

BOARD OF DIRECTORS MEETING

Thursday, May 20, 2021

Ausable Bayfield Conservation Authority Boardroom
Morrison Dam Conservation Area

VIA VIDEO CONFERENCE

DIRECTORS PRESENT

Ray Chartrand, Doug Cook, Adrian Cornelissen, Bob Harvey, George Irvin, Dave Jewitt, Mike Tam, Marissa Vaughan, Alex Westman

STAFF PRESENT

Geoff Cade, Abbie Gutteridge, Brian Horner, Daniel King, Mary Lynn MacDonald, Tracey McPherson, Kate Monk, Sharon Pavkeje, Nathan Schoelier, Meghan Tydd-Hrynyk

OTHERS PRESENT

Jonathan Graham, *Municipality of North Middlesex*
Adam Skillen, *Skillen Investment Management*

CALL TO ORDER

Chair Doug Cook called the virtual meeting to order at 10:01 a.m. and welcomed everyone in attendance.

ADOPTION OF AGENDA

MOTION #BD 56/21

**Moved George Irvin
Seconded by Mike Tam**

“RESOLVED, THAT the agenda for the May 20, 2021 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

Chair Cook noted that this meeting was being recorded on Zoom for temporary posting online.

ADOPTION OF MINUTES**MOTION #BD 57/21****Moved by Bob Harvey
Seconded by Ray Chartrand**

“RESOLVED, THAT the minutes of the Board of Directors meeting held on April 15, 2021 and the motions therein be approved as circulated.”

Carried.

BUSINESS OUT OF THE MINUTESShoreline Protection Policy, Dynamic Beach Areas

Geoff Cade, Manager of Water & Planning, presented an update on the proposed Shoreline Protection Policy for Dynamic Beach Areas. The intent of the proposed change would be to allow some shoreline protection even where it does not meet the current criteria of the primary structure being in imminent danger. The results of the public engagement for the proposed revisions were presented to the Board of Directors at the March 18, 2021 meeting; however, the Board postponed consideration of the matter to allow the ABCA further time to liaise with concerned parties.

The ABCA’s solicitor had discussions with the individual representing many landowners in the dynamic beach area and some progress toward a consensus was made. However, the ABCA’s solicitor and staff believe that, while the process was productive, greater consensus would not be gained by further discussion. The two parties were not able to reach consensus on the definition of maintenance, as well as the statement regarding including a peer review by a Coastal Engineer.

The wording of the proposed change that was presented in March required that accessory structures interfering with the installation of the protection were to be removed or relocated. The current proposed wording was revised to relocation only. Staff recommends that the Board approves for immediate implementation the proposed revised Development Guidelines for Shore Protection Structures as attached, and that any existing applications that were received prior to May 20, 2021 be reviewed under the new policy.

Marissa Vaughan noted that it would still be appropriate to look at applications on a site specific basis. Geoff agreed that this is how staff approach the applications, and that this policy revision would assist staff in helping applications get to a position where staff can approve the permit.

MOTION #BD 58/21**Moved by Ray Chartrand
Seconded by Mike Tam**

“RESOLVED, THAT the Board of Directors approves for immediate implementation the proposed revised Development Guidelines for Shore Protection Structures as it is shown by Figure 1 in the attached document, and

“FURTHER, THAT any existing applications which may have been received prior to May 20, 2021 be reviewed under the new policy.”

Carried.

PROGRAM REPORTS

1. (a) Development Review

Meghan Tydd-Hrynyk, Planning & Regulations Officer, 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 30 *Applications for Permission* and 20 *Minor Works Applications*.

(b) Violations/Appeals Update

Daniel King, Regulations Coordinator, advised that staff are still working on a number of violations, including some that are before the courts. At present some settlements are being discussed, and staff hope to have more information at a later date.

MOTION #BD 59/21

**Moved by George Irvin
Seconded by Marissa Vaughan**

“RESOLVED, THAT the Board of Directors affirm the approval of applications as presented in Program Report # 1 – a) Development Review.”

Carried.

2. Application Submission Requirements, Ontario Reg. 147/06

Geoff Cade provided a report on criteria requirements and process for processing applications under Ontario Regulation 147/06 *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*. While staff do their best to work with applicants to secure needed information to support an application, they often receive sporadic submissions, sometimes with days or weeks following the submission of the application form. This leads to incomplete applications, increased review time, misunderstandings and complaints. In September 2018, the Board of Directors approved an application checklist and fact sheet for applicants to use when submitting an application. However, staff rarely receive the requested information. Staff would like to request permission from the Board to prepare a report with recommendations for additional applications checklists and a policy governing the receipt of incomplete applications for permissions under Ontario Regulation 147/06.

MOTION #BD 60/21

**Moved by Dave Jewitt
Seconded by George Irvin**

“RESOLVED, THAT the Board of Directors directs staff to return with a report with recommendations for application fact sheets, check lists, and a possible protocol with respect to incomplete applications.”

Carried.

3. 2021 Stewardship Projects Summary and 2022 Stewardship Projects Update

Nathan Schoelier, Stewardship Technician, presented two reports to the Board of Directors. The first report was a summary for the 2020-2021 projects funded by the Canada Nature Fund (CNF) and EcoAction. Funds approved for projects this year funding year from CNF was \$72,124, which helped fund 53 projects. EcoAction approved \$17,123 for nine projects under the Investing in Lake Huron funding stream and \$5000 for one project under the Urban and Rural Stormwater Improvements for Lake Huron funding stream.

The second report outlined funding available through CNF and EcoAction for the 2021-2022 year. To date, one project has been approved by staff for CNF funding.

MOTION #BD 61/21

**Moved by Ray Chartrand
Seconded by Adrian Cornelissen**

“RESOLVED, THAT the reports on Stewardship project funding be received as presented.”

Carried.

4. Mystery Falls Management Area

Kate Monk, Stewardship, Lands and Education Manager, presented a report on some of the challenges with the Mystery Falls Management Area, located at 176 Elm Tree Drive in the Municipality of North Middlesex. Jonathan Graham, CAO for North Middlesex joined the meeting. This 130 acre property is one of several forested properties owned by the ABCA in the Ausable Gorge and is a provincially-significant Area of Natural and Scientific Interest. The trail system has become very popular in the past few years, and especially in the last year due to the pandemic. The hilly, forested area is owned by the ABCA, while the land surrounding the area is farmed.

There is a small parking area at Mystery Falls, which allows for approximately 10 vehicles. However, due to increased popularity of this site, visitors have been parking along Elm Tree Drive, which has sometimes blocked the roadway to the extent that farm implements cannot pass. It would be possible to increase the parking to this Management Area, from conservation area generated funds. However, as an immediate solution, this location has been removed from local trail organization and provincial websites. Staff would also like to work on additional signage for the area to direct visitors away from privately owned lands.

The Municipality of North Middlesex has asked the ABCA to close Mystery Falls to visitors. At present ABCA has a community police officer assigned to this issue, and the Municipal Enforcement Unit (MEU) employed by the ABCA has been out regularly to the site on weekends. Both Kate and Mr. Graham expressed the benefits of having a meeting with all stakeholders involved in this issue to try to come to a solution that is beneficial to all.

Mr. Graham noted that municipal staff have been doing traffic counts to the site, and typically see 25-50 vehicles on a weekday, and 70-90 vehicles on weekend days. He noted that there is no winter maintenance on this road. When asked if it would be possible for the municipality to do some roadwork to increase the road width, he noted that it would be a very costly endeavor for the municipality.

A number of other issues have arisen with this management area, including increased usage by ATVs. The ABCA does not allow ATVs on any of its lands, including the Mystery Falls Management Area. The MEU has spoken to a number of ATV drivers using this property. Hikers have also reported hearing gunshots in the area. This issue requires further investigation. Hunting is permitted in this management area, but is it not typically used by hunters.

Adrian Cornelissen thanked Kate for this report, and agreed that a stakeholder meeting would be a good next step. As an interim measure, Adrian proposed installing a temporary washroom facility at the site to accommodate the increased visitors.

MOTION #BD 62/21

**Moved by Adrian Cornelissen
Seconded by Alex Westman**

“RESOLVED, THAT the Board of Directors for the Ausable Bayfield Conservation Authority directs ABCA staff to install a temporary washroom facility at Mystery Falls Management Area as an interim measure.”

Carried.

5. Conservation Authority Act Changes – Administrative By-law Amendments

Brian Horner, General Manager and Secretary-Treasurer, presented a report outlining several changes that will need to be made to the ABCA Administrative Regulations. Three actions to demonstrate conservation authorities' commitment to governance accountability and transparency were recently endorsed in the Governance and Accountability and Transparency Initiative, led by a Steering Committee of conservation authority CAOs/GMs. These actions include updating CA Administrative By-laws in fulfillment of legislative amendments to the Conservation Authorities Act being proclaimed over the course of 2021, proactively reporting on governance accountability and transparency priorities, and demonstration results and ensuring governance material is easily accessible to the public on CA websites. It is recommended that the ABCA adopt a resolution in accordance with that of Conservation Ontario to fulfill these actions. In addition, several changes are required under the Powers of Authorities section of the ABCA Administrative Regulations to be consistent with changes to the Conservation Authorities Act. These changes are outlined in the attached report.

MOTION #BD 63/21

**Moved by Ray Chartrand
Seconded by Adrian Cornelissen**

“WHEREAS the provincial government has passed legislative amendments related to the governance of Conservation Authorities;

“AND WHEREAS the Conservation Authorities remain committed to fulfilling accountable and transparent governance;

“THEREFORE BE IT RESOLVED, THAT Ausable Bayfield Conservation Authority endorse the three key actions developed by the Conservation Ontario Steering Committee to update CA Administrative By-laws, to report proactively on priorities, and to promote/demonstrate results;

“AND, THAT staff be directed to work with Conservation Ontario to implement these actions and to identify additional improvements and best management practices, and

“FURTHER, THAT changes to the Administration Regulations wording, under Powers of Authorities section be approved as presented.”

Carried.

Chair Doug Cook recommended pausing the regular Board of Directors meeting, to begin a scheduled hearing, noting that the Board Meeting would resume following the hearing.

MOTION #BD 64/21

**Moved by Marissa Vaughan
Seconded by Alex Westman**

“RESOLVED, THAT the May 20, 2021 Board of Directors meeting be paused at 10:55 a.m. to begin a scheduled Hearing, and will resume following the conclusion of the Hearing.”

Carried.

The Board of Directors Meeting resumed at 11:42 a.m.

COMMITTEE REPORTS

MOTION #BD 68/21

**Moved by Alex Westman
Seconded by Marissa Vaughan**

“RESOLVED, THAT the minutes of the Source Protection Committee meeting held on March 24, 2021 and the motions therein be approved as circulated.”

Carried.

MOTION #BD 69/21

**Moved by Doug Cook
Seconded by Alex Westman**

“RESOLVED, THAT the minutes of the Arkona Lions Museum Management Committee meeting held on March 29, 2021 and the motions therein be approved as circulated.”

Carried.

MOTION #BD 70/21

**Moved by Ray Chartrand
Seconded by Adrian Cornelissen**

“RESOLVED, THAT the minutes of the Ausable Bayfield Conservation Foundation meeting held on March 30, 2021 and the motions therein be approved as circulated.”

Carried.

MOTION #BD 71/21

**Moved by George Irvin
Seconded by Dave Jewitt**

“RESOLVED, THAT the minutes of the Friends of the South Huron Trail meeting held May 3, 2021 and the motions therein be approved as circulated.”

Carried.

Chair Doug Cook noted that due to the hearing, the presentation from Adam Skillen that was to go ahead will be rescheduled for the next Board of Directors meeting.

CORRESPONDANCE

Reference: Notice of Termination – Exeter Gauge Management Agreement – 1989

File: A.5.5

Brief: The Municipality of South Huron has provided formal notice of the termination of the Exeter Gauge Management Agreement that was established in 1989.

Reference: MECP Regulatory Proposal Consultation Guide

File: A.7

Brief: This guidance document from Minister Yurek describes the mandatory and non-mandatory programs of conservation authorities in Ontario, as well as governance and oversight of conservation authorities. It lays out a number of requirements including an inventory of programs, as well as the requirement to establish an advisory board.

NEW BUSINESS

Brian Horner asked the Directors is they would consider beginning Board Meetings that include a Hearing at 9:30 a.m. to provide more time for regular Board Reports. All board members were amenable to that consideration.

He also noted that staff would still like to have the ABCA solicitor come to provide information on Hearings held by the Board of Directors. In relation to this, several Board members noted that they would like to receive information ahead of Hearings. This is something that can also be addressed when the solicitor provides further information to the Directors.

COMMITTEE OF THE WHOLE

None

ADJOURNMENT

The meeting was adjourned at 11:53 a.m.

HEARING
Pursuant to Ontario Regulation 147/06
(Development, interference with Wetlands and Alteration to Shorelines and Watercourses)

DIRECTORS PRESENT

Ray Chartrand, Doug Cook, Adrian Cornelissen, Bob Harvey, George Irvin, Dave Jewitt, Mike Tam, Marissa Vaughan, Alex Westman

STAFF PRESENT

Geoff Cade, Abbie Gutteridge, Brian Horner, Daniel King, Mary Lynn MacDonald, Tracey McPherson, Sharon Pavkeje, Meghan Tydd-Hrynyk, Mari Veliz, Ross Wilson

OTHERS PRESENT

Jason Brown, Marvin Mills, Leslie Myers, Peter Myers, Sal Pacifico, Richard Peever, Jacqueline Sheppard, Richard Sheppard

CALL TO ORDER

Chair Doug Cook called the virtual Hearing pursuant to Ontario Regulation 147/06, to order at 10:59 a.m. for consideration of Permit Application #2021-41. The chair welcomed the applicant and other attendees.

George Irvin declared a conflict of interest, as he was aware of this project and recused himself from the proceedings.

Chair Cook stated the procedures for conducting the Hearing and asked Meghan Tydd-Hrynyk, Planning and Regulations Officer, to provide details on the application.

Ms. Tydd-Hrynyk advised that the subject property was located at 71803 Sunview Avenue, south of Hendriks Road. The ABCA regulates the entire property due to its location on the shoreline and by a nearby ravine.

In 2010, when this property belonged to a different land owner, work began on the upper bank wall without a permit. This work was completed in 2011. The previous landowner also installed an armor stone wall at the toe of the bluff. By 2020 the armor stone was in failure due to high lake levels and several intense storms in 2019. In December of 2020, new steel shore protection was installed; however, the upper wall had slid halfway down the bank.

The current property owner has submitted a design that includes three tiers of land. This design will require significant alteration to the bank and soil movement. Staff are uncertain of how this design can be accomplished, and question the safety of construction. A former geotechnical report for this property that was completed in 2010 noted that the stable slope line was at the patio of the house. Staff have asked the applicant to submit a new geotechnical report to support the design, as they are uncertain of what the change to the bank will have on slope stability, or on neighbouring properties for stability and safety. Without this supporting report, the application is not complete and staff ask that the application be denied.

The Chair asked Sal Pacifico to present as the applicant. Mr. Pacifico reported that the list of requirements needed for the application seems long and questioned if the former owner had to go through these requirements considering the failure of the armor stone shoreline protection. He noted that his contractor told him that steel walls have never failed. Mr. Pacifico noted that the armor stone wall at the toe of the bank failed in 2019, and noted that it should not have been approved. He reported that there has been approximately 30 feet of erosion since the stone wall failed. Mr. Pacifico believes that the bank will be stable as long as the toe of the slope does not erode. He said that the terraced design consists of 6 feet high walls, and terraces that are 12 feet in depth. Mr. Pacifico said that he has not been able to find an engineer to do a geotechnical report for the property.

Mr. Cade addressed the concerns of the applicant by noting that the ABCA does not stipulate the form of the shoreline protection (*e.g.* steel walls, armor stone, etc.). He also noted that there are many examples of steel walls that have also failed as shoreline protection. Mr. Cade reminded the applicant and the Board that this Hearing was regarding the current design application, and not about the toe erosion or protection that was installed on the property in the past.

COMMITTEE OF THE WHOLE

MOTION #BD 65/21

**Moved by Ray Chartrand
Seconded by Dave Jewitt**

“RESOLVED, THAT the Board of Directors go into Committee of the Whole at 11:27 a.m. to discuss the information presented at the Hearing, with Brian Horner, Abbie Gutteridge, and Tracey McPherson remaining in attendance.”

Carried.

MOTION #BD 66/21

**Moved by Mike Tam
Seconded by Alex Westman**

“RESOLVED, THAT the Committee of the Whole rise and report at 10:38 a.m.

Carried.

Those in attendance at the Hearing were invited back into the Zoom meeting and the Chair asked the Board for a decision.

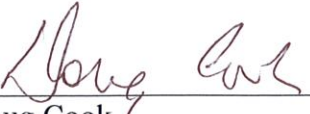
MOTION #BD 67/21

**Moved by Ray Chartrand
Seconded by Bob Harvey**

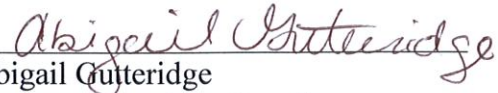
“RESOLVED, THAT the Ausable Bayfield Conservation Authority Board of Directors support the staff recommendation as presented that Application for Permission #2021-24 pursuant to Ontario Regulation 147/06 *Development, Interference with Wetlands and Alteration to Shorelines or Watercourses* be denied, as it does not meet ABCA policies and guidelines.”

Carried.

The Hearing was adjourned at 11:41 a.m. and the regular Board of Directors meeting resumed.



Doug Cook
Chair



Abigail Gutteridge
Corporate Services Coordinator

*Copies of program reports are available upon request.
Contact Abigail Gutteridge, Corporate Services Coordinator*