

## Warden's Office

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May 15, 2019

Carolyn O'Neill Great Lakes Office 40 St Clair Avenue West Toronto, ON, M4V 1M2

Alex McLeod
Natural Resources Conservation Policy Branch
300 Water Street
Peterborough, ON, K9J 8M5
\*Comments submitted through the EBR website and hard copy via mail\*

RE: County of Grey Comments on 'Modernizing Conservation Authority
Operations – Conservation Authorities Act' and 'Focusing Conservation
Authority Development Permits on the Protection of People and Property'
EBR Registry Numbers 013-5018 and 013-4992

Dear Ms. O'Neill and Mr. McLeod:

Please find attached a copy of Grey County Staff Report PDR-CW-22-19, which represents the County of Grey comments on the "Modernizing Conservation Authority Operations – Conservation Authorities Act' (ERO Number 013-5018) and 'Focusing Conservation Authority Development Permits on the Protection of People and Property' (ERO Number 013-4992. This report was presented to the May 9<sup>th</sup> Grey County Committee of the Whole session, where the staff recommendation was adopted as per Resolution CW104-19. The County also intends to submit additional comments on the proposed Bill 108, which also covers similar subject matter.

In addition to the adopted staff recommendation, Committee of the Whole also adopted the following motion in relation to the Province's budget reductions being imposed on conservation authorities:

CW105-19 Moved by: Councillor Burley Seconded by: Councillor Milne

WHEREAS Climate Change and flooding are mounting threats in Grey and Conservation Authorities provide services including real-time flood forecasting, emergency planning support and water-related studies; and

Grey County: Colour It Your Way

WHEREAS, in 1996, the total provincial Section 39 Transfer Payment to all of Ontario's conservation authorities for Flood and Erosion Control and Natural Hazard Prevention was reduced from \$50-million to \$7.4-million, and Grey Sauble Conservation Authority's and Saugeen Valley Conservation Authority's share of this payment has remained static at \$71,779 and \$157,669 since 1996; and

WHEREAS the recent Provincial Budget has further reduced Grey Sauble Conservation Authority's and Saugeen Valley Conservation Authority's Section 39 Transfer Payments about 50% to \$37,055 and \$81,396; and

WHEREAS this will affect emergency management supports and municipal planning, zoning, and development input provided by Grey Sauble Conservation Authority and Saugeen Valley Conservation Authority; and

WHEREAS there is a provincial role in province-wide flood risks reduction and emergency management, and investments in prevention can potentially avoid or reduce losses to life and property and major expenditures during and after an emergency; and

WHEREAS the Ontario Government's Proposal on the Environmental Registry of Ontario 013-5018 on Modernizing Conservation Authority (CA) Operations proposes to define a limited list of the core mandatory programs and services for CAs; and

THAT Grey County recognizes the value provided by the work of the CAs, supports the current multi-municipality governance model for the selection of programs, and the current municipal levying approach that includes annual input from Local Municipal Councils; and

THAT Grey County recommends that the province acknowledge their strong and positive provincial role in flood risk reduction programs and reinstate funding to CAs; and

THAT Grey County Staff be directed to provide a copy of this resolution to the Environmental Registry of Ontario prior to the May 20th deadline, to Ministers Bill Walker and Lisa Thompson, Ministers MECP, MNRF and MOF, the Premier, AMO, ROMA, OSUM, and Conservation Ontario.

Carried

Based on the motion above, Grey County recommends that the province acknowledge the strong and positive provincial role in flood risk reductions programs that conservation authorities provide and to reinstate the funding to conservation authorities.

Thank you for the opportunity to provide comments on these proposed legislative changes.

Should you have any questions, or require any further information please do not hesitate to contact this office.

Yours truly,

Warden Selwyn Hicks County of Grey 519-372-0219 ext. 1225 Selwyn.Hicks@grey.ca

cc. Hon. Doug Ford, Premier of Ontario (via email only)

Hon. Victor Fedeli, Minister of Finance (via email only)

Hon. Bill Walker, Minister of Government and Consumer Services (via email only)

Hon Lisa M. Thompson, Minister of Education (via email only)

Hon. Rod Phillips, Minister of Environment, Conservation and Parks (via email only)

Hon. John Yakabuski, Minister of Natural Resources and Forestry

Jim Wilson, MPP Simcoe-Grey (via email only)

ROMA (via email only)

OSUM (via email only)

Conservation Ontario (via email only)

Association of Municipalities of Ontario (via email only)

Local Municipalities Grey County (via email only)

Grey Sauble Conservation Authority (via email only)

Saugeen Valley Conservation Authority (via email only)

Grand River Conservation Authority (via email only)

Nottawasaga Valley Conservation Authority (via email only)

Attachment



# Committee Report

То:	Warden Hicks and Members of Grey County Council
Committee Date:	May 9, 2019
Subject / Report No:	PDR-CW-22-19
Title:	Conservation Authority Act Changes
Prepared by:	County Planning Staff
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	All Municipalities
Status:	Recommendation adopted by Committee of the Whole as presented as per Resolution <i>CW104-19</i> ;

#### Recommendation

- 1. That Report PDR-CW-22-19 which provides an overview of the proposed changes to the Conservation Authorities Act, proposed changes to the permitting process related to natural hazards, and the funding reductions to conservation authorities be received; and
- 2. That this report be forwarded onto the Ministry of Environment, Conservation and Parks and the Ministry of Natural Resources and Forestry as the County of Grey's comments on the proposed changes posted on the Environmental Registry through postings # 013-5018 and # 013-4992; and
- 3. That this report be forwarded onto member municipalities, conservation authorities, the Association of Municipalities of Ontario and local MPPs within Grey for information; and
- 4. That staff be authorized to proceed prior to County Council approval as per Section 25.6 (b) of Procedural By-law 5003-18.

## **Executive Summary**

The Conservation Authorities Act was revised by the previous government in 2017. The County provided comments during the previous review of the Act. Further changes to the Conservation Authorities Act are being proposed; however, there are few details at this stage. Funding reductions to conservation authorities are also proposed which

could increase the risks associated with flooding and erosion, as well as impact the monitoring and forecasting of flood events. Given the impacts associated with changing climate and severe storm events being experienced in Grey County and across Ontario, it is recommended that the Province reconsider these funding reductions. It is also recommended that any changes to the *Conservation Authorities Act* does not limit the vital role that conservation authorities play in protecting our watersheds.

#### Background and Discussion

The Ministry of Natural Resources and Forestry initiated a review of the *Conservation Authorities Act* (Act) in 2015 which included addressing roles, responsibilities, funding and governance of conservation authorities in resource management and environmental protection. The County provided initial comments on a <u>discussion paper</u> released by the Ministry seeking early feedback on the review of the Act. A link to the previous staff report providing initial comments to the Ministry can be found in the Attachments section of this report.

The Ministry released a further consultation document in 2016 entitled <u>'Conserving Our Future – Proposed Priorities for Renewal'</u> which was based on the comments received in response to the discussion paper. A staff report providing comments on this consultation document was provided to the Ministry. A link to that staff report can be found in the Attachments section as well as using the following link – <u>Addendum to PDR-PCD-36-15</u> - Conservation Authority Act Review - Second Phase.

Based on the comments received through the consultation, the Ministry noted that there was general agreement that the overall conservation authority model and principles upon which it is based remained relevant. Most respondents agreed that the watershed continues to serve as an ecologically appropriate scale for many resource management activities. The Ministry also noted that all stakeholder sectors 'recognized the value and public benefit of conservation authority roles in providing environmental education, landowner and broader stewardship programs, and the provision of access to natural areas and recreational opportunities provided through conservation areas. Based on the feedback received, the Province made changes to the *Conservation Authorities Act* in 2017.

## Further Proposed Changes to the Conservation Authorities Act

On April 5, 2019, the Province released an environmental registry posting (ERO 013-5018) entitled 'Modernizing conservation authority operations – Conservation Authorities Act' which proposes further changes to the *Conservation Authorities Act*. The details regarding the proposed changes are light at this stage. The Province notes that in the spring of 2019, they will develop and consult on a suite of regulatory and policy proposals to support the proposed amendments. The following is an outline of

the proposed changes to the Conservation Authorities Act that are identified in the environmental registry posting:

- clearly define the core mandatory programs and services provided by
  conservation authorities to be, natural hazard protection and management,
  conservation and management of conservation authority lands, drinking water
  source protection (as prescribed under the <u>Clean Water Act</u>), and protection of
  the Lake Simcoe watershed (as prescribed under the <u>Lake Simcoe Protection</u>
  Act)
- increase transparency in how conservation authorities levy municipalities for mandatory and non-mandatory programs and services. Update the *Conservation Authorities Act* an Act introduced in 1946, to conform with modern transparency standards by ensuring that municipalities and conservation authorities review levies for non-core programs after a certain period of time (e.g., 4 to 8 years)
- establish a transition period (e.g. 18 to 24 months) and process for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services and meet these transparency standards
- enable the Minister to appoint an investigator to investigate or undertake an audit and report on a conservation authority
- clarify that the duty of conservation authority board members is to act in the best interest of the conservation authority, similar to not-for profit organizations.

The Province is also proposing to proclaim un-proclaimed provisions of the *Conservation Authorities Act* related to:

- fees for programs and services
- transparency and accountability
- approval of projects with provincial grants
- recovery of capital costs and operating expenses from municipalities (municipal levies)
- regulation of areas over which conservation authorities have jurisdiction (e.g., development permitting)
- enforcement and offences
- additional regulations.

#### Staff Response

It is difficult to determine the full extent and potential impact that the proposed changes to the *Conservation Authorities Act* may have at this stage. It is recommended that the Province provide further detail about the proposed changes for municipalities, conservation authorities, and others to provide further comments. Grey County and local municipalities rely on the programs and services provided by conservation authorities.

In terms of the current outline of the proposed changes, it is unclear as to why there is a proposed transition period for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services. Many municipalities have entered into agreements with conservation authorities to provide non-mandatory programs and services such as natural heritage review for planning applications. Grey County has an agreement with Grey Sauble Conservation Authority to help manage the County Forests and County Trails. Conservation authorities offer a number of non-mandatory programs and services to municipalities and the community at large including education programs, stewardship programs, and natural heritage commenting/planning. If the proposed changes to the Conservation Authority Act affect the ability for conservation authorities to levy municipalities for these programs, it could impact the ability for conservation authorities to leverage additional funds to help support the programs and services that are currently offered. It is recommended that whatever changes are proposed, that flexibility is still provided for conservation authorities and municipalities to enter into service agreements in order to raise sufficient funds to support the current programs and services, including providing comments on natural heritage matters, and supporting education and stewardship programs.

The services that conservation authorities provide are very important to municipalities and the community. Therefore, it is important for conservation authorities to continue to offer these programs and services at a watershed level in order to protect and preserve the health of our ecosystems and watersheds.

#### Proposed Changes to the Natural Hazards Permitting Process

The Ministry of Natural Resources and Forestry is also consulting on a proposal to streamline and focus conservation authority's development permitting and role in municipal plan review (ERO 013-4992). The following are the proposed changes to the permitting process as outlined in the Environmental Registry posting:

- Consolidating and harmonizing the existing 36 individual conservation authorityapproved regulations into one Minister of Natural Resources and Forestry approved regulation will help to ensure consistency in requirements across all conservation authorities while still allowing for local flexibility based on differences in risks posed by flooding and other natural hazards.
- For the purposes of this regulation the Ministry is also proposing to:
  - Update definitions for key regulatory terms to better align with other provincial policy, including: "wetland", "watercourse" and "pollution";
  - Defining undefined terms including: "interference" and "conservation of land" as consistent with the natural hazard management intent of the regulation;

- Reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed;
- Exempt low-risk development activities from requiring a permit including certain alterations and repairs to existing municipal drains subject to the *Drainage Act* provided they are undertaken in accordance with the *Drainage Act* and *Conservation Authorities Act* Protocol;
- Allow conservation authorities to further exempt low-risk development activities from requiring a permit provided in accordance with conservation authority policies;
- Require conservation authorities to develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions;
- Require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries; and
- Require conservation authorities to establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions.

#### Staff Response

County staff generally have no concerns with the proposed changes to the permitting process as highlighted above. Consolidating the 36 individual conservation authority regulations into one will help to provide clarity and consistency across the different conservation authorities which will make it easier for municipalities and developers. With respect to the reduction in regulatory restrictions between 30 metres and 120 metres of a wetland, County staff generally have no objections with potential reductions in regulatory restrictions if the reductions can be supported from a technical and/or science-based perspective. There are certain circumstances where conservation authorities reduce the setbacks from a regulatory restriction. It is important however that these reductions be looked at on a case-by-case basis and that the reductions can be supported from a science-based perspective.

Exempting low-risk development activities from requiring a permit may be beneficial for municipalities and landowners, especially as it relates to municipal drains. If certain activities are exempted, it may be beneficial to have conservation authorities provide education material including best practices for undertaking these low-risk activities to ensure that any potential impacts are mitigated.

Staff see merit in notifying the public of mapping changes, provided they are not duplicative of municipal processes and provided that this does not limit the ability of conservation authorities in making changes to regulation mapping when further review is conducted (i.e. if new information is provided as part of a planning application process or through detailed site review). If a municipality is updating their zoning by-law and the

hazard land boundaries are changing as part of the by-law, then the municipality and conservation authority should not both be required to give separate notice. Instead, the municipality can give notice in accordance with the *Planning Act*, and the conservation authority can play a supportive role in the municipal public consultation (i.e. to help explain the mapping changes).

#### Funding Reductions to Conservation Authorities

In addition to the proposed changes to the *Conservation Authorities Act* and the permitting process, the Province also announced funding reductions to conservation authorities. Based on information received from Grey Sauble Conservation Authority, the following are areas of funding that have been reduced by the Province:

- 50% reduction to funding for warning people about flooding and protecting property from damage
- The provincial 50 Million Tree planting subsidy has been eliminated.
- Summer staff funding eliminated which was used to assist with water quality monitoring and stewardship
- Provincial funding which supported looking at the health of south Georgian Bay shorelines has been eliminated.

#### Staff Response

Flooding and erosion can be very costly and are a risk to our communities. Conservation authorities provide necessary programs and services that help to reduce the risk of flooding and erosion and help to provide information to the municipalities and the public about flood risks, etc. Climate change threats, including the risk from severe weather events, are increasing year by year. Therefore, it is extremely important for conservation authorities to continue programs and services to help reduce the risks of flooding and erosion, to monitor and forecast flooding, and to provide necessary data and information to help municipalities to plan for infrastructure upgrades and to prepare and manage an emergency event. The funding reductions could also cause a financial impact to municipalities as they may need to fund the deficit in order to continue with the various programs and services offered by conservation authorities. Therefore, it is recommended that the Province reconsider the funding reductions to conservation authorities and to consult with conservation authorities and municipalities to see if there are other opportunities.

#### General Comments

Based on the nature of the changes being proposed, and the potential for both positive and negative impacts, the Province should consider a more robust consultation on these proposed changes. The current Environmental Registry posting was posted on April 21<sup>st</sup> and comments are due by May 20<sup>th</sup> and May 21<sup>st</sup>, respectively. This short

timeframe does not give municipalities, conservation authorities and other stakeholders much time to (a) respond, (b) ask questions, or (c) consult. It is recommended that when the consultation beings on the detailed suite of regulatory and policy proposals to be released this spring that a minimum of a 90-day consultation period is provided.

#### Legal and Legislated Requirements

Conservation Authorities Act

Planning Act

### Financial and Resource Implications

The funding reductions to conservation authorities could cause a financial impact to municipalities as municipalities may need to fund the deficit in order to continue these programs. This could also cause other conservation authority programs to be discontinued or reduced as conservation authorities may need to look for ways to offset or reallocate funds based on these reductions.

Depending on the proposed changes to the *Conservation Authorities Act*, this could also impact what services conservation authorities are able to provide to municipalities and residents. For example, if municipalities were not able to enter into agreements with conservation authorities to provide natural heritage comments then municipalities will need to hire consultants and/or staff to address this gap. This could increase costs for municipalities and developers and result in duplication as conservation authorities will be reviewing natural hazard matters related to a development application and the municipal staff/consultant will be reviewing natural heritage matters, which is some cases will be the same features and functions being reviewed.

#### **Relevant Consultation**

#### Appendices and Attachments

PDR-PCD-36-15 - Conservation Authority Act Review

Addendum to PDR-PCD-36-15 - Conservation Authority Act Review - Second Phase

Environmental Registry of Ontario Posting - ERO 013-5018

Environmental Registry of Ontario Posting - ERO 013-4992