

Section I – Items for Board of Directors Action

TO: Chair and Members of the Executive Committee
Friday, September 9, 2022 Meeting

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **2022 UPDATES TO ADMINISTRATIVE BY-LAW**
Updates to the Administrative By-Law

KEY ISSUE

Requesting approval of proposed amendments to the Toronto and Region Conservation Authority (TRCA) Board of Directors Administrative By-Law, which address participation by electronic means for hybrid meetings, updates to the Hearing Guidelines, updates to address Conservation Authority Act (CA Act) amendments and regulations and additional housekeeping items.

RECOMMENDATION:

THAT the proposed amendments to the TRCA Board of Directors Administrative By-Law, included as Attachment 1, be approved;

AND FURTHER THAT the approved amended Board of Directors Administrative By-Law be forwarded to the Minister of Environment, Conservation and Parks, the Minister of Natural Resources and Forestry, and Conservation Ontario, partner municipalities, and be posted on TRCA's website.

BACKGROUND

TRCA's Administrative By-Law was previously amended in March 2020 to include electronic meetings as a response to the in-person meeting and gathering restrictions implemented by the Province. Throughout the COVID-19 pandemic, TRCA has evolved into conducting electronic meetings for Board meeting and Board Committees hereafter referred to as Advisory Boards in the updated Administrative By-law. Similar to our municipal partners, TRCA will continue with participation by electronic means and will move to hybrid meetings under certain conditions. Prior to the pandemic, electronic participation by Members was not permitted. At the passing of Bill 68, agencies, boards, and commissions chose not to allow electronic participation for a variety of reasons including apprehension of the technology, perceived lack of accountability, accessibility to the public, and lack of funds available to invest in the required hardware and software. However, the pandemic response has proven our agility in being able to mitigate many of these concerns.

Changes have also been made to reflect CA Act amendments and regulations that were enacted in 2021 and 2022 including adjustments to reflect the new requirement for one-year terms for Chair and the Vice Chair, and the ability for the Minister of Environment Conservation and Parks (MECP) (now the Minister of Natural Resources and Forestry) to appoint an Agricultural sector representative to the Board and the parameters around which that representative can participate in Board activities. On August 30th, TRCA was informed that the Ministry of Natural Resources and Forestry (MNRF) will take on administrative duties that were previously split between MECP and MNRF which we expect will include this ministerial appointment provision. Staff are seeking more details from the Province on these changes.

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In addition to the updates to the Administrative By-Law, the Hearing Guidelines have been renamed to Hearing Rules (**Attachment 3**) and revised to streamline and make necessary updates including to address hearings for permit applications made under Section 28.0.1 (permits related to Minister Zoning Orders) of the Conservation Authorities Act, hearings related to the cancellation or extension of permits, electronic hearings and other housekeeping amendments to reflect current best practices. These Hearing Rules are based on the most recent version of the Conservation Authorities Act Model Hearing Guidelines (September 2021) published by Conservation Ontario and the Ministry of Natural Resources in October 2005.

RATIONALE

Based on the positive experience of electronic meetings during COVID-19, staff recommend that TRCA allow for continued electronic participation in meetings and furthermore introduce a hybrid model to allow for participation by electronic and in-person means in some meetings leading to a permanent change to a hybrid model for the future. However, to allow for hybrid meetings, the TRCA Board of Directors Administrative By-Law requires updating to define participation by electronic means and set some parameters around hybrid meetings.

Two options were initially considered to inform this update:

- 1) That all TRCA Members be physically present at TRCA Head Office for all meetings; or
- 2) That TRCA Members may participate in-person at TRCA Head Office and allow some members to participate by electronic means.

Staff have completed a scan of our area municipalities to see how they are moving forward. At this point, given that many of our municipalities will remain virtual or move towards a hybrid approach, staff are recommending that TRCA meetings remain status quo (electronic) until further consideration by the new Board of Directors. Due to voting considerations, TRCA is currently planning to have the Annual General Meeting in January 2022 as an in-person meeting with hybrid regular meetings to follow subject to Board direction.

Hybrid Meetings

TRCA's Board of Directors Administrative By-Law will require updates to accommodate a hybrid meeting approach. The Clerk's Office has also reached out to TRCA area municipalities to determine best practices and updates to their Procedure By-Laws in terms of hybrid meetings, to inform our approach. A summary of these findings is attached as **Attachment 2**. While we expect that most Board members will be returning in-person, we will require those members attending in-person to bring with them an electronic device (laptop or iPad) in order to participate in the meeting. Should a member not have access to a device the day of a meeting, Information Technology and Records Management (ITRM) may be able to provide a spare device for use. Additionally, a camera will be set up in the Waterfront and Humber Room which will be able to pick up sound and room-wide camera and video device. Having members bring in their own device will allow for individual members to appear on screen, whereas the room-wide camera and video device will pick up a group of members.

All proposed changes to the Administrative By-law are tracked and included in **Attachment 1**, and once approved, the document will be amended and formatted accordingly. Many of the recommended edits are concerned with minor wording and structural amendments, with more major changes to the Administrative By-Law outlined below:

1. Section A: Definitions

New definitions added for clarity:

- a. **“Electronic Participation / Means”** means telephone, video, or audio conferencing or other interactive method whereby Members, staff and the public are able to hear and see the person(s) participating by electronic means and the person(s) participating by electronic means are able to hear and see the speaking Members, staff, and the public.
 - Definition was included to require all Members, staff, and the public speaking on a matter to be seen and not just heard during a meeting, ensuring further transparency. This also allows for the Chair to identify raising of hands for movers and seconders. In the case of poor or less stable Internet connections, the photo icon, and or name of the participants should be visible when they are speaking.
- b. **“Executive Committee”** (also referred to as the Executive) refers to those Members/directors appointed by the Board of Directors to convene as the Executive Committee.
 - Definition was missing from the By-Law.
- c. **“Quorum”** means at any meeting of the Board of Directors, a quorum consists of one-half of the Members appointed by the participating municipalities, except where there are fewer than six (6) such Board Members, in which case three (3) such Board Members constitute a quorum. At any Executive Committee or advisory board meeting, a quorum consists of one-half of the Members, unless specified differently in the Terms of Reference.
 - Definition was missing from the By-Law and included to align with the Conservation Authorities Act Section 16.2.
- d. **“Staff Direction”** means a request made by a Member for an action or actions to be taken as a result of a motion or discussion on a motion. The direction must not be dilatory or improper or alter the content or context of a motion. Staff directions are not noted within the minutes unless an amendment is made to a recommendation.
 - Staff directions are commonly used in meetings where a Member requests staff carry out a task. For example, providing information to municipalities within TRCA’s jurisdiction, or asking for a follow up one on one more detailed briefing on a matter not involving a formal report back to the entire Board or Executive Committee. Staff directions will be tracked through eSCRIBE and submitted to report authors and directors following a meeting. These tasks can be tracked by the relevant TRCA division for progress and completion.

Revised definitions amended for clarity:

- e. **“Majority”** removed “plus one” as quorum is now defined as 50% and identified

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in Section 5(5) and in alignment with the Conservation Authorities Act, Section 16 (2).

- To align with the definition of “quorum”.

2. Section B: Governance.

- a. **Section 6 - Appointment of Auditor** – The general membership shall appoint an auditor in accordance with Section 38 of the Act.

- Added this section in accordance with Section 38 of the Conservation Authorities Act.

- b. **Section 7(2)** – included “within sixty (60) days of receiving the Auditors Report to align with legislation.

- c. **Section 13(1) – Remuneration of Board Members** – clarified to include remuneration rates will be paid to those participating by electronic means.

3. Section C: Meeting Procedures

Rules of Procedure:

- a. **Section 1(1) Rules of Procedure:** amended to remove “or other generally accepted rules of procedure” as some procedures within Roberts Rules conflicts with Bourinots Rules.
- b. **Section 1(2)** reference to committee of the whole was removed in its entirety as this standing committee structure has not been used, nor defined in the By-Law.

Agenda for the Board of Directors Meeting

- c. **Section 5(3)** was updated to include agendas are “expected to be posted on the website no later than noon on the Monday prior to the Friday meeting”. Providing a deadline for the posting of the agenda prevents Clerks Office staff from publishing agendas after hours and limits late reports. Should there be a late report, the department will be able to provide the Clerks Office with a report for publishing on the addendum agenda by the Tuesday prior to the Friday meeting. Working towards an earlier deadline for posting will allow for the CFOO and CEO to review and approve reports in a timely manner and for timely agenda compilation and posting by the Clerk. The agenda will be posted as close to noon as possible. Any new urgent reports or reports that are not ready for printing at the Friday noon deadline will be made available on the amended agenda and published no later than noon on the Tuesday prior to the meeting.
- d. **Section 5(5)** added to allow for discussion on an item that has previously been debated at the same meeting, so that a Member who for a valid reason missed the debate or question period has an opportunity to ask questions on an item. This will be different than a reconsideration, where only questions will be asked, with no direction provided. If a Member seeks to amend the motion a formal reconsideration of the item and vote to re-open the item will be required in accordance with procedure.

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Quorum

- e. **Section 6(2)** was updated to reflect waiting only 15 minutes for quorum for meetings as opposed to 30 minutes, aligning with most municipalities. It is recommended that this be applied to all committees and the Board.

Board Members Attendance:

- f. **Section 12(1)** updated to reflect “hybrid” meetings from electronic meetings. Members who wish to participate by electronic means should advise the Clerks Office at least 48 hours in advance.

Recording of Meetings

- g. **Section 20** was added to communicate to the public that the authenticity of TRCA recordings are under the custody and control of TRCA. This section will help address situations where the media or the public may use sound bites taken out of context. Members, staff, media, and the public can refer to the authentic recordings for the actual context of the meeting discussion to help address this concern.

4. Attachment 1 – Use of TRCA Resources During an Election Policy

Background

- a. **Section 2** was updated to reflect the current Municipal Elections Act Section 88.4(5) which states that “The Crown in right of Canada or Ontario, a municipality or local board” may not contribute to an election campaign and adding the reference to Section 88.19 which specifies what may fall under campaign contributions.

Definitions

- b. **Section 6** removal of “**Registrant**” and inclusion of “**Third-Party Advertisers**” as Section 70 was removed from the Municipal Elections Act in 2018.
- c. **Section 6** replaced “**Voting Day**” with “**Election Day**” as municipal and school board elections include the terminology of “voting period” for those using alternative voting methods.

5. Appendix 2 – Conflict of Interest for Board Members

Disclosure of Pecuniary Interest

- a. **Section 2** inclusion of “or a family member as identified in Section 1 of the MCIA”.

6. Appendix 5 - Executive Committee Terms of Reference - Hearing Rules (Attachment 3)

The updates reflect revisions to streamline and clarify rules around hearings and to include new clauses to address hearings on MZO permit applications, hearings on cancellation of permits and extension of permits, provisions related to electronic hearings, and other housekeeping amendments.

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Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategy set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 7 – Build partnerships and new business models

DETAILS OF WORK TO BE DONE

Upon the approval of the amended TRCA Board of Directors Administrative By-Law, it will be posted on TRCA's website.

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Attachments: 3

Attachment 1: Proposed TRCA Board of Directors Administrative By-Law

Attachment 2: Meeting Information for Surrounding Municipalities

Attachment 3: Proposed Hearing Rules