



Committee Report

To: Councillor Steve Hammell, Chair and
Members of the Planning and Development Committee

From: Claire Dodds
Director of Planning and Development

Date: January 26, 2023

Re: Bill 23 Implementation Update: Conservation Authority Role

Staff Recommendation:

The report “Bill 23 Implementation Update: Conservation Authority Role” is for Information.

Background:

Bill 23 was passed by the Provincial Government and received royal assent on November 28, 2022. The Bill included changes to the Conservation Authorities Act that limit the role of Conservation Authorities to mandatory programs and services; in respect of applications this would narrow their scope to Natural Hazard and Source Water Protection Review of Planning applications within their jurisdiction. This prevents municipalities and Conservation Authorities from entering into agreements for services like review of Natural Heritage and water resources (other than Municipal Source Water protection), and further prevents Northern Bruce Peninsula from engaging Grey Sauble Conservation Authority (GSCA) for any reviews.

A regulatory change was required for this change to come into effect. The Provincial Government announced and enacted the associated regulatory change on December 28, 2022, with an effective date of January 1, 2023. There is no transition period. The Minister has also frozen Conservation Authority Fees for 2023.

While the province has removed Conservation Authorities ability to undertake natural heritage review, the Planning Act and Provincial Policy Statement, as well as County and local Official Plans continue to require natural heritage review be completed. This creates a major service gap for municipalities and the County.

Neither local municipalities, nor the County Planning Division, has the internal capacity or expertise at the current time to provide natural heritage and review with in-house resources. As an interim measure, the County has been able to secure the services of North-South Environmental Inc (NSE), the consulting firm that has been supporting the Plan the Bruce: Natural Legacy program, to provide natural heritage review.

At the time of writing this report six of the eight lower-tier municipal CAOs in Bruce County have confirmed their desire for the County to make the necessary arrangements for natural

heritage review associated with planning applications, and we are awaiting confirmation from the other two municipalities.

County planning staff are also working with the Municipality of Northern Bruce Peninsula to make arrangements for review of Natural Hazards associated with Planning Applications.

Planning and Conservation Authority staff have been working to transfer outstanding information to support timely review for files already in process.

Financial/Staffing/Legal/IT Considerations:

In 2021 County Council approved implementation of planning fees that are sufficient to cover application processing costs and directed that they be adjusted each year to reflect inflation. Costs for Natural Heritage (and Hazard review for Northern Bruce Peninsula) review associated with application review should likewise be covered by applicants rather than the levy.

Staff is working with Strategy Corp to complete a fee update in Q1 2023 that addresses the recent changes to the Planning Act (Bills 109 & 23) and evaluates the costs of increasing internal capacity for natural heritage review.

The interim approach with NSE and the Strategy Corp work are intended to develop an approach to recover costs through application fees and/or deposits. There are, however some files in process for which the County has no mechanism in place to re-coup fees for natural heritage review. Some of these applicants have already paid fees to the Conservation Authorities for natural heritage review that they are now prohibited by provincial regulation to complete.

County staff and municipal CAOs support the need for the County to take on the role of natural heritage review to move planning applications forward in an efficient and integrated way through the development process. With Bill 109 now in effect - the Planning Act has a schedule that introduced application fee rebates if Council decisions are not made within certain timeframes. Staff want to ensure the planning process is running as efficiently as possible to facilitate development, and to minimize the financial liability to the County of returning application fees if decisions on applications are not made within statutory timeframes. Having a direct role in the delivery of natural heritage review services helps the County ensure the service gap created by the province will not jeopardize the County losing revenue from application fees under Bill 109.

Recognizing there is some degree of uncertainty associated with these Planning Act changes, files already deemed complete for which natural heritage review may be under-resourced, and other implementation considerations the proposed 2023 budget includes \$200,000 to support Natural Heritage Review associated with Land Use Planning. While the intent is to off-set as much of these budgeted funds as possible through fees charged to applicants, there are costs associated with staff training, developing screening tools, and in-process application review, that may not be able to be fully re-couped from applicants.

The fee review is moving ahead as quickly as possible and will result in staff bringing forward a new fees by-law to Council in Q2 - 2023. This review will consider full cost recovery of the County delivering this service.

Conservation Authorities retain a role delegated by the province for Natural Hazard and Source Water Protection review under the PPS. Application fees for this review associated with Planning Applications are currently collected by the County and forwarded to the appropriate Conservation Authority.

The Grey Sauble Conservation Authority (GSCA) updated its fee schedule in October 2022 to apply a full-cost-recovery approach for review of development proposals including planning applications and permits. The Planning and Development Committee expressed some concerns related to these fees in September 2022 and directed staff to explore alternatives for service delivery related to natural heritage review. This review was not completed by County staff as Bill 23 was introduced in late October 2022 and proposed to remove the Conservation Authority's ability to undertake natural heritage review.

The GSCA further updated its fees in December 2022 to remove costs for Natural Heritage Review, and thus to collect fees only in relation to cost recovery for mandatory services. This change reduced fees in the order of \$200-300 for most common applications. Planning and GSCA staff met earlier this month to review implementation of this fee schedule, which supports cost recovery by classifying applications as 'minor,' with an additional fee if there is more than one study that requires GSCA review and applying a 20% discount to recognize efficiencies associated with joint applications.

Saugeen Valley Conservation Authority fees remain at the 2022 rates established through our fee schedule, and Maitland Valley Conservation Authority application review fees are as set out in their fee schedule.

In Summary,

- Conservation Authorities can no longer provide comments on Natural Heritage matters or Water resources other than Source Water Protection for planning applications, and can no longer provide services to Northern Bruce Peninsula
- The County has secured consulting services to support natural heritage review on land use planning applications for the County and local municipalities as an interim measure
- The County is working to identify the best path forward for natural heritage review, in consideration of internal and external capacity
- We will work to support cost recovery from applicants for Natural Heritage Review, however resources are identified in the proposed budget to help support this transition.

Interdepartmental Consultation:

Staff reviewed approach including consultant with local municipal staff and with Corporate Services.

Link to Strategic Goals and Elements:

Goal 5. Eliminate our own Red Tape

Element E: focus on the internal and the external customer/client needs first.

Comment: Immediate-term arrangements with NSE are intended to maintain application flow while a long-term model for application review is reviewed with Strategy Corp.

Goal 6 Explore alternate options to improve efficiency, service
Element D: Coordinate working with other agencies

Comment: We are working with the CAs and local Municipalities to address changed role and scope of service.

Report Author:

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Departmental Approval:

Claire Dodds
Director of Planning and Development

Approved for Submission:

Derrick Thomson
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