

PUBLIC ADVISORY COMMITTEE
Thursday, February 25th 2021
5:00PM

ONLINE VIDEO CONFERENCE

A G E N D A

CALL TO ORDER – ROLL CALL

The Niagara Peninsula Watershed is located on the traditional territory of Indigenous peoples dating back countless generations. We want to show our respect for their contributions and recognize the role of treaty-making in what is now Ontario.

1. APPROVAL OF AGENDA

2. DECLARATIONS OF CONFLICT OF INTEREST

3. PRESENTATIONS

- a) Strategic Plan update (verbal update from Natalie Green)

4. DELEGATIONS

5. APPROVAL OF MINUTES

- a) Minutes of the Public Advisory Committee – November 26, 2020
- b) Minutes of the Public Advisory Committee – Watershed Floodplain Sub-Committee- November 26, 2020
- c) Minutes of the Public Advisory Committee-Watershed Floodplain Sub-Committee – January 28th 2021

6. CORRESPONDENCE

7. CONSENT ITEMS

- a) Bill 229 Conservation Authorities Act update (Report No. FA-12-21) (for receipt)
- b) Drainage Act Regulatory Proposal (ERO#019-2814) (for receipt)
- c) Media Releases November-February (<https://npca.ca/our-voice>)

8. DISCUSSION ITEMS

9. COMMITTEE REPORTS

10. NEW BUSINESS

- a) **Member Meet and Greet (verbal discussion/round table)**

Each member will have 5 minutes to do a general introduction of themselves, their interest in being on the NPCA Public Advisory Committee, and to advise on the two most common issues/concerns about the NPCA that they hear from their sector. This will inform the NPCA about possible engagement and communication needs for 2021.

- b) General Discussion on Low Impact Development, Green Infrastructure, and Climate Change as related to NPCA mandate

11. ADJOURNMENT



PUBLIC ADVISORY COMMITTEE MEETING MINUTES

Thursday November 26, 2020

5:00 p.m.

Virtual meeting via Webex

MEMBERS PRESENT:

J. Oblak (Committee Chair)
J. Ariens
E. Furney
B. Johnson
M. Kauzlaric
H. Korosis
B. Mackenzie
D. Pont
J. Schonberger
L. Sherry
D. Speranzini

MEMBERS ABSENT:

S. Brousseau

STAFF PRESENT:

C. Sharma, Chief Administrative Officer / Secretary – Treasurer
C. Crerar, Communications Assistant
N. Green, Project Manager – Niagara River Remedial Action Plan
D. MacKenzie, Director, Watershed Management
K. McCutcheon, Community Outreach Assistant
S. McPherson, Restoration Specialist
K. Royer, Coordinator, Community Outreach
G. Verkade, Senior Manager, Integrated Watershed
Planning/Information Management

OTHERS PRESENT:

G. Wood, Niagara Peninsula Conservation Foundation
A. Crosby, Niagara Peninsula Conservation Foundation

REGRETS:

T. Insinna, Chair -Niagara Peninsula Conservation Foundation

The Committee Chair called the meeting to order at 5:14 p.m. welcoming the Members.

1. APPROVAL OF AGENDA

Recommendation No. PAC-19-20

Moved by Member Pont

Seconded by Member Sherry

1. **THAT** the agenda be amended to allow Report No. PAC-02-20 RE: Restoration Project Evaluation Criteria to immediately follow the Restoration Project Evaluation Criteria presentation
2. **THAT** the agenda for the November 26, 2020 NPCA Public Advisory Committee meeting **BE ADOPTED** as amended.

CARRIED

2. DECLARATIONS OF CONFLICT OF INTEREST

D. Speranzini declared that her opinions are her own and not that of her employer Agriculture and AgriFood Canada.

3. PRESENTATIONS

3 a) Presentation by Gayle Wood RE: Niagara Peninsula Conservation Foundation

G.Wood shared updates and historical information pertaining to the Niagara Peninsula Conservation Foundation. She sent regrets on behalf of Foundation Chair Tom Insinna. She shared upcoming projects for 2021 including:

- Director's Donation Challenge
- Holiday Trail at Ball's Falls
- Education Program funding
- Conservation Area project support

Member Speranzini shared that the Ball's Falls Holiday Trail poster could be shared with photography clubs in the area.

Recommendation No. PAC-20-20

Moved by Member Ariens

Seconded by Member Korosis

1. **THAT** the NPCA Public Advisory Committee supports the Niagara Peninsula Conservation Foundation Director's Donation challenge.

CARRIED

3 b) Presentation by Stuart McPherson RE: Restoration Project Evaluation Criteria

S. McPherson presented the NPCA Restoration Grant Program, including maps showing forest cover, wetland cover and water quality grades in NPCA watershed and explained how this scientific data and information was used to develop the project evaluation criteria for restoration grant applications. A discussion ensued regarding long-term project monitoring, program budget and climate change implications.

3 c) Report No: PAC-02-20 RE: Restoration Project Evaluation Criteria (moved from item 7b) on agenda)

Recommendation No. PAC-21-20

Moved by Member Korosis

Seconded by Member Speranzini

1. **THAT** Report No. PAC-02-20 RE: Restoration Project Evaluation Criteria **BE RECEIVED**.
2. **THAT** the NPCA Public Advisory Committee **ENDORSE** the proposed project evaluation criteria as presented.

CARRIED

4. ADMINISTRATIVE BUSINESS

4 b) Minutes of the NPCA Public Advisory Committee dated September 24 2020

Recommendation No. PAC-22-20

Moved by Member Schonberger

Seconded by Member Ariens

THAT the minutes of the NPCA Public Advisory Committee meeting dated September 24, 2020 **BE APPROVED**.

CARRIED

5. BUSINESS FOR INFORMATION

a) Community Outreach and PAC member recruitment updates (verbal update)

Community Outreach:

K. Royer shared a verbal update on Community Engagement projects since the last meeting, including the installation of two (2) Mickey DiFruscio and Family Legacy Pollinator projects in Port Colborne and Niagara Falls, as well as the installation of 5 signs for the gardens. The NPCA worked with over 30 different community partners to implement community outreach and stewardship projects in the last two quarters of 2020, including working with Niagara Chapter Native Women Inc. to implement a TD Tree Days grant that saw over 150 trees planted in Fort Erie, St. Catharines, Niagara Falls and Thorold that would have a direct impact on Indigenous community members.

PAC Recruitment:

K. Royer shared a verbal update to inform members that a total of 26 applications were received for the two (2) PAC vacancies in development and Public-at large. A PAC Selection Sub-Committee will be reviewing the applications and will put forward recommendations to the NPCA Board of Directors at the December 17, 2020 meeting for consideration and appointment.

b) Strategic Plan update (verbal update)

N. Green shared a verbal update on the NPCA Strategic Plan including the following:

- facilitator/consultant has been selected to support community engagement and other project tasks
- Staff Working Group is wrapping up SWOT (strengths, weaknesses, opportunities, threats) analysis after seeking input from staff, NPCA Board and PAC.
- begun implementing Communication and Community Engagement plan
- due to uncertainty with Bill 229, all strategic plan engagements will be moved to 2021

c) NPCA Board Reports: (verbal update from D. MacKenzie)

i) Report FA-56-20 RE: Niagara Region's Proposed Woodland By-Law

ii) Report FA-50-20 RE: Water Quality Notifications and Communication

iii) Report FA-62-20 RE: Bill 229 Proposed Amendments to the Conservation Authorities Act

D. MacKenzie gave a verbal overview of three (3) NPCA Board Reports. A discussion ensued related to Bill 229 proposed amendments to the Conservation Authorities Act. C. Sharma, B. Johnson and B. Mackenzie all shared their perspectives on the issues and informed PAC members that many councils in the NPCA watershed are passing motions to back the work of the NPCA and all Conservation Authorities in Ontario.

d) NPCA Media Releases – <https://npca.ca/our-voice>

Members were encouraged to check NPCA's website for recent media releases and other information related to Bill 229.

6. BUSINESS FOR CONSIDERATION

6 a) Report No. PAC-01-20 RE: PAC Meeting Schedule 2021

Chair Oblak asked members if there was an interest in adding an extra meeting to the proposed schedule from Appendix 1 of Report No. PAC-01-20. She also asked if the 5pm on Thursday evening meetings were still convenient for members.

Recommendation No.PAC-23-20

Moved by Member Korosis

Seconded by Member Ariens

THAT the proposed schedule in Appendix 1 of Report No. PAC-01-20 be amended to include an additional meeting in 2021, PAC meeting schedule will be as below:

February 25, 2021 5 p.m.
April 29, 2021 5 p.m.
June 17, 2021 5 p.m.
September 30, 2021 5 p.m.
November 25, 2021 5 p.m.

CARRIED

7. ADJOURNMENT

Recommendation No. PAC-24-20

Moved by Member Pont

Seconded by Member Sherry

THAT this meeting of the NPCA Public Advisory Committee **BE** hereby **ADJOURNED** at 6:53 p.m..

CARRIED

Jackie Oblak
Public Advisory Committee Chair

Chandra Sharma
Chief Administrative Officer / Secretary –
Treasurer



WATERSHED FLOODPLAIN SUB-COMMITTEE MEETING MINUTES

Thursday, November 26 2020

4:00 p.m.

Virtual meeting via Webex

MEMBERS PRESENT: J. Oblak (Sub-Committee Chair)
E. Furney
B. Johnson
H. Korosis
B. Mackenzie
J. Schonberger
D. Speranzini

MEMBERS ABSENT:

STAFF PRESENT: C. Sharma, Chief Administrative Officer / Secretary – Treasurer
C. Crerar, Communications Assistant
S. Miller, Senior Manager, Water Resources
K. Royer, Coordinator, Community Outreach

OTHERS PRESENT: J. Hellinga
K. Kawall
M. Woodhouse
Dave Maunder, Aquafor Beech Ltd.

The Committee Chair called the meeting to order at 4:03 p.m. welcoming the Members.

1. APPROVAL OF AGENDA

Recommendation No. WFSC-04-20

Moved by Member Korosis

Seconded by Member Furney

THAT the agenda for the November 26, 2020 Watershed Floodplain Sub-Committee meeting **BE ADOPTED** as presented

CARRIED

2. DECLARATIONS OF CONFLICT OF INTEREST

D. Speranzini declared that her opinions are her own and not that of her employer Agriculture and AgriFood Canada.

3. BUSINESS FOR CONSIDERATION

3 a) Presentation by Dave Maunder, Aquafor Beech Limited RE: Watershed Floodplain Mapping project in Grimsby and Lincoln

D. Maunder presented the draft floodplain mapping projects for Grimsby and Lincoln pointing out that there was a total of 30 flood hazards identified, 19 of which are on public land. He walked members through various sections of the watersheds and the costs to mitigate some of the flood hazards identified.

Member D. Speranzini identified that some properties in the mapping document are in the floodplain (shown in red) and asked if those people are typically contacted as part of the process to identify their increased flood risk. A discussion ensued about this and there was a general consensus that the people that are in the floodplain should be contacted and informed about what this means.

Another discussion ensued with regards to green infrastructure as it was noted that all proposed mitigation measures from the presentation are hard infrastructure and whether or not there is a role for green infrastructure in the floodplain mapping process. D. Maunder noted that it is not typically part of the process and that this type of consideration would require a detailed assessment and can take decades to implement, though Aquafor Beech Ltd. has written provincial documents about the implementation of green infrastructure.

Recommendation WFSC 05-20:
Approved by general consensus

THAT the NPCA should contact landowners that are identified in the Watershed Floodplain report as having their house or buildings in the floodplain.

CARRIED

3 b) Presentation by Steve Miller, Senior Manager Watershed Resources RE: Changes between old and new Grimsby & Lincoln Floodplain Mapping

4. ADMINISTRATIVE BUSINESS

4 a) Minutes of the Watershed Floodplain Sub-Committee dated September 24, 2020

Recommendation WFSC-06-20
Moved by Member Speranzini
Seconded by Member Schonberger

THAT the minutes of the NPCA Public Advisory Committee Watershed Floodplain Sub-Committee meeting dated September 24, 2020 **BE APPROVED**.

CARRIED

5. BUSINESS FOR INFORMATION

- 5 a) Information about the media campaign promoting the upcoming virtual public information sessions regarding the Grimsby and Lincoln Floodplain Mapping Update Project was shared with members via a presentation by Steve Miller. A total of 7300 postcards will be mailed to local residents within 300m of mapped watersheds. After the public information sessions, the presentations will be made public for people to review on their own time and provide feedback. S. Miller also encouraged PAC and Watershed Floodplain Sub-Committee members to attend the public information sessions.

Public Information Sessions: Dec. 15 and 16 (additional details on getinvolved site)

Project webpage link: <https://getinvolved.npca.ca/grimsby-lincoln-floodplain-mapping>

6. ADJOURNMENT

Recommendation No. WFSC-07-20

Moved by Member Korosis

Seconded by Member Schonberger

THAT this meeting of the Watershed Floodplain Sub-Committee **BE** hereby
ADJOURNED at 5:12 p.m..

CARRIED

Jackie Oblak
Public Advisory Committee Chair

Chandra Sharma
Chief Administrative Officer / Secretary –
Treasurer



**WATERSHED FLOODPLAIN SUB-COMMITTEE
ONLINE VIDEO CONFERENCE
MEETING MINUTES**

**Thursday, January 28, 2021
4:00 p.m.**

MEMBERS PRESENT:	J. Oblak (Sub-Committee Chair) E. Furney B. Johnson, NPCA Board H. Korosis B. MacKenzie, NPCA Board J. Schonberger
MEMBERS ABSENT:	D. Speranzini
STAFF PRESENT:	C. Sharma, Chief Administrative Officer / Secretary – Treasurer D. MacKenzie, Director, Watershed Management S. Miller, Senior Manager, Water Resources K. Royer, Coordinator, Community Outreach
OTHERS PRESENT:	E. Buckrell, Aquafor Beech Ltd. J. Hellinga, NPCA Board K. Kawall, NPCA Board D. Kelly, Public Advisory Committee D. Maunder, Aquafor Beech Ltd. J. Musso, Public Advisory Committee N. Seniuk, Public Advisory Committee M. Woodhouse, NPCA Board

The Committee Chair called the meeting to order at 4:05 p.m. welcoming everyone in attendance.

1. APPROVAL OF AGENDA

Recommendation No. WFSC-01-21

Moved by Member Furney

Seconded by Member Korosis

THAT the agenda for the January 28, 2021 Watershed Floodplain Sub-Committee meeting
BE ADOPTED as presented.

CARRIED

2. DECLARATIONS OF CONFLICT OF INTEREST

None

3. BUSINESS FOR CONSIDERATION

- a) Presentation by Steve Miller, NPCA Senior Manager Water Resources RE: Summary of the Lincoln and Grimsby Floodplain Mapping Update Public Consultation

S. Miller presented the results of the public information sessions in Grimsby and Lincoln in December 2020 about the Floodplain Mapping updates. A discussion ensued about the presentation, and corresponding Report No. WFC-01-21. Questions were raised about the difference between floodplains and spill areas, and who receives copies of the report.

Recommendation WFSC-02-21:
Moved by Member Schonberger
Seconded by Member Korosis

THAT the Report No. WFC-01-21 RE: Grimsby and Lincoln Floodplain Mapping Update Public Engagement Summary **BE RECEIVED.**

CARRIED

Recommendation WFSC-03-21
Moved by Member Furney
Seconded by Member Korosis

WHEREAS the Grimsby and Lincoln Floodplain Mapping Update Report:

- i. Provides an updated and more detailed and accurate delineation of the floodplain than the floodplain mapping studies undertaken more than 25 years ago, and
- ii. Identifies broad and wide floodplain 'Spill Areas' that allow landowners within these zones far greater opportunity to expand their residential, commercial, and industrial structures and operations than they were afforded by the previous floodplain mapping, and
- iii. Provides floodproofing recommendations that can be undertaken to reduce the risk of flooding; and
- iv. Has received favourable feedback from the public;

NOW THEREFORE, BE IT RESOLVED:

THAT the NPCA Watershed Floodplain Sub-Committee **RECOMMENDS** to the NPCA Board of Directors that the Grimsby and Lincoln Floodplain Mapping Update report and associated flood maps be approved for use in the implementation of the NPCA's Ontario Regulation 155/06, a Regulation intended to reduce the negative impacts of natural hazards including flooding.

CARRIED

- b) Presentation by Dave Maunder and Emma Buckrell, Aquafor Beech Limited RE: Richardson Creek Floodplain Mapping Update – City of St. Catharines

D. Maunder and E. Buckrell presented the results of a study undertaken by the City of St. Catharines concerning flooding and drainage issues in Richardson Creek. The study was initiated after a large storm event in 2014. The NPCA was involved in the project as part of a technical advisory committee. A discussion ensued regarding the connection of the project with the Niagara Region Official Plan, the role of the NPCA, property values and the cost of the project.

Recommendation WFSC-04-21

Moved by Member Furney

Seconded by Member Schonberger

THAT Report No. WFC-02-21 RE: Richardson Creek Floodplain Mapping Update Report
BE RECEIVED.

CARRIED

Recommendation WFSC-05-21

Moved by Member Korosis

Seconded by Member Schonberger

WHEREAS the Richardson Creek Floodplain Mapping Update Report:

- i. Provides an updated delineation of the floodplain against the previous study undertaken 15 years prior, and
- ii. Provides floodproofing recommendations that can be undertaken to reduce the risk of flooding; and
- iii. Has been presented to the public at 3 Public Information Centres; and
- iv. The City of St. Catharines has already adopted the study and is utilizing it to direct road operations and maintenance and to plan for future Capital projects;

NOW THEREFORE, BE IT RESOLVED:

THAT The NPCA Watershed Floodplain Sub-Committee **RECOMMEND** to the NPCA Board of Directors that the Richardson Creek Floodplain Mapping Update report and associated flood maps be approved for use in the administration of the NPCA's Ontario Regulation 155/06, and to ensure consistency between the City of St. Catharines and NPCA floodplain mapping.

CARRIED

4. ADJOURNMENT

The meeting was adjourned at 5:39 p.m. due to on-going technical difficulties from various members resulting in the uncertainty of quorum. All agenda items were not able to be

covered and the meeting was recessed by NPCA Board Chair Brenda Johnson in the absence of Chair Oblak.

Jackie Oblak
Public Advisory Committee Chair

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

DRAFT

Report To: Board of Directors

Subject: Bill 229 - Implications of (February, 2021) Proclamation of Various Provisions

Report No: FA-12-21

Date: February 18, 2021

Recommendation:

WHEREAS the amendments to the Conservation Authorities Act (“CAA”) in Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures) was passed by the legislature on December 8, 2020 resulting in a number of un-proclaimed provisions in the CAA;

AND WHEREAS on February 2, 2021, some these provisions related to housekeeping, governance, and government requirements were proclaimed with the NPCA having received further direction from the Ministry of Environment Conservation and Parks (MECP) on February 5, 2021 in regards to implementation of said proclaimed provisions;

NOW THEREFORE, BE IT RESOLVED:

1. **THAT** Report No. FA-12-21 RE: Bill 229 - Implications of (February, 2021) Proclamation of Various Provisions **BE RECEIVED**.
2. **THAT** the recommended actions related to NPCA governance provisions **BE APPROVED** as below:
 - a) As per amended CAA Section 14(1), the NPCA requests partner municipalities to initiate the process of determining NPCA Board composition and associated appointments to be completed in time for NPCA's January 2023 Annual General Meeting (AGM). (No membership changes are required for the remainder of the current term until the end of 2022);
 - b) As per amended CAA Section 14(2), on February 5, 2021 the NPCA provides a copy of existing (2018-2019) municipal resolutions/Order in Council regarding NPCA Board composition and appointments to the Province by April 1st 2021;
 - c) As per amended CAA Section 17(1), and in keeping with NPCA Resolution No. FA -11-21, the Board consider reconfirmation of Chair and Vice Chair term for the remainder of 2021 at the June 2021 AGM and the matter be referred to the Governance Committee for further discussion in consultation with member municipalities. Any exceptions to this provision be formally requested for approval by the Minister and included in the updated Administrative By-Law.

3. **AND FURTHER THAT** a copy of this report **BE CIRCULATED** to the NPCA's partner municipalities for their consideration.

Purpose:

The purpose of this report is to seek Board approval on next steps and key actions related to the February 2, 2021 proclaimed governance provisions of the Conservation Authorities Act.

Background:

On December 8, 2020, Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020, was passed by the Legislature with amendments to the Conservation Authorities Act ("CAA"). Amendments made in 2020 along with previously unproclaimed sections of the CAA from 2017 and 2019 have resulted in a series of unproclaimed provisions.

On January 11, 2021, the Honourable Jeff Yurek, Minister of the Environment, Conservation and Parks informed the NPCA about the establishment of a Conservation Authorities Working Group to help the government implement recent changes to the CAA. Following the establishment of the Conservation Authority Working Group, various conservation authorities (including the NPCA) requested clarity on implementation timelines and transition provisions related to governance changes.

On February 5, 2021, the NPCA received an update from the Ministry of the Environment, Conservation and Parks in regard to the Conservation Authorities Act advising that on February 2, 2021, some provisions in the CAA came into effect. These provisions included:

- Government requirements (e.g. non-derogation provision clarifying that nothing in the CAA is intended to affect constitutionally protected Aboriginal and treaty rights);
- Provisions related to conservation authority governance (e.g. changes to the conservation authority municipal membership);
- Minister's powers (e.g. enabling the Minister to issue a binding directive to a conservation authority following an investigation); and
- Housekeeping amendments.

Details are provided in Appendix 1: Implications of Proclamation of Various Provisions: Frequently Asked Questions.

The remaining unproclaimed provisions are currently being developed through phased regulations by the Province to be proclaimed in two stages in 2021 as follows:

Stage 1: Provisions related to natural hazard management, mandatory programs and services, community advisory boards, the agreements and transition period, fees.

Stage 2: Provisions related to municipal levies, and standards and requirements for non-mandatory programs and services.

Recommended Actions Based on Ministry Direction:

Staff recommends a short-list of immediate next steps and actions for approval of Board as per provincial direction identified in the attached Appendix 1.

As per CAA Section 14(1) below, the NPCA will requests member municipalities to initiate the process of amending NPCA Board composition and associated appointments to be completed in time for NPCA's January 2023 Annual General Meeting.

No membership changes are required for the remainder of the current term until Dec 2022. Current members will complete the remaining duration of their appointments.

14(1.1) When appointing members of an authority, the council of a participating municipality shall ensure that at least 70 per cent of its appointees are selected from among the members of the municipal council.

Exception

14(1.2) Upon application by a participating municipality, the Minister may grant permission to the municipality to select less than 70 per cent of its appointees to an authority from among the members of the municipal council, subject to such conditions or restrictions as the Minister considers appropriate.

Further direction on Municipal appointments is provided in Section 4 of CAA:

4(1) An upper-tier municipality that was established as a regional municipality before the day subsection 6 (1) of Schedule 4 to the Building Better Communities and Conserving Watersheds Act, 2017 comes into force,

(a) shall act in the place of the local municipalities within the regional municipality for the purpose of appointing representatives to attend a meeting for the establishment or enlargement of a conservation authority or the amalgamation of conservation authorities and for the purpose may appoint representatives in the numbers to which the local municipalities would otherwise have been entitled.

As per CAA Section 14(2) below, the NPCA is required to submit any existing (2018/2019) Council resolutions/Orders in Council (on the number of total conservation authority members and number of members per participating municipality in a conservation authority) to the Minister within 60 days of February 2, 2021 (i.e., by April 3, 2021). Staff are in the process of providing these documents to the Ministry and posting on-line for the public.

Future Orders in Council regarding 2023 appointments will be obtained from member municipalities for submission to the Province within 60 days of approval of any such agreement.

14(2.1) Despite subsections (1), (2) and (5), the total number of members of the authority and the number of members that each participating municipality may appoint may be determined by an agreement that is confirmed by resolutions (2.2) If the participating municipalities of an authority enter into an agreement with respect to the total number of municipally appointed members of the authority and the total number of members each municipality may appoint, the authority shall, within 60 days after the agreement is executed, (a) provide a copy of the agreement to the Minister; and (b) make the

agreement available to the public by posting it on the authority's website and by any other means the authority considers appropriate.

Implementation of amended CAA Section 17(1) regarding rotation of Chair and Vice-Chair could begin at a meeting (AGM) as specified by Implications of Proclamation of Various Provisions: Frequently Asked Questions. The current NPCA By-Law includes no provision for rotation and terms of Chair and Vice-Chair. The NPCA Board of Directors approved Resolution No. FA-11-2021 at Meeting #1 on January 21, 2021 to reschedule the AGM for June 2021, defer the appointment of current Board Chair and Vice Chair to June 2021 and extend the current term of Board Members appointed to Committees. At that time, the Board also approved by resolution that the term of each respective NPCA Committee Chair and Vice Chair be extended until the end of 2021 with formal reconfirmation to occur at the June 2021 AGM.

In keeping with the approved Authority Resolution No. FA -11-21, the amended CAA Section 17(1.1), and provincial direction, it is recommended that the Board consider reconfirmation of Chair and Vice Chair term for the remainder of 2021 at the June 2021 AGM and the matter be referred to the Governance Committee for further discussion in consultation with member municipalities. Any exceptions to this provision, as determined by the Governance Committee, should be formally requested for approval by the Minister. These changes will be included in the future updates to the NPCA Administrative By-Law.

Term of chair, vice-chair

17(1.1) A chair or vice-chair appointed under subsection (1) shall hold office for a term of one year and shall serve for no more than two consecutive terms.

Representation from each municipality

17(1.2) An authority in respect of which more than one participating municipality has been designated shall appoint chairs and vice-chairs from among the members appointed to the authority by each participating municipality on a rotating basis so as to ensure that a member appointed to the authority by a particular participating municipality cannot be appointed to succeed an outgoing chair or vice-chair appointed to the authority by the same participating municipality.

Exception

17 (1.3) Despite subsections (1.1) and (1.2), upon application by an authority or a participating municipality, the Minister may grant permission to the authority or participating municipality to, subject to such conditions or restrictions as the Minister considers appropriate,

- (a) appoint a chair or vice-chair for a term of more than one year or to hold office for than two consecutive terms; or
- (b) appoint as chair or vice-chair of the authority a member who was appointed to the authority by the same participating municipality that appointed the outgoing chair or vice-chair.

The detailed amended [CAA](#) is available on e-Laws for a complete list of the provisions that are now in force. NPCA staff will remain in regular conversation with Conservation Ontario and the Ministry of the Environment, Conservation and Parks for updates regarding the proclamation of the remaining provisions.

Financial Implications:

The full financial implications of these CAA changes will not be known until the proposed Regulations have been developed.

Related Reports and Appendices:

Appendix 1: Implications of Proclamation of Various Provisions: Frequently Asked Questions

Authored and Submitted by:

Original Signed by:

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

Implications of Proclamation of Various Provisions: Frequently Asked Questions

Implications of Proclamation of Various Provisions: Frequently Asked Questions

1. Do participating municipalities have to appoint new members to conservation authorities now in order to meet the 70% requirement?

Immediate action is not required on the part of conservation authorities or by municipalities related to the provision requiring 70% of municipally appointed members be elected officials.

Current members should complete the remaining duration of their appointments. As new members are appointed, participating municipalities should be appointing members in a way that complies with this new requirement.

A participating municipality may also apply to the Minister of the Environment, Conservation and Parks requesting an exception to this 70% requirement. The request should include the rationale for the request, and what proportion of members the municipality is proposing to be elected officials. Requests should be sent to minister.mecp@ontario.ca.

2. Does a conservation authority need to immediately initiate the term limits of chair/vice-chairs and rotate amongst participating municipalities?

Immediate action is not necessarily required. Implementation of this provision could begin at the first meeting held this year (following the proclamation date of February 2, 2021), or at such other meeting as may be specified by the authority's by-laws.

A participating municipality or conservation authority may also apply to the Minister of the Environment, Conservation and Parks requesting an exception to the term limit or rotation. The request should include the alternative approach being proposed, and the rationale for the request. Requests should be sent to minister.mecp@ontario.ca.

3. When should conservation authorities transition to the use of generally accepted accounting principles?

If not already the practice, conservation authorities will transition to the use of generally accepted accounting principles for local government and ensure that key conservation authority documents are made available to the public (i.e., minutes of authority or executive committee meetings, auditor reports) following proclamation of these provisions on February 2, 2021.

Implications of Proclamation of Various Provisions: Frequently Asked Questions

4. When do copies of municipal member agreements need to be sent to the Minister and made public?

Please submit any existing agreements (on the number of total conservation authority members and number of members per participating municipality in a conservation authority) to the Minister within 60 days of February 2, 2021 (i.e., by April 3, 2021).

If no such agreement is in place as of February 2, 2021, but such an agreement is entered into at a future date, please provide it to the Minister within 60 days of executing the agreement. These agreements should also be made available to the public through the conservation authority's website or other appropriate means within these same timelines.

5. Which provisions of the *Conservation Authorities Act (CAA)* are you proclaiming in this first phase?

Provisions in the CAA that come into effect February 2, 2021, as part of this first phase include:

Housekeeping Amendments

- Clarifying “Minister” means the Minister of the of the Environment, Conservation and Parks (rather than the Minister of the Natural Resources and Forestry) (Bill 108, 2019).
- Administrative change by striking out “of the Environment” from “Minister of the Environment” (in the section on CA dissolutions – clause 13.1(6)(c)) (Bill 108, 2019).
- Remove a legislative date (now stale) for a past transition period for conservation authorities (CAs) to up-date administrative by-laws (Bill 229, 2020).

Government Requirements

- Non-derogation provision to recognize existing Aboriginal or treaty rights (Bill 229, 2020).
- Enable the Minister to delegate his or her powers to an employee of the Ministry of the Environment, Conservation and Parks (Bill 229, 2020).

Governance

- Changes to the CA municipal membership provisions including requiring 70 per cent of municipally appointed members to be elected officials with provision for the Minister to permit less than 70 per cent on application by a participating municipality (Bill 229, 2020).
- Requiring copies of municipal member agreements on number of total CA members agreed upon and numbers per participating municipality in a CA agreed upon, to be made public and provided to the Minister (Bill 229, 2020).
- Removal of the regulation making authority regarding the composition of the CA (Bill 229, 2020).

Implications of Proclamation of Various Provisions: Frequently Asked Questions

- Minister's power to appoint a member from the agricultural sector with limitations added to the member's voting rights (Bill 229, 2020).
- Limiting the term of the chair/vice-chair and rotating of the chair/vice-chair among a CA's participating municipalities with provision for the Minister to permit an exception to these requirements upon application of the CA or participating municipality. If an exception is granted, this would allow a chair/vice-chair to hold office for more than one year or two terms, or a member to succeed an outgoing chair, vice-chair, appointed from the same participating municipality (Bill 229, 2020).
- Minor amendments to the 'powers of authorities': integrating the CA power to "cause research to be done" with the CA power to "study and investigate the watershed" in order to support the programs and services the CA delivers; to require consent of the occupant or owner of the land before a CA staff can enter the land for the purpose of a CA project (such as land surveying); and to remove the power of a CA to expropriate land (Bill 229, 2020).
- Require CAs to follow generally accepted accounting principles for local governments, make key documents (annual audit, meeting agendas and minutes and member agreements) available to the public (Bill 229, 2020).

Minister's Power

- Enable the Minister to issue a binding directive to a CA following an investigation (Bill 229, 2020).
- Enable the province, upon recommendation by the Minister, to appoint a temporary administrator to assume control of a CA's operations following an investigation or the issuance of a binding directive, if the directive is not followed. Immunity is provided for the administrator (Bill 229, 2020).



February 4, 2021

Sara Peckford
Food Safety and Environmental Policy Branch
1 Stone Road West
Ontario Government Building, 2nd Floor, Southwest
Guelph, On N1G 4Y2

Re: Conservation Ontario's Comments on the "Drainage Act Regulatory Proposal" (ERO #019-2814)

Dear Ms. Peckford:

Thank you for the opportunity to provide comments on the "Drainage Act Regulatory Proposal" and to participate in the drainage stakeholder webinars. Conservation Ontario is the network of Ontario's 36 conservation authorities (CAs). Comments submitted by Conservation Ontario are not intended to limit comments submitted by individual CAs as part of the consultation process.

In general, conservation authorities are quite supportive of the proposal. In addition, we appreciate the proposed inclusion of CAs as "prescribed persons" through the regulation made under the *Drainage Act*. Conservation Ontario offers the following comments in relation to the discussion questions with an aim of improving the overall proposal.

1. Do you agree with the proposed minor improvement criteria?

The majority of the criteria is administrative in nature and does not address technical matters or project scope. Having clearly defined technical and project scope criteria would assist in determining whether or not a project is truly minor in nature and whether the intent of the proposed regulation is being achieved. Having these criteria more clearly defined will serve to limit differences of opinion regarding what is considered to be a "minor improvement". Failure to do so could ultimately undermine the intent of efficiency and timeliness.

Proposed Criteria	Conservation Ontario's Comments
The improvement would be initiated by the property owner	<ul style="list-style-type: none">• None
The improvement would take place on an individual property	<ul style="list-style-type: none">• For clarity, we recommend including, "owned by the initiating property owner".• The requirement for the landowner to have to apply for and pay for the work and have the work solely on their property may limit the amount of works that can be done under this option – especially if the intention of the works are to improve a municipal road but the work or part of the work

	<p>would need to expand onto private property.</p> <ul style="list-style-type: none"> • A drainage area can extend beyond an individual property. Clarification is needed that to be eligible for the proposed minor improvement process any changes will not impact the drainage area beyond the individual property boundary
The property owner would pay the full cost of construction for the minor improvement	<ul style="list-style-type: none"> • None
There would be no need for construction access on neighbouring properties or the property owner has already obtained consent from applicable neighbouring properties	<ul style="list-style-type: none"> • Recommend a formal process/form for demonstrating a landowner has obtained consent from applicable neighbouring property owners
The proposed minor improvement would not lead to changes as to how future repair and maintenance costs are allocated to other property owners in the watershed	<ul style="list-style-type: none"> • Further clarity is required on this point. For example, if a farm crossing is installed and in the future needed to be remediated, would that be assessed as a special assessment to that property owner or would it be included in the overall assessment for maintenance and repair?
The minor improvement project would maintain the existing drainage capacity	<ul style="list-style-type: none"> • In some cases the objective of a proposal may be to retain and/or slowly release drainage from a feature on the property. For example, rural stormwater management may benefit from restrictions on flow rates. Similarly, in some cases enhancements to drainage capacity should be considered, e.g. floodplain enhancements or engineered wetlands • As per the comments related to technical criteria and scope, it is recommended that drain enclosures should not be considered to be minor • Additional criteria should include not having an impact on upstream or downstream erosion rates

General Comments - Minor Improvement Process

Conservation authorities would appreciate the opportunity to participate as part of the initial site visit to identify any technical or regulatory constraints up front, which could then be included as part of the work of the appointed engineer. This will help to expedite the approval process when permission under Section 28 of the *Conservation Authorities Act* is being sought.

The proposal identifies that the regulation may permit a municipality to rely on a municipal staff engineer who has P.Eng credentials. It is recommended that the regulation instead reference that the municipality rely on a P.Eng. who has experience in this field. The engineer should be familiar with the *Drainage Act*, the DART protocol and any other protocol that may be provided for in the regulation.

Given the reduced timeframe proposed for appeals (10 days) the regulation should specify that the reports/notices should be sent to regulatory agencies and landowners via electronic means. As a result of the COVID-19 pandemic, many letters are not making it to their destination within 10 days. Conservation Ontario is concerned that the reduced timeframes may not give landowners (including CAs) and regulatory agencies adequate time to review a proposal. It is recommended that the proposal be increased to 20 **business** days (or approximately one month).

This proposal would allow for an appellant to sidestep the Drainage Tribunal and go directly to the Drainage Referee. The advantage of this proposal is unclear given the Drainage Tribunal's expertise in handling appeals.

Examples of minor projects were provided but were limited to examples related to agricultural farmlands. The *Drainage Act*, however, is also used to provide legal outlet for drainage associated with urban development. It is unclear whether some drainage associated with urban development may be considered minor projects. Given the heightened risk to people and property, it is recommended that drainage associated with urban development should not be considered a minor project.

Finally, the relative age of the Engineer's Reports should be considered when defining "minor improvements". Conservation authorities identify that many of the Engineer's Reports in their watersheds are more than 20 years old and therefore not reflecting current engineering best practices and regulatory approval standards. In some cases, these reports do not contain cross-section data. The lack of information in some of these reports will make it difficult for CAs to assess potential impacts upstream and downstream of a "minor improvement".

2. What types of improvements do you foresee fitting under the minor improvement process?

Conservation Ontario would be very supportive of the use of the minor improvement process to help incentivize stewardship activities for individual landowners. Improvements that could fit under the minor improvement process include: green infrastructure projects that maintain or improves the drainage capacity of the system; environmentally friendly bank stabilization/erosion protection works; replacement of existing gabion baskets or hardened retaining walls; and installation of vegetated buffers. In addition, replacement or repair of existing infrastructure, such as culverts and crossings on a like-for-like basis or upsizing where the risk of increasing flooding or erosion is low could be considered under the minor improvement process. Finally, localized bank stabilization and erosion control at outlets and bends should also be considered as a type of improvement fitting under the minor improvement process.

In general, Conservation Ontario does not support the use of the minor improvement process in wetland areas, associated with urban development or for drain enclosures.

3. What potential pre-approved designs do you foresee for being possible under a protocol for minor improvements?

Conservation Ontario is supportive of the proposal to develop pre-approved practices and respectfully requests an opportunity to participate in their development. It is recommended that the term "practice"

be used in place of “design”; this change in terminology would serve as a reminder to the Engineers and the regulators to ensure that the proposal fits the situation.

In general, Conservation Ontario supports the recommendation to consider straightforward farm crossings and erosion protection as potentially eligible projects for pre-approved designs.

4. Are there other opportunities to further reduce burden for minor improvements?

In order to further reduce burden for minor improvements, it is recommended that the province consider allowing a qualified conservation authority staff engineer who has P.Eng credentials to be appointed by a municipality to prepare a report. Many smaller municipalities do not have P.Eng on staff and this could be a way to support those municipalities on a watershed basis. Moreover, having the ability to appoint a conservation authority staff member may further serve to incentivize landowners to undertake stewardship programs.

It is recommended that the province form a working group with CAs and other regulatory agencies to create criteria for determining what should be considered a minor improvement as compared one that should follow the typical process. This will help to streamline the overall drain approval process. Moreover, the regulation should be designed to require that the Drainage Engineer engage as early as possible with conservation authorities and other regulatory bodies. In addition to undertaking regulatory approvals, CAs have considerable knowledge about the form and function of watercourses, which could assist with the design and approval of a project.

5. Are the proposed criteria for updating an Engineer’s Report appropriate?

It is understood that the proposed new Minister’s regulation would establish a new process for reflecting changes to a drain design in an Engineer’s Report. In the discussion paper, a variety of draft eligibility criteria are proposed. The first criterion is that “current agency approvals would support the required changes to the drain design”. The criterion does not identify who would be responsible for making that determination. Therefore, it is recommended that the criterion be amended to require consultation and clearance from approval agencies to reflect the changes to a drain design. This should be undertaken prior to granting the municipality authority to maintain the drain “as built”.

As a final step, the council-approved Engineer’s Report should be electronically distributed to approval agencies, including conservation authorities.

6. What new protocols would you prioritize?

Conservation authorities have experience administering streamlined Section 28 approvals for municipal drain maintenance and repair in accordance with the Drainage Act and Conservation Authorities Act (DART) Protocol since 2012. Our experience has confirmed that it provides consistency and efficiency for the approvals process. Adoption of the DART protocol by reference will formalize its status and will further the objectives of consistency and efficiency.

A second installment of the DART protocol to address these minor improvements on drains would be a welcomed addition and provide a standard throughout the province where conservation authorities

exist. There is also a need and opportunity for DART to refine what constitutes drain improvement under Section 78 of the *Drainage Act*.

Finally, as discussed, CAs are supportive of a protocol for pre-approved engineered designs for minor improvements. CAs should be consulted on these pre-approved designs to ensure that they are compliant with CA Act Section 28 requirements. Consideration should be given to including designs which prioritize green infrastructure as a way to further incentivize landowners to employ best management practices.

Once again, thank you for the opportunity to provide comments on the “Drainage Act Regulatory Proposal”. We are appreciative of the ongoing efforts to consult directly with conservation authorities throughout the process and we look forward to working with you as you further refine these proposals. Should you have any questions about this letter, please contact me at extension 226.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leslie Rich', written in a cursive style.

Leslie Rich
Policy and Planning Liaison

c.c. All CA CAOs/GMs

Conservation Ontario
120 Bayview Parkway, Newmarket ON L3Y 3W3
Tel: 905.895.0716 Email: info@conservationontario.ca
www.conservationontario.ca

MEMORANDUM

To: Environmental Registry of Ontario

From: Jason Culp – Niagara Peninsula Conservation Authority

Date: February 2, 2021

Re: Drainage Act Regulatory Proposal Comments

The Niagara Peninsula Conservation Authority (NPCA) has completed a review of the proposed changes to the Drainage Act and associated regulations, specifically in relation to the completion of engineering reports and provisions for streamlining the process of approvals required for minor improvements of existing municipal drains in Ontario.

At this time, no detailed criteria defining what would constitute a minor improvement or a requirement for a new engineering report has been provided. Similar to recent changes to the Conservation Authorities Act, the proposed changes address process, with a subsequent Minister's Regulation(s) to be developed specific to defining additional details. Input into the development of the new regulation with regards to process and specific activities to be included in the new Minister's Regulation was requested by Conservation Ontario for submission to the Province. Due to the large number of municipal drains in the NPCA watershed, the NPCA also felt it appropriate to post their own comments.

Within the NPCA area of jurisdiction, every municipality with the exception of the City of St. Catharines has and is responsible for municipal drains. Each of these municipalities has a qualified professional, trained, and designated as a Drainage Superintendent by the Ontario Ministry of Agriculture, Food and Rural Affairs, and appointed by a municipal bylaw, whose responsibility is to maintain existing drains as well as coordinate the process for the construction of new municipal drains should they be requested or required by residents or in some cases the municipality itself. Under the Drainage Act, and through the Drainage Act and Conservation Authorities Act Protocol, the NPCA works with the local Drainage Superintendents and their municipalities to review and approve the maintenance and repair of municipal drains.

A significant number of municipal drains in Ontario are also considered regulated watercourses under the Conservation Authorities Act, and may include other regulated features such as flood plain, wetlands, terrestrial and aquatic species at risk occurrences and habitat and in-water works which require additional approvals not only from the local Conservation Authority but also the Department of Fisheries and Oceans (DFO), the Ministry of Environment, Conservation and Parks and the Ministry of Natural Resources and Forestry. Improved coordination in addition to enhanced agency and municipal awareness of all legislative requirements which may impact these processes is the general intent of the Province's review of the Drainage Act and associated reviews and approvals.

Additional Discussion Questions and Answers

The NPCA has provided below a table of additional questions and responses in relation to the regulatory proposal.

Drainage Act Regulatory Proposal Discussion Paper Discussion Questions	
Discussion Questions	CA Comments
1. Do you agree with the proposed minor improvement criteria?	Yes
2. What types of improvements do you foresee fitting under the minor improvement process?	1. New access crossings 2. Localized bank stabilization 3. Construction and implementation of permanent offsetting measure e.g., Low flow channels, sediment traps, as per current DART protocol
3. What potential pre-approved designs do you foresee for being possible under a protocol for minor improvements?	Given the nature of what would be considered a minor improvement and the engineering requirement for implementing them, each type of improvement could be supported by a pre-approved design standard similar to the existing Ontario Provincial Standards Specifications and Drawings for Roads and Public Works.
4. Are there other opportunities to further reduce burden for minor improvements?	It would be very helpful if the MNRF would provide additional clarification to OMAFRA, municipalities and Conservation Authorities as to their guidelines/expectations in relation to municipal drain projects and Provincially Significant Wetlands.
5. Are the proposed criteria for updating an Engineer's Report appropriate?	Yes
6. What new protocols would you prioritize?	1. Adoption of existing DART protocol by all Cas 2. Standardized approval submission guidelines for applications submitted through DART protocol 3. Pre-approved Design Protocol and associated specifications/drawings

General Comments	
	CA Comments
Drainage Act Regulatory Proposal (ERO#019-2814)	NPCA staff experienced in Municipal Drains (former Drainage Superintendents) appreciate that these changes are long overdue and will, if properly implemented, continue to protect, and enhance the environmental integrity of



	Ontario's Municipal Drain network while assisting in clarifying approval roles and processes and reducing financial burden to the municipalities and affected landowners.
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Overall, the proposed changes and revisions appear positive. Many Conservation Authorities and the other regulatory agencies such as DFO have already been working with partner municipalities on the development of review and approval processes which aim to streamline and compliment existing legislative requirements for municipal drain maintenance and improvement projects.

Regards,

A handwritten signature in red ink that reads "Jason Culp".

Jason Culp, C. Tech., EP
Supervisor, Compliance & Enforcement
Niagara Peninsula Conservation Authority