

Section II – Items for Executive Action

TO: Chair and Members of the Executive Committee
Meeting #1/19, Friday, February 08, 2019

FROM: Carolyn Woodland, Senior Director, Planning and Development

RE: **APPOINTMENT OF OFFICER AND DESIGNATION AS PROVINCIAL OFFENCES OFFICER**

KEY ISSUE

Recommended appointment of an officer under Section 28(1)(d) of the *Conservation Authorities Act*, and a Provincial Offences Officer be approved for the purposes of:

- i) Enforcing Regulations made by the Toronto and Region Conservation Authority pursuant to Section 28 and 29 of the *Conservation Authorities Act*,
- ii) Enforcing the *Trespass to Property Act*

RECOMMENDATION

THAT Evan MacDonald be appointed as an Officer and Provincial Offences Officer for the purposes of compliance and enforcement of the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 166/06, as amended) and the *Trespass to Property Act* by the Board of Directors of the Toronto and Region Conservation Authority (TRCA), pursuant to Section 28 of the *Conservation Authorities Act*.

BACKGROUND

The *Conservation Authorities Act* provides for a conservation authority to appoint officers to enforce its regulations. Furthermore, the Minister of Natural Resources and Forestry has implemented, under the authority of Subsection 1(3) of the *Provincial Offences Act*, a class designation process for all conservation authorities whereby any conservation authority officer appointed under Section 28 (1)(d) of the *Conservation Authorities Act* shall be designated by the Minister simultaneously as a Provincial Offences Officer. Once appointed, officers have the authority to enforce offences and Regulations under the *Conservation Authorities Act*, in addition to the *Trespass to Property Act*, when carrying out their duties within the jurisdiction of the conservation authority.

The prerequisite to the Minister's Provincial Offences Officer appointment is that all candidate officers:

- i) Be adequately trained in the legislation to be enforced, including the *Provincial Offences Act*;
- ii) Have proof of a clean criminal record check, and;
- iii) Be appointed as an officer to enforce conservation authority legislation at an official board meeting.

Pursuant to the approval of the above noted appointment, the Minister's requirements will have been addressed.

RATIONALE

Evan MacDonald is a full time Development Inspector within our Planning and Development Division, and works within our Enforcement and Compliance Section. His duties include conducting compliance inspections of TRCA approved permit sites, responding to stakeholder complaints and addressing non-compliance issues associated with TRCA planning and

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permitting processes. This appointment will enable him to assist with the authority's regulatory requirements and compliance objectives.

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Attachment 1: Background Information

Attachment 2: TRCA staff appointments as Officers

Attachment 1: Background Information

The *Conservation Authorities Act*, s.28(1)(d) and 28(1)(e), allows for the appointment of officers to enforce s.28 (Ont. Reg. 166/06 - natural hazard/ natural heritage regulation) and s.29 (Ontario Regulation 119 - lands owned by the authority).

In 1999, the Minister of Natural Resources and Forestry (MNRF) implemented, under the authority of s.1(3) of the *Provincial Offences Act*, a class designation process for conservation authority officers that simultaneously designated them as Provincial Offences Officers. This provided officers the ability to enforce both the conservation authority regulations and the *Trespass to Property Act* (TPA).

This appointment is contingent on candidates meeting the following prerequisites:

- Being adequately trained in the legislation being enforced, including the *Provincial Offences Act*,
- Having proof of a clean criminal background;
- being appointed as an officer at an official Board Meeting.

TRCA has established a tradition of appointing officers in three distinct categories:

1. Enforcement Officers appointed on a full time basis to establish compliance with, and to enforce our legislation (Ont. Reg. 166/06, Ontario Regulation 119 and TPA). Enforcement Officers play an important role in the Authority's objectives to prevent, eliminate, or reduce the risk to life and property from flooding, erosion and slope instability, and to encourage the protection, enhancement and enjoyment of the natural systems, recreational facilities and landholdings.

Enforcement Officers actively participate in environmental and construction compliance and protection initiatives within our regulatory jurisdiction, in addition to public safety and land use infractions. This position entails conducting regular compliance audits/ inspections of TRCA Planning and Development permit sites, responding to public inquiries and complaints regarding the Authority's permitting processes, addressing unauthorized activities on our landholdings, and participating in TRCA River Watch program associated with our corporate flood forecasting and warning responsibilities.

Officers routinely interact with other internal TRCA business units, and liaise closely with external partnering agencies, including our member municipalities and federal and provincial agencies. Officers maintain communications with developers, consultants, contractors, special interest groups, stakeholders, landowners, and the general public to address our compliance objectives and promote awareness of TRCA's initiatives. Officers maintain accurate records and reports, negotiate compliance with our legislation, conduct investigations, and initiate legal action for significant unlawful activities.

The position of Development Inspector, within the Enforcement and Compliance Section, is an important supporting role for Enforcement Officers regarding the monitoring of TRCA approved permit sites, negotiating compliance with permit plans and imposed conditions, and responding to public inquiries and complaints associated with our regulatory jurisdiction.

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2. Provincial Offences Officers consist of full time employees within our Parks and Culture Division, and the appointment provides staff members the ability to enforce s.29 of the *Conservation Authorities Act* (Ontario Regulation 119 and TPA).

The designations of senior Conservation Parks staff and supervisors within our conservation areas provide the required authority to address public safety concerns, compliance issues, unauthorized land use activities, and aid in the protection and promotion of family oriented recreational facilities on our landholdings. These staff members are primarily responsible for overseeing the operations and maintenance of our conservation areas and campgrounds, supervision of seasonal staff members, and for divisional business planning. Although their job function is not enforcement oriented, staff will engage in the enforcement and compliance role based on availability and when deemed appropriate and safe to do so. Provincial Offences Officers within our Conservation Parks provide a great deal of value to the organization and the public, and represent the Authority's compliance interests in a professional manner.

Appointed staff members identify and address compliance issues associated with unauthorized land use activities, aid in mitigating risk, liaise with and work alongside TRCA Enforcement Officers on strategic weekend shifts/ patrols, supervise site operations of our contracted security provider, and arrange for special paid duty patrols of police in order to promote the safety and enjoyment of our conservation areas and campgrounds. Threats to TRCA staff and the public, and issues involving criminal activities, are referred to local police agencies and documented for internal records and reporting.

3. Administrative Enforcement Officers consists of our Chief Executive Officer and senior staff members within our Planning and Development Division (Senior Director, Associate Directors, Senior Managers, Managers, Senior Planners).

Although there is no legislative requirement within our Act to have permits signed/ authorized by an Enforcement Officer, Section 3(3) of Ont. Reg. 166/06 identifies a requirement to have the Executive Committee or designate staff member(s) with respects to granting permissions (permits) for approvals issued under s.28 of the Act.

3(3) Subject to subsection (4), the Authority's executive committee, or one or more employees of the Authority that have been designated by the Authority for the purposes of this section, may exercise the powers and duties of the Authority under subsections (1) and (2) with respect to the granting of permissions for development in or on the areas described in subsection 2 (1). O. Reg. 82/13, s. 2.

TRCA has a tradition of having permissions/ permits signed by Enforcement Officers, and these particular administrative appointments are solely for this purpose, and not intended to provide designations to enforce provisions of the Act or our regulations.

TRCA currently has a total of:

- Five (5) full time appointed Enforcement Officers
- One (1) full time Development Inspector (appointment pending)
- Ten (10) appointed Provincial Offences Officer within our Conservation Parks
- Sixteen (16) administrative appointments for the purposes of s. 3(3) of Ont. Reg. 166/06

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Attachment 2: TRCA staff appointments as Officers

1. Enforcement and Compliance Officers:

Brian Moyle, Manager, Enforcement and Compliance
Paul Nowak, Enforcement Officer
Ben Krul, Enforcement Officer
Michael Brestansky, Enforcement Officer
Christopher Cummings, Enforcement Officer
Evan MacDonald, Development Inspector (pending)

2. Provincial Offences Officers - Parks and Culture Division:

Derek Edwards, Director, Parks and Culture
Doug Miller, Senior Manager, Conservation Parks
Sven Pittlekow, Supervisor, Boyd CA and Indian Line Campground
Steve Beausoleil, Supervisor, Glen Haffy CA and Heart Lake CA
Jay Clark, Supervisor, Albion Hills CA and Campground
Stephen Lenstra, Supervisor, Petticoat Creek CA and Glen Rouge Campground
Tom Boyce, Assistant Supervisor, Petticoat Creek CA and Glen Rouge Campground
Nolan Patterson, Assistant Supervisor, Glen Haffy CA and Heart Lake CA
Brett Bond, Lead Hand, Albion Hills CA and Campground
Kyle Reyes, Lead Hand, Albion Hills CA and Campground

3. Administrative Enforcement Officers:

a. Chief Executive Officer

John MacKenzie

b. Planning and Development:

Carolyn Woodland, Senior Director, Planning and Development
Laurie Nelson, Associate Director, Planning and Policy
Steve Heuchert, Associate Director, Planning and Development
Quentin Hanchard, Associate Director, Planning and Development
Beth Williston, Associate Director, Environmental Assessment Planning
Coreena Smith, Acting Manager, Planning and Development
Mark Rapus, Senior Planner, Planning and Development
Doris Cheng, Senior Planner, Planning and Development
Adam Miller, Senior Planner, Planning and Development
Colleen Bonner, Senior Planner, Planning and Development
Jackie Burkhart, Senior Planner, Planning and Development
Sharon Lingertat, Senior Planner, Environmental Assessment Planning
Suzanne Bevan, Senior Planner, Environmental Assessment Planning
Renee Afoom-Boateng, Senior Planner, Environmental Assessment Planning
Jason Wagler, Senior Planner, Planning and Development