



CITY OF HAMILTON
CITY MANAGER'S OFFICE
Legal Services

TO:	Mayor and Members of General Issues Committee
COMMITTEE DATE:	October 7, 2015
SUBJECT/REPORT NO:	Conservation Authorities Act Review LS15027 (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Eleonora Filippone, Solicitor Ext 4707
SUBMITTED BY:	Janice Atwood-Petkovski City Solicitor Ext 4636
SIGNATURE:	

RECOMMENDATION

That the Mayor forward a submission to the Ministry of Natural Resources and Forestry regarding the Conservation Authorities Act review, substantially as set out in Appendix "A" attached to Report LS15027.

EXECUTIVE SUMMARY

As the Conservation Authorities Act affects a wide cross section of City Departments, feedback for the review was coordinated by the City Manager's Office and this report and submission were prepared by Legal Services on behalf of the City.

Conservation authorities are created by and are governed by the Conservation Authorities Act. The Act is administered by the Ministry of Natural Resources and Forestry (MNR) and states that the goals or "objects" of a conservation authority are "to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development and management of natural resources other than gas, oil, coal and minerals."

To facilitate resource management from a technical perspective, the boundaries of a conservation authority are drawn around watershed, as opposed to municipal borders. There are 36 conservation authorities in Ontario. The City of Hamilton is divided by four conservation authorities: Hamilton Conservation Authority, Grand River Conservation Authority, Conservation Halton, and Niagara Peninsula Conservation Authority.

MNR is now conducting a review of the Conservation Authorities Act. As a first step, the Ministry released a Discussion Paper on July 20, 2015, which is attached to Report LS15027 as Appendix "B", and is seeking feedback from municipalities and other stakeholders on three main areas:

Governance – the processes, structures, and accountability frameworks within the Act which direct conservation authority decision-making and operations;

Funding Mechanisms – the mechanisms put in place by the Act to fund conservation authorities; and

Roles and Responsibilities – the roles and associated responsibilities that the Act enables conservation authorities to undertake.

MNRF cites climate change, rapid population growth, and expansion in resource management projects and environmental activities, as some of the reasons for undertaking a review of the Act at this time.

The deadline for making submissions to MNRF is October 19, 2015. However, this is only a first step. If MNRF recommends changes to the existing legislative, regulatory or policy framework following this initial consultation, MNRF will engage in further public consultation.

City staff proposes changes to the Act as set out in Appendix “A” to this report.

In addition to the changes set out in Appendix “A” to this report, the City has developed successful practices with the conservation authorities regarding planning application and technical review services, which will be shared with the Regional Planning Commissioners of Ontario (RPCO) as part of its Conservation Authorities Act review. The General Manager of the Planning and Economic Development Department is a member of RPCO, a group of senior officials from upper- and single-tier municipal governments across Ontario. They meet on a regular basis to discuss planning issues of mutual interest and advocate positions on behalf of the member municipalities to provincial and federal governments. RPCO is scheduled to meet at the end of September 2015 for the purpose of discussing the Conservation Authorities Act. The City’s successful practices will be shared at that time.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Revisions to the Conservation Authorities Act and Ontario Regulation 670/00 are necessary in order to clarify how a conservation authority may apportion levies to its member municipalities. It is also hoped that the Province will allocate more funding, on a more consistent basis, in order to support the work of conservation authorities, thereby alleviating the financial burden on municipalities.

HISTORICAL BACKGROUND (Chronology of events)

The Conservation Authorities Act was passed in 1946 in order to promote resource management and environmental protection. The Act sets out how a conservation authority may be established, its governance and its roles and responsibilities.

Conservation authorities are corporate entities, separate and apart from the Province and municipalities. Like any corporation, each conservation authority is governed by a board of directors. The board is comprised of members appointed by the municipalities which fall within the conservation authority's jurisdiction. The number of members to which a municipality is entitled is based, in part, on its population.

Historically, the Province played a greater role in conservation authorities, providing provincial appointees to conservation authority boards and significant funding to activities. However, amendments to the Act in 1996 and 1998 saw the Province's role diminish, with it no longer appointing members to the boards and limiting its oversight of projects to only those where the Province provides funding. This gave conservation authorities and their member municipalities greater independence over their activities; however, with it came a greater financial burden and inconsistency of activities across the province.

Conservation authorities are also governed by regulations passed under the Act, not least of which is Ontario Regulation 670/00 which describes how conservation authority levies are to be calculated and allocated among municipalities.

In the face of new and evolving challenges threatening the preservation of natural resources, such as hazards brought by climate change and a rapidly growing population, MNRF has initiated this review of the Conservation Authorities Act in order to determine what, if any, changes can be made to the governance, funding and roles of conservation authorities with the overarching goal of better protecting the environment.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

There are no policy implications or legislated requirements at this time.

RELEVANT CONSULTATION

All City Departments were asked to provide feedback on improvements to the Conservation Authorities Act. Responses were received from Corporate Services, Public Health Services, Public Works, and Planning and Economic Development and have been incorporated into this report.

City staff also attended a listening session hosted by the MNRF to provide municipal sector representatives with an opportunity to review and provide feedback on the Discussion Paper.

Discussions were also had with various conservation authority representatives, including Conservation Ontario.

On August 14, 2015, Council approved a motion, initially moved by Councillor Aidan Johnson, directing City staff to coordinate with the Hamilton Conservation Authority, the

Grand River Conservation Authority, Conservation Halton, the Niagara Peninsula Conservation Authority, the Royal Botanical Gardens and McMaster University and develop a submission on, among other things, how to protect and increase the biodiversity of regionally rare native Ontario plants. Approval by their respective boards is being sought, but it appears that they will be assembling a technical group in order to develop and propose a detailed submission to the MNRF at a later date.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Appendix “A” attached to Report LS15027 sets out a number of revisions proposed by various City Departments to the Conservation Authorities Act, together with the rationale behind them.

In general, the reasoning and goals of the proposed revisions are to:

- (a) clarify how conservation authority levies are to be calculated and apportioned to municipalities, to ensure fairness and consistency with the Act;
- (b) establish representation on conservation authority boards to ensure municipalities are represented in an equitable manner; and
- (c) increase the Province’s role in, and funding of, conservation authorities’ business to promote consistency and continuity in service delivery across the province.

ALTERNATIVES FOR CONSIDERATION

(Include Financial, Staffing, Legal and Policy Implications and Pros and Cons for each alternative)

None.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.
- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" Draft submission to the Ministry of Natural Resources and Forestry

Appendix "B" MNRF Discussion Paper regarding the Conservation Authorities Act (A review of the roles, responsibilities, funding and governance of conservation authorities under the Conservation Authorities Act), released July 20, 2015