

Report PDR-PCD-36-15

To: Chair Wright and Members of the Planning and Community Development Committee
From: Randy Scherzer
Meeting Date: September 15, 2015
Subject: **Conservation Authority Act Review**
Status: Recommendation adopted by Committee as presented per Resolution PCD119-15; Endorsed by County Council October 6, 2015 per Resolution CC138-15;

Recommendation(s)

WHEREAS the Ministry of Natural Resources and Forestry has initiated a review of the Conservation Authorities Act, including addressing roles, responsibilities, funding and governance of conservation authorities in resource management and environmental protection;

AND WHEREAS the Ministry is seeking comments from ministries, municipalities, Aboriginal communities, conservation authorities, stakeholders and the public regarding a discussion paper that has been prepared by the Ministry;

NOW THEREFORE BE IT RESOLVED that Report PDR-PCD-36-15 be received;

AND THAT this report be forwarded onto the Ministry of Natural Resources and Forestry as the County of Grey's comments on the Conservation Authority Act Review;

AND THAT this report be forwarded onto member municipalities and conservation authorities within Grey for information.

Background

The Ministry of Natural Resources and Forestry recently initiated a Conservation Authorities Act Review which includes addressing roles, responsibilities, funding and governance of conservation authorities in resource management and environmental protection. The Ministry has prepared a discussion paper which outlines a number of ways to engage in the review and the Ministry is encouraging ministries, municipalities, Aboriginal communities, conservation authorities, stakeholders and the public to provide comments as part of the review process. The discussion paper can be accessed by

clicking on the following link: [Conservation Authority Act Review - Discussion Paper](#). The Ministry has requested that comments be submitted by October 19, 2015.

The Ministry notes in the discussion paper that feedback is being accepted on any aspect of the existing legislative and regulatory framework, however the focus of the review is on three main areas being:

1. Governance
2. Funding mechanisms; and
3. Roles and responsibilities

There are a total of four (4) conservation authorities that have jurisdiction within the County of Grey, which include Grey Sauble, Saugeen Valley, Nottawasaga Valley and Grand River. The majority of Grey County is covered by the Grey Sauble and Saugeen Valley watersheds with only small portions of Grey County included within the Nottawasaga Valley and Grand River watersheds.

In November 2014, Report PDR-PCD-40-14 was presented to the Planning and Community Development Committee regarding a request received by the Blue Mountain Watershed Trust Foundation (BMWTF) recommending that the County discontinue the use of third party peer reviews for natural heritage matters. The BMWTF recommended that the County and municipalities should utilize exclusively conservation authorities and the Niagara Escarpment Commission where applicable for conducting environmental peer reviews. As part of the report, staff recommended that opportunities be explored with the conservation authorities to enter into memorandums of understanding to clarify roles and responsibilities regarding natural heritage matters and the review of natural heritage studies.

Based on the direction received by Council, staff have had initial discussions with the Saugeen Valley Conservation Authority (SVCA) and the County of Bruce to explore a memorandum of understanding that would clearly identify roles and responsibilities regarding natural heritage and natural hazard matters, and to also explore options regarding peer reviews, collection of fees, involvement as part of pre-submission consultation discussions, etc. These on-going discussions are going well and we hope to have a draft memorandum of understanding that will be presented to Council in the near future. Following initial discussions with SVCA, County staff also want to initiate discussions with the other CA's in Grey County, however the group felt it was best to have some initial discussions with one CA first and to broaden these discussions to include the other CA's in the near future. Through the memorandum of understanding discussions, staff are hopeful that most of the matters outlined in the roles and responsibilities section of the discussion paper will be resolved, including clarifying roles and responsibilities for natural heritage matters and natural hazard matters.

Conservation Authorities – History and Current Governance

In 1946 the Conservation Authorities Act (CA Act) was created primarily to address flooding, erosion, deforestation and the loss of soil due to poor land and water practices that occurred prior to 1946. The CA Act identifies that conservation authorities are responsible for establishing and undertaking a program designed to further conservation, restoration, development and management of natural resources within its area of jurisdiction but does not include the management and conservation of oil, gas, coal and minerals. The CA Act gives powers to conservation authorities to study the watershed, acquire lands, enter into agreements, erect works and other structures and charge fees for services rendered. There were changes to the CA Act in 1996 and 1998 which were intended to provide conservation authorities and municipalities with more flexibility to decide which programs, partnerships and fee structures are most appropriate for each conservation authority.

Conservation authorities are local public sector organizations which are similar to other local public sector organizations such as school boards and hospitals. At one point, the board of directors for a conservation authority included provincial appointees; however this is no longer the case. Now conservation authority boards are comprised of members appointed by participating municipalities. The Act indicates that the board of directors is the conservation authority and therefore the board of directors directs and oversees conservation authority operations. The province's role with conservation authorities has diminished over the years but still includes the responsibility for establishing a conservation authority, defining powers of a conservation authority under the CA Act, and directing and monitoring provincially approved programs.

The number of municipal appointees to a conservation authority board is based on population of the municipality within the jurisdiction of the conservation authority or can be determined through agreement with all the participating municipalities. The size of conservation authority boards varies throughout the Province and ranges between 5 members to 28 members according to the Conservation Authority Act Review Discussion Paper. Typically each board member gets one vote and therefore municipalities with a large proportion of members on the board have a larger say in the decisions made by the board. Votes regarding the budget however are weighted based on the proportion of budget each municipality pays. The CA Act allows conservation authorities to amalgamate with other conservation authorities (Section 10) and additional municipalities can join without approval from the province (Section 11). The province approves the creation of a conservation authority as well as the dissolution of an authority. Conservation authorities are funded from provincial funding, municipal levies and self-generated revenue (e.g. donations, fees for service, etc.). Overall, municipal levies account for approximately 48% of conservation authority revenue according to the discussion paper. Expenditures from conservation authorities include

water management, land management, administration and communications, with majority of the expenditures typically falling under water and land management.

There is an organization that represents all the conservation authorities across Ontario known as Conservation Ontario. Conservation Ontario is directed by a Council which contains two appointed representatives from each conservation authority and that Council elects a six member Board of Directors to oversee the organization. The discussion paper notes that the structure, roles and responsibilities of Conservation Ontario are not part of this review.

Conservation Authority Act Review

The discussion paper identifies 3 main questions, and a number sub questions regarding governance, funding, and roles and responsibilities which are as follows:

QUESTION #1: In your view, how well is the current governance model as provided in the Conservation Authorities Act working?

- a. What aspects of the current governance model are working well?
- b. What aspects of the current governance model are in need of improvement?
- c. In terms of governance, what should be expected of:
 - a. The board and its members?
 - b. The general manager or chief administrative officer?
 - c. Municipalities?
 - d. The Ministry of Natural Resources and Forestry?
 - e. Other provincial ministries?
 - f. Others?
- d. How should the responsibility for oversight of conservation authorities be shared between the province and municipalities?
- e. Are there other governance practices or tools that could be used to enhance the existing governance model?

QUESTION #2: In your view, how are the programs and services delivered by conservation authorities best financed?

- a. How well are the existing funding mechanisms outlined within the Act working?
- b. What changes to existing funding mechanisms would you like to see if any?
- c. Which funding mechanisms, or combination of funding mechanisms, are best able to support the long term sustainability of conservation authorities?
- d. Are there other revenue generation tools that should be considered?

QUESTION #3: In your view, what should be the role of conservation authorities in Ontario?

- a. What resource management programs and activities may be best delivered at the watershed scale?
- b. Are current roles and responsibilities authorized by the Conservation Authorities Act appropriate? Why or why not? What changes, if any, would you like to see?
- c. How may the impacts of climate change affect the programs and activities delivered by conservation authorities? Are conservation authorities equipped to deal with these effects?
- d. Is the variability in conservation authorities' capacity and resourcing to offer a range of programs and services a concern? Should there be a standard program for all authorities to deliver? Why or why not?
- e. What are some of the challenges facing conservation authorities in balancing their various roles and responsibilities? Are there tools or other changes that would help with this?
- f. Are there opportunities to improve consistency in service standards, timelines and fee structures? What are the means by which consistency can be improved? What are some of the challenges in achieving greater consistency in these areas?

County staff comments: Governance and funding is more of local municipal matter and therefore County staff have focused comments regarding roles and responsibilities.

One of the main goals of the Conservation Authority Act Review is to clarify responsibilities and eliminate any overlap in roles and responsibilities for resource management and environmental protection that are currently shared across levels of government. County staff support this notion as it will provide greater clarity for all parties involved in resource management and environmental protection and will provide a clear road map going forward. The CA Act provides conservation authority boards with the powers to determine programs and services that conservation authorities should undertake and also allows the Board to determine which matters should be part of conservation authority review. The Ministry of Natural Resources and Forestry (MNRF) has delegated to conservation authorities the responsibility of representing the "Provincial Interest" for natural hazard policies of the Provincial Policy Statement (PPS) through a Memorandum of Understanding between MNRF, Ministry of Municipal Affairs and Housing (MMAH), and Conservation Ontario. Therefore conservation authorities are to comment on municipal planning policy and site plan applications submitted as part of the Provincial One-Window Plan Review to ensure consistency with the natural hazard policies of the PPS.

Each conservation authority is also responsible for regulating development within the regulatory limits described within the 'Development, Interference with Wetlands and Alterations to Shoreline and Watercourses' regulations approved by the province. Conservation authorities regulate developments within regulated areas through a permit

process for purposes of natural hazard management. Each conservation authority board sets out the regulatory policies and practices which implement the regulations.

The County and MMAH have entered into a Memorandum of Understanding which delegates the Municipal Plan Review functions from MMAH to the County. This responsibility requires that decisions rendered on Planning Act applications are consistent with the PPS and are in conformity with the County and local official plans, and conforms to the provision of the local zoning by-laws. This includes reviewing and commenting on natural heritage features.

County staff are anticipating that the memorandum of understanding discussions occurring currently with the SVCA, as well as through future discussions with the other conservation authorities in Grey County, will help to clarify roles and responsibilities, remove any duplication, and to streamline the review process. Conservation authority boards can identify what matters should be included as part of the development review. The memorandum of understanding needs to be clear in what type of expert advice the County and municipalities are seeking from conservation authorities, and to ensure that the advice is being provided by qualified individuals. The agreement should be focused on two areas, being Hazardous Lands and Natural Heritage Features. The agreement needs to include a provision, ensuring that those providing expert advice to the County and municipalities, meet the minimum requirements of an “expert witness” in quasi-judicial setting, such as the Ontario Municipal Board.

County staff value the comments provided by the conservation authorities regarding both natural hazard matters and natural heritage matters. Conservation authority comments often result in recommended mitigation measures for a proposed development, or conditions to development approvals.

County staff believe it is important to continue discussions with the conservation authorities to clarify roles and responsibilities and to work towards a memorandum of understanding that meets the needs of conservation authorities, the County, and municipalities throughout Grey County.

Comments Received

The County has received comments from the Grand River Conservation Authority (GRCA) regarding the Conservation Authority Act Review ([GRCA Comments - Conservation Authority Act Review](#)). The GRCA has noted that they are prepared to work with watershed municipalities and the Province to ensure that there is no duplication of effort among those organizations. The GRCA comments also note the need for funding support which the GRCA board strongly emphasizes.

Financial / Staffing / Legal / Information Technology Considerations

At this stage there are no additional financial, staffing, legal, or information technology considerations arising out of this report. On-going discussions with SVCA have included staff time of the County CAO and Planning staff. Further discussions with the other CA's will include additional staff time but can be addressed through existing staff resources. Once a draft memorandum of understanding has been created, County Agreement staff and the County solicitor will need to review the agreement and therefore there could be legal fees as a result.

Link to Strategic Goals / Priorities

Action Item 5.3 of the Corporate Strategic Plan indicates that the County should explore innovative ways to more effectively and efficiently deliver services and programs, including consideration of partnerships. Based on on-going discussions with the SVCA, as well as future discussions with the other conservation authorities, County staff believe that a memorandum of understanding will help clarify roles and responsibilities when it comes to such matters as natural hazard and natural heritage review which will hopefully result in a more defined and streamlined review process. The Conservation Authority Act Review will also help to clarify roles and responsibilities.

Attachments

[Conservation Authority Act Review - Discussion Paper](#)

[PDR-PCD-40-14 Natural Heritage Peer Reviews](#)

Respectfully submitted by,

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Director of Planning and Development