



# Board of Directors Meeting Agenda

Thursday, October 5, 2023

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# Board of Directors Meeting

Thursday, October 5, 2023 at 6:00 p.m.

Hamilton Conservation Authority is now conducting meetings in a hybrid format via an in-person and Webex platform.

All hybrid meetings can be viewed live on HCA's You Tube Channel:  
<https://www.youtube.com/user/HamiltonConservation>

1. **Call to Order** – Brad Clark
2. **Declarations of Conflict of Interest**
3. **Approval of Agenda**
4. **Delegations**
5. **Consent Items for Applications, Minutes and Correspondence**
  - 5.1. Applications – Development, Interference with Wetlands, Alterations to Shorelines and Watercourses Page 1
  - 5.2. Approval of Board of Directors Minutes – September 7, 2023 Page 5
  - 5.3. Approved August 17, 2023 Budget & Administration Committee Minutes – for receipt only Page 19
6. **Foundation Briefing** Foundation Vice Chair – Graham Reid
7. **Member Briefing**
8. **Business Arising from the Minutes**
  - 8.1. HCA Quarterly Report #6 to MNRF – Ontario Regulation 687/21 – Lisa Burnside Page 25
9. **Reports from Budget & Administration Committee and Conservation Advisory Board**
  - 9.1. Budget & Administration Committee – September 23, 2023 – Susan Fielding (Recommendations)

9.1.1. BA 2321 Draft 2024 Operating & Capital Budgets  
9.1.2. BA 2322 Updates to HCA Administrative By-law

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## **10. Other Staff Reports/Memorandums**

10.1. Watershed Conditions Report – Jonathan Bastien Page 117  
10.2. Conservation Areas Experiences Update – Bruce Harschnitz Page 121

## **11. New Business**

## **12. In-Camera Items**

12.1. Confidential Report - BD/Oct 01-2023  
(Legal Matter)

**13. Next Meeting – Thursday, November 2, 2023 at 6:00 p.m.**

**14. Adjournment**



# Report

**TO:** Board of Directors

**FROM:** Lisa Burnside, Chief Administrative Officer (CAO)

**RECOMMENDED BY:** T. Scott Peck, MCIP, RPP, Deputy Chief Administrative Officer/Director, Watershed Management Services

**PREPARED BY:** Mike Stone, MCIP, RPP, Manager, Watershed Planning, Stewardship & Ecological Services

**DATE:** October 5, 2023

**RE:** Permit Applications Summary Report  
Development, Interference with Wetlands and Alterations  
to Shorelines and Watercourses Regulation 161/06

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HCA Regulation applications approved by staff between the dates of August 26, 2023 and September 22, 2023 are summarized in the following Permit Applications Summary Report (PASR-9/23).

## RECOMMENDATION

THAT the Board of Directors receive this Permit Application Summary Report PASR-9/23 as information.

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**HAMILTON REGION CONSERVATION AUTHORITY**

DEVELOPMENT, INTERFERENCE WITH WETLANDS, AND ALTERATIONS TO SHORELINES AND WATERCOURSES APPLICATIONS

September 22, 2023

Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Applications Report to the Board of Directors of the Hamilton Region Conservation Authority, October 05, 2023

The proposed works are subject to Ontario Regulation 161/06, and in particular Section 2, Subsection (1).

**PERMIT APPLICATION SUMMARY REPORT PASR 9/23**

File Number	Date Received	Date Permit Issued	Review Days	Applicant Name	Location	Application Description	Recommendation / Conditions
SC/F,C,A/23/70	22-Aug-23	29-Aug-23	5		29 Lochside Dr Lot 2, Concession BF Stoney Creek	Retrofit of an existing shoreline retaining wall in a regulated area of the Lake Ontario shoreline.	Approved subject to standard conditions.
SC/F,C/22/70	30-Sep-22	01-Sep-23	54		759 Green Mountain Rd E Lot 11, Concession 5 Stoney Creek	Construction of a new dwelling, driveway, septic system and associated grading in a regulated area of Stoney Creek and Forty Mile Creek.	Approved subject to standard conditions.
H/F,C,A/23/65	05-Jul-23	13-Sep-23	36	1	190 Glover Rd Lot 15, Concession 1 Hamilton	Alteration of a watercourse, placement of fill and grading, and construction of an industrial warehouse, in a regulated area of Hannon Creek	Approved subject to standard conditions.

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## Hamilton Region Conservation Authority

### Minutes

#### Board of Directors Meeting

**September 7, 2023**

Minutes of the Board of Directors meeting held on Thursday, September 7, 2023 at 6:00 p.m., at the HCA main office, 838 Mineral Springs Road, in Ancaster, and livestreamed on YouTube.

**PRESENT:**

<b>Brad Clark – in the Chair</b>	<b>Craig Cassar</b>
<b>Lisa DiCesare</b>	<b>Susan Fielding</b>
<b>Brian McHattie</b>	<b>Mike Spadafora (Webex)</b>
<b>Wayne Terryberry</b>	<b>Alex Wilson (Webex)</b>

**Jennifer Stebbing – Foundation Chair (Webex)**

**REGRETS:** **Jeff Beattie, Maureen Wilson, Matt Francis**

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

**OTHERS:** **None**

The Chair opened the meeting with remarks on the passing of the Honorable Justice Thomas A. Beckett. Among a lifetime of achievements, Mr. Beckett was instrumental in creating the Spencer Creek Conservation Authority in 1958. He was our first Vice-Chairman of the Board of Directors, and later became Chairman in 1964. In 1966 he convinced the Ontario Government to amend the Conservation Authorities Act to expand the Spencer Creek Conservation Authority to include the City of Hamilton and became the first Chairman of the newly named Hamilton Region Conservation Authority. He continued to serve as Chairman until 1971.

His vigorous and determined leadership of the Conservation Authority set the pace for an expansive land acquisition program in the Hamilton area. Through his efforts many of the Authority's major conservation areas were created, most notable was his role in the preservation of the Dundas Valley in the 1960's. HCA's land holdings total nearly 11,000 acres today.

## 1. Call to Order

The Chair called the meeting to order and welcomed everyone present. HCA's Indigenous Land Acknowledgement was read.

## 2. Declarations of Conflict of Interest

The Chair asked members to declare any conflicts under the Board's Governance Policy. Brad Clark declared a conflict of interest specific to item 12.4 relating to 140 Garner Road East, as his son has a retail business interest with the principal planner for the appeal for the development application.

## 3. Approval of Agenda

The Chair requested any additions or deletions to the agenda. Lisa Burnside advised of two additional items for the agenda; one item of correspondence from the Ministry of Municipal Affairs and Housing to Clerks, CAOs, and Conservation Authority Administrators regarding Proposal to return lands in Ajax to the Greenbelt, to be added as item 5.4 under consent items, and a motion from member Brian McHattie regarding a request to the Province to reverse recent changes to the Conservation Authorities Act and the Ontario Wetland Evaluation System, to be added as item 11.1 under New Business.

**BD12, 3233**

**MOVED BY: Brian McHattie**

**SECONDED BY: Craig Cassar**

**THAT the agenda be approved, as amended.**

**CARRIED**

## 4. Delegations

There were none.

## 5. Consent Items for Applications, Minutes and Correspondence

The following consent items for adoption:

5.1. Applications – Development, Interference with Wetlands, Alterations to Shorelines and Watercourses

5.2. Approval of Board of Directors Minutes – August 3, 2023

- 5.3. Approved June 8, 2023 Conservation Advisory Board Minutes  
– for receipt only
- 5.4. Letter from Ministry of Municipal Affairs and Housing to Clerks, CAOs, and Conservation Authority Administrators regarding Proposal to return lands in Ajax to the Greenbelt, dated September 6, 2023

In response to a question from member Brian McHattie, staff provided clarification on permit applications for pipelines maintenance. There was a further question regarding a proposed liquid natural gas (LNG) pipeline for Arcelor Mittal in the Centennial Parkway area. HCA has been circulated the preferred routes for the proposed pipeline and staff have provided comments at this preliminary stage in the project. Following discussion, staff were provided direction to bring forward information on the proposed pipeline to a future meeting.

**BD12, 3234**

**MOVED BY: Brian McHattie  
SECONDED BY: Lisa DiCesare**

**THAT staff bring forward an information report on the upcoming Arcelor Mittal pipeline.**

**CARRIED**

Related to item 5.2, Craig Cassar noted a correction for the minutes of the Board of Directors meeting for August 3, 2023, noting he was listed as being present when he was unable to attend and had sent regrets.

## **6. Foundation Briefing**

Jennifer Stebbing reported on the following:

The Foundation received a total of **\$54,645** in new donations from July 1<sup>st</sup> to August 31<sup>th</sup> 2023. They break down as follows:

- **\$24,302** to the Area of Greatest Need Fund
- **\$12,100** to our “Step into Nature” Environmental Education Fund
- **\$14,631** for Trail Maintenance

The remaining **\$3,612** was directed to various projects, including Tribute Benches, Westfield Heritage Village, and Land Securement.

This brings their fiscal year-to-date fundraising total to **\$756,273**, which is 91% of the goal.

Jennifer also share that the Friends of Westfield are holding their Westfield Express 2023 event on Saturday, September 16, in support of the Westfield Locomotive restoration. Tickets can be obtained by visiting the Friends' website at [friendsofwestfield.ca](http://friendsofwestfield.ca)

**BD12, 3235**

**MOVED BY: Craig Cassar  
SECONDED BY: Susan Fielding**

**THAT the Foundation Briefing be received.**

**CARRIED**

## **7. Member Briefing**

There was none.

## **8. Business Arising from the Minutes**

There was none.

## **9. Reports from Budget & Administration Committee and Conservation Advisory Board**

9.1. Conservation Advisory Board – August 10, 2023  
(Recommendations)

9.1.1. CA 2323 [Oak Wilt Mapping & Work Plan](#)

Wayne Terryberry, Chair of the Conservation Advisory Board provided a summary of the staff report.

**BD12, 3236**

**MOVED BY: Wayne Terryberry  
SECONDED BY: Lisa DiCesare**

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

**THAT the Oak Wilt Mapping and Work Plan as detailed in this report be approved, and further;**

**THAT the Oak Wilt Mapping and Work Plan be incorporated into the HCA's Invasive Species Strategy update.**

**CARRIED**9.1.2. CA 2324     HCA Trail Guide Mobile App Project Update

Wayne Terryberry provided a summary of the staff report. There was discussion regarding the ability to expand the application to include citizen science capabilities in the future. It was noted that the application currently can only provide information to Conservation Area users. Consideration for additional functionality may be possible in the future.

**BD12, 3237            MOVED BY: Wayne Terryberry  
                              SECONDED BY: Brian McHattie**

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

**THAT the Trail Guide Mobile App Project Update be received and further;**

**THAT staff continue to expand the App to other major HCA conservation areas as part of operational work plans.**

**CARRIED**9.2. Budget & Administration Committee – August 17, 2023  
(Recommendations)9.2.1. BA 2317     2024 Budget Assumptions & Process

Susan Fielding, Chair of the Budget & Administration Committee, introduced the report. Scott Fleming presented a summary of the report and answered the members' questions.

The assumption for revenues associated with managing Wild Waterworks were discussed. HCA receives 15% of expenses as a management fee for Confederation Beach Park, which includes Wild Waterworks. Lisa Burnside spoke to challenges with operating the outdoor facility which is aging and there are a number of technical safety and public health inspections the facility must pass before opening each summer. The budget is based on the assumption that the facility will pass all inspections and that HCA will be able to hire all necessary staff to operate the facility, including lifeguards.

**BD12, 3238****MOVED BY: Susan Fielding  
SECONDED BY: Brian McHattie****THAT the Budget & Administration recommends to the Board of Directors:****THAT this report be received for information and further;****THAT the budget assumptions for the 2024 Operating and Capital Budgets as identified be approved for use in the development of the 2024 budgets and further;****THAT the 2024 draft budget be reviewed by the Budget and Administration Committee at their September 2023 meeting and brought to the Board of Directors at the October 2023 meeting for approval; and further.****THAT the City of Hamilton and Township of Puslinch be advised 30 days in advance of the of the final budget vote in accordance with the *Conservation Authorities Act* and Ontario Regulation 402/22.****CARRIED**9.2.2. BA 2318     2024 Fee Schedule

Susan Fielding provided a summary of the staff report. Lisa Burnside and Scott Fleming answered the members' questions.

There was discussion and comment amongst members in regard to the substantial reduction in provincial funding contributions to Conservation Authority budgets since the 1990's and development planning application reviews due to recent legislative changes terminating Conservation Authorities' technical commenting role on natural heritage matters. Lisa Burnside advised that staff will once again utilize Watson and Associates in 2024 to review our planning and permit review fees again and how they are benchmarked, to ensure we fall within our Board approved cost recovery targets.

**BD12, 3239****MOVED BY: Susan Fielding  
SECONDED BY: Craig Cassar****THAT the Budget & Administration Committee recommends to the Board of Directors:**

**THAT effective January 1, 2024, HCA staff be directed to implement the revised fee schedule contained in this report and further;**

**THAT HCA provide an additional 34 annual vehicle passes as part of the ongoing agreement with the Hamilton Public Library System.**

**CARRIED**

Mike Spadafora left the meeting.

## **10. Other Staff Reports/Memoranda**

### **10.1. City of Hamilton Natural Areas Inventory**

Scott Peck presented a summary of the report and answered the members' questions. HCA's leadership in the initial and continued updating of the Natural Areas Inventory was acknowledged.

**BD12, 3240**

**MOVED BY: Brian McHattie  
SECONDED BY: Alex Wilson**

**THAT the Board of Directors endorse the development of a Natural Areas Inventory;**

**THAT staff be directed to continue to work with the City of Hamilton and Hamilton Naturalist Club towards the development of a Terms of Reference to guide the development of a Natural Areas Inventory; and,**

**THAT staff be directed to provide a Draft Terms of Reference to the HCA Board of Directors for consideration and approval.**

**CARRIED**

### **10.2. Watershed Conditions Report**

Scott Peck presented a summary of the memorandum and answered the members questions. The role of HCA watershed monitoring in contributing to infrastructure stormwater management was discussed. Monitoring guides stormwater management planning and design by providing an understanding of how storms impact water quantity and quality. HCA has good working relationships with the City of Hamilton

and Hamilton Harbour Remedial Action Plan partners to share data to best understand our watershed and how our environment is impacted by climate change.

**BD12, 3241**

**MOVED BY: Craig Cassar  
SECONDED BY: Wayne Terryberry**

**THAT the memorandum entitled Watershed Conditions Report be received.**

**CARRIED**

10.3. Conservation Areas Experiences Update

Gord Costie presented a summary of the memorandum.

**BD12, 3242**

**MOVED BY: Brian McHattie  
SECONDED BY: Lisa DiCesare**

**THAT the memorandum entitled Conservation Areas Experiences Update be received.**

**CARRIED**

**11. New Business**

11.1. Notice of Motion re. Changes to the Conservation Authorities Act and Ontario Wetland Evaluation System

Brian McHattie read his notice of motion which was added under approval of the agenda. He advised the Board of his concern with the recent reports from the Auditor General and Integrity Commissioner regarding the Greenbelt, significant changes to wetland evaluation and Conservation Authorities to limit our work and the need to respond with strong direction to have these changes reversed.

Lisa Burnside was asked to provide a history of HCA's advocacy to-date on the subject. Lisa provided an overview of staff efforts to respond to the proposed legislative changes, including commenting on a number of Environmental Registry of Ontario postings, submitting comments to the Standing Committee on Bill 23, submitting Board approved position points to our two participating municipalities to take into account a watershed based approach to balance growth with the environment and public health and safety and requested continued collaboration with the Province on Bill 23, coordinating comments with other CAs to our umbrella organization, Conservation Ontario, for their advocacy to the Province and publication of a related Op-Ed in the Hamilton Spectator.

Board members discussed government relations and advocating for the Conservation Authority and Chair Clark advised that all the above advocacy was discussed internally and any action was directed through the Board.

A friendly amendment to clause d) in the motion was adopted to add circulation of the approved Board motion to local Members of Provincial Parliament.

**BD12, 3243**

**MOVED: Brian McHattie  
SECONDED: Craig Cassar**

**Whereas over the past several years the Provincial Government has amended the Conservation Authorities Act to reduce the effectiveness of Conservation Authorities in protecting natural heritage (i.e., Bill 23, and;**

**Whereas, the Provincially Significant Wetland Evaluation System has also been changed leading Conservation Ontario to estimate that over 80% of the wetlands that currently receive protection will lose this status, and;**

**Whereas, legislative changes implemented January 1, 2023 to Conservation Authority roles related to Natural Heritage and review under prescribed Acts as well changes to the Ontario Wetland Evaluation System, as well as remaining legislative changes regarding Conservation authority development regulations that have not yet come into effect, if implemented, would have serious unintended consequences, and;**

**Whereas recent reports by the Provincial Auditor-General and the Integrity Commissioner have raised serious concerns on the bias and lack of transparency and fairness in the Greenbelt removals, drawing conclusions that the changes unfairly benefitted private landowners, and;**

**Whereas, the role of Conservation Authorities in protecting natural heritage and mitigating/ adapting for climate change has never been more important in light of the 6<sup>th</sup> Mass Extinction in biodiversity and the increasing possibility that Canada and the world will not meet the Paris Accord greenhouse gas target limiting temperature rise to less than 1.5 degrees Celsius, and;**

**Whereas the Hamilton Conservation Authority's ability to provide comments on natural heritage to the City of Hamilton is critical and must be restored.**

**Therefore:**

**That the Hamilton Conservation Authority Board of Directors respectfully request that:**

- a) the Province of Ontario reverse recent changes to the Conservation Authorities Act and Provincially Significant Wetland Evaluation System that adversely affect natural heritage protection, and;**
- b) the Province of Ontario's Auditor General undertake an investigation into the processes that were followed to make the above policy decisions, and whether this decision-making structure and its outcomes provide Ontarians with value for money, and;**
- c) That the Hamilton Conservation Authority Board requests that City of Hamilton Council provide similar direction to the Province of Ontario and;**
- d) That a copy of this Hamilton Conservation Authority Board of Director's motion be shared with local Members of Provincial Parliament, Conservation Ontario and all conservation authorities in Ontario.**

**CARRIED**

Brad Clark reiterated his conflict of interest for item 12.4 and indicated he would leave the in-camera portion of the meeting at the appropriate time.

## **12. In-Camera Items**

**BD12, 3244**

**MOVED BY: Lisa DiCesare  
SECONDED BY: Susan Fielding**

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

**CARRIED**



Lisa Burnside presented a summary of the report and answered the members' questions.

**BD12, 3247**

**MOVED BY: Wayne Terryberry  
SECONDED BY: Brian McHattie**

**THAT the confidential report entitled BD/Sep 02-2023 be received for information.**

**THAT Report BD/Sept 01-2023 remain in camera.**

**CARRIED**

Brad Clark left the meeting.

**12.4. Confidential Report – BD/Sep 03-2023 (Scott Peck)  
(Legal Matter)**

Scott Peck presented a summary of the report and answered the members' questions.

**BD12, 3248**

**MOVED BY: Brian McHattie  
SECONDED BY: Wayne Terryberry**

**THAT the Board of Directors approve the request for an adjournment related to the October 2, 2023 OLT Hearing related to permit Application No. A/F,C,A/21/14 – 140 Garner Road;**

**THAT the HCA request that there be strict timelines imposed for the delivery of ONE Properties Inc. materials to ensure a future Hearing date can be determined;**

**THAT the HCA advise ONE Properties Inc. that the consent for an adjournment should not be interpreted to waive the HCA's right to seek costs as a result of the adjournment in the future should it be, in our view, appropriate to do so;**

**THAT this approval motion come out of camera and further;**

**THAT Confidential Report BD/Sep 03-2023 Re: Ontario Land Tribunal Hearing Case No.: OLT-21-001567 – 140**

**Garner Road, City of Hamilton (Ancaster), HCA Permit Application No. A/F,C,A/21/15 remain in camera.**

**CARRIED**

**BD12, 3249**

**MOVED BY: Craig Cassar  
SECONDED BY: Brian McHattie**

**THAT the Board of Directors moves out of closed session.**

**CARRIED**

Resolutions **BD12, 3246** and **BD12, 3248**, regarding Agreement for Services with the Township of Puslinch and 140 Garner Road – Ontario Land Tribunal (OLT) Hearing Adjournment Request respectively, were brought out of closed session.

### **13. Next Meeting**

The next meeting of the Board of Directors will be held on Thursday, October 5, 2023 at 6:00 p.m. at the HCA Main Administration Office – Woodend Auditorium, 838 Mineral Springs Road, Ancaster, Ontario.

### **14. Adjournment**

On motion, the meeting adjourned.

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Scott Fleming  
Secretary-Treasurer

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# Hamilton Conservation Authority

## Minutes

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### Budget & Administration Committee

**August 17, 2023**

Minutes of the Budget & Administration Committee meeting held on Thursday, August 17, 2023 at 6:00 p.m., at the HCA main office, 838 Mineral Springs Road, in Ancaster, and livestreamed on YouTube.

**Present:** Susan Fielding, in the Chair  
Alex Wilson  
Maureen Wilson

**Regrets:** Jeff Beattie, Brad Clark

**Staff Present:** Lisa Burnside, Gord Costie, Scott Fleming, Mike Stone, Jaime Tellier

**Others Present:** None

#### 1. Welcome

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 HCA Administrative By-law. There were none.

#### 3. Approval of Agenda

The Chair requested any additions or deletions to the agenda. There were none.

**BA 2315**

**MOVED BY: Alex Wilson**  
**SECONDED BY: Maureen Wilson**

**THAT the agenda be approved.**

**CARRIED**

**4. Delegations**

There were none.

**5. Election of Vice Chair**

Susan Fielding reviewed the election procedures. She then called for nominations for the 2023 Vice-Chair of the Budget & Administration Committee.

**Nominated: Alex Wilson**

**By – Mover: Maureen Wilson**

Susan called for nominations twice more. Having no further nominations, she asked Alex Wilson if they accept their nomination. The election for the office of Budget & Administration Committee Vice-Chair for 2023 was then closed and the position acclaimed.

**6. Consent Items**

The following consent items were adopted:

6.1. Approval of Budget & Administration Committee Minutes – April 20, 2023

6.2. 6 Month WSIB Injury Statistics

**7. Business Arising from the Minutes**

There was none.

**8. Staff Reports/Memoranda**

8.1. 1<sup>st</sup> 6 Months Financial Results – Operating

Scott Fleming presented a summary of the memorandum and answered the members' questions.

## 8.2. 1<sup>st</sup> 6 Months Financial Results – Capital & Major Maintenance

Scott Fleming presented a summary of the memorandum.

## 8.3. 1<sup>st</sup> Quarter Vendor Report

Scott Fleming presented the vendor report.

## 8.4. 2<sup>nd</sup> Quarter Vendor Report

Scott Fleming presented the vendor report.

## 8.5. 2022 Asset Disposal Summary

Scott Fleming presented a summary of the memorandum, providing an additional explanation for the East Mountain Dofasco Trail Boardwalk remaining net book value. The boardwalk was listed as an asset in 2010 with a 20-year amortization period, however required replacement after 12 years, and was therefore not fully depreciated at the time of replacement.

**BA 2316**

**MOVED BY: Maureen Wilson  
SECONDED BY: Alex Wilson**

**THAT the memorandums entitled 1<sup>st</sup> 6 Months Financial Results – Operating, 1<sup>st</sup> 6 Months Financial Results – Capital & Major Maintenance, 1<sup>st</sup> Quarter Vendor Report, 2<sup>nd</sup> Quarter Vendor Report, and 2022 Asset Disposal Summary be received.**

**CARRIED**

## 8.6. 2024 Budget Assumptions & Process

Scott Fleming presented an overview of the report and answered the members' questions. There was discussion regarding a City of Hamilton levy guideline for 2024. Staff advised that the City typically provides a Council-approved guidance for levy increases for agencies, boards and committees, however, none has been received at this time. Staff confirmed that the draft budget will be brought to the B&A committee meeting in September with a levy increase percentage, noting budget pressures in 2024 are greater than 2023.

**BA 2317****MOVED BY: Alex Wilson  
SECONDED BY: Maureen Wilson****THAT the Budget & Administration recommends to the Board of Directors:****THAT this report be received for information and further;****THAT the budget assumptions for the 2024 Operating and Capital Budgets as identified be approved for use in the development of the 2024 budgets and further;****THAT the 2024 draft budget be reviewed by the Budget and Administration Committee at their September 2023 meeting and brought to the Board of Directors at the October 2023 meeting for approval; and further.****THAT the City of Hamilton and Township of Puslinch be advised 30 days in advance of the of the final budget vote in accordance with the *Conservation Authorities Act* and Ontario Regulation 402/22.****CARRIED**

#### 8.7. 2024 Fee Schedule

Scott Fleming presented a summary of the report and answered the members' questions.

The changing trend in membership pass sales was noted. Staff advised that membership pass sales doubled during the pandemic and is now experiencing a softening. The longer-term trend is not yet known. Interest was expressed in a better understanding of who are membership pass holders are and price point in maintaining pass sales.

It was noted that the membership fee and day use entrance fees were increased in 2023. HCA strives to not increase fees annually to maintain affordability and place competitively in the market. HCA's Marketing & Communications department has a six-step strategy for membership pass retention. A summary on the strategy will be returned later in the year.

The members expressed support for maintaining the affordability of day-use fees and the library pass program.

**BA 2318****MOVED BY: Alex Wilson  
SECONDED BY: Maureen Wilson****THAT the Budget & Administration Committee  
recommends to the Board of Directors:****THAT effective January 1, 2024, HCA staff be directed to  
implement the revised fee schedule contained in this  
report and further;****THAT HCA provide an additional 34 annual vehicle  
passes as part of the ongoing agreement with the  
Hamilton Public Library System.****CARRIED****9. New Business**

There was none.

**10. In-Camera Items for Matters of Law, Personnel and Property**Having read the report and having no questions of staff, the members opted to vote on the motion without going *in camera*.**10.1. Confidential Report – BA/Aug 01-2023  
Personnel Matter****BA 2319****MOVED BY: Alex Wilson  
SECONDED BY: Maureen Wilson****THAT the confidential report entitled BA/Aug 01-2023 be  
approved and remain in camera.****CARRIED****11. Next Meeting**

There was discussion regarding a change in the meeting schedule for the Budget and Administration Committee for the remainder of 2023, as some members have scheduling conflicts. Staff will poll the members for an alternate day and/or time in the third week of the month for future meetings.

The next meeting of the Budget and Administration Committee is to be determined.

## **12. Next Meeting Adjournment**

On motion, the meeting adjourned.

# Memorandum

**TO:** Board of Directors

**FROM:** Lisa Burnside, Chief Administrative Officer (CAO)

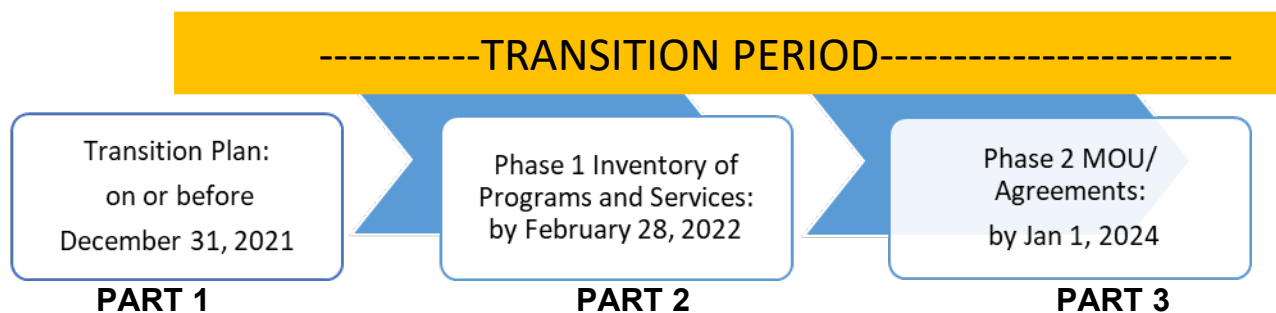
**MEETING DATE:** October 5, 2023

**RE:** HCA Quarterly Report #6 to MNR – Ontario Regulation 687/21

## BACKGROUND & PURPOSE

On October 7, 2021, Ontario Regulation 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the *Conservation Authorities Act* was passed.

The key components and deadlines for [Transition Plan and Agreements Regulation \(O.Reg. 687/21\)](#) are illustrated in Figure 1 below. As required, HCA developed and approved a Transition Plan and Inventory of Programs and Services in Part 1 and Part 2 as noted below. The inventory is based on the three categories identified in the Regulation which include (1) Mandatory, (2) Municipally requested, and (3), Other programs and services an Authority determines are advisable.



HCA currently is in part 3 of the Transition period.

The purpose of this memorandum is to inform the board of the sixth quarterly required report for the MNRF that was submitted October 1, 2023.

## **STAFF COMMENT**

As required under Ontario Regulation 687/21 and identified in HCA's Transition Plan, quarterly Progress Reports are required to be submitted. Under the Regulation the Progress Reports must include the following;

- a summary of any comments or feedback on your inventory that were submitted by your participating municipalities or by any others;
- a summary of any changes that were made to your inventory;
- an update on the progress towards negotiating cost apportioning agreements with your participating municipalities, including any difficulties you are experiencing that might impact the ability to conclude any cost apportioning agreements by the transition date;
- a copy of your updated inventory, clearly indicating changes that have been made since your initial inventory was submitted in February 2022.

Staff have prepared the attached report which was submitted October 1, 2023 to meet the quarterly report deadline outlining the consultation steps that have been undertaken to date with our two participating municipalities, the City of Hamilton and Township of Puslinch.

### Inventory and Agreement Feedback

The inventory has been well received and there have been no formal comments or concerns to date on the service areas and program areas included from either of our participating municipalities.

As noted in our previous report, municipal engagement and negotiations regarding Category 2 and 3 programs and services have been delayed by the introduction and passage of Bill 23 and additional amendments to the *Conservation Authorities Act*.

As noted in our previous quarterly report, a draft agreement has been drawn up by staff and shared with both our municipal partners in May 2023. Since that time, there have been additional discussions and an Agreement formalized between staff at the Township and HCA which was approved for execution by the HCA board at its September 7, 2023 meeting. Township Council will review the Agreement at an upcoming meeting this Fall.

Staff have now also received back comments from City of Hamilton staff and an Agreement will be brought to the HCA board for approval and execution later this evening. It is understood that the City of Hamilton General Issues Committee and Council will review the Agreement for approval at upcoming meetings this Fall.

At this time, staff are hopeful that continued progress can be made in the coming months to finalize the Agreement and have it approved and executed by the HCA Board and Council of our two participating municipalities by the end of year.

However, given that the deadline to apply for an extension is required by October 1, 2023 and the timing for municipal approvals is subject to municipal processes outside of HCA control, an extension request has been submitted to the Province. While it is anticipated that Agreements will be signed and in place by year end, approved and executed Agreements are not in place as of October 1, 2023 and timing for our participating municipalities to take the Agreements through their respective councils is unknown with potential for comment and return to HCA Board.

### **STRATEGIC PLAN LINKAGE**

The proposed updates refer directly to the HCA Strategic Plan 2019-2023:

- **Strategic Goal – Organizational Excellence**

### **AGENCY COMMENTS**

N/A

### **LEGAL/FINANCIAL IMPLICATIONS**

There is no immediate financial impact, however, it should be noted that this undertaking will continue to involve significant time from staff, along with municipal partners.

### **CONCLUSIONS**

Staff will continue to bring forward quarterly update reports to the Board of Directors and comply with the requirements of the Phase 1 regulations. A final Conservation Authority report will be due January 31, 2024.

HCA staff will also continue to work to finalize MOU Agreement with both participating municipalities to have respective councils endorse and execute the Agreement for Services which have been finalized by staff. Given that this is now within municipal timelines and process and subject to Council comment, a request for extension has been submitted in the event there are any delays meeting the January 1, 2024 deadline set by the Province.

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*HCA Quarterly Report #6 to the  
Ministry of Natural Resources and  
Forestry (MNRF)*

*As required for Conservation Authority Act  
Amendments*

[Transition Plan and Agreements Regulation \(O.Reg. 687/21\)](#)

*October 1, 2023*

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# HCA Quarterly Report #6 Details – October 1, 2023

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## **1. HCA Engagement with City of Hamilton staff to review Inventory of Programs and Services and updates on municipal agreements**

- Last meeting held June 12, 2023 with email correspondence between the City and HCA staff since that time
- No concerns regarding the Inventory have been received at this time
- Draft agreement to be brought to HCA Board to endorse for execution October 5, 2023
- It is understood that following HCA Board endorsement that the Agreement will be brought through General Issues Committee and Council this Fall, timing to be determined on municipal process and subject to Council comment and approval

## **HCA Engagement with Township of Puslinch staff to review Inventory of Programs and Services and updates on municipal agreements**

- Last meeting held August 17, 2023
- No concerns regarding the Inventory have been received at this time
- It was clarified that all services in Schedule A will be Category 2
- Draft agreement was brought to HCA Board of directors to endorse for execution September 7, 2023
- It is understood that the Agreement will now be brought to Township Council this Fall, timing to be determined on municipal process and subject to Council comment and approval

## **2. Summary of Changes to the Programs and Services Inventory**

- No changes have been made with the October 1, 2023 quarterly report

## **3. Update on the progress towards negotiating cost apportioning agreements with your participating municipalities**

- Municipal engagement and negotiations regarding Category 2 and 3 programs and services has been delayed by Bill 23 that impacts our participating municipalities and conservation authorities
- Given that this is now within municipal timelines and process, a request for extension has been submitted in the event there are any delays meeting the January 1, 2024 deadline set by the Province.

9.1.1

# HCA 2024 DRAFT BUDGETS

October 5, 2023



A Healthy Watershed for Everyone

# OPERATING BUDGET GOALS

- 1) Engage in those activities identified as important in HCA's 2019-2024 Strategic Plan
- 2) Construct budget with a zero-based approach in areas where actuals have experienced variances from budget in the past
- 3) In areas of uncertainty, budget conservatively to mitigate risk
- 4) Operate on a cash neutral basis (Break-Even)

# A Balanced Budget

	Budget <u>2024</u>	Budget <u>2023</u>	Actual <u>2022</u>	Actual <u>2021</u>
<u>Revenues</u>				
Levy	\$ 4,909	\$ 4,778	\$ 4,693	\$ 4,622
Admissions	3,424	3,381	3,556	4,004
Camping/marina	3,598	3,467	3,279	3,147
Equipment rental	1,345	1,325	1,233	1,313
Other	<u>3,317</u>	<u>2,985</u>	<u>2,540</u>	<u>2,968</u>
	16,593	\$ 15,936	\$ 15,301	16,054
<u>Expenses</u>				
Staffing	10,382	9,959	8,094	8,147
Utilities	821	1,020	783	645
Equipment	963	907	842	739
Materials/supplies	603	706	401	456
Other	<u>3,824</u>	<u>3,344</u>	<u>3,463</u>	<u>3,329</u>
	16,593	15,936	13,583	13,316
Net surplus/(deficit)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,718</u>	<u>\$ 2,738</u>

- Municipal Levy increase of 2.75% required to balance budget.
- Municipal Levy represents 32% of revenue, with self-generated revenues representing 66%.
- Anticipating Camping/Cabins and Marina revenues to be increased over 2022 results as we see higher volumes become the new normal.
- Staffing expense is 63% of total costs, consistent with past years.
- Incorporated 2% cost of living adjustment for staff, as well as wage grid increases (Job Evaluation).
- Other expenses include various items, including IT Modernization upgrades and Climate Change Initiatives.

# Watershed Management Services

	<u>Budget</u> <u>2024</u>	<u>Budget</u> <u>2023</u>	<u>Actual</u> <u>2022</u>	<u>Actual</u> <u>2021</u>
<u>Revenues</u>				
Levy	\$ 2,157	\$ 2,211	\$ 1,392	\$ 1,103
Permits, fees	388	380	303	314
Grants	163	242	301	474
Other	<u>196</u>	<u>78</u>	<u>56</u>	<u>337</u>
	2,903	2,911	2,053	2,228
<u>Expenses</u>				
Staffing	2,430	2,585	1,750	1,644
Contractors	164	30	46	127
Materials/supplies	113	115	55	23
Other	<u>197</u>	<u>182</u>	<u>202</u>	<u>435</u>
	2,903	2,911	2,053	2,228
Net surplus	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

- Revenue and expenses similar to 2023 budget, however, arrived at with greater acuity.
- Permit and planning fees to increase 2%.
- Other revenue includes \$120K in funding for Climate Change Initiatives.
- Staffing to see 4 roles converted from contract to full-time.
- Staffing overall below 2023 budget level as a zero-based budgeting approach was taken to refine true costs and staff compliment.
- Contractors includes \$120K spend of revenue received above for Climate Change initiatives.

# Conservation Area Services

	<u>Budget 2024</u>	<u>Budget 2023</u>	<u>Actual 2022</u>	<u>Actual 2021</u>
<u>Revenues</u>				
Admissions	\$ 3,357	\$ 3,309	\$ 3,485	\$ 3,935
Camping	2,035	1,929	1,802	1,555
Marina	1,563	1,538	1,477	1,592
Other	<u>554</u>	<u>622</u>	<u>764</u>	<u>550</u>
	7,510	7,397	7,528	7,632
<u>Expenses</u>				
Staffing	3,397	3,349	2,803	2,739
Equipment	796	827	685	688
Materials/supplies	340	329	295	258
Utilities	352	383	336	278
Other	<u>1,182</u>	<u>1,117</u>	<u>1,119</u>	<u>1,230</u>
	6,067	6,004	5,239	5,194
Net surplus	<u>\$ 1,442</u>	<u>\$ 1,393</u>	<u>\$ 2,288</u>	<u>\$ 2,438</u>

- Admissions, Camping, and Marina all increased compared to 2023 Budget matching new normal levels.
- Camping includes Cabins for full year, Cabins came online mid-way through Q1 2023.
- Marina includes fee increases of 4 to 5% in some areas.
- Staffing costs to increase with the implementation of Job Evaluation results, COLA, and increases to minimum wage.
- All other expenses in-line with 2023 Budget and 2022 Actuals.

# Westfield Heritage Village & Conservation Area

	<u>Budget 2024</u>	<u>Budget 2023</u>	<u>Actual 2022</u>	<u>Actual 2021</u>
<u>Revenues</u>				
Levy	\$ 654	\$ 624	\$ 624	\$ 611
Events	157	78	101	-
School Programs	68	30	32	-
Admissions	67	72	71	69
Other	<u>67</u>	<u>78</u>	<u>117</u>	<u>130</u>
	1,012	881	943	811
<u>Expenses</u>				
Staffing	637	558	521	512
Promotion	109	100	21	29
Materials/supplies	48	33	46	21
Utilities	58	60	59	46
Other	<u>160</u>	<u>130</u>	<u>136</u>	<u>110</u>
	1,012	881	784	718
Net surplus	<u>\$ -</u>	<u>\$ 0</u>	<u>\$ 160</u>	<u>\$ 93</u>

- Levy increased by \$30K to cover additional expenses not covered by self-generated revenue.
- Admissions flat, with Events and School Programs increasing significantly as volumes increases.
- Staffing at 63% of costs, similar to last year, however, increased as a result of the implementation of Job Evaluation results and COLA.

# Central Support Services

	Budget <u>2024</u>	Budget <u>2023</u>	Actual <u>2022</u>	Actual <u>2021</u>
<u>Revenues</u>				
Levy	\$ 2,098	\$ 1,943	\$ 2,677	\$ 2,908
Equipment	1,345	1,325	1,233	1,313
Management fees	500	500	438	202
Other	<u>1,226</u>	<u>977</u>	<u>429</u>	<u>960</u>
	5,169	4,745	4,777	5,383
<u>Expenses</u>				
Staffing	3,918	3,467	3,020	3,252
Utilities	387	402	365	321
Contractors	182	180	218	103
Materials/supplies	102	107	60	71
Equipment	82	83	72	51
Other	<u>1,940</u>	<u>1,899</u>	<u>1,771</u>	<u>1,377</u>
	6,611	6,138	5,507	5,176
Net surplus/(deficit)	<u>\$ (1,442)</u>	<u>\$ (1,393)</u>	<u>\$ (730)</u>	<u>\$ 207</u>

- Levy, Equipment and Management fees similar to 2023 Budget.
- Other revenue includes interest earned, foundation transfers, transfers from reserves for Equipment purchases, and rental income.
- Staffing represents 59% of costs (55% in 2022), increased with implementation of Job Evaluation results and COLA.
- Other represents various items supporting HCA including IT Modernization, Vehicle Purchases, Legal & Audit, etc.

# Operating Budget Levy Request

This year's Operating Budget Levy increase request is **2.75%**

Province provides allocation percentages annually, this year

- City of Hamilton 99.24%
- Township of Puslinch 00.76%

Total Levy for 2024 \$ 4,909 thousand (\$ 4,778 thousand in 2023)

- City of Hamilton \$ 4,876,725
- Township of Puslinch \$ 32,341

Year over year impact on Operating Levy is an increase of \$131,386

# Draft Capital Budget Commentary

- The draft capital budget is composed of two areas; the first being Special Projects and the second being Major Maintenance. Specific Projects make up 56% of the budget for 2024, these projects are broken down by location.
- Major maintenance makes up 44% of the 2024 budget and are spread across multiple geographic areas and work disciplines. Several years ago, HCA introduced the budget process of pooling the primary categories of major maintenance to address the issue of not having enough funds in one conservation area to do a necessary upgrade while having work of lesser priority completed in areas that had an allocation and felt compelled to use it. With the pooled approach the funds are held centrally and distributed to the areas that are of highest priority.
- These pooled monies fund projects and programs which enhance our facilities and ensure they are safe and functional and further improve our Conservation Areas for current and future generations.
- To give some feel of the scope, in our Conservation Areas we have close to 100 bridges, about 15km of internal roadways, 2km of boardwalk, 170 buildings which include 60 at Westfield Heritage Village, 145 km of trails, and countless other items to manage and improve such as fencing, utilities, gates, etc.

# Draft Capital Budget

<u>Specific Projects</u>			<u>Subtotal</u>	<u>Percent</u>
<u>#</u>	<u>Location</u>	<u>\$ Amount</u>	<u>By</u>	<u>of</u>
			<u>Area</u>	<u>Projects</u>
<b>Christie Lake</b>				
1	Beach House Accessibility Improvements	\$ 75,000	\$ 75,000	6.6%
<b>Dundas Valley / Woodend</b>				
2	Woodend Office Renovations	\$ 100,000		
3	Dundas Valley Entrance Sign Replacement	40,000	140,000	12.4%
<b>Fifty Point</b>				
4	Entry Road Reconstruction	\$ 250,000		
5	Dock Repairs	25,000	275,000	24.3%
<b>Hamilton Mountain</b>				
6	DBP Site Development	\$ 150,000		
7	Saltfleet Parking Expansion	100,000		
8	Felkers Falls Fencing	50,000	300,000	26.5%

# Draft Capital Budget (cont'd)

<u>Specific Projects</u>			Subtotal	Percent	Percent
#	<u>Location</u>	<u>\$ Amount</u>	<u>By Area</u>	<u>of Projects</u>	<u>of Total</u>
<b>Valens Lake</b>					
9	Campground Expansion	<u>\$ 300,000</u>	300,000	26.5%	
<b>Westfield Heritage Village</b>					
10	Westfield Entrance Sign Replacement	<u>\$ 40,000</u>	40,000	3.5%	
			<u>1,130,000</u>	<u>100.0%</u>	<u>56.5%</u>
<b><u>General Projects - Major Maintenance</u></b>					
	Roads & Parking	\$ 250,000			
	Bridges	200,000			
	Masterplans	100,000			
	Utilities & Services	100,000			
	Building Maintenance	70,000			
	Fencing	50,000			
	Signage	50,000			
	Trails	50,000			
			<u>870,000</u>	<u>100.0%</u>	<u>43.5%</u>
<b>Total Capital and Major Maintenance (Block Funding)</b>			<u>\$ 2,000,000</u>	<u>100.0%</u>	<u>100.0%</u>

# Recommendation

**THAT the 2024 Draft Operating Budget, as presented, be approved by the Board of Directors and;**

**THAT the 2024 Draft Capital Budget, as presented, be approved by the Board of Directors.**

# Questions?



**Hamilton  
Conservation  
Authority**

A Healthy Watershed for Everyone



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# Report

**TO:** Budget & Administration Committee

**FROM:** Lisa Burnside, Chief Administrative Officer (CAO)

**PREPARED & RECOMMENDED BY:** Jaime Tellier, Corporate Administrative / Records Management Coordinator

**MEETING DATE:** September 23, 2023

**RE:** Updates to HCA Administrative By-Law

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## STAFF RECOMMENDATION:

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

**THAT the Administrative By-Law be amended with the revisions noted in the attached draft, subject to and including any further revisions as noted during the September 21, 2023 meeting.**

## BACKGROUND & PURPOSE

The HCA Administrative By-Law is based on a model by-law provided by Conservation Ontario which has been widely adopted by most other Conservation Authorities. The Budget & Administration Committee undertakes an annual review of HCA's Administrative Bylaws (the "Governance Policies") as part of their terms of reference.

The purpose of this report is to seek Board adoption of amendments that have been identified following the addition of livestreaming and hybrid participation for Board, Advisory Board and Committee meetings, amendments stemming from Conservation Ontario's annual review and update to the model by-law, as well as some housekeeping updates.

## STAFF COMMENT

### Livestreaming and Hybrid Participation Amendments

On April 7, 2022, the Board of Directors approved ongoing livestreaming of Board of Directors, Advisory Board and Committee meetings when the new audio-visual technology in the HCA auditorium was finalized and in-person meetings resume. The intent is to provide for an additional method of public participation. Staff were also directed to bring a report to an upcoming Budget & Administration Committee to address any necessary revisions or clarifications in HCA's Administrative By-law as a result of the addition to livestream and any housekeeping amendments related to hybrid participation.

Staff have included proposed additional amendments related to hybrid and electronic meetings. These are also tracked as proposed changes in the document in Section C.3 and C.9 – Meeting Procedures – Meetings Open to the Public, and Electronic Meetings and Participation as summarized below.

- **Re: Livestreaming Board, Advisory Board and Committee Meetings** [Meetings Open to the Public (2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> par. added, 5<sup>th</sup> par amended for telephonic meetings. Electronic Meetings and Participation, 3<sup>rd</sup> par. added, addressing procedures for technical issues.

### Conservation Ontario Amendments

Conservation Ontario has approved and circulated recommended amendments to their model by-laws for Conservation Authorities, to capture requirements for the *Ontario Not-For-Profit Corporations Act*, Agricultural representatives appointed by the Minister, O. Reg. 400/22 *Information Requirements*, additional edits from a legal review, and changes resulting from *Bill 23, More Homes Built Faster Act, 2022*.

The following revisions were recommended by Conservation Ontario and are captured using tracked changes in the attached document and are summarized below.

- **Re: Ontario Not-For-Profit Corporations Act** [Introduction – objects (1st par) and Members of the Authority (2<sup>nd</sup> par), Section A: Definitions 'General Membership', 'Members', Section B: Governance subsections 1d) Accountability 2<sup>nd</sup> par, 1e) 3<sup>rd</sup> bullet & last sentence; Section C: Meeting Procedures subsections 1B, 2, 10 2<sup>nd</sup> par]
- **Re: agricultural representatives appointed by the Minister** [Section B: Governance subsections 1b) Term, 1d) Accountability 3<sup>rd</sup> par, 16 Remuneration, 21 Enforcement, 22 Indemnification of Members, Section C: Meeting Procedures subsection 5 Quorum, Appendix 1 – Code of Conduct Sections 1 3<sup>rd</sup> par, 2 1<sup>st</sup> par, Appendix 2 – Conflict of Interest Section 1, Appendix 3 – Procedure for Election of Officers Section 4a)]

- **Re: O.R. 400/22 Information Requirements** [Section B: Governance subsection 18] and the Municipal Conflict of Interest Act [Appendix 2 – Conflict of Interest Section 2, 6B]
- **Re: additional edits from Legal review** [Introduction – (the Act), Section A: Definitions
- ‘Officer’, ‘Pecuniary Interest’; Section B: Governance 1a) Appointments 2<sup>nd</sup> & 3<sup>rd</sup> pars, 1d) Accountability 1<sup>st</sup> par, 1e) 2<sup>nd</sup> par 1<sup>st</sup> sentence, 1f), 18; Section C: Meeting Procedures – 1, 3 1<sup>st</sup> and 2<sup>nd</sup> par, 5 members, 10 1<sup>st</sup> par, 13 Meetings ‘in camera’ 3<sup>rd</sup> par; Appendix 1 – Code of Conduct sec 3 Gifts & Benefits, 4 1<sup>st</sup> par; Appendix 2 – Conflict of Interest sec 1 1<sup>st</sup> par, 2d), 6B; an, Appendix 3 – Elections sec 4 Procedures]
- **Re: Bill 23** [Introduction – Powers of authorities -amendments to s.21(1) effective January 1, 2023 ( c ) and ( m.1 )]

### Housekeeping Amendments

Footnotes have been updated to reflect decisions from the Minister of Natural Resources & Forestry on requests for exceptions to requirements in the Conservation Authorities Act, regarding the percentage of elected officials to be appointed to the Board of Directors, maximum term limits for the Chair and Vice-Chair of the Board of Directors, and rotation of the Chair and Vice-Chair among participating municipalities.

In addition, the Section 28 hearing guidelines have been amended to add the bi-monthly hearing date schedule, as approved by the Board of Directors.

### **STRATEGIC PLAN LINKAGE**

The governance review initiative refers directly to the HCA Strategic Plan 2019-2023:

- **Strategic Goal – Organizational Excellence**

### **AGENCY COMMENTS**

N/A

### **LEGAL/FINANCIAL IMPLICATIONS**

As per the Conservation Authorities Act, HCA’s administrative by-laws are required to be posted on HCA’s website.

## **CONCLUSIONS**

The recommendations contained in this report are amendments to the Administrative Bylaws to reflect current practice and to ensure the document remains relevant and current. Maintaining current by-laws is a key action identified under the Conservation Ontario Governance Accountability and Transparency Initiative.

# HAMILTON REGION CONSERVATION AUTHORITY

## Administrative By-Law

In force as of October 7, 2021

Last amended January 5, 2023



A Healthy Watershed for Everyone

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## Introduction

### 1. The Hamilton Region Conservation Authority

The Hamilton Region Conservation Authority (the “HCA” or the “Authority”) is a non-share corporation, established under Section 3 of the *Conservation Authorities Act* (*the Act*), the objects to provide, in the area over which it has jurisdiction, programs and services designed for the purpose of furthering the conservation, restoration, development and management of natural resources in watersheds, other than gas, oil, coal and minerals.

Under the Act, municipalities within a common watershed are enabled to petition the province to establish a conservation authority. ~~The purpose of the Act is to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario.~~

Members of the Authority are appointed as representatives by the Participating Municipalities and are effectively directors also of the Authority. The HCA is comprised of its members (who form the Board of Directors), appointed as representatives by the Participating Municipalities, namely the City of Hamilton and the Township of Puslinch. An additional member may be appointed to the authority by the Minister as a representative of the agricultural sector.

### 2. Statutory objects

The statutory objects of the HCA, as set out in subsection 20(1) of the Act, are: To establish and undertake programs to further the conservation, restoration, development and management of the renewable natural resources within the HCA watershed.

The HCA pursues these programs for the benefit of the people of the Hamilton region and the people of the Province of Ontario.

### 3. The HCA’s mission and vision

The mission of the HCA is to lead in the conservation of our watershed and connect people to nature.

The HCA’s vision is a healthy watershed for everyone.

### 4. The HCA’s powers

The HCA must always act within the scope of its powers. As a non-share capital corporation, the HCA has the capacity and, subject to the Act and other applicable legislation, the rights, powers and privileges of a natural person.

The powers of a conservation authority to accomplish its objects are set out in the Act, including those identified under subsection 21(1) of the Act, which states:

#### **Powers of authorities**

21 (1) For the purposes of accomplishing its objects, an authority has power,

(a) to research, study and investigate the watershed and to support the development and implementation of programs and services intended to further the purposes of this Act

(b) for any purpose necessary to any project under consideration or undertaken by the authority, to enter into and upon any land and survey and take levels of it and make such borings or sink such trial pits as the authority considers necessary;

(c) to acquire by purchase, lease or otherwise any land that it may require, and, subject to subsections (2) and (4), to sell, lease or otherwise dispose of land so acquired;

(d) despite subsection (2), to lease for a term of five years or less land acquired by the authority;

(e) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;

(f) to enter into agreements for the purchase of materials, employment of labour and other purposes as may be necessary for the due carrying out of any project or to further the authority's objects;

(g) to enter into agreements with owners of private lands to facilitate the due carrying out of any project;

(h) to determine the proportion of the total benefit afforded to all the Participating Municipalities that is afforded to each of them;

(i) to erect works and structures and create reservoirs by the construction of dams or otherwise;

(j) to control the flow of surface waters in order to prevent floods or pollution or to reduce the adverse effects thereof;

(k) to alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street or way, or raise or sink its level in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority, and to divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole;

(l) to use lands that are owned or controlled by the authority for purposes, not inconsistent with its objects, as it considers proper;

(m) to use lands owned or controlled by the authority for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;

~~(m.1) to charge fees for services approved by the Minister;~~

(n) to collaborate and enter into agreements with ministries and agencies of government, municipal councils and local boards and other organizations and individuals;

(o) to plant and produce trees on Crown lands with the consent of the Minister, and on other lands with the consent of the owner, for any purpose;

(p) generally to do all such acts as are necessary for the due carrying out of any project or as may be desirable to further the objects of the authority

## 5. Area of jurisdiction

The HCA has jurisdiction in all matters provided for in the Act, over the area under the HCA's jurisdiction.

The HCA's area of jurisdiction consists of the watersheds of Spencer Creek and all other streams entering Lake Ontario, including any bays or inlets thereof, from the point where the northeast boundary of the Spencer Creek watershed meets the shore of Lake Ontario to the point where the northwest boundary of the Niagara Peninsula Conservation Authority

meets the shore of Lake Ontario.<sup>1</sup>

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<sup>1</sup> This includes the drainage areas of Spencer Creek and its tributaries (Fletcher, Flamborough, Westover, West Spencer, Logie's, Spring, Tiffany, Sydenham, Sulphur and Ancaster creeks), Borer's, Chedoke, Red Hill, Battlefield, Stoney and Fifty creeks, and the small drainage areas between the Niagara Escarpment and Lake Ontario in the former City of Stoney Creek.

## A. Definitions

“**Authority**” means the Hamilton Region Conservation Authority.<sup>2</sup>

“**Act**” means the *Conservation Authorities Act*, R.S.O. 1990, chapter C.27

“**Board of Directors**” means all of the members of the Authority, collectively.<sup>3</sup>

“**Chair**” means the Chairperson as referenced in the Act as elected by the Directors of the Authority.

“**Chief Administrative Officer**” means the Chief Administrative Officer of the Authority, and which may, by resolution of the Authority, include the responsibilities of the Secretary-Treasurer if so designated by resolution of the Authority.

“**Directors**” shall mean the members appointed to the Authority by the Participating Municipalities in the Authority’s area of jurisdiction and effectively act as directors as specified in the Ontario Not-For-Profit Corporations Act (ONCA).

“**HCA**” means the Hamilton Region Conservation Authority.

“**Levy**” means the amount of costs apportioned to Participating Municipalities in accordance with the Act and Regulations under the Act.

“**Majority**” means half of the votes plus one.

“**Minister**” means the Minister responsible for administration of the Act.

“**Officer**” means an officer of the Authority as empowered to sign contracts, agreements and other documents on behalf of the Authority in accordance with section 19.1 of the Act, which shall include the Chair, Vice-Chair, Chief Administrative Officer, Deputy Chief Administrative Officer and the Secretary-Treasurer.

“**Participating Municipality**” means a municipality that is designated by or under the Act as a participating municipality in a conservation authority. The Participating Municipalities of the HCA are the City of Hamilton and the Township of Puslinch.

“**Pecuniary Interest**” includes the financial or material interests of a Director and the financial or material interests of a Director or the Director’s immediate family.

“**Secretary-Treasurer**” means Secretary-Treasurer of the Authority with the roles specified in the Act.

“**Staff**” means employees of the Authority as provided for under Section 18(1) of the Act.

“**Vice-Chair**” means the Vice-Chairperson as elected by the Directors of the Authority.

<sup>2</sup> The formal name of the Hamilton Region Conservation Authority, as set out in subsection 6(1) of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, is Hamilton Region Conservation Authority, in English, and Office de protection de la nature de la région de Hamilton, in French.

<sup>3</sup> The Board of Directors passed a resolution changing its name from “Full Authority” to “Board of Directors” on March 8, 2007.

## B. Governance

### 1. Directors

#### a) Appointments

Participating Municipalities within the jurisdiction of the Hamilton Conservation Authority may appoint Directors in accordance with Section 14 of the Act. An additional member may be appointed to the authority by the Minister as a representative of the agricultural sector.

~~Appointed~~ Directors must reside in a Participating Municipality within the Authority's area of jurisdiction and may include citizens as well as elected members of municipal councils.

Collectively, the appointed Directors ~~comprise the Authority, and~~ for the purposes of this by-law are referred to as the Board of Directors.<sup>4</sup>

At least 70% of a municipality's appointees must be selected from among the members of the municipal council, unless the municipality obtain permission from the Minister to select less than 70% of its appointees from among the members of the municipal council.<sup>5</sup>

#### b) Term of Director Appointments

In accordance with Section 14 of the Act, a Director shall be appointed for a term of up to four years at the discretion of the appointing municipal council; such term beginning at the first meeting of the Authority following his or her appointment and ending immediately before the first meeting of the Authority following the appointment of his or her replacement. The Secretary-Treasurer shall notify the appropriate municipality in advance of the expiration date of any Director's term, unless notified by the municipality of the Director's reappointment or the appointment of his or her replacement. A Director is eligible for reappointment. A Director can be replaced by a Participating Municipality at the municipality's discretion prior to the end of their term. The Minister will define the term for the Member they appoint as a representative of the agricultural sector.

#### c) Powers of the Board of Directors

Subject to the Act and other applicable legislation, the Board of Directors is empowered without restriction to exercise all of the powers prescribed to the Authority under the Act. In addition to the powers of an Authority under s.21 of the Act for the purposes of accomplishing its objects, as referenced in the introduction of this By-law, the powers of the Board of Directors include but are not limited to:

- a) Approving by resolution, the creation of Committees and/or Advisory Boards, the members thereof and the terms of reference for these Committees and/or Advisory Boards;
- b) Appointing a Chief Administrative Officer and/or Secretary-Treasurer;
- c) Terminating the services of the Chief Administrative Officer and/or Secretary-Treasurer.
- d) Approving establishing and implementing regulations, policies and programs;

<sup>4</sup> In January 2001, in accordance with the Act, the City of Hamilton and the Township of Puslinch adopted resolutions in accordance with motion FA11,736 dated December 7, 2000 adopted by the Board of Directors. This motion set the membership of the Board of Directors at 11 members: City of Hamilton 10; Township of Puslinch 1.

<sup>5</sup> In 2021, both the City of Hamilton and the Township of Puslinch adopted resolutions in accordance with motion BD12,2857 dated March 4, 2021, adopted by the Board of Directors, to retain-reaffirm the current complement-of-citizen-appointments composition of the Board of Directors. Per s.14 (1.2) of the Act, the Township of Puslinch was granted an exception to this requirement for the 2023 – 2026 term, and will be required to make application to the Minister for exception when the current citizen appointments expire following the 2022 municipal election.

- e) Awarding contracts or agreements where the approval of the Authority is required under the Authority's purchasing policy.
- f) Appointing an Executive Committee and delegate to the Committee any of its powers except:
  - i. The termination of the services of the Chief Administrative Officer and/or Secretary-Treasurer,
  - ii. The power to raise money, and
  - iii. The power to enter into contracts or agreements other than those contracts or agreements as are necessarily incidental to the works approved by the Authority.
- g) Approving by resolution, any new capital project of the Authority;
- h) Approving by resolution, the method of financing any new capital projects;
- i) Approving details on budget allocations on any new or existing capital projects;
- j) Approving of the total budget for the ensuing year, and approving the levies to be paid by the Participating Municipalities;
- k) Receiving and approving the Financial Statements and Report of the Auditor for the preceding year;
- l) Authorizing the borrowing of funds on the promissory note of the Authority in accordance with subsection 3(5) of the Act;
- m) Approving by resolution, any acquisition or disposition of land, subject to the requirements under the Act;
- n) Approving permits or refusing permission as may be required under any regulations made under Section 28 of the Act, including the delegation of this responsibility to Chief Administrative Officer consistent with such regulations;<sup>6</sup>
- o) Holding hearings required for the purpose of reviewing permit applications, and advising every applicant of their right to appeal the decision to the Ontario Land Tribunal.<sup>7</sup>

**d) Responsibilities and Functions of the Board of Directors**

The Board of Directors is responsible for the overall management of the Authority, with a focus on five main functions: (a) strategic planning, (b) financial oversight, (c) the development of corporate policy, (d) executive management oversight; and (e) governance and legal compliance.

- a) **Strategic Planning:** The Board will adopt a strategic planning process, approve short-term and long-term strategic plans, and monitor the performance of the HCA against those plans.

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<sup>6</sup> In 2013, the Board of Directors delegated approval of HCA permits issued for a 2-year period under the *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation* to the CAO, Director, Watershed Planning & Engineering, Manager, Watershed Planning Services and Manager, Water Resources Engineering. Monthly summary reports of the permits issued are submitted to the Board for information purposes as part of each monthly meeting package. HCA permit applications for the 2-year time frame that do not comply with HCA policy or permit applications for a period of 5-years are presented to the Board through a Staff report for consideration.

<sup>7</sup> Hearing procedures for hearings under s. 28(3) of the Act are set out in Appendix 5. Any hearing or appeal dealt with in this By-law may, at the discretion of the Chair, be conducted electronically with provisions for applicants and their agents to participate if the Authority decides to hold any such hearing or appeal.

- b) Financial Oversight: The Board will monitor the HCA's finances, including its future financial viability. The Board will ensure that the HCA is operated in a sound and prudent fiscal manner, and shall undertake short- and long-term financial planning consistent with the HCA's mission, objectives and strategic plan. The Board will do so with the assistance of Staff and the Budget and Administration Committee. Specifically, the Board will:
- i. review and approval annual budgets, including municipal levies;
  - ii. review and approve budget adjustments during the current budget year;
  - iii. review and approve the annual audit and the auditor's report; and
  - iv. regularly scrutinize and investigate all aspects of HCA's finances and, when necessary, determine appropriate actions.
- c) Corporate Policymaking: The Board will ensure the existence of corporate policies to govern the HCA in key areas, including, and in addition to those separately identified in this Section:
- i. the mission, vision and objectives of the HCA;
  - ii. good corporate governance;
  - iii. ethical conduct by HCA employees and Directors;
  - iv. equity, diversity, non-discrimination, harassment and abuse;
  - v. privacy; and
  - vi. health and safety.

In ensuring the existence of these policies, the Board will strive, to the extent reasonably possible, to promote a culture of honesty, integrity, equitable treatment, legal compliance and good governance, in which the purposes of the HCA are realized, employees are protected from occupational injury and disease, and visitors are provided safe and healthy facilities in which to enjoy the natural environment.

The work of the Board in connection with policy development is generally confined to establishing rather than implementing policies. Further development of these policies and implementation is delegated to the CAO, subject to Board oversight.

- d) Executive Management Oversight: The Board will appoint, evaluate and, if necessary, terminate the CAO. The Board will define the duties and limits of authority of senior management. The Board will satisfy itself as to the integrity of the CAO and other senior managers. The Board is responsible for succession planning for the CAO.

The Board's primary connection to the operational organization will be through the CAO or his/her delegate, or through such other person(s) as the Board may designate.

- e) Governance and Legal Compliance: The Board will assess the effectiveness of the Board and its Committees on an ongoing basis. The Board is responsible for assuring that the HCA governs itself in accordance with principles of effective corporate governance, and that the HCA complies with all applicable laws and regulations.

#### *e) Director Accountability*

Participating Municipalities appoint Directors to the Authority as their representatives. Directors have the responsibilities of Directors of the corporation that is the Authority. While the ~~administration~~ Chief Administrative Officer and other staff of the authority areis

responsible for the day-to-day operations, the Board of Directors is responsible for matters of governance, ensuring compliance with applicable legislation, and ensuring appropriate policies are in place and for financial soundness of the Authority.

Every member and officer in exercising his/her/their powers and discharging his/her/their duties to the Authority shall act honestly and in good faith with a view to the best interests of the Authority and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

All Directors have the responsibility to be guided by and adhere to the Code of Conduct (Appendix 1) and Conflict of Interest Policy (Appendix 2), as adopted by the Authority. Additionally, the agricultural representative appointed by the Minister will be required to follow the provincial ethical framework set out for government public appointees in the Management Board of Cabinet's Agencies and Appointments Directive.

Directors are responsible for:

- a) Attending all meetings of the Authority;
- b) Understanding the purpose, function and responsibilities of the Authority;
- c) Being familiar with the Authority's statutory and other legal obligations;
- d) With the administration, setting strategic direction for the Authority.

#### **f) Applicable Legislation**

In addition to the Act, the Directors are subject to other legislation including, but not limited to:

- Municipal Conflict of Interest Act;
- Municipal Freedom of Information and Protection of Privacy Act; and
- Not-for-Profit Corporations Act, 2010

If any part of this by-law conflicts with any provision of the Municipal Conflict of Interest Act or the Municipal Freedom of Information and Protection of Privacy Act or a provision of a regulation made under one of those acts, the provision of that act or regulation prevails. The same applies to conflicts between these by-laws and the Not-for-Profit Corporations Act except where dictated by the Conservation Authorities Act in which case the Act prevails.

#### **g) Relationship Between Directors and Staff**

The ~~Board of Directors relies on the~~ Chief Administrative Officer ~~to shall~~ manage the operations of the organization, including all employees of the Authority. The Chief Administrative Officer is accountable to the Authority, working cooperatively to achieve the goals established by the ~~Authority~~ Directors.

The Board of Directors will ensure that a process exists for regular performance evaluations of the Chief Administrative Officer.

The CAO has the full charge and direction of all employees of the Authority, and is responsible for directing and coordinating the execution of programs, policies and decisions which the Board of Directors approves or adopts. The CAO provides information and serves as liaison to the member municipalities as required by the Chair and the Board of Directors, and conducts the official correspondence of the Authority.

The CAO is accountable to the Board of Directors. The CAO reports to the Chair and brings issues to the Board on a timely basis.

All Board authority delegated to Staff is delegated through, or with notice to, the CAO. The Board will never give instructions to persons who report directly or indirectly to the CAO, without notice to the CAO. Staff are accountable to the CAO. Board decisions and policies, including this Administrative By-Law, as well as long- and short-term planning documents, communicate the intent of the Board, direct the CAO to achieve certain results, and constrain the CAO to act within acceptable boundaries of prudence and ethics. The CAO is authorized to establish all further policies, make all decisions, take all actions and develop all activities as long as they are consistent with or reasonable interpretations of the Board's decisions and policies. The Board will respect and support the choices of the CAO while working the CAO's area of discretion. No individual Director, Officer or committee has authority over the CAO unless authorized by the Board.

#### ***h) Governing Style***

**Friendly Atmosphere:** The Board will continue to foster a friendly and constructive atmosphere, with good rapport among members and between Directors and Staff.

**Focus:** The Board will govern lawfully, with an emphasis on:

- a) outward vision rather than an internal preoccupation;
- b) encouragement of diversity of viewpoints;
- c) strategic leadership more than administrative detail;
- d) clear distinction of Board and CAO;
- e) collective rather than individual decisions;
- f) future rather than past or present, and;
- g) proactivity rather than reactivity.

**Group Responsibility:** The Board will cultivate a sense of group responsibility. The Board will be responsible for excellence in governing. The Board will use the expertise of individual members to enhance the ability of the Board as a body rather than to substitute individual judgments for the HCA's values. The Board will allow no Officer, individual or committee of the Board to hinder or be an excuse for not fulfilling group obligations.

**Long-range Planning:** The Board's major policy focus will be on the intended long-term effects outside the organization, not on the administrative or programming means of attaining those effects.

**Self-Discipline:** The Board will enforce upon itself and its members whatever discipline is needed to govern with excellence. Discipline will apply to matters such as attendance, preparation, policy-making principles, respect of roles, and ensuring continuance of governance capability. Although the Board can change its governance policies at any time, it will observe those currently in force scrupulously.

## **2. Officers**

The Officers of the Authority, and their respective responsibilities, shall be:

Chair

- a) Is a Director of the Authority;
- b) Presides at all meetings of the Board of Directors (and Executive Committee if applicable);
- c) Calls special meetings if necessary;
- d) Acts as a public spokesperson on behalf of the Board of Directors;

- e) Serves as signing officer for the Authority;
- f) Ensures relevant information and policies are brought to the Authority's attention;
- g) Keeps the Board of Directors apprised of significant issues in a timely fashion;
- h) Performs other duties when directed to do so by resolution of the Authority.

Vice-Chair

- a) Is a Director(s) of the Authority;
- b) Attends all meetings of the Authority (and Executive Committee if applicable);
- c) Carries out assignments as requested by the Chair;
- d) Understands the responsibilities of the Chair and acts as Chair immediately upon the death, incapacity to act, absence or resignation of the Chair until such time as a new Chair is appointed or until the Chair resumes his/her duties;
- e) Serves as a signing officer for the Authority.

Chief Administrative Officer (CAO)

Responsibilities of the CAO as assigned by the Authority include, but are not limited to the following:

- a) Is an employee of the Authority;
- b) Attends all meetings of the Board of Directors (and Executive Committee if applicable) or designates an acting CAO if not available;
- c) Works in close collaboration with the Chair and Vice-Chair and keeps them apprised of relevant information and significant issues in a timely fashion;
- d) Develops a strategic plan for approval by the Board of Directors and Implements short and long-range goals and objectives;
- e) Is responsible for the management of the operations of the Authority, including all Staff and programs of the Authority;
- f) Ensures resolutions of the Authority are implemented in a timely fashion;
- g) Develops and maintains effective relationships and ensures good communications with Participating Municipalities, federal and provincial government ministries/agencies, Indigenous communities, other conservation authorities, Conservation Ontario, stakeholders, community groups and associations;
- h) Serves as a signing officer for the Authority.

Deputy CAO

- a) Is an employee of the Authority
- b) Attends all meetings of the Board of Directors (and Executive Committee if applicable)
- c) Understands the responsibilities of the CAO and acts as CAO immediately upon the death, incapacity to act, absence or resignation of the CAO until such time as a new CAO is appointed or until the CAO resumes his/her duties
- d) Serves as a signing officer for the Authority
- e) Performs any duty delegated to him or her by the CAO

Secretary-Treasurer

- a) Is an employee of the Authority;
- b) Fulfills the requirements of the Secretary-Treasurer as defined in the Act;
- c) Attends all meetings of the Board of Directors (and Executive Committee, if applicable);
- d) Is the custodian of the Corporate Seal;
- e) Serves as a signing officer for the Authority.

### 3. Absence of Chair and Vice-Chair

In the event of the absence of the Chair and Vice-Chair from any meeting, the Directors shall appoint an Acting Chair who, for the purposes of that meeting has all the powers and shall perform all the duties of the Chair.

### 4. Maximum Time as Chair and Vice-Chair

The term of office for the Chair and Vice-Chair shall be limited to two (2) consecutive years unless otherwise decided by a resolution of the Board of Directors and approved by the Minister per Section 17 of the Act.<sup>8</sup>

The same maximum time period applies to an individual's role of Chair and/or Vice Chair of a Committee and to an individual's role as Chair and/or Vice Chair of an Advisory Board, unless otherwise decided by a resolution of the Board of Directors.

### 5. Representatives to Conservation Ontario Council

The Authority may appoint up to three Representatives to Conservation Ontario Council ("Council"), designated as Voting Delegate and Alternate(s). Council will consist of the Voting Delegates appointed by each Member Conservation Authority. The Voting Delegate and Alternates shall be registered with Conservation Ontario annually.

### 6. Election of Chair, Vice-Chair, Committee Members and Advisory Board Chairs

The election of the Chair and Vice-Chair, and the election or appointment by acclamation of Committee and Advisory Board members and Advisory Board chairs shall be held yearly at the Annual General Meeting and/or at the first Board meeting after the AGM, in accordance with the Authority's Procedures for Election and Appointment of Officers (Appendix 3).

Successors to the position of Chair and Vice-Chair shall be a director appointed by a different municipality to the incumbent, unless otherwise decided by a resolution of the Board of Directors and approved by the Minister per Section 17 of the Act.<sup>9</sup>

### 7. Appointment of Auditor

The Board of Directors shall appoint an auditor for the coming year yearly at the annual meeting, in accordance with Section 38 of the Act.

### 8. Financial Statements and Report of the Auditor

As required by Section 38 of the Act, the Authority shall cause its accounts and transactions to be audited annually by a person licensed under the *Public Accounting Act*,

<sup>8</sup>In 2021, in accordance with the Act, motion BD12,2857 dated March 4, 2021, was adopted by the Board of Directors. HCA was granted an exception to this provision by the Minister of the Environment, Conservation and Parks on June 3, 2021 that is valid until the 2023 annual general meeting of the Authority.

<sup>9</sup>In 2021, in accordance with the Act, motion BD12,3090/2857 dated March 4, 2021/September 1, 2022, was adopted by the Board of Directors. HCA was granted an exception to this provision by the Minister of the Environment, Conservation and Parks/Natural Resources & Forestry on June 8, 2023 on June 3, 2024. The exception is that is valid until the 2023 annual general meeting of the Authority for the 2023 and 2024 terms.

2004. The Board of Directors shall receive and approve the Audited Financial Statements and Report of the Auditor annually for the previous year yearly at the annual meeting.

No person shall be appointed an auditor of the HCA if the person is or during the preceding year was a member of the Board of Directors, or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the HCA other than for services within his or her professional capacity.

The Authority shall forward copies of the Audited Financial Statements and Report of the Auditor to Participating Municipalities and the Minister in accordance with Section 38 of the Act and will make the Audited Financial Statements available to the public.

#### **9. Borrowing Resolution**

If required, the Authority shall establish a borrowing resolution.

#### **10. Levy Notice**

The levy due to the Authority from participating municipalities shall be communicated to those municipalities in accordance with the Act and any applicable Regulations.

#### **11. Signing Officers**

Any two of the following Officers are designated and empowered to sign contracts, agreements and other documents on behalf of the HCA (with the exception of cheques or other documents effecting payment): Chair, Vice-Chair, Secretary-Treasurer, CAO, Deputy CAO, Director of Watershed Management Services, Director of Conservation Area Services. Approval of purchases shall be in accordance with the HCA Purchasing Policy. Cheques or other documents effecting payment must be signed by two of the following Officers: Chair, Vice-Chair, CAO and Secretary-Treasurer.

Signing authority that was authorized by any previous Administration Regulation or By-law is superseded by this by-law.

#### **12. Executive Committee**

The Authority may appoint an Executive Committee at the first meeting of the Board of Directors each year in accordance with the Section 19 of the Act and Section B.1(c)(f) of this by-law.

#### **13. Advisory Boards and Other Committees**

In accordance with Section 18(2) of the Act, the Authority shall establish such Advisory Boards as required by regulation and may establish such other Advisory Boards or committees as it considers appropriate to study and report on specific matters.

The Board of Directors shall approve the terms of reference for all such Advisory Boards and committees, which shall include the role, the frequency of meetings and the number of members required.

Resolutions and policies governing the operation of the Authority shall be observed in all Advisory Board and committee meetings.

Each Advisory Board or committee shall report to the Board of Directors, presenting any recommendations made by the Advisory Board or committee.

The dates of all Advisory Board and committee meetings shall be made available to all Directors of the Authority.

A list of standing Advisory Boards and committees that must be appointed, along with information about their mandates and proceedings, is contained in Appendix 4.

#### 14. Remuneration of Directors

The Authority shall establish a per-diem rate from time to time to be paid to Directors for attendance at General Meetings and Advisory Board or Committee meetings, and at such other business functions as may be from time to time requested by the Chair, through the Secretary-Treasurer. In addition, an honorarium may be approved by the Authority for the Chair and Vice-Chair as compensation for their additional responsibilities. A single per-diem will be paid for attendance at more than one meeting if they occur consecutively on the same day.

The Authority shall reimburse Directors' reasonable travel expenses incurred for the purpose of attending meetings and/or functions on behalf of the Authority. A per-kilometre rate to be paid for use of a personal vehicle shall be approved by Resolution of the Board of Directors from time-to-time. Requests for such reimbursements shall be submitted within a timely fashion and shall not exceed Canada Revenue Agency guidelines.

Remuneration of the Director appointed by the Minister as a representative of the agricultural sector is at the expense and discretion of the Province.

#### 15. Records Retention

The Authority shall keep full and accurate records including, but not limited to:

- a) Minutes of all meetings of the Authority, including registries of statements of interests in accordance with the *Municipal Conflict of Interest Act*;
- b) Assets, liabilities, receipts and disbursements of the Authority and Financial Statements and Reports of the Auditors;
- c) Human Resources Files for all employees and Directors as applicable;
- d) Workplace Health and Safety documents including workplace inspections, workplace accidents, investigations, etc.;
- e) Electronic Communications including material emails
- f) Contracts and Agreements entered into by the Authority;
- g) Strategic Plans and other documents providing organizational direction
- h) Projects of the Authority;
- i) Technical Studies and data gathered in support of Programs of the Authority;
- j) Legal Proceedings involving the Authority;
- k) Incidents of personal injury or property damage involving the Authority and members of the public.

Such records shall be retained and protected in accordance with all applicable laws and any Records Retention Policy of the Authority as approved by the Board of Directors from time-to-time.

#### 16. Records Available to Public

Records of the Authority shall be ~~made~~ available to the public as required pursuant to the Municipal Freedom of Information and Protection of Personal Privacy Act (MFIPPA) and further to O. Regulation 400/22 Information Requirements.

The Chair and Vice Chair are designated as head of the Authority for the purposes of MFIPPA.

### 17. By-law Review

In accordance with the Act, these by-laws shall be reviewed by the Authority at least every three years to ensure the by-laws are in compliance with the Act and any other relevant law. The Board of Directors shall review the by-laws on a regular basis to ensure best management practices in governance are being followed.

### 18. By-law Available to Public

In accordance with the Act, the Authority shall make its by-laws available to the public on the Authority's website. By-laws shall also be available for review by any member of the public at the Authority's administration centre or provided in alternative formats, in accordance with the *Accessibility for Ontarians with Disabilities Act*, if requested by interested parties.

### 19. Enforcement of By-laws and Policies

The Directors shall respect and adhere to all applicable by-laws and policies (for example, the Code of Conduct and Conflict of Interest Policy). The Authority may take reasonable measures to enforce its by-laws and policies, including the enforcement mechanisms under the *Municipal Conflict of Interest Act*.

The Board of Directors may enforce its regulations and policies in the following manner:

- a) If a Director is alleged not to have adhered to a by-law or policy, an investigation will be conducted into the alleged breach, unless the breach occurred at a Board of Directors meeting.
- b) The Director will be given a reasonable opportunity to respond to the allegation of breach.
- c) The findings of the investigation and the affected Director's response will be communicated to the Board of Directors in a closed meeting.
- d) The Board may debate the matter with the member present and participating unless, after reasonable notice, the member refuses to attend.
- e) The Board may choose to enforce the regulation or policy following debate by, among other things:
  - i. requesting adherence to the regulation or policy in future;
  - ii. imposing procedures to monitor adherence to the regulation or policy in future;
  - iii. if the member is Chair, Vice-Chair or chair of an Advisory Board or committee, removing the member from that position; or
  - iv. recommending to the municipality that appointed the member that the appointment be revoked and a replacement be appointed.
- f) The appointing municipality or the appointing Minister shall be notified of the outcome of the investigation

### 20. Indemnification of Directors, Officers and Employees

The Authority undertakes and agrees to indemnify and save harmless its Directors, Officers and Employees and their heirs and legal representatives, respectively, from and against all costs, charges and expenses, including all amounts paid to settle an action or satisfy any judgement, reasonably incurred by any such Director, Officer or Employee in respect of any civil, criminal or administrative action or proceeding to which any such Director, Officer or Employee is made a party by reason of being a Director, Officer or Employee of the

Authority (except in respect of an action by or on behalf of the Authority to procure a judgment in its favour) if;

- a) such Director, Officer or Employee acted honestly, in good faith with a view to the best interests of the Authority and within the scope of such Director's, Officer's or Employee's duties and responsibilities, and,
- b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty that such Director, Officer or Employee had reasonable grounds for believing that the conduct was lawful.

#### **21. Role of Hamilton Conservation Foundation**

The Hamilton Conservation Foundation is a charitable corporation that raises awareness, funds and resources for the HCA. The Chair of the Hamilton Conservation Foundation shall occupy a non-voting seat on the Board of Directors of the HCA. The attendance of the Foundation Chair shall not be included in the determination of a quorum. The Foundation Chair shall receive a complete meeting package and shall be eligible to participate in all discussions at the Board of Directors meeting.

## C. Meeting Procedures

The Meeting Procedures below governing the procedure of the Authority shall be observed in Executive Committee and Advisory Board meetings, as far as they are applicable, and the words Executive Committee or Advisory Board may be substituted for the word Authority as applicable

### 1. Rules of Procedure

In all matters of procedure not specifically dealt with under the Act and this By-law, the current edition of Robert's Rules of Order ~~shall will be binding followed.~~

The Authority may choose to conduct its business as a committee of the whole.

### 2. Notice of Meeting

The Board of Directors shall approve a schedule for regular meetings. The Secretary-Treasurer (or designate) shall send Notice of regular meetings to all Directors at least seven calendar days in advance of a meeting. Notice of all regular or special meetings of the Board of Directors or its committees shall be made available to the public as soon as possible after its delivery to Board of Directors.

Notice of any meeting shall indicate the time and place of that meeting and the agenda for the meeting.

All material and correspondence to be dealt with by the Authority at a meeting will be submitted to the Secretary-Treasurer (or designate) at least eight (8) days in advance of the meeting where it is to be dealt with if the material and correspondence is to be included in the published agenda. Items of correspondence not received in the timeframe specified above may be introduced at the meeting subject to approval by a majority of Directors present. To allow for circulation to Board members, correspondence should be received by 12pm EST the day before the board meeting or alternatively can be listed on the published agenda for the following meeting.

The Chair may, at his/her pleasure, call a special meeting of the Authority as necessary on seven calendar days' notice in writing or email. That notice shall state the business of the special meeting and only that business shall be considered at that special meeting. Any Director, with 50% support of the other Directors, may also request the Chair to call a meeting of the Authority and the Chair will not refuse.

The Chair of the Board, Chair of any respective committee or advisory board, or the Secretary-Treasurer (or designate) may, by notice in writing or email delivered to the Directors so as to be received by them at least 12 hours before the hour appointed for the meeting, postpone or cancel any scheduled meeting until the next scheduled date for the specific Board, Advisory Board or committee affected.

The Chair or the Secretary-Treasurer (or designate) may, if it appears that a storm or like occurrence will prevent the Directors from attending a meeting, postpone that meeting by advising as many Directors as can be reached. Postponement shall not be for any longer than the next regularly scheduled meeting date.

### 3. Meetings Open to Public

Every meeting of the Board of Directors, Executive Committee and Advisory Boards, if applicable, shall be open to the public as per Section 15(3) of the Act, subject to the exceptions set out below.

HCA will live stream and/or make video recordings of all or part of its Board of Directors, Advisory Board or Committee meetings available to the public but it is not obliged to do so<sup>10</sup>.

Where in the discretion of the HCA, a meeting is live-streamed or recorded by video, at the start of the meeting the Secretary-Treasurer or designate shall advise all in attendance that the meeting is being recorded and/or livestreamed.

For open fully electronic or hybrid meetings that are live streamed, the public must be able to observe all that Members can hear and see at the meeting.

If a fully or hybrid telephone ~~or electronic~~ meeting of the Board of Directors is held, the Authority will provide means for the public to ~~participate~~ listen to the meeting, in the meeting by telephone or electronically.

A meeting or part of a meeting may be closed to the public if the subject matter being considered is identified in the closed meeting section of the agenda or arises during a meeting requiring that it be closed to the public at the time that the matter is raised at a meeting, and ~~Meetings may be closed to the public~~ if the subject matter being considered relates to:

- a) The security of the property of the Authority;
- b) Personal matters about an identifiable individual, including employees of the Authority;
- c) A proposed or pending acquisition or disposition of land by the Authority;
- d) Labour relations or employee negotiations;
- e) Litigation or potential litigation, including matters before administrative tribunals (e.g. Ontario Land Tribunal), affecting the Authority;
- f) Advice that is subject to solicitor-client privilege;
- g) A matter in respect of which the Board of Directors, Executive Committee, Advisory Board or committee or other body may hold a closed meeting under another act;
- h) information explicitly supplied in confidence to the Authority by Canada, a province or territory or a Crown agency of any of them;
- i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the Authority, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- j) a trade secret or scientific, technical, commercial or financial information that belongs to the Authority and has monetary value or potential monetary value; or
- k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the Authority.

The Authority shall close a meeting if the subject matter relates to the consideration of a request under MFIPPA, and the ~~Authority is the designated~~ head of ~~an institution~~ the Authority for the purposes of MFIPPA is present.

Before holding a meeting or part of a meeting that is to be closed to the public, the Directors shall state by resolution during the open session of the meeting that there will be a meeting closed to the public and the general nature of the matter to be considered at the

<sup>10</sup> On April 7, 2022, the Board of Directors approved, by resolution BD12, 3030, ongoing livestreaming of Board of Directors, Advisory Board and Committee meetings as an additional method of public participation.

closed meeting. Once matters have been dealt with in a closed meeting, the Board of Directors shall reconvene in an open session.

When starting a closed session where Board members are attending by telephone or electronically, the Chair should take the following additional steps:

- a) Retake attendance and confirm that each Board member's connection is working;
- b) Confirm that all Board members are in a private setting where no other person can listen to the proceedings in the closed session; and
- c) Remind Board members that all confidentiality rules apply, and they must treat any documents and information with the same level of care that they would in a regular closed meeting.

The Board of Directors shall not vote during a meeting that is closed to the public, unless:

- a) the meeting meets the criteria outlined in this by-law to be closed to the public; and
- b) the vote is for a procedural matter or for giving directions or instructions to Officers, employees or agents of Authority.

Any materials presented to the Board of Directors during a closed meeting shall be returned to the Secretary-Treasurer or designate prior to departing from the meeting and shall be treated in accordance with the Authority's procedures for handling confidential material. If a closed meeting is held or attended by telephone or electronically, the Chair or Secretary-Treasurer may direct members to delete documents at the conclusion of the meeting rather than returning them to the Secretary-Treasurer or designate.

A meeting of the Authority, Executive Committee, Advisory Board or other committee may also be closed to the public if:

- a) the meeting is held for the purpose of educating or training the Directors, and
- b) at the meeting, no Director discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the Authority, the Executive Committee, Advisory Board or other committee.

#### 4. Agenda for Meetings

Authority Staff, under the supervision of the Secretary-Treasurer, shall prepare an agenda for all regular meetings of the Authority that shall include, but not necessarily be limited to, the following headings:

- a) Call to Order
- b) Declaration re Local Government Disclosure of Interest
- c) Approval of Agenda
- d) Delegations
- e) Consent Agenda
  - i. Applications
  - ii. Approval of Minutes of Previous Meeting
  - iii. Correspondence
- f) Foundation Chair Update
- g) Member Briefings
- h) Business Arising from the Minutes

- i) Reports from Budget & Administration Committee and Conservation Advisory Board
- j) Other Staff Reports/Memorandums
- k) New Business
- l) In-Camera Items
- m) Next Meeting
- n) Adjournment

The agenda for special meetings of the Authority shall be prepared as directed by the Chair.

The business of the Authority shall be taken up in the order in which it stands on the agenda unless otherwise decided by a Majority of those Directors present.

No Director shall present any matter to the Authority for its consideration unless the matter appears on the agenda for the meeting of the Authority or leave is granted to present the matter by the affirmative vote of a Majority of the Directors present.

Agendas for meetings shall be forwarded to all Directors at least seven calendar days in advance of the meeting. Such agendas shall be made available to the public on the Authority's website at the same time, unless the meeting is closed to the public in accordance with this by-law. Such agendas shall also be available in alternative formats, in accordance with the *Accessibility for Ontarians with Disabilities Act*, if requested by interested parties.

## 5. Quorum

At any meeting of the Board of Directors, a quorum consists of one-half of the Directors appointed by the Participating Municipalities, except where there are fewer than six such Directors, in which case three such Directors constitute a quorum (per s.16(2) of the CAA). At any Executive Committee (if applicable), Advisory Board or committee meeting, a quorum consists of one-half of the Members of the Executive Committee (if applicable), Advisory Board or committee. NOTE: the Member appointed by the Minister to represent agricultural interests is not part of quorum.

If there is no quorum within one half hour after the time appointed for the meeting, the Chair for the meeting shall declare the meeting adjourned due to a lack of a quorum, or shall recess until quorum arrives, and the recording secretary shall record the names of the Directors present and absent.

If during an Authority or Advisory Board or Committee meeting a quorum is lost, then the Chair shall declare that the meeting shall stand recessed or adjourned, until the date of the next regular meeting or other meeting called in accordance with the provisions of this by-law.

Where the number of Directors who are disabled from participating in a meeting due to the declaration of a conflict of interest is such that at that meeting the remaining Directors are not of sufficient number to constitute a quorum, the remaining number of Directors shall be deemed to constitute a quorum, provided such number is not less than two.

## 6. Debate

The Authority shall observe the following procedures for discussion/debate on any matter coming before it:

- a) A Director shall be recognized by the Chair prior to speaking;

- b) Where two or more Directors rise to speak, the Chair shall designate the Director who has the floor, who shall be the Director who in the opinion of the Chair was first recognized;
- c) All questions and points of discussion shall be directed through the Chair;
- d) Where a motion is presented, it shall be moved and seconded before debate;
- e) No Director shall speak more than once to the same question without leave from the Chair, except in explanation of a material part of the speech;
- f) No Director shall speak more than five minutes without leave of the Chair;
- g) Any Director may ask a question of the previous speaker through the Chair;
- h) The Director who has presented a motion, other than a motion to amend or dispose of a motion, may speak again to the motion immediately before the Chair puts the motion to a vote;
- i) When a motion is under debate, no motion shall be received other than a motion to amend, to defer action, to refer the question, to take a vote, to adjourn, or to extend the hour of closing the proceedings;
- j) When a motion is under consideration, only one amendment is permitted at a time.

#### 7. Matters of Precedence

The following matters shall have precedence over the usual order of business:

- a) a point of order;
- b) matter of privilege;
- c) a matter of clarification;
- d) a motion to suspend a rule of procedure or to request compliance with the rules of procedure;
- e) a motion that the question be put to a vote;
- f) a motion to adjourn.

#### 8. Directors' Attendance

The Authority shall provide a listing of Directors' attendance at scheduled meetings of the Authority to the Participating Municipalities at least annually.

Upon a Director's vacancy due to death, incapacity or resignation occurring in any office of the Authority, the Authority shall request the municipality that was represented by that Director appoint a Director replacement.

If a Director is unable to attend any meeting and wishes to bring any additional information or opinion pertaining to an agenda item to the Board of Directors, the Director shall address in writing or email to the Chair or Secretary-Treasurer such correspondence prior to the start of the meeting. The correspondence shall be read aloud by the Secretary-Treasurer without comment or explanations.

#### 9. Electronic Meetings and Participation

Electronic meetings are permitted and ~~must follow/accommodate all Section C~~the Meeting Procedures identified in this by-law ~~law apply or in the case of Hearings, the Section 28(3) Conservation Authorities Act Hearing Guidelines in Appendix 5.~~

A Director may participate in a meeting of the Board of Directors by telephonic or electronic means that permits all participants to communicate adequately with each other during the meeting. A Director so participating in a meeting is deemed to be present at the meeting, and shall have the ability to chair a meeting, register a vote, be counted towards determining quorum, and participate in any portion of the meeting, including portions closed to the public.

Upon being apprised that an in-person, hybrid, or fully electronic meeting is interrupted and cannot proceed with its live stream, due to loss of connection, sound or video, the meeting will be recessed. If the live stream of a fully electronic meeting cannot be resumed, the meeting will be considered adjourned, with complete minutes for the meeting, including a record of the interruption, to that point in time. The Board meeting will be rescheduled to another day or the next regularly scheduled meeting.

The Chair or the Chair's designate may administer a vote on a motion by electronic means if the motion is required on an urgent basis, or for any other reason as deemed necessary by the Chair or the Chair's designate. A deadline will be prescribed within which the votes must be cast, and the motion will pass by a majority vote. All votes by telephonic or electronic means shall be minuted in the same way as votes at in-person Board meetings.

## 10. Delegations

Any person or organization who wishes to address the Authority may make a request in writing or email to the Secretary-Treasurer, or designate, using the prescribed "Request for Delegation" form. The request should include a brief statement of the issue or matter involved and indicate the name of the proposed speaker(s). If such request is received eight (8) business days in advance of a scheduled meeting, the delegation shall be listed on the published agenda.

Any person or organization requesting an opportunity to address the Authority, but not having made a written request to do so in the timelines specified above, may appear before the meeting if approved by a Majority of Directors present. To allow for processing requirements, the request should be received by 12pm EST the day of the board meeting or alternatively can be listed on the published agenda for the following meeting.

Except by leave of the Chair or appeal by the leave of the meeting, delegations shall be limited to one (1) speaker for not more than 10 minutes.

Speakers will be requested not to repeat what has been said by previous speakers at the meeting. A returning delegation will only be allowed to speak again if new, relevant information has become available since their previous presentation. The Chair may choose to end a returning delegation's presentation if, in the opinion of the Chair, the new information being presented is not relevant to a decision facing the Board of Directors.

Where appropriate, the Chair may advise those in attendance at a Board of Directors meeting: (a) to respect reasonable rules of decorum in their remarks; and (b) that no endorsement by the HCA of a delegate's statements may be implied or inferred from the communication of the statements during the course of the Board of Directors meeting, or on account of the HCA having granted permission to the delegate to make a presentation at the Board of Directors meeting.

A delegation may appear at a meeting of the Board of Directors by telephonic or electronic means. ~~Where a delegation request is made in connection with a meeting that is to be held by telephone or electronically, the~~ Secretary-Treasurer, or designate, ~~should will reach out/liaise with~~ the leader of the delegation to plan for their attendance by telephone or electronically.

~~The HCA may live stream and/or make video or audio recordings of all or part of its Board of Directors meeting(s) available to the public but is not obliged to do so.~~

Where in the discretion of the HCA a Board of Directors meeting is live-streamed and/or recorded, notice to this effect, and regarding the purpose of the live streaming or recording, shall be given to those attending the meeting, either at the time of the meeting or in advance of the meeting.

**Commented [JT1]:** Moved up to Section 3 Meetings Open to the Public. More suitable in an earlier section and introduces the concept of livestreaming where it applies to all meeting participants rather than just delegations.

## 11. Meeting Schedule and Annual General Meeting

Subject to the right of the Board to set a different meeting schedule or to change the date of a meeting, and the right of the Chair to call a special meeting, the Board will meet 10 times per year beginning at 6:00 p.m. on the first Thursday of the months of February, March, April, May, June, July, September, October, November and December.

The Annual General Meeting shall be the February meeting each year. The date of the meeting may be adjusted to allow for consideration for timing of municipal elections and corresponding municipal and citizen appointments, or for other considerations as may be required. The Annual General Meeting shall include the following items on the agenda, in addition to the normal course of business:

- a) Appointment of the auditor for the upcoming year
- b) Election of Officers
- c) Board meeting schedule
- d) Voting delegates to Conservation Ontario
- e) Director participation on any Committees

## 12. Voting

In accordance with Section 16 of the Act:

- a) each Director is entitled to one vote, and
- b) a Majority vote of the Directors present at any meeting is required upon all matters coming before the meeting.

Where a member has been appointed by the Minister as a representative of the agricultural sector, the member shall not vote on: a resolution to enlarge an authority's area of jurisdiction, a resolution to amalgamate the Authority with another conservation authority, a resolution to dissolve the Authority or a resolution related to any budgetary matter.

If any Director who is qualified to vote abstains from voting, they shall be deemed to have voted neither in favour nor opposed to the question, which will not alter the number of votes required for a Majority.

On a tie vote, the motion is lost.

Interrelated motions shall be voted on in the order specified in Robert's Rules of Order.

Unless a Director requests a recorded vote, a vote shall be by a show of hands or such other means as the Chair may call. No question shall be voted upon more than once at any meeting, unless a recorded vote is requested.

If a Director present at a meeting at the time of the vote requests immediately before or after the taking of the vote that the vote be recorded, each Director present taken by alphabetical surname with the Chair voting last, except a Director who is disqualified from voting by any Act, shall announce his or her vote openly answering "yes" or "no" to the question, and the Secretary-Treasurer shall record each vote.

Where a question under consideration contains more than one item, upon the request of any Director, a vote upon each item shall be taken separately.

Except as provided in Section B, Paragraph 6 of this By-law (Election of Chair and Vice-Chair), no vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect.

### **13. Notice of Motion**

Written notice of motion to be made at an Authority, Executive Committee, Advisory Board or committee meeting may be given to the Secretary-Treasurer by any Director of the Authority not less than 10 calendar days prior to the date and time of the meeting and shall be forthwith placed on the agenda of the next meeting. The Secretary-Treasurer shall include such notice of motion in full in the agenda for the meeting concerned.

Recommendations included in reports of Advisory Boards or committees that have been included in an agenda for a meeting of the Board of Directors or Executive Committee (if applicable), shall constitute notice of motion for that meeting.

Recommendations included in Staff reports that have been included in an agenda for a meeting of the Board of Directors or Executive Committee (if applicable), shall constitute notice of motion for that meeting.

Notwithstanding the foregoing, any motion or other business may be introduced for consideration of the Authority provided that it is made clear that to delay such motion or other business for the consideration of an appropriate Advisory Board or committee would not be in the best interest of the Authority and that the introduction of the motion or other business shall be upon an affirmative vote of a Majority of the Directors of the Authority present.

### **14. Motion to Reconsider**

If a motion is made to reconsider a previous motion, a two-thirds majority vote shall be required in order for reconsideration to take place. If a motion to reconsider is passed, the original motion shall then be placed on the agenda at a future meeting to be debated and voted upon, and the result of that vote, based on a simple Majority, shall supersede.

### **15. Duties of the Meeting Chair**

It shall be the duty of the Chair, with respect to any meetings over which he/she presides, to:

- a) Preserve order and decide all questions of order, subject to appeal; and without argument or comment, state the rule applicable to any point of order if called upon to do so;
- b) Ensure that the public in attendance does not in any way interfere or disrupt the proceedings of the Directors;
- c) Receive and submit to a vote all motions presented by the Directors, which do not contravene the rules of order or regulations of the Authority;
- d) Announce the results of the vote on any motions so presented;
- e) Adjourn the meeting when business is concluded.

### **16. Conduct of Directors**

Directors shall maintain a high standard for conduct and at all times comply with applicable laws and the Authority's Code of Conduct (Appendix 1).

No Director at any meeting of the Authority shall:

- a) Speak in a manner that is discriminatory in nature based on an individual's race, ancestry, place of origin, citizenship, creed, gender, sexual orientation, age, colour, marital status, family status or disability;
- b) Leave their seat or make any noise or disturbance while a vote is being taken or until the result is declared;
- c) Interrupt a Director while speaking, except to raise a point of order or a question of privilege;
- d) Speak disrespectfully or use offensive words against the Authority, the Directors, Staff, or any member of the public;
- e) Speak beyond the question(s) under debate;
- f) Resist the rules of order or disobey the decision of the Chair on the questions or order or practices or upon the interpretation of the By-laws.

### 17. Minutes of Meetings

The Secretary-Treasurer shall undertake to have a recording secretary in attendance at meetings of the Authority, the Executive Committee and each Advisory Board or committee. The recording secretary shall make a record in the form of minutes of the meeting proceedings and in particular shall record all motions considered at the meeting.

If a recording secretary is not present in a closed session, the Secretary-Treasurer shall take notes of any direction provided, for endorsement by the Chair and Vice-Chair. Original copies of confidential minutes are approved and signed by the Chair and filed separately from non-confidential minutes.

Minutes of all meetings shall include the time and place of the meeting and a list of those present and shall state all motions presented together with the mover and seconder and voting results.

A recording of a Board of Directors meeting, if one exists, is not an official record of that meeting. The official record of the meeting shall consist solely of the Minutes approved by the Board of Directors. As the purpose of the recording is administrative, the recordings will be disposed of once they have served that purpose, per HCA's Records Retention Schedule.

The Secretary-Treasurer or designate shall include draft minutes of the previous meeting available to each Director of the Authority at the same time as agendas for the next meeting are distributed.

After the minutes have been approved by resolution, original copies shall be signed by the Secretary-Treasurer and copies of all non-confidential minutes shall be posted on the Authority's website. Such minutes shall also be available for review by any member of the public at the Authority's administration centre or provided in alternative formats, in accordance with the *Accessibility for Ontarians with Disabilities Act*, if requested by interested parties.

**D. Approval of Administrative By-law and Revocation of Previous By-laws**

Board Resolution ~~12,2946 12,2792~~ from ~~September 3, 2020~~October 7, 2021 approving the current HCA Administrative By-Law is hereby repealed;

Board Resolution 12,~~2946~~\_\_\_\_ approving the new Administrative By-law shall come into force on the ~~7<sup>th</sup>~~5<sup>th</sup> day of October, ~~2021~~2023.

READ A FIRST TIME, September ~~16~~23, ~~2021~~2023 by the Budget and Administration Committee.

READ A SECOND TIME AND PASSED

October ~~7~~5, ~~2021~~2023  
Date

Signed:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Secretary-Treasurer

## E. Appendices to the Administrative By-law

### Appendix 1 - Code of Conduct

#### 1. Background

The Hamilton Conservation Authority demands a high level of integrity and ethical conduct from its Board of Directors. The Authority's reputation has relied upon the good judgement of individual Directors. A written Code of Conduct helps to ensure that all Directors share a common basis for acceptable conduct. Formalized standards help to provide a reference guide and a supplement to legislative parameters within which Directors must operate. Further, they enhance public confidence that Directors operate from a base of integrity, justice and courtesy.

The Code of Conduct is a general standard. It augments the laws which govern the behaviour of Directors, and it is not intended to replace personal ethics.

This Code of Conduct will also assist Directors in dealing with confronting situations not adequately addressed or that may be ambiguous in Authority resolutions, regulations, or policies and procedures. Additionally, the agricultural representative appointed by the Minister will be required to follow the provincial ethical framework set out for government public appointees in the Management Board of Cabinet's Agencies and Appointments Directive.

#### 2. General

All Directors, whether municipal councillors or appointed representatives of a municipality, or whether appointed by the Minister as a representative of the agricultural sector, are expected to conduct themselves in a manner that reflects positively on the Authority.

All Directors shall serve in a conscientious and diligent manner. No Director shall use the influence of office for any purpose other than for the exercise of his/her official duties.

It is expected that Directors adhere to a code of conduct that:

- a) upholds the mandate, vision and mission of the Authority;
- b) considers the Authority's jurisdiction in its entirety, including their appointing municipality;
- c) respects confidentiality;
- d) approaches all Authority issues with an open mind, with consideration for the organization as a whole;
- e) exercises the powers of a Director when acting in a meeting of the Authority;
- f) respects the democratic process and respects decisions of the Board of Directors, Executive Committee, Advisory Boards and other committees;
- g) declares any direct or indirect Pecuniary Interest or conflict of interest when one exists or may exist; and
- h) conducts oneself in a manner which reflects respect and professional courtesy and does not use offensive language in or against the Authority or against any Director or any Authority Staff.

### 3. *Gifts and Benefits*

Directors shall not accept fees, gifts, hospitality or personal benefits that are connected directly or indirectly with the performance of duties, ~~except compensation authorized by law.~~

### 4. *Confidentiality*

The Directors shall be governed at all times by the provisions of the *Municipal Freedom and Information and Protection of Privacy Act*.

All information, documentation or deliberations received, reviewed, or taken in a closed meeting are confidential.

Directors shall not disclose or release by any means to any member of the public, either in verbal or written form, any confidential information acquired by virtue of their office, except when required by law to do so.

Directors shall not permit any persons, other than those who are entitled thereto, to have access to information which is confidential.

In the instance where a Director vacates their position on the Board of Directors they will continue to be bound by MFIPPA requirements.

Particular care should be exercised in protecting information such as the following:

- a) Human Resources matters;
- b) Information about suppliers provided for evaluation that might be useful to other suppliers;
- c) Matters relating to the legal affairs of the Authority;
- d) Information provided in confidence from an Aboriginal community, or a record that if released could reasonably be expected to prejudice the conduct of relations between an Aboriginal community and the Authority;
- e) Sources of complaints where the identity of the complainant is given in confidence;
- f) Items under negotiation;
- g) Schedules of prices in tenders or requests for proposals;
- h) Appraised or estimated values with respect to the Authority's proposed property acquisitions or dispositions;
- i) Information deemed to be "personal information" under MFIPPA.

The list above is provided for example and is not exhaustive.

### 5. *Use of Authority Property*

No Director shall use for personal purposes any Authority property, equipment, supplies, or services of consequence other than for purposes connected with the discharge of Authority duties or associated community activities of which the Authority has been advised.

### 6. *Work of a Political Nature*

No Director shall use Authority facilities, services or property for his/her election or re-election campaign to any position or office within the Authority or otherwise.

### 7. *Conduct at Authority Meetings*

During meetings of the Authority, Directors shall conduct themselves with decorum. Respect for delegations and for fellow Directors requires that all Directors show courtesy

and not distract from the business of the Authority during presentations and when others have the floor.

#### **8. Influence on Staff**

Directors shall be respectful of the fact that Staff work for the Authority as a whole and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence.

#### **9. Business Relations**

No Director shall borrow money from any person who regularly does business with the Authority unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

No Director shall act as a paid agent before the Authority, the Executive Committee or an Advisory Board or committee of the Authority, except in compliance with the terms of the *Municipal Conflict of Interest Act*.

#### **10. Encouragement of Respect for the Authority and its Regulations**

Directors shall represent the Authority in a respectful way and encourage public respect for the Authority and its Regulations.

#### **11. Harassment**

It is the policy of the Authority that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment. Harassment of another Director, Staff or any member of the public is misconduct. Directors shall follow the Authority's Harassment Policy as approved from time-to-time.

Examples of harassment that will not be tolerated include: verbal or physical abuse, threats, derogatory remarks, jokes, innuendo or taunts related to an individual's race, religious beliefs, colour, gender, physical or mental disabilities, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation. The Authority will also not tolerate the display of pornographic, racist or offensive signs or images; practical jokes that result in awkwardness or embarrassment; unwelcome invitations or requests, whether indirect or explicit and any other prohibited grounds under the provisions of the *Ontario Human Rights Code*.

#### **12. Breach of Code of Conduct**

Should a Director breach the Code of Conduct, they shall advise the Chair and Vice-Chair, with a copy to the Secretary Treasurer, as soon as possible after the breach.

Should a Director allege that another Director has breached the Code of Conduct, the said breach shall be communicated to the Chair, with a copy to the Secretary-Treasurer, in writing. In the absence of the Chair, or if a Director alleges that the Chair has breached the Code of Conduct, the said breach shall be communicated to the Vice-Chair, with a copy to the Secretary-Treasurer, in writing.

Should a member of the public or a municipality allege that a Director has breached the Code of Conduct, the party making the allegation will be directed to follow the notification procedure outlined above.

Any breach, or alleged breach, of the Code of Conduct shall be investigated in accordance with the Enforcement of By-laws and Policies procedure outlined or referred to in the Authority's Administrative By-law.

## Appendix 2 - Conflict of Interest

### 1. *Municipal Conflict of Interest Act*

The Authority Directors commit themselves and the Authority to ethical, businesslike, and lawful conduct when acting as the Board of Directors. The Authority ~~and the Directors are~~ bound by the *Municipal Conflict of Interest Act*. This appendix to the by-law is intended to assist Directors in understanding their obligations. Directors are required to review the *Municipal Conflict of Interest Act* on a regular basis.

Additionally, the agricultural representative appointed by the Minister will be required to follow the provincial ethical framework set out for government public appointees in the Management Board of Cabinet's Agencies and Appointments Directive.

### 2. *Disclosure of Pecuniary Interest*

Where a Director, either on his or her own behalf or while acting for, by, with or through another, has any Pecuniary Interest, direct or indirect, in any matter and is present at a meeting of the Authority, Executive Committee, Advisory Board or committee at which the matter is the subject of consideration, the Director:

- a) shall, prior to any consideration of the matter at the meeting, disclose the Pecuniary Interest and the general nature thereof;
- b) shall not take part in the discussion of, or vote on any question in respect of the matter; ~~and,~~
- c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question; ~~and~~
- ~~e)~~d) shall file a written statement of the Conflict of Interest and its general nature with the Secretary-Treasurer or designate.

### 3. *Chair's Conflict of Interest or Pecuniary Interest*

Where the Chair of a meeting discloses a conflict of interest with respect to a matter under consideration at a meeting, another Director shall be appointed to chair that portion of the meeting by Resolution.

### 4. *Closed Meetings*

Where a meeting is not open to the public, a Director who has declared a conflict of interest shall leave the meeting for the part of the meeting during which the matter is under consideration. The Chair of the meeting or CAO will at that point direct the member to recuse themselves and leave the room. The member will be recalled when the subject matter of the conflict is concluded.

### 5. *Director Absent*

Where the interest of a Director has not been disclosed by reason of their absence from the particular meeting, the Director shall disclose their interest and otherwise comply at the first meeting of the Authority, Executive Committee, Advisory Board or Committee, as the case may be, attended by them after the particular meeting.

### 6. *Disclosure Recorded in Minutes*

The recording secretary shall record in reasonable detail the particulars of any disclosure of conflict of interest or Pecuniary Interest made by Directors and whether the Director withdrew from the discussion of the matter. Such record shall appear in the minutes/notes

of that particular meeting of the Board of Directors, Executive Committee, Advisory Board or committee, as the case may be.

**6B. Registry Maintained for Public Inspection**

The Authority shall maintain a registry in which shall be kept:

- a) A copy of each statement filed under Section 2d) of this policy; and,
- b) A copy of each declaration recorded in the Minutes.

The registry shall be available for public inspection.

***7. Breach of Conflict of Interest Policy***

Should a Director breach the Conflict of Interest Policy, they shall advise the Chair and Vice-Chair, with a copy to the Secretary Treasurer, as soon as possible after the breach.

Should a Director allege that another Director has breached the Conflict of Interest Policy, the said breach shall be communicated to the Chair, with a copy to the Secretary Treasurer, in writing. In the absence of the Chair, or if a Director alleges that the Chair has breached the Conflict of Interest Policy, the said breach shall be communicated the Vice-Chair, with a copy to the Secretary-Treasurer, in writing.

Should a member of the public or a municipality allege that a Director has breached the Conflict of Interest Policy, the party making the allegation will be directed to follow the notification procedure outlined above.

Any breach, or alleged breach, of the Conflict of Interest Policy shall be investigated in accordance with the Enforcement of By-laws and Policies procedure outlined or referred to in the Authority's Administrative By-law.

## Appendix 3 - Procedure for Election and Appointment of Officers

### 1. Voting

Except in the case of appointments by acclamation of Directors to sit as members of the Budget and Administration Committee or the Conservation Advisory Board, voting shall be by secret ballot. No Directors may vote by proxy.

### 2. Acting Chair

The Board of Directors shall appoint a person, who is not a voting Director, as Acting Chair or Returning Officer, for the purpose of Election of Officers.

### 3. Scrutineer(s)

The appointment of one or more scrutineers is required for the purpose of counting ballots, should an election be required. All ballots shall be destroyed by the scrutineers afterwards. The Acting Chair shall call a motion for the appointment of one or more persons, who are not Directors of the Authority, to act as scrutineers. A Director, who will not stand for election, may be appointed as an additional scrutineer if requested.

### 4. Appointment by acclamation of Directors to sit as members of Committees and Advisory Boards

At the Annual General Meeting each year, Directors may nominate themselves to be one of the three Director members of the Budget and Administration Committee or the Conservation Advisory Board. A sign-up sheet for Directors wishing to self-nominate shall be available at the Annual General Meeting for this purpose. If more Directors sign up for the Budget and Administration Committee or Conservation Advisory Board than the number of vacancies, there shall be an election for those positions at the next Board meeting following the Annual General Meeting. If the number of Directors who sign up is less than or equal to the number of vacancies, the Acting Chair shall declare those positions filled by acclamation. Any remaining vacancies may be filled by acclamation or election at any subsequent Board meeting.

### 5. Election Procedures

The Acting Chair shall advise the Directors that the election will be conducted in accordance with the ~~Act~~ Act and the HCA Administrative By-law Section B: Governance, subsection 4 'Maximum Term for Chair and Vice Chair(s)', as follows:

- a) The elections at the Annual General Meeting shall be conducted in the following order:
  - i. Election of the Chair, who shall be a Director appointed by a participating Municipality to the Authority and serve as a member of the Budget and Administration Committee.
  - ii. Election of the Vice-Chair, who shall be a Director appointed by a participating Municipality to the Authority and serve as Chair of the Budget and Administration Committee
  - iii. If applicable, appointment by acclamation of three Budget and Administration Committee members, who shall be Directors of the Authority.
  - iv. If applicable, appointment by acclamation of three Conservation Advisory Board members, who shall be Directors of the Authority.
  - v. Election of Chair of the Conservation Advisory Board, who shall be a Director of the Authority.

- b) The elections at the Board meeting immediately following the Annual General Meeting (if made necessary as a result of more Directors having self-nominated for the positions than the number of vacancies available on the Budget and Administration Committee and the Conservation Advisory Board), shall be conducted in the following order:
  - i. Election of up to three Budget and Administration Committee members, who shall be Directors of the Authority.
  - ii. Election of up to three Conservation Advisory Board members, who shall be Directors of the Authority.
- c) The Acting Chair shall ask for nominations to each position that is to be the subject of an election at the Annual General Meeting or at the Board meeting immediately following;
- d) Only current Directors of the Authority who are present may vote;
- e) Nominations shall be called three (3) times and will only require a mover;
- f) The closing of nominations shall require both a mover and a seconder;
- g) Each Director nominated shall be asked to accept the nomination. The Director must be present to accept the nomination unless the Director has advised the Secretary-Treasurer in writing or by email in advance of the election of their willingness to accept the nomination.

If one Nominee:

- h) If only one nominee the individual shall be declared into the position by acclamation.

If More than One Nominee:

- i) In the event of an election, each nominee shall be permitted not more than five minutes to speak for the office, in the order of the alphabetical listing by surnames.
- j) Upon the acceptance by nominees to stand for election to the position of office, ballots shall be distributed to the Directors by the scrutineers for the purpose of election and the Acting Chair shall ask the Directors to write the name of one individual only on the ballot.
- k) The scrutineers shall collect the ballots, leave the meeting to count the ballots, return and advise the Acting Chair who was elected with more than 50% of the vote.

A Majority vote shall be required for election. If there are more than two nominees, and upon the first vote no nominee receives the Majority required for election, the name of the person with the least number of votes shall be removed from further consideration for the office and new ballots shall be distributed. In the case of a vote where no nominee receives the Majority required for election and where two or more nominees are tied with the least number of votes, a special vote shall be taken to decide which one of such tied nominees' names shall be dropped from the list of names to be voted on in the next vote.

Should there be a tie vote between two remaining candidates, new ballots shall be distributed and a second vote held. Should there still be a tie after the second ballot a third vote shall be held. Should there be a tie after the third vote, the election of the office shall be decided by lot drawn by the Acting Chair or designate.

## Appendix 4 – Committees and Advisory Boards

### 1. Creation, Role and Powers

Establishment by the Board of Directors: Committees and Advisory Boards may be established by the Board of Directors from time to time. They may be permanent or ad hoc.

Role: Committees and Advisory Boards are established by the Board of Directors to help the Board do its job. They assist the Board by:

- (a) investigating, reviewing and making recommendations to the Boards;
- (b) preparing policy alternatives and identifying implications for Board deliberation; and
- (c) considering and recommending details and actions on programs, projects, etc., within their terms of reference.

Powers: Committees and Advisory Boards have advisory powers only unless other powers are specifically delegated to them by the Board of Directors in writing. Committees and Advisory Boards may not speak or act for the Board except when formally given such authority for specific and time-limited purposes. They do not spend funds or approve policy. Powers will be carefully stated in order not to conflict with authority delegated to the CAO. In keeping with the Board’s broader focus, Committees and Advisory Boards will normally not have direct dealings with current Staff operations, and will not delegate directly to Staff.

Composition: Committees are composed of sitting members of the Board of Directors. Advisory Boards are composed of sitting members of the Board of Directors and citizens selected by the Advisory Board Chair for their knowledge or expertise in an area of concern to the specific Advisory Board.

### 2. Current Committee and Advisory Board Structure

The HCA currently has one standing Committee and one Advisory Board:

- (a) the Budget and Administration Committee; and
- (b) the Conservation Advisory Board.

### 3. Terms of Reference

Board to Set Terms of Reference: The Board of Directors shall set terms of reference for each Committee and Advisory Board. The terms of reference should describe:

- (a) the name of the Committee or Advisory Board;
- (b) the specific functions, roles and objectives of the Committee or Advisory Board;
- (c) the number of members including, if applicable, the minimum and maximum number of members, and the number of members who must be Directors;
- (d) the term of membership;
- (e) the total maximum time period that a person who is not a Director may remain a member, if applicable;
- (f) the manner of appointment of members;
- (g) qualifications for membership, if applicable; and

- (h) any details regarding meeting procedure that may differ from the procedures applicable to Board meetings.

#### 4. Meeting Procedure

Board Procedure Applies: The regulations governing the procedure of the Board of Directors shall be observed in Committee and Advisory Board meetings, as far as they are applicable, unless varied by the terms of reference of the Committee or Advisory Board in question.

Calling Meetings: Each Committee and Advisory Board shall meet at such time and place as its Chair shall decide under the general direction of the Board of Directors.

Notice of Meetings: Notice of Committee and Advisory Board meetings shall be conveyed to all members at least 5 days prior to the date of the meeting.

Quorum: A quorum of a Committee or Advisory Board shall not be less than one half of its voting members.

Meetings Public: All Committee and Advisory Board meetings are open to the public.

In Camera Business: When a Committee or Advisory Board deals with "in camera" items, the chair of that Committee or Advisory Board must report back to the next Board of Directors meeting providing background information, a summary of any discussion and any recommendations. The Board of Directors may receive such reports "in camera" as needed.

#### 5. Minutes of Meetings

Minutes to be Recorded: The minutes of all meetings of the Budget and Administration Committee shall be recorded by the Secretary-Treasurer or his/her designate, and the minutes of all other Committee and Advisory Board meetings shall be recorded by HCA Staff members as designated by the CAO.

Circulation of Minutes: The minutes of Committee and Advisory Board meetings shall be circulated by the secretary of the meeting at least five (5) days prior to the next meeting of the Committee or Advisory Board. The minutes, subject to any amendments approved at the meeting, shall be adopted by motion.

#### 6. Budget and Administration Committee

Members: The Budget and Administration Committee consists of five members of the Board of Directors. The Chair and Vice-Chair of the Board are designated members of the B&AC. Three other members of the Board shall be members of the B&AC. Directors may nominate themselves to be a member of the B&AC, by signing up for the role at the Annual General Meeting each year. If more than three members of the Board (in addition to the Chair and Vice-Chair of the Board) sign up, there shall be an election at the Board meeting following the Annual General Meeting.

Functions: The Budget and Administration Committee is responsible for the following functions:

- (a) Including a "Declaration re Local Government Disclosure of Interest" in its agenda, immediately following the "Chair's Remarks";
- (b) Receiving delegations;
- (c) Reviewing and receiving information memorandums and reports related to topics including but not limited to the following;
  - Expenditure report (Vendor Listing)
  - WSIB Incidents

- Operating budgets
  - Capital budgets
  - Mileage rates
  - Per diems and honorariums
  - Fee schedules
- (d) Recommending the acquisition and/or sale of land;
- (e) Considering matters "in camera", as per section C.3 in this by-law;
- (f) Investigating, reviewing and making recommendations to the Board of Directors on budget matters, including in particular:
- (i) Reviewing recommendations of Staff on upcoming capital and operating budgets and making recommendations on same;
  - (ii) Reviewing and making recommendations on procedures for obtaining municipal, provincial, federal and private funding;
  - (iii) Reviewing and making recommendations on alternate financing methods, i.e. the issuance of debentures, mortgages, etc.;
  - (iv) Reviewing and making recommendations on the Auditor's annual report;
  - (v) Where appropriate, receiving delegations on behalf of the Board of Directors, and making recommendations thereon.
- (g) Investigating, reviewing and making recommendations to the Board of Directors on insurance matters, including in particular:
- (i) Reviewing and making recommendations on current HCA insurance contracts;
  - (ii) Reviewing and making recommendations on insurance claims pertaining to the overall HCA operation and jurisdiction.
- (h) Investigating, reviewing and making recommendations to the Board of Directors on personnel related matters, including in particular:
- (i) Reviewing Staff requirements and making recommendations on new permanent positions;
  - (ii) Advertising for new permanent positions, interviewing applicants and recommending a final selection for Salary Classification S11 and greater;
  - (iii) Reviewing and making recommendations on step progression or merit increases, and cost of living increases;
  - (iv) Reviewing and making recommendations on overall salary adjustments and reclassifications;
  - (v) Reviewing the HCA Personnel Policy and fringe benefit programs, and making recommendations on any required changes with a budget impact;
  - (vi) Reviewing and making recommendations on members' per diems, honorariums, etc.
- (i) Investigating, reviewing and making recommendations to the Board of Directors on matters pertaining to the negotiation of the various conservation area concession operation contracts and rental agreements.
- (j) Investigating and making recommendations on such other matters as assigned by the Board of Directors, and such matters as may arise from time to time which

require some pre-consideration before being brought to the Board of Directors for a final decision.

Governance: The B&AC will oversee and make recommendations to the Board of Directors regarding the good corporate governance of the HCA. For this purpose, the mandate of the B&AC is to: (a) consider and report annually to the Board of Directors on governance issues that have arisen in the past year, including making recommendations, if appropriate, for amendments to this Administrative By-Law, and (b) conduct a comprehensive review of corporate governance every three years and report to the Board of Directors on the results, including making recommendations, if appropriate, for amendments to this Administrative By-Law. The Board shall decide, following receipt of the B&AC's report, whether action is appropriate or required to ensure the continued good corporate governance of the HCA.

#### **7. Executive Committee**

Discretion to Create Executive Committee: The Board of Directors may delegate all or any of its power to an Executive Committee (if applicable), except:

- (a) the termination of the services of the Secretary-Treasurer
- (b) the power to raise money, and
- (c) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the works approved by the Board of Directors.

No Executive Committee: In 1983, the HCA decided to abandon its Executive Committee. All powers therefore rest with the Board of Directors.

#### **8. Conservation Advisory Board**

Functions: The Conservation Advisory Board (CAB) will consider, review and make recommendations on:

- (a) Specific projects as requested annually or as identified by the Board of Directors
- (b) Specific projects and programs identified by HCA staff including but not limited to the following:
  - (i) Conservation area master development plans
  - (ii) Development of new volunteer engagement programs and friends organizations that assist HCA in conservation area programs and projects
  - (iii) Policies, protocols and memorandums of agreement/understanding that do not have a budget impact
  - (iv) Long range strategies and plans, watershed and sub-watershed plans and provincial or federal environmental assessments, among other matters.
  - (v) Large-scale natural heritage enhancement projects, both on Authority owned and managed lands as well as private lands.
  - (vi) Cultural heritage projects for HCA conservation areas and for any buildings or structures owned by the Authority for designation under the terms of the Ontario Heritage Act, R.S.O, 1990.
  - (vii) The continued development and enhancement of the Hamilton Watershed Stewardship Program which includes programs on private and conservation area lands designed to improve the conservation, management and restoration of watershed resources and improvement of water quality.

- (ix) Large-scale, major private and public sector projects which have the potential for major environmental impacts on watershed resources.
  - (x) HCA reports and studies for engineering and water management projects and for comprehensive watershed and subwatershed management projects and plans, among other matters.
  - (xi) The establishment of subcommittees to the CAB, to deal with specific policy or program matters as appropriate, or to sit as members of HCA-established project Steering Committees and to bring recommendations to the CAB for consideration and final recommendation.
- (c) Receive information and updates on conservation area operations including annual attendance figures, events and annual membership pass program

Membership: The CAB shall be composed of voting members as follows:

- Citizens: up to 8 appointed members of the community at large, with a minimum of 6
- Board of Directors: up to 3 members of the Board

Chair & Vice Chair of CAB: One of the Directors shall serve as Chair of the CAB and a Vice-Chair shall be selected by the CAB members which can be a citizen or Director.

Ex Officio Members: The Chair and Vice Chair of the Board of Directors are ex-officio non-voting members of CAB. They are invited but not required to attend meetings of CAB. If in attendance they are not counted when determining quorum.

Terms of Appointment:

- Citizen members: citizen appointments to CAB will be for a maximum period of 8 consecutive years, with these positions being noted as 4 year appointments with an option for an additional one 4-year term at renewal. Citizen appointments will be staggered to ensure there is not a significant amount of membership turnover in any given year to ensure continuity and knowledge over time.
- After serving for the two terms noted above, a citizen member with continued interest may apply for future vacancies provided the member has taken a minimum of a one year break.
- Directors: appointments of Board of Director members to the CAB are for one year terms and renewed at the Annual General Meeting. Directors may nominate themselves to be a member of CAB, by signing up for the role at the Annual General Meeting. If more than three members of the Board sign up, there shall be an election at the Board meeting following the Annual General Meeting.

Citizen Recruitment & Selection:

*Recruitment & Vacancies for Citizen Members*

When new citizen members are required a "Notice of Vacancy" will be prepared by the HCA staff and distributed through HCA communication channels which includes, but is not limited to, posting on the HCA website and social media. This document will include general information regarding committee functions and a link to the terms of reference.

A vacancy occurs when a citizen member resigns, vacates a position at their maximum term length or when their resignation is requested by the Chair.

All applicants must submit an expression of interest which includes a cover page and resume.

Selected applicants must attend an interview. The Chair and Vice chair of CAB (or designate) will form the interview committee along with one HCA staff person as designated by the CAO.

The citizen member(s) selected by the interview committee will be endorsed and approved by a report to the next Board of Directors meeting.

*Eligibility for Citizen Members*

Appointment to CAB will be made providing adherence with the following eligibility requirements:

- Citizen members must live within the HCA watershed
- Citizen members must possess experience and/or expertise with environmental/natural resource issues and/or outdoor recreation/operations, which may include volunteer experience
- While applicants who meet the above eligibility criteria are encouraged to apply, applicants with demonstrated participation in groups or initiatives with goals relevant to the Conservation Advisory Board will be preferred.

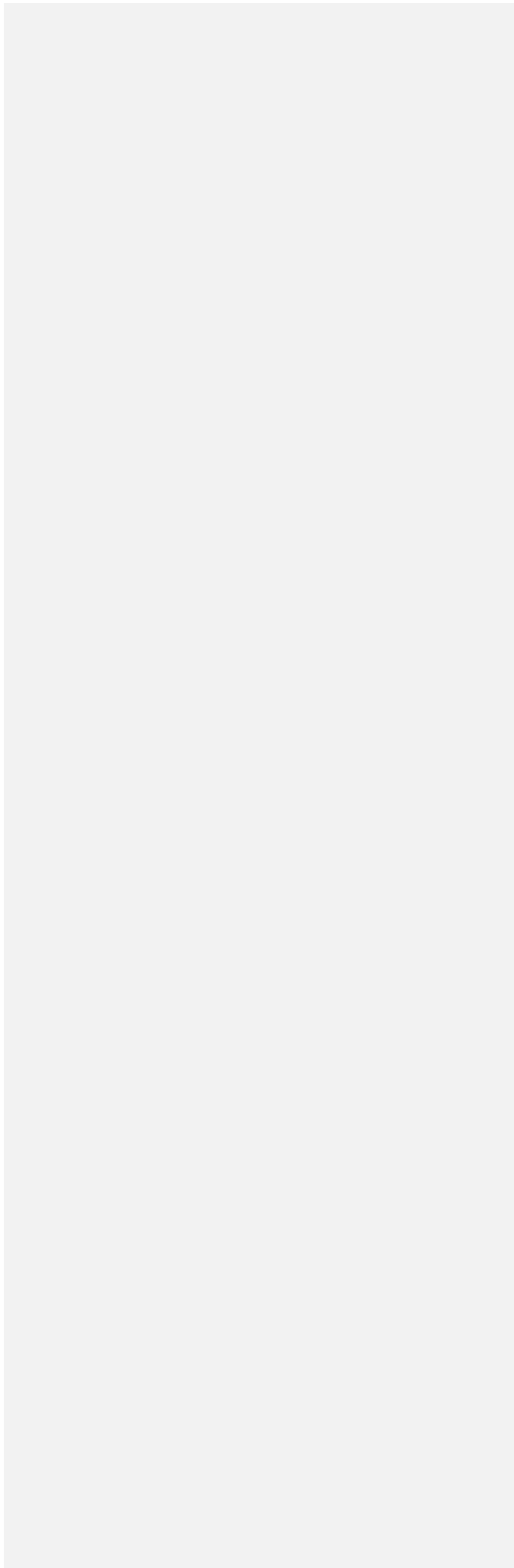
Active participation in the CAB meetings is expected of all citizen members. Active participation may refer to both meeting attendance and/or engagement. Members who miss three consecutive meetings without justified absence may be retired from the committee at the discretion of the CAB Chair.

Meetings: Regular meetings of the CAB will be scheduled on a bi-monthly basis, up to 6 meetings per year (currently meetings are proposed as February, April, June, August, October, and December) or at the discretion of the Chair if additional meetings are required.

Meetings will be held on the second Thursday of each month and will commence as early as 4:00 p.m., or as approved by the Chair. HCA staff will work with the CAB Chair to determine agendas for the meetings, location of meetings for site visits and will also work collaboratively to determine when scheduled meetings are to be canceled due to lack of agenda items, inclement weather, lack of quorum or other circumstances.

HCA Support & Advisory Staff: As designated by the CAO, appropriate HCA staff shall provide administrative support, including the taking of minutes, the distribution of minutes and agendas and the general administrative coordination of meetings including posting of vacancies for citizen members.

Staff from various HCA divisions shall provide support to the CAB, including background information, briefings, site visits and formal memos and/or reports.



**SECTION 28 (3)**

**CONSERVATION AUTHORITIES ACT**

**HEARING GUIDELINES**

**October 2005, Amended 2018 re. MLT, Amended 2020 re.  
Electronic Hearings, Amended 2021, re. Ontario Land Tribunal,  
and re. s. 28.0.1(7) Hearings**



Conservation  
**ONTARIO**  
*Natural Champions*



Ministry of Natural Resources  
Ministère des Richesses naturelles

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## 1. PURPOSE OF HEARING GUIDELINES

The purpose of the Hearing Guidelines is to provide model hearing guidelines to be adopted by conservation authorities in respect to hearings under the *Conservation Authorities Act*.

The *Conservation Authorities Act* requires that the applicant be provided with an opportunity for a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be refused or approved with contentious conditions. Further, a permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, pollution or conservation of land, and additional erosion and dynamic beaches. The Hearing Board is empowered by law to make a decision, governed by the *Statutory Powers Procedures Act*.

The Hearing Rules are adopted under the authority of Section 25.1 of the *Statutory Power Procedures Act* (SPPA). The SPPA applies to the exercise of statutory power of decision where there is a requirement to hold or to afford the parties to the proceeding an opportunity for a hearing before making a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority to establish rules to govern such proceedings.

The Hearing Board shall hear and decide whether the application will be approved with or without conditions or refused. In the case of hearings related to applications submitted proposed to Section 28.0.1, the Hearing Board shall determine what conditions, if any, will be attached to the permission. See Attachment 1 for further details.

These guidelines have been prepared as an update to the October 1992 hearing guidelines and are intended to provide a step-by-step process to conducting hearings required under Section 28 (12), (13), (14) of the *Conservation Authorities Act*. Similar to the 1992 guidelines, it is hoped that the guidelines will promote the necessary consistency across the Province and ensure that hearings meet the legal requirements of the *Statutory Powers Procedures Act* without being unduly legalistic or intimidating to the participants. Additional considerations have been included related to hearings under Section 28.0.1(7) in Attachment 1.

## 2. PREHEARING PROCEDURES

### 2.1. Role of the Hearing Board

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- (a) No member of the Authority taking part in the hearing should have prior involvement with the application that could lead to reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councillor, the *Municipal Conflict of Interest Act* applies. In the case of a previously

expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making.

- (b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.
- (c) The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.

Individual Conservation Authorities shall develop a document outlining their own practices and procedures relating to the review and reporting of Section 28 applications, including the role of staff, the applicant and the Authority or Executive Committee as well as, the procedures for the hearing itself. Such policy and procedures manual shall be available to the members of the public upon request and on the Authority's website. These procedures shall have regard for the above information and should be approved by the Conservation Authority Board of Directors.

## 2.2. Application

The right to a hearing arises where staff is recommending refusal of an application or is recommending conditions to the approval of an application. The applicant is entitled to reasonable notice of the hearing pursuant to the *Statutory Powers Procedures Act*.

## 2.3. Meeting Schedule

Hearings will be held on a bi-monthly basis, up to 6 meetings per year, or at the discretion of the Chair if additional meetings are required. Meetings will be held on the second Thursday of each month and will commence at 6:00 p.m., or as approved by the Board of Directors. Meetings will be held on alternate months from the meeting schedule for the Conservation Advisory Board. Therefore, meetings will be held in January, March, May, July, September, and November. Meetings will be cancelled in months when no hearings are requested.

### ~~2.3.2.4.~~ Notice of Hearing

The Notice of Hearing shall be sent to the applicant within sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, it is recommended that prior to sending the Notice of Hearing, the applicant be consulted to determine an agreeable date and time based on the local Conservation Authority's regular meeting schedule.

#### **The Notice of Hearing must contain or append the following:**

- (a) Reference to the applicable legislation under which the hearing is to be held (i.e., the *Conservation Authorities Act*).
- (b) The time, place and the purpose of the hearing. OR for Electronic Hearings:

The time, purpose of the hearing, and details about the manner in which the hearing will be held.

Note: for electronic hearings the Notice must also contain a statement that the applicant should notify the Authority if they believe holding the hearing electronically is likely to cause them significant prejudice. The Authority shall assume the applicant has no objection to the electronic hearing if no such notification is received.

- (c) Particulars to identify the applicant, property and the nature of the application which are the subject of the hearing.

Note: If the applicant is not the landowner but the prospective owner, the applicant must have written authorization from the registered landowner.

- (d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so he or she can be adequately prepared for the hearing.

It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.

- (e) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings.

Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.

- (f) Reminder that the applicant is entitled to be represented at the hearing by a representative such as legal counsel, if desired. The conservation authority may be represented at the hearing by counsel or staff.

- (g) A copy of the Authority's Hearing Guidelines.

It is recommended that the Notice of Hearing be directed to the applicant and/or landowner by registered mail. Please refer to **Appendix A** for an example Notice of Hearing.

#### 2.4.2.5. Presubmission of Reports

The applicant shall submit reports/materials to the Board members in advance of the hearing (i.e., inclusion on an Authority/Executive Committee agenda). The applicant shall be given two weeks to prepare a report once the reasons for the staff recommendations have been received. Subsequently, this may affect the timing and scheduling of the staff hearing reports.

## 3. HEARING

### 3.1. Public Hearing

Pursuant to the *Statutory Powers Procedure Act*, hearings, including electronic or hybrid hearings, are required to be held in public. For electronic hearings, public attendance should be synchronous with the hearing. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal or other matters would be disclosed at hearings.

### 3.2. Hearing Participants

The *Conservation Authorities Act* does not provide for third party status at the hearing. It is only the information presented by the applicant and Authority staff, or their representatives, that will be considered by the hearing-board members. Any information provided by third parties should be incorporated within the presubmitted reports/materials by, or on behalf of, the applicant or Authority staff, as appropriate.

The hearing however is open to the public. Generally, information received from the public will be incorporated in the agenda as part of the regular Board meeting as an item of correspondence or a delegation, following timeframes specified in the HCA Administrative By-Laws.

### 3.3. Attendance of Hearing Board Members

In accordance with case law relating to the conduct of hearings, those members of the Authority who will decide whether to grant or refuse the application must be present during the full course of the hearing. If it is necessary for a member to leave, the remaining members can continue with the hearing and render a decision, provided quorum is maintained.

### 3.4. Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant or Authority staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held.

Any adjournments form part of the hearing record.

### 3.5. Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as **Appendix B**.

### 3.6. Information Presented at Hearings

- (a) The *Statutory Powers Procedure Act*, requires that a witness be informed of their right to object pursuant to the *Canada Evidence Act*. The *Canada Evidence Act* indicates that a witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information

should be provided to the applicant as part of the Notice of Hearing.

- (b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- (c) The Board may authorize receiving a copy rather than the original document. However, the Board can request certified copies of the document if required.
- (d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- (e) The Board may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc. or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

### 3.7. Conduct of Hearing

#### 3.7.1. Record of Attending Hearing Board Members

A record shall be made of the members of the Hearing Board.

#### 3.7.2. Opening Remarks

The Chairperson shall convene the hearing with opening remarks which generally; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the *Canada Evidence Act*. Please reference **Appendix C** for the Opening Remarks model. In an electronic hearing, all the parties and the members of the Hearing Board must be able to clearly hear one another and any witnesses throughout the hearing.

#### 3.7.3. Presentation of Authority Staff Information

Staff of the Authority presents the reasons supporting the recommendation for the refusal or conditions of approval of the application. Any reports, documents or plans that form part of the presentation shall be properly indexed and received.

Staff of the Authority should not submit new information at the hearing as the applicant will not have had time to review and provide a professional opinion to the Hearing Board.

Consideration should be given to the designation of one staff member or legal counsel who coordinates the presentation of information on behalf of Authority staff and who asks questions on behalf of Authority staff.

#### 3.7.4. Presentation of Applicant Information

The applicant has the opportunity to present information at the conclusion of the Authority staff presentation. Any reports, documents or plans which form part of the submission should be properly indexed and received.

The applicant shall present information as it applies to the permit application in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beach or conservation of land or pollution? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning.

- The applicant may be represented by legal counsel or agent, if desired
- The applicant may present information to the Board and/or have invited advisors to present information to the Board
- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

The applicant should not submit new information at the hearing as the Staff of the Authority will not have had time to review and provide a professional opinion to the Hearing Board.

#### **3.7.5. Questions**

Members of the Hearing Board may direct questions to each speaker as the information is being heard. The applicant and /or agent can make any comments or questions on the staff report.

Pursuant to the *Statutory Powers Procedure Act*, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. Please note that the courts have been particularly sensitive to the issue of limiting questions and there is a tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

#### **3.7.6. Deliberation**

After all the information is presented, the Board may adjourn the hearing and retire in private to confer. The Board may reconvene on the same date or at some later date to advise of the Board's decision. The Board members shall not discuss the hearing with others prior to the decision of the Board being finalized.

### **4. DECISION**

The applicant must receive written notice of the decision. The applicant shall be informed of the right to appeal the decision within 30 days upon receipt of the written decision to the Ontario Land Tribunal.

It is important that the hearing participants have a clear understanding of why the application was refused or approved. The Board shall itemize and record information of particular significance which led to their decision.

#### **4.1. Notice of Decision**

The decision notice should include the following information:

- (a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (b) The decision to refuse or approve the application. A copy of the Hearing Board resolution should be attached.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as **Appendix D**.

#### **4.2. Adoption**

A resolution advising of the Board's decision and particulars of the decision should be adopted.

### **5. RECORD**

The Authority shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the Ontario Land Tribunal. The record must include the following:

- (a) The application for the permit.
- (b) The Notice of Hearing.
- (c) Any orders made by the Board (e.g., for adjournments).
- (d) All information received by the Board.
- (e) Attendance of Hearing Board members.
- (f) The decision and reasons for decisions of the Board.
- (g) The Notice of Decision sent to the applicant.

## APPENDIX A

### Notice of Hearing

IN THE MATTER OF  
The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** an application by

FOR THE PERMISSION OF THE  
CONSERVATION AUTHORITY  
Pursuant to Regulations made under  
Section 28, Subsection 12 of the said Act

**TAKE NOTICE THAT** a Hearing before the Board of Directors of the Conservation Authority will be held under Section 28, Subsection 12 of the Conservation Authorities Act at the offices of the said Authority (ADDRESS), at the hour of , **on the day of , 2021**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in order to ensure no adverse affect on (**the control of flooding, erosion, dynamic beaches or pollution or conservation of land/alter or interfere with a watercourse, shoreline or wetland**) on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Board of Directors for the meeting of (**meeting number**). If you intend to appear [For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact (**name**). Written material will be required by (**date**), to enable the Committee members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Board of Directors of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

DATED the \_\_\_ day of , \_\_\_\_\_ 202X

The Board of Directors of the  
Conservation Authority

Per:  
Chief Administrative Officer/Secretary-Treasurer

## APPENDIX B

### Hearing Procedures

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chairperson's opening remarks. For electronic hearings, the Chairperson shall ensure that all parties and the Hearing Board are able to clearly hear one another and any witnesses throughout the hearing.
3. Staff will introduce to the Hearing Board the applicant/owner, his/her agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject application and the conclusions.
5. Staff will present the staff report included in the Authority/Executive Committee agenda.
6. The applicant and/or their agent will present their material
7. Staff and/or the conservation authority's agent may question the applicant and/or their agent if reasonably required for a full and fair disclosure of matters presented at the Hearing.<sup>1</sup>
8. The applicant and/or their agent may question the conservation authority staff and/or their agent if reasonably required for full and fair disclosure of matters presented at the Hearing.<sup>2</sup>
9. The Hearing Board will question, if necessary, both the staff and the applicant/agent.
10. The Hearing Board will move into closed session for deliberation. For electronic meetings, the Hearing Board will separate from other participants for deliberation.
11. Members of the Hearing Board will move and second a motion.
12. A motion will be carried which will culminate in the decision.
13. The Hearing Board will move out of closed session. For electronic meetings, the Hearing Board will reconvene with other hearing participants.
14. The Chairperson or Acting Chairperson will advise the owner/applicant of the Hearing Board decision, including providing the Board's reasons for the decision for approval or refusal.
15. If decision is "to refuse" or "approve with conditions", the Chairperson or Acting Chairperson shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunal within 30 days of receipt of the reasons for the decision.
16. Motion to move out of Hearing Board and sit as the Board of Directors.

<sup>1, 2</sup> As per the *Statutory Powers Procedure Act* a tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

## APPENDIX C

### **Chairperson's remarks when dealing with hearings (Section 28, Subsection 12 of the *Conservation Authorities Act*) with respect to Ontario Regulation 161/06**

We are now going to conduct a hearing under section 28 of the Conservation Authorities Act in respect of an application by: \_\_\_\_\_, for permission to: \_\_\_\_\_

The Authority has adopted regulations under section 28 of the Conservation Authorities Act which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse affect on (the control of flooding, erosion, dynamic beaches or pollution or conservation of land) or to permit alteration to a shoreline or watercourse or interference with a wetland.

The Staff has reviewed this proposed work and prepared a staff report, a copy of which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under Section 28 (12) of the Conservation Authorities Act, the person requesting permission has the right to a hearing before the Authority/Executive Committee.

In holding this hearing, the Authority Board/Executive Committee is to determine whether or not a permit is to be issued, with or without conditions. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only Information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## APPENDIX D

### Notice of Decision

(Date)

BY REGISTERED MAIL

(name)

(address)

Dear:

RE: NOTICE OF DECISION

Hearing Pursuant to Section 28(12) of the Conservation Authorities Act

Proposed Residential Development

Lot, Plan; ?? Drive City of

(Application #)

In accordance with the requirements of the Conservation Authorities Act, the (*name*) Conservation Authority provides the following Notice of Decision:

On (*meeting date and number*), the Hearing Board/Authority/Executive Committee refused/approved your application/approved your application with conditions. A copy the Boards/Committee's resolution # has been attached for your records. Please note that this decision is based on the following reasons: (*the proposed development/alteration to a watercourse or shoreline adversely affects the control of flooding, erosion, dynamic beaches or pollution or interference with a wetland or conservation of land*).

In accordance with Section 28 (15) of the Conservation Authorities Act, an applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under subsection (14), appeal to the Ontario Land Tribunal who may refuse the permission; or grant permission, with or without conditions. For your information, should you wish to exercise your right to appeal the decision, a letter and/or forms by you or your agent/counsel setting out your appeal must be sent within 30 days of receiving this decision addressed to:

Ontario Land Tribunal  
655 Bay Street, Suite 1500  
Toronto, Ontario  
M5G 1E5

Website: [olt.gov.on.ca](http://olt.gov.on.ca)

A carbon copy of this letter should also be sent to this conservation authority. Should you require any further information, please do not hesitate to contact (*staff contact*) or the undersigned.

Yours truly,  
Chief Administrative Officer/Secretary Treasurer  
Enclosure

## ATTACHMENT 1:

### Hearings under Section 28.0.1 of the *Conservation Authorities Act*

#### (Permission for Development, Zoning Order)

Section 28.0.1 of the *Conservation Authorities Act* came into force with the Royal Assent of Bill 229, *Protect, Support and Recover from COVID-19 Act* (Budget Measures), 2020. This section applies to any application submitted to an authority under a regulation made under Section 28 of the Act for permission to carry out all or part of a development project associated with an approved Minister's Zoning Order (MZO). For such applications, an Authority **must** grant permission to the applicant to carry out the activity, provided an MZO has been made by the Minister of Municipal Affairs and Housing, and provided that the authority's regulated area in which the development activity is proposed to take place is not located in the Greenbelt Area designated under section 2 of the *Greenbelt Act*. A permission which is granted under s.28.0.1 may be subject to conditions as prescribed by the issuing Authority.

Understanding that an Authority **must** grant permission for applications submitted pursuant to an approved MZO (pending the above-noted conditions are met), hearings for these applications differ from those under Section 28(12) of the Act, in that a hearing **cannot** be held to determine if a permission should be refused. The Authority may refuse to grant a permit only if i) a zoning order has not been made to authorize the development project, ii) the project is proposed to be carried out in the Greenbelt Area, and iii) if all other prescribed requirements have not been satisfied. Per s.28.0.1 (7) of the Act, the applicant for a permission will be given the opportunity to be heard by the Authority prior to any conditions being attached to the granted permission.

The following table is intended to provide a step-by-step process to conducting hearings required under Section 28.0.1 (7) of the *Conservation Authorities Act*. It is recognized that much of the guidance provided in the body of the Section 28 Hearing Guidelines will be applicable to the s. 28.0.1 (7) hearing process. Where processes differ, the table outlines the necessary considerations for the s. 28.0.1 (7) processes. Where the processes are the same, the table refers to the appropriate sections of the Section 28(3) hearing guidelines.

<b>Sections of the <i>Section 28 Conservation Authorities Act Hearing Guidelines</i></b>	<b>Specific Guidance and/or Processes for S. 28.0.1 (7) Hearings</b>
1.0 Purpose of Hearing Guidelines	<p>The purpose of the Hearing Guidelines is to provide model hearing guidelines to be adopted by conservation authorities in respect to hearings under the <i>Conservation Authorities Act</i>.</p> <p>The <i>Conservation Authorities Act</i> requires that the applicant be provided with an opportunity for a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be refused or approved with contentious</p>

	<p>conditions. In the case of hearings related to applications submitted pursuant to s. 28.0.1 of the <i>Conservation Authorities Act</i>, the Authority must grant permission to the applicant, provided the requirements set out under this section are met. In this scenario, a hearing will only be held to determine conditions which will be attached to a permission. Further, a permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, pollution or conservation of land, and additional erosion and dynamic beaches. In the case of applications submitted pursuant to s. 28.0.1 of the <i>Conservation Authorities Act</i>, the Authority may refuse to grant a permit only if i) a zoning order has not been made to authorize the development project, ii) the project is proposed to be carried out in the Greenbelt Area, and iii) if all other prescribed requirements have not been satisfied. The Hearing Board is empowered by law to make a decision, governed by the <u>Statutory Powers Procedures Act</u>.</p> <p>The Hearing Rules are adopted under the authority of Section 25.1 of the <i>Statutory Powers Procedures Act</i> (SPPA). The SPPA applies to the exercise of a statutory power of decision where there is a requirement to hold or to afford the parties to the proceeding an opportunity for a hearing before making a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority for to establish rules to govern such proceedings.</p> <p>The Hearing Board shall hear and decide whether the application will be approved with or without conditions or refused. In the case of hearings related to applications submitted pursuant to Section 28.0.1, the Hearing Board shall determine what conditions, if any, will be attached to the permission. See Attachment 1 for further details.</p> <p>These guidelines have been prepared as an update to the October 1992 hearing guidelines and are intended to provide a step-by-step process to conducting hearings required under Section 28 (12), (13), (14) of the <i>Conservation Authorities Act</i>. Similar to the 1992 guidelines, it is hoped that the guidelines will promote the necessary consistency across the Province and ensure that hearings meet the legal requirements of the <i>Statutory Powers Procedures Act</i> without being unduly legalistic or intimidating to the participants. Additional considerations have been included related to hearings under Section 28.0.1 (7) in Attachment 1</p>
2.0 Prehearing Procedures	Not applicable to S.28.0.1(7) hearings

<p>2.1 Apprehension of Bias</p>	<p>In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.</p> <p>(a) No member of the Authority taking part in the hearing should have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councilor, the <i>Municipal Conflict of Interest Act</i> applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making</p> <p>(b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.</p> <p>(c) The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.</p> <p>(d) Where a hearing is required for applications submitted pursuant to s. 28.0.1 of the <i>Conservation Authorities Act</i> (e.g., to determine the conditions of the permission), final decisions on the conditions shall not be made until such a time as the applicant has been given the opportunity to attend a hearing.</p> <p>Individual Conservation Authorities shall develop a document outlining their own practices and procedures relating to the review and reporting of Section 28 applications, including the role of staff, the applicant and the Authority or Executive Committee as well as, the procedures for the hearing itself. Such policy and procedures manual shall be available to the members of the public upon request and on the Authority's website. These procedures shall have regard for the above</p>
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	information and should be approved by the Conservation Authority Board of Directors.
2.2 Application	The right to a hearing arises where staff is recommending refusal of an application or is recommending conditions to the approval of an application. Additionally, in the case of applications submitted pursuant to s. 28.0.1 of the CA Act, the authority shall not attach conditions to a permission unless the applicant has been given an opportunity to be heard by the authority. The applicant is entitled to reasonable notice of the hearing pursuant to the <i>Statutory Powers Procedures Act</i> .
2.3 Notice of Hearing	<i>Refer to Section 2.3</i>
2.4 Presubmission of Reports	<i>Refer to Section 2.4</i>
3.0 Hearing	Not applicable to S.28.0.1(7) hearings
3.1 Public Hearing	<i>Refer to Section 3.1</i>
3.2 Hearing participants	<i>Refer to Section 3.2</i>
3.3 Attendance of Hearing Board Members	<i>Refer to Section 3.3</i>
3.4 Adjournments	<i>Refer to Section 3.4</i>
3.5 Orders and Directions	<i>Refer to Section 3.5</i>
3.6 Information Presented at Hearings	<i>Refer to Section 3.6</i>
3.7 Conduct of Hearing	N/A
3.7.1 Record of Attending Hearing Board Members	<i>Refer to Section 3.7.1</i>
3.7.2 Opening Remarks	<i>Refer to Section 3.7.2</i>
3.7.3 Presentation of Authority Staff Information	<i>Refer to Section 3.7.3</i>
3.7.4 Presentation of Applicant Information	<i>Refer to Section 3.7.4</i>
3.7.5 Questions	<i>Refer to Section 3.7.5</i>
3.7.6 Deliberation	<i>Refer to Section 3.7.6</i>
4.0 Decision	<i>Refer to Section 4.0</i>
4.1 Notice of Decision	The decision notice should include the following information: (a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.

	<p>(b) The decision to refuse or approve the application, and in the case of applications under s. 28.0.1 of the CA Act, the decision to approve the application with or without conditions. A copy of the Hearing Board resolution should be attached.</p> <p>It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as <b>Appendix H</b>.</p>
4.2 Adoption	<i>Refer to section 4.2</i>
5.0 Record	<i>Refer to Section 5.0</i>
Appendix E	A new Appendix E has been prepared which provides an example "Notice of Hearing" for hearings under Section 28.0.1 (7) of the <i>Conservation Authorities Act</i> .
Appendix F	A new Appendix F has been prepared which provides an example "Hearing Procedures" for hearings under Section 28.0.1 (7) of the <i>Conservation Authorities Act</i> .
Appendix G	A new Appendix G has been prepared which provides an example "Chairperson's Remarks" for hearings under Section 28.0.1 (7) of the <i>Conservation Authorities Act</i>
Appendix H	A new Appendix H has been prepared which provides an example "Notice of Decision" for hearings under Section 28.0.1 (7) of the <i>Conservation Authorities Act</i>

## APPENDIX E

### Notice of Hearing (Subsection 28.0.1 (7) of the Conservation Authorities Act)

IN THE MATTER OF  
The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** an application by

FOR THE PERMISSION OF THE  
CONSERVATION AUTHORITY  
Pursuant to Regulations made under  
Section 28.0.1, Subsection 7 of the said Act

**TAKE NOTICE THAT** a Hearing before the Board of Directors of the Conservation Authority will be held under Section 28.0.1, Subsection 7 of the Conservation Authorities Act at the offices of the said Authority (ADDRESS), at the hour of , **on the day of , 2021**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in association with a Minister's Zoning Order (Regulation Number) on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Board of Directors for the meeting of (**meeting number**). If you intend to appear [For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact (**name**). Written material will be required by (**date**), to enable the Committee members to review the material prior to the meeting.

TAKE NOTICE THAT pursuant to Section 28.0.1 of the *Conservation Authorities Act*, a conservation authority is required to grant the permission applied for and may only impose conditions to the permission. The Hearing will therefore focus on the conditions to be imposed to the granting of the permission.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Board of Directors of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the \_\_\_\_ day of, \_\_\_\_\_ 202X

The Board of Directors of the  
Conservation Authority

Per:  
Chief Administrative Officer/Secretary-Treasurer

## APPENDIX F

### Hearing Procedures (Subsection 28.0.1 (7) of the Conservation Authorities Act)

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chairperson's opening remarks. For electronic hearings, the Chairperson shall ensure that all parties and the Hearing Board are able to clearly hear one another and any witnesses throughout the hearing.
3. Staff will introduce to the Hearing Board the applicant/owner, his/her agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject application and the conclusions.
5. Staff will present the staff report included in the Authority/Executive Committee agenda.
6. The applicant and/or their agent will present their material
7. Staff and/or the conservation authority's agent may question the applicant and/or their agent if reasonably required for a full and fair disclosure of matters presented at the Hearing.<sup>1</sup>
8. The applicant and/or their agent may question the conservation authority staff and/or their agent if reasonably required for full and fair disclosure of matters presented at the Hearing.<sup>2</sup>
9. The Hearing Board will question, if necessary, both the staff and the applicant/agent.
10. The Hearing Board will move into closed session for deliberation. For electronic meetings, the Hearing Board will separate from other participants for deliberation.
11. Members of the Hearing Board will move and second a motion.
12. A motion will be carried which will culminate in the decision.
13. The Hearing Board will move out of closed session. For electronic meetings, the Hearing Board will reconvene with other hearing participants.
14. The Chairperson or Acting Chairperson will advise the owner/applicant of the Hearing Board decision, including providing the Board's reasons for the decision for approval or refusal.
15. The Chairperson or Acting Chairperson shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunal within 30 days of receipt of the reasons for the decision.
16. Motion to move out of Hearing Board and sit as the Board of Directors.

<sup>1,2</sup> As per the *Statutory Powers Procedure Act* a tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

## APPENDIX G

### **Chairperson's remarks when dealing with hearings (Section 28.0.1, Subsection 7 of the *Conservation Authorities Act*) with respect to Ontario Regulation 161/06**

We are now going to conduct a hearing under section 28.0.1 of the Conservation Authorities Act in respect of an application by: \_\_\_\_\_, for permission to: \_\_\_\_\_

Under Section 28.0.1 of the Conservation Authorities Act, an Authority is required to grant permission for any application submitted under a regulation made under subsection 28(1) for permission to carry out all or part of a development project, in an area regulated by the Authority, associated with a Minister's Zoning Order, provided the criteria listed under subsection 28.0.1 (1) are met. A permission is subject to any conditions as may be prescribed by the Authority.

The Staff has reviewed this proposed work and prepared a staff report, including the proposed conditions of approval for the proposed work, which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under Section 28.0.1 (7) of the Conservation Authorities Act, the person requesting permission has the right to a hearing before the Authority/Executive Committee.

In holding this hearing, the Authority Board/Executive Committee is to determine the prescribed conditions to be attached to the approved permission. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only Information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

## APPENDIX H

### Notice of Decision (Subsection 28.0.1 (7) of the Conservation Authorities Act)

(Date)

BY REGISTERED MAIL

(name)

(address)

Dear:

RE: NOTICE OF DECISION

**Hearing Pursuant to Section 28.0.1 (7) of the Conservation Authorities Act  
Proposed Residential Development**

**Lot, Plan; ?? Drive City of  
(Application #)**

In accordance with the requirements of the Conservation Authorities Act, the (name) Conservation Authority provides the following Notice of Decision:

On (**meeting date and number**), the Hearing Board/Authority/Executive Committee approved your application/approved your application with conditions. A copy the Board's/Committee's resolution # has been attached for your records. Please note that this decision is based on the following reasons: (conditions are required to mitigate the effects of the development project on the control of flooding, erosion, dynamic beaches or pollutions or the conservation of land; or conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property).

In accordance with Section 28.0.1 (9) of the Conservation Authorities Act, an applicant who objects to conditions imposed on a permission may, within 15 days of receiving the reasons under subsection (8), submit a request to the Minister for the Minister to review the conditions. The Minister may confirm or vary the conditions as proposed by the authority. Alternatively, in accordance with Section 28.0.1 (19) of the Conservation Authorities Act, the holder of a permission who objects to the conditions proposed by an authority may, within 90 days of the reasons under subsection (8) being issued, appeal to the Ontario Land Tribunal to review the conditions. For your information, should you wish to exercise your right to appeal the decision to either the Minister or the Ontario Land Tribunal, a letter by you or your agent/counsel setting out your appeal must be sent within 15 or 90 days respectively of receiving this decision, addressed to:

Minister of Northern Development, Mines, Natural Resources and Forestry Whitney Block, 99 Wellesley St W, Toronto, ON M7A 1W3	Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
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A carbon copy of this letter should also be sent to this conservation authority. Should you require any further information, please do not hesitate to contact (**staff contact**) or the undersigned.

Yours truly,

Chief Administrative Officer/Secretary Treasurer  
Enclosure



# Memorandum

**TO:** Board of Directors

**FROM:** Lisa Burnside, Chief Administrative Officer (CAO)

**RECOMMENDED BY:** T. Scott Peck, MCIP, RPP, Deputy Chief Administrative Officer / Director, Watershed Management Services

**PREPARED BY:** Jonathan Bastien, Manager - Water Resources Engineering

**DATE:** September 25<sup>th</sup>, 2023

**RE:** Watershed Conditions Report

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## SYNOPSIS

During the period of August 23<sup>rd</sup> 2023 to September 25<sup>th</sup> 2023, there were no observations, reports, or expectations of significant water safety concerns, significant watercourse flooding events, or Lake Ontario shoreline flooding events.

Currently, there are also no observations, reports, or expectations that significant watercourse flooding or significant water safety concerns are occurring. Current flows are at baseflow conditions to slightly elevated above baseflow conditions at all streamflow gauges

Currently, there are no observations, reports, or expectations that significant Lake Ontario shoreline flooding is occurring.

The average monthly flows for September so far have varied considerably with respect to long-term averages. Monthly flow in Upper Spencer Creek at Safari Road are considered slightly below average. Monthly flow in Middle Spencer Creek at Highway 5 and Lower Spencer Creek at Market Street are considered well above and above average, respectively. Monthly flow in Ancaster Creek at Wilson Street are considered near average. That said, monthly flow in Red Hill Creek at Barton Street are considered well below average.

The Lake Ontario mean daily water level averaged across the entire lake is currently about 9 cm above average for this time of year.

Current Christie Lake levels are slightly below the preferred summer operating levels. Current Valens Lake levels are within the preferred summer operating levels.

The most recent drought assessment indicated that normal to above normal conditions are an appropriate overall characterization of the watershed.

There are no significant rainfall events (+20 mm in a day) forecasted for the watershed over the next 2 weeks, at this time. In the next 9 days, no significant Lake Ontario shoreline flooding is expected, at this time. HCA staff will continue to undertake monthly drought assessments, and coordinate with the Hamilton Low Water Response Team as required if drought conditions are identified.

## **CURRENT WATERSHED CONDITIONS – September 25<sup>th</sup>, 2023**

### Current Flows in Major Area Watercourses

There are no observations, reports, or expectations that significant watercourse flooding or significant water safety concerns are occurring at this time. Current flows are at baseflow conditions to slightly elevated above baseflow conditions at all streamflow gauges [Upper Spencer Creek at Safari Road, Middle Spencer Creek at Highway 5, Lower Spencer Creek at Market Street, Ancaster Creek at Wilson Street and Red Hill Creek at Barton Street].

The average monthly flows for September so far have varied considerably with respect to long-term averages. Monthly flow in Upper Spencer Creek at Safari Road has been 81% of long-term averages (considered slightly below average). Monthly flow in Middle Spencer Creek at Highway 5 and Lower Spencer Creek at Market Street have been 187% and 148% respectively (considered well above and above average, respectively). Monthly flow in Ancaster Creek at Wilson Street has been 95% (considered near average). That said, monthly flow in Red Hill Creek at Barton Street has been 53% (considered well below average).

August 2023 average flows were significantly above long-term averages at most gauges (ranging from 247% to 597%). That said, monthly flow in Ancaster Creek at Wilson Street was 157% (considered well above average).

July 2023 average flows were also significantly above long-term averages at most gauges (ranging from 298% to 839%). That said, monthly flow in Ancaster Creek at Wilson Street was 144% (considered above average).

### Current Lake Ontario Water Levels

At this time, there are no observations, reports, or expectations of significant Lake Ontario shoreline flooding. The Lake Ontario mean daily water level in the Hamilton area was 74.84 to 74.86 m IGLD85 as of yesterday. The Lake Ontario mean daily water level averaged across the entire lake (74.80 m IGLD85 as of yesterday) is about 9 cm above average for this time of year.

### Current Storages in HCA Reservoirs

Current Christie Lake levels (770.91 ft) are slightly below the preferred summer operating levels (771.0 to 771.5 ft).

Current Valens Lake levels (275.35 m) are within the preferred summer operating levels (275.25 to 275.45m).

### Current Soil Conditions

The surface and root-zone soils are currently considered dry to moist.

## **RECENT STORM EVENTS**

During the period of August 23<sup>rd</sup> 2023 to September 25<sup>th</sup> 2023, there were no observations, reports, or expectations of significant water safety concerns, significant watercourse flooding events, or Lake Ontario shoreline flooding events.

## **RECENT WATERSHED LOW WATER CONDITIONS**

The most recent drought assessment (including data up to August 31) indicated that normal to above normal conditions are an appropriate overall characterization of the watershed. This was the eighth consecutive recent monthly assessment that indicated normal conditions.

## **FORECASTED WATERSHED CONDITIONS**

### Watercourse Flooding

There are currently no significant rainfall events (+20 mm in a day) forecasted for the watershed over the next 2 weeks. HCA staff continue to monitor conditions and forecasts routinely. Resultant water levels and flows from currently anticipated rain are not expected to result in significant watercourse flooding.

### Lake Ontario Shoreline Flooding

In the next 9 days, no significant Lake Ontario shoreline flooding is expected. According to International Lake Ontario – St. Lawrence River Board information, weather conditions, including temperatures and precipitation, will primarily determine the rate and magnitude of water level fluctuations over the coming weeks.

### Watershed Low Water Conditions

HCA staff will continue to undertake monthly drought assessments, and coordinate with the Hamilton Low Water Response Team as required if drought conditions are identified.

# Memorandum

**TO:** Board of Directors

**FROM:** Lisa Burnside, Chief Administrative Officer (CAO)

**PREPARED BY:** Gordon R. Costie, Director of Conservation Area Services

**MEETING DATE:** October 5, 2023

**RE:** Conservation Areas Experiences Update

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## **BACKGROUND:**

HCA provides high quality, diverse conservation areas that promote outdoor recreation, health and well being and strengthen public awareness of the importance of being in or near our conservation areas.

## **STAFF REPORTING COMMENTS**

- Spencer Gorge Reservation Service – This reservation service is an ongoing Board approved operation for the Spencer Gorge Conservation Area, which includes the iconic HCA features of Dundas Peak, Tew Falls, and Webster Falls. Advance reservations are required commencing September 23<sup>rd</sup> and 7 days a week during the fall colour season. The reservation ensures a more enjoyable experience for visitors by guaranteeing a parking space and see the natural beauty without the big crowds of people. Additionally, traffic congestion improvements from the nearby community have been dramatically reduced to provide a high-quality visitor experience from this service.

- Christie Lake Conservation Area – Starting late September right through October, this flagship Conservation Area transforms itself to become one of the most prominent Cross-Country event locations in the province. Almost 5,000 students across the city and beyond will embark the spectacular Christie Lake trail system for the Hamilton Wentworth District School Board (HWDSB) and the Southern Ontario Secondary School Association (SOSSA). Spectators are welcome to come to the event free of charge to cheer on family and friends.
- Thanksgiving Long Weekend – All Conservation Areas will be open and busy with strong visitation levels right across the watershed for the ever-popular fall colour season. Gatehouses will be staffed at all locations to facilitate access and to answer all visitor inquiries. Expect some of the highest visitation levels to occur at Conservation Areas with waterfalls, escarpment vistas, and at the campgrounds at Fifty Point and Valens Lake Conservation Areas.