



Niagara / Region

Building Community. Building Lives.

February 11, 2011

Office of the Regional Clerk

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CL 2-2011, February 10, 2011

ICP 2-2011, February 2, 2011

Report ICP 9-2011

Response to Town of Fort Erie Request to Petition Minister of Natural Resources to Improve the Delivery of Land Conservation Services in Ontario

ICP 9-2011

To Whom It May Concern:

Regional Council, at its meeting of February 10, 2011, approved the following recommendations of its Integrated Community Planning Committee:

That Regional Council continue its efforts to work with the Provincial government ministries (including via Niagara Week deliberations) to assure appropriate balance of Land Conservation Services with other policies as identified in Report ICP 63-2010 (Provincial Policy Statement Review) and this report;

That the request of the Town of Fort Erie not be supported at the time; and

That a copy of this report be forwarded to the Local Municipalities, the Niagara Peninsula Conservation Authority, the Regions, Counties, and Single Tier Municipalities in Ontario, and to the Association of Municipalities of Ontario.

A copy of Report ICP 9-2011 is enclosed for your information.

Yours truly,

Kevin Bain
Regional Clerk
lm

cc. Mr. P. Robson, Commissioner Integrated Community Planning
Ms. M. L. Tanner, Manager of Policy Development
Mr. A. Gummo, Associate Director, Regional Policy Planning
Mr. P. Colosimo, Director of Development Services
Mr. M. Roach, Manager, Public Works Financial Services
M. Macara, Legal Services

Niagara Region

REPORT TO: Chair and Members of the
Integrated Community Planning Committee

SUBJECT: Response to Town of Fort Erie Request to Petition Minister of
Natural Resources to Improve the Delivery of Land Conservation
Services in Ontario

RECOMMENDATIONS

That this Committee recommend to Regional Council:

1. That this report be received for information;
2. That Regional Council continue its efforts to work with the Provincial government ministries (including via Niagara Week deliberations) to assure appropriate balance of Land Conservation Services with other policies as identified in Report ICP 63-2010 (Provincial Policy Statement Review) and this report; and, that the request of the Town of Fort Erie not be supported at this time; and,
3. That a copy of this report be forward to the Local Municipalities; the Niagara Peninsula Conservation Authority; to the Regions, Counties, and Single Tier Municipalities in Ontario; and to the Association of Municipalities of Ontario.

EXECUTIVE SUMMARY

In September 2010, the Town of Fort Erie passed a resolution (see Appendix I) requesting the Region to petition the Province to repeal the *Conservation Authorities Act* and enact new legislation to place these responsibilities on Regional and County Councils. This correspondence was received by Integrated Community Planning Committee on January 12, 2011.

This report provides an overview of the system of land use planning, environmental review, and conservation in Ontario. The report also identifies the increasing complexities of the environmental regulation system including responsibilities that are with both the federal and provincial governments.

For the information of members of the Integrated Community Planning (ICP) Committee, the Ministry of Natural Resources has initiated updates to wetland mapping across Ontario. These updates impact most municipalities. In Fort Erie, for example, new designated wetlands are in the urban and rural areas. This is the case in other Niagara municipalities as well – Wainfleet, for example, saw a significant increase in designated wetland area. In urban areas, the wetland designation must be considered within the context of the overall growth management strategy and its emphasis on maximizing the potential of serviced urban lands. This speaks to the

perspective of balance across Provincial Policy, the Memorandum of Understanding (MOU), and achieving both sound environmental management and sound growth management which has previously been adopted by Regional Council and is consistent with other Provincial Directions (e.g., Places to Grow). In view of ongoing effort in such contexts as the review of the Provincial Policy Statement and with Council's continued lobbying with Provincial Ministries, it is recommended that the Town's request not be supported at this time.

This report supports Council's Business Plan under Strategic Objective A - Responsive Region and more specifically Strategic Action 1 – Improve the efficiency and effectiveness of the Regional Corporation.

FINANCIAL IMPLICATIONS

There are no direct financial implications flowing from the adoption of the recommendations.

PURPOSE

This report provides an overview of environmental planning review, the land use planning system, and land conservation.

REPORT

Responsibility of Conservation Authorities

Conservation Authorities were created starting in the mid 1950's in response to the widespread flooding from Hurricane Hazel and the associated land based devastation that occurred in many communities. The property damage to buildings, homes, and businesses at that time was extensive. While the excessive water was clearly the issue; the analysis completed after Hurricane Hazel showed that the protection of valleylands, hazard lands, floodplains, and riparian areas required new stewardship to ensure that buildings, homes and businesses were built safely on the landscape. The intent was to ensure that such widespread damage from flooding would not recur.

Since their creation, Conservation Authorities have been provided with a series of tools through statute and regulation for environmental review and protection consistent with the issues identified after Hurricane Hazel (e.g. building in floodplain and hazard lands as examples). A key component of this responsibility is achieved through the land use planning process where Conservation Authorities are responsible for the plan review for key natural heritage components of the Provincial Policy Statement issued under the *Ontario Planning Act*.

Conservation Authorities also have permitting responsibilities for development that is within floodplains, wetlands, and interferes with watercourses. Various regulations of the Province of Ontario delegate authority for management of planning of watercourses and development in and around watercourses to all Conservation Authorities. This is to

ensure the overall public safety of the environment and the physical safety of the actual construction of the building or work.

Conservation Authorities are also responsible for Source Water Protection Planning. This new initiative was created from the Walkerton Inquiry and requires the analysis of drinking water sources – groundwater and lake based water sources; the analysis of any potential threats to these drinking water sources – farms; industry; businesses such as dry cleaners and gas station and the mitigation of threats through the Source Protection Plan.

Within Niagara, the Niagara Peninsula Conservation Authority (NPCA) acts as the Region's agent regarding natural land management. The NPCA has significant holdings of lands that are key components of the natural heritage system and manages the long term of these lands for public benefit. In addition, the NPCA operates a number of Conservation Areas that provide various types of recreational activities including hiking, camping, water access etc.

Environmental Regulation in Canada and Ontario

It is a fact that environmental regulation in Canada and Ontario is more complex than ever. Both the federal and provincial governments have expanded their legislation in the areas of environmental protection. In the land use planning system, proponents must address compliance to all of this legislation – if it is applicable to their property.

For example, federal legislation includes:

- *Fisheries Act* – protection of fish habitat
- *Species at Risk Act* – protection of threatened and endangered species

Examples of provincial legislation and regulation for which the Province retains control:

- Natural Heritage Planning Manual (Ministry of Natural Resources)
- Identification and designation of Provincially Significant Wetlands (Ministry of Natural Resources)
- Private groundwater wells (Ministry of Environment)

In the Niagara Region, the Niagara Peninsula Conservation Authority provides environmental information on all of the above legislation to property owners and applicants under the *Planning Act*. The actual permitting and decision making responsibility still rests with the federal or provincial government (see above). However, early access to information is critical to property owners and applicants so that they may prepare their applications with full information.

Conservation Authorities Review – Minister of Natural Resources

The Minister of Natural Resources has convened an expert panel, reporting directly to her, regarding the relationship of environmental planning review and the land use planning system in Ontario. Representation on the expert panel included key stakeholders in the development industry, the municipal planning system, Conservation Authorities, and provincial staff. The Regional Planning Commissioners of Ontario were

also represented on this panel. One of the conclusions of the panel is a document entitled "Draft Policies and Procedures for Conservation Authority Plan Review and Permitting Activity". The intent of this document is to provide a clear and consistent set of policies and procedures for all Conservation Authorities. It is also intended to be the most up to date and clear direction on the extent of responsibility of Conservation Authorities in plan review and permitting.

The Minister had intended to conclude the expert panel work after the above document had been completed. However, the Minister has determined that the panel will stay in place to advise her on the ongoing implementation of the Policies and Procedures documents as well as any new issues which may arise. This is a very important commitment to ongoing continuous improvement at the provincial level.

Memorandum of Understanding on Planning Services – Niagara Region

The MOU on Planning Services (approved by the Region, local municipalities, and the NPCA) in the Niagara Region was a key shift in the administration of planning services. The MOU identifies which agency is the lead on matters under the *Planning Act*. The MOU stipulates that there will be a "one window" environmental review done by the Niagara Peninsula Conservation Authority as recommended by the local municipalities and implemented by the Region. Screening maps are provided to all local municipalities and the Region for use by planning staff, property owners, and applicants.

More recently, Regional, local municipal, and NPCA staff have been working on some continuous improvement initiatives in the area of environmental policy and its administration. In the next months, reports will be coming forward to Integrated Community Planning Committee regarding these initiatives. This is a brief summary:

- Updated Environmental Impact Statement (EIS) Guidelines – these are updated guidelines reflecting both best practices and improved customer service. The intent is to provide applicants with greater clarity on when an EIS is required, what the requirements are, how to mitigate impact, and how to ensure timely review
- Customer Service – The environmental review process can seem overwhelming to property owners and applicants. Staff are committed to enhanced customer service documents, written in plain language, to assist owners and applicants to understand the process, the requirements, and that environmental impact statements can be scoped (narrowed in focus to specific issues) and in certain circumstances waived.
- Updated Policies – it is clear from the ongoing discussions that there is a need to clarify certain policies relative to waiving and scoping Environmental Impact Statements. This will be an amendment to the Regional Policy Plan and will assist local municipalities, owners, and applicants with a clearer process. Model policies for use by local municipalities have been prepared and are available. It is expected to be brought forward to Committee in the early spring of 2011

The ongoing continuous improvement work will not end with the conclusion of the above three matters. Clearly, customer service in the face of increasingly complex environmental regulation must continue. Regional staff will continue to work with our partners in the local municipalities and the NPCA to be responsive to the issues and

needs of property owners and applicants in the environmental review of planning matters.

The Province of Ontario is undertaking a review of the Provincial Policy Statement (PPS). As part of the joint responsibility for planning services, Regional staff lead the review of the PPS with Niagara's local Area Planners. Regional Council adopted the staff recommendations and comments for submission to the province on the PPS. The report (ICP 63-2010) spoke to the key point that provincial policies must be applied in their totality and on balance to local circumstances. This point is very important because the PPS, which contains many of the policy drivers for natural heritage, also contains other policy drivers such as growth management, sustainability, agricultural policies, and economic development. Ensuring that there is balance across policies to achieve good planning is a key point that has been communicated to the Province in the PPS review; it is the position of Niagara's planners, and it was adopted by Council as part of the comments in ICP 63-2010.


Concluding Comments

This report provides an overview of environmental planning review, the land use planning system, and land conservation. In addition, this report highlights a number of ongoing continuous improvement initiatives relative to the administration of the land use planning system and environmental review.

The environmental regulation system in Canada, Ontario, and Niagara Region is increasingly complex. In Niagara, staff at the Regional, local municipal and NPCA levels are committed to enhanced customer service to take the complex system of environmental regulation to a point that is understandable and the information is accessible in plain language. The commitment to customer service and continuous improvement is ongoing and will continue.

The perspective of balance across policies and their implementation is important to continue through the PPS review, the area planners, and reinforcement through Regional Council. This work will also continue. In view of this effort it is suggested that the request of the Town of Fort Erie not be supported at this time.

Submitted by:



Patrick Robson
Commissioner
Integrated Community Planning

Approved by:



Mike Trojan
Chief Administrative Officer

This report was prepared by Mary Lou Tanner, MCIP, RPP, Manager of Policy Development and Alan Gummo, MCIP, RPP, Associate Director, Regional Policy Planning and was reviewed by Peter Colosimo, MCIP, RPP, Director of Development Services.



Legal & Legislative Services



October 7, 2010

Kevin Bain, Regional Clerk
The Regional Municipality of Niagara
2201 St David's Road, P O Box 1042
Thorold, ON L2V 4T7

Dear Mr Bain:

Re: Request to Region to Petition Minister of Natural Resources to Improve the Delivery of Land Conservation Services in Ontario

At the Council meeting of September 27, 2010 the following resolution was passed regarding the above matter:

THAT: The Municipal Council of the Town of Fort Erie hereby respectfully requests the Council of the Regional Municipality of Niagara to consider a motion to petition the Minister of Natural Resources to investigate and report on the feasibility of reconstituting the conservation authorities in Ontario by repealing the Conservation Authorities Act, R.S.O. 1990, c.C.27 and enacting new legislation to provide that regional councils and county councils shall once again govern, control and regulate land conservation in Ontario, and alternatively, to explore and identify options to improve the delivery of land conservation services in Ontario; to improve transparency and accountability, to regulate standards for true cost recovery of services and to more effectively balance conservation needs with those of municipalities and stakeholders, and further

THAT: In the event Regional Council takes the lead and supports this initiative for change in the governance and management of land conservation in Ontario that they seek the support of all regional and county councils in the Province of Ontario, and further

THAT: A copy of this resolution be circulated to the regions and counties in Ontario for information

Your assistance in advancing this matter to Regional Council would be appreciated

We thank you for your attention to this matter

Yours very truly,

Carolyn J. Kett, A.M.C.T.,
Town Clerk
ckett@forterie.on.ca
CJK/alk

- c c Region of Durham
- York Region
- Region of Waterloo
- Regional Municipality of Halton
- Region of Peel
- County of Lennex & Addington
- Bruce County
- Middlesex County
- Prescott Russell
- Stormont, Dundas & Glegarry
- County of Renfrew
- County of Wellington
- Lanark County

- County of Dufferin
- Northumberland County
- Elgin County
- County of Essex
- County of Haliburton
- County of Peterborough
- Oxford County
- County of Fronenac
- Perth County
- County of Grey
- County of Simcoe
- Huron County
- United Counties of Leeds and Grenville
- County of Lambton

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Niagara Region Clerk's Office

Original to: Check ICP Committee

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File# _____ Initials: