

Administration

Office of the Regional Clerk

1815 Sir Isaac Brock Way, PO Box 1042, Thorold, ON L2V 4T7

Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-4977

www.niagararegion.ca

August 31, 2022

CL 14-2022, July 21, 2022**CSC 7-2022, July 13, 2022****CLK 4-2022, July 13, 2022****CLERK - CITY OF HAMILTON****CLERK - HALDIMAND COUNTY****SENT ELECTRONICALLY**Niagara Peninsula Conservation Authority (NPCA) Board Representation

CLK 4-2022

Regional Council, at its meeting held on July 21, 2022, passed the following resolution:

That Report CLK 4-2022, dated July 13, 2022, respecting Niagara Peninsula Conservation Authority (NPCA) Board Representation, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That Regional Council **APPROVE** Niagara Region representation on the Niagara Peninsula Conservation Authority Board to be eight (8) members;
2. That the eight (8) members **BE COMPRISED** of six (6) Regional Councillors and two (2) members of the public;
3. That the six (6) Regional Councillors **BE APPOINTED** for the term of Council at the Council meeting held the week following the inaugural meeting of Council and the appointments **BE CONDUCTED** in the same manner as appointments for other agencies, boards and commissions of the Niagara Region;
4. That the public member representatives **BE SELECTED** using the criteria outlined in the skills matrix attached as Appendix 1 to Report CLK 4-2022 and conducted in a manner similar to the selection of the Community Member for the Niagara Regional Police Services Board;
5. That the selection panel for the public member representatives **BE COMPRISED** of the six (6) members of Regional Council that are appointed by Regional Council to the NPCA Board and two additional members of Council appointed at the Council meeting held the week following the inaugural meeting and appointed in the same manner as the appointments for Committees;

6. That this report **BE CIRCULATED** to the City of Hamilton and Haldimand County requesting their Councils pass resolutions agreeing to the number of members for appointment from Niagara Region to the Niagara Peninsula Conservation Authority Board;
7. That upon receipt of resolutions from the City of Hamilton and Haldimand County regarding the number of members for appointment, staff **BE AUTHORIZED** to proceed with the execution of an agreement in a form satisfactory to the Director of Legal and Court Services to be provided to the Niagara Peninsula Conservation Authority; and
8. That this report **BE PROVIDED** to the Niagara Peninsula Conservation Authority for information.

A copy of Report CLK 4-2022 is attached for your reference.

Yours truly,



Ann-Marie Norio
Regional Clerk

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CLK-C 2022-105

cc:

Niagara Peninsula Conservation Authority
R. Tripp, Chief Administrative Officer
D. Gibbs, Director, Legal and Court Services

Subject: Niagara Peninsula Conservation Authority (NPCA) Board Representation

Report to: Corporate Services Committee

Report date: Wednesday, July 13, 2022

Recommendations

1. That Regional Council **APPROVE** Niagara Region representation on the Niagara Peninsula Conservation Authority Board to be five (5) members;
2. That the five (5) members **BE COMPRISED** of four (4) Regional Councillors and one (1) member of the public;
3. That the four (4) Regional Councillors **BE APPOINTED** for the term of Council at the Council meeting held the week following the inaugural meeting of Council and the appointments **BE CONDUCTED** in the same manner as appointments for other agencies, boards and commissions of the Niagara Region;
4. That the public member representative **BE SELECTED** using the criteria outlined in the skills matrix attached as Appendix 1 to Report CLK 4-2022 and conducted in a manner similar to the selection of the Community Member for the Niagara Regional Police Services Board;
5. That the selection panel for the public member representative **BE COMPRISED** of the four (4) members of Regional Council that are appointed by Regional Council to the NPCA Board and two additional members of Council appointed at the Council meeting held the week following the inaugural meeting and appointed in the same manner as the appointments for Committees;
6. That this report **BE CIRCULATED** to the City of Hamilton and Haldimand County requesting their Councils pass resolutions agreeing to the number of members for appointment from Niagara Region to the Niagara Peninsula Conservation Authority Board;

7. That upon receipt of resolutions from the City of Hamilton and Haldimand County regarding the number of members for appointment, staff **BE AUTHORIZED** to proceed with the execution of an agreement in a form satisfactory to the Director of Legal and Court Services to be provided to the Niagara Peninsula Conservation Authority; and
8. That this report **BE PROVIDED** to the Niagara Peninsula Conservation Authority for information.

Key Facts

- The purpose of this report is to seek Council's approval regarding the number of members that will represent Niagara Region on the Niagara Peninsula Conservation Authority Board.
- The Conservation Authorities Act legislation has changed and the implementation of these changes means that the current Board composition is not in compliance with the legislation.
- The legislation requires that 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 unless permission is otherwise granted from the Minister of the Environment, Conservation and Parks.
- A decision on Board composition needs to be finalized in advance of the next term of Council.

Financial Considerations

Resources to assist with the advertisement and selection panel for the public member will be captured in current year budgets. Remuneration for the NPCA Board of Directors is funded through the NPCA annual budget.

Analysis

Pursuant to the *Conservation Authorities Act* (CAA), Regional Council is the body responsible for the appointment of members representing Niagara Region on the NPCA Board. Currently, the Board has 21 members (including two vacancies), with Niagara Region having representation from 15 members (one vacancy) with the majority of members being members of the public. The current Board composition is not in conformity with the CAA as section 14(1.1) provides that 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. Currently Hamilton has representation from two Councillors and two public members and Haldimand has representation from two Councillors.

In May 2019, the courts confirmed that Niagara Region is entitled to 27 representatives in accordance with the CAA. With the inclusion of representatives from Hamilton and Haldimand, a board of this size would not be either efficient or effective.

In July of 2019, the Planning and Economic Development Committee considered a report on the future composition of the NPCA Board and a skills matrix for public members; however, deferred a decision pending a response from the Executive Council regarding section 40 of the Conservation Authorities Act which would allow the Executive Council of Ontario the ability to prescribe a regulation respecting requirements for board composition and provide clarification on the appointing authority. Since that time, legislation regarding appointments has changed and the provisions to allow the Lieutenant Governor in Council the ability to prescribe regulations regarding board composition have been removed from the CAA.

The legislation has been changed to include the following:

Members of council appointed

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, subject to subsection (1.2). 2020, c. 36, Sched. 6, s. 2 (2).

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. 2020, c. 36, Sched. 6, s. 2 (2).

Informal discussions with the City of Hamilton and Haldimand County and the NPCA have been conducted respecting Board composition and each member municipality has agreed to appoint members in alignment with the representation numbers according to population in the watershed as outlined in the CAA (section 2(2)) with Niagara Region's representation being based on the Region's population as a whole. On this basis

Niagara Region would have representation from five (5) members, Hamilton would be represented by three (3) members and Haldimand would have representation from two (2) members.

Given the above staff are recommending that Regional Council approve representation on the NPCA Board to be five (5) members, four (4) Regional Councillors and one (1) public member. This representation would still provide Niagara Region with the majority of the Board membership which is reflective of the amount of land the Region has within the NPCA watershed. The appointment of one (1) public member would not only satisfy the requirement for 70% of the appointees to be selected from among the members of the municipal council but would also allow for a member of the public to participate on the Board.

As with appointments to other agencies, boards and commissions, Regional Councillors would be appointed to the Board at the first Council meeting held the week following the inaugural meeting of Council and the appointments would be carried out in the same manner as the appointments for other agencies, boards and commissions of the Niagara Region.

Staff are recommending that the appointment of the public member follow the process that is used to select the Niagara Regional Police Services Board public member. This process appoints two Regional Councillors to a selection panel that also includes those Regional Councillors appointed to the Police Services Board. Members of the public interested in serving on the Police Services Board complete an application, which is then scored against a matrix. From the results of the matrix, the Selection Panel determines which candidates will move forward to the interview stage. The interview is held in coordination with Niagara Region Human Resources staff to determine the most suitable candidate. Candidates are scored based on their responses to questions. The recommended appointee is then considered by Regional Council for appointment.

This process could be utilized for the NPCA Board public member as it ensures consistency in both the selection process and of the selection committee. Niagara Region would conduct the process, including advertisements for interested members of the public.

Appendix 1 includes a draft criteria scoring matrix and competency description that is recommended to score interested public member applicants. The use of a skills matrix was a recommendation of the Auditor General and supported by NPCA as noted in the Auditor General's report. The matrix, modelled from the Alberta Public Agencies,

demonstrates competencies with the intention of balancing professional experience and knowledge of the NPCA as well as personal attributes and skills. Using the scoring matrix, the selection panel would be able to determine which candidates would move forward to an interview.

Alternatives Reviewed

Council could decide to increase the number of representatives on the NPCA Board, noting that any changes would require approval from the other participating municipalities. Given the discussions on this matter, staff do not recommend seeking additional representatives. Further, Council could decide to increase the number of public members appointed to the Board, ensuring the numbers of elected officials remain within the 70% threshold or seek permission from the Minister to select less. Staff recommend appointing one public member, noting that the other participating municipalities will need to adhere to this formula as well.

Relationship to Council Strategic Priorities

The appointments to the NPCA Board are in alignment with Council's strategic priority of Sustainable and Engaging Government as they reflect transparency and fiscal responsibility while ensuring involvement from the community.

Other Pertinent Reports

Prepared and recommended by:
Ann-Marie Norio
Regional Clerk

Submitted by:
Ron Tripp, P. Eng.
Chief Administrative Officer

This report was prepared in consultation with Donna Gibbs, Director, Legal and Court Services.

Appendices

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| Appendix 1 | NPCA Board of Directors Applicant Criteria Scoring Matrix |
| Appendix 2 | Excerpt of Conservation Authorities Act Legislative Changes |
| Appendix 3 | Niagara Peninsula Conservation Authority Report FA-12-21 - Bill 229 - Implications of (February, 2021) Proclamation of Various Provisions |

Business/Management/Finance/ Budgetary Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise in sound management, operational business processes/practices, accounting or financial management within the private or public sector. This competency may include an understanding of topics such as managing complex projects, leveraging information technology, planning and measuring performance, allocating resources to achieve outcomes, analyzing and interpreting financial statements, evaluating budgets and understanding financial reporting.

Governance Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise in board governance in the private, public, and/or voluntary/non-profit sector. The applicant has a clear understanding of the distinction between the role of the board versus the role of management. Governance experience could be acquired through prior board or committee service or reporting to/or working with a board as an employee.

Community/Stakeholder Relations Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise of the community or communities the NPCA serves, including the stakeholder landscape affecting the public agency. This may include a demonstrated capacity to build networks and foster trusting relationships with communities and stakeholders.

Strategic Thinking/Planning Skills

- The applicant demonstrates an ability to think strategically, identify and critically assess strategic opportunities and challenges facing the NPCA, develop effective strategies and engage in short, medium and long-range planning to provide high-level guidance and direction for the NPCA.

Risk Management/Audit Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise in enterprise risk management. This may include identifying potential risks, recommending and implementing preventative measures, and devising plans to minimize the impact of risks. This competency may also include experience or knowledge of auditing practices, organizational controls, and compliance measures.

Public Relations

- The applicant has experience with, or is able to demonstrate knowledge or expertise in communications, public relations or interacting with the media. This may include knowledge of advocacy and public engagement strategies, developing key messages, crisis communications, or social media.

Leadership/Teamwork

- The applicant demonstrates an ability to inspire, motivate and offer direction and leadership to others. The candidate also demonstrates an understanding of the importance of teamwork to the success of the Board. This may include an ability to recognize and value the contributions of board members, staff, and stakeholders.

Human Resources/Labour Relations

- The applicant has experience with, or is able to demonstrate knowledge or expertise in, strategic human resource management. This may include workforce planning, employee engagement, succession planning, organizational capacity, compensation, and professional development.

Government/Public Policy/Policy Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise of the broader public policy context affecting the NPCA. This may include the strategic priorities of government and the relationship between those priorities and the work of the NPCA.

Legal/Regulatory Experience

- The applicant has experience with, or is able to demonstrate knowledge or expertise in legal principles, processes and systems. This may include interpreting and applying legislation, experience with adjudicative or quasi-judicial hearings or tribunals, or an understanding of the legal dimensions of organizational issues.

2. Representatives at meeting

(2) The council of each municipality may appoint representatives to attend the meeting in the following numbers:

1. Where the population is 1,000,000 or more, seven representatives.
 - 1.1 Where the population is 500,000 or more but less than 1,000,000, six representatives.
 - 1.2 Where the population is 250,000 or more but less than 500,000, five representatives.
2. Where the population is 100,000 or more but less than 250,000, four representatives.
3. Where the population is 50,000 or more but less than 100,000, three representatives.
4. Where the population is 10,000 or more but less than 50,000, two representatives.
5. Where the population is less than 10,000, one representative. R.S.O. 1990, c. C.27, s. 2 (2); 2001, c. 9, Sched. K, s. 1 (1).

Members of authority

14 (1) Subject to subsection (3), members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers set out in subsection 2 (2) for the appointment of representatives. 2017, c. 23, Sched. 4, s. 12 (1); 2020, c. 36, Sched. 6, s. 2 (1).

Members of council appointed

(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, subject to subsection (1.2). 2020, c. 36, Sched. 6, s. 2 (2).

Exception

(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. 2020, c. 36, Sched. 6, s. 2 (2).

Changes in number of members

(2) The total number of municipally appointed members of the authority and the number of municipal councillors that each participating municipality may appoint shall be adjusted as required to ensure compliance with subsection (1) if the municipalities that are participating municipalities change or the population of a participating municipality changes. 2001, c. 9, Sched. K, s. 1 (6); 2020, c. 36, Sched. 6, s. 2 (3).

Agreement on number of members

(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 passed by the councils of all of the participating municipalities. 2001, c. 9, Sched. K, s. 1 (6).

Municipal agreement

(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. 2020, c. 36, Sched. 6, s. 2 (4).

Same, transition

(2.3) If an agreement referred to in subsection (2.2) is in force on the day subsection 2 (4) of Schedule 6 to the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* comes into force, the relevant authority shall provide a copy of the agreement to the Minister within 60 days after that day. 2020, c. 36, Sched. 6, s. 2 (4).

Qualification

(3) Every member of an authority shall be resident in a participating municipality in which the authority has jurisdiction. R.S.O. 1990, c. C.27, s. 14 (3).

Where part of municipality in authority's area

(5) Where part only of a municipality is situated in an area over which an authority has jurisdiction, the number of members appointed for the municipality shall be based on the population of that part only of the municipality, and the population shall be deemed to be the same proportion of the total population of the whole municipality as the area of that part of the municipality is of the total area of the municipality. R.S.O. 1990, c. C.27, s. 14 (5).



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).