

BOARD OF DIRECTORS MEETING

Thursday, March 20, 2014

Ausable Bayfield Conservation Authority Boardroom
Morrison Dam Conservation Area

DIRECTORS PRESENT

Dave Frayne, Paul Hodgins, Burkhard Metzger, Don Shipway, Mike Tam

DIRECTORS ABSENT

Les Falconer, Lorie Scott, Ute Stumpf, Janisse Zimmerman

OTHERS PRESENT

Bob Montgomery, CKNX Radio

Grant Inglis, Solicitor

Jeremy Giles, MacNeill Edmundson Chartered Accountants

STAFF PRESENT

Andrew Bicknell, Bev Brown, Geoff Cade, Brian Horner, Kate Monk, Judith Parker, Alec Scott

CALL TO ORDER

Chair Mike Tam called the meeting to order at 2:31 p.m. and welcomed everyone in attendance.

ADOPTION OF AGENDA

MOTION #BD 20/14

Moved by Paul Hodgins

Seconded by Dave Frayne

“RESOLVED, THAT the agenda for the March 20, 2014 Ausable Bayfield Conservation Authority Board of Directors meeting be approved.”

Carried.

DISCLOSURE OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest at this meeting or from the previous meeting.

DISCLOSURE OF INTENTION TO RECORD PROCEEDINGS

None

ADOPTION OF MINUTES**MOTION #BD 21/14****Moved by Don Shipway
Seconded by Paul Hodgins**

“RESOLVED, THAT the minutes of the Board of Directors meeting held on February 20, 2014 and the motions therein be approved as circulated.”

Carried.

BUSINESS OUT OF THE MINUTES

None

PRESENTATION

Solicitor Grant Inglis provided an overview on the roles and responsibilities of a Board member. Directors come to the boardroom table wearing three different hats – as a member representing their municipality; as a director for the conservation authority and as a judge when convened as a Hearing under Ontario Regulation 147/06.

As an organization, the Authority conducts business under the *Corporations Act*. In 2010, the government proclaimed the *Not-for-Profit Act* but it has not yet been enacted by the Lieutenant Governor. The object of the *Corporations Act* and common law duties of a director are to have knowledge of the organization; act honestly and in good faith with a view to the best interests of the corporation; exercise care, diligence and skill that a reasonably prudent person would carry out in comparable circumstances. A Board member of a Not-for-Profit organization must also be diligent as a trustee responsible for funds received from donors.

A director is protected from liability in two ways. The Act allows for indemnification of a Board member who has acted in a reasonable and prudent manner. The corporation should also ensure there is sufficient Directors and Officers insurance to cover costs and damages.

When the Board convenes as a Hearing, the directors are held to the standards of a Judge. The staff are bound by policies and must present the evidence and reasons as to why the application cannot be approved. The Board of Directors hear all the evidence and reasons of the staff and the applicant in the case. There should be no further questions of the proponents outside of the Hearing and a sound and reasonable decision must be made without bias. The directors may choose to go in-camera for further deliberation before making a decision. Directors who are not in attendance at the Hearing are ‘seized of the matter’ and cannot participate in discussion or decisions concerning the application.

Prior to a Hearing, the directors are not apprised of the applicant or location of the property. Because of this, there may be occurrences when a director must declare a conflict of interest. Alternatively, the applicants are told to avoid communication with the directors before a Hearing so that all evidence can be presented fairly and equally. Chair Tam thanked Mr. Inglis for the presentation and information.

MOTION #BD 22/14

**Moved by Don Shipway
Seconded by Dave Frayne**

“RESOLVED, THAT the Board of Directors move out of the regular meeting and convene as a Hearing pursuant to Ontario Regulation 147/06 at 3:00 p.m.”

Carried.

HEARING

Pursuant to Ontario Regulation 147/06

(Development, Interference with Wetlands and Alteration to Shorelines and Watercourses)

DIRECTORS PRESENT

Dave Frayne, Paul Hodgins, Burkhard Metzger, Don Shipway, Mike Tam,

DIRECTORS ABSENT

Les Falconer, Lorie Scott, Ute Stumpf, Janisse Zimmerman

OTHERS PRESENT

Bob Montgomery, Grant Inglis, Steve Kadlecik, Ron Rupert

CALL TO ORDER

Chair Mike Tam called the Hearing, pursuant to Ontario Regulation 147/06, to order at 3:00 p.m. for consideration of Application for Permission #2014-05. The Chair welcomed those attending and Steve Kadlecik and Ron Rupert were introduced as agents for the applicant Goodison Fisheries Limited. The procedures for conducting the Hearing were stated and Chair Tam asked Andrew Bicknell, Regulations Coordinator for the Ausable Bayfield Conservation Authority to provide details on the application. Mr. Bicknell advised that the property is located at 79 River Road, Grand Bend in the Municipality of Lambton Shores. The entire property falls within the regulated flood limits and is susceptible to flooding related to adjacent river flows and high lake levels from Lake Huron. The applicant proposes to reconstruct the upper level of an existing building used for storage in the fishery business. The owner proposes to replace the sloped roof of the upper level with 8 foot walls and a new roof.

Based on the ABCA survey of the building and the calculated flood hazard, the existing ground level at the front entry of the building is 35 inches below the flood hazard level. Based on the ABCA survey of the building and the calculated flood hazard, the existing ground level at the front entry of the building is 35 inches below the flood hazard level. Flooding to this level would be associated with Lake Huron considering high lake level, wind and wave uprush over the shorewall.

ABCA policy states that *New development in the flood plain is prohibited or restricted.* ABCA policy states that new development in the flood plain is prohibited or restricted. Mr. Bicknell advised, that in the opinion of staff, the use of the building will change and become more intensive with the renovation of the 700 square foot upper level being used as habitable space. A

change in use from storage to habitable space is not supported by the *Policies and Procedures for the Administration of Ontario Regulation 14/06*.

In response to the question on why neighbouring property owners were allowed to make improvements to their buildings, Mr. Bicknell responded that the ABCA has been consistent in its approach of not supporting other applications where there is a concern of significant flooding and where a substantial increase in habitable area has been proposed. Past applications have been considered based on the specifics of the application and with other files, staff have had to consider very closely, how the use of the building would change.

Chair Tam asked Steve Kadlecik, the agent acting for Goodison Fisheries Limited to make his presentation. Mr. Kadlecik told the directors that the applicant has been in business since 1974 and owns the property next door. The lower level is used for storage of nets and the owner intends to make exterior improvements to the building as well as electrical and plumbing upgrades for the workers. The applicant does not agree that the reconstruction of the upper level is for living quarters/apartment and should not be considered as a change of use. He advised that the municipality requested they apply for a minor variance which he did not agree with because the existing footprint was not being expanded, only being raised. The minor variance was approved by Lambton Shores subject to approval of the ABCA. Mike Tam asked if anything could be done to the lower level to alleviate the flooding hazard. Andrew Bicknell responded that access to the building via River Road is also susceptible to a similar degree of flooding and that safe access to the building is a consideration. Access to the building would be significantly impeded during a flood condition.

COMMITTEE OF THE WHOLE

MOTION #BD 23/14

**Moved by Dave Frayne
Seconded by Don Shipway**

“RESOLVED, THAT the Hearing Board go into Committee of the Whole to discuss Application #2014-05 at 3:50 p.m. with Brian Horner and Judith Parker remaining in attendance.”

Carried.

MOTION #BD 24/14

**Moved by Paul Hodgins
Seconded by Don Shipway**

“RESOLVED, THAT the Hearing Board rise and report at 4:00 p.m.”

Carried.

Those attending the Hearing returned to the Boardroom and Chair Tam asked the Board if they were prepared to make a decision.

MOTION #BD 25/14**Moved by Burkhard Metzger
Seconded by Dave Frayne**

"RESOLVED, THAT the Board of Directors concur with the staff recommendation and deny Application #2014-05 pursuant to Ontario Regulation 147/06."

Carried.

ADJOURNMENT OF HEARING**MOTION #BD 26/14****Moved by Don Shipway
Seconded by Paul Hodgins**

"RESOLVED, THAT the Hearing be adjourned at 4:10 p.m. and the Board of Directors reconvene in the regular meeting."

Carried.

Steve Kadlecik and Ron Rupert left the meeting.

PROGRAM REPORTS1. (a) Development Review

Andrew Bicknell, Regulations Coordinator presented the Development Review report pursuant to Ontario Regulation 147/06 Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. Through the application process, proposed developments within regulated areas are protected from flooding and erosion hazards. Staff granted permission for three *Applications for Permission* and two *Minor Works Permits*.

1. (b) Violation/Appeals Update

Geoff Cade, Supervisor of Water & Planning reported that there were no violations at this time.

MOTION #BD 27/14**Moved by Dave Frayne
Seconded by Paul Hodgins**

"RESOLVED, THAT the Board of Directors affirm the approval of applications as presented in Program Report # 1 - Development Review."

Carried.

2. Request for use of mutual easement access

Kate Monk, Stewardship, Land and Education Manager advised that the ABCA has had a 1500 metre long right-of-way across neighbouring properties to access the Doherty Tract in the Ausable Gorge. The access is registered on title and is a non-exclusive use easement for vehicles and people. The easement area is now needed as a construction and maintenance access for the wind turbines on the adjacent landowner's property. NextEra Energy Canada has requested the ABCA confirm there is no conflict with the access easement.

MOTION #BD 28/14

**Moved by Don Shipway
Seconded by Dave Frayne**

“RESOLVED, THAT the Ausable Bayfield Conservation Authority does confirm that the access road and collection cable is not in conflict with the ABCA non-exclusive access easement to the Doherty Tract in the Ausable Gorge.”

Carried.

3. Revisions to Personnel Regulations

Brian Horner, General Manager presented revisions to Personnel Regulation #10 Hours of Work, Section 10.7 and 10.8; Personnel Regulation #12 Health & Safety; and Personnel Regulation #29 Purchasing and Quotation Procedures.

MOTION #BD 29/14

**Moved by Dave Frayne
Seconded by Paul Hodgins**

“RESOLVED, THAT the proposed revisions to the ABCA Personnel Regulations be approved as presented.”

Carried.

4. Flood Emergency Planning Meeting

Alec Scott, Water & Planning Manager provided a summary of the recent Flood Emergency Planning meeting held for member municipalities and stakeholders. Over 20 attended, including representatives from six watershed municipalities and staff/CEMC from all four counties. Presentations were given by Ian Siertsema, County of Huron on the Community Notification Program (formerly PRISM) and Jennifer Spinney, Western University on working and living the weather from a social science perspective. The attendees agreed the information session is important and should be held on an annual basis.

Audited 2013 Financial Statement

Jeremy Giles, MacNeill, Edmundson Chartered Accountants was introduced by Brian Horner and presented the draft audited 2013 financial statements for the Board’s review.

MOTION #BD 30/14

**Moved by Burkhard Metzger
Seconded by Don Shipway**

“RESOLVED, THAT the 2013 Ausable Bayfield Conservation Authority Financial Statements be approved as presented.”

Carried.

GENERAL MANAGER’S REPORT

Brian Horner provided a written report with a brief update on the progress of various projects, staff training and development, upcoming meetings and activities held over the previous month.

COMMITTEE REPORTS

MOTION #BD 31/14

**Moved by Don Shipway
Seconded by Burkhard Metzger**

“RESOLVED, THAT the Ausable Bayfield Conservation Foundation meeting held on February 10, 2014 and the motions therein be approved as presented.”

Carried.

CORRESPONDENCE

No correspondence.

NEW BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 4:42 p.m.

Mike Tam
Chair

Judith Parker
Corporate Services Coordinator

*Copies of Program Reports are available upon request.
Contact Judith Parker, Corporate Services Coordinator.*