

**GOVERNANCE COMMITTEE MEETING
ON-LINE VIDEO CONFERENCE**

**Friday, December 10, 2021
9:30 a.m.**

A G E N D A

1. APPROVAL OF AGENDA

2. DECLARATIONS OF CONFLICT OF INTEREST

3. APPROVAL OF THE MINUTES

- a) Minutes of the NPCA Governance Committee Meeting dated September 23, 2021

Page # 1

4. CORRESPONDENCE

- a) Correspondence dated September 24, 2021 to the Honourable David Piccini, Minister of the Environment, Conservation and Parks from Andy Mitchell Chair, Conservation Ontario RE: Conservation Ontario's Governance Accountability and Transparency Initiative

Page # 5

- b) Correspondence dated November 18, 2021 to Brenda Johnson, NPCA Chair and Chandra Sharma, NPCA CAO-Secretary/Treasurer from the Honourable David Piccini, Minister of the Environment, Conservation and Parks RE: Application Seeking Exception under the Conservation Authorities Act Relating to Chair and Vice-Chair Appointments

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5. PRESENTATIONS

6. DELEGATIONS

7. CONSENT ITEMS

8. DISCUSSION ITEMS

- a) Report No. GC-10-21 RE: Amendments to the Administrative By-law (For approval)

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- b) Report No. GC-11-21 RE: NPCA Election Period Guidelines (For approval)

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- c) Report No. GC-12-21 RE: Environmental and Sustainability Procurement Guidelines (For approval)

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- d) Report No. GC-13-21 RE: Insurance (For approval)

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- e) Verbal Update from M. Ferrusi, Manager, Human Resources RE: Bill 27, The Working for Workers Act, 2021

9. NEW BUSINESS

10. ADJOURNMENT

**GOVERNANCE COMMITTEE
ONLINE VIDEO CONFERENCE
MEETING MINUTES
Thursday, September 23, 2021
9:30 a.m.**

MEMBERS PRESENT:	R. Foster, Chair R. Brady B. Clark B. Johnson (arrived 10:28 a.m.) M. Woodhouse
MEMBERS ABSENT:	J. Ingrao
STAFF PRESENT:	C. Sharma, Chief Administrative Officer / Secretary - Treasurer G. Bivol, Clerk A. Christie, Director, Operations M. Ferrusi, Manager, Human Resources A. Powell, Manager, Conservation Area Services G. Shaule, Administrative Assistant

Chair Foster called the meeting to order at 9:37 a.m..

1. APPROVAL OF AGENDA

Recommendation No. GC-10-2021

Moved by Member Clark

Seconded by Member Brady

THAT the Governance Committee agenda dated September 23, 2021 **BE APPROVED** as presented.

CARRIED

2. DECLARATIONS OF CONFLICT OF INTEREST

None declared.

3. APPROVAL OF THE MINUTES

- a) Minutes of the NPCA Governance Committee meeting dated June 24, 2021

Recommendation No. GC-11-2021

Moved by Member Woodhouse

Seconded by Member Brady

THAT the minutes of the meeting of the NPCA Governance Committee dated June 24, 2021 **BE ADOPTED**.

4. CORRESPONDENCE

None

5. PRESENTATIONS

- a) Presentation on Seasonal Camping by A. Christie, Director, Land Operations - Adam Christie, Director, Operations and Alicia Powell, Manager, Conservation Area Services presented via PowerPoint. Discussion ensued.

Recommendation No. GC-12-2021

Moved by Member Woodhouse

Seconded by Member Brady

1. **THAT** the PowerPoint presentation entitled NPCA Seasonal Camping Procedures dated September 23, 2021 **BE RECEIVED**.

2. **AND THAT** staff prepare a report to the Governance Committee with options and recommendations addressing issues identified with permanent seasonal camping sites.

CARRIED

6. DELEGATIONS

None

7. Consent Items

None

8. DISCUSSION ITEMS

- a) Report No. GC-07-21 RE: Process for Delegations to Meetings

Recommendation No. GC-13-2021

Moved by Member Brady

Seconded by Member Clark

THAT Report No. GC-07-21 RE: Process for Delegations to Meetings **BE RECEIVED** for input of the Governance Committee.

CARRIED

- b) Report No. GC-08-21 RE: Board Evaluation

Recommendation No. GC-14-2021

Moved by Member Clark

Seconded by Member Woodhouse

1. **THAT** Report No. GC-08-21 RE: Board Evaluation **BE RECEIVED**.

2. **THAT** the Board Assessment identified as Appendix 1, the Board Member Individual Self-Evaluation identified as Appendix 2 and Board Member Skills Assessment identified as Appendix 3 **BE IMPLEMENTED** in January 2022.

CARRIED

- c) Report No. GC-09-21 RE: Vaccination Policy - Misti Ferrusi, Manager, Human Resources presented. Discussion ensued.

Recommendation No. GC-15-2021

Moved by Member Brady

Seconded by Member Clark

1. **THAT** Report No. GC-09-21 RE: Vaccination Policy **BE RECEIVED**.

2. **THAT** the Vaccination Policy identified as Appendix 1 **BE APPROVED** and **IMPLEMENTED**.

CARRIED

- d) Integrity Commissioner Agreement - Ms. Ferrusi, provided an update on the matter noting that the NPCA was awaiting the appointment of an Integrity Commissioner at the Region of Niagara before proceeding.

Recommendation No. GC-16-2021

Moved by Member Woodhouse

Seconded by Member Brady

THAT the verbal update by M. Ferrusi RE: Integrity Commissioner Agreement **BE RECEIVED**.

CARRIED

- e) Conservation Authorities Act Regulations - Chandra Sharma, CAO, provided updates on the amendments to the Conservation Authorities Act and the NPCA's compliance with specific reference to: anticipated release of Provincial regulations, NPCA website updates, transition plans, listings of programs and services, request for exemption to chair and vice chair rotation provisions of the Act, levy regulations and Section 28 amendments. She noted that a report on these items would go to the Board of Directors' meeting in November of 2021. Discussion ensued.

Recommendation No. GC-17-2021

Moved by Member Woodhouse

Seconded by Member Clark

THAT the verbal update by C. Sharma RE: Conservation Authorities Act amendment and Regulations **BE RECEIVED**.

CARRIED

9. NEW BUSINESS

None

10. ADJOURNMENT

By consensus of the members, the Governance Committee meeting adjourned at 10:42 a.m..

Robert Foster,
Committee Chair

Chandra Sharma, MCIP, RPP
Chief Administrative Officer /
Secretary - Treasurer



September 24, 2021

The Honourable David Piccini
Minister of the Environment, Conservation and Parks
College Park 5th Floor
777 Bay Street
Toronto, ON
M7A 2J3

Re: Conservation Ontario's Governance Accountability and Transparency Initiative

Dear Minister Piccini:

At our Annual General Meeting on April 12th, 2021, Conservation Ontario Council passed the following resolution:

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

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

THEREFORE BE IT RESOLVED THAT Conservation Ontario Council endorse the Governance Accountability and Transparency Initiative and that the resolution be sent to the Minister of Environment, Conservation and Parks;

AND THAT Conservation Ontario Council request that all Conservation Authorities endorse a commitment to pursue governance accountability and transparency measures.

I'm pleased to inform you that, as of September 23, 2021 all 36 conservation authorities have endorsed a commitment to pursue governance accountability and transparency measures. The endorsed Governance Accountability and Transparency Initiative is being led by a Steering Committee of conservation authority CAOs / GMs to deliver upon three actions to demonstrate conservation authorities' continuing commitment to governance, accountability and transparency.

These commitments include:

1. Updating CA Administrative By-Laws in fulfillment of legislative amendments to the *Conservation Authorities Act* being proclaimed over the course of 2021,

2. Proactively reporting on governance accountability and transparency priorities (as initially identified as those governance-related clauses in the CA Act proclaimed on February 2, 2021), and
3. Demonstrating results and ensuring governance material is easily accessible to the public on CA websites.

More detailed information on the specific activities to be taken to achieve these actions can be found in the attachment to this letter.

Conservation Ontario and the 36 conservation authorities share the Provincial government's commitment to governance accountability and transparency. As the Province works toward proclamation of further sections of the *Conservation Authorities Act* and the development of regulations under the Act, Conservation Ontario and CAs will continue to demonstrate their high-level of governance accountability and transparency to the Province, partner municipalities and the public.

As Chair of Conservation Ontario, I look forward to working with you and your team and would welcome an opportunity to meet to discuss the Governance Accountability and Transparency Initiative further.

Should there be any questions or the need for additional information, please contact Kim Gavine, General Manager of Conservation Ontario, at 905-251-3268 or kgavine@conservationontario.ca.

Sincerely,



Andy Mitchell
Chair, Conservation Ontario

c.c. All CA General Managers / Chief Administrative Officers



Conservation Ontario Governance Accountability and Transparency Initiative

Conservation Authorities are committed to Governance Accountability and Transparency and will demonstrate that they have fulfilled requirements recently established in legislative amendments to the *Conservation Authorities Act* including a number of governance-related sections which were proclaimed on February 2, 2021.

CO Governance Accountability and Transparency Initiative

Working with Conservation Ontario, conservation authorities have identified 3 key actions that demonstrate their commitment to governance accountability and transparency including:

1. Updates to CA Administrative By-Laws

Ensure CA Administrative By-Laws are updated in fulfillment of legislative amendments to the *Conservation Authorities Act* being proclaimed over the course of 2021. This will be accomplished through the following activities:

- i) Notwithstanding that some CAs have already updated their bylaws further to the Feb 2nd proclamations; ASAP review understanding with MECP staff regarding sections to be proclaimed, scheduling, and the need for updates to CA administrative bylaws; and obtain any other confirmations as required.
- ii) Subject to i), undertake a comprehensive update of the *Conservation Authority Best Management Practices (BMP) and Administrative By-Law Model* (Conservation Ontario, April 2018 as amended), obtain legal review of amendments as necessary, and provide training to CAOs as necessary
- iii) Track all 36 CAs re: status of updated administrative bylaws
- iv) Provide ability for CAs to share sample policies in support of the new clauses.

2. Proactive Reporting on Governance Accountability and Transparency Priorities

Ensure proactive reporting on GAT priorities as initially identified as those governance-related clauses in the CAA that were proclaimed on February 2, 2021. This will be accomplished through the following activities:

- i) Identification and communication of Required Actions and BMP Actions for each of the newly proclaimed governance-related clauses.
- ii) Implementation of a tracking system to enable easy reporting on the status of the Actions and for collection of information that will enable the analysis of CA issues/impacts raised in relation to implementation of the clauses.

- iii) Bi-annual reports to Conservation Ontario Council on the status of priority Actions.

3. Promotion/Demonstration of Results

Evidence of governance accountability and transparency results will be promoted and demonstrated through communication materials and websites. This will be accomplished through the following activities:

- i) Promote the initiative and prepare analyses of results and appropriate communication materials, as necessary
- ii) Develop QA/QC checklist of governance material that should be available on CA websites to permit ease of public access. The checklist is proposed to include:
 - a. Members (individuals and Member agreements)
 - b. Administrative by-laws
 - c. Annual Meeting Schedule with information on how to participate
 - d. Agendas – full package
 - e. Minutes (to be posted within 30 days of meeting)
 - f. Audited financial statement
 - g. Annual Fee schedule
 - h. Other corporate documentation as available including Strategic Plans, Annual Reports, Watershed Report Cards
- iii) CO to track implementation of the QA/QC checklist and create CO webpage promoting Initiative and that this information can be found on CA webpages

**Ministry of the Environment,
Conservation and Parks**

Office of the Minister

777 Bay Street, 5th Floor
Toronto ON M7A 2J3
Tel.: 416-314-6790

**Ministère de l'Environnement,
de la Protection de la nature et
des Parcs**

Bureau du ministre

777, rue Bay, 5^e étage
Toronto, Ontario M7A 2J3
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November 18, 2021

357-2021-2916

Brenda Johnson, Chair
Niagara Peninsula Conservation Authority
bjohnson@npca.ca

Chandra Sharma, Chief Administrative Officer-Secretary Treasurer
Niagara Peninsula Conservation Authority
csharma@npca.ca

Dear Brenda Johnson and Chandra Sharma,

Thank you for your application submitted on August 20, 2021 on behalf of the Niagara Peninsula Conservation Authority (NPCA), seeking a Minister's exception under the *Conservation Authorities Act* (CAA) relating to chair and vice-chair appointments.

After carefully considering your application regarding the appointment of the chair and vice-chair, I have decided to not grant the NPCA an exception to subsections 17 (1.1) and (1.2) of the CAA pursuant to my authority under clauses 17(1.3) (a) and (b).

Allowing the NPCA to re-appoint members to the role of chair and vice-chair beyond two consecutive one-year terms does not meet the intent of the changes made through Bill 229, the *Protect, Support and Recover from COVID-19 Act (Budget Measures)*, 2020, to section 17 of the CAA, which was to encourage fuller representation and varying perspectives from participating municipalities in a conservation authority. With three participating municipalities in the NPCA, there is opportunity for rotation of the chair and vice-chair amongst the municipalities. Should you have any questions regarding the rotational provisions, please contact the Ministry of the Environment, Conservation and Parks Conservation Authority Office (ca.office@ontario.ca).

In this instance, I think it is important for the NPCA to comply with these requirements and it is not appropriate to grant an exception. As a result, I would request that the NPCA ensure that the necessary steps are taken so that at the 2022 annual general meeting, a chair and vice-chair can be elected in compliance with the requirements of subsections 17 (1.1) and (1.2) of the CAA. I would ask that once a new chair and vice-chair have been elected, that you confirm in writing to the Ministry of the Environment,

...2

Conservation and Parks Conservation Authority Office (ca.office@ontario.ca) that the NPCA has taken the necessary steps to comply with these provisions.

I would ask that you share this correspondence with all members of the NPCA.

I appreciate the dedication of the NPCA for your continued work and contributions to protecting people and property from natural hazards, the conservation and management of conservation authority-owned lands, and your role in drinking water source protection. I look forward to continuing to work with you.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Piccini', with a stylized flourish at the end.

David Piccini
Minister of the Environment, Conservation and Parks

C: Chloe Stuart, Assistant Deputy Minister, Land and Water Division, MECP
Kirsten Corrigan, Director, Conservation and Source Protection Branch, MECP

Report To: Governance Committee

Subject: Amendments to the Administrative By-law

Report No: GC-10-21

Date: December 10, 2021

Recommendation:

1. **THAT** Report No. GC-10-21 RE: Amendments to the Administrative By-law **BE RECEIVED**.
2. **THAT** the amending by-law attached hereto as Appendix 1 **BE APPROVED** by the Governance Committee and **RECOMMENDED** to the Board of Directors for formal adoption.
3. **AND THAT** the attached By-Law 01-2021 to amend the NPCA Administrative By-Law **BE CIRCULATED** to the Ministry of Environment, Conservation and Parks and **POSTED** on the NPCA website in advance of formal Board adoption in order to comply with legislated deadlines.

Purpose:

The primary purpose of this report and the accompanying by-law attached as Appendix 1 is to provide updates to the Niagara Peninsula Conservation Authority Act (NPCA) Administrative By-Law as mandated by the amendments to the Conservation Authorities (CA) Act.

Background:

Revisions to the NPCA Administrative By-law are necessitated by amendments to the CA Act made under Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020 and Bill 245, Accelerating Access to Justice Act in 2021. By far, the most significant changes to date centre around Section 28 Hearing Procedures as previously discussed in Report No. FA-62-2021 RE: Update to Niagara Peninsula Conservation Authority (NPCA) Conservation Authorities Act (CA Act) Section 28 Hearing Procedures as presented to the Board on November 19, 2021. Further revisions to align with legislative amendments are proposed including removal of expropriation powers, changes in Board composition and new requirements concerning the terms and criteria for Chair and Vice Chair appointments. Other changes are exclusively of a housekeeping nature such as the inclusion of the Terms of Reference for the Wainfleet Bog Advisory Committee.

Discussion:

Appendix 1 to Report No. GC-10-21 is an amending by-law presented to bring the NPCA Administrative by-law into conformity with the legislation by the December 31, 2021 due date from the Province. With further, more significant revisions and Provincial Regulations forthcoming in 2022, it is being recommended that, as a transitory step, this amending by-law be adopted as opposed to a repeal and replacement of the existing NPCA Administrative By-law in its entirety. To facilitate the review of the amending by-law, the proposed revisions contained in the amending by-law are cross-referenced in red with the corresponding page number of the NPCA Administrative By-Law found at the link embedded below.

Once the Board composition has been established by the participating municipalities and more clarity is provided through additional Provincial Regulation, a whole-scale review of the NPCA Administrative By-law can occur to encapsulate the new governance structure for 2023 and beyond along with any other administrative changes that have been proposed by Members to date.

Financial Implications:

There are no financial implications to the amendment of the Administrative By-Law.

Links to Policy/Strategic Plan:

One of the overarching priorities of the NPCA 2021-2031 Strategic Plan is to ensure organizational excellence. Expedient adoption of revisions to the NPCA Administrative By-law supports this priority by ensuring that the NPCA governance structure and Board oversight and administration functions align with the mandate handed down by the Province through the recent legislative changes.

Related Reports and Appendices:

1. Appendix 1: NPCA By-Law 01-2021 (DRAFT)
2. [Administrative By-Law.pdf \(npca.ca\)](#)
3. Report No. FA-62-2021 RE: Update to Niagara Peninsula Conservation Authority (NPCA) Conservation Authorities Act (CA Act) Section 28 Hearing Procedures
4. Report No. FA-65-21 RE: NPCA Wainfleet Bog Advisory Committee Terms of Reference

Authored by:

Original Signed by:

Grant Bivol
NPCA Clerk / Board Secretariat

Submitted by:

Original Signed by:

C. Sharma, MCIP, RPP
Chief Administrative Officer / Secretary-Treasurer



NIAGARA PENINSULA CONSERVATION AUTHORITY

NPCA By-Law 01-2021 (DRAFT)

Being a By-Law to Amend the NPCA Administrative By-Law governing the calling of the meetings and the procedures to be followed at meetings

WHEREAS Section 19.1 of the Conservation Authorities Act, R.S.O. 1990, c.C.27 in part prescribes that:

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;*
- 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;*
- (g) requiring accountability and transparency in the administration of the authority including
 - (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;**
- (j) respecting such other matters as may be prescribed by regulation.*

AND WHEREAS in accordance with the aforementioned Section 19.1, the Niagara Peninsula Conservation Authority did on the 22nd day of October 2020, adopt an Administrative By-Law to govern the calling of the meetings and the procedures to be followed at meetings;

AND WHEREAS the Niagara Peninsula Conservation Authority now deems it expedient to amend its Administrative By-Law to comply with amendments to the Conservation Authorities Act enacted under Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020 and Bill 245, Accelerating Access to Justice Act, 2021;

NOW THEREFORE, BE IT RESOLVED:

1. **THAT** the following clause be added as the final statement within Section II. NPCA Administrative By-law – Introduction (page 7):

“An additional member may be appointed to the authority by the Minister as a representative of the agricultural sector.”

2. **THAT** the following clause be inserted into Section II. NPCA Administrative By-law – NPCA Mandate – Section A. Definitions **(page 8)**:

*“**“Participating Municipality”** means a municipality that is designated by or under the Act as a participating municipality in a conservation authority. The Participating Municipalities of the NPCA are the Regional Municipality of Niagara, the City of Hamilton and Haldimand County”.*

3. **THAT** Section II. NPCA Administrative By-law – NPCA Mandate – B. Governance-Subsections 1.1 to 1.4 entitled Board Members **(page 9)** be repealed and replaced with the following:

“1. Board Members

a) Appointments

Participating municipalities within the jurisdiction of the Niagara Peninsula Conservation Authority may appoint Board Members in accordance with Section 14 of the Act. An additional member may be appointed to the authority by the Minister as a representative of the agricultural sector.

Appointed Board Members must reside in a participating municipality within the Authority’s area of jurisdiction and may include citizens as well as elected members of municipal councils.

Collectively, the appointed Board Members comprise the Authority, and for the purposes of this by-law are referred to as the Board of Directors.

At least 70% of a municipality’s appointees must be selected from among the members of the municipal council, unless the municipality obtains permission from the Minister to select less than 70% of its appointees from among the members of the municipal council.

b) Term of Board Member Appointments

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

4. **THAT** Section II. NPCA Administrative By-law – NPCA Mandate – B. Governance-Subsection 2.1 entitled Bound by Conservation Authorities Act, item c) **(page 10)** be repealed and replaced with the following wording:

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

5. **THAT** Section II. NPCA Administrative By-law – NPCA Mandate – B. Governance, 4. Committees (page 16) Subsection 4.1. Current Standing Committees (page 16) be amended to denote the addition of “The NPCA Wainfleet Bog Advisory Committee” and with the Terms of Reference affixed to the Administrative By-Law Appendix 5 to form a part of thereof.
6. **THAT** Section II. NPCA Administrative By-law – NPCA Mandate – C. Meeting Procedures, 3. Annual Meeting, Subsection 3.3 (page 21) be amended with the addition of the following provision:

“The term of office for the Chair and Vice-Chair shall be limited to two (2) consecutive years. unless otherwise decided by a resolution of the Board of Directors and approved by the Minister per Section 17 of the Act. The election or acclamation of the Chair and Vice-Chair shall be held yearly at the Annual General Meeting. Successors to the position of Chair and Vice-Chair shall be a Board Member appointed by a different municipality to the incumbent.”
7. **THAT** the Administrative By-Law Appendix 3 – Hearing Procedures (page 43) be repealed in its entirety and replaced with the Appendix 3 - Hearing Procedures as attached, to hereinafter form a part of the Administrative By-Law.
8. **THAT** this by-law shall come into force and take full effect on the date of passing.
9. **THAT** this by-law shall take precedence over and supersede any other provision of the Administrative By-Law with which it is inconsistent.

READ a first and second time this 17th day of December, 2021.

READ a third time and finally passed this 17th day of December, 2021.

Signed:

December 17, 2021

Chandra Sharna
Chief Administrative Officer/
Secretary-Treasurer

Date

December 17, 2021

Brenda Johnson, Chair

Date

Appendix 3 – Hearing Procedures

1.0 PURPOSE OF HEARING GUIDELINES

The purpose of the Hearing Guidelines is to reflect the changes to the 1998 Conservation Authorities Act and provide a step-by-step process to conducting hearings required under Section 28 (12), (13), (14), and Section 28.0.1(7) of the Conservation Authorities Act. The Act requires that the applicant be provided with an opportunity for a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be refused or approved with contentious conditions. In the case of hearings related to applications submitted pursuant to Section 28.0.1 of the Conservation Authorities Act, the Authority must grant permission to the applicant, provided the requirements set out under this section are met. In this scenario, a hearing will only be held to determine conditions which will be attached to a permission. Further, a permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, pollution or conservation of land, and additional erosion and dynamic beaches. In the case of applications submitted pursuant to Section 28.0.1 of the Conservation Authorities Act, the Authority may refuse to grant a permit only if i) a zoning order has not been made to authorize the development project, ii) the project is proposed to be carried out in the Greenbelt Area, and iii) if all other prescribed requirements have not been satisfied. The Hearing Board is empowered by law to make a decision, governed by the Statutory Powers Procedures Act.

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

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

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

2.0 PREHEARING 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 have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councillor, the Municipal Conflict of Interest Act applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making.
- (b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.
- (c) The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.
- (d) Where a hearing is required for applications submitted pursuant to Section 28.0.1 of the Conservation Authorities Act (e.g., to determine the conditions of the permission), final decisions on the conditions shall not be made until such a time as the applicant has been given the opportunity to attend a hearing.

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

2.2 Application

The right to a hearing arises where staff is recommending refusal of an application or is recommending conditions to the approval of an application. Additionally, in the case of applications submitted pursuant to Section 28.0.1 of the Conservation Authorities Act, the Authority shall not attach conditions to a permission unless the applicant has been given the opportunity to be heard by the Authority. The applicant is entitled to reasonable notice of the hearing pursuant to the Statutory Powers Procedures Act.

2.3 Notice of Hearing

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

The Notice of Hearing must contain or append the following:

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

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

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

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

- (d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so he or she can be adequately prepared for the hearing. It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.

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

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

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

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

It is recommended that the Notice of Hearing be directed to the applicant and/or landowner by registered mail. Please refer to **Appendices 3-A.1 and 3-A.2** for an example Notice of Hearing.

2.4 Presubmission of Reports

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

2.5 Hearing Information

Prior to the hearing, the applicant shall be advised of the local Conservation Authority's hearing Procedures upon request.

3.0 HEARING

3.1 Public Hearing

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

3.2 Hearing Participants

The Conservation Authorities Act does not provide for third party status at the local hearing. The hearing however is open to the public. Any information provided by third parties should be incorporated within the presentation of information by, or on behalf of, the applicant or Authority staff as appropriate.

3.3 Attendance of Hearing Board Members

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

3.4 Adjournments

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

Any adjournments form part of the hearing record.

3.5 Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as **Appendix 3-B**.

3.6 Information Presented at Hearings

- (a) The Statutory Powers Procedure Act requires that a witness be informed of their right to object pursuant to the Canada Evidence Act. The Canada Evidence Act indicates that a witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.
- (b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- (c) The Board may authorize receiving a copy rather than the original document. However, the Board can request certified copies of the document if required.

- (d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- (e) The Board may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc. or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

3.7 Conduct of Hearing

3.7.1 Record of Attending Hearing Board Members

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

3.7.2 Opening Remarks

The Chairperson shall convene the hearing with opening remarks which generally; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the Canada Evidence Act. Please reference **Appendices 3-C.1 and 3-C.2** for the Opening Remarks model. In an electronic hearing, all the parties and the members of the Hearing Board must be able to clearly hear one another and any witnesses throughout the hearing.

3.7.3 Presentation of Authority Staff Information

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

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

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

3.7.4 Presentation of Applicant Information

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

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

- The applicant may be represented by legal counsel or agent, if desired
- The applicant may present information to the Board and/or have invited advisors to present information to the Board

- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

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

3.7.5 Questions

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

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

3.7.6 Deliberation

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

4.0. DECISION

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

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

4.1 Notice of Decision

The decision notice should include the following information:

- (a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (b) The decision to refuse or approve the application, and in the case of applications under Section 28.0.1 of the Conservation Authorities Act, the decision to approve the application with or without conditions. A copy of the Hearing Board resolution should be attached.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as **Appendix 3-D**.

4.2 Adoption

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

5.0 RECORD

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

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

Appendix 3-A.1

NOTICE OF HEARING

IN THE MATTER OF

The Conservation Authorities
Act, R.S.O. 1990, Chapter 27

AND IN THE MATTER OF an application
by

FOR THE PERMISSION OF THE CONSERVATION AUTHORITY

Pursuant to Regulations made
under
Section 28, Subsection 12 of the said
Act

TAKE NOTICE THAT a Hearing before the Executive Committee of the Conservation Authority will be held under Section 28, Subsection 12 of the Conservation Authorities Act at the offices of the said Authority (ADDRESS), at the hour of , **on the day of , 202X**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in order to ensure no adverse affect on (***the control of flooding, erosion, dynamic beaches or pollution or conservation of land./alter or interfere with a watercourse, shoreline or wetland***) on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

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

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

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

DATED the ____ day of , _____202X

The Executive Committee of the
Conservation Authority

Per:
Chief Administrative Officer/Secretary-Treasurer

Appendix 3-A.2

NOTICE OF HEARING

(Subsection 28.0.1 (7) of the *Conservation Authorities Act*)

IN THE MATTER

OF

The Conservation Authorities
Act, R.S.O. 1990, Chapter 27

AND IN THE MATTER OF an application
by

FOR THE PERMISSION OF THE CONSERVATION AUTHORITY

Pursuant to Regulations made
under
Section 28.0.1, Subsection 7 of the said
Act

TAKE NOTICE THAT a Hearing before the Executive Committee of the Conservation Authority will be held under Section 28.0.1, Subsection 7 of the Conservation Authorities Act at the offices of the said Authority (ADDRESS), at the hour of , **on the day of , 202X**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in association with a Minister's Zoning Order (REGULATION NUMBER) on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

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

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

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

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

DATED the ____ day of , _____202X

The Executive Committee of the
Conservation Authority

Per:
Chief Administrative Officer/Secretary-Treasurer

Appendix 3-B

HEARING PROCEDURES

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

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

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

15. If decision is "to refuse" or "approve with conditions", the Chairperson or Acting Chairperson shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunal within 30 days of receipt of the reasons for the decision.

16. Motion to move out of Hearing Board and sit as Executive Committee.

Appendix 3-C.1

CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS (Section 28, Subsection 12 of the *Conservation Authorities Act*) WITH RESPECT TO ONTARIO REGULATION 155/06

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

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

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

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

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

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

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

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

Appendix 3-C.2

CHAIRPERSON'S REMARKS WHEN DEALING WITH HEARINGS (Section 28.0.1, Subsection 7 of the *Conservation Authorities Act*) WITH RESPECT TO ONTARIO REGULATION 155/06

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

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

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

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

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

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

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

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

Appendix 3-D

NOTICE OF DECISION

(Date)

BY REGISTERED MAIL

(name) (address)

Dear:

RE: NOTICE OF DECISION

**Hearing Pursuant to Section 28(12) of the Conservation Authorities Act
Proposed Residential Development
Lot , Plan ; ?? Drive City of
(Application #)**

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

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

In accordance with Section 28 (15) of the Conservation Authorities Act, An applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under subsection (14), appeal to the Minister who may refuse the permission; or grant permission, with or without conditions. Through Order in Council 332/2018 the responsibility for hearing the appeal has been transferred to the Ontario Land Tribunal. 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:

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

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

Yours truly,

Chief Administrative Officer/Secretary Treasurer

Enclosure

Report To: Governance Committee

Subject: NPCA Election Period Guidelines

Report No: GC-11-21

Date: December 10, 2021

Recommendation:

1. **THAT** Report No. GC-11-21 RE: NPCA Election Period Guidelines **BE RECEIVED.**

Purpose:

The purpose of this report is to establish clear guidelines NPCA staff concerning engagement in political work during an election period.

Background:

Currently the NPCA Board of Directors has a Conflict of Interest provision within the Administrative By-Law, Appendix 1 - Code of Conduct stating:

6.0 Work of Political Nature

- 6.1 No Board member shall use Authority facilities, services or property for his/her election or re-election campaign. No Board member 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.*

Discussion:

As NPCA Board Members are appointed by a municipality and may also be elected officials or candidates in an election, it is important that NPCA staff understand permitted and restricted activities and use of resources during an election period. Draft guidelines will clarify expectations and ensure the NPCA maintains a nonpartisan stance as a public agency.

Financial Implications:

There are no financial implications associated with this report.

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:

Misti Ferrusi, BA, CHRL
Manager, Human Resources

Submitted by:

Original Signed by:

Chandra Sharma, MCIP, RPP
Chief Administrative Officer/Secretary-Treasurer

Report To: Governance Committee

Subject: Environmental and Sustainability Procurement Guidelines

Report No: GC-12-21

Date: December 10, 2021

Recommendation:

1. **THAT** Report No. GC-12-21 RE: Environmental and Sustainability Procurement Guidelines **BE RECEIVED.**

Purpose:

The purpose of these guidelines is to provide a framework to incorporate environmental and sustainability considerations in the competitive process. These guidelines should be interpreted in conjunction with Niagara Peninsula Conservation Authority's (NPCA) Procurement Policy.

Discussion:

NPCA recognizes the potential to create positive impacts and the preservation of the natural environment while maximizing economic benefits through procurement best practices. The environmental and sustainability procurement guidelines provide a framework of how purchasing decisions can integrate and achieve environmental and sustainable procurement outcomes to enhance NPCA's ability to reduce greenhouse gas emissions and promote sustainability.

This framework provides guidelines, best practices, and specifications as they relate to the purchase of goods and services to ensure environment and sustainability considerations are factored into the procurement process.

Please see Appendix 1 – Environmental and Sustainability Procurement Guidelines.

Financial Implications:

There are no financial implications specific to adoption of the Environmental and Sustainability Procurement Guidelines. The procurement of goods and services must be in line with approved operating and capital budgets.

Links to Strategic Plan:

Goal 2.3 – Lead the implementation of sustainable technologies and green infrastructure best practices for climate resilience and sustainability.

Metric: Number and types of green infrastructure practices implemented

Related Reports and Appendices:

Appendix 1: Environmental and Sustainability Procurement Guidelines

NPCA Procurement Policy

Authored by:

Original Signed by:

Lise Gagnon, CPA, CGA
Director, Corporate Services

Submitted by:

Original Signed by:

Chandra Sharma, MCIP, RPP
Chief Administrative Officer/Secretary-Treasurer

Environmental and Sustainability Procurement Guidelines

Developed by: **Corporate Services Department**

Date: **December 10, 2021**

Effective Date: **January 1, 2022,**

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Environmental and Sustainability Procurement Guidelines

1.0 Purpose

The purpose of these guidelines is to provide a framework to incorporate environmental and sustainability considerations in the competitive process. These guidelines should be interpreted in conjunction with the Niagara Peninsula Conservation Authority's (NPCA) Procurement Policy.

2.0 Scope

NPCA recognizes the potential to create positive impacts and the preservation of the natural environment while maximizing economic benefits through procurement best practices. The environmental and sustainability procurement guidelines provide a framework of how purchasing decisions can integrate and achieve environmental and sustainable procurement outcomes to enhance NPCA's ability to reduce greenhouse gas emissions and promote sustainability.

3.0 General Guidelines and Procedures

1. All purchases of goods and services by NPCA employees and the Board of Directors are encouraged to consult the Environmental and sustainability Procurement Guidelines and where possible identify opportunities to procure products and services that create an environmental and sustainability benefit.
2. Where there may be apparent contradictions between these guidelines and other legal requirements to which the NPCA is subject, every effort should be made to interpret both these guidelines and the other requirements in a consistent manner.
3. If any requirement of these guidelines is found to be inconsistent with the provisions of a collective agreement, the collective agreement will prevail, unless the provision of the guidelines is required by law, in which case the guideline requirements will prevail.
4. Where funding for purchase is provided by a funding agency, a more stringent set of requirements may be used at the discretion of the funding agency. If the funding agency requirements are more stringent than these guidelines, the funding agency requirements will prevail.
5. The requirements of these guidelines apply only to the extent that such requirements (or any one of them) are not prohibited by law including directives received from the Province of Ontario.

4.0 Environmental and Sustainability Procurement Guidelines

The Environmental and Sustainability Procurement Guidelines provide staff an overview of the benefits associated with environmental and socially responsible procurement. It ensures staff is provided with the resources necessary to maximize the environmental and sustainability benefits stemming from NPCA's purchases where possible. The guidelines provide staff with information about key considerations to consider throughout the procurement process.

For all purchases of goods and services, departments/staff are required to apply the Environmental and Sustainability Procurement Guidelines when making all procurement decisions, including tenders, proposals,

Environmental and Sustainability Procurement Guidelines

and quotations, as well as retail procurements. Environmental considerations should be part of the procurement process.

NPCA will evaluate suppliers based on their environmental and sustainable actions and the impacts that stem from their corporate behavior, including the supplier's commitment to incorporating these considerations into their operating procedures and in the products and materials produced.

4.1 Specification for Environmental and Sustainability Procurement

NPCA staff should provide clear specifications at the beginning of any procurement process that can help meet the intent of the Environmental and Sustainable Procurement Guidelines. The following factors should be considered by staff from each department when creating the specifications for goods or services to be procured:

- a) Durable, reusable, recyclable, or biodegradable items
- b) Reduction of greenhouse gas and air pollutant emissions
- c) Non-toxic or least toxic options, preferably compostable or biodegradable
- d) ENERGY STAR® rated if available or energy-efficient options (see Appendix A)
- e) EcoLogo Program standard products (see Appendix A)
- f) Re-usable shipping packaging
- g) Recycled paper when possible
- h) Paper products are SFI®, FSC® (C002686), and PEFC™ Certified (see Appendix A)
- i) Minimum packaging is preferably made of reusable recycled or recyclable materials
- j) The lifecycle of the product through the acquisition, operation, and end of life, including environmental impacts.
- k) Results in minimal or no environmental damage during normal use or maintenance
- l) Garments such as uniforms, hats, coats, or footwear are Sustainable Certified, Eco-Friendly and Ethically manufactured (i.e., BCI (Better Cotton Initiative), USDA Organic, Fair Labor Certification, Fairtrade International) (see Appendix A)

Please see Appendix A – Environmental Labelling and Certification

5.0.1 Roles and Responsibilities

Procurement Specialist

1. Identify opportunities to embed environmental and sustainability procurement criteria on applicable purchases;
2. Reference and promote Environmental and Sustainability Procurement Guidelines;
3. Seek opportunities for environmental and sustainability procurement to align with the strategic plan and complement other NPCA programs, services, and initiatives;
4. Participate in environmental and sustainability collaborative procurements with other agencies;
5. Champion, promote and educate the benefits of environmental and sustainable procurement to all NPCA departments.

Environmental and Sustainability Procurement Guidelines

NPCA Staff

1. Apply the recommendations outlined in these guidelines;
2. Understand the benefits of procuring goods and services that provide a positive environmental and sustainability benefits;
3. Recognize and identify green opportunities and embed environmental and sustainability considerations into the procurement process;
4. Consider the total cost of ownership when planning for any procurement;
5. Reference the Environmental and Sustainability Procurement Guidelines to inform the procurement of goods and services;
6. Procure environmentally preferred goods whenever possible;
7. Ensure that environmental criteria are incorporated into the evaluation of any Request for Quotation (RFQ) Request for Proposal (RFP) or Request for Tender (RFT) process.

DRAFT

Environmental and Sustainability Procurement Guidelines

Appendix A

Environmental Labeling and Certification

Environmental or certification by an arm's length third party is a methodology to identify environmentally preferable goods and services.

Some of the most widely used third-party environmental certification programs are listed below.



ECOLOGO® Program

Certifications are voluntary, multi-attribute, lifecycle-based environmental certifications that indicate a product has undergone rigorous scientific testing and exhaustive auditing to prove its compliance with stringent, third-party environmental standards.

ENERGY STAR®



EPA collaborates with stakeholders worldwide to advance the efficiency of products, homes, commercial buildings, and industrial facilities through international harmonization efforts. This collaboration includes harmonizing product energy efficiency metrics and applicable test methods, sharing the ENERGY STAR programs expansive datasets as well as partnering with select countries to administer the ENERGY STAR labeling program in their markets

Green Seal™



Green Seal is a non-profit environmental standard development and certification organization. Its flagship program is the certification of products and services based on Green Seal standards, which contain performance, health, and sustainability criteria.

Environmental and Sustainability Procurement Guidelines

EnerGuide



EnerGuide is the official Government of Canada trademark associated with the labeling and rating of the energy consumption or energy efficiency of specific products. It is designed to help Canadians reduce their greenhouse gas emissions and to save energy.

Other Environmental Labels to be Considered

The following environmental Labels may prove helpful during the procurement process and are provided for information only.

Leed®



LEED (Leadership in Energy and Environmental Design) is the most widely used green building rating system in the world. Available for virtually all building types, LEED provides a framework for healthy, highly efficient, and cost-saving green buildings.

Forest Stewardship Council (FSC)



The Forest Stewardship Council is an international non-profit, multistakeholder organization established in 1993 that promotes responsible management of the world's forests. It is an example of a market-based certification program used as a transnational environmental policy.



Sustainable Forestry Initiative (SFI)

The Sustainable Forestry Initiative is a sustainability organization operating in the U.S. and Canada that works across four pillars: standards, conservation, community, and education.

Environmental and Sustainability Procurement Guidelines

Better Cotton Initiative (BCI)



The Better Cotton Initiative (BCI) is a non-profit, multistakeholder governance group that promotes better standards in cotton farming and practices across 21 countries. Better Cotton is produced by farmers who use water efficiently, care for the availability of water, conserve natural habitats and encourage fair work practices.

National Organic Program (NOP)



The National Organic Program (NOP) is the federal regulatory framework in the United States of America governing organic food. The core mission of the NOP is to protect the integrity of the USDA organic seal. The seal is used for products adhering to USDA standards that contain at least 95% organic ingredients.

Fairtrade International



Fairtrade International develops and reviews Fairtrade Standards and assists producers in gaining and maintaining certification and in capitalizing on market opportunities on the Fairtrade market and ensuring that all farmers earn a living income, and agricultural workers earn a living wage.

Fair Labor Association (FLA)



Fair Labor Association (FLA) is a non-profit collaborative effort of universities, civil society organizations, and businesses that monitors factories all over the world and establish internal systems for monitoring workplace conditions and maintaining code standards.



PEFC

Program for the Endorsement of Forest Certification

Program for the Endorsement of Forest Certification is a leading global alliance of national forest certification systems. As an international non-profit, non-governmental organization, they are dedicated to promoting sustainable forest management through independent third-party certification.

Report To: Governance Committee

Subject: Insurance

Report No: GC-13-21

Date: December 10, 2021

Recommendation:

THAT Report No. GC-13-21 RE: Insurance **BE RECEIVED.**

Purpose:

The purpose of this report is to provide the Governance Committee with an overview of NPCA's current insurance portfolio and coverage.

Discussion:

NPCA participates in the Group Insurance Program through Conservation Ontario. This initiative is governed by an Insurance Committee consisting of 11 Members: 10 from various Conservation Authorities and 1 from Conservation Ontario. The Insurance Committee has been in place over 20 years and deals with group health benefits and insurance products for all participating members. The insurance portfolio is reviewed annually, and a formal competitive procurement process is initiated every 5 years at minimum, with the last occurrence in 2019. The Insurance Committee's mandate is as follows:

To manage and provide for a system of insurance coverage(s) for Conservation Authorities, Source Protection Authorities and Conservation Ontario that is affordable and meets the corporate requirements as well as the best interests of the participating Authorities.

Marsh Canada Limited has been the successful proponent (broker) selected to manage the General Insurance and Risk Management provider since 2014.

Please see Appendix 1 for a Program Structure Overview, including limits and coverages.

Full policy details are available upon request.

Property

Perils insured include all risk of direct physical loss or damage including flood, earthquake, sewer back up and for all physical assets that NPCA owns or is responsible to insure. Coverage includes but is not limited to the following:

- Buildings and structures
- Contents – equipment and stock
- Mobile equipment, including unlicensed vehicles
- Provision for business interruption coverage result of the loss or damage.

Equipment Breakdown

Boiler and machinery cover objects such as pressure vessels, boilers, compressors, central air conditioning units, refrigeration equipment, motors, switch gear, transformers etc., against sudden and accidental breakdown resulting in damage to the object. A provision for business interruption coverage is included.

Crime

This policy segment provides coverage for loss of money and securities through the dishonest acts of employees and/or others:

- Employee Dishonesty
- Money & Securities – Inside and Outside Premises
- Depositors' Forgery
- Money Order and Counterfeit Paper Currency
- Credit Card Forgery
- Computer Violation
- Social Engineering

Commercial General Liability

Coverage:

- If NPCA is sued, insurer will defend, pay for legal expenses and 'pay on behalf'.
- Insured's legal obligation for damages because of liability imposed by law or assumed under contract due to third party bodily injury, personal injury, or damage to property.
- Non-owned automobile: use of vehicles not owned by NPCA but used on NPCA business.

Automobile Third Party Liability

Coverage for vehicles owned or leased by NPCA: physical damage coverage, repair or replace, actual cash value.

Errors and Omissions

Coverage:

- Covers damages to third parties for loss caused by errors and omissions, or negligence in the issuance of permits, rezoning, maps, plans, surveys, etc.

Umbrella Liability

The umbrella liability provides an excess limit of liability coverage for Commercial General, Automobile and Errors & Omissions Liabilities.

Directors and Officers Liability

Coverage:

- Covers directors, officers, management, and the organization against liability arising from any alleged wrongful act in directing the business affairs of NPCA, the Foundation or while acting on the Board of an associated non-profit organization
- Defence Costs more than limit of liability

Cyber Insurance

Optional coverage – NPCA does participate.

Coverage:

- First Party Coverage - direct loss and out of pocket expense incurred by NPCA, including data breach expenses, crisis management expenses, network extortion, data restoration and loss of income.
- Third Party Coverage - defense and liability incurred due to alleged harm caused to others by the insured, including privacy liability, network security liability, internet media liability, network extortion and regulatory proceedings.
- “Claims-Made” policy - claims must be reported during the policy period.

Drone (*Remotely Piloted Aircraft System*) Policy

Separate policy specific to NPCA requirements.

Coverage:

- Aircraft liability (BI/PD)
- Aviation liability

Group Health Insurance – Sun Life

Group Health insurance is recommended and reviewed through the CO Insurance Committee, provided to full-time permanent employees and their dependents through Sun Life Alliance, and includes the following coverage:

- Life insurance
- Accidental death and dismemberment
- Long term disability
- Extended health coverage
- Dental

In addition, NPCA provides a Health Spending amount of \$500 per calendar year for full-time permanent employees. This provision is required under the terms of our participation in the Conservation Ontario Group Plan and is intended to supplement benefits to employees where needed.

Group Accident Insurance – Board Members

A separate policy is maintained through Industrial Alliance Insurance to provide Group Accident Insurance coverage to board and committee members.

Financial Implications:

Insurance premiums are budgeted in Operations annually.

Please note 4-year summary of annual expenditures by insurance type.

General Insurance - Annual Summary	
Year	Amount *
2021	162,626
2020	144,226
2019	128,568
2018	112,183

Group Health Insurance - Annual Summary			
Year	Amount *		
	Premium	Health Spending Account	Total
2021	270,480	18,062	288,542
2020	266,024	17,539	283,563
2019	223,174	14,450	237,624
2018	236,580	6,755	243,335

Group Accident Insurance - Annual Summary	
Year	Amount *
2021	292
2020	302
2019	343
2018	260

* Net of recoverable HST

Authored by:

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Submitted by:

Original Signed by:

Chandra Sharma, MCIP, RPP
Chief Administrative Officer/Secretary-Treasurer

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Niagara Peninsula Conservation Authority Insurance Program Structure

All Risks Property Blanket POED Total Insured Values: \$19,790,798		Equipment Breakdown \$25,000,000 / Total Insured Values													
Deductible \$2,500		Deductible \$2,500		Crime Deductible All Losses \$500											
				Employee Dishonesty \$150,000		Loss In/Out of Premises \$50,000		Counterfeit \$25,000		Depositors' Forgery \$50,000					
				Social Engineering \$150,000											
				Commercial General Liability \$1,000,000 per occurrence		Automobile Third Party Liability \$1,000,000 per occurrence		Errors & Omissions Liability \$1,000,000 per occurrence \$10,000,000 program aggregate							
				Umbrella Liability \$14,000,000 per occurrence annual aggregate SIR = \$10,000		Directors & Officers Liability \$3,000,000 per occurrence \$5,000,000 annual aggregate		Cyber Coverage \$500,000 Limit & annual aggregate		Deductible \$10,000					
Deductibles															