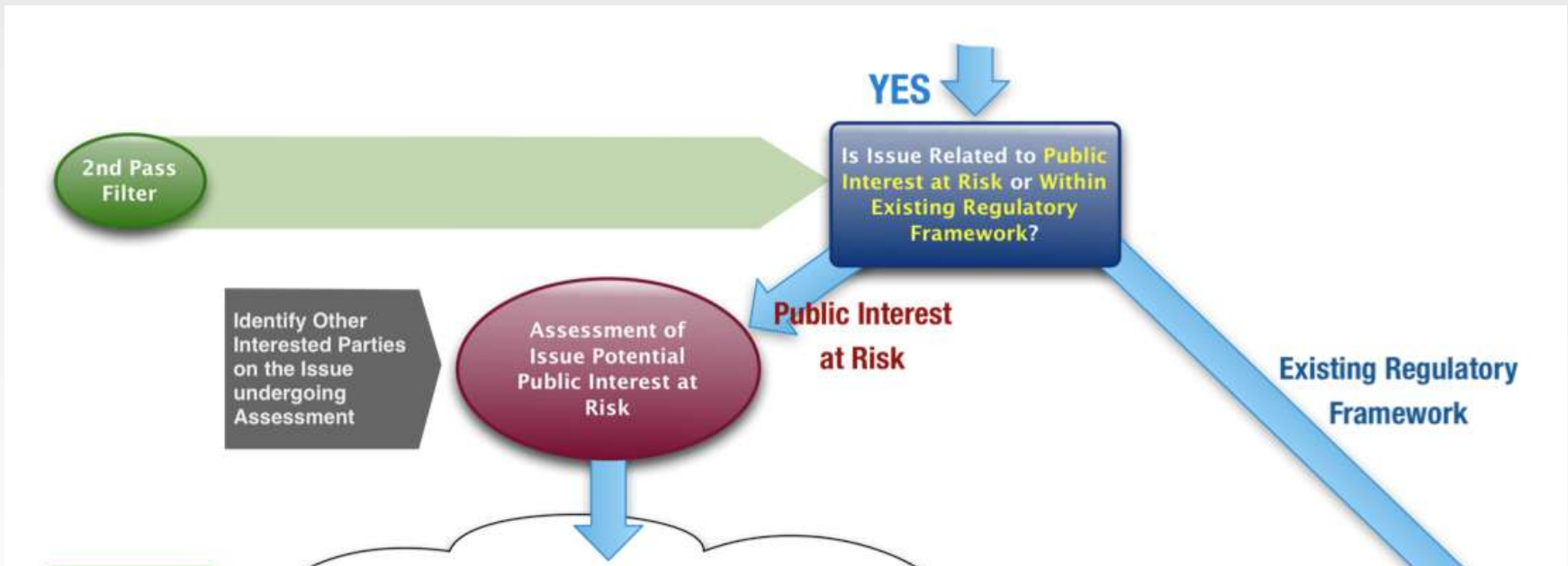
Incoming Issue Review:







Issue Is Related to our Expertise Proceed to 2nd Pass Filter

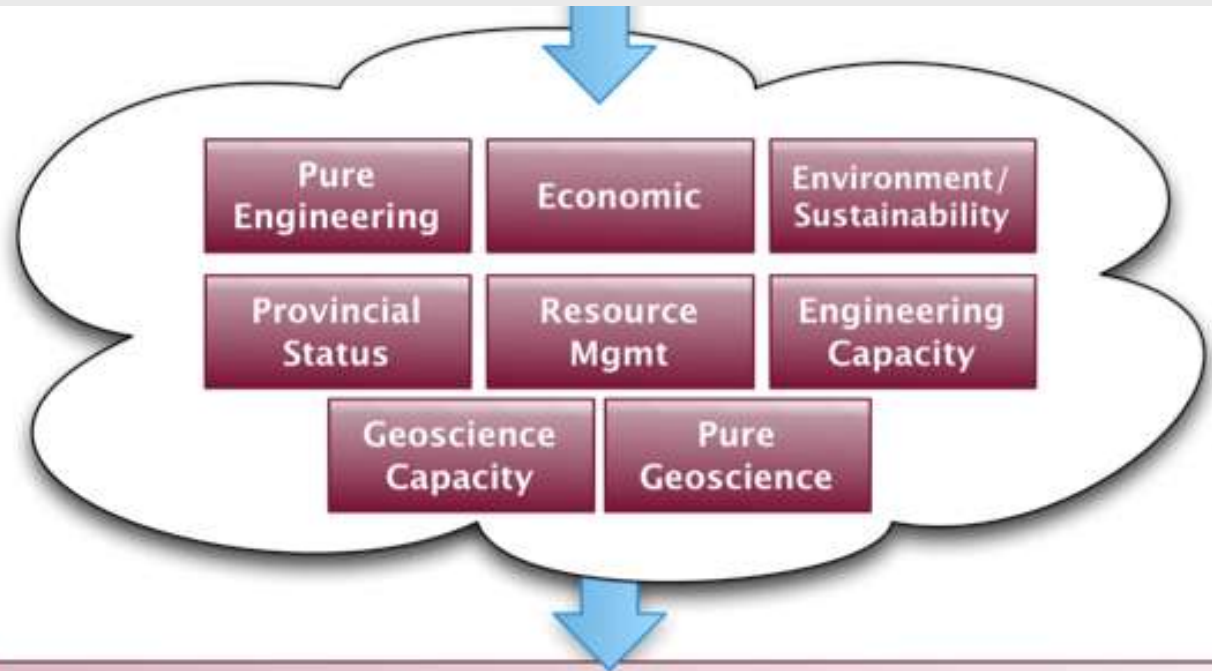




Issue Is Public Interest at Risk Proceed to Issue Scoping



Issue Scoping:
Relevant
Expertise,
Priority,
Timing

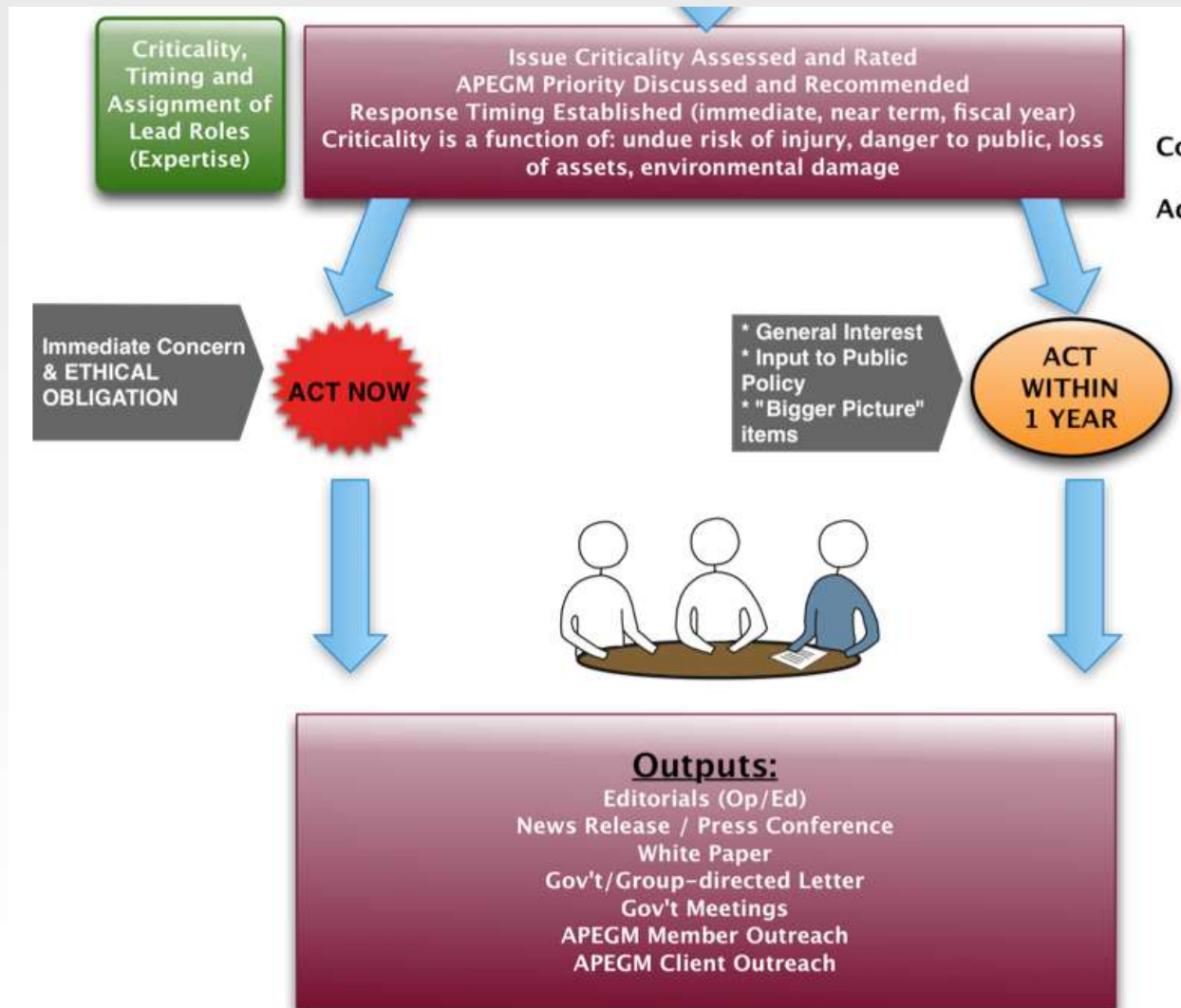


**Criticality,
Timing and
Assignment of
Lead Roles
(Expertise)**

Issue Criticality Assessed and Rated
APEGM Priority Discussed and Recommended
Response Timing Established (immediate, near term, fiscal year)
Criticality is a function of: undue risk of injury, danger to public, loss of assets, environmental damage



Once Issue Scoped, Assign Criticality, Timing, Expertise, Outputs





Proposed Bylaw and Policy

Developed to provide details on Public Interest Issues Review Board:

1. Purpose of the Public Interest Issues Review Board (IRB)
2. Composition and method of appointment to the IRB
3. Detail on establishing IRB order of its agenda
4. Proposed Terms of Reference of the Public Interest Issues Review Board
5. Definitions to be applied in proposed policy (By-law 4.5.4. (c))
6. Description of actions resulting from IRB review:
 - a) Statement on “degree of urgency”
 - b) Timely and transparent consideration and implementation by the Council
 - c) IRB availability to Council as necessary

By-law and policy proposal regarding sections 3 (c), 12(1)(a-3), and 12(3) of The Engineering and Geoscientific Professions Act (the Act).

Resolves

This proposal is provided in accordance with the terms of reference of the Advocacy Task Force adopted by the Council on January 13, 2012.

By-law 4.5 (Boards and Committees) reads, in part

- “When establishing any board or committee, the council shall provide terms of reference for the board or committee which terms shall include:
- a) the purpose for the committee;
 - b) the method by which, and by whom, the members are appointed;
 - c) the method by which, and by whom, its chair shall be appointed; and
 - d) the committee’s or board’s right to establish its own order of agenda.”

Section 12 (3) of the Act reads

“The council may establish operating policies and procedures not inconsistent with this Act or with any by-law of the Association

- (a) providing specific requirements for any aspect of the processes of governing, regulating or advancing the practice of professional engineering or the practice of professional geoscience in the public interest in the Province of Manitoba;
- (b) providing details of the processes to be followed in implementing the requirements of this Act, the by-laws of the association or any policy established by council; and
- (c) providing any other specific information required for the orderly and efficient conduct of the work of the association.”

Proposal for: By-law 4.5.4 Public Interest Issues Review Board (the Board)

The Council shall appoint and maintain a board known as the Public Interest Issues Review Board.

- a) the purpose of the Board is to identify and assess public interest issues and, when appropriate, facilitate timely implementation of advocacy actions by the association as required by section 3 (c) of the Act;
- b) the members of the Board are appointed for a two-year term by way of a majority vote of the Council taking care to provide appropriate continuity of service experience. It is comprised of a maximum of seven persons:
 - i. two past-presidents of the association nominated by the Past-Presidents Committee, through a process and criteria provided by the Council, of which:
 - a) one of whom is currently actively involved in one of the professions and who shall serve as the Chair; and
 - b) the other shall serve as the Vice-Chair;

draft by-law section 3(c) 12Feb2012v2.docx



Public Interest Issues Review Board

- Purpose to identify and assess public interest issues
- When appropriate, facilitate timely implementation of advocacy actions
- Considers issues of a public interest nature referred to it by one or more of:
 - Council
 - Members of public
 - APEGM members
 - Holders of a Cert. of Authorization
 - A stakeholder group
 - Gov't or Gov't Agency
 - Any other entity

APEGM Issue Review Board Composition

IRB Chair

IRB Vice-Chair



Two APEGM Past-Presidents appointed by APEGM Past-Presidents Committee
a) Chair: currently actively involved in one of the professions
b) Vice-Chair: other appointed Past-President

IRB Members (5)



i) APEGM member who is also member of Investigations Committee
ii) two (2) APEGM members chosen by majority vote at an AGM or Special Meeting
iii) a Non-APEGM member
iv) APEGM Registrar

IRB Alternates (2)



v) two (2) designated alternative APEGM members available for service should vacancy or abstention occur.



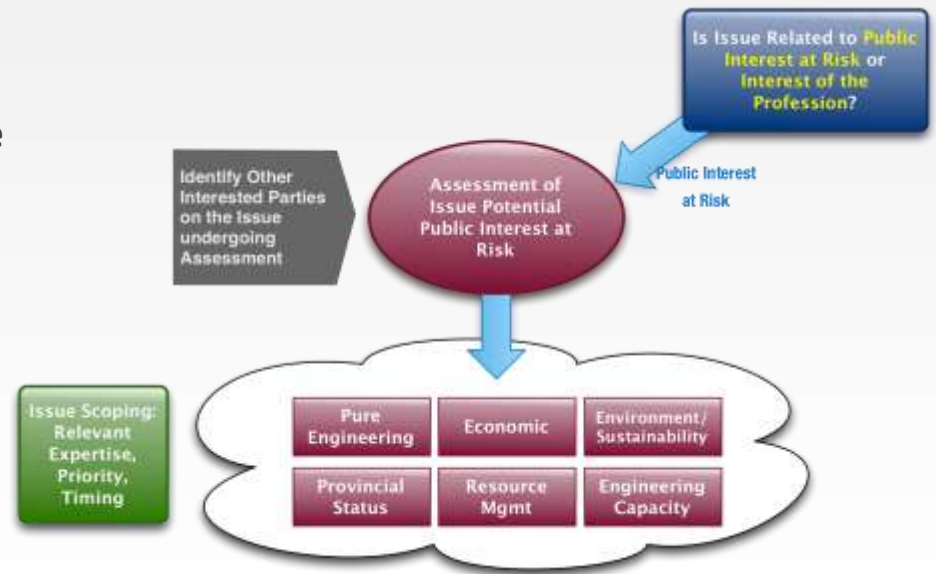
Key Consultation Considerations

- **Specific criteria refinement to define what would trigger Advocacy Investigation (i.e. consideration) and the factors that would guide a decision on whether to engage in advocacy. These include:**
 - a. **What qualifies as a “concern of the public at large”?**
“Public at large” - is the broader public and is distinguished from special interest groups, individual concerns, or local groups.
 - b. **What is the nature of a risk (both for go or no-go implementation) that would constitute a basis for an advocacy action by the association?**
 - c. **What would constitute “well-being” to justify action?**
“Well-being”- a positive condition of health, prosperity, physical or environmental welfare.
 - a. **What might constitute sufficient “inconvenience” to justify action?**
“Convenience” - a state of freedom from difficulty or trouble, the saving of expense, providing material advantage, or the simplifying of effort by means of an installation or device.
- **Association and its members require protection from litigation or disciplinary action, similar to “whistle-blower” policy.**



Key Consultation Considerations

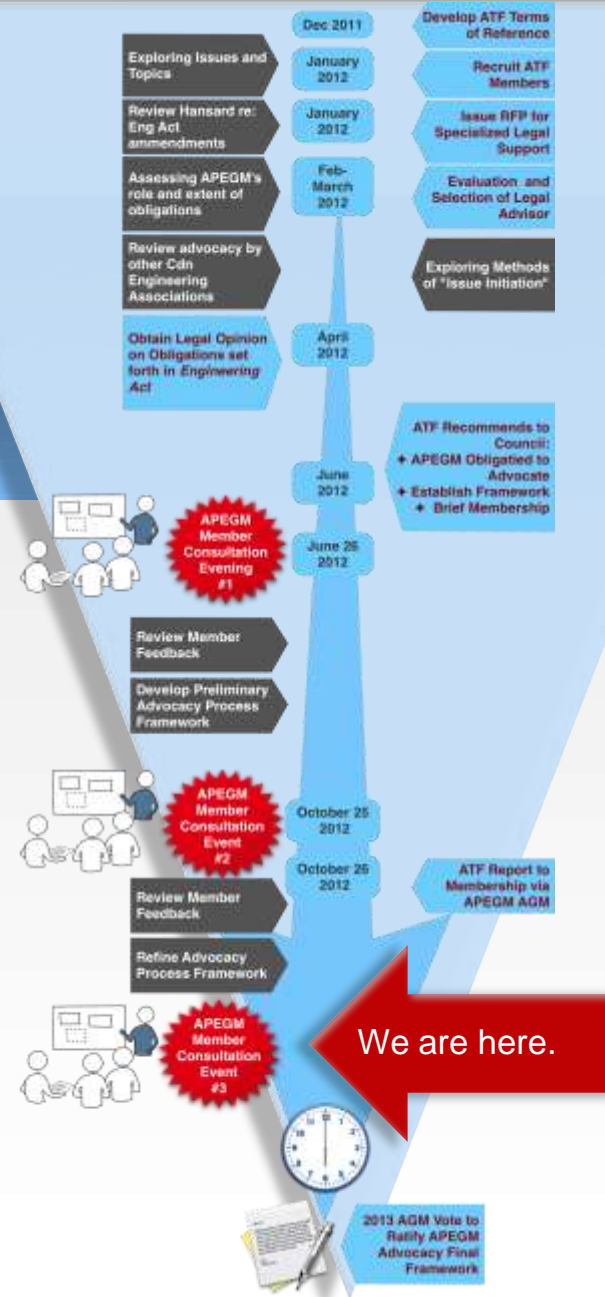
- Within the Issue Scoping portion Framework, the Public Interest Issues Review Board will have wisdom & experience to responsibly assess, so how do you, as APEGM members wish to guide them in:
 - Scoping?
 - Priority?
 - Timing?
- How would you, as APEGM members, action these experienced IRB members?





Next Steps

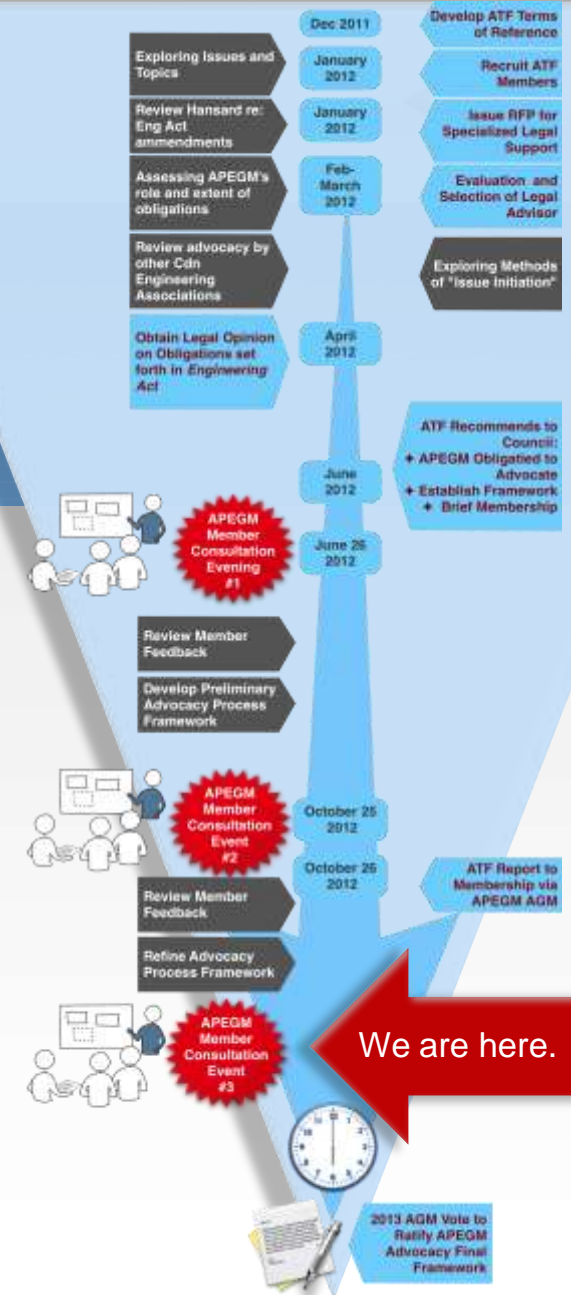
- Continued refinement of framework based on feedback from membership and Council
- Legislative Committee review of Draft Implementation Bylaw
- Integration of Member Feedback from Feb, 2013 APEGM Member Info Sessions
- By Spring, 2013 - Present Framework and Implementation Bylaw to Council
- Ratification at Oct. AGM 2013 by membership





Final Thoughts

- Framework is a work in progress to address an expanded obligation to advocate where public interest is at risk
- Issue is likely uncomfortable as it departs from previous assumption on nature of our obligation
- Obligation would expect us to take a more prominent role in the public realm on issues related to our expertise
 - Not traditionally our comfort zone
- An opportunity to establish Association and Members as Trusted Advisors to Gov't.





Thank You & Feedback

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