

### Section I – Items for Board of Directors Action

**TO:** Chair and Members of the Board of Directors  
Meeting #6/20, Friday, September 25, 2020

**FROM:** John MacKenzie, Chief Executive Officer

**RE:** **PROPOSED AMENDMENTS TO TORONTO AND REGION CONSERVATION  
AUTHORITY'S BOARD OF DIRECTORS ADMINISTRATIVE BY-LAW TO  
IMPLEMENT PROVISIONS FOR ELECTRONIC MEETINGS**

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#### KEY ISSUE

Approval of the proposed amendments to Toronto and Region Conservation Authority's (TRCA) Board of Directors Administrative By-law, as amended, to implement provisions for electronic meeting participation by Board Members and advisory board members outside of a declared Provincial and/or Municipal emergency.

#### RECOMMENDATION

**WHEREAS**, pursuant to March 26, 2020 Minister's Direction, TRCA's Board of Directors Administrative By-Law was amended on April 24, 2020, enabling TRCA to hold virtual meetings during any period where an emergency has been declared to exist in all or part of the conservation authority jurisdiction under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act (EMCPA)* in alignment with Bill 187, the *Municipal Emergency Act*;

**AND WHEREAS** the provincial emergency under section 7.0.1 of the *EMCPA* was lifted on July 24, 2020, and it is expected that municipal emergencies under section 4 of the *EMCPA* shall be lifted in the future;

**AND WHEREAS** Minister, Environment, Conservation and Parks issued an amendment to the March 26, 2020 Minister's Direction on September 10, 2020 directing conservation authorities to amend their by-laws to allow for electronic meeting participation outside of a declared Provincial and/or Municipal emergency;

**AND WHEREAS** TRCA's Board of Directors, Executive Committee, and advisory boards have successfully held electronic meetings throughout the COVID-19 declared state of emergency;

**AND WHEREAS** TRCA's Board of Directors deems it expedient to continue to permit electronic participation in the meetings of the Board of Directors, Executive Committee, and advisory boards;

**THEREFORE**, LET IT BE RESOLVED THAT the proposed amendments to sections A, C.2, C.3, C.12, and C.13 of TRCA's Board of Directors Administrative By-law, as amended, be approved;

**AND FURTHER THAT** the approved amended TRCA Board of Directors Administrative By-law be forwarded to the Minister of Environment, Conservation and Parks, and to Conservation Ontario, and be posted on TRCA's website.

### BACKGROUND AND RATIONALE

TRCA's Board of Directors Administrative By-law (henceforth "the By-law") was approved on September 28, 2018, as a requirement under section 19.1(1) of the *Conservation Authorities Act* (henceforth "the Act"), as amended. The By-law was further amended on October 24, 2020. The document did not permit electronic participation in the meetings of the Board of Directors, Executive Committee, or advisory boards.

On March 17, 2020, the Province of Ontario declared an emergency due to the outbreak of novel coronavirus (COVID-19), instructing organizations to cancel any gatherings in excess of 5 people. To mitigate the impact this declaration had on operations of conservation authorities, most of which at the time did not allow electronic meeting participation (in alignment with the *Municipal Act*), on March 26, 2020 Minister of Environment, Conservation and Parks (the "Minister") has issued the Minister's Direction pursuant to subsection 19.1(7) of the *Act*, which enabled all conservation authorities to conduct electronic meetings during an emergency declaration under section 4 or 7.0.1. of the *Emergency Management and Civil Protection Act* (*EMCPA*). Sections C.3 and C.12 of TRCA's By-law were amended accordingly at the special meeting of TRCA's Board of Directors held on April 24, 2020.

The amendment enables TRCA to conduct electronic meetings while an emergency has been declared "in all or part of an area over which the Authority has jurisdiction". The provincial emergency under section 7.0.1 was lifted on July 24, 2020; however, most municipal emergency declarations under section 4 are still in effect. TRCA's current electronic participation rules expire with the termination of the province and municipal emergency declarations. This means that once the latter of these declarations end, all Members must attend meetings of the Board of Directors, Executive Committee and advisory boards in person.

On September 10, 2020 the Minister issued an amendment to the March 26, 2020 Minister's Direction, directing conservation authorities to further amend their by-laws to allow for electronic meeting participation outside of a declared Provincial and/or Municipal emergency, if they deem such participation appropriate (Attachment 1).

As the emergencies can be expected to end before the risk of community transmission of COVID-19 has been eliminated, and potentially before a second wave of infection is expected to occur, TRCA staff believe it expedient to continue to permit electronic participation in the meetings of the Board of Directors, Executive Committee, and advisory boards, particularly as no TRCA facility can accommodate the above-mentioned meetings while ensuring proper social distancing measures. This would be consistent with the July 21, 2020 Bill 197, the *COVID-19 Economic Recovery Act* which amended the *Municipal Act* and the *City of Toronto Act* to allow City Councils to make remote meeting participation permanent. Each Municipal Clerk's Office is expected to amend their by-laws in line with Bill 197, which permits electronic participation outside of an emergency. Several municipalities within TRCA's jurisdiction have already amended their by-laws accordingly.

To enable TRCA's Board of Directors, Executive Committee, and advisory boards to conduct meetings electronically in the future, it is proposed that the By-law is amended as follows, with amendments provided in blue.

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For clarity, these are Sections A, C.2, C.3, C.12, and C.13 below:

### **Section A. Definitions**

**"Electronic Meeting"** means a meeting called and held in full or in part via electronic means (including, but not limited to, audio teleconference, video teleconference, or via means of the Internet), and with or without in-person attendance, allowing for electronic participation by Board Members.

### **Section C.2 Notice of Meeting**

(6) The *Chair* or the *Chief Executive Officer* may, if it appears that a weather event or like occurrence will prevent the *Board Members* from attending a meeting, postpone that meeting by advising as many *Board Members* as can be reached or, if warranted, hold the meeting electronically provided quorum and public participation requirements can be met. Postponement shall not be for any longer than the next regularly scheduled meeting date.

### **Section C.3 Meetings Open to Public**

(1) All meetings of the Board of Directors and Executive Committee, regardless of whether they are held in-person or electronically, shall be open to the public. When the meeting is held electronically, TRCA shall provide alternative means of public participation through electronic means.

~~(2) During any period where an emergency has been declared to exist in all or part of TRCA's jurisdiction, under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* Toronto and Region Conservation Authority shall implement best practices to make meetings of the Board of Directors, Executive Committee and advisory boards or committees open to the public in accordance with subsection 15(3) of the *Conservation Authorities Act*. Where possible, TRCA shall provide for alternative means to allow the public to participate in any meetings electronically.~~

~~(2) Subject to subsection (2), in times of technological failure (e.g., Internet outage, system crash), failure to open a meeting to the public through means of electronic meeting participation does not call the meeting into question.~~

(2) A meeting or a part of a meeting may be closed to the public if the subject matter meets the criteria for a closed meeting as defined in Section C.4 of this By-law.

(3) All meetings of the Board of Directors and Executive Committee will be webcast and be made publicly available for both live streaming and later viewing or be made similarly available using the best available technological systems, except in times of technological failure.

### **Section C.12 Electronic Participation**

(1) Electronic meetings shall be permitted during any period of time. For further clarity, any hearing or appeal that is dealt with in this By-law may be conducted electronically with provisions for applicants and their agents to participate if the Executive Committee decides to hold any such hearing or appeal as an electronic meeting. All such meetings shall be open to the public unless the meeting is closed to the public pursuant to section C.4 of this By-Law. The Clerk, in consultation with the Chief Executive Officer, may direct that a Board of Directors, Executive Committee or advisory board meeting be conducted wholly as an electronic meeting through electronic participation, via a meeting platform as determined by the Clerk.

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(2) A Board Member ~~shall not shall~~ **will be permitted to** participate electronically in any Board of Directors, Executive Committee or advisory board meeting. **A Board Member participating in a meeting electronically shall have the ability to:**

- (a) register a vote;
- (b) be counted towards determining quorum; and
- (c) participate in a meeting that is closed to the public.

(3) The Board Member or advisory board member who wishes to participate in an electronic meeting electronically shall provide the Clerk a minimum of 24 hours' notice, or as much time that is practically required to ensure appropriate preparations for an electronic meeting.

(4) Members attending an electronic meeting that is closed to the public electronically shall declare at the start of the closed session that they will maintain the confidentiality of the closed session through ensuring that they are alone and that any discussions cannot be overheard.

(5) External stakeholders and the members of the public may participate electronically in any meeting. Those, wishing to participate in the meeting electronically shall provide the Clerk a minimum of 24 hours' notice, or as much time that is practically required to ensure appropriate preparations for an electronic meeting.

(6) Electronic meetings shall be conducted in accordance with the procedures established by the Clerk for facilitating electronic participation, which will ensure the adequate communications during the meeting and allow members of the public to hear and observe meetings open to the public.

~~(2) Staff is never permitted to participate in a meeting electronically. Should the public wish to address the Board of Directors they may not participate by electronic means, except by special permission of the Chair to meet AODA requirements.~~

~~(3) During any period where an emergency has been declared to exist in all or part of TRCA's jurisdiction under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* that may prevent Board Members from meeting in person despite subsection (1), any Board Member may participate in meetings electronically and shall have the ability to:~~

- ~~(a) register a vote;~~
- ~~(b) be counted towards determining quorum; and~~
- ~~(c) participate in a meeting that is closed to the public;~~

~~(4) During any period where an emergency has been declared to exist in all or part of the TRCA jurisdiction under section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act* and any Board of Directors, Executive Committee or advisory board or committee meeting is to be conducted electronically, despite subsection (2) TRCA staff, external stakeholders and members of public may participate in the meeting electronically.~~

~~(5) During any period where an emergency has been declared to exist, in all or part of an area over which the Authority has jurisdiction, under Section 4 or 7.0.1 of the *Emergency Management and Civil Protection Act*, that may prevent the Board Members from meeting in person, any hearing or appeal dealt with in this By-law may be conducted electronically with provisions for applicants and their agents to participate if the Executive Committee decides to hold any such hearing or appeal.~~

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(7) All meetings of the Board of Directors and Executive Committee, and other meetings as directed by the Chair, will be webcast except in times of technological failure (e.g., Internet outage, system crash). Meeting recordings shall be made publicly available for later viewing. Failure to webcast or produce a recording does not call the meeting into question.

### **Section C.13 Delegations**

(1) Any person or organization shall be permitted to speak to any item on the Board of Directors, Executive Committee, or advisory board agenda, either in-person or through electronic means. In a case when TRCA offices are closed to the public, written communications will be encouraged, however a delegation through electronic means is possible by contacting the Clerk.

(2) Any person or organization who wishes to address the Board of Directors may make a request in writing by such means as designated by the Clerk. The request should include a brief statement of the issue or matter involved, the position to be taken, and indicate the name, title (if applicable) and contact information of the proposed speaker(s). If such request is received nine days in advance of a scheduled meeting, the delegation shall be listed on the regular agenda and if received three days in advance shall be listed on the added agenda. The cut-off time shall be 12:00 p.m. in each instance.

(3) Any person or organization requesting an opportunity to address the Board of Directors but not having made a written request to do so in the timelines specified above, may appear before a meeting of the Board of Directors but will be heard only if such motion is made by a Board Member at the meeting and the motion passes by the majority in attendance. If such motion passes, the Chair may immediately rule that the hearing of the delegation would be unfair or prejudicial to Board Members or other persons not present because of lack of advance notice and that the hearing of the delegation be deferred to the next meeting and listed on that agenda. The Chair's ruling may be immediately appealed by proper motion and the ruling of the meeting shall then govern. If a person or organization wish to speak to an item through electronic means and have not made a written request to do so in the timelines specified above, they shall provide the Clerk with a minimum of 24 hours' notice to have an opportunity to request consideration of their delegation. Due to technical considerations associated with the conducting the meeting electronically any requests received after such time cannot be accommodated.

(4) Delegations are limited to one meeting of either the Board of Directors, Executive Committee or advisory board, except by approval of the Chair to be heard at an additional meeting(s). This may not be applied if there is a material change in the direction of recommendations related to the item. Further, delegations will be afforded the opportunity to speak at the meeting when the decision is being made, even if they were previously allowed to speak at another meeting.

(5) Delegations shall confine their remarks to the matters on the agenda before the Board of Directors. Should the request for a delegation be in regard to a matter not currently before the Board of Directors, the Chief Executive Officer may defer hearing the matter until such time as it is before the Board of Directors or deem the delegation frivolous. Except by leave of the Chair, each delegation shall be limited to not more than two speakers, with a total time allotment limited to five minutes, for each delegation. Leave for extension may be requested in advance through the Clerk or at the meeting. When a number of people are to appear representing one interest group, it is expected that the group be represented by a maximum of two spokespersons as indicated above.

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and be allotted a total time of a maximum of five minutes, and/or submit written submissions.

(6) When the Chair believes that a large number of delegations will request an opportunity to address the Board of Directors with respect to a particular matter or matters, the Chair may summon a special meeting of the Board of Directors to deal with the particular matter or matters.

(7) If the number of delegations present wishing to address a particular matter or matters is such that the meeting will not be able to deal with its agenda properly, then, on proper motion, the particular matter or matters may be adjourned to a special meeting and, if the time, date and place of the special meeting is included in the motion, no further notice of such meeting will be required.

(8) Delegations may submit written submissions for consideration at a meeting up to the start of any meeting on which they have been approved to speak.

### **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, the amended By-law will be posted on TRCA's website and circulated to the Minister of Environment, Conservation and Parks, and Conservation Ontario.

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**Date: September 16, 2020**

**Attachments: 1**

Attachment 1: Amendment to the Minister's Direction for Conservation Authorities during the COVID-19 Outbreak