

Upper Thames River Conservation Authority Board of Directors'
Meeting Agenda
Tuesday October 26, 2021 at 9:30 A.M

Virtual Meeting Due to COVID-19 Pandemic

1. Approval of Agenda

Mover: A.Murray

Seconder: B.Petrie

THAT the Board of Directors approve the Agenda as posted.

2. Declaration of Conflicts of Interest

3. Minutes of the Previous Meetings: Tuesday September 28, 2021

Mover: J.Reffle

Seconder: J.Salter

THAT that the Upper Thames River Conservation Authority Board of Directors approve the Board of Directors' minutes dated September 28, 2021, including any closed session minutes, as posted on the Upper Thames River Conservation Authority web-site.

4. Business Arising from the Minutes

5. Delegations

6. Business for Approval

6.1. 2022 Draft Budget Approval – T.Annett/C.Saracino Admin #4303

Mover: M.Schadenberg

Seconder: A.Westman

THAT the Board of Directors approve the recommendation as presented in the report.

6.2. Provincial Offences Act Designations – J.Howley/J.Allain CA #9894

Mover: M.Blosh

Seconder: A.Hopkins

THAT the Board of Directors approve the recommendations as presented in the report.

- 6.3. Updates to Hearing Guidelines for Conducting Hearings Pursuant to Section 28 of the Conservation Authorities Act – J.Allain ENVP #10920
Mover: T.Jackson
Seconder: S.Levin
THAT the Board of Directors approve the recommendation as presented in the report.
- 6.4. UTRCA COVID-19 Interim Vaccination Policy – J.Howley/T.Annett
CA #9901
Mover: M.Lupton
Seconder: N.Manning
THAT the Board of Directors approve the recommendation as presented in the report.
- 6.5. Frivolous and Vexatious Complaints and Requests Policy – J.Allain
ENVP #10790
Mover: H.McDermid
Seconder: P.Mitchell
THAT the Board of Directors approve the recommendation as presented in the report.

7. Business for Information

- 7.1. Administration and Enforcement - Section 28 Status Report – J.Allain
ENVP #10910
Mover: B.Petrie
Seconder: A.Murray
THAT the Board of Directors receives the report as presented.
- 7.2. Conservation Authorities Act Phase 1 Regulations Update – T.Annett
Admin #4302
Mover: J.Salter
Seconder: J.Reffle
THAT the Board of Directors receives the report as presented.
- 7.3. 2022 Rental House Rates– A.Shivas/B.Mackie L&F #7042
Mover: A.Westman
Seconder: M.Schadenberg
THAT the Board of Directors receives the report as presented.

8. October 2021 For Your Information Report

9. Other Business (Including Chair and General Manager's Concluding Remarks)

10. Closed Session – In Accordance with Section C.13 of the UTRCA Administrative By-Law

Mover: A.Hopkins

Seconder: M.Blosh

THAT the Board of Directors adjourn to Closed Session – In Camera, in accordance with Section C.13 of the UTRCA Administrative By-Law, to discuss a proposed or pending acquisition or disposition of land by the Authority.

**10.1. A Proposed or Pending Acquisition or Disposition of Land by the Authority
A.Shivas/B.Mackie L&F #7038**

Moved by: S.Levin

Seconded by: T.Jackson

THAT the Board of Directors Rise and Report progress.

Mover: N.Manning

Seconder: M.Lupton

THAT staff be instructed to proceed in accordance with direction issued in closed session.

11. Adjournment

Mover: H.McDermid



Tracy Annett, General Manager

UTRCA

Combined and Operating Budgets DRAFT

	YTD Actual 30-Sep-21	Approved 2021 Budgets (Aug)	Proposed 2021 Budgets	% Change from approved 2021 Budgets	Notes
Funding					
General & Operating Reserve Levies	4,188,477	4,188,477	4,455,480	6.4%	Combined operating increase to levy is 6.6%
Dam & Flood Control Levy	1,625,294	1,591,062	1,703,866	7.1%	
Flood Control Capital Levy	1,168,281	1,868,892	838,226	-55.1%	
Capital Maintenance Reserve Levy	-	178,626	183,627	2.8%	
Government Transfer Payments	181,213	181,213	181,213	0.0%	Continued provincial cuts to funding
Contracts	4,504,011	5,871,508	5,182,913	-11.7%	
User Fees	3,676,973	4,094,926	4,741,226	15.8%	Fees review underway
All other incl. Deferred Revenues	1,072,950	1,318,629	1,302,204	-1.2%	Includes all deferred capital maintenance levy
Total 2022 Funding	16,417,198	19,293,333	18,588,755	-3.7%	
Expenditures					
Wages, Benefits, Per Diems	7,568,615	10,130,400	11,343,148	12.0%	Wage review underway, some staffing to be reinstated
Training, PPE, Travel Reimbursements	104,082	199,710	193,960	-2.9%	Reflects more closely experience in 2021
Legal, Audit, Insurance, Banking	360,557	433,874	471,453	8.7%	May yet need increasing
Advertising and Promotion	29,132	54,255	52,950	-2.4%	
Consulting and Services	724,466	1,094,304	1,317,419	20.4%	Includes those required for flood control projects
Computers and Communications	240,462	364,156	315,980	-13.2%	
Property, Utilities, Security	842,449	1,240,493	1,353,711	9.1%	
Contracted Services, incl. Flood Control	1,825,230	2,977,102	1,125,412	-62.2%	Includes those required for flood control projects
Supplies	471,617	1,279,696	1,274,096	-0.4%	
Flow through expenses	59,639	136,650	156,650	14.6%	
Depreciation Expense	853,491	1,148,343	1,166,263	1.6%	Many WCC fixtures now depreciated
Unallocated costs	26,219	7	1	-85.7%	
Mission centre capital costs	-	395,000	520,000	31.6%	See capital spending list next page
Total Current Expenditures	13,105,959	19,453,990	19,291,043	-0.8%	
1. Surplus (Deficit) from these budgets	3,311,239	(160,657)	(702,288)		All new funding, all new spending
Funding from Reserves	-	(387,369)	(442,950)	14.3%	Planned reserves reduction for flood control use
Desired Transfer to Reserves	-	410,473	74,192	-81.9%	Additions to reserves foreseen in these budgets
2. Net Year Effect on Equity	3,311,239	(137,553)	(1,071,046)		Increase (Reduction) of value of organization
Add back Depreciation Expense	853,491	1,148,343	1,166,263		Add expense not requiring cash
3. Cash Surplus (Deficit) from these budgets	4,164,731	987,686	463,976		Positive cash result of these budgets

2022 Budgets

DRAFT

Operating Activities

	<i>Revenues</i>	<i>Expenses</i>	<i>Total Surplus (Deficit)</i>	<i>(out of) Reserves</i>	<i>Notes</i>
Community Partnership	1,635,746	1,576,400	59,346		
Water & Information Management	2,966,052	3,303,663	(337,611)	(286,450)	Planned use of Flood Operations Reserves
Environmental Planning & Regulations	2,554,587	2,554,885	(298)		
Conservation Services	2,048,141	2,080,974	(32,833)		
Watershed Planning Research & Monitoring	964,646	1,183,380	(218,734)		
Conservation Areas	4,657,961	4,758,007	(100,046)		
Lands and Facilities	1,978,256	1,916,285	61,971		
Service Cost Centres	149,604	94,912	54,692	54,692	To operating reserve, HR and WCC reserves
Total Operations	16,954,993	17,468,506	(513,513)	(231,758)	

Capital Activities

	<i>Revenues</i>	<i>Expenses</i>	<i>Total Surplus (Deficit)</i>	<i>(out of) Reserves</i>	
Water & Information Management	1,167,500	1,302,537	(135,037)	(137,000)	Planned use of Flood Capital Reserves
Conservation Areas		150,000	(150,000)		
Organizational Capital	466,262	370,000	96,262		See listing below
Total Capital Activities	1,633,762	1,822,537	(188,775)	(137,000)	

Total Budgets

18,588,755	19,291,043	(702,288)	(368,758)
-------------------	-------------------	------------------	------------------

2022 Planned Capital Expenditures

Non-Flood Control

	Estimated Purchase Value	Estimated Life in years	Annual Operating Budget Impact
Dams maintenance boat (car topper)	10,000	10	1,000
Gator (to replace K-35)	25,000	10	2,500
Tire Changer (to replace L-41)	11,000	15	733
Wheel Balancer (to replace L-42)	14,000	15	933
Pick up for Fleet Services	55,000	10	5,500
2 Pick ups for Fanshawe	90,000	10	9,000
Pick up for Pittock	40,000	10	4,000
Replacement for Prius	40,000	10	4,000
Backhoe attachment PCA (replaces 6-103)	15,000	10	1,500
Electro Fisher	20,000	7	2,857
Technology Equipment (servers etc)	50,000	5	10,000
	370,000		42,024
Conservation Area ESA compliance project	150,000	25	6,000
Total these expenditures	520,000		48,024

2022 UTRCA Draft Municipal Levy

Current Year Operations														
Municipality	2021 CVA	2022 CVA	General Levy		Operating Reserve Levy		Dam and Flood Control Levy		Specific Project Funding		Total Municipal Operational Funding		Year over Year Increase	
			2021	2022	2021	2022	2021	2022	2021	2022	2021	2022	\$	%
Oxford County	16.7232	16.8428	677,025	726,188	5,688	5,843	260,785	282,875			943,498	1,014,906	71,408	7.6%
London City	64.2139	64.2416	2,599,644	2,769,816	21,842	22,288	1,060,981	1,131,355	106,050	109,232	3,788,517	4,032,690	244,173	6.4%
Lucan Biddulph	0.3434	0.3468	13,902	14,952	117	120	2,587	2,953			16,606	18,025	1,419	8.5%
Thames Centre	3.2227	3.1857	130,468	137,353	1,096	1,105	29,576	32,425			161,140	170,883	9,743	6.0%
Middlesex Centre	2.3789	2.3789	96,308	102,568	809	825	17,919	20,256			115,036	123,649	8,613	7.5%
Stratford	7.2867	7.2417	294,996	312,230	2,478	2,512	94,456	102,579			391,930	417,321	25,391	6.5%
Perth East	1.4489	1.4232	58,658	61,362	493	494	13,514	14,719			72,665	76,575	3,910	5.4%
West Perth	1.4898	1.4873	60,313	64,126	507	516	52,583	55,381			113,403	120,023	6,620	5.8%
St. Marys	1.458	1.4482	59,026	62,440	496	502	33,744	35,264			93,266	98,206	4,940	5.3%
Perth South	1.2295	1.2009	49,775	51,778	418	417	9,261	10,225			59,454	62,420	2,966	5.0%
South Huron	0.205	0.2028	8,299	8,744	70	70	1,544	1,726			9,913	10,540	627	6.3%
Zorra Township	0	0	-	-	-	-	8,500	8,500			8,500	8,500	-	0.0%
SW Oxford	0	0	-	-	-	-	5,610	5,610			5,610	5,610	-	0.0%
Total	100	100	4,048,414	4,311,557	34,014	34,692	1,591,060	1,703,868	106,050	109,232	5,779,538	6,159,348	379,810	6.6%

Capital Investments													
Capital Maintenance	Flood Control Capital Levy				Total Municipal Capital Funding		Year over Year Increase		Total Municipal Funding for Operations and Capital		Year over Year Increase		
	2021	2022	Structure	2021	2022	2021	2022	\$	%	2021	2022	\$	%
29,872	30,928		100,000	29,879	129,872	60,807	(69,065)	-53.2%	1,073,370	1,075,713	2,343	0.2%	
114,704	117,966	All Structures (see below)	381,156	733,348	495,860	851,314	355,454	71.7%	4,284,377	4,884,004	599,627	14.0%	
613	637				613	637	24	3.9%	17,219	18,662	1,443	8.4%	
5,757	5,850				5,757	5,850	93	1.6%	166,897	176,733	9,836	5.9%	
4,249	4,368				4,249	4,368	119	2.8%	119,285	128,017	8,732	7.3%	
13,016	13,298	RT Orr Dam		-	13,016	13,298	282	2.2%	404,946	430,619	25,673	6.3%	
2,588	2,613				2,588	2,613	25	1.0%	75,253	79,188	3,935	5.2%	
2,661	2,731	Mitchell Dam, Fullarton Dam	19,500	25,000	22,161	27,731	5,570	25.1%	135,564	147,754	12,190	9.0%	
2,604	2,659	Wildwood Dam	30,723	45,000	33,327	47,659	14,332	43.0%	126,593	145,865	19,272	15.2%	
2,196	2,205				2,196	2,205	9	0.4%	61,650	64,625	2,975	4.8%	
366	372				366	372	6	1.6%	10,279	10,912	633	6.2%	
	-	Harrington \$5K	6,500	5,000	6,500	5,000	(1,500)	-23.1%	15,000	13,500	(1,500)	-10.0%	
	-				-	-	-		5,610	5,610	-	0.0%	
178,626	183,627				537,879	838,227	305,349	42.6%	6,496,043	7,181,202	685,159	10.5%	

Fanshawe Dam	25,000	87,500
Wildwood & Pittock Dams	100,000	80,848
Erosion Control	-	300,000
London Dykes	256,156	265,000
Total London Structures	381,156	733,348

Municipality	CVA Rates						Special Benefitting Rates								Total Dam and Flood Control Levy		
			Forecasting, Planning & Tech Studies		Small Holdings		Wildwood Dam			Pittock Dam		100% Structures and Projects					
	2021	2022	2021	2022	2021	2022	%	2021	2022	%	2021	2022	2021	2022			2021
Oxford County	16.7232	16.8428	121,574	138,866	1,146	1,194	1.01	1,416	1,439	62.11	113,649	117,641	Ingersoll Channel	23,000	23,735	260,785	282,875
London City	64.2139	64.2416	466,822	529,660	4,399	4,555	83.85	118,362	119,385	36.75	67,258	69,615	Total Structures (see table below)	404,140	408,140	1,060,981	1,131,355
Lucan/Biddulph	0.3434	0.3468	2,496	2,859	24	25	0.02	29	30	0.02	38	39				2,587	2,953
Thames Centre	3.2227	3.1857	23,428	26,265	221	226	0.19	273	272	0.19	354	362	Dorchester Mill Pond and CA Dams (\$2,650 ea)	5,300	5,300	29,576	32,425
Middlesex Centre	2.3789	2.3789	17,294	19,614	163	169	0.14	201	203	0.14	261	270				17,919	20,256
Stratford	7.2867	7.2417	52,973	59,706	499	514	0.43	617	619	0.43	800	823	RT Orr Dam (\$37,329) & Channel (\$2,588)	39,567	40,917	94,456	102,579
Perth East	1.4489	1.4232	10,533	11,734	99	101	0.09	123	122	0.09	159	162	Shakespeare Dam	2,600	2,600	13,514	14,719
West Perth	1.4898	1.4873	10,831	12,263	102	105	0.09	126	127	0.09	164	169	Mitchell Dam (\$40,117) & Fullarton Dam (\$2600)	41,360	42,717	52,583	55,381
St. Marys	1.458	1.4482	10,599	11,940	100	103	14.09	19,885	20,056	0.09	160	165	St. Marys Floodwall	3,000	3,000	33,744	35,264
Perth South	1.2295	1.2009	8,938	9,901	84	85	0.07	104	103	0.07	135	136				9,261	10,225
South Huron/Usborne	0.205	0.2028	1,490	1,672	14	14	0.01	17	17	0.01	23	23				1,544	1,726
Zorra Township			-	-	-	-		-	-		-	-	Harrington & Embro Dams	8,500	8,500	8,500	8,500
SW Oxford			-	-	-	-		-	-		-	-	Centreville Dam	5,610	5,610	5,610	5,610
Total Member Municipalities	100	100	726,978	824,480	6,851	7,091	100	141,153	142,373	100	183,001	189,405		533,077	540,519	1,591,060	1,703,868

Fanshawe Dam	356,140	356,140
Springbank Dam	10,000	10,000
London Dykes/Erosion Control	38,000	42,000
Total London	404,140	408,140

To: UTRCA Board of Directors
From: Jennifer Howley, Manager, Conservation Areas
Jenna Allain, Manager, Environmental Planning and Regulations
Date: October 12, 2021
Filename: Conservation Areas #9894
Agenda #: 6.2
Subject: Provincial Offences Act Designations

Recommendation

That the Board of Directors designate Alison Miller as a Provincial Offences Act Officer for the purpose of enforcing the Trespass to Property Act and the Conservation Authority Regulations on UTRCA property, as a requirement of the position of Assistant Superintendent at Fanshawe Conservation Area, and further,

That the Board of Directors designate Cari Ramsey and Sarbjit Singh as Provincial Offences Act Officers pursuant to Section 28 of the *Conservation Authorities Act* for the purpose of administering and enforcing the Ontario Regulation 157/06, Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation.

Background

The Board of Directors appoints as Provincial Offences Act (POA) Officers those full time staff whose responsibilities include performing regulatory enforcement duties associated with Ontario Regulation 136: Conservation Areas – Upper Thames River (to be amended to O.Reg. 688/21 once proclaimed) and Ontario Regulation 157/06 made under the Conservation Authorities Act. Prior to the appointment, the individual being considered must provide proof of a clear criminal record (immediately prior to the appointment) as well as proof of training in the POA process.

Alison Miller, Assistant Superintendent – Fanshawe Conservation Area, successfully completed the Conservation Authority Compliance Training Level 1 from September 20 - October 1, 2021. Although the campgrounds close on October 17, it is important for Alison to receive her designation to fulfill fall enforcement requirements.

Alison received a Bachelor of Human Services degree in Police Studies from Georgian College and a post graduate certificate in Occupational Health and Safety from Ryerson University. She began her career at the UTRCA in 2013 as a security guard at Wildwood CA. After two seasons she transitioned to Ontario Parks as a Park Warden, before returning to the UTRCA as a Park Operations Technician at Fanshawe CA in 2016. In July, 2021, Alison took the position of Assistant Superintendant at Fanshawe CA.

In addition to Alison's eight years of work experience in parks, she also has eight years of volunteer experience as an OPP Auxiliary Constable in Perth County. Alison's background makes her a great addition to the UTRCA POA team.

Cari Ramsey and Sarbjit Singh, both Land Use Regulations Assistants at UTRCA, are responsible for assisting with the administration and enforcement of the Authority's *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation* under Section 28 of the *Conservation Authorities Act*. In the Regulations Assistant role, Cari and Sarbjit are assisting the Regulations Officer positions including issuing routine and minor permits and conducting compliance inspections. Cari and Sarbjit also participated in the Level 1 Conservation Authority Compliance training held online from September 20 – October 1, 2021, and have provided confirmation of successful course completion.

Cari Ramsey has been a part of the Environmental Planning and Regulations Unit at UTRCA for the past 20 years. Since 2006, Cari's role has been split, with half of her time spent as the Health and Safety Specialist, and the other half as a Regulations Technician. Over the summer Cari's job title was updated to reflect her new responsibilities and she moved full time into the Regulations Assistant position. Cari holds a Terrain and Water Technician and Technology diploma from Sir Sandford Fleming School of Natural Resources as well as a diploma in Occupational Health and Safety from Fanshawe College. In 2019, Cari became a Certified Inspector of Sediment and Erosion Control.

Sarbjit Singh recently joined the UTRCA as a Regulations Assistant on September 20, 2021. His position was added to increase capacity and provide support to our busy Environmental Planning and Regulations Unit. Sarbjit spent three years with the Lower Thames Valley Conservation Authority (LTVCA) before coming to UTRCA where he worked in a similar capacity assisting the planning and regulations staff, as well as supporting a variety of other LTVCA programs and services. Sarbjit has a Bachelor's Degree in Civil Engineering and a Graduate Diploma in Environmental Technology.

Recommended and Prepared by:

Jennifer Howley, Manager, Conservation Areas

Jenna Allain, Manager, Environmental Planning and Regulations

To: UTRCA Board of Directors
From: Jenna Allain, Manager – Environmental Planning and Regulations
Date: October 18, 2021
Filename: ENVP #10920
Agenda #: 6.3
Subject: Updates to Hearing Guidelines for Conducting Hearings Pursuant to Section 28 of the *Conservation Authorities Act*

Recommendation:

That the Board approves the recommended changes to the *Hearing Guidelines for Conducting Hearings Pursuant to Section 28 of the Conservation Authorities Act* for the Upper Thames River Conservation Authority.

Discussion:

The Section 28 Conservation Authorities Act Hearing Guidelines “Hearing Guidelines” were jointly released by the Ministry of Natural Resources and Forestry and Conservation Ontario (CO) in 2005 to reflect the changes to the 1998 Conservation Authorities Act and to support the implementation of the new (2006) Section 28 regulation. The Act requires that the applicant be party to a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) for an application to be refused or approved with contentious conditions. Each Conservation Authority develops their own Hearing Guidelines consistent with the CO Guidelines to provide a step-by-step process to conducting hearings. The purpose of this update to the UTRCA’s Section 28 Hearing Guidelines is to incorporate guidance on hearings related to permissions for development associated with a Minister’s Zoning Order.

Schedule 6 of Bill 229, the Protect, Support and Recover from COVID-19 Act (Budget Measures), included a number of amendments to the Conservation Authorities Act (CA Act), including a new section 28.0.1, permission for development, zoning order. Section 28.0.1 sets out the requirement for a conservation authority to issue a permission for a development activity outside of the Greenbelt Area where a zoning order (MZO) from the Minister of Municipal Affairs and Housing (MMAH) has been issued. Given the requirement for CAs to issue these permissions, the purpose for hearings associated with section 28.0.1 permissions vary from the normal procedures under Section 28 of the CA Act.

On September 27th, Conservation Ontario approved amendments to the “Section 28(3) Conservation Authorities Act Hearing Guidelines” dated September 16, 2021 (CO and MNRF, 2005 and amended 2020) to provide guidance on hearings under section 28.0.1 (7) of the Conservation Authorities Act related to permissions for development associated with a Minister’s Zoning Order. Further amendments to the CO guidelines were also approved to reflect the merging of the Local Planning Appeal Tribunal, Environmental Review Tribunal, Board of Negotiation, Conservation Review Board and Mining and Lands Tribunal into the new

Ontario Lands Tribunal. The UTRCA Hearing Guideline for Conducting Hearings Pursuant to Section 28 of the Conservation Authorities Act has been updated to reflect the amendments to be consistent with CO.

A copy of the Hearing Guideline for Conducting Hearings Pursuant to Section 28 of the Conservation Authorities Act for the UTRCA is attached with suggested revisions highlighted in yellow.

Recommended by: Tracy Annett, General Manager

Prepared by: Jenna Allain, Manager – Environmental Planning and Regulations

**HEARING GUIDELINES FOR CONDUCTING HEARINGS
PURSUANT TO SECTION 28 OF THE
CONSERVATION AUTHORITIES ACT
for the
Upper Thames River Conservation Authority**

**October 2009 – Proposed Amendments October
2021**

REVISIONS

Date	Revision
October, 2021	Amendments made to incorporate hearings under 28.0.1 and update references to the Ontario Land Tribunal (OLT)
September, 2020	Amendments to clarify procedures to be utilized for Section 28 Hearings to support electronic Section 28 hearings
August, 2018	Updated terminology 1) Replaced MNRF with Mining and Lands Tribunal 2) Replaced Hearing Board with Hearing Committee
August, 2013	Changed the name of the Committee from 'Hearings and Personnel Committee' to 'Hearing Committee'
October, 2009	UTRCA Hearing Guidelines Approved

Table of Contents

1.0	PURPOSE OF GUIDELINES FOR CONDUCTING HEARINGS	1
2.0	PREHEARING PROCEDURES	1
	2.1 Apprehension of Bias	1
	2.2 Application	2
	2.3 Notice of Hearing	2
	2.4 Presubmission of Reports	3
3.0	HEARING.....	4
	3.1 Public Hearing.....	4
	3.2 Hearing Participants.....	4
	3.3 Attendance of Hearing Committee Members	4
	3.4 Adjournments.....	4
	3.5 Orders and Directions	4
	3.6 Information Presented at Hearings.....	4
	3.7 Hearing Procedures	5
	3.7.1 Record of Attending Hearing Committee Members.....	5
	3.7.2 Opening Remarks	5
	3.7.3 Presentation of Authority Staff Information.....	5
	3.7.4 Presentation of Applicant Information.....	5
	3.7.5 Questions	6
	3.7.6 Deliberation	6
4.0.	DECISION.....	6
	4.1 Notice of Decision	6
	4.2 Adoption.....	7
5.0	RECORD.....	7
	ATTACHMENT 1.....	8
6.0	APPENDICES	13
	6.1 Appendix A: INSTRUCTIONS FOR THE APPLICANT.....	13
	6.2 Appendix B.....	15
	6.3 Appendix C	16
	6.4 Appendix D	18
	6.5 Appendix E.....	20
	6.6 Appendix F.....	21
	6.7 Appendix G	22
	6.8 Appendix H	23

1.1 PURPOSE OF GUIDELINES FOR CONDUCTING HEARINGS

The Conservation Authorities Act requires that the applicant be provided with an opportunity for a hearing party to a hearing before the local Conservation Authority Board, Executive Committee or Subcommittee of the Board (sitting and described hereinafter as a "Hearing Committee") as the case may be, for an application which has been refused or approved with contentious conditions. A permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, pollution or conservation of land, and additional erosion and dynamic beaches. The Hearing Committee is empowered by law to make a decision, governed by the Statutory Powers Procedures Act.

The Hearing Rules are adopted under the authority of Section 25.1 of the Statutory Powers Procedures Act (SPPA). The SPPA applies to the exercise of a statutory power of decision where there is a requirement to hold, or to afford the parties to the proceeding, an opportunity for a hearing before making a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority to establish rules to govern such proceedings.

It is the purpose of the The Hearing Committee shall hear and decide to evaluate the information presented at the hearing by both the Conservation Authority staff and the applicant whether the application will be approved with or without conditions or refused. the case of hearings related to applications submitted purposed to Section 28.0.1, the Hearing Committee shall determine what conditions, if any, will be attached to the permission. See **Attachment 1** for further details.

These guidelines outline the processes which form the basis by which the Upper Thames River Conservation Authority (UTRCA) conducts a hearing pursuant to Section 28 of the Conservation Authorities Act.

These guidelines are intended to assist the members of the Hearing Committee, Authority staff, applicants and other hearing participants. In summarizing the guidelines, the following key points should be noted:

1. It is essential to have all relevant information available at or prior to the hearing to allow the Hearing Committee an opportunity to be informed of the issues at hand.
2. Sufficient time must be provided to both the applicant and Conservation Authority staff to offer pertinent information and clarification through responses to questions posed by the Hearing Committee, which in turn will allow the Hearing Committee to make an informed decision.
3. The rights and responsibilities of the applicant must be properly communicated and explained prior to proceeding with a hearing.
4. Hearing procedures will be followed as described in these guidelines to help ensure consistent, fair treatment of all matters brought before the Hearing Committee. The Chair of the Hearing Committee conducts the hearing. The Conservation Authority's solicitor may be present for hearings, to provide the Hearing Committee with assistance regarding issues which may arise.

5. The appeal mechanism will be explained to the applicant in the event that the Hearing Committee resolves to deny an application.

2.0 PREHEARING PROCEDURES

2.1 **Apprehension of Bias Role of the Hearing Board**

In considering the application, the Hearing Committee is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- a) No member of the UTRCA taking part in the hearing should have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councilor, the Municipal Conflict of Interest Act applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making. ~~be involved, either through participation in committee or intervention on behalf of the applicant or other interested parties with the matter at or prior to the hearing. Otherwise, there is a danger of an apprehension of bias which could jeopardize the hearing.~~
- b) If material relating to the merits of an application that is the subject of a hearing is distributed to Hearing Committee members, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.
- c) ~~In instances where the Hearing Committee is required to hold a hearing to help it reach a determination as to whether to give permission with or without conditions or refuse a permit application, a final decision shall not be made until such time as a hearing is held.~~ The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.

2.2 Application

The right to a hearing ~~is required~~ arises where staff is recommending refusal of an application or is recommending conditions to the approval of an application. ~~where there is some indication that the Board of Directors of the UTRCA (exclusive of the members of the Hearing Committee) may not follow staff's recommendation to approve a permit or where the applicant, having received a conditional approval, objects to the conditions of approval.~~ The applicant is entitled to reasonable notice of the hearing pursuant to the Statutory Powers Procedures Act.

2.3 Notice of Hearing

The Notice of Hearing shall be sent to the applicant within sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, it is recommended that prior to sending the Notice of Hearing, the applicant be consulted to determine an agreeable date and time based on the Hearing Committee's regular meeting schedule.

The Notice of Hearing must contain or append the following:

- a) Reference to the applicable legislation under which the hearing is to be held (i.e., the Conservation Authorities Act).
- b) The time, place and the purpose of the hearing. OR for Electronic Hearings:
The time, purpose of the hearing, and details about the manner in which the hearing will be held.
- c) Particulars to identify the applicant, property and the nature of the application which are the subject of the hearing. Note: If the applicant is not the landowner, the applicant must have and provide written authorization from the registered landowner.
- d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. The reasons should contain sufficient detail to enable the applicant to understand the issues so he or she can be adequately prepared for the hearing. It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.
- e) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings. Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.
- f) Reminder that the applicant is entitled to be represented at the hearing by a [redacted] counsel, if desired. [redacted] represented at the hearing by counsel or staff.
- g) Along with the Notice of Hearing (**Appendix B**), the applicant is sent the following documents: A copy of UTRCA's Hearing Guidelines; Instructions for the Applicant (**Appendix A**); Hearing Procedure (**Appendix D**); and Rights of a Witness with Regard to Evidence (**Appendix G**)

2.4 Presubmission of Reports

It is the general practice of the UTRCA to submit reports to the Hearing Committee in advance of the hearing. The applicant also has this same opportunity. The applicant is allowed reasonable time to prepare a report once the reasons for the staff recommendations have been received. Subsequently, this may affect the timing and scheduling of the hearing.

2.5 Hearing Information

~~Prior to the hearing, the applicant shall be advised of the Hearing Committee's procedures upon request.~~

A copy of the UTRCA's Hearing Guidelines is available upon request.

3.0 HEARING

3.1 Public Hearing

Pursuant to Section 9 of the Statutory Powers Procedure Act, hearings, including electronic hearings, are required to be held in public. For electronic hearings, public attendance should be synchronous with the hearing. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal or other matters would be disclosed at hearings.

3.2 Hearing Participants

The Conservation Authorities Act does not provide for third party status at the local hearing. The hearing however is open to the public. ~~While others may be advised of the local hearing, any~~ Any information provided by third parties that they provide should be incorporated within the presentation of information by, or on behalf of, the applicant or Authority staff as appropriate.

3.3 Attendance of Hearing Committee Members

In accordance with the case law relating to the conduct of hearings, those members of the Hearing Committee who will decide whether to grant or refuse the application must be present during the full course of the hearing. If it is necessary for a member of the Hearing Committee to leave, the hearing must be adjourned and resumed when either the member of the Hearing Committee returns or if the hearing proceeds even in the event of an adjournment, only those remaining members of the Hearing Committee can continue with the hearing and render a decision. ~~who were present after the Hearing Committee member left can sit to the conclusion of the hearing.~~

3.4 Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant or UTRCA staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held.

Any adjournments form part of the hearing record. For Electronic meetings, the Board is not considered adjourned unless any member departs due to technical issues for more than 15 minutes.

3.5 Orders and Directions

The Hearing Committee is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. The UTRCA's hearing guidelines has been included as **Appendix D**.

3.6 Information Presented at Hearings

- a) The Statutory Power Procedure Act requires that a witness be informed of ~~his or her~~ their right to object pursuant to the Canada Evidence Act. The Canada Evidence Act indicates that a witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.
- b) It is the decision of the Hearing Committee as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.

- c) The Hearing Committee may authorize receiving a copy rather than the original document. However, the Hearing Committee can request certified copies of the document if required.
- d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- e) The Hearing Committee may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

A copy of the UTRCA's Rights of a Witness with Regard to Evidence is included in **Appendix G**.

3.7 Hearing Procedures

3.7.1 Record of Attending Hearing Committee Members

A record will be made of the members of the Hearing Committee.

3.7.2 Opening Remarks

The Chair should convene the hearing with opening remarks which; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the Canada Evidence Act. Please reference Appendix D for the Opening Remarks model. In an electronic hearing, all parties and the members of the Hearing Committee must be able to clearly hear one another and any witnesses throughout the hearing.

3.7.3 Presentation of Authority Staff Information

Staff of the UTRCA present the reasons supporting the recommendation for the refusal or conditions of approval of the application. Any reports, documents or plans that form part of the presentation should be properly indexed and received.

Consideration should be given to the designation of one staff member or legal counsel who coordinates the presentation of information on behalf of UTRCA staff and who asks questions on behalf of UTRCA staff.

3.7.4 Presentation of Applicant Information

The applicant has the opportunity to present information at the conclusion of the UTRCA staff presentation. Any reports, documents or plans which form part of the submission should be properly indexed and received. It is noted that all information about the application should have been provided to the Conservation Authority to assist staff with making a recommendation on the application. If new information is brought before the Hearing Committee which was not part of the application that was processed by staff, the Hearing Committee may need to adjourn the hearing to allow UTRCA staff sufficient time to review the new information.

The applicant shall present information as it applies to the permit application in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beach or conservation of land or pollution? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning.

- The applicant may be represented by legal counsel or agent, if desired
- The applicant may present information to the Hearing Committee and/or have invited advisors to present information to the Hearing Committee
- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

3.7.5 Questions

Members of the Hearing Committee may direct questions to each speaker as the information is being heard. The applicant and /or agent can make any comments or questions on the staff report.

Pursuant to the Statutory Powers Procedure Act, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. Please note that the courts have been particularly sensitive to the issue of limiting questions and there is a tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

3.7.6 Deliberation

After all the information is presented, the Hearing Committee may adjourn the hearing and retire in private to confer. The Hearing Committee may reconvene on the same date or at some later date to advise of the Hearing Committee's decision. The Hearing Committee members should not discuss the hearing with others prior to the decision of the Hearing Committee being finalized.

4.0. DECISION

The applicant must receive written notice of the decision and, if the application has been refused, should be informed of the right to appeal the decision, within 30 days upon receipt of the written decision, to Mining and Lands Ontario Land Tribunal (Section 13, Statutory Powers Procedure Act; Section 28(14) and Section 28(15), Conservation Authorities Act).

It is important that the hearing participants have a clear understanding of why the application was refused or approved. The Hearing Committee should itemize and record information of particular significance which led to their decision.

4.1 Notice of Decision

The written Notice of Decision must outline the particulars of the Decision as follows:

- (a) The names of the Hearing Committee members who participated in the decision;
- (b) The name(s) of persons who presented the UTRCA staff information;
- (c) The name(s) of persons who presented the applicant's information;

- (d) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (e) The decision to refuse or approve the application. A copy of the Hearing Committee resolution should be attached.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A Notice of Decision template is included as **Appendix H**.

4.2 Adoption

A resolution advising of the Hearing Committee's decision and particulars of the decision should be adopted.

5.0 RECORD

The UTRCA shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the ~~Mining and Lands~~ **Ontario Land** Tribunal. The record must include the following (Section 20, Statutory Powers Procedure Act):

- a) The application for the permit.
- b) The Notice of Hearing.
- c) Any orders made by the Hearing Committee (e.g., for adjournments).
- d) All information received by the Hearing Committee.
- e) ~~The minutes of the oral presentations made at the hearing~~ **Attendance of Hearing Committee members.**
- f) The decision and reasons for decision of the Hearing Committee.
- g) The Notice of Decision sent to the applicant.

**Attachment 1:
Hearings under Section 28.0.1 of the Conservation
Authorities Act
(Permission for Development, Zoning Order)**

Section 28.0.1 of the *Conservation Authorities Act* came into force with the Royal Assent of Bill applies to any application submitted to an authority under a regulation made under Section 28 of the Act for permission to carry out all or part of a development project associated with an approved Minister’s Zoning Order (MZO). For such applications, an Authority **must** grant permission to the applicant to carry out the activity, provided an MZO has been made by the Minister of Municipal Affairs and Housing, and provided that the authority’s regulated area in which the development activity is proposed to take place is not located in the Greenbelt Area designated under section 2 of the *Greenbelt Act*. A permission which is granted under s.28.0.1 may be subject to conditions as prescribed by the issuing Authority.

Understanding that an Authority **must** grant permission for applications submitted pursuant to an approved MZO (pending the above-noted conditions are met), hearings for these applications differ from those under Section 28(12) of the Act, in that a hearing **cannot** be held to determine if a permission should be refused. The Authority may refuse to grant a permit only if i) a zoning order has not been made to authorize the development project, ii) the project is proposed to be carried out in the Greenbelt Area, and iii) if all other prescribed requirements have not been satisfied. Per s.28.0.1 (7) of the Act, the applicant for a permission will be given the opportunity to be heard by the Authority prior to any conditions being attached to the granted permission.

The following table is intended to provide a step-by-step process to conducting hearings required under Section 28.0.1 (7) of the *Conservation Authorities Act*. It is recognized that much of the guidance provided in the body of the UTRCA Hearing Guidelines will be applicable to the s. 28.0.1 (7) hearing process. Where processes differ, the table outlines the necessary considerations for the s. 28.0.1 (7) processes. Where the processes are the same, the table refers to the appropriate sections of the Section 28(3) hearing guidelines.

Sections of the <i>UTRCA</i>	Specific Guidance and/or Processes for S. 28.0.1 (7) Hearings
1.0 Purpose of the Guidelines for Conducting Hearings	<p>The <i>Conservation Authorities Act</i> requires that the applicant be provided with an opportunity for a hearing by the local Conservation Authority Board, or Executive Committee (sitting and described hereinafter as a “Hearing Committee”) as the case may be, for an application to be refused or approved with contentious conditions. <u>In the case of hearings related to applications submitted pursuant to s. 28.0.1 of the Conservation Authorities Act, the Authority must grant permission to the applicant, provided the requirements set out under this section are met. In this scenario, a hearing will only be held to determine conditions which will be attached to a permission.</u></p>

Further, a permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, pollution or conservation of land, and additional erosion and dynamic beaches. In the case of applications submitted pursuant to s. 28.0.1 of the Conservation Authorities Act, the Authority may refuse to grant a permit only if i) a zoning order has not been made to authorize the development project, ii) the project is proposed to be carried out in the Greenbelt Area, and iii) if all other prescribed requirements have not been satisfied. The Hearing Committee is empowered by law to make a decision, governed by the Statutory Powers Procedures Act.

The Hearing Rules are adopted under the authority of Section 25.1 of the Statutory Powers Procedures Act (SPPA). The SPPA applies to the exercise of a statutory power of decision where there is a requirement to hold or to afford the parties to the proceeding an opportunity for a hearing before making a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority for to establish rules to govern such proceedings.

The Hearing Committee shall hear and decide whether the application will be approved with or without conditions or refused. In the case of hearings related to applications submitted pursuant to Section 28.0.1, the Hearing Committee shall determine what conditions, if any, will be attached to the permission. See Attachment 1 for further details.

These guidelines outline the processes which form the basis by which the Upper Thames River Conservation Authority (UTRCA) conducts a hearing pursuant to Section 28 of the Conservation Authorities Act.

These guidelines are intended to assist the members of the Hearing Committee, Authority staff, applicants and other hearing participants. In summarizing the guidelines, the following key points should be noted:

1. It is essential to have all relevant information available at or prior to the hearing to allow the Hearing Committee an opportunity to be informed of the issues at hand.
2. Sufficient time must be provided to both the applicant and Conservation Authority staff to offer pertinent information and clarification through responses to questions posed by the Hearing Committee, which in turn will allow the Hearing Committee to make an informed decision.
3. The rights and responsibilities of the applicant must be properly communicated and explained prior to proceeding with a hearing.

	<p>4. Hearing procedures will be followed as described in these guidelines to help ensure consistent, fair treatment of all matters brought before the Hearing Committee. The Chair of the Hearing Committee conducts the hearing. The Conservation Authority's solicitor may be present for hearings, to provide the Hearing Committee with assistance regarding issues which may arise.</p> <p>5. The appeal mechanism will be explained to the applicant in the event that the Hearing Committee resolves to deny an application.</p>
<p>2.0 Prehearing Procedures</p>	<p><u>Not applicable to S.28.0.1(7) hearings</u></p>
<p>2.1 Apprehension of Bias</p>	<p>In considering the application, the Hearing Committee is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.</p> <p>(a) No member of the UTRCA taking part in the hearing should have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councilor, the <i>Municipal Conflict of Interest Act</i> applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making</p> <p>(b) If material relating to the merits of an application that is the subject of a hearing is distributed to Hearing Committee members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.</p> <p>(c) The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.</p> <p>(d) Where a hearing is required for applications submitted pursuant to s. 28.0.1 of the Conservation Authorities Act (e.g., to determine the conditions of the permission), final decisions on the conditions shall not be made until such a time as the applicant has been given the opportunity to attend a hearing.</p>

2.2 Application	
2.3 Notice of Hearing	Refer to Section 2.3
2.4 Presubmission of Reports	Refer to Section 2.4
3.0 Hearing	Not applicable to S.28.0.1(7) hearings
3.1 Public Hearing	Refer to Section 3.1
3.2 Hearing participants	Refer to Section 3.2
3.3 Attendance of Hearing Board Members	Refer to Section 3.3
3.4 Adjournments	Refer to Section 3.4
3.5 Orders and Directions	Refer to Section 3.5
3.6 Information Presented at Hearings	Refer to Section 3.6
3.7 Hearing Procedures	N/A
3.7.1 Record of Attending Hearing Committee Members	Refer to Section 3.7.1
3.7.2 Opening Remarks	Refer to Section 3.7.2
3.7.3 Presentation of Authority Staff Information	Refer to Section 3.7.3
3.7.4 Presentation of Applicant Information	Refer to Section 3.7.4
3.7.5 Questions	Refer to Section 3.7.5
3.7.6 Deliberation	Refer to Section 3.7.6
4.0 Decision	Refer to Section 4.0
4.1 Notice of Decision	<p>The decision notice should include the following information:</p> <p>(a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.</p> <p>(b) The decision to refuse or approve the application, and in the case of applications under s. 28.0.1 of the CA Act, the decision to approve the application with or without conditions. A copy of the Hearing Board resolution should be attached.</p> <p>It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as Appendix F.</p>

4.2 Adoption	<i>Refer to section 4.2</i>
5.0 Record	<i>Refer to Section 5.0</i>
Appendix C	A new Appendix C has been prepared which provides an example "Notice of Hearing" for hearings under Section 28.0.1 (7) of the <i>Conservation Authorities Act</i> .
Appendix F	A new Appendix F has been prepared which provides an example (7) of the <i>Conservation Authorities Act</i>

6.0 APPENDICES

6.1 Appendix A: INSTRUCTIONS FOR THE APPLICANT

Conservation Authorities, including the Upper Thames River Conservation Authority (UTRCA), have enacted regulations pursuant to Section 28 of the Conservation Authorities Act. Section 28(12) of the Act requires that an applicant be party to a hearing by the local Conservation Authority Board, Executive Committee or Subcommittee of the Board. In the case of the UTRCA, a Subcommittee of the Board, serves as the Hearing Committee. The Hearing Committee is an Administrative Tribunal within the definitions of the Statutory Powers Procedure Act. It is the purpose of this Hearing Committee to evaluate the information presented at the hearing by both the Conservation Authority staff and the applicant and to decide whether the application will be approved or refused.

The applicant has several responsibilities to bear in mind in proceeding to a hearing. To assist with this process, the UTRCA has provided you with the following documents:

- a) Notice of Hearing
- b) Hearing Procedure
- c) Rights of a Witness with Regard to Evidence

Well in advance of the scheduled hearing, please read this information. The **Notice of Hearing** refers to the jurisdiction and regulation(s) involved in the matter, the name of the applicant, when the hearing is scheduled to take place and where it will occur. It also asks the applicant to confirm that he/she or an agent will be able to attend on the scheduled date. Please respond by the time indicated on this Notice, which will have been either hand-delivered as part of this package or forwarded via Registered Mail.

The enclosed **Hearing Procedure** outlines the actual hearing process and the sequence of steps that the Chair will be obligated to follow. If you have any questions regarding this process, please contact the Conservation Authority at your earliest convenience. Note that upon conclusion of the hearing, the Hearing Committee will then adjourn the hearing to confer in private and will then reconvene shortly to either render its decision or announce the time and date when the Hearing Committee will reconvene to announce its decision or will forward its written decision.

On the single page entitled, **Conservation Authority Hearings - Rights of a Witness with Regard to Evidence**, an explanation is given for those who will be in a position to present information during the hearing. This page also cites the relevant statutes which apply in these matters, noting in particular that hearings such as this are governed by the Statutory Powers Procedure Act.

It is noted that all information about an application should have been provided to the Conservation Authority to assist staff with making a recommendation on the application. If new information is brought before the Hearing Committee which was not part of the application that was processed by staff, the Hearing Committee may need to adjourn the hearing to allow UTRCA staff sufficient time to review the new information. Similarly, staff should make all information that it intends to utilize in the hearing available to the applicant prior to the hearing.

Following the hearing, you will be formally advised of the Hearing Committee's decision with a **Notice of Decision**. This Notice will include the following information:

- (a) The names of the Hearing Committee members who participated in the decision;
- (b) The name(s) of persons who presented the UTRCA staff information;
- (c) The name(s) of persons who presented the applicant's information;
- (d) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (e) The decision to refuse or approve the application. A copy of the Hearing Committee resolution should be attached.

If the decision is to **deny** the application, the Notice also explains that you have the right to appeal the decision to the Mining and Lands Tribunal **within 30 days of receipt of the Notice**. The Conservation Authority will be prepared to provide you with information on how to make proper notification with the Mining and Lands Tribunal if necessary.

If, upon reviewing all of the information provided in the enclosed package you have any questions, you are encouraged to contact the Upper Thames River Conservation Authority at your earliest convenience.

UPPER THAMES RIVER CONSERVATION AUTHORITY

6.2 Appendix B

NOTICE OF HEARING

IN THE MATTER OF

The Conservation Authorities Act, R.S.O. 1990, Chapter C. 27 As Amended;

AND IN THE MATTER OF

An Application By: (***applicant***)

For the permission of the Upper Thames River Conservation Authority pursuant to Regulations made under Section 28, subsection 12 of said Act.

TAKE NOTICE that a hearing before Hearing Committee of the Upper Thames River Conservation Authority will be held under Section 28 of the Conservation Authorities Act at the offices of said Authority at the UTRCA Administration Office, 1424 Clarke Road, London, Ontario N5V 5B9 at the hour of (***time***) on (***date***) [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (***applicant***) to permit development within an area regulated by the Upper Thames River Conservation Authority under Ontario Regulation 157/06 - *Development, Interference with Wetlands and Alterations to Shorelines and* made pursuant to Section 28 of the Conservation Authorities Act on (***location of property***)

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Hearing Committee for the meeting of (***meeting number***). If you intend to appear, [For electronic hearings, or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact (name).] Written material will be required by (date), to enable the Committee members to review the material prior to the meeting.

AND FURTHER TAKE NOTICE that if you do not attend at this Hearing, the Hearing Committee may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

PLEASE NOTIFY THIS OFFICE by (***notification date***) as to whether you and/or your agent will be attending. A copy of Ontario Regulation 157/06 and Section 28 of the Conservation Authorities Act will be made available to you upon request.

DATED the _____ day of _____, _____.

Registered

The Hearings Committee of
The Upper Thames River Conservation Authority

Tracy Annett, General Manager/Secretary-Treasurer

6.3 Appendix C

NOTICE OF HEARING

(Subsection 28.0.1 (7) of the *Conservation Authorities Act*)

IN THE MATTER OF

The Conservation Authorities Act, R.S.O. 1990, Chapter 27

AND IN THE MATTER OF

For the permission of the Upper Thames River Conservation Authority pursuant to Regulations made under Section 28.0.1, Subsection 7 of the said Act

TAKE NOTICE THAT a Hearing before the Hearing Committee of the Upper Thames River Conservation Authority will be held under Section 28.0.1, Subsection 7 of the Conservation Authorities Act at the offices of the said Authority at the UTRCA Administration Office, 1424 Clarke Road, London, Ontario N5V 5B9, at the hour of , **on the day of , 2020**, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (**NAME**) to permit development within an area regulated by the Upper Thames River Conservation Authority under Ontario Regulation 157/06 - *Development, Interference with Wetlands and Alterations to Shorelines in association with a Minister's Zoning Order (REGULATION NUMBER)* on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written [For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact (**name**). Written material will be required by (**date**), to enable the Committee members to review the material prior to the meeting.

TAKE NOTICE THAT pursuant to Section 28.0.1 of the *Conservation Authorities Act*, the Upper Thames River Conservation Authority is required to grant the permission applied for and may only impose conditions to the permission. The Hearing will therefore focus on the conditions to be imposed to the granting of the permission.

TAKE NOTICE THAT this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

AND FURTHER TAKE NOTICE that if you do not attend at this Hearing, the Hearing Committee may proceed in your absence and you will not be entitled to any further notice in the proceedings.

PLEASE NOTIFY THIS OFFICE by (*notification date*) as to whether you and/or your agent will be attending. A copy of Ontario Regulation 157/06 and Section 28 of the Conservation Authorities Act will be made available to you upon request.

DATED the _____ day of _____, _____.

Registered _____ The Hearings Committee of
The Upper Thames River Conservation Authority

Tracy Annett, General Manager/Secretary-Treasurer

6.4 Appendix CD

HEARING PROCEDURES

- a) Motion to sit as Hearing Committee.
- b) The Chair asks if any of the Hearing Committee members have any conflicts to declare related to the hearing.
- c) Roll Call followed by the Chair's opening remarks. For electronic hearings, the Chair shall ensure that all parties and the Hearing Committee are able to clearly hear one another and any witnesses throughout the hearing.
- d) Staff will introduce to the Hearing Committee the applicant/owner, their agent and others wishing to speak.
- e) Staff will indicate the nature and location of the subject application and the conclusions.
- f) Staff will present the staff report included in the agenda.
- g) The applicant and/or their agent will present their material.
- h) Staff and the conservation authority's agent may question the applicant and/or their agent if reasonably required for a full and fair disclosure of matters presented at the hearing.¹
- i) The applicant and/or their agent may question the conservation authority staff and/or their agent if reasonably required for full and fair disclosure of matters presented at the Hearings.²
- j) The Hearing Committee will question, if necessary, both the staff and the applicant/agent.

The Hearing Committee will move into **closed session deliberation**. For Electronic meetings, the Hearing Committee will separate from other participants for deliberation.

- i. In the event that the Hearing Committee is able to make a decision within a reasonable length of time, the Hearing Committee will reconvene the hearing and announce its decision.
 - ii. In the event that the Hearing Committee wishes more time within which to consider its decision, the hearing will be adjourned and the applicant and staff will be advised that a decision will be made by the Hearing Committee, which decision will be communicated to both the applicant and staff.
- k) Members of the Hearing Committee will move and second a motion.

¹ As per the Statutory Powers Procedure Act a tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

² As per the Statutory Powers Procedure Act a tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

- l) A motion will be carried which will culminate in a decision.
- m) In all events, the Chair or Acting Chair of the Hearing Committee will advise the staff and the applicant/owner of the Hearing Committee's decision in writing.
- n) If decision is "to refuse", or "approve with conditions", the Chair or Acting Chair shall notify the owner/applicant of his/her right to appeal the decision to the Mining and Lands Ontario Land Tribunal within 30 days of receipt of the reasons for the decision.

6.5. Appendix E

CHAIR'S REMARKS WHEN DEALING WITH HEARINGS (Section 28, Subsection 12 of the Conservation Authorities Act) WITH RESPECT TO ONTARIO REGULATION 157/06

We are now going to conduct a hearing under section 28 of the Conservation Authorities Act in respect of an application by _____: , for permission to: _____

The Authority has adopted regulations under section 28 of the Conservation Authorities Act which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse affect on (the control of flooding, erosion, dynamic beaches or pollution or conservation of land) or to permit alteration to a watercourse or interference with a wetland.

The Authority staff have reviewed the application and supporting information and provided the applicant with a response and made arrangements for this hearing to be scheduled. A staff report has been prepared and provided to the Hearing Committee members and the applicant as part of this hearing. The applicant was invited to file material in response to the staff report, a copy has which has also been provided to the Hearing Committee.

Under Conservation Authorities Act (12 the person requesting permission has the right a hearing before the Hearing Committee.

In holding this hearing, the Hearing Committee is to determine whether or not a permit is to be issued, with or without conditions. In doing so, the Hearing Committee can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation.

If the applicant has any questions to ask of the Hearing Committee or of the Authority representative, they must be directed to the Chair.

6.6. Appendix F

CHAIR'S REMARKS WHEN DEALING WITH HEARINGS (Section 28.0.1, Subsection 7 of the Conservation Authorities Act) WITH RESPECT TO ONTARIO REGULATION 157/06

We are now going to conduct a hearing under section 28.0.1 of the Conservation Authorities Act in respect of an application by _____, for permission to: _____

Under Section 28.0.1 of the Conservation Authorities Act, an Authority is required to grant permission for any application submitted under a regulation made under subsection 28(1) for permission to carry out all or part of a development project, in an area regulated by the Authority, associated with a Minister's Zoning Order, provided the criteria listed under subsection 28.0.1 (1) are met. A permission is subject to any conditions as may be prescribed by the Authority.

The Staff has reviewed this proposed work and prepared a staff report, including the proposed conditions of approval for the proposed work, which has been given to the applicant and the Hearing Committee. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Hearing Committee.

Under Section 28.0.1 (7) of the Conservation Authorities Act, the person requesting permission has the right to a hearing before the Authority/Executive Committee.

In holding this hearing, the Hearing Committee is to determine the prescribed conditions to be attached to the approved permission. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only Information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Committee or of the Authority representative, they must be directed to the Chair.

6.5 Appendix **D-G**

Rights of a Witness with Regard to Evidence

For your benefit and for the benefit of any other witnesses that may be called at this hearing, the Authority points out that this type of hearing is governed by the provisions of a statute called the Statutory Powers Procedure Act. Under that Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of his oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and can not affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness as this tribunal has no knowledge of the effect of any evidence that a witness may give.

September 2009

UTRCA

6.6 Appendix **E-H**

NOTICE OF DECISION
IN THE MATTER OF

The Conservation Authorities Act, R.S.O. 1990, Chapter C. 27 as amended;
AND IN THE MATTER OF

An Application by: **(applicant name)**

For the permission of the Upper Thames River Conservation Authority pursuant to Regulations made under Section 28 of this said Act to:

(purpose and nature of the initial application, plus location of property)

TAKE NOTICE THAT In accordance with the requirements of the Conservation Authorities Act the Upper Thames River Conservation Authority provides the following Notice of Decision: On, on (date of Initial hearing. The Hearing Committee refused/approved your application/ approved your application with conditions.

Members of the Hearing Committee Present:

Hearing Participants:

DECISION

MINUTES, HEARING COMMITTEE MEETING # (meeting #) HELD

“Resolved

A copy the Hearing Committee’s resolution # has been attached for your records. Please note that this decision is based on the following reasons: **(the proposed development/alteration to a watercourse adversely affects the control of flooding, erosion, dynamic beaches or pollution or interference with a wetland or conservation of land).**

AND FURTHER TAKE NOTICE THAT In accordance with Section 28 (15) of the Conservation Authorities Act, an applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under subsection (14), appeal to the Minister who may refuse the permission; or grant permission, with or without conditions. For your information, should you wish to exercise your right to appeal the decision, a letter by you or your agent/counsel setting out your appeal must be sent within 30 days of receiving this decision addressed to:

Environment & Land Tribunals Ontario

Tribunal

655 Bay Street Suite 1500

Toronto, Ontario M5G 1E5

Attention: Daniel Pascoe, Registrar/Mediator

A carbon copy of this letter should also be sent to this conservation authority. Should you require any further information, please do not hesitate to contact **(staff contact)** or the undersigned.

DATED the _____ day of _____, _____.

Registered

**The Hearing Committee of
The Upper Thames River Conservation Authority**

Tracy Annett, General Manager/Secretary-Treasurer

Enclosure

To: UTRCA Board of Directors
From: Tracy Annett, General Manager
Jennifer Howley, Manager, Conservation Areas
Date: October 11, 2021
Filename: CA #9901
Agenda #: 6.4
Subject: UTRCA COVID-19 Interim Vaccination Policy

Recommendation: That the Board of Directors approves the COVID-19 Interim Vaccination Policy for all UTRCA employees as defined in the policy.

The Upper Thames River Conservation Authority (UTRCA) is committed to protecting employees and others from hazards in the workplace, including infectious and vaccine preventable diseases and to maintaining a protected workforce. Under the Occupational Health and Safety Act and through the Internal Responsibility System, all workplace parties have a duty to keep the workplace safe, this includes taking every reasonable precaution in the circumstances to protect the worker (OHSA, Section 25(2)(h)).

On September 3, 2021, the Middlesex-London Health Unit's Medical Officer of Health issued a [letter of recommendation](#) to employers and business operators, calling on all businesses to implement workplace COVID-19 vaccination policies, requiring all employees, volunteers, and contractors who have in-person interactions to be vaccinated against COVID-19, with exceptions accommodated under exempted medical conditions and other protected grounds under the Ontario Human Rights Code.

Throughout the pandemic, staff has been consistent in adhering to the provincial acts and regulations associated with the pandemic and relying on direction from public health officials which resulted in the Framework for Resuming Operations. Similar to the Framework for Resuming Operations, updates to this policy may be needed as direction from the province and public health require. The development of the Interim Vaccination Policy followed that same extensive review of provincial and health official direction while at the same time exploring policies adopted by municipalities within the watershed and other conservation authorities. Legal advice was also sought to ensure the policy is not in contravention of employment standards.

Recommended and Prepared by:
Tracy Annett, General Manager
Jennifer Howley, Manager, Conservation Areas

Upper Thames River Conservation Authority

INTERIM COVID-19 VACCINATION POLICY

POLICY STATEMENT

The Upper Thames River Conservation Authority (UTRCA) is committed to implementing and maintaining a health and safety program at all levels of its operation, to a standard not less than that required by the Ontario Occupational Health and Safety Act (OHSA), RSO 1990, and all other applicable regulations and legislation.

The UTRCA is also committed to adhering to public health guidance at all times, and has an obligation under the OHSA to take all necessary precautions to protect the health and safety of its workers.

A mandatory workplace vaccination policy is an important measure to help reduce the risk of COVID-19 transmission. The policy complements other workplace health and safety measures, including daily health screening, mandatory masking, physical distancing, hand hygiene, and enhanced cleaning.

This policy is in line with public health guidance and supports the directive that vaccines provide a high level of protection against COVID-19 and related variants. Receiving the COVID-19 vaccine is the best defense against the virus including the Delta variant.

The UTRCA is demonstrating its commitment to promoting vaccinations to ensure the health and safety of all members of the workforce and broader watershed that we serve.

PURPOSE

To ensure that UTRCA employees are fully vaccinated against COVID-19 to minimize their risk of infection and to reduce the risk of transmission to others.

APPLICATION

This policy applies to all UTRCA employees and workers on company premises where the UTRCA has any duties as the employer as defined by the OHSA. New employees and employee promotions will be subject to this policy as a condition of their employment contract with the UTRCA.

This policy requires employees to be fully vaccinated against the COVID-19 virus and to complete any subsequent doses, unless otherwise provided for in this policy, and requires employees to provide acceptable proof of vaccination.

EXEMPTIONS

The UTRCA recognizes its duty to accommodate employees who are unable to receive a vaccine(s) due to a medical reason or due to any relevant Ontario Human Rights Code (OHRC) protected grounds, to the point of undue hardship. Employees who are unable to

receive a vaccine(s) due to either of the above will be required to provide proof of exemption from vaccination.

DEFINITIONS

Company Business: All activities related to UTRCA operations, whether conducted on or off company premises. It does not include work performed remotely at an employee's place of residence.

Company Premises: Includes but is not restricted to all land, property, structures, installations, vehicles, and equipment owned, leased, operated, used, or otherwise controlled by the UTRCA for conducting company business.

COVID-19: A virus in the coronavirus family, which also includes the common cold virus as well as more severe diseases such as Severe Acute Respiratory Syndrome (SARS) and Middle East Respiratory Syndrome (MERS-COV), among others. The virus that causes COVID-19 is a novel coronavirus, officially designated as SARS-CoV-2.

COVID-19 Rapid Antigen Testing: A test that detects specific proteins on the surface of the virus. The test typically provides results within one hour and may be performed by an employee at their place of residence.

Education Program: An educational program approved and/or provided by the UTRCA with the following learning components:

- How COVID-19 vaccines work,
- Vaccine safety related to the development of the COVID-19 vaccines,
- Benefits of the vaccination against COVID-19,
- Risks of not being vaccinated against COVID-19,
- Possible side effects of COVID-19 vaccination.

Employee: For the purpose of this policy, defined as a full time staff member, seasonal staff member, long term/short term contract position, volunteer, or contractor/consultant completing company business on/within company premises.

Fully Vaccinated: A person who has received the full series of a COVID-19 vaccine or combination of COVID-19 vaccines approved by Health Canada or the World Health Organization (e.g., 2 doses of a two dose vaccine series, or 1 dose of a single dose vaccine series); AND received the final dose of the COVID-19 vaccine at least 14 days prior to providing proof of vaccination.

Proof of Vaccination: Documentation issued by the Ontario Ministry of Health or another province, territory, or country, indicating full vaccination status against the COVID-19 virus.

Proof of Exemption from Vaccination:

1. Written proof of medical reason, provided by a physician or nurse practitioner, that states: (a) a documented medical reason for the employee not being fully

vaccinated against COVID-19, and (b) the effective time period for the medical reason.

OR

2. A written request for a COVID-19 Vaccine Exemption due to a Relevant Human Rights Protected Ground, including a description of the employee's need for protection and accommodation.

Unvaccinated: For the purpose of this policy, someone who has not provided proof of full vaccination or proof of exemption from vaccination, as defined above.

Vaccine: For the purpose of this policy, a vaccine approved by Health Canada or the World Health Organization for use in relation to COVID-19.

VERIFICATION PROCEDURE

The following applies to the UTRCA Mandatory COVID-19 Vaccination Policy:

1. Mandatory COVID-19 Vaccinations

All UTRCA employees are required to be fully vaccinated and to receive any boosters that are subsequently recommended, in order to access company premises and conduct company business.

UTRCA employees who have provided proof of exemption from vaccination will only be permitted to access company premises for the purposes of company business if they submit to regular antigen testing for COVID-19 and demonstrate negative results.

2. Providing Proof of COVID-19 Vaccination Status

Employees are required to provide proof of their vaccination series, approved by Health Canada or the World Health Organization, by showing a copy of their Ontario Ministry of Health COVID-19 Vaccination Receipt to Human Resources (HR) staff prior to Friday, November 26, 2021. HR will not retain a copy of the receipt but will document the date when the employee received the second dose on a master spreadsheet.

3. Providing Proof of an Approved Exemption and Accommodation

The UTRCA is committed to a workplace free from discrimination and harassment in accordance with Ontario human rights laws. The UTRCA will accommodate individuals from the application of this policy who qualify due to a medical reason or one or more of the protected grounds of discrimination in the Human Rights Code up to the point of undue hardship.

Individuals seeking accommodation are required by law to self-identify the specific prohibited ground of discrimination they believe vaccination would infringe upon and

participate in the accommodation process, including but not limited to providing information to establish the existence of a protected ground, related restrictions, and possible methods for accommodation. This information must be provided in writing by November 26, 2021. HR will retain a copy as part of the employee's personnel file.

To discuss possible exemptions and related accommodations under this policy, eligible individuals should contact their immediate supervisor/manager or General Manager.

The Ontario Human Rights Commission (OHRC) policy statement on COVID-19 vaccine mandates and proof of vaccine certificates, dated September 22, 2021 stated the following:

“While receiving a COVID-19 vaccine remains voluntary. At the same time, the OHRC's position is that a person who chooses not to be vaccinated based on personal preference does not have the right to accommodation under the Code. The OHRC is not aware of any tribunal or court decision that found a singular belief against vaccinations or masks amounted to a creed within the meaning of the Code. While the Code prohibits discrimination based on creed, personal preference or singular beliefs do not amount to a creed for the purpose of the Code. “

4. Unvaccinated Employees

Employees that have not provided proof of vaccination or acceptable proof of exemption from vaccination by November 26, 2021 will be deemed unvaccinated and, therefore, in contravention of this policy.

Effective November 26, 2021, unvaccinated employees will face disciplinary action which could ultimately lead to termination. They will be placed on unpaid leave or will use vacation and/or banked time until further notice.

Unvaccinated employees are required to participate in a vaccine education program provided electronically by the UTRCA. Unvaccinated employees will have until December 3, 2021 to provide written documentation via email that they have watched the education program.

If an unvaccinated employee decides to become vaccinated following the November 26, 2021 deadline, they must provide proof of their first vaccination dose to HR by December 23, 2021. To be deemed fully vaccinated as defined in this policy, the employee must provide proof of full vaccination by January 24, 2022.

If by January 25, 2022, any unvaccinated employee have still failed or refused to provide proof of full vaccination to HR, their supervisor/manager or General Manager will review the situation and at their discretion decide whether to:

- a. Place the employee on unpaid leave for a period of up to four weeks to allow the employee to reconsider their position following which a decision will be made as to their ongoing employment at the Authority;
- b. Deem the employee unavailable for work and terminate the employment of the employee; or
- c. Make such other determination as is appropriate in order to best protect the employees of the Authority and the public.

5. COVID-19 Rapid Antigen Testing

Employees who have provided proof of exemption from vaccination will be required to complete regular COVID-19 Rapid Antigen Testing prior to attending company premises.

The frequency of testing for such an employee will vary depending on how often they will be on company premises. For example, an employee who is on company premises on a daily basis must complete testing three times per week, e.g., Monday, Wednesday and Friday. An employee who is working from home and is only accessing the company premises on an occasional basis must complete testing prior to each visit to company premises.

The UTRCA will provide test kits for these employees to test themselves at their place of residence, as well as a copy of [Ministry of Health COVID-19 Guidance: Considerations for Rapid Antigen Screening](#) which includes training.

Employees must be aware of the following:

- Rapid antigen testing is used for screening purposes only and should NOT be used for diagnosis of acute COVID-19 infection.
- Testing does not prevent someone from getting COVID-19.
- Rapid antigen screening is an additional screening tool. It does not replace public health measures such as symptom screening, physical distancing, masking, and hand hygiene.
- Rapid antigen screening does not replace requirements to protect the health and safety of workers.
- Any positive results from rapid antigen screening must be confirmed with laboratory-based testing.

Employees that are deemed unvaccinated are not permitted to use Rapid Antigen Testing as an alternative to vaccination.

RESPONSIBILITIES AND CONTINUED ADHERENCE TO PUBLIC HEALTH MEASURES

All levels of UTRCA management are responsible for the administration of this policy in accordance with applicable law.

Individuals are responsible for compliance with this policy and shall comply with all the applicable legal obligations in doing so, including with respect to public health measures such as physical distancing where possible, wearing a mask, and staying home when sick.

Employees must adhere to UTRCA health and safety protocols and standard operating procedures at all times while on company premises including handwashing, physical distancing where possible, and using personal protective equipment as required by their position or task.

REVIEW AND AMENDMENTS

The UTRCA will review this policy and update it as required and reasonable in response to changes in the pandemic, vaccine availability, and/or government and public health direction.

To: UTRCA Board of Directors
From: Jenna Allain, Manager, Environmental Planning and Regulations
Date: October 15, 2021
Filename: ENVP #10790
Agenda #: 6.5
Subject: Frivolous or Vexatious Complaints and Requests Policy

Recommendation

That the UTRCA Board of Directors approves the proposed Frivolous or Vexatious Complaints and Requests Policy.

Purpose

The purpose of this policy is to address frivolous, vexatious or unreasonably persistent requests or complaints that consume a disproportionate amount of staff time and resources and impede staff from attending to other essential issues. This policy establishes the process to be used by all staff when handling such requests or complaints. Actions taken pursuant to this policy will ensure that staff resources are used effectively and efficiently, while maintaining a high level of service delivery and responsiveness.

This policy will guide staff to identify situations that meet the criteria of frivolous, vexatious or unreasonably persistent, and the associated actions that may be taken in such circumstances. The aim of this policy is to contribute to UTRCA's commitment to service delivery and good governance by addressing all requests and complaints equitably and efficiently, while acknowledging that there may be a need to protect staff from unreasonable behavior. This policy is not being proposed to replace, but rather be in addition to, UTRCA's Workplace Violence and Harassment Policy contained within UTRCA's Personnel Regulations. Frivolous or vexatious complaints and requests may also be considered harassment and therefore, both policies may apply.

For immediate threats to persons or property, 911 should be contacted.

Scope

This policy is not intended to deal with generally difficult requests or complaints. This policy applies to frivolous, vexatious or unreasonably persistent requests or complaints. Deciding whether a request or complaint is frivolous, vexatious or unreasonably persistent, is a flexible balancing exercise, taking into account all the circumstances of the situation. There is no rigid test or criteria in deciding whether a request or complaint is frivolous, vexatious or unreasonably persistent. The key question is whether there is a pattern of conduct likely to cause distress, disruption or irritation, without proper or justified cause.

The decision to classify a subject person's behaviour as unreasonable, or to classify a request or complaint as frivolous or vexatious, could have serious consequences for the subject person, including restricting their access to UTRCA services.

The decision may be made as a result of a repeated pattern of conduct when, on multiple occasions, the subject person engages in one or more behaviours or actions identified as unreasonable, frivolous or vexatious. This does not preclude a single significant incident from being considered under this policy.

Definitions

Frivolous - means a complaint or request that is reasonably perceived by UTRCA staff to be (a) without reasonable or probable cause, (b) without merit or substance, or (c) trivial;

Vexatious - means a complaint or request which is pursued in a manner that is reasonably perceived by UTRCA staff to be (a) malicious, (b) intended to embarrass or harass the recipient, or (c) intended to be a nuisance

Examples of Frivolous, Vexatious or Unreasonably Persistent Requests or Complaints

Examples of what would be considered frivolous, vexatious or unreasonably persistent requests or complaints are provided below. The list is not exhaustive, nor does a singular action set out below necessitate the application of this policy.

- Complaints concerning an issue which staff have already reviewed and determined to be groundless.
- Complaints concerning an issue which is substantially similar to an issue which staff have already reviewed and determined to be groundless (e.g. with respect to the same person or same property).
- Unreasonable conduct which is abusive of the complaints process, including, but not limited to:
 - harassing, verbally abusing or otherwise seeking to intimidate staff dealing with a complaint;
 - excessive or multiple lines of enquiry regarding the same issue (e.g. pursuing a complaint with staff in multiple UTRCA departments and/or a board member simultaneously) while a complaint is in the process of being reviewed;
 - repeatedly challenging the findings of a complaint review, complaining about the outcome and/or denying that an adequate response has been given;
 - refusing to accept that an issue falls outside the scope of the UTRCA's jurisdiction;
 - making unreasonable demands on staff by, for example, insisting on responses to complaints and enquiries within an unreasonable time-frame;
 - making statements or providing representations that the subject person knows or ought to know are incorrect, or persuading others to do so;
 - demanding special treatment from staff;

- not following the normal process and immediately demanding to speak to a manager or board member;
- using new complaints to resurrect issues which were reviewed and completed in previous complaints;
- changing the basis of the complaint as the review progresses and/or denying statements made at an earlier stage;
- refusing to co-operate with the review process while still wanting the complaint to be resolved;
- failing to clearly identify the precise issues of the complaint, despite reasonable efforts of staff to obtain clarification of the concerns; or
- providing false or misleading information.

Responsibilities

Staff must establish, through documented words and/or actions of the subject person (e.g. emails, letters, posts on social media, photographs, voicemails, and staff notes reporting a conversation or incident), that the complaint or request is frivolous, vexatious or unreasonably persistent, before applying the processes and restrictions outlined in this policy.

Each case will be considered on an individual basis. The decision to classify the subject person's behavior as unreasonable or to classify the request as frivolous or vexatious will be made by the Manager or designate of the relevant service area in consultation with the General Manager (or the Management Committee in the event that the complaint or request involves the General Manger).

Employee

If an employee believes that a request or complaint is unreasonable, frivolous or vexatious, the employee should consult with their Manager (or designate), provide any supporting materials, and advise the Manager (or designate) of the steps that have been taken to resolve the issue, including as appropriate:

- the length of time that staff have been in contact with the subject person, the history of the interactions (where appropriate), and the amount of correspondence that has been exchanged with the subject person;
- the number of requests and complaints made by the subject person and the status of each; and
- the nature of the subject person's behaviour.

Manager (or designate)

The Manager (or designate) is responsible for reviewing the information provided by staff in a timely manner. The Manager (or designate) may want to contact other UTRCA units to determine if the subject person is contacting multiple staff/units.

The Manager (or designate) will;

- meet with the General Manager and outline the situation, including proposed restrictions, how to inform the subject person of the restrictions and determine a review date for removing, modifying or continuing restrictions.

General Manager

Before making a determination to classify the subject person's request or complaint as frivolous, vexatious or unreasonably persistent, the General Manager, in consultation with the Manager (or designate), must be satisfied that;

- the request has been properly reviewed;
- communication with the subject person has been adequate; and
- the subject person is not attempting to provide any significant new information when contacting staff.

Application of Restrictions

Actions available under this policy may include, but are not limited to:

- limiting the subject person's correspondence with staff to a particular format (e.g. email only with a particular email address), time (e.g. telephone calls only at specific times and days of the week) or duration (e.g. conversations may last no longer than ten minutes);
- limiting the subject person to a particular point of contact at the UTRCA (where possible, other staff members should be advised not to respond to the subject person, but to refer them to the point of contact);
- limiting their interactions through Social Media with the UTRCA;
- requiring any face-to-face interactions between the subject person and staff to take place in the presence of an appropriate witness;
- requiring that the subject person produce full disclosure of documentation or information before staff will further review a complaint;
- instructing staff to respond to further correspondence from the subject person regarding the complaint or a substantially similar issue using a standardized message that has been pre-approved by the Manager (or designate) and General Manager;
- instructing staff not to review any complaints regarding an issue that has already been reviewed, or which is substantially similar to an issue which has already been reviewed;
- instructing staff to severely reduce or completely cease responding to further complaints and correspondence from the subject person;
- instructing staff to close the matter;
- limiting or regulating the subject person's use of UTRCA services e.g. parks, campgrounds, special programs, etc.;
- refusing the subject person access to the WCC or any other UTRCA buildings except by appointment;
- informing the subject person that further contact on the matter of the complaint/request will not be acknowledged or replied to;
- pursuing legal action; and/or
- other actions as deemed appropriate.

Notification to the Subject Person

When the decision, in consultation with the General Manager, has been made to classify the subject person's request or complaint as frivolous, vexatious or unreasonably persistent, the subject person (where possible and appropriate) will receive written notification that:

- detail what action staff have taken and why;

- explain what it means for the subject person's contact with the UTRCA; and,
- advise how long the restrictions will last and when the decision will be reviewed.

Review of Restrictions

When any restrictions are put in place, a review date will be set. This will be based on the circumstances of the case and could be for a period of 3 months or longer depending on the severity of the situation. The status of the subject person will be reviewed by the relevant Manager (or designate) on or before the review date. The subject person (where possible) will be informed of the outcome of the review. The General Manager may extend the restrictions beyond the review date where appropriate. The subject person shall be notified of the extension and be given another date for review.

Maintaining Records

Staff are responsible for maintaining detailed records of their interactions in order to justify any action being taken to restrict the subject person's access to UTRCA staff.

Recommended and Prepared by:

Jenna Allain, Manager, Environmental Planning and Regulations

Tracy Annett, General Manager, Secretary-Treasurer

To: UTRCA Board of Directors

From: Jenna Allain, Manager, Environmental Planning and Regulations

Date: October 16, 2021

Filename: ENVP #10910

Agenda #: 7.1

Subject: Administration and Enforcement – Section 28 Status Report – *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (O.Reg157/06)*

Section 28 Report:

The attached tables are provided to the Board as a summary of staff activity related to the Conservation Authority's *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation* (Ontario Regulation 157/06 made pursuant to Section 28 of the Conservation Authorities Act). The summary covers reports for September 1, 2021 to September 30, 2021.

Recommended by:

Jenna Allain, Manager, Environmental Planning and Regulations

Prepared by:

Cari Ramsey, Environmental Regulations Assistant
Jessica Schnaithmann, Land Use Regulations Officer
Brent Verscheure, Land Use Regulations Officer
Karen Winfield, Land Use Regulations Officer
Ben Dafoe, Land Use Regulations Officer

SECTION 28 STATUS REPORT
SUMMARY OF APPLICATIONS FOR 2021

DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINE AND WATERCOURSES REGULATION
ONTARIO REGULATION 157/06

Report Date: October 2021

[Client Service Standards for Conservation Authority Plan and Permit Review \(CO, Dec 2019\)](#)

Permit #	Municipality	Location/Address	Category	Application Type	Project Description	Application Received	Notification of Complete Application	Permit Required By	Permit Issued On	Comply with Timelines	Staff
132-21	Woodstock	475 Beards Lane	Major	Development	Proposed Creation of Office, Warehouse, Wash Bay and Paved Parking Lot	18-Jun-2021	3-Sep-2021	1-Oct-2021	7-Sep-2021	YES	Dafoe
136-21	Perth East	Line 40 and Perth Rd 107	Minor	Utility Corridor	Fibre Line-Directional Boaring	1-Sep-2021	13-Sep-2021	4-Oct-2021	13-Sep-2021	YES	Dafoe
141-21	Woodstock	PCA Dam	Routine	Development	Access Improvements	26-Aug-2021	9-Sep-2021	23-Sep-2021	15-Sep-2021	YES	Dafoe
137-21	Woodstock	169 Tamarak Blvd.	Major	Development	Proposed Single Family Home	12-Aug-2021	15-Sep-2021	13-Oct-2021	16-Sep-2021	YES	Dafoe
102-21	Stratford	4010 Perth Line 36	Major	Alterations to Wetlands & Watercourses	Proposed Installation of Two Concrete Culverts, Realigned Retaining Wall, Headwall and Rip-Rap Erosion Protection	30-Mar-2021	10-Sep-2021	8-Oct-2021	16-Sep-2021	YES	Schnaithmann
105-21	St Marys	68 Water Street South	Major	Development	Proposed Installation of a Flood Wall Adjacent to the Existing Westerly Foundation, Second Storey Addition, Deck and Interior Renovations	12-Jul-2021	16-Aug-2021	13-Sep-2021	23-Sep-2021	NO	Schnaithmann
140-21	Perth South	Perth Line 8	Routine	Municipal Project	Culvert Replacement	19-Aug-2021		14-Jan-1900	28-Sep-2021	NO	Dafoe
135-21	London	2505 Dingman Drive	Major	Development	Construction of an Addition to an Existing Accessory Structure	30-Aug-2021	14-Sep-2021	12-Oct-2021	28-Sep-2021	YES	Schnaithmann

Permit #	Municipality	Location/Address	Category	Application Type	Project Description	Application Received	Notification of Complete Application	Permit Required By	Permit Issued On	Comply with Timelines	Staff
146-21	Woodstock	161 Tamarack Boulevard	Major	Development	Proposed single family home with 3 car garage	27-Sep-2021	27-Sep-2021	25-Oct-2021	30-Sep-2021	YES	Dafoe
147-21	EZ Tavistock	516346 11 line	Minor	Restoration/Creation	Proposed creation of 2 wetland areas on North and South end of property	9-Jul-2021	25-Sep-2021	16-Oct-2021	30-Sep-2021	YES	Dafoe
70-21	London	RCP 1028 PT Lot 16, Sunningdale Court	Major	Development	Developent and Servicing of Sunningdale Court SD	19-Apr-2021	20-Sep-2021	18-Oct-2021	22-Sep-2021	YES	Verscheure
125-21	London	3557 Colonel Talbot Road	Major	Development	Proposed Construction of Two Townhouse Buildings	1-Jun-2021	7-Sep-2021	5-Oct-2021	9-Sep-2021	YES	Verscheure
133-21	Perth East	Stock Drain	Minor	Municipal Drain	proposed enclosure of 326 metres of Class C drain	4-Apr-2021	5-May-2021	26-May-2021	7-Sep-2021	NO	Ramsey
134-21	South Huron	Cooke Drain	Minor	Municipal Drain	proposed enclosure of 222 metres of a Class C drain	4-Apr-2021	5-May-2021	26-May-2021	7-Sep-2021	NO	Ramsey
139-21	Middlesex Centre	5661 Marion Street, Dorchester, ON	Minor	Development	proposed garage	3-Sep-2021	3-Sep-2021	24-Sep-2021	24-Sep-2021	YES	Ramsey
142-21	Middlesex Centre	150 Edgewater, Komoka, ON	Minor	Development	proposed inground pool and landscaping	2-Sep-2021	2-Sep-2021	23-Sep-2021	16-Sep-2021	YES	Ramsey
144-21	London	980 Wilton Grove Road	Minor	Development	Proposed Production Expansion including Increased	14-Sep-2021	14-Sep-2021	5-Oct-2021	21-Sep-2021	YES	Verscheure
145-21	London	Kiwanis Park North - Pottersberg Creek	Major	Municipal Project	Proposed Erosion and Site Remediation, Bank Stabilization and Replacement of Existing Erosion Control Systems	1-Sep-2021	20-Sep-2021	18-Oct-2021	22-Sep-2021	YES	Verscheure

To: UTRCA Board of Directors
From: Tracy Annett, General Manager
Date: October 18, 2021
Filename: ::ODMA\GRPWISE\UT_MAIN.UTRCA_PO.Administration:4302.1
Agenda #: 7.2
Subject: Conservation Authorities Act Phase 1 Regulations

Recommendation:

That the staff report be received for information.

Purpose:

To update members on the release of new regulations to implement changes to the Conservation Authorities Act outlined in Bill 229 Protect, Support and Recover from COVID-19 Act.

Summary:

To implement changes to the Conservation Authorities Act (CA Act) outlined in Bill 229 Protect, Support and Recover from COVID-19 Act three new regulations were recently finalized:

- Ontario Regulation 686/21 Mandatory Programs and Services
- Ontario Regulation 687/21 Transition Plans and Agreements for Programs and Services
- Ontario Regulation 688/21 Rules of Conduct in Conservation Areas

Consultation on the regulatory proposals took place from May 13 to June 27, 2021 with 444 comments received. Further details are available on the [Environmental Registry – ERO 019-2986](#)

Some of UTRCA's recommendations were addressed, mainly:

- Low maintenance and passive recreation is included in the list of mandatory programs and services (i.e. trails that support public access to conservation authority lands)
- Stewardship and tree planting services while not included in the mandatory programs and services, can continue either under agreement with municipalities or with funding/self-generated revenue
- The development and implementation of a watershed-based resource management strategy and implementation of the provincial stream and groundwater monitoring programs were maintained as mandatory programs and services
- New funding framework deadline extended until January 1, 2024 from January 1, 2023 providing Conservation Authorities (CAs) and municipalities additional time to consult on necessary agreements
- Inventory of programs and services deadline moved to February 28, 2022 from December 31, 2021
- Ministry did not proceed with regulation that would require CAs to establish a community advisory board

Background:

To implement changes to the Conservation Authorities Act (CA Act) outlined in Bill 229 Protect, Support and Recover from COVID-19 Act three new regulations were recently finalized:

- **Ontario Regulation 686/21: Mandatory Programs and Services.** This regulation prescribes the mandatory programs and services CAs would be required to provide, including core watershed based resource management strategies. This regulation will come into effect on January 1, 2022
- **Ontario Regulation 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act.** This regulation requires each Conservation Authority (CA) to have a 'transition plan' that would outline the steps to be taken to develop an inventory of programs and services and to enter into agreements with participating municipalities to fund non-mandatory programs and services through a municipal levy. It also establishes the transition period to enter into those agreements. This regulation came into effect on October 1, 2021
- **Ontario Regulation 688/21: Rules of Conduct in Conservation Areas.** This regulation consolidates the current individual CA 'Conservation Area' regulations made under Section 29 of the Conservation Authorities Act into one Minister's regulation that regulates the public use of CA owned land. This regulation will come into effect when the unproclaimed provisions of Part VI and VII of the Conservation Authorities Act that deal with development permissions come into effect.

The above regulations are considered to be the first phase of regulations; a second phase of regulations are currently being developed and will include Section 28 and levy administration.

Mandatory Programs and Services (O.Reg 686/21)

According to Ontario Regulation 686/21 each CA will be required to implement the following programs or services within their jurisdiction by January 1, 2025:

Mandatory Program/Service	Specific Program / Service Area	Current Status at UTRCA
Natural Hazards	Flooding	Yes
	Erosion	Yes
	Dynamic Beaches	N/A
	Hazardous Sites (Provincial Policy Statement)	Yes
	Ice Management Plan	No/To Be Determined*
	Natural Hazard Infrastructure Operational Management Plan	No/ To Be Determined *
	Natural Hazards Infrastructure Asset Management Plan	No / To Be Determined *
	Low water/drought (Low Water Response)	Yes
Conservation and Management of Lands	Conservation Area Strategy	No*
	Land Inventory	Yes / To be updated*
	Passive Recreation on CA Lands	Yes
	Security to prevent unlawful entry	Yes
	Section 29	Yes
Prescribed by Regulation	Provincial stream, groundwater, water quality monitoring	Yes

Mandatory Program/Service	Specific Program / Service Area	Current Status at UTRCA
	Watershed-based resource management strategy	No/ To Be Determined*
Clean Water Act	Maintain source protection committees, prepare progress reports, monitor policy implementation, amend source protection plans etc.	Yes / with provincial funds
Prescribed by Regulations	As specified under the Ontario Building Code North Bay Mattawa Conservation Authority	N/A
Lake Simcoe Protection Act	Lake Simcoe Region Conservation Authority duties, functions and responsibilities under the Act	N/A

*These programs and services are to be completed by December 31, 2024 all other mandatory programs and services are expected to be in place by January 1, 2024.

While conservation services that include stewardship and forestry are not identified in the list of mandatory programs and services, CAs can still provide these services under agreement with municipalities that are willing to pay or by securing funding (self-generated revenue).

There was extensive support during the consultation period and comment submission to include low maintenance, passive recreation activities such as trails in mandatory programs and services – recognizing the importance of these facilities to the public and ability of CAs to control liability and security of property by offering/maintaining land in this manner. It is positive to see recognition of the program in the mandatory programs and services.

It is hoped that other items such as the land inventories and conservation strategies may be developed using existing documents – however additional staffing may be required to bring internal documents up to an expected standard.

The ministry did not proceed with the regulation that would have required CAs to establish a community advisory board. In their decision, the ministry recognized that, “many CAs across Ontario already have a diverse range of advisory boards and CAs can continue to include additional members, including from Indigenous communities, where there is interest. Further, where there is not an existing advisory board, CAs will continue to have the ability to establish one where they consider it appropriate and useful.”

Transition Plans and Agreements (O.Reg 687/21)

In response to feedback that the deadline of January 1, 2023 to transition to the new funding model was challenging for CAs and municipalities the Ministry extended the deadline until January 1, 2024. This provides additional time to formalize agreements between CAs and their member municipalities for all non-mandatory programs and services. As well, the regulation retained the ability for the CA to be granted an extension of time beyond the transition date under certain circumstances.

Prescribed Date	Deliverable	Notes
December 31, 2021	Transition Plan	Copies to be sent to each municipality, MECP and posted to the CA website
February 28, 2022	Inventory of Programs and Services	A listing of programs and services is provided or intends to provide; funding source; estimated annual cost and where agreements are necessary. To be circulated to all participating municipalities and MECP
July 1, 2022 to October 1, 2023	Quarterly progress	Reports status of agreement negotiations submitted to MECP
January 1, 2024	All required MOUs/Agreements to be in place	Agreements for all non-mandatory programs and services requiring municipal levy.

Rules of Conduct in Conservation Areas (O.Reg 688/21)

This regulation consolidates all Conservation Authority Section 29 regulations into one Minister’s Regulation. The regulation reflects the rules of conduct that have been in effect in conservation areas to date on CA-owned land to protect against property damage, for public safety, to protect the resources on the land and public investment. The timeline for this regulation to come into force is ‘to be determined’; it will be enacted at the same time as the new Section 28 regulation and when the enforcement and offences provisions of the Conservation Authorities Act are enacted.

Recommended by:
 Tracy Annett, General Manager

To: UTRCA Board of Directors
From: Alex B. Shivas
Date: October 12, 2021
Filename: Lands & Facilities #7042
Agenda #: 7.3
Subject: Rental House Rates - 2022

The attached report outlines the 2022 rental rates for the four Authority owned houses. Each year the Ontario Government announces the Provincial Rent Increase Guideline. The annual Rent Increase Guideline is the maximum percentage by which a landlord can increase the monthly rent for existing residential tenants. In 2020 the guideline increase was 2.2% and then for 2021 there was a 0% increase (freeze) due to Covid - 19.

The 2022 guideline increase is 1.2% as shown on the attached chart. Residential increase guidelines are released under the auspices of the Ontario Landlord and Tenant Board, pursuant to the Residential Tenancies Act (RTA).

Prepared by:

Alex B. Shivas , Manager, Lands & Facilities
Bill Mackie, Lands & Facilities Supervisor

House Location (& Name)	Municipal Area	2020 Monthly Rental Fee 2019 +2.2%	2021 Monthly Rental Fee 2020 + 0.0%	2022 Monthly Rental Fee 2021 + 1.2%
#1 Wildwood Conservation Area Area (Lang House)	Township of Perth South, Downie Ward	\$708.00	\$708.00	\$716.00 (708.00 + 8.00)
#2 Glengowan Area (Wood House)	Township of Perth South Blanchard Ward	\$719.00	\$719.00	\$727.00 (719.00 + 8.00)
#3 Glengowan Area (Simpson House)	Township of Perth South, Blanchard Ward	\$118.00	\$118.00	\$119.00 (118.00 + 1.00)
#4 Glengowan Area (Crinklawa House)	Municipality of West Perth, Fullarton Ward	\$742.00	\$742.00	\$750.00 (742.00 + 8.00)