



Committee Report

To:	Warden Milne and Members of Grey County Council
Committee Date:	May 11, 2023
Subject / Report No:	LSR-CW-01-23
Title:	Conservation Authorities Prosecution Pilot
Prepared by:	Michael Letourneau, Director of Legal Services – County Solicitor
Reviewed by:	Kim Wingrove, Chief Administrative Officer
Lower Tier(s) Affected:	
Status:	Recommendation adopted by Committee as presented per Resolution CW74-23; Endorsed by County Council June 8, 2023, per Resolution CC38-23.

Recommendation

1. **That report LSR-CW-01-23 regarding the Conservation Authorities Prosecution Pilot be received for information.**

Executive Summary

The County's Legal Services Department has begun a pilot project with the Grey Sauble Conservation Authority and the Saugeen Valley Conservation Authority to handle a limited number of Provincial Offences prosecutions under the Conservation Authorities Act. The County will prosecute charges related to violations of regulations on land development as well as charges related to violations of rules of conduct in conservation areas.

The project is a one-year pilot program with the two Conservation Authorities. Between them, the two conservation authorities cover almost all of the area of Grey and Bruce counties, which aligns with the area for which the County's prosecutors handle a wide-range of Provincial Offences tickets laid by police officers.

Background and Discussion

In 2022 the County was contacted by Grey Sauble Conservation Authority (GSCA) inquiring about options for prosecution of charges laid by Conservation Authority (CA) enforcement staff for violations of the Conservation Authorities Act and its regulations. Following initial discussions, County staff met with staff from both GSCA and the Saugeen Valley Conservation Authority (SVCA) to discuss practical impediments that exist for the two CAs in pursuing prosecutions.

It was identified that the CAs are not able to take advantage of the prosecution services of the Ministry of the Attorney General (MAG), since the CAs operate at arm's length from both provincial ministries and police forces, whose prosecutions are generally handled by various branches within MAG. This normally requires the CAs to retain the services of private law firms to pursue the prosecution of charges laid by their staff. This places CAs at a financial disadvantage, since they do not receive any part of fines that are imposed when the Conservation Authorities Act is violated.

County staff identified that its prosecution team is well-equipped to handle routine charges resulting in "tickets" under Part I of the Provincial Offences Act (POA), and has some capacity to handle more complex charges under Part III of the POA. As part of the provincial POA transfer agreement, the prosecution team handles the bulk of all Part I charges laid in both Grey and Bruce Counties.

Staff also noted that fines for violations of the Conservation Authorities Act are handled the same way as fines for charges the prosecution team typically deals with (e.g., the Highway Traffic Act). Such fines are collected by Grey County and used to defray expenses for carrying out the County's responsibilities for court administration and prosecution for both Grey and Bruce Counties. Any net amount remaining is then divided between the counties based on population.

Between them, GSCA and SVCA are responsible for almost all CA regulation across the boundaries of the two Counties. Small portions of Grey County are regulated by the Nottawasaga Valley Conservation Authority and the Grand River Conservation Authority, and small portion of Bruce County is regulated by the Maitland Valley Conservation Authority. Those conservation authorities are not involved in the pilot program, as the vast majority of their regulatory watershed areas fall outside of the County's general prosecution area.

Given the alignments between the combined area of GSCA and SVCA's regulatory watersheds, Grey County's prosecution area, the availability of County prosecution staff, the cooperative role of the CAs and municipalities in land use regulation, and the County-level handling of fine revenues, County staff determined it was appropriate to structure a pilot program where the County's prosecution team would handle some prosecutions on behalf of GSCA and SVCA.

The terms of the pilot program have been structured so that the County will handle prosecution of a limited number of charges with respect to land use regulation, such as interference with wetlands and unauthorized development within a CA-regulated area. The County will also take on prosecution of charges under the rules of conduct for conservation authorities, such as camping without a permit and littering.

Under the County's Delegation of Duties Policy By-law (#5093-20), the Director of Legal Services – County Solicitor is authorized to enter into agreements to take on prosecutions from non-County entities where a consistent and uniform approach can be taken to prosecuting the offences. This approach has been applied to the arrangement for GSCA and SVCA prosecutions. In the past, it has been used effectively with Grey/Bruce municipalities pursuing enforcement of pandemic restrictions (Town of The Blue Mountains, Township of Huron-Kinloss, Town of South Bruce Peninsula, Municipality of Northern Bruce Peninsula) as well as with similar efforts of Public Health Grey Bruce.

Legal and Legislated Requirements

As noted above.

Financial and Resource Implications

The prosecutions to be handled will be included in the regular workload of the County's prosecution team and using existing systems for managing their workload.

Fines imposed for offences under the Conservation Authorities Act are collected with the general Provincial Offences Act fine revenue stream. Funds from that stream are used to defray the administration and prosecution expenses for the Provincial Offences Courts in Grey and Bruce Counties, with any net revenue being divided between the two Counties on the basis of population.

Relevant Consultation

- Internal (list): CAO, Deputy CAO, Provincial Offences Court Administration
- External (list): Grey Sauble Conservation Authority, Saugeen Valley Conservation Authority

Appendices and Attachments

None.