

**Governance Committee Meeting**  
**Friday, December 13, 2019**  
**9:30 a.m.**  
**Ball's Falls Centre for Conservation**  
**Glen Elgin Room**  
**3292 Sixth Avenue, Jordon, ON**

**A G E N D A   A D D E N D U M**

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**6.   NEW BUSINESS**

- d)   Report No. GC-16-2019 RE: Whistleblower Policy (revised report in its entirety)Page #1
  
- e)   Administrative By-law Updates (previously identified on the agenda and included herewith)Page #9
  
- f)   Report No. GC-17-19 RE: Conflict of InterestPage #65
  
- g)   Report No. GC-18-19 RE: Code of ConductPage #68

**Report To: Chair and Members of the Governance Committee**

**Subject: Whistleblower Policy**

**Report No: GC-16-19**

**Date: December 13, 2019**

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**Recommendation:**

1. **THAT** Report No. GC-16-19 RE: Whistleblower Policy **BE RECEIVED** for consideration.
2. **THAT** Report No. GC-16-19 RE: Whistleblower Policy **BE APPROVED**.

**Purpose:**

The purpose of the report is to obtain the Governance Committee endorsement of the Whistleblower Policy for final approval of the Full Authority Board.

**Background:**

In April 2019, the Board of Directors requested staff to prepare a Whistleblower policy as a means to establish a workplace committed to a high standard of ethics and to encourage integrity and honesty.

In October 2019, a draft Whistleblower Policy was received for information by the Governance Committee and staff were directed to work with appointing municipalities to discuss the option of a shared Whistleblower policy for consistency across the watershed.

The Niagara Region does not have a current Whistleblower policy, however in the review stage of introducing such a policy.

The City of Hamilton does not have a current Whistleblower policy, however does have a Whistleblower by-law.

Haldimand County has not yet provided information on the existence of a Whistleblower policy.

**Discussion:**

The NPCA holds quarterly Employee/Employer Relations Meetings with union and management representation. During this meeting, employee representatives brought forward the desire to have a

Whistleblower Protection Policy in place and management representatives have echoed the need for such a policy. Until such time that NPCA moves forward in discussions with the Niagara Region, Hamilton and Haldimand in regard to a Watershed wide Whistleblower policy, NPCA staff feel it is essential to have a reporting mechanism in place.

A draft Whistleblower policy is attached and has been created with input from employee representatives.

### **Financial Implications:**

There are no financial applications in adopting the policy.

### **Links to Policy/Strategic Plan:**

The Board has been clear in their desire to be transparent, accountable and to work with integrity and honesty. This policy will aid in meeting these objectives.

### **Related Reports and Appendices:**

Appendix 1: Whistleblower Policy

### **Authored by:**

*Original signed by:*

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Misti Ferrusi, BA, CHRL  
Human Resources Manager

### **Submitted by:**

*Original signed by:*

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D. Gayle Wood, BES, CMMIII  
Chief Administrative Officer/Secretary-Treasurer

## Appendix 1: Whistleblower Policy



### Policy Manual

Whistleblower			3-12
Developed by:	Human Resources		
Policy Applies To:	All Employees / Board Members / Volunteers / Customers		
Date Created:	August, 2019	Approved By:	
Version #:	2019-1	Last Review Date:	

#### 1.0 **PURPOSE STATEMENT**

Niagara Peninsula Conservation Authority (NPCA) is committed to establishing and maintaining a high standard of ethical practices in the workplace and encourage practices that support integrity and honesty and are in compliance with Canadian and Provincial laws, rules and regulations. To support this commitment, we have established procedures to provide an avenue for our employees, volunteers, board members, contractors or other stakeholders to raise awareness of concerns related to unethical or illegal behaviours, activities and practices within our organization.

#### 2.0 **DEFINITIONS**

*Appropriate Authority* is the delegated review committee of three individuals that have the responsibility of receiving and investigating complaints and making findings and recommendations regarding wrongdoing and resulting actions.

*Complainant* is the person that submits a complaint or report of wrongdoing.

*Good Faith* is a sincere belief or motive without any malice or the intent or desire to defraud others

*Respondent* is someone who's alleged conduct is the subject of a complaint of wrongdoing.

*Retaliation* is retribution or reprisal against a complainant as result of their reporting a suspected wrongdoing or against any person that participates in an investigation related to the alleged wrongdoing.

*Whistleblower* is an individual who discloses information in good faith relating to alleged or potential wrongdoings.

*Wrongdoing* is any illegal or unethical action including retaliation.

*Adverse Employment Action* is any demotion, suspension, termination, denial of promotion or compensation or any manner of discrimination against an employee in the terms and conditions of employment as a result of reporting or participating in an investigation of a suspected wrongdoing.

### **3.0 POLICY**

The NPCA is committed to protecting our employees, board members, volunteers and other stakeholders who, in good faith, report concerns related to unethical or illegal activities, actions and behaviours of others within the scope of NPCA operations. NPCA will not tolerate reprisals, adverse employment action, harassment, discrimination or victimization of the person(s) reporting evidence of an activity that violates our ethical standards, Code of Conduct, Canadian or Provincial laws and regulations.

Instances of unethical and illegal behaviours include but are not limited to:

- Violations of Federal or Provincial law that could result in fines or civil damages payable by NPCA or otherwise cause significant harm to the reputation or public image of NPCA
- Unethical business conduct in violation of, but not limited to, NPCA Code of Conduct or Policies
- Accounting, auditing or other financial reporting fraud or misrepresentation
- An abuse of authority or governance
- Breach of fiduciary duty and/or accountability as prescribed in the bylaws
- Danger to health, safety or well-being of employees, board members, volunteers, customers or the general public
- Knowingly directing a person to commit a wrongdoing as described, but not limited to, above or;
- Concealment of any of the above or any other breach of law or this policy

We take reprisals against employees, board members, volunteers and customers seriously and will take actions to address those who engage in inappropriate reprisal behaviours.

### **4.0 REPORTING PROCEDURE**

#### **Reporting Alleged Incidents**

If there is a reasonable suspicion that unethical or illegal activities have been engaged in within the workplace and/or by individuals affiliated with the NPCA relevant to the operation

of our business, or in the course of doing business related to our organization and/or which may harm the reputation of our organization, the individual is advised to report the incident to the Appropriate Authority , or their supervisor/manager using the Complaint Report Form attached as Appendix A.

A supervisor/manager will take all appropriate steps to prevent and stop wrongdoing in their areas of responsibility and if they have received a report/complaint regarding wrongdoing shall assist the complainant in contacting the Appropriate Authority as per the below chart

The complainant is not required to prove the full truth of an allegation but is required to act in good faith with honest information. Any individual who does not act in good faith in reporting a suspected violation may be subject to disciplinary action up to and including termination.

The NPCA cannot act on anonymous reports. A proper, thorough investigation may become impossible without an opportunity to substantiate allegations by obtaining further evidence or information and confirming data in good faith. Any reported incidents will be treated as confidential and sensitive and to the extent possible, the complainant shall be provided the opportunity to remain anonymous. Practical steps will be taken to protect the complainant from any harm as a result of disclosure.

Complainants are encouraged to file a complaint immediately after an alleged incident of wrongdoing or immediately upon becoming aware of an incident of wrongdoing. All incidents should be reported within 30 days of the complainant becoming aware of it or as soon as possible.

A complaint form can be found attached to this policy as Appendix A.

### **Appropriate Authority**

Any reports/complaints of wrongdoing shall be submitted in writing to the Appropriate Authority in accordance with the chart below. Complaints may also be facilitated through a supervisor/manager and/or union representative where applicable, who will assist in making the complaint known to the appropriate party.

Respondent to the Complaint	Parties Responsible to Receive the Complaint
Board Member	Chair of the Board Vice-Chair of the Board Chair of the Governance Committee
CAO	Chair of the Board Vice-Chair of the Board Chair of the Governance Committee
NPCA Employee	CAO Chair of the Board Chair of the Governance Committee

NPCA Volunteer and/or Contractor	CAO Chair of the Board Chair of the Governance Committee
NPCA Chair of the Board	Vice-Chair of the Board Chair of the Governance Committee Vice-Chair of the Governance Committee
NPCA Vice-Chair of the Board	Chair of the Board Chair of the Governance Committee Vice-Chair of the Governance Committee
NPCA Governance Chair	Chair of the Board Vice-Chair of the Board Vice-Chair of the Governance Committee

The Appropriate Authority is responsible for determining and administering the methods and means for addressing complaints that may include appropriate internal or external resources. The Appropriate Authority is also responsible for:

- Determining the veracity of allegations of wrongdoing or retaliation
- Determining whether or not a reported act is indeed a wrongdoing
- Recommending punitive or corrective actions if allegations are true
- Recommending punitive actions if allegations were knowingly falsely made

The first person listed on the “Parties Responsible to Receive the Complaint” authority will be responsible for ensuring a timely response to the complainant.

When the Appropriate Authority makes a determination of no wrongdoing and the complainant wishes to appeal the decision, they may do so in writing, citing the reasons for the disagreement with the decision to XXX. The designated XXX personnel shall be entitled to request the investigation notes from the Appropriate Authority and will make determination on how to proceed, which may include appointing a third-party investigator incurred at the expense of the NPCA.

## 5.0 **INFORMAL INVESTIGATION/RESOLUTION**

Prior to launching an investigation, the Appropriate Authority may attempt to proceed with an informal resolution by notifying the respondent of the complaint and implementing any steps necessary to create an informal resolution that is acceptable to both the Complainant and Respondent.

If an informal resolution is achieved; the information will remain confidential with no record of the complaint will be entered in the Respondent’s personnel records and/or communicated to the appointing municipality. However, the Appropriate Authority will record the occurrence of the complaint and the informal resolution achieved.

## 6.0 **INVESTIGATION PROCESS**

If an informal resolution is not practical or successful, a formal investigation shall ensue.

Steps in the investigation of the reported wrongdoing shall include the following procedure and be conducted in a fair and timely manner.

The Appropriate Authority may enlist the confidential assistance of staff and/or outside advisors as may be appropriate to properly conduct the investigation.

- Written notice of the complaint shall be submitted by the complainant
- The respondent shall be provided with the allegations and be given an opportunity to respond to each complaint
- If applicable, any witnesses will be asked to provide statements and/or information relevant to the allegations
- The Appropriate Authority will prepare a report to be presented to the Board of Directors for consideration with findings and recommendations

## **7.0 RETALIATION**

Individuals are encouraged to report any incidents of wrongdoing and participate in any investigations into allegations of wrongdoing. Retaliation and adverse employment action by the respondent or anyone acting on behalf of the respondent against the complainant or participating witnesses is strictly prohibited and will result in appropriate disciplinary action (up to and including termination/censure).

## **8.0 CORRECTIVE ACTION**

If an investigation determines that a wrongdoing has occurred, disciplinary action may be taken. Consideration will be given to the nature and impact of the wrongdoings and may include, but not limited to:

- Requiring educational programs or counseling for the respondent
- Verbal or Written Reprimand
- Suspension (with or without pay)
- Dismissal (with or without notice) and/or Censure
- Legal action (depending on the severity of the wrongdoing)

The confidential records of the investigation will be kept by Human Resources for five (5) years following the conclusion of the investigation, unless required to be disclosed by law.

## **9.0 ANNUAL REVIEW**

**The Whistleblower Policy will be reviewed annually with staff and any policy changes forwarded to the Board of Directors for approval.**



## APPENDIX A – COMPLAINT REPORT FORM

Your name: \_\_\_\_\_

Department: \_\_\_\_\_ Supervisor: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

*NPCA will treat all reports made under this policy as confidential as much as is possible to be consistent with conducting a full and fair investigation.*

### Describe Alleged Wrongdoing:

(If you require more space please indicate that you have attached additional information and attach it to this complaint.)

Date you became aware of Alleged Wrongdoing: \_\_\_\_\_

Alleged Wrongdoing is: Ongoing ☐ Completed ☐ Unclear whether ongoing or completed ☐

Individual(s) suspected of Alleged Wrongdoing:

How did you become aware of the Alleged Wrongdoing?

Describe steps, if any, you took prior to completing this Report (e.g., informed supervisor)



**NIAGARA PENINSULA**  
**CONSERVATION**  
AUTHORITY

# **Niagara Peninsula Conservation Authority**

## **Administrative By-law**

Recommended by Governance Committee July 24, 2019

Reviewed by Governance Committee October 22, 2019

Reviewed by Governance Committee December 13, 2019

# Niagara Peninsula Conservation Authority Administrative By-Law

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## I. Background

### 1. Amendments to the Conservation Authorities Act

The *Conservation Authorities Act*, as amended by the *Building Better Communities and Conserving Watersheds Act, 2017*, and Bill 108, *More Homes, More Choice Act, 2019* provides direction for conservation authorities to make such by-laws as are required for its proper administration. These bylaws will replace administrative regulations created under the repealed Section 30 of the Act..

Section 19.1 of the 2017 Act, sets out the requirements for by-laws as follows. It is important to note that Section 40 (3) (a) of Bill 108 states that” the Minister may make regulations prescribing matter that may be the subject of by-laws under clause 19.1 (1) (j). These regulations had not been passed at the writing of this updated Administrative By-Law.

#### **By-laws**

**19.1** (1) An authority may make by-laws,

- (a) respecting the meetings to be held by the authority, including providing for the calling of the meetings and the procedures to be followed at meetings, specifying which meetings, if any, may be closed to the public;
- (b) prescribing the powers and duties of the secretary-treasurer;
- (c) designating and empowering officers to sign contracts, agreements and other documents on behalf of the authority;
- (d) delegating all or any of its powers to the executive committee except,
  - (i) the termination of the services of the 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;
- (e) providing for the composition of its executive committee and for the establishment of other committees that it considers advisable and respecting any other matters relating to its governance;
- (f) respecting the roles and responsibilities of the members of the authority and of its officers and senior staff;
- (g) requiring accountability and transparency in the administration of the authority including,
  - (i) providing for the retention of records specified in the by-laws and for making the records available to the public,
  - (ii) establishing a code of conduct for the members of the authority, and
  - (iii) adopting conflict of interest guidelines for the members of the authority;
- (h) respecting the management of the authority’s financial affairs, including auditing and reporting on the authority’s finances;
- (i) respecting the by-law review required under subsection (3) and providing for the frequency of the reviews; and
- (j) respecting such other matters as may be prescribed by regulation.

**Conflict with other laws**

(2) If a by-law made by an authority 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 the Act or regulation prevails.

**Periodic review of by-laws**

(3) At such regular intervals as may be determined by by-law, an authority shall undertake a review of all of its by-laws to ensure, amongst other things, that the by-laws are in compliance with any Act referred to in subsection (2) or any other relevant law.

**By-laws available to public**

(4) An authority shall make its by-laws available to the public in the manner it considers appropriate.

**Transition**

(5) An authority shall make such by-laws under this section as are required for its proper administration,

- (a) in the case of an authority that was established on or before the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of that day; and
- (b) in the case of an authority that is established after the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, within one year of the day the authority is established.

**Same**

(6) Despite the repeal of section 30 by section 28 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017*, a regulation that was made by an authority under that section continues in force after the repeal until the earlier of,

- (a) the day that is one year after the day section 16 of Schedule 4 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force; and
- (b) the day the regulation is revoked by the authority.

**Direction by Minister**

(7) The Minister may give an authority a written direction to make or amend a by-law on any matter described in subsection (1), in accordance with the direction, within such period of time as may be specified in the direction.

**Compliance**

(8) The authority that receives a direction under subsection (7) shall comply with the direction within the time specified in the direction.

**Regulation where failure to comply**

(9) If an authority fails to adopt a by-law in accordance with the direction made under subsection (7), the Minister may make regulations in relation to the matters set out in the direction that are applicable in the area of jurisdiction of the authority.

**Same**

(10) Any regulation made by the Minister under subsection (9) prevails over any conflicting by-law that the authority may have adopted.

## II. NPCA Administrative By-Law

### Introduction

A Conservation Authority is a non-share corporation, established under Section 3 of the *Conservation Authorities Act*, with the objects to provide, in the area over which it has jurisdiction, programs and services designed to further the conservation, restoration, development and management of natural resources other than gas, 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. The Authority is comprised of its Members, appointed as representatives by the participating municipalities (Niagara Region, City of Hamilton, Haldimand County).

### NPCA Mandate

As prescribed by the Conservation Authorities Act, Section 20 outlines the objects of the Authority:

To establish and undertake programs and services, on a watershed basis, to further the conservation, restoration, development, and management of natural resources; and

Bill 108 will prescribe Provincial Regulations to list specific programs and services that are considered core mandate by the province. Further, Schedule 2 of Bill 108:

Imposes on every member of an authority to act honestly and in good faith with a view to furthering the objects of the authority.

### NPCA Mission

As outlined in the NPCA Strategic Plan, 2018-2021 the mission of the NPCA is:

“to implement our Conservation Authorities Act mandate by remaining a responsive, innovative, accountable and financially sustainable organization.

Our success in meeting our mission is dependent upon working in collaboration with our partners in conservation. Ensuring the future viability of the Niagara Peninsula watershed is a shared responsibility”.



## A. Definitions

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

**“Authority”** means the Niagara Peninsula Conservation Authority

**“Board Members”** means the appointed members to the Authority by the participating municipalities (Niagara Region, City of Hamilton, Haldimand County) within the watershed.

**“Call of the Chair”** shall mean the Chairperson of the Niagara Peninsula Conservation Authority will make the decision to have a meeting and will inform the Chief Administrative Officer/Secretary-Treasurer or designate and that person will ensure action if it is necessary.

**“Chair”** shall mean the Chairperson as elected by the Board Members of the Niagara Peninsula Conservation Authority.

**“CAO/Secretary Treasurer”** means the Chief Administrative Officer of the Authority which includes the responsibilities of the Secretary Treasurer.

**“Ex-Officio”** means that, by virtue of their office, the Chair and Vice Chair may participate in all Committees and may participate in the discussion, but can not account for quorum, move or second a motion or partake in the decision or vote.

**“Fiscal Year”** means the period from January 1 through December 31.

**“Inaugural Meeting”** shall be an annual meeting to complete past year’s business; for annual elections and appointments; and to start current year’s business.

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

**“Officer”** means a member of the Authority and the CAO/Secretary-Treasurer.

**“NPCA”** means the “Authority” or the “Niagara Peninsula Conservation Authority”.

**“Per Diem”** is the daily rate established by the board that applies to the Chair, Vice-Chair and Board Members for service to the Authority in attendance at Authority Board meetings and Standing Committee meetings as previously approved by the board.

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

**“Staff”** shall mean staff members employed at the Niagara Peninsula Conservation Authority.

**“Vice-Chair”** shall mean the Vice-Chairperson as elected by the Board Members of the Niagara Peninsula Conservation Authority.

## B. Governance

### 1. Board Members

- 1.1** Membership of the Niagara Peninsula Conservation Authority includes three (3) participating municipalities: Region of Niagara, City of Hamilton, and Haldimand County.
- 1.2** The Niagara Peninsula Conservation Authority Board of Directors is comprised of members appointed by the participating municipalities in accordance with Section 14 and Section 2 (2) of the Act.
- 1.3** The following represent the number of representatives that the participating municipalities may appoint:
- |                   |   |
|-------------------|---|
| Region of Niagara | As appointed by the regional municipality, one member from each of their twelve (12) local municipalities and three (3) regional appointees for a total of 15 members |
| City of Hamilton  | – Four (4) members  |
| Haldimand County  | – Two (2) members   |
- 1.4** A Board Member shall be appointed for a term of up to four years, after each municipal election as may be determined by the participating municipalities (Niagara Region, City of Hamilton, Haldimand County) that appoint the members. A member may be replaced by the participating municipality (Niagara Region, City of Hamilton, Haldimand County) that appointed the member during the four-year term. According to the Act, a member's term begins at the first meeting of the authority after his or her appointment and expires immediately before the first meeting of the authority after the appointment of his or her replacement.
- 1.5** The Board Members shall approve all policies of the Niagara Peninsula Conservation Authority including strategic and business plans, approve the budget, approve the annual audit, give direction on priority of programs and projects and approve other matters as required by the Conservation Authorities Act and Regulations (see Section 2.2 below for further details).

### 2. Mandatory Responsibilities of Board Members

#### 2.1 Bound by Conservation Authorities Act

The Niagara Peninsula Conservation Board is bound by the *Conservation Authorities Act*, where:

Section 20 of the *Conservation Authorities Act* defines the mandate of a Conservation Authority as follows:

“The objects of an authority are to provide, in an area over which it has jurisdiction, programs and services designed to further the conservation, restoration,

development and management of natural resources other than gas, oil, coal and minerals.”

Section 21(1) of the Conservation Authorities Act, as amended by Bill 108 outlines programs and services to accomplish its objects, as follows: (**Note:** “On a day to be named by proclamation of the Lieutenant Governor, Section 21 (1) of the Act will be repealed).

- (a) to study and investigate the watershed and to determine programs and services whereby the natural resources of the watershed may be conserved, restored, developed and managed;
- (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 and to expropriate any land that it may require, and, subject to subsection (2), 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;

**(Note:** *On a day to be named by proclamation of the Lieutenant Governor, clause 21 (1) (m.1) of the Act is repealed. (See: 2017, c. 23, Sched. 4, s. 19 (3))*

(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) to cause research to be done;

(q) 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.

## 2.2 Functions of the Board

In addition to the procedures in this policy and subject to the Conservation Authorities Act, the Authority shall:

- Approve the auditor's statement for the preceding year – if the statement is not approved, the amended statement shall be reintroduced for approval at the next appropriate meeting;
- Pass a borrowing resolution for a specified amount for the purposes of the Authority and authorizing the appointed signing officers to sign notes as required to implement this borrowing;
- Approve a budget for the Authority for the ensuing year;
- Approve the levies to be paid by Municipalities;
- Supervise the activities of any Standing/Ad Hoc Committees and accept or reject any of their recommendations;
- Receive delegations on behalf of the Authority;
- Consider requests for grants from groups outside the Authority;
- Decide and recommend policies not covered in these resolutions;
- Update as required policies of the Authority.

All Board Members are public officials and thus have the responsibility to be guided by and adhere to the rules of conduct (Refer to Appendix 1 - Code of Conduct), explicit and implied, for all such holders of public office in the Province of Ontario. In addition, all Board Members must adhere to all applicable acts of incorporation. In the case of the Niagara Peninsula Conservation Authority, Board Members must adhere to the following:

- The *Municipal Conflict of Interest Act*;
- The *Municipal Freedom of Information and Protection of Privacy Act*;
- Ontario Regulation 139/06 Municipal Levies;
- Ontario Regulation 670/00 Conservation Authority Levies;
- Ontario Regulation 155/06 Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses;
- Ontario Regulation 123 Conservation Areas – Niagara Peninsula Conservation Authority.

### **2.3 Ensuring Fiscal Stability of Niagara Peninsula Conservation Authority**

The Board Members must ensure the financial stability of the Niagara Peninsula Conservation Authority. While the CAO/Secretary-Treasurer provides day-to-day leadership in fiscal affairs, the Board bears the ultimate responsibility for financial soundness. This includes approving an annual budget, receiving and approving reports on financial performance of the Niagara Peninsula Conservation Authority, ensuring policies are in place for financial soundness and approving the annual audit.

### **2.4 Relationship between Board Members and CAO/Secretary-Treasurer**

The Board relies on the CAO/Secretary-Treasurer to inspire, lead and manage the Niagara Peninsula Conservation Authority. The Board will forge a strong partnership with the CAO/Secretary-Treasurer, working cooperatively to achieve the mandate, mission and vision of the Niagara Peninsula Conservation Authority. The Board regularly evaluates, at least annually, the CAO/Secretary-Treasurer, measuring his/her performance against the Niagara Peninsula Conservation Authority's strategic plan and financial and human resources goals of the organization.

### **2.5 Relationship between Board Members and NPCA Staff**

The Board Members must act as a team and represent the interests of the entire watershed. A strong partnership must be forged between the Board and the CAO/Secretary-Treasurer. The Board allows the CAO/Secretary-Treasurer to manage the organization and its staff. The following parameters are to be followed throughout the organization and by the public at large:

- If a Board Member has questions on a project or report, such questions should be referred through the CAO/Secretary-Treasurer for him/her to invite the appropriate Department head to explain the project and answer questions.
- If a Board Member would like to volunteer to assist in a project, such actions should be taken in consultation with the CAO/Secretary-Treasurer to organize the process.

- If a Board Member receives a complaint about a staff person or would like to acknowledge a staff person, such information should go through the CAO/Secretary-Treasurer.
- If a Board Member receives a complaint from a staff person, the Board Member must advise the staff person to follow the appropriate procedure as outlined in the personnel policy.

With respect to staffing issues, the following outlines the responsibilities of the Board Members and the CAO/Secretary-Treasurer:

The Board is solely responsible for the following:

- Recruiting the CAO/Secretary-Treasurer;
- Hiring the CAO/Secretary-Treasurer; and
- Dismissing the CAO/Secretary-Treasurer.

The Board's Chair and Vice-Chair are responsible for:

- Evaluating the CAO/Secretary-Treasurer and providing recommendations to the Board; and
- Recommending the annual salary and pay for performance of the CAO/Secretary-Treasurer for consideration to the Board Members.

The Board and the CAO/Secretary-Treasurer share the following responsibilities in that the recommendation will come from the CAO/Secretary-Treasurer and the approval will come from the Board:

- Setting key commitments and deliverables for the CAO/Secretary-Treasurer;
- Setting human resource and personnel policies which will have a dollar impact upon the budget; and
- Setting staff salary schedules and plans as part of the annual budget review process.

The CAO/Secretary-Treasurer is solely responsible for the following:

- Assessing staffing requirements;
- Recruiting, hiring and dismissing staff (recruiting and dismissing senior staff should be done in consultation with the Board of Directors);
- Providing staff direction;
- Approving staff evaluations;
- Implementing salary schedule and salary plan as approved by the Board of Directors;
- Designing the organizational structure; and
- Recommending human resource and personnel policies, to the Board of Directors for approval.

### 3. Duties of Officers

#### 3.1 Chair of the Board

- Oversees Board meetings and ensures the Administrative By-Law is adhered to;
- Serves as ex-officio, non-voting member of all committees;
- Works in partnership with the CAO/Secretary-Treasurer to ensure Board resolutions are carried out;
- Assists CAO/Secretary-Treasurer in preparing agendas for Board meetings where required;
- Calls special meetings if necessary;
- Periodically consults with Board Members on their roles;
- Acts as a public spokesperson for the Niagara Peninsula Conservation Authority to facilitate the mandate, mission and vision of the organization;
- Represents the Niagara Peninsula Conservation Authority at such functions as warrant the interest of the Authority except where this responsibility is specifically assigned to some other person;
- Inspires other Board Members with his or her own commitment of support, time and enthusiasm;
- Represents the Niagara Peninsula Conservation Authority at Conservation Ontario Council meetings;
- Serves as signing officer for the Niagara Peninsula Conservation Authority;
- Performs other duties when directed to do so by resolution of the Niagara Peninsula Conservation Authority;
- Keeps the Board Members apprised of significant issues in a timely fashion;
- Serves as a Member the Public Advisory Committee and/ or appoints a board member to represent him / her on their behalf.
- Serves as an Authority appointee to the Niagara Peninsula Conservation Foundation and/or appoints a board member to represent him or her not their behalf.

#### 3.2 Vice-Chair of the Board

- Attends all Board meetings;
- Carries out special assignments as requested by the Chair of the Board;
- Understands the responsibilities of the Board 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;

- Serves as an alternate signing officer for the Niagara Peninsula Conservation Authority;
- Keeps the Board Members apprised of significant issues in a timely fashion;
- Serves as alternate to Chair at Conservation Ontario Council Meetings.

### 3.3 CAO/Secretary-Treasurer

- Attends all Board meetings;
- Acts as Secretary-Treasurer of the Board in accordance with the Conservation Authorities Act;
- Serves as a signing officer for the Niagara Peninsula Conservation Authority;
- Keeps the Chair and Vice-Chair apprised of significant issues in a timely fashion;
- Develops, for Board approval, and implements both short and long-term strategic plans in accordance with business goals and objectives;
- Tends to the day-to-day requirements, details and management of the Niagara Peninsula Conservation Authority;
- Manages staff and programs of the Niagara Peninsula Conservation Authority;
- Makes certain that appropriate actions are taken in a timely fashion;
- Works in close collaboration with the Chair and Vice-Chair;
- Implements all Board resolutions in a timely fashion;
- Ensures Board policies and strategic plan are adhered to;
- Manages the financial activities of the Niagara Peninsula Conservation Authority;
- Makes recommendations to the Board regarding suggested policy changes;
- Acts as public spokesperson for Niagara Peninsula Conservation Authority;
- Represents the Niagara Peninsula Conservation Authority at Conservation Ontario, Board, Committees and Task Force meetings;
- Negotiates and enters into contracts, as approved by the board, with external agencies/partners to carry out the goals of the organization in accordance with approved Policy;



- Develops and maintains effective relationships and ensures good communications with watershed municipalities, federal and provincial government ministries/agencies, other Conservation Authorities, Conservation Ontario and community groups and associations;
- Serves as an Authority representative on the Niagara Peninsula Conservation Foundation.
- Develops an education /orientation program designed to inform Board Members of their roles and responsibilities with respect to the Code of Conduct. The CAO will ensure Board Members are made fully aware of the roles and responsibilities with respect to various applicable legislation and regulations as well as that contained in the Code of Conduct (Appendix 1) through an education/orientation program. Each Board Member is required to sign an Acknowledgement Form as part of their orientation program.

## 4. Standing Committees

### 4.1 Current Standing Committees include:

- Audit and Budget Committee
- Governance Committee
- Public Advisory Committee.

**4.2** The Authority may strike a standing committee to investigate and make recommendations on matters of interest to the Authority.

**4.3** Any standing committee of the Authority will be recognized as a functioning committee until the Authority replaces or dissolves that committee or until December 31 of the year in which the committee is formed.

**4.4** The Authority will strike standing committees at the first business meeting of the year or at other times as may be desired.

**4.5** Notwithstanding the NPCA Advisory Committee Terms of Reference, any standing committee of the Authority will be comprised at a minimum of three members, plus the Chair and the Vice-Chair of the Authority who serve as ex-officio, non-voting members. All members of the Board may attend Standing Committee meetings and comment and participate, however, only committee members may vote at committee.

**4.6** Each standing committee will have Terms of Reference established by the Authority. The Terms of Reference will serve as a consistent guide to committee members and provide a continuity of understanding by the Authority as to the specific purpose for the standing committee. The Terms of Reference may be altered by the Authority where the scope of a standing committee's mandate is either altered or changed.

**4.7** When a new standing committee is proposed, either the Authority Board Member proposing the new standing committee will present Terms of Reference for Authority approval, or the Authority will cause such Terms of Reference to be prepared. In either case, a new standing committee shall not be struck until the Authority approves Terms of Reference for the standing committee.

- 4.8 Authority standing committees will be comprised of Authority Board Members. Other than the Source Water Protection Committee, the Board Members may invite people to participate as a committee member and/or attend committee meetings as a resource.
- 4.9 Only committee members are entitled to vote on matters coming before the committee.
- 4.10 Standing Committees make recommendations only to the Board, where in turn, recommendations are considered for approval.

## 5. Honourariums, Per Diems, Expenses and Mileage

- 5.1 The Authority shall establish an honourarium rate from time to time and this rate will apply to the Chair and Vice-Chair for attendance at special events, speaking engagements and functions not covered by a per diem.
- 5.2 The Authority shall establish a per diem rate from time to time and this rate will apply to the Chair, Vice-Chair and Board Members for service to the Authority in attendance at Authority Board meetings, Standing Committee and Ad Hoc Committee meetings, or other such meetings previously approved by the board.
- 5.3 The per diem rate is the daily rate established by the board, and approved by the OMB, that applies to the Chair, Vice Chair and Board members for service to the Authority in attendance at Authority Board Meetings, Standing Committee meetings, Source Protection Authority meetings or other such meetings previously approved by the Authority.
- 5.4 The Chair, Vice-Chair and Board Members will be responsible for signing a per diem sheet at each meeting, including mileage. The Manager, Human Resources will provide for quarterly payments of per diems and mileage.
- 5.5 The Authority will reimburse Board Members' travel expenses incurred for the purpose of attending meetings and/or functions on behalf of the Authority. Mileages are based on the Board Member's principal residential address in the municipality they represent.
- 5.6 On February 6, 2017, the Ontario Municipal Board approved the current honourarium to be set at \$6,663.08 for the Chair and \$1,299.66 for the Vice Chair and a per diem rate to be set at \$73.58 paid to members attending approved authority meetings.
- 5.7 Board of Directors per diems, expenses and mileage shall be reported quarterly and posted on the NPCA website.

## 6. Records Retention

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

## C. Meeting Procedures

### 1. Quorum

- 1.1 At an NPCA Board meeting, a quorum consists of one-half of the members appointed by the participating municipalities
- 1.2 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 and the recording secretary shall record the names of the members present and absent.
- 1.3 Where the number of members, who by reason of the provisions of the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, are disabled from participating in a meeting, is such that at the meeting the remaining members are not of sufficient number to constitute a quorum, then the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.
- 1.4 If during the course of an Authority 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 Regulation. (See also Section 7.0 below).

### 2. Annual Meeting

- 2.1 The annual meeting of the NPCA Board will occur on the third Wednesday of January.
- 2.2 Appointed members will continue to serve on the NPCA Board until the Chief Administrative Officer receives written notice that the respective members have been re-appointed or the respective members have been replaced by another appointment.
- 2.3 At this meeting, the election of the Chair and Vice-Chair shall occur in accordance to Appendix 3 – Procedure for Election of Officers.
- 2.4 Other matters considered at the Annual General Meeting include appointments to Conservation Ontario, Standing and Ad Hoc Committees, Borrowing Resolution, NPCA Signing Authorities, appointment of auditor/solicitors, and approval of the schedule of meetings for the upcoming year.

### **3. Freedom of Information**

- 3.1** The Authority members shall be governed, at all times, by the provisions of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).
- 3.2** In the instance where a member vacates their position on the Authority Board they will continue to be bound by MFIPPA requirements.
- 3.3** Access by Design policies will promote the view that government-held information retained by the NPCA should be routinely made available to the public, and that any exceptions should be limited, specific and in accordance with any permissible exemptions as outlined in MFIPPA when necessary.
- 3.4** The Board of Directors will adopt and supports key principles and policies providing Access by Design and Privacy by Design. Privacy by Design policies will provide the maximum degree of privacy by ensuring that personal data is automatically protected in any given IT system or business practice at the NPCA in full compliance with MFIPPA, as well as the Personal Information Protection and Electronic Documents Act (PIPEDA).
- 3.5** The Board of Directors shall approve a staff member to be the Head of the Institution as pursuant to the MFIPPA.
- 3.6** The Board of Directors in consultation with the CAO will appoint a staff person as Freedom of Information Co-Ordinator for the purposes of receiving, reviewing, responding and making recommendations to the MFIPPA Review Committee in order to comply with the Municipal Freedom of Information and Protection of Privacy Act.

### **4. Notice of Meeting**

- 4.1** The Chair shall call regular meetings of the Authority. Notice of regular meetings will be sent out from the Authority office at least five calendar days prior to the meeting date.
- 4.2** Notice of any meeting shall indicate the time and place of that meeting and the agenda for the meeting.
- 4.3** All material and correspondence to be dealt with by the Authority at a meeting will be submitted to the Chief Administrative Officer at least fourteen (14) days in advance of the meeting in question.
- 4.4** Written notice of motion may be given by any member of the Authority and shall be forthwith placed on the agenda of the next meeting.
- 4.5** When a quorum is first present after the hour fixed for a meeting, the Chair shall call the meeting to order.

- 4.6** If no quorum is present one-half hour after the time appointed for a meeting, the Chief Administrative Officer shall call the roll and record the names of the members present and the meeting shall stand adjourned until the next meeting.
- 4.7** The business of the Authority shall be taken up in the order in which it stands on the agenda unless otherwise decided by the Authority.
- 4.8** No member 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 members present.
- 4.9** The following matters shall have precedence over the usual order of business:
- a. a point of order
  - b. a 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
- 4.10** The Chair may, at his/her pleasure, call a special meeting of the Authority on three days' written notice. That notice shall state the business of the special meeting and only that business shall be considered unless permission is granted by two-thirds of the members present.
- 4.11** With the exception of any municipal planning or regulation matter that requires an immediate decision of the Board, or priority business of a matter before the courts, all matters will be dealt with "in person" at a Full Authority Board meeting. For those planning and regulation matters requiring immediate attention, and/or matters before the courts, the Chair may call a meeting of the Board via telephone conference or other conferencing technology. Such a telephone conference meeting must have quorum of the Board Members participating and voting will be as outlined in Appendix 3.
- 4.12** Any member of the Board, with 50% support of the other Board Members, may request the Chair to call a meeting of the Board and the Chair will not refuse.
- 4.13** Notwithstanding Section 6.6 of this Procedure, a meeting which has been interrupted through the loss of a quorum may be reconvened without notice provided that the meeting is reconvened on the same day.
- 4.14** The Chair or the CAO/Secretary-Treasurer may, by notice in writing or email, deliver to the members so as to be received by them at least 12 hours before the hour appointed for the meeting, postpone or cancel any meeting until the next scheduled date for the specific committee affected.

- 4.15** The Chair or the CAO/Secretary-Treasurer may, if it appears that a storm or like occurrence will prevent the Board Members from attending a meeting, postpone that meeting by advising as many members as can be reached. Postponement shall not be for any longer than the next regularly scheduled meeting date.

## **5. Agenda for Meeting**

- 5.1** Authority staff, under the supervision of the CAO shall prepare for the use of members at all regular meetings of the Authority, an agenda which shall include, but not necessarily be limited to, the following headings:

- a. Approval of Agenda
- b. Declaration of Pecuniary Interest
- c. Presentations/Delegations
- d. Administrative Business
  - i. Approval of Minutes of Previous Meetings
  - ii. Business Arising from Minutes
  - iii. Correspondence
  - iv. Chair's Comments
  - v. CAO's Comments
- e. Business – For Information (including):
  - i. Project Status Reports
  - ii. Financial Statements
- f. Business – For Consideration
- g. Business – In Camera
- h. Notice of Motion
- i. New Business
- j. Adjournment

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

- 5.3** Meeting management is a fundamental responsibility of the Chair. Part of this responsibility includes agenda management. As such, it shall be the duty of the Chair, with respect to any meetings over which he/she presides, to approve the agenda prior to circulation to the Board and public as outlined in section 6.1 and within all legislative reporting requirements.

- 5.4** The circulation of reports, letters, memos, etc. outside of the agenda shall be distributed by the Office of the CAO) to all Board Members. Documents should be provided in an electronic format whenever possible.

- 5.5** The business of the Board will be taken up in the order on which it appears on the agenda unless otherwise directed by the Board Chair.

## **6. Disclosure of Pecuniary Interest**

- 6.1** Where a member, either on his 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 or Standing Committee at which the matter is the subject of consideration, the member shall:
- a) prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
  - b) not take part in the discussion of, or vote on any question in respect of the matter; and
  - c) not attempt in any way whether before, during or after the meeting to influence the voting on any such question.
- 6.2** Where a meeting is not open to the public, in addition to complying with the requirements, the Member shall forthwith leave the meeting for the part of the meeting during which the matter is under consideration.
- 6.3** Where the interest of a Member has not been disclosed by reason of their absence from the particular meeting, the Member shall disclose their interest and otherwise comply at the first meeting of the Authority or Standing Committee, as the case may be, attended by them after the particular meeting.
- 6.4** The meeting secretary shall record in reasonable detail the particulars of any disclosure of pecuniary interest made by members of the Authority or Committees, as the case may be, and any such record shall appear in the minutes/notes of that particular meeting of the Authority or of the Committee, as the case may be.

## **7. Notice of Motion**

- 7.1** Except as otherwise provided in this Regulation, a notice of motion to be made at an Authority or Committee meeting shall be given in writing and shall be delivered to the CAO/Secretary-Treasurer not less than seven (7) business days prior to the date and time of the meeting, to be included in the agenda for the Authority or Committee meeting at which the motion is to be introduced.
- 7.2** The CAO/Secretary-Treasurer shall include such notice of motion in full in the agenda for the meeting concerned.
- 7.3** Reports of Committees included in the Authority agenda shall constitute notice of motion with respect to any matter contained in such reports and recommended by any such Committee for adoption by the Authority.

- 7.4** Staff reports in the Authority agenda not having been considered by any Committee for adoption, shall constitute notice of motion for the purposes of any motion brought to the Authority with respect thereto.
- 7.5** 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 Standing 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 the majority of the members of the Authority present.
- 7.6** Any motion called from the Chair and for whatever reason deferred in three successive regular meetings of the Authority or Committee which is not proceeded with shall be deemed to be withdrawn.
- 7.7** Reconsideration of a motion previously adopted by the Authority requires a two-thirds majority of the Board (i.e. based on a membership of 15; 10 or more Members present equals two thirds majority).

## **8. Delegations**

- 8.1** Any person or organization desiring an opportunity to address the Authority may make a request in writing to the CAO/Secretary-Treasurer fourteen (14) days in advance of a scheduled meeting if such request is to be included in the agenda of that meeting. A detailed brief of their presentation, including any presentation materials to be used, outlining the request/direction the presenter is seeking from the Standing Committee or the Board and if applicable, the name, address and telephone number of any person(s) or organization which he or she represents. The brief will form part of the official record of the proceedings of Committee or the Board and therefore will be a public document.
- 8.2** The Chief Administrative Officer/Secretary-Treasurer is empowered to seek clarifications from the person or organization if the submitted statement is ambiguous and/or requires further explanation.
- 8.3** Any person or organization requesting an opportunity to address the Authority but not having made a written request to do so in accordance with Section 10.1 may appear before a meeting of the Authority but will be heard only if approved by a ruling of 2/3 of the Board Members of the meeting.
- 8.4** It will be at the discretion of the NPCA Board Chair, in consultation with the CAO, to determine whether the delegation is an appropriate matter to be considered by the Board.

The Board Chair, in consultation with the CAO will maintain the right to refuse any delegation request, regardless of having the notice requirements met, for reasons they identify, including, but not limited to, agenda /meeting management and issues outside of NPCA mandate.



It shall be the responsibility of the CAO to communicate this decision to the individual(s) applying for a delegation.

Board Members maintain the right to overturn such decision, by a proper motion moved by and seconded by and carried by a 2/3rds majority.

- 8.5** A representative of a participating municipality of the Authority, duly authorized by resolution of such council, shall be heard as of right, and further any member of the Authority shall be heard as of right.
- 8.6** Delegations/Presentations shall be limited to a time of not more than ten (10) minutes. Board Members may limit or extend the time allowed for a presentation by a majority vote.
- 8.7** Delegations/Presentations shall be limited to not more than two (2) per Board meeting.
- Presentations (NPCA staff or otherwise) addressing matters relevant to the NPCA and seeking to provide information, or receive input from the Board, or Committee will be permitted.
- 8.8** Presentations shall adhere to the rules of order noted under Delegations.
- 8.9** Delegations must abide by the Regulations and public conduct at meetings. They will accept any decisions of the Board Chair and not enter into cross debate with members, other delegations, or staff. Any discourse between members and the delegation will be limited to members asking questions for clarification and obtaining additional, relevant information only.

## **9. Meetings with Closed Sessions**

- 9.1** A Meeting or part of a Meeting may be closed to the public if the subject matter being considered is:
- (a) the security of the property of the NPCA;
  - (b) personal matters about an identifiable individual(s), including NPCA employees;
  - (c) a proposed or pending acquisition or disposition of land by the NPCA;
  - (d) labour relations, Human Resource, or employee negotiations;
  - (e) litigation or potential litigation, including matters before administrative tribunals, affecting the NPCA;
  - (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
  - (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another act.
  - (h) information explicitly supplied in confidence to the municipality or local board 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 municipality or local board, 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 or persons, or organization.

- (j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board 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 municipality or local board.

**9.2** A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act.

**9.3** Before holding a meeting or part of a meeting that is to be closed to the public, the members 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 closed meeting.

**9.4** No vote shall be taken in a closed meeting unless it is for a procedural matter, or for giving directions or instructions to officers, employees or agents of the Authority or persons retained under contract with the Authority. Confidential minutes will be taken in closed session.

**9.5** Any materials presented to the Board Members during a closed meeting will be returned to the CAO/Secretary-Treasurer prior to departing from the meeting.

**9.6** A Meeting of the Board may be closed to the public if the following conditions are both satisfied:

- (a) The meeting is held for the purpose of educating or training the Members .
- (b) At the meeting, no Member discusses or otherwise deals with any matter in a way that materially advances the business or decision making of the Board.

**9.7** All deliberations while in Closed Session shall remain confidential unless otherwise agreed upon by a Majority vote of the Board. Only the final results of deliberations may be made public when such disclosure is authorized by the Board.

## **10. Vote**

**10.1** On a tie vote, the motion is lost;

**10.2** The Chair of the Board shall only vote in a Full Authority Board meeting to break a tie or when a Recorded Vote is requested; however, as a member of any Standing Committee shall be entitled to one vote.

**10.3** The presiding Standing Committee Chairs shall only vote in the event of a tie or when a recorded vote is requested.

**10.2** A majority vote of the members present at any meeting is required upon all matters coming before the meeting.

**10.3** Interrelated motions shall be voted on in the following order:

- a) motions to refer the matter, and
- b) if no motion under clause (a) is carried, the order for voting on the remaining motions shall be:
  - i) amending motion;
  - ii) the original motion.

**10.4** Unless a member requests a recorded vote, a vote shall be by a show of hands or such other means as the Chair may call.

**10.5** Before a vote is taken, any member may require a recorded vote and it shall be taken by alphabetical surname with the Chair voting last. On a recorded vote, each member will answer “yes” or “no” to the question or will answer “abstain” if the said member does not wish to vote. If any Member abstains from voting, they shall be deemed to have voted in opposition to the question, and where the vote is a recorded vote, their vote shall be recorded accordingly by the secretary.

**10.6** At the meeting of the Authority at which the levy is to be approved, the Chair shall at the appointed time during the meeting, call the roll of members present, and having been advised by the Secretary-Treasurer of those present and the respective, eligible weighted votes, conduct the roll call vote to approve of non-matching levy by a weighted majority of the members present and eligible to vote. (see O. Reg. 139/96)

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

**10.8** A vote on any planning or regulation matter dealt with through a telephone conference meeting, shall be a recorded vote.

**10.9** If a vote is required, upon circumstances described in Section 4.11, the Chair may direct the CAO to conduct a “telephone or email survey” and record the vote.

**10.9.1** E-mail voting is not a preferred practice and should not replace the deliberative benefits of face to face meetings. In extenuating circumstances, however, email voting may be used to conduct the business.

**10.9.2** E-mail votes may only be considered if the motion to be considered is time sensitive and the board is unable to meet to consider the matter in a timely fashion and/or establish quorum. Email votes may not be used for motions that require secret ballots.

**10.9.3** In the event that a Chair of a committee wishes to initiate a process of e-mail voting on a motion, she/he shall adhere to the following process:

- a) The Chair shall write to members of the committee with the text of the motion and any supporting materials to determine whether or not there is sufficient support for conducting an e-mail vote.
- b) If at least 75 percent of the members of the committee indicate, in writing within 48 hours, that an e-mail vote is acceptable, the chair shall notify members of the committee that e-mail voting shall proceed. The first two members of the committee who respond in the affirmative shall be deemed to be the mover and seconder of the motion.
- c) If the criteria outlined in 10.9.3 b) are not met, an e-mail vote shall not be permitted.
- d) Committee members shall then have 48 hours to vote on the motion.
- e) Once every member of the committee has voted by e-mail, or after 48 hours have passed, the chair shall disclose the vote totals to the entire committee via e-mail and declare the motion carried or defeated.
- f) The results of any voting conducted via e-mail shall be recorded in the minutes at the next meeting of the committee along with the wording of the motion.

**10.10** Where any member of the Authority or Committee is acting in the place of the Chair or the Committee Chair, as the case may be, such member shall have and may exercise all the rights and powers of the Chair or the Committee Chair of the Standing Committee as the case may be, while so acting.

## **11. Minutes**

- 11.1** The CAO/Secretary-Treasurer shall undertake to have a recording secretary in attendance at meetings of the Authority and each Standing Committee. The recording secretary will make a record in the form of Minutes of the meeting proceedings and in particular shall record all motions considered at the meeting.
- 11.2** 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.
- 11.3** The Secretary-Treasurer shall send out the minutes of Board meetings to each member of the Authority.
- 11.4** The CAO/Secretary-Treasurer shall, following Full Authority Board meetings, ensure that local area municipalities are notified of any resolutions affecting areas within their jurisdiction.
- 11.5** The CAO/Secretary-Treasurer shall ensure that all meeting minutes are posted to the NPCA website.

## **12. Live Streamed / Recorded Full Authority Meetings**

The NPCA may live stream and/or make video recordings of all or part of its Full Authority meeting(s) available to the public but is not obliged to do so. Where in the discretion of the NPCA a Full Authority meeting is live-streamed and/or recorded by video, the following principles shall apply:

- 12.1** At the start of the Full Authority meeting, the Chair shall advise all in attendance that the meeting is being recorded and/or live-streamed.
- 12.2** The Chair shall further advise those in attendance that delegates are solely responsible for all statements of fact, opinion, or of mixed fact and opinion, which they express at the Full Authority meeting. This applies whether the delegate's statements are made orally or included in written materials provided by the delegate. No endorsement by the NPCA of a delegate's statements may be implied or inferred from the communication of the statements during the course of the Full Authority meeting, or on account of the NPCA having granted permission to the delegate to make a presentation at the Full Authority meeting.
- 12.3** Wherever possible, the NPCA will advise all delegates in advance of the Full Authority meeting that their presentation may be live-streamed and the recording archived for public viewing.
- 12.4** Subject to the discretion of the Chair, the goal of the NPCA will be to post, within two business days of meeting, the archived live stream video.
- 12.5** A recorded video of a Full Authority meeting is not an official record of that meeting. The official record of the Full Authority meeting shall consist solely of the Minutes approved by the Full Authority Board.

## **13. General**

- 13.1** All matters not specifically provided for in this By-law shall be regulated in accordance with the parliamentary procedures outlined in Bourinot's Rules of Order.

## 1.0 Approval of By-law and Revocation of Previous By-law(s)

Previous Administrative By-Laws are hereby revoked upon approval of this By-Law by the Board of Directors.

Signed:

December 18, 2019

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D. Gayle Wood,  
Chief Administrative Officer/  
Secretary-Treasurer

Date

December 18, 2019

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Dave Bylsma, Chair

Date:

## 2.0 Appendices to the Administrative By-law

### Appendix 1 - Code of Conduct

#### 1. Background

The Niagara Peninsula Conservation Authority demands a high level of integrity and ethical conduct from its Board of Directors. As such, a written Code of Conduct helps to ensure that all Directors share a common basis for generally acceptable conduct. Such formalized standards provide a reference guide to supplement legislative parameters within which Directors must operate and enhance public confidence that Directors will operate from a base of integrity, honesty, 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.

The 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

#### 2. General

**2.1** All Directors, whether municipal councilors or appointed citizens of a member municipality, are expected to conduct themselves in a manner that reflects positively on the Authority.

**2.2** 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.

**2.3** All Directors and members of Committees will adhere to this Code of Conduct and:

- a) Uphold the mandate, vision and mission of the Authority;
- b) Consider the Authority's jurisdiction in its entirety, including their appointing municipality;
- c) Respect confidentiality;
- d) Approach all Authority issues with an open mind, with consideration for the organization as a whole;
- e) Exercise the powers of a Director when acting in a meeting of the Authority;
- f) Respect the democratic process and respect decisions of the Board of Directors,

- g) Declare any direct pecuniary interest, conflict of interest or indirect/apparent interest when one exists or may exist in the near future; and
- h) Conduct oneself in a respectful, courteous and professional manner and refrain from disparaging the Authority or impugning motives against any Director or any Authority staff.

### 3. Gifts and Benefits

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

### 4. Conflict of Interest Guidelines

All Directors commit themselves and the Authority to ethical, businesslike and lawful conduct when acting as an individual Director or as the Board of Directors. Directors are bound by the *Municipal Conflict of Interest Act*. These policies are intended to assist Directors in understanding their responsibilities and obligations.

#### 4.1 Annual Review

4.1.1 The Authority shall complete an annual review of the *Code of Conduct*.

4.1.2 The *Municipal Conflict of Interest Act* should be reviewed annually through a workshop. Failure to attend the workshop by Board Members does not absolve Members of responsibility under the Act.

#### 4.2 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 or any 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.
- d) shall provide a written declaration of the interest or conflict of interest to the Clerk.

For an indirect pecuniary interest – see Section 2 of the *Municipal Conflict of Interest Act*. For a direct or deemed pecuniary interest – see Section 3 of the *Municipal Conflict of Interest Act*



#### 4.2.1 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.

### 4.3 Closed Meetings

- 1) 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.
- 2) If the declaration occurred in-camera, the Director shall declare the interest or conflict in open session.

### 4.4 Director Absent

Where the interest of a Director has not been disclosed by reason of their absence from a meeting, the Director shall disclose their interest and otherwise comply at the first meeting of the Authority, Executive Committee, Advisory Board or Committee subsequent to the missed meeting.

### 4.5 Disclosure Registry

- 1) Where a Director, has disclosed an interest referred to in Section 5 of the *Municipal Conflict of Interest Act, 1990* at a meeting, the Director shall file a written statement with the Clerk.
- 2) Where a Director, has disclosed an interest and filed a written statement with the Clerk, as required by subsection 3.18(1), the Clerk, shall:
  - (a) file the written statement by the Director in the Conflict of Interest Registry;
  - (b) record the interest in the minutes of the meeting;
  - (c) file a record of the interest recorded in the minutes of the meeting in the Conflict of Interest Registry; and
  - (d) make the Conflict of Interest Registry available for public inspection.

### 4.6 Breach of Conflict of Interest Policy

- 1) 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.
- 2) 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.

- 3) 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.
- 4) 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.

#### 4.7 Elected Officials Prohibited from Authority Employment

Elected mayors, councillors or alderman from any member municipality, including lower tier municipalities, are prohibited from employment with the Authority.

#### 5.1 Confidentiality

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

- 5.2 All information, documentation, correspondence, whether hard copy, digital or verbal including deliberations received, reviewed, and notes taken in a closed meeting are strictly confidential.
- 5.3 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.
- 5.4 Directors shall not permit any persons, other than those who are entitled thereto, to have access to information which is confidential.
- 5.5 In the instance where a Director vacates their position on the Board of Directors they will continue to be bound by MFIPPA requirements.
- 5.6 Particular care should be exercised in ensuring the protection of privacy of directors, employees and third-party vendors or customers for 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 including contact information such as email addresses, phone numbers, addresses etc.

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

## **6. Use of Authority Property**

- 6.1** 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.

## **7. Work of Political Nature**

- 7.1** No Director shall use Authority facilities, services or property for his/her election or re-election campaign. No Director shall use the services of Authority employees for his/her election or re-election campaign during hours in which the employees are in the paid employment of the Authority.

## **8. Conduct at Authority Meetings**

- 8.1** During meetings, Directors shall conduct themselves with civility, respect and the decorum becoming of the office. 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.
- 8.2** 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 member while speaking, except to raise a point of order or a question of privilege;
  - d) Speak disrespectfully, disparagingly or impugn motives against Directors, staff, or any member of the public;
  - e) Speak beyond the question(s) under debate;
  - f) Resist the rules or disobey the decision of the Board Chair on the questions or order or practices or upon the interpretation of the rules of the Authority.

## **9. Influence on Staff**

- 9.1** 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, corporate perspective, and advice without any undue influence.

## **10. Business Relations**

- 10.1** No Director shall borrow money from any person(s) or company which does business with the Authority unless such person(s) or company is a financial institution and is regularly in the business of lending money.
- 10.2** No Director shall act as a paid agent before the Authority, the Executive Committee or an Advisory Board or committee of the Authority.

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

- 11.1** Directors shall represent the Authority in a respectful manner and encourage public respect for the Authority and its Regulations.

## **12. Harassment**

- 12.1** The Authority has a legal responsibility to maintain a work environment free of violence and harassment, consistent with the Ontario *Occupation Health & Safety Act*, and consistent with Authority's "*Workplace Violence & Harassment Prevention Policy*".
- 12.2** All persons are to 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.
- 12.3** Examples of harassment that will not be tolerated by the Authority include but are not limited to: 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, whether in person, electronic or media.
- 12.4** The Authority will 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*.

## **13. Breach of Conduct**

- 13.1** Should a Director breach the Code of Conduct, they are responsible to advise the Chair and Vice-Chair, as soon as possible. The Chair will inform the Board of the breach and schedule an in-camera session.
- 13.2** Should a Director allege that another Director has breached the Code of Conduct, the said breach will be communicated to the Chair or in his/her absence, the Vice-Chair. The Chair will present the issue to the Directors at an in-camera session.

- 13.3** The Director alleged to have breached the Code of Conduct will be given the opportunity to speak to the issue. The Director may be asked to leave the meeting so that the Board can deliberate the issue.
- 13.4** Should it be concluded, by a two-thirds majority vote, that a Director has breached the Code of Conduct, a letter will be forwarded to the representative's appointing municipal Council, by the AUTHORITY Board Chair or in his/her absence, the Vice-Chair, advising of said breach. The decision for the Director to continue representing their municipality will be determined by the appointing municipal Council.

#### **14. Interpretation**

- 14.1** Directors of the Authority seeking clarification of any part of this should consult with the Board Chair, Vice Chair or the full Board.

#### **15. Complaint Process**

- 15.1** Any complaint regarding Director conduct shall be referred to the full board to be placed on the agenda for the next Authority meeting as an in-camera matter.

## Appendix 2 - Procedure for Election of Officers

### 1. Election of Chair and Vice-Chair

#### 1.1 Chair for Election of Officers (Board Chair and Vice-Chair)

An individual other than a Board Member of Niagara Peninsula Conservation Authority will assume the position of Chair, pro temp, for the purpose of Election of Officers. The CAO/Secretary-Treasurer, or designate, assumes this position.

#### 1.2 Appointment of Scrutineers

The appointment of scrutineers is required for the purpose of counting ballots should an election be required. All ballots will be destroyed by the scrutineers afterwards. The appointment of scrutineers requires a mover and seconder by Board Members of the Authority.

#### 1.3 Election of Board Chair and Vice-Chair

The CAO or designate advises that the election will be conducted, as follows:

- Only current Board Members of the Authority may vote;
- Nominations will be called three (3) times and will only require a mover;
- The closing of nominations will require both a mover and a seconder;
- Each Board Member nominated will be asked if there will accept the nomination. The Board Member must be present to accept the nomination;
- In the event of an election, each nominee will be permitted not more than three (3) minutes to speak for the office, in the order of the alphabetical listing of his or her surnames;
- Upon the acceptance by nominees for the position of office, ballots will be distributed to the Board Members for the purpose of election. A Member's choice for a nominee will be written on the ballot and the appointed scrutineers for the counting of the ballots will collect the ballots;

**A majority vote will 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 will be removed from further consideration for the office and new ballots will 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 will 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 CAO.

## Appendix 3– Hearing Procedures

### 1. Introduction

The purpose of the Hearing Procedures is to guide the Niagara Peninsula Conservation Authority (NPCA) Hearing Board in conducting hearings under Section 28 of the *Conservation Authorities Act*. These procedures reflect the changes to the 1998 Conservation Authorities Act. The Act requires that the applicant be party to a hearing by the local Conservation Authority Board, 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. In addition, a Hearing may be convened at the request of a holder of a permission (“permit holder”) when it is the Authority’s intention to cancel a permission. Ontario Regulation 182/06, pursuant to the Conservation Authorities Act, provides for the cancellation of permissions (a permit or other form of written authorization), if the Authority is of the opinion that the conditions of the permit have not been met.

The Hearing Board, which is comprised of the members of the Niagara Peninsula Conservation Authority Board, is empowered by law to make a decision, governed by the Statutory Powers Procedures Act. It is the purpose of the Hearing Board to evaluate the information presented at the hearing by both the Conservation Authority staff and the applicant and to decide whether the application will be approved with or without conditions or refused.

These procedures are intended to provide a step-by-step process to conducting hearings required under Section 28 (12), (13), (14) of the *Conservation Authorities Act*. The procedures are designed to ensure that hearings are conducted in a manner consistent with the legal requirements of the Statutory Powers Procedures Act without being unduly legalistic or intimidating to the participants.

### 2. Pre-Hearing Procedures

#### 2.1 Apprehension of Bias

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 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 be involved, either through participation in committee or intervention on behalf of the applicant/permit holder or other interested parties with the matter, prior to the hearing. Otherwise, there is a danger of an apprehension of bias which could jeopardize the hearing.
- (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/permit holder at the same time. The

applicant/permit holder may be afforded an opportunity to distribute similar pre-hearing material.

- (c) In instances where the Authority requires a hearing to help it reach a determination as to whether to give permission with or without conditions or refuse a permit application, a final decision shall not be made until such time as a hearing is held. The applicant/permit holder will be given an opportunity to attend the hearing before a decision is made; however, the applicant/permit holder does not have to be present for a decision to be made.

## 2.2 Application

The right to a hearing is required where staff is recommending the cancellation of a permission, refusal of an application or where there is some indication that the Authority may not follow staff's recommendation to approve a permit or the applicant objects to the conditions of approval. The applicant is entitled to reasonable notice of the hearing pursuant to the *Statutory Powers Procedures Act*.

## 2.3 Notice of Hearing

Applicants shall be sent a Notice of Hearing within 30 to 90 days from the date that a requirement for a Hearing is identified as per Section 2.2. It is recommended the applicant be consulted to determine an agreeable date and time based on the Authority's regular meeting schedule. Along with The Notice of Hearing, applicants will be provided with the hearing procedures.

When a permission is being cancelled, there is a need to act quickly to inform the permit holder of the Authority's intention to cancel the permission as the permission would normally involve an aspect of the development or activity which in the opinion of the Authority is unauthorized. Should a permit holder request a hearing when advised of the Authority's intention, the Authority shall give the holder at least 5 days' notice of the date of the hearing. Notice of a Hearing date may be given verbally to provide as much lead time to the permit holder as is reasonably possible. Verbal notice shall be followed-up with a written notice.

The Notice of Hearing must contain 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.
- (c) Particulars to identify the applicant/permit holder, property and the nature of the application/permission 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 intended permit cancellation, refusal of a permit or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the permit holder 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 cancellation, 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/permit holder that the hearing may proceed in the applicant/permit holder's absence and that the applicant/permit holder 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/permit holder.

- (f) Reminder that the applicant/permit holder is entitled to be represented at the hearing by counsel, if desired.

The Notice of Hearing shall be directed to the applicant and/or permit holder by registered mail. Please refer to Appendix A for an example Notice of Hearing.

## **2.4 Pre-Submission of Reports**

The Hearing process shall be guided by the principle of full disclosure by the parties (the applicant/permit holder and the Authority staff).

From the date the applicant/permit holder receives the Notice of Hearing outlining the reasons for Authority staff recommendations, the process shall provide sufficient time for the parties to prepare information including such materials as the application proposal; supporting technical documents (plans, drawings, studies etc.) and any summary reports or presentation material that the Hearing Board will consider in arriving at a decision. The parties shall ensure that a complete set of their respective information materials are exchanged a minimum of two weeks prior to the Hearing to provide time for review.

In scheduling the Hearing date with the applicant/permit holder, Authority staff must consider the timelines required to provide for the preparation of Hearing information, exchange and review by the parties as set out above.

## **2.5 Hearing Information**

Prior to the hearing, the applicant/permit holder shall be advised of the local Conservation Authority's hearing procedures upon request.

# **3. Hearing**

The following outlines the process for a Hearing. It should be noted at the beginning of the Hearing if there are any Conflict of Interest concerns or issues. (Reference: Appendix 2 – Conflict of Interest)

### 3.1 Public Hearing

Pursuant to the *Statutory Powers Procedure Act*, hearings are required to be held in public. 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 local hearing. While others may be advised of the local hearing, any information that they provide should be incorporated within the presentation of information by, or on behalf of, the applicant/permit holder or Authority staff.

While the hearings will be held in public and are also open to attendance by the media, the filming of the hearing or the taking of pictures will not be permitted during the hearing by any person or persons unless permitted by the Chair.

### 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 the application, refuse the application or cancel the permission, must be present during the full course of the hearing. If it is necessary for a member to leave: 1) the hearing must be adjourned and resumed when the member returns, or 2) if the hearing proceeds, even in the event of an adjournment, only those members who were present after the member left can sit to the conclusion of the hearing.

### 3.4 Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant/permit holder 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 his 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/permit holder as part of the Notice of Hearing.
- (b) The Hearing is a formal procedure. However, the evidence before the Board is not required to be given under oath or affirmation.

- (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 Chair shall convene the hearing with opening remarks which generally; identify the applicant/permit holder, 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 or Appendix D for the Opening Remarks model.

#### **3.7.3 Presentation of Authority Staff Information**

Staff of the Authority presents the reasons supporting the recommendation for the cancellation, 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 and/or legal counsel of the Authority should not submit new information at the hearing as the applicant/permit holder will not have had time to review and provide a professional opinion to the Hearing Board.

#### **3.7.4 Presentation of Applicant/Permit Holder Information**

The applicant/permit holder (and/or agent) 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 **shall** be properly indexed and received. The presentation shall be made by one only of either the applicant/permit holder (and/or agent).

The applicant/permit holder (and/or agent) shall present information as it applies to the permit application or the cancellation of permission 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.

- (a) The applicant/permit holder may be represented by an agent (e.g. legal counsel, consultant etc.), if desired.
- (b) The applicant/permit holder may have only one designated agent as a spokesperson to present information to the Board.
- (c) The applicant/permit holder presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

The applicant/permit holder (and/or agent) 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, through the Chair, to each speaker as the information is being heard. The applicant/permit holder (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. 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.

The hearing board must subjectively have reasonable and probable grounds on which to base a decision, information presented must be relevant in the context of the decision to be made. Those grounds must, in addition, be justifiable from an objective point of view, such that a person of ordinary and prudent judgment placed in the position of the hearing board must be able to conclude that there were reasonable and probable grounds for limiting facts or circumstances presented that would not be relevant for a decision to be made.

### **3.7.6 Deliberation**

After all the information is presented, the Board will deliberate and make a decision on the application or the cancellation of a permission in camera.

## **4. Decision**

Upon making its decision, the Board will rise from in camera and report its decision and particulars of the decision.

### **4.1 Adoption**

A resolution advising of the Board's decision and particulars of the decision will be adopted. The Chair will call a vote by a show of hands.

#### 4.2 Notice of Decision

The applicant/permit holder must receive written notice of the decision within 15 days 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 Minister of Natural Resources.

There is no provision in the Conservation Authorities Act that provides the permit holder for appeal in situations where a permit is cancelled.

The Board shall itemize and record information of particular significance which led to their decision.

The decision notice should include the following information:

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

The written Notice of Decision will be forwarded to the applicant/permit holder by registered mail. A sample Notice of Decision and cover letter has been included as Appendix D.

### 5. Record

The Authority shall compile a record of the hearing. Recording devices may be used for this purpose. In the event of an appeal, a copy of the record should be forwarded to the Minister of Natural Resources/Mining and Lands Commissioner. The record must include the following:

- (a) The application for the permit or the permit in the case of a cancellation of permission.
- (b) The Notice of Hearing.
- (c) Any orders made by the Board (e.g., for adjournments).
- (d) All information received by the Board.
- (e) The minutes of the meeting made at the hearing.
- (f) The decision and reasons for decision of the Board.
- (g) The Notice of Decision sent to the applicant/permit holder.

# ATTACHMENT 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/cancellation (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 the Niagara Peninsula Conservation Authority will be held under Section 28 (12) of the *Conservation Authorities Act* OR Subsection 8 (2) of O.Reg 182/06 at the offices of the said Authority, 250 Thorold Road, Welland, Ontario L3C 3W2, at the hour of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, with respect to the application by (NAME) to permit OR with respect to the cancellation of Permit #\_\_\_\_\_, granted to (NAME), that allows the permission of development within an area regulated by the Authority in order to ensure no adverse effect 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 \_\_\_\_\_, \_\_\_\_\_ Watershed.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Board of The Niagara Peninsula Conservation Authority for the meeting of (meeting number). If you intend to appear, 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 effect of any evidence that a witness may give.

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

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

The Board Members of the  
Niagara Peninsula Conservation Authority  
Per: Chief Administrative Officer/Secretary-Treasurer

## ATTACHMENT B – HEARING PROCEDURES

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chair's opening remarks.
3. Staff will introduce to the Hearing Board the applicant/permit holder (and/or agent).
4. Staff will indicate the nature and location of the subject application and the conclusions.
5. Staff and/or counsel will present the staff report included in the Authority agenda and the reasons for the recommendation.
6. The applicant/permit holder (and/or agent) will have the opportunity to ask questions of staff based on their presentation.
7. Following the applicant/permit holder (and/or agent), the members of the Board can ask the staff questions.
8. The applicant/permit holder (and/or agent) will make a presentation.
9. The staff and/or counsel will have the opportunity to ask questions of the applicant/permit holder (and/or agent) followed by questions from the Board.
10. The Hearing Board will move into camera
11. The Hearing Board will, once it has reached a decision, move out of camera, to reconvene in public forum.
12. Members of the Hearing Board will move and second a motion.
13. A motion will be carried which will culminate in the decision.
14. The Chair or Acting Chair will advise the applicant/permit holder of the Hearing Board decision.
15. If decision is "to refuse", the Chair or Acting Chair shall notify the applicant in writing of his/her right to appeal the decision to the Minister of Natural Resources within 30 days of receipt of the reasons for the decision.  
  
Note: There is no provision in the *Conservation Authorities Act* that provides for appeal in situations where a permit is cancelled.
16. Motion to move out of Hearing Board.

## ATTACHMENT C – CHAIR’S REMARKS

### CHAIR'S REMARKS WHEN DEALING WITH HEARINGS WITH RESPECT TO ONTARIO REGULATION 182/06 – APPLICATION FOR A PERMIT

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 effect 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 a copy of the staff report has been given to the applicant.

The *Conservation Authorities Act* (Section 28 [12]) provides that:

"Permission required under a regulation made under clause (1) (b) or (c) shall not be refused or granted subject to conditions unless the person requesting permission has been given the opportunity to require a hearing before the authority".

In holding this hearing, the Authority Board/Executive Committee is to determine whether or not a permit is to be issued. 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.

The proceedings will be conducted according to the *Statutory Powers Procedures Act*. Further to this, Section 5 of the *Canada Evidence Act* states:

1. No witness shall be excused from answering any questions on the ground that the answer to the question may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or any person.
2. Where with respect to any question a witness objects to answer on the ground that his answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person and if but for this Act or the Act of any provincial legislature, the witness would therefore have been excused from answering the question, then although the witness is by reason of the Act or the provincial Act compelled to answer, the answer so given shall not be used or admissible in evidence against him in any criminal trial or other criminal proceeding against him thereafter taking place other than a prosecution for perjury in giving of that evidence or for the giving of contradictory evidence.

The procedure in general will be informal without the evidence before it being given under oath or affirmation.

The rules of evidence before this Board are informal.

If the applicant has any questions to ask of the Board, he/she is free to do so providing all questions are directed to the Chair of the Board.



The Hearing will proceed as follows:

1. Staff and/or counsel of the Niagara Peninsula Conservation Authority will present an overview of the application and the reasons why the application was recommended for denial, if applicable. The applicant will then have the opportunity to ask questions of staff based on their presentation. Following the applicant, the members of the board may ask the staff questions.
2. Next will be the presentation by the applicant (and/or agent) followed by questions by Niagara Peninsula Conservation Authority staff and/or counsel and then questions by members of the Board.
3. Lastly, the Board Members will deliberate and make a decision on the application. A resolution advising of the Board's decision and the particulars of the decision will then be adopted.

## ATTACHMENT D – CHAIR’S REMARKS

### CHAIR'S REMARKS WHEN DEALING WITH HEARINGS WITH RESPECT TO ONTARIO REGULATION 182/06 – CANCELLATION OF A PERMIT

We are now going to conduct a hearing under Section 8 of Ontario Regulation 182/06 pursuant to the *Conservation Authorities Act* in regard to the cancellation of Permit No. \_\_\_\_\_, issued to \_\_\_\_\_

The Authority has adopted a regulation under Section 28 of the *Conservation Authorities Act* which allows the Authority to cancel permissions if the conditions of the permit have not been met.

The Staff has reviewed this proposed work and a copy of the staff report has been given to the permit holder.

Ontario Regulation 182/06 pursuant to the *Conservation Authorities Act* indicates that:

“The authority may cancel a permission if it is of the opinion that the conditions of the permission have not been met”

In holding this hearing, the Authority Board/Executive Committee is to determine whether or not a permit is to be cancelled. In doing so, we can only consider the evidence as presented to us.

The proceedings will be conducted according to the *Statutory Powers Procedures Act*. Further to this, Section 5 of the *Canada Evidence Act* states:

1. No witness shall be excused from answering any questions on the ground that the answer to the question may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or any person.
2. Where with respect to any question a witness objects to answer on the ground that his answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person and if but for this Act or the Act of any provincial legislature, the witness would therefore have been excused from answering the question, then although the witness is by reason of the Act or the provincial Act compelled to answer, the answer so given shall not be used or admissible in evidence against him in any criminal trial or other criminal proceeding against him thereafter taking place other than a prosecution for perjury in giving of that evidence or for the giving of contradictory evidence.

The procedure in general will be informal without the evidence before it being given under oath or affirmation.

The rules of evidence before this Board are informal.

If the permit holder (and/or agent) has any questions to ask of the Board Members, he/she is free to do so providing all questions are directed to the Chair of the Board.

The Hearing will proceed as follows:

1. Staff and/or counsel of the Niagara Peninsula Conservation Authority will present an overview of the cancellation and the reasons why the permission is being cancelled. The permit holder will then have the opportunity to ask questions of staff based on their presentation. Following the permit holder, the members of the board may ask the staff questions.
2. Next will be the presentation by the permit holder (and/or agent) followed by questions by Niagara Peninsula Conservation Authority staff and/or counsel and then questions by members of the Board.
3. Lastly, the Board Members will deliberate and make a decision on the cancellation. A resolution advising of the Board's decision and the particulars of the decision will then be adopted.

## ATTACHMENT E – LETTER (Refusal)

(Date)

BY REGISTERED MAIL

(name)

(address)

Dear:

**RE: NOTICE OF DECISION (Refusal of an Application)**  
**Hearing Pursuant to Section 28(12) of the Conservation Authorities Act**  
**Proposed Development**  
**Lot , Plan ; XX Drive Municipality of**  
**(Application #)**

In accordance with the requirements of the *Conservation Authorities Act*, the Niagara Peninsula Conservation Authority provides the following Notice of Decision:

On **(meeting date and number)**, the Hearing Board for the Niagara Peninsula Conservation Authority refused/approved your application/approved your application with conditions. A copy the Board'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 Minister 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 by you or your agent/counsel setting out your appeal must be sent within 30 days of receiving this decision addressed to:

The Honourable **(Minister's Name)**  
Minister of Natural Resources  
Queen's Park, Whitney Block  
99 Wellesley Street West, 6th Floor, Room 6630  
Toronto, Ontario M7A 1W3  
TEL:(416) 314-2301 FAX: (416) 314-2216

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 F – LETTER (Cancellation)

(Date)

**BY REGISTERED MAIL**

(name)

(address)

Dear:

**RE: NOTICE OF DECISION (Cancellation of Permission)**

**Hearing Pursuant to Section 8 (1) of O.Reg 182/06 pursuant to the *Conservation Authorities Act*  
Permit No.**

**Lot , Plan ; XX Drive      Municipality of**

In accordance with the requirements of the *Conservation Authorities Act*, the Niagara Peninsula Conservation Authority provides the following Notice of Decision:

On (***meeting date and number***), the Hearing Board for the Niagara Peninsula Conservation Authority refused/approved the cancellation of your permit. A copy the Board'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***).

Further, there is no statutory option for the appeal of a cancelled permission under *Conservation Authorities Act*.

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

## Appendix 4 - Common Motions

### 1. Motion to Adjourn

#### 1.1 A Motion to Adjourn:

- a) is always in order except as provided by this by-law;
- b) is not debatable;
- c) is not amendable;
- d) is not in order when a member is speaking or during the verification of the vote;
- e) is not in order immediately following the affirmative resolution of a motion to close debate; and
- f) when resulting in the negative, cannot be made again until after some intermediate proceedings have been completed by the Authority.

#### 1.2 A motion to adjourn without qualification, if carried, brings a meeting or a session of the Authority to an end.

#### 1.3 A motion to adjourn to a specific time, or to reconvene upon the happening of a specified event, suspends a meeting of the Authority to continue at such time.

### 2. Motion to Amend

#### 2.1 A motion to amend:

- a) is debatable;
- b) is amendable;
- c) shall be relevant and not contrary to the principle of the report or motion under consideration; and
- d) may propose a separate and distinct disposition of a question provided that such altered disposition continues to relate to the same issue which was the subject matter or the question.

#### 2.2 Only one motion to amend an amendment to the question shall be allowed at one time and any further amendment must be to the main question.

#### 2.3 Notwithstanding anything herein to the contrary, no motion to amend the motion to adopt any report shall be permitted.

### **3. Motion to Censure**

The Niagara Peninsula Conservation Authority Board may call for a motion to censure an individual Member for conduct unbecoming a Board Member in the fulfillment of his/her Niagara Peninsula Conservation Authority duties. This will require a seconder and a 2/3 vote of members present at the Board Members meeting to pass. The motion to censure must be dealt with immediately and once the motion is approved, the appointing municipality will be advised, in writing, by the Chair of the Board.

### **4. Motion to Close Debate (Previous Question)**

- 4.1** A motion to close debate:
- a) is not debatable;
  - b) is not amendable;
  - c) cannot be moved with respect to the main motion when there is an amendment under consideration;
  - d) should be moved by a member who has not already debated the question;
  - e) can only be moved in the following words: "I move to close debate";
  - f) requires a majority of members present for passage; and
  - g) when resolved in the affirmative, the question is to be put forward without debate or amendment.

### **5. Motion to Postpone Definitely**

- 5.1** A motion to postpone definitely:
- a) is debatable, but only as to whether a matter should be postponed and to what time;
  - b) is amendable as to time;
  - c) requires a majority of members present to pass; and
  - d) shall have precedence over the motions to refer, to amend, and to postpone indefinitely.

### **6. Motion to Postpone Indefinitely**

- 6.1** A motion to postpone indefinitely:
- a) is not amendable;
  - b) is debatable, and debate may go into the merits of the main question, which effectively kills a motion and avoids a direct vote on the question;
  - c) requires a majority vote; and
  - d) shall have precedence over no other motion.

### **7. Motion to Reconsider**

- 7.1** A motion to reconsider, under this Regulation:
- a) is debatable;
  - b) is not amendable; and
  - c) requires a two-thirds majority vote, regardless of the vote necessary to adopt the motion to be reconsidered.

- 7.2** After any question, except one of indefinite postponement has been decided by the Authority, any Member who was present may, at a subsequent meeting of the Authority, move for the reconsideration thereof, provided due notice of such intention is given as required by this Regulation, but no discussion of the main question by any person shall be allowed unless the motion to reconsider has first been adopted.
- 7.3** After any question, except one of indefinite postponement has been decided by Committee, but before a decision thereon by the Authority, any member who was present at the Committee meeting concerned, may, at a subsequent meeting of the Committee, provided the Authority still has made no decision thereon, move for the reconsideration thereof, provided due notice of such intention is given as required by this Regulation, but no discussion of the main question by any person shall be allowed unless the motion to reconsider has first been adopted.
- 7.4** No question upon which a notice of reconsideration has been accepted shall be reconsidered more than once, nor shall a vote to reconsider be reconsidered.
- 7.5** If a motion to reconsider is decided in the affirmative, reconsideration shall become the next order of business and debate on the question to be reconsidered shall proceed as though it had never previously been considered.

## **8. Motion to Refer (to Committee)**

- 8.1** A motion to refer:
- a) is debatable;
  - b) is amendable; and
  - c) shall take precedence over all amendments of the main question and any motion to postpone indefinitely, to postpone definitely or to table the question.

## **9. Motion to Suspend the Rules (Waive the Rules)**

- 9.1** A motion to suspend the rules:
- a) is not debatable;
  - b) is not amendable; and
  - c) requires a 2/3 majority to carry;
  - d) takes precedence over any motion if it is for a purpose connected with that motion and yields to a motion to table.

## **10. Motion to Table**

- 10.1** A motion to table:
- a) is not debatable;
  - b) is not amendable.
- 10.2** A motion to table a matter with some condition, opinion or qualification added



to the motion shall be deemed to be a motion to postpone.

- 10.3** The matter tabled shall not be considered again by the Authority until a motion has been made to take up the tabled matter at the same time or subsequent meeting of the Authority.
- 10.4** A motion to take up a tabled matter is not subject to debate or amendment.
- 10.5** A motion that has been tabled at a previous meeting of the Authority cannot be lifted off the table unless notice thereof is given in accordance with Section 12 of this Regulation.
- 10.6** A motion that has been tabled and not taken from the table for six (6) months shall be deemed to be withdrawn and cannot be taken from the table.

## **11. Point of Order**

The Chair or Committee Chair, as the case may be, shall decide points of order. When a Member wishes to raise a point of order, the Member shall ask leave of the Chair/Committee Chair and after leave is granted, the Member shall state the point of order to the Chair/Committee Chair, after which the Chair/Committee chair shall decide on the point or order. Thereafter, the Member shall only address the Chair/Committee Chair for the purpose of appealing the decision to the Authority or the Committee, as the case may be. If the Member does not appeal, the decision of the Chair/Committee Chair shall be final. If the Member appeals to the Authority or the Committee as the case may be, the Authority/Committee shall decide the question without debate and the decision shall be final.

## **12. Point of Personal Privilege**

When a Member considers that his integrity or the integrity of the Authority or Committee has been impugned, the Member may, as a matter of personal privilege and with the leave of the Chairman, draw the attention of the Authority or the Committee, as the case may be, to the matter by way of a point of personal privilege. When a point of personal privilege is raised, it shall be considered and decided by the Chair or Committee Chair, as the case may be, immediately. The decision of the Chair or Committee Chair, as the case may be, on a point of privilege may be appealed to the Authority.

**Report To: Chair and Members of the Governance Committee**

**Subject: Conflict of Interest**

**Report No: GC-17-19**

**Date: December 13, 2019**

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**Recommendation:**

**THAT** Report No. GC-17-19 RE: Conflict of Interest **BE RECEIVED.**

**Purpose:**

The purpose of this Report is to respond to a recommendation from the Auditor General of Ontario to define Conflict of Interest and to discuss examples of conflict situations.

**Background:**

**a. What is a Conflict of Interest?**

A conflict of interest can be defined as any situation that has the potential to prevent impartiality or create bias in a person. It is important to note that interests can be financial and non-financial. People are motivated differently, and not always by money. There are intrinsic motivations like power, status, reputation, relationships and many others that can also infer a bias on someone. These intrinsic motivations are often harder to identify but they are as important as the extrinsic and financial interests. (business systems.org)

**b. Types of Conflict of Interest**

Public sector organizations often categorize conflicts of interest as either potential/perceived conflict of interest or actual conflict of interest.

**Potential or Perceived Conflict of Interest**

A **perceived** or apparent **conflict of interest** can exist where it could be **perceived**, or appears, that a public official's private **interests** could improperly **influence** the performance of their duties – whether or not this is in fact the case.

**Actual Conflict of Interest**

These are situations in which there is a real conflict of interest such as a decision maker benefitting financially.

### **Three Tiers of conflicts of interest**

**A Tier-I conflict** is an actual or potential conflict between a board member and the company. The concept is straightforward: A director should not take advantage of his or her position. As the key decision makers within the organization, board members should act in the interest of the organization, and not in their own. Major conflicts of interest could include, but are not restricted to, salaries and perks, misappropriation of company assets, self-dealing, appropriating corporate opportunities, and neglecting board work. All board members are expected to act ethically at all times, notify promptly of any material facts or potential conflicts of interest and take appropriate corrective action.

**Tier-II conflicts** arise when a board member's duty of loyalty to the company is compromised. This would happen when certain board members exercise influence over the others through compensation, favors, a relationship, or psychological manipulation. Even though some directors describe themselves as "independent of management, company, or major shareholders," they may find themselves faced with a conflict of interest if they are forced into agreeing with a dominant board member. Under particular circumstances, some independent directors form a distinct stakeholder group and only demonstrate loyalty to the members of that group. They tend to represent their own interest rather than the interests of the companies.

**A Tier-III conflict** emerges when the interests of stakeholder groups are not appropriately balanced or harmonized. Shareholders appoint board members, usually outstanding individuals, based on their knowledge and skills and their ability to make good decisions. Once a board has been formed, its members have to face conflicts of interest between stakeholders and the company, between different stakeholder groups, and within the same stakeholder group. When a board's core duty is to care for a particular set of stakeholders, all rational and high-level decisions are geared to favor that particular group, although the concerns of other stakeholders may still be recognized. Board members have to address any conflicts responsibly and balance the interests of all individuals involved in a contemplative, proactive manner.

### **Board Ethical Duties**

The not-for-profit sector takes ethical duties very seriously. In fact, these duties have now been inserted into the Conservation Authorities Act, Section 14.1 through Bill 108 as follows:

**"every member of the Authority shall act honestly and in good faith with a view of furthering the objects of the Authority."**

The Not-for profit sector requests that all board members sign a Conflict of Interest form which addresses:

**The Duty to Act Honestly and in Good Faith** - Acting honestly and in good faith means that the director, committee member or trustee is not seeking to gain an advantage for him or herself, or for someone else; is not intending to deceive anyone and is not blindly following the lead of others on the Board or the committee.

**The Duty to Properly Exercise Powers** - Properly exercising powers conferred on the director, committee member or trustee, means the person is not acting upon some personal “hidden agenda”, but is exercising his or her powers for legitimate purposes which serves the best interests of the organization.

**The Duty to Avoid Conflicts of Interest** - Conflict of interest arises when a person has (or could have) divided loyalties. Directors, committee members and trustees owe the organization their undivided loyalty. Therefore, they need to be conscious of the potential for conflict of interest, and they need to act with candour and care in those situations.

### **Examples of Board Conflict of Interest**

Several members of the NPCA Board of Directors have declared a conflict of interest in 2019. It is recommended that the Governance Committee assess each of these examples and outline the rationale for the conflict being declared so that the entire Board has a full appreciation of this matter.

#### **Submitted by:**

*Original signed by:*

\_\_\_\_\_  
D. Gayle Wood, BES, CMMIII  
Chief Administrative Officer/Secretary-Treasurer

**Report To: Board of Directors**

**Subject: Code of Conduct**

**Report No: GC-18-19**

**Date: December 13, 2019**

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**Recommendation:**

1. **THAT** Report No. GC-18-19 RE: Code of Conduct **BE RECEIVED** for information.
2. **THAT** the Governance Committee **DIRECT** staff to proceed with conversations relating to Integrity Commissioner services with each of the appointing municipalities.

**Purpose:**

The purpose of this report is to provide the Governance Committee with further options for consideration regarding investigation of Code of Conduct complaints.

**Background:**

On October 22, 2019 the Governance Committee directed staff to enter into discussions with appointing municipalities regarding the handling of Code of Conduct complaints regarding board members appointed from that municipality to the NPCA board.

**Discussion:**

Board Members for the Niagara Peninsula Conservation Authority are bound by the NPCA Code of Conduct. Integrity Commissioners appointed by a municipality are retained in accordance with *The Municipal Act* to investigate alleged breaches of the Code of Conduct of that municipality's Code of Conduct. Further, the NPCA, by definition within Section 1(1) of *The Municipal Act*, the NPCA is not defined as a local board and therefore has no obligation to appoint an Integrity Commissioner and does not fall under jurisdiction of a municipal Integrity Commissioner.

In an effort to align procedures with appointing municipalities and exercise independence and accountability regarding Code of Conduct complaints regarding NPCA board members, the NPCA may enter into a separate agreement with the appointed Integrity Commissioner of each appointing municipality. Furthermore, through agreements with the appointing municipality, the parties can jointly provide the Integrity Commissioner with the ability to decide the jurisdiction of a complaint should it be submitted to one of the parties and act accordingly.

With the appointment of an Integrity Commissioner, the NPCA will be required to update by-laws to ensure all complaints are consistently handled in this manner. The NPCA will also be required to develop a public reporting system for alleged violations of the NPCA Code of Conduct.

### **Financial Implications:**

Any alleged breach of NPCA Code of Conduct will incur costs at the rate of the appointed Integrity Commissioner.

### **Links to Policy/Strategic Plan:**

The Board has been clear in their desire to be transparent, accountable and to work with integrity and honesty. This practice will aid in meeting these objectives.

### **Authored by:**

*Original signed by:*

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Misti Ferrusi, BA, CHRL  
Human Resources Manager

### **Submitted by:**

*Original signed by:*

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D. Gayle Wood, BES, CMMIII  
Chief Administrative Officer/Secretary-Treasurer