



INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	January 23, 2015
SUBJECT/REPORT NO:	2015 Niagara Peninsula Conservation Authority Levy Apportionment (FCS15018) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tom Hewitson (905) 546-2424, Extension 4159
SUBMITTED BY:	Mike Zegarac General Manager Finance & Corporate Services Department
SIGNATURE:	

Council Direction:

N/A

Information:

Background

An area of the City of Hamilton resides within the watershed of the Niagara Peninsula Conservation Authority (NPCA) and, therefore, the City is required to collect a tax levy on behalf of the Authority for capital and operations. The NPCA determines the capital and operating requirements for a given budget year and apportions the requirement among the benefitting municipalities as prescribed by Ontario Regulation 670/00, passed under the *Conservation Authorities Act*.

Specifically, subsection 2(1) of Ontario Regulation 670/00 provides:

“2(1) In determining the levy payable by a participating municipality to an authority for maintenance costs pursuant to subsection 27 (2) of the Act, the authority shall apportion such costs to the participating municipalities on the basis of the benefit derived or to be derived by each participating municipality determined,

(a) by agreement among the authority and the participating municipalities; or

(b) by calculating the ratio that each participating municipality's modified assessment bears to the total authority's modified assessment."

Provincial regulations stipulate that a Conservation Authority's general benefitting levy will be apportioned based on the percentage of land the watershed is within a municipality multiplied by the total assessment of a municipality. This assessment is then compared to the other calculated assessments within the Conservation Authority to determine how much of its levy is assigned to each municipality.

Prior to amalgamation, the NPCA levy was apportioned to the former towns of Glanbrook, Stoney Creek and Ancaster. The share of the NPCA general levy collected from these three municipalities was about 7%, and the remainder was levied against the Region of Niagara and Haldimand County. The former City of Hamilton was not in the NPCA watershed and, therefore, was not levied prior to amalgamation.

At amalgamation, an issue was identified because the apportionment formula would have resulted in a significant increase in the amount levied against the City even though the NPCA watershed area had not changed and the assessment in that watershed area had not materially changed. Similar issues would occur with the other Conservation Authorities, such as Halton and Grand River, that would now have watershed lands within the new City of Hamilton. As a result of these issues, the affected parties chose to use an alternative method of apportionment as permitted by paragraph 2(1)(a) of Ontario Regulation 670/00.

In 2000, an informal agreement was put in place which effectively kept the relative apportionments in place (ie. Hamilton's share of NPCA levy at 7%). The agreement determined how much of Hamilton's land area would be assigned to each of the Conservation Authorities. This agreement was updated in 2004 and approved by all four Conservation Authorities and the City of Hamilton. As part of the updated agreement, the NPCA included the use of assessment data generated through geo-referencing which revised Hamilton's share to about 4%, and the remainder was levied against the Region of Niagara and Haldimand County and approved by all parties through their respective budgetary process.

The agreement was accepted by the Ministry of Natural Resources (now the Ministry of Natural Resources and Forestry) (MNR), who has since calculated the apportionment assessment and provided them to the Conservation Authorities each year. Each Conservation Authority has continued to use the assessment based on the agreed apportionment.

Issue

In December of 2014, staff from the NPCA met with City of Hamilton staff to advise that they were investigating an issue with the apportionment agreement. In essence, they

contend that the Region of Niagara and Haldimand County did not formally agree to the apportionment formula and therefore there is no “agreement” as required by paragraph 2(1)(a) of Ontario Regulation 670/00. In January, the NPCA advised that in the absence of a new agreement that the default formula in paragraph 2(1)(b) must apply.

As stated above, the formula applies the percentage of watershed land of a Conservation Authority that is within a municipality against the total of the assessment within the municipality. The NPCA’s watershed represents about 20% of the City of Hamilton’s land area. The formula applies this percentage against the total of Hamilton’s assessment, about \$70 billion. The amount of assessment used to calculate Hamilton’s share of the NPCA budget would be about \$14.8 billion. The NPCA estimates that using this assessment would result in an increase to Hamilton’s NPCA levy by about \$750,000 to \$1.0 million for 2015.

However, the actual property assessment within the watershed area is only about \$3.9 billion, or about 6.4% of Hamilton’s assessment, not 20%. Creating a formula that recognized the amount of property assessment that resides within the watersheds was the principle behind the agreement in 2004.

City’s Response to Date

City staff have consistently communicated the following with the NPCA:

- Based on a number of factors, the City maintains that the apportionment agreement which has been in place since 2004 is valid and should be used for 2015.
- The City recognizes that the agreement is more than 10 years old and agrees that a review should occur to determine if any adjustments are required to ensure the agreement achieves the principle of fairness based on property assessment within a watershed. However, this review should include not only the Region of Niagara and Haldimand County, but also all four of the Conservation Authorities that levy from Hamilton.
- Given that we are already in 2015 and that virtually all of the parties have submitted or approved their budgets for 2015, the review should occur for the 2016 budget.
- That the MNR and Conservation Ontario review Ontario Regulation 670/00 and revise the apportionment formula to more accurately reflect property assessment within a watershed. Given today’s updated mapping technology, this should not be difficult to implement.

To date, NPCA staff have not been amenable to the first three points identified above. They have indicated that in the absence of a new agreement, they will calculate Hamilton's levy based on the default formula set out in paragraph 2(1)(b) of Ontario Regulation 670/00, resulting in a significant increase to Hamilton, estimated by the NPCA to be between \$750,000 and \$1.0 million.

If the NPCA imposes such levy, the City of Hamilton will have the right, pursuant to subsection 27(8) of the *Conservation Authorities Act*, to appeal the levy to the Mining and Lands Commissioner appointed under the *Ministry of Natural Resources Act*.

MNR staff have been included in the discussions to date. As indicated, the MNR has recognized the 2004 agreement and has used this when calculating the apportionment assessment each year, including the apportionments sent to the four Conservation Authorities, to which Hamilton belongs, for 2015.

At the time of the writing of this report, the NPCA Board is expected to meet and consider its 2015 budget on January 21, 2015.

Next Steps

On January 27, 2015, NPCA staff will present their 2015 budget to the City of Hamilton GIC. NPCA staff will likely discuss this issue and be available for questions.

City of Hamilton staff will continue to monitor this issue, and liaise with the MNR, NPCA, Niagara Region and Haldimand County staff.

City of Hamilton will provide Council with updates and recommend any action if required.

Additional Information

Apportionment Calculations

2015 Apportionment Percentage Calculation Per Agreement (MNR)

Upper Tier	% in CA	2014 Current Value Assessment (CVA) (Modified)	2014 CVA (Modified) in Watershed	CVA Based Apportionment Percentage
Haldimand County	24	5,772,883,875.30	1,385,492,130	2.2363
City of Hamilton	4	70,321,727,277.30	2,601,903,909	4.1997
Niagara Region	100	57,966,516,173.75	57,966,516,174	93.5639
			61,953,912,213	100

2015 Apportionment Percentage Per Formula (NPCA)

Upper Tier	% in CA	2014 Current Value Assessment (CVA) (Modified)	2014 CVA (Modified) in Watershed	CVA Based Apportionment Percentage
Haldimand County	25	5,772,883,875.30	1,428,211,471	1.9256
Hamilton	21	70,321,727,277.30	14,774,594,901	19.9201
Niagara Region	100	57,966,516,173.75	57,966,516,174	78.1543
			74,169,322,545	100

City of Hamilton NPCA Levy History

<u>2000</u>	<u>2004</u>	<u>2009</u>	<u>2014</u>
\$ 73,460	\$ 394,440	\$ 501,722	\$ 513,473