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July 28, 2021

Andrea Holland
 City Clerk
 City of Hamilton
 71 Main Street West, 1st Floor
 Hamilton, ON
 L8P 4Y5

SENT ELECTRONICALLY

Dear Ms. Holland,

Please be advised that the Board of Directors of the Niagara Peninsula Conservation Authority (NPCA) adopted the following resolution at its meeting of July 16, 2021:

Resolution No. FA-141-2021

Moved by Member Smith

Seconded by Member Woodhouse

1. **THAT** Report No. FA-45-21 RE: Compliance and Enforcement 2021 Q2 Statistics **BE RECEIVED**.
2. **THAT** a meeting with jurisdiction municipalities be **CONVENED** to address environmental compliance and enforcement challenges identified in the staff report.
3. **AND FURTHER THAT** a copy of this report be **CIRCULATED** to the Niagara Peninsula Conservation Authority (NPCA) municipalities.

CARRIED

Accordingly, for your reference, please find the subject Report No. FA-45-21 attached hereto. Staff from the NPCA will be in contact with your municipality in the coming weeks to discuss the matter. In the interim, should you have any questions or concerns, feel free to contact Chandra Sharma, NPCA CAO, at (905) 788-3135 or at csharma@npca.ca.

Sincerely,

Grant Bivol

Grant Bivol
 NPCA Clerk / Board Secretariat

att.

Report To: Board of Directors

Subject: Compliance and Enforcement 2021 Q2 Statistics

Report No: FA-45-21

Date: July 16, 2021

Recommendation:

1. **THAT** Report No. FA-45-21 RE: Compliance and Enforcement 2021 Q2 Statistics **BE RECEIVED**.
2. **THAT** a meeting with jurisdiction municipalities be **CONVENED** to address environmental compliance and enforcement challenges identified in the staff report.
3. **AND FURTHER THAT** a copy of this report be **CIRCULATED** to the Niagara Peninsula Conservation Authority (NPCA) municipalities.

Purpose:

The purpose of this report is to provide the Board with an overview of activities related to the Compliance and Enforcement within NPCA Jurisdiction from April 1, 2021 to June 30, 2021 (Q2 of 2021).

Background:

The Compliance and Enforcement Service Area of the Niagara Peninsula Conservation Authority plays a pivotal role in the protection and conservation of wetlands, shorelines and escarpment areas in the NPCA jurisdiction. The overall goal is to protect life and property from natural hazards such as flooding and erosion.

As previously reported in Report No. FA-03-2021, the Compliance and Enforcement unit committed to providing three quarterly reports and one annual report to the Board of Directors on statistics tracked by staff.

Discussion:

Compliance and Enforcement Statistics

The Regulations team tracks a significant amount of data in relation to each complaint and potential violation reported to and investigated by staff. This is done to support progressive compliance or enforcement actions if required, provide all regulations staff with access to pertinent file data, and to identify and assess on-going or continuing concerns, trends, and resourcing requirements. These statistics are only for Section 28 complaints and violations and do not include concerns in relation to Section 29 of the *Conservation Authorities Act* (Conservation Authority owned Land).

Quarterly updates on abatement, compliance and enforcement statistics will also be provided to the Board in October in 2021 and an annual summary for 2021 in January 2022.

The statistics below are from April 1, 2021 to June 30, 2021.

General Q2 File Statistics

Total number of complaints and concerns received by regulations staff in Q2 = 118 (this translates to approximately 2 complaint per working day on average)

Number of Q2 files Open = 53

Number of Q2 files Closed = 65

Complaint / Occurrence Validity

Total number of occurrences investigated and determined to be within NPCA jurisdiction = 47

Total number of occurrences under review = 27

Total number of occurrences not within NPCA jurisdiction or frivolous = 44

Reporting / Intake Avenues

Voicemail / phone = 8

Email to staff or TIPS email online = 55

Personal / Professional Communication = 24

Officer Found (no complaint received) = 3

Other/NA = 28

Notices of Violation

Issued = 15

Resolved = 2

Complaints / Occurrences by Municipality

Fort Erie = 14

Grimsby = 1

Haldimand = 3

Hamilton = 4

Lincoln = 9

Pelham = 5

Niagara Falls = 6
Niagara-On-The-Lake = 8
Port Colborne = 7
St. Catharines = 20
Thorold = 2
Wainfleet = 22
Welland = 8
West Lincoln = 7
Unknown = 2 (due to anonymous complaints with no location information)

The Q2 statistics for 2021 demonstrate a significant increase in demands on the compliance and enforcement service area in relation to complaints and violation response. The total number of complaints received and investigated by the regulations staff in 2021 is currently 183. This far exceeds the total of 119 complaints and concerns investigated in 2019 and is set to surpass the 225 complaints received and investigated in 2020.

Issues and Challenges

As indicated by the statistics, there are a significant portion of concerns or complaints received from the public that are outside of the NPCA's current enforcement and compliance mandate and include:

- Tree cutting or vegetation removal on private property
- Destruction or disturbance of wildlife and wildlife habitat
- Planning related matters such as tree removal in approved subdivisions
- General environmental concerns the nature of which are not within the enforcement and compliance mandate of the NPCA

To provide additional perspective, the most common complaints are in relation to the cutting of trees and/or the removal of vegetation on private property, often after the complainant has been directed to the NPCA by their local municipality. However, tree removal and/or vegetation removal or disturbance in many instances does not constitute a contravention of the *Conservation Authorities Act* or is not the jurisdiction of the NPCA. For example, unless the tree cutting is in a wetland (and would be significant enough to constitute interference) or is in a regulated area and involves the removal of the roots (constitutes development/site grading), the individual act of tree cutting itself would not be considered a violation. In this instance, the incident may be a concern under the Region of Niagara's Woodlands By-law or a private property tree by-law implemented by the local municipality under the authority of the *Municipal Act*. Additionally, if tree cutting does not take place in a wooded area which meets the definition of a woodland under the Region's by-law then a regulatory tool does not exist with the NPCA to manage this activity. These type of issues are being addressed through local tree-by-laws or ravine by-laws by several municipalities across Ontario or through management agreements with conservation authorities.

Regulations staff work closely in partnership with numerous regulatory agencies including municipal bylaw staff on a day-to-day basis. There is a need (and opportunity) to provide additional guidance for the NPCA's municipal partners and to collectively develop enhanced tools and communication resources to address this significant issue.

Staff recommends formal discussions with local municipal partners in order to develop or enhance tools and communication resources in relation to compliance and enforcement within the Region of

Niagara, Hamilton and Haldimand service areas. This may also include additional legislative options available to them under the *Municipal Act* such as tree, watercourse, ravine and site-alteration by-laws.

In an effort to reduce the number of concerns and complaints which are directed to the NPCA and are not within the NPCA's regulatory framework, the NPCA is also working to inform the public about the regulatory jurisdiction of the NPCA with regards to what is enforceable under our legislation.

Financial Implications:

There are no additional financial implications for the current day-to-day operations of the Compliance and Enforcement business unit as the work is accounted for in the 2021 budget. However, should any complaint or violation proceed to the issuance of a summons and court proceedings, there will be costs associated with these activities. Based on the statistics presented for the first two quarters of 2021, the NPCA will very likely need to consider the requirement for additional resources for 2022. Alternatively, NPCA staff will also look into other strategies such as adjustment in service levels to appropriately respond to the more significant and high-risk contraventions of the *Conservation Authorities Act*.

Regulations staff are committed to enhanced statistical reporting, recording and analysis of compliance and enforcement related data which will continue to assist in quantifying resource and staffing requirements moving forward.

Links to Policy/Strategic Plan:

The duties carried out by the Compliance and Enforcement business unit are part of the Niagara Peninsula Conservation Authority's mandate and are essential to our watershed.

Related Reports and Appendices:

None

Authored by:

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Senior Manager, Planning & Regulations

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Chief Administrative Officer/Secretary-Treasurer