

**FULL AUTHORITY
SPECIAL MEETING
MONDAY, January 7, 2019
2:30 p.m.
Ball's Falls Centre for Conservation
Glen Elgin Room
3292 Sixth Avenue, Jordan, ON**

A G E N D A

1. ADOPTION OF AGENDA

1.1 Adopt Agenda

NOTE: Excerpt from Section 6.10 of NPCA Administrative By-Law:

6.10 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.

2. DECLARATION OF CONFLICT OF INTEREST

3. ADMINISTRATIVE BUSINESS

3.1. Correspondence

3.1.1 Court Order Justice Ramsay, dated December 21, 2018 RE: NPCA and the appointment of the Niagara Region's representatives to the NPCA ---- Board, effective Dec. 6, 2018

3.1.2 Court Order Justice Ramsay, dated January 2, 2019 RE: January 7, 2019 Special Meeting

4. BUSINESS FOR INFORMATION

4.1 Financial and Reserve Report – Month Ending November 2018
Report No. 01-19

5. BUSINESS – In Camera

5.1 Motion to move in to Closed Session:

That the NPCA Full Authority meeting **DO NOW MOVE** in to Closed Session, as per NPCA Administrative Bylaw section 11.1, for the purposes of:

11.1 A Meeting or part of a Meeting may be closed to the public if the subject matter being considered is: (b) personal matters about an identifiable individual(s), including NPCA employees; (d) labour relations, Human Resource, or employee negotiations; (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

5.2 Motion to reconvene in Open Session:

That the NPCA Full Authority meeting **RECONVENE** in Open Session.

5.3 Business Arising from Closed Session

6. ADJOURNMENT

A Better Niagara v. Niagara Peninsula Conservation Authority and the Regional Municipality of Niagara
CV-18-1204

December 21, 2018

The City of Hamilton has not had a chance to instruct its counsel and neither has the Region of Niagara. The Region of Niagara's position, however, will inevitably be that its appointments to the board of the Conservation Authority are valid. Neither municipality will be in a position to instruct counsel until late January. The Conservation Authority heard about the Application but was only served yesterday.

In the circumstances I think that the court has to make some sort of order immediately. The present situation is intolerable. The constitutional order needs to be restored. The governance of the Conservation Authority cannot remain in chaos. I will not make any order that affects Hamilton or Niagara adversely. As for the Conservation Authority, how it is affected depends on who it is, which seems to be in dispute at the moment.

The following summary of the law cannot seriously be doubted:

Section 2 of the Conservation Authorities Act gives municipalities the right to appoint members of the board of a conservation authority according to the population of the municipality.

Section 4, however, provides that in the case of a two-tier municipality, the upper tier has the right to appoint members and it can appoint as many members as each lower tier municipality would have appointed if they had been single tier municipalities.

Niagara Region has 12 constituent lower tier municipalities. It can appoint at least 12 members to the board of the Niagara Peninsula Conservation Authority. Hamilton appoints two and Haldimand appoints one. This Application does not concern the Hamilton and Haldimand appointments.

Section 14 of the Act gives the appointing municipality the right to appoint members for a term, or, under subsection 14 (4.3) to replace members at any time.

The following facts are matters of public record, published by the Region of Niagara and the Niagara Peninsula Conservation authority:

On December 6, 2018 the Council of the Regional Municipality of Niagara met and exercised its right to replace members by passing the following resolutions:

1. That twelve (12) Regional Councillors representing Niagara Region, one from each municipality in the Niagara Region, BE APPOINTED to replace the current Niagara Region representatives, on an interim basis, on the Niagara Peninsula Conservation Authority Board, effective immediately for a period of three months until it is determined how to proceed with the Board composition.
2. That Councillors Bylsma, Chiocchio, Foster, Gibson, Greenwood, Heit, Huson, Insinna, Jordan, Steele, Whalen, Zalepa, BE APPOINTED to the Niagara Peninsula Conservation Authority Board for a three month period.

I make the following orders:

1. I declare that as of December 6, 2018, Councillors Bylsma, Chiocchio, Foster, Gibson, Greenwood, Heit, Huson, Insinna, Jordan, Steele, Whalen and Zalepa are members of the board of the Niagara Peninsula Conservation Authority, and S. Annunziata, B. Baty, F. Campion, P. Darte, M. DiFruscio, A. Jeffs, P. MacPherson, J. Maloney, T. Quirk and B. Timms are not.
2. All remaining relief is adjourned to January 2, 2019 at to be spoken to. Once the new board is seated it will be in a position to advise counsel as to its position.

"J.A. Ramsay J."

A BETTER NIAGARA
Applicant

and

THE NIAGARA PENINSULA CONSERVATION
AUTHORITY et al
Respondents

Court File No. CV-18-000 12402-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Welland

NOTICE OF APPLICATION

A BETTER NIAGARA

Attention: Elizabeth Benneian
3150 Culp Road
Jordan Station
L0R 1S0
Tel: 905-562-3819
Email: lizcdn@yahoo.com

Applicant

"Certified to be a true copy of the originating
Copie conforme de l'acte introductif d'instance
process herein"
dans la présente affaire

Solicitor for the Plaintiff
Avocat du Demandeur

I direct that the Board of
the NPCA meet on Jan 7, 2019
at the NPCA's facilities
at ~~10 am~~ 230 pm.

Agreement is to be signed on the day to be kept for 10 days
note. James Ramsey J