

Hamilton Region Conservation Authority

Minutes

Board of Directors Meeting

May 6, 2021

Minutes of the Board of Directors meeting held on Thursday, May 6, 2021, at 7.p.m., by videoconference and livestreamed via YouTube.

PRESENT: **Lloyd Ferguson – in the Chair**
 Dan Bowman **Brad Clark**
 Jim Cimba **Chad Collins**
 Susan Fielding **Tom Jackson**
 Cynthia Janzen **Santina Moccio**
 Esther Pauls **Maria Topalovic**

Margaret Reid – Foundation Chair

REGRETS: **None**

STAFF PRESENT: **Lisa Burnside, Grace Correia, Gord Costie, Matt Hall, Bruce Harschnitz, Neil McDougall, Scott Peck, Mike Stone, Jaime Tellier, and Nancy Watts**

OTHERS: **Chris Gibbons**
 Nancy Hurst
 Sergio Manchia
 Don McLean
 Stefan Savelli
 Alex Szabo

NOTE: For clarity, the minutes are reported in the original agenda order.

1. Call to Order

The Chair called the meeting to order and welcomed everyone present.

2. Declarations of Conflict of Interest

The Chair asked members to declare any conflicts under the Board's Governance Policy.

Brad Clark declared an interest to Item 4.2 respecting the Section 28 Hearing for 140 Garner Road East, due to his son's retail business interest with Sergio Manchia. He declared a pecuniary interest and recused himself from participation in the matter. He also addressed concerns raised that he did not declare an interest with regard to the natural heritage offsetting policy discussion paper discussed at previous meetings. Given the paper was a general discussion paper for the entire watershed it was assumed there were no conflicts as the paper pertained to a wide class of properties and property owners, however he has submitted a letter to the integrity commissioner requesting an advice memorandum regarding any conflicts on any watershed or city-wide policies such as the natural heritage policy, GRIDS2, or land needs assessments, etc.

3. Approval of Agenda

The Chair requested any additions or deletions to the agenda. Lisa Burnside advised of 65 items of correspondence to be added as items 6.7 a) through bj); two requests to delegate, Don McLean and Nancy Hurst, requiring endorsement from the Board of Directors to be added to the agenda, also with consideration to move the delegations to the next item on the agenda; and a request from the applicant to defer item 4.2, the section 28 hearing for 140 Garner Road East, to the June Board of Directors meeting.

BD12, 2877

**MOVED BY: Santina Moccio
SECONDED BY: Maria Topalovic**

THAT the agenda be approved, as amended.

CARRIED

BD12, 2878

**MOVED BY: Susan Fielding
SECONDED BY: Dan Bowman**

THAT the requests to delegate by Don McLean and Nancy Hurst be approved and the delegations be moved to item 4.0 on the agenda.

CARRIED

BD12, 2879

**MOVED BY: Esther Pauls
SECONDED BY: Santina Moccio
THAT the applicant request to defer the Section 28 Hearing for 140 Garner Road East to the June Board of Directors meeting be approved.**

Brad Clark abstained.

CARRIED

4. Section 28 Hearings

4.1. 24 Lakeshore Road, Stoney Creek

The Chair instructed the Board that it would conduct a hearing under Section 28 of the Conservation Authorities Act in respect of an application by Alex Szabo for development in a regulated area of Lake Ontario at 24 Lakeshore Road, City of Hamilton. The Chair requested a motion to sit as the hearing board.

BD12, 2880

**MOVED BY: Susan Fielding
SECONDED BY: Jim Cimba**

THAT the Board of Directors sit as the Hearing Board.

CARRIED

Mike Stone presented a summary of the staff report. Alex Szabo provided an overview of the proposed development and engagement with HCA on the permit application process to-date. He also noted past shoreline protection work on the property and the machinery access to the shoreline. He introduced his agent, Chris Gibbons of Dillon Consultants, to present on his behalf. Chris presented a summary of this assessment of the coastal hazards associated with Lake Ontario and as they relate to the proposed development.

The Chair thanked the hearing participants for their presentations and opened the opportunity for members' questions of the participants. Mike responded to questions regarding the application of HCA policies. He noted that existing development, undertaken historically and prior to HCA regulating natural hazards along the shoreline, can be within hazardous lands, making comparisons with other properties challenging. He also commented on the many variables for development scenarios and hazardous features on each property and that it is new development that triggers the application of the current policies.

Mike also commented on the challenge of implementing provincial policy and HCA's regulation balanced with providing some flexibility when development can be undertaken safely. He noted that HCA's Board approved policies have

served well to try to equitably address these requirements for a variety of development scenarios.

The policies for the 6 metre erosion access allowance requirement were discussed. Mike noted that staff have accepted less than 6 metres in the past on constrained sites but not less than 4 metres. He added that shared access with neighbours is typically required to be registered on title. He agreed that the Board has latitude to determine if the existing access is sufficient and is not being worsened by the proposed development. Mr. Szabo commented on an opinion with regard to the machinery access to the shoreline from the contractor who repaired the existing shoreline protection on the property.

Legal liability to HCA was discussed including long term horizons for natural hazards. Staff confirmed that the Board of Directors has approved applications through Section 28 hearings in recent years.

**BD12, 2881 MOVED BY: Santina Moccio
 SECONDED BY: Esther Pauls**

THAT Hearing Board moves *in camera*.

CARRIED

During the *in-camera* session, the hearing board deliberated on the application.

**BD12, 2882 MOVED BY: Dan Bowman
 SECONDED BY: Maria Topalovic**

THAT the Board of Directors moves out of *in camera*.

CARRIED

The meeting reconvened in open session and the following resolution was passed:

**BD12, 2883 MOVED BY: Jim Cimba
 SECONDED BY: Santina Moccio**

THAT the application by Alex Szabo for development of a second-storey addition to an existing single residence in a regulated area of

Lake Ontario at 24 Lakeshore Road, City of Hamilton (Stoney Creek), be approved subject to standard conditions and entrance into a save harmless agreement with the Hamilton Conservation Authority.

CARRIED

4.2. 140 Garner Road East, Ancaster

Under approval of the agenda, the subject hearing was deferred to the June 3, 2021 Board of Directors meeting at the request of the applicant.

5. Delegations

5.1. Don McLean

Don McLean requested to defer the delegation to the June Board of Directors meeting. The Chair advised that the current request to delegate would be transferred to the June agenda, no further action on the part of the delegate is needed.

5.2. Nancy Hurst

Nancy Hurst requested to defer the delegation to the June Board of Directors meeting. The Chair advised that the current request to delegate would be transferred to the June agenda, no further action on the part of the delegate is needed.

6. Consent Items for Applications, Minutes and Correspondence

The following consent items were adopted:

- 6.1. Applications – Development, Interference with Wetlands, Alterations to Shorelines and Watercourses
- 6.2. Approved February 11, 2021 Conservation Advisory Board Minutes – for receipt only
- 6.3. Approved March 18, 2021 Budget & Administration Committee Minutes – for receipt only
- 6.4. Approval of Board of Directors Minutes – April 1, 2021

- 6.5. Email from Frank Shaw re. Hamilton Conservation Authority – Annual Report & Success in 2020, dated April 6, 2021
- 6.6. Letter from the Corporation of the Town of Fort Erie to the Honourable Doug Ford, Premier of Ontario, re. Province Investigating and Updating Source Water Protection Legislation, dated April 27, 2021
- 6.7. 65 Items of correspondence respecting Section 28 hearing for 140 Garner Road East, Ancaster, labelled a) to bj).

7. Member Briefing

There was none.

8. Business Arising from the Minutes

8.1. Conservation Ontario Governance Accountability and Transparency Initiative

Lisa Burnside presented a summary of the report and answered the members' questions. The Chair inquired about the status of HCA's application for exceptions to the Chair and Vice Chair provisions of the Conservation Authorities Act. Lisa advised that staff have submitted a follow up request to the Ministry of the Environment, Conservation and Parks; they have acknowledged receipt of our request and advised that it is currently under review. She has also contacted MPP Donna Skelly to understand if she may assist with expediting the review.

BD12, 2884

**MOVED BY: Brad Clark
SECONDED BY: Maria Topalovic**

WHEREAS the provincial government has passed legislative amendments related to the governance of Conservation Authorities;

AND WHEREAS Conservation Authorities remain committed to fulfilling accountable and transparent governance;

THEREFORE, BE IT RESOLVED

THAT the Board of Directors approve the following:

THAT the three key actions developed by the Conservation Ontario Steering Committee be endorsed to:

- 1. Update the Conservation Authority Administrative By-laws**
- 2. Report proactively on priorities**
- 3. Promote/demonstrate results**

AND THAT Staff be directed to work with Conservation Ontario to implement these actions and to identify additional improvements and best management practices.

CARRIED

9. Reports from Budget & Administration Committee, Conservation Advisory Board, and the Foundation

**9.1. Conservation Advisory Board – April 8, 2021
(Recommendations)**

9.1.1. CA 2109 Christie Lake Dam & Valens Lake Dam Public Safety Risk Assessments and Valens Lake Dam Safety Review

Maria Topalovic provided a summary of the report indicating there was a good discussion on the recommendations at the Conservation Advisory Board meeting.

**BD12, 2285 MOVED BY: Maria Topalovic
 SECONDED BY: Dan Bowman**

THAT the Conservation Advisory Board recommends to the Board of Directors:

THAT the Public Safety Risk Assessments for Christie Lake Dam and Valens Lake Dam and the Dam Safety Review for Valens Lake Dam be received;

THAT the recommended public safety risk reduction measures contained within these reports be approved by the Board of Directors for implementation within appropriate time frames determined by HCA staff;

THAT the Board of Directors approve the risk tolerance level (Moderate) that was adopted in the Public Safety Risk Assessments;

THAT the Board of Directors approve the implementation of recommended public safety risk reduction measures to reduce all identified High-risk hazards to at least Medium risk; and,

THAT the recommended dam safety remedial measures contained within the Valens Lake Dam Safety Assessment be approved by the Board of Directors for implementation within the suggested time frames.

CARRIED

**9.2. Budget and Administration Committee – April 15, 2021
(Recommendations)**

9.2.1. BA 2105 Report by the Auditors and Twelve-month Financial Results Audited Financial Statements

Santina Moccio provided a summary of the report, highlighting the audit resulted in a clean and unqualified opinion from the auditors.

BD12, 2886 **MOVED BY: Santina Moccio
SECONDED BY: Susan Fielding**

THAT the Budget & Administration Committee recommends to the Board of Directors:

THAT the Report by the Auditors be approved; and further

THAT the 2020 Twelve-Month Audited Financial Statements for Hamilton Conservation Authority and Confederation Beach Park be approved.

CARRIED

9.2.2. BA 2106 Reserve Funds and Balances as of December 31, 2020

Santina Moccio presented the report, noting HCA is fortunate to be in a surplus position coming out of 2020 due to strong visitation once the Conservation Areas

reopened. A new reserve account for emergency/unanticipated capital needs was created. It was recommended that \$650K of the surplus be put toward this new reserve fund, with the remaining \$2M allocated for the Saltfleet CA wetland project.

BD12, 2887

**MOVED BY: Santina Moccio
SECONDED BY: Maria Topalovic**

THAT the Budget & Administration Committee recommends to the Board of Directors:

THAT it provide approval of allocating the 2020 operating surplus primarily to the East Mountain (Saltfleet) wetland project while also establishing a new reserve available to respond to unanticipated capital works projects and opportunities unanticipated at time of Budget setting.

CARRIED

9.3. Foundation Chairman's Remarks

Grace Correia presented the following on behalf of Margaret Reid:

The Foundation received a total of **\$9,918** in donations from April 1 to 30, 2021. They break down as follows:

- \$7,620 for Environmental Education
- \$980 for the Area of Greatest Need Fund
- \$575 for Tree and Shrub planting
- The remaining \$743 was donated to the Dundas Valley CA Fund, the Dundas Valley Trails Fund, Westfield Heritage Village, the Hamilton Watershed Stewardship Program and Land Securement

This brings our fiscal year-to-date (Dec 2020 to Apr 2021) fundraising total to **\$91,919**. This total is still somewhat below the same period last year, but the gap is starting to close and we are hoping to surpass last year's numbers by the summer.

The Foundation will be holding its Annual General Meeting of Members next Monday, May 10th via Zoom Videoconference. We will be presenting new Directors for election to our Board, reviewing our Financial Statements, appointing our auditors and reviewing Board actions for the past year.

Dan Bowman asked if the three new directors are up for election to the Board or if they are already in place as directors. Grace responded that they have been appointed to the Board, but that that will be ratified at the AGM.

BD12, 2888

**MOVED BY: Santina Moccio
SECONDED BY: Cynthia Janzen**

THAT the Foundation Chairman's Report be received as information.

CARRIED

10. Other Staff Reports/Memoranda

10.1. Spencer Gorge Security Costs Tender Report

Bruce Harschnitz presented a summary of the report, recommending the contract be awarded to Neptune Security Services, the lowest bid.

BD12, 2889

**MOVED BY: Susan Fielding
SECONDED BY: Esther Pauls**

THAT the proposal for Security services during the 2021 Spencer Gorge Reservation Period be awarded to Neptune Security Services Inc.

CARRIED

10.2. Designation of City of Hamilton Municipal Law Enforcement Officers as Provincial Offences Officers

Gord Costie presented a summary of the report and answered the members' questions.

BD12, 2890

**MOVED BY: Brad Clark
SECONDED BY: Cynthia Janzen**

WHEREAS HCA has limited human resources to designate staff as Provincial Offices Officers to enforce infractions to the *Conservation Authorities Act* and the *Trespass to Property Act*;

WHEREAS HCA is experienced with working with other enforcements agencies such as Hamilton Police Services, Ministry of Natural Resources and Forestry, and

municipal parking bylaw and welcome working closer with Municipal Law Enforcement Officers where the two organizations can benefit in tourism and enforcement consistency across the City;

WHEREAS the City of Hamilton council endorsed a motion at its April 14, 2021 council meeting (attached as Appendix A) for the two organizations to formalize appointment of city staff as Provincial Offences Officers to enforce offences and regulations under the *Conservation Authorities Act*, in addition to the *Trespass to Property Act* when carrying out their duties on property under the jurisdiction of the Hamilton Conservation Authority;

THEREFORE, BE IT RESOLVED

THAT the HCA Board of Directors authorize City of Hamilton Municipal Law Enforcement Officers (MLEO) to enforce violations under the *Trespass to Property Act*, on premises owned or occupied by the HCA, primarily to educate the public on the HCA's behalf, but also, where appropriate, to issue verbal or written warnings to individuals who are caught engaging in prohibited activities or entering prohibited areas; and further

THAT HCA staff be directed to undertake outreach to the Minister of the Environment, Conservation and Parks to obtain required approvals or undertake any process to appoint City of Hamilton Municipal Law Enforcement Officers (MLEO) pursuant to Subsection 28 (1) (d) of the *Conservation Authorities Act*, to grant them the authority to issue tickets under the *Conservation Authorities Act* and the *Trespass to Property Act*

CARRIED

10.3. Watershed Conditions Report

Scott Peck presented a summary of the memorandum, highlighting that conditions are similar to last month. Water levels are low, approaching the long-term average. More data over a longer period of time is required to determine if we are in a Level 1 low water condition. Staff continue to monitor the conditions. Lake Ontario water levels are 25cm below average. Reservoirs are operating as they should be,

Valens has just begun to fill and the winter gates at Christie have been removed; we are moving toward summer operating levels.

BD12, 2891

**MOVED BY: Dan Bowman
SECONDED BY: Jim Cimba**

THAT the memorandum entitled Watershed Conditions Report be received as information.

CARRIED

10.4. Conservation Areas Experiences Update

Gord Costie provided a verbal update advising that all Conservation Areas are open and operating, with the exception of nightly camping at Valens Lake and Fifty Point and recreational boating at Fifty Point. The Spencer Gorge Reservation System has started off slowly due to recent cool and rainy weather. Staff anticipate reservations will increase as the weather improves and in light of the coming long weekend.

The Chair inquired about traffic at the other waterfall areas. Gord advised he has received some community feedback for Sherman Falls regarding weekday parking enforcement. Contact information for City of Hamilton parking by-law enforcement has been shared. Tiffany Falls and Devil's Punchbowl visitation and parking have been manageable.

BD12, 2892

**MOVED BY: Cynthia Janzen
SECONDED BY: Susan Fielding**

THAT the verbal update on the Conservation Areas Experiences be received as information.

CARRIED

11. New Business

There was none.

12. In-Camera Items

BD12, 2893

**MOVED BY: Jim Cimba
SECONDED BY: Santana Moccio**

THAT the Board of Directors moves *in camera* for matters of law, personnel and property.

CARRIED

During the *in camera* session, one legal matter and one property matter were discussed.

12.1. Confidential Verbal Update – BD/May 01-2021

Legal Matter

Santina Moccio provided verbal update regarding a legal matter and answered the members' questions.

12.2. Confidential Report – BD/May 02-2021

Property Matter

Lisa Burnside provided a summary of the report regarding a property matter and answered the members' questions. The following motion was made public to be the sent to the City of Hamilton:

BD12, 2894

**MOVED BY: Brad Clark
SECONDED BY: Jim Cimba**

WHEREAS the City of Hamilton owned property identified as Hemming Park, which surrounds and extends north of the Lion's Outdoor Pool facility and property at 263 Jerseyville Road West, Ancaster (Subject Property) contains historically well used footpaths that have been utilized by the community for decades to access trails in the adjacent Dundas Valley Conservation area which is owned by HCA;

WHEREAS the Subject Property has been identified as a potential acquisition in the HCA's 2020 Land Acquisition Strategy;

AND WHEREAS the site comprises approximately 70 acres of forested land that is part of the Dundas Valley Environmentally Significant Area, is identified as Significant Woodland, and is zoned Conservation/Hazard Land (P6).

Therefore be it resolved:

THAT the Board of Directors formally endorses the HCA staff interest in acquiring from the City of Hamilton the approximate 28.3 hectare (70-acre) parcel as generally identified on Schedule 'A' (attached) at a nominal sum of \$2;

THAT staff be authorized and directed to make a written request to the City of Hamilton for the transfer of the Hemming Park (as generally defined in Schedule 'A' attached) lands to Hamilton Conservation Authority for a nominal sum and any applicable fees and closing costs; and,

THAT staff be authorized and directed to negotiate and finalize any agreements with the City of Hamilton to affect a transfer of the Hemming Park Lands defined herein, on such terms and conditions as deemed appropriate by the CAO.

CARRIED

BD12, 2895

**MOVED BY: Susan Fielding
SECONDED BY: Santina Moccio**

THAT the Board of Directors moves out of *in camera*.

CARRIED

13. Next Meeting

The next meeting of the Board of Directors will be held on Thursday, June 3, 2021 at 7:00 p.m.

14. Adjournment

On motion, the meeting adjourned.



Neil McDougall
Secretary-Treasurer