Committee Report

To:    Warden Mitch Twolan
       Members of the Planning and Development Committee

From: Kara Van Myall
      Director of Planning and Development

Date: May 16, 2019

Re: Provincial Changes to Conservation Authorities Legislation and Funding

Recommendation:

That the Provincial Changes to Conservation Authorities Legislation and Funding Report be forwarded to the Ministry of Environment, Conservation, and Parks and the Ministry of Natural Resources and Forestry as the County of Bruce’s comments on the Environmental Bill of Rights (EBR) registry postings #013-5018 and #013-4992.

Background:

Bill 108, the More Homes, More Choice Act passed first reading on May 2, 2019, and proposes changes to 13 Acts. There are different commenting periods available on the EBR for the various changes.

County Council received a delegation from the Grey Sauble Conservation Authority on May 2, 2019 requesting the passing of a motion by Council. That request is attached if Committee would like to revisit the discussion.

This report addresses proposed changes to the Conservation Authorities Act, the regulations under that Act, and provincial funding for Conservation Authorities and the recommendation is that it be forwarded as the County of Bruce’s comments on the EBR postings that are due by May 20 and 21, 2019.

Summary:

The following comments are provided to the Province as it undergoes further review and debate of the legislation. These are summarized below and detailed in following pages.

1. It is recommended that amendments to the Conservation Authorities Act not limit the important role that conservation authorities play in watershed management and the flexibility to deliver programs at the watershed level.
2. Proposed changes to permitting process regulations appear to support increased consistency and transparency; reductions in regulatory restrictions in some cases may be appropriate if there is a broad technical or scientific rationale.

3. It is recommended that the Province reconsider the reductions in funding for conservation authorities and support their role in the delivery of flooding and erosion risk management programs, monitoring, and forecasting of flood events.

**Detailed Review:**

1. **Amendments to the Conservation Authorities Act.**

   Proposed changes to the Conservation Authorities Act as outlined in EBR posting ERO-5018 (posted April 5) are as follows:

   - clearly define the core mandatory programs and services provided by conservation authorities to be, natural hazard protection and management, conservation and management of conservation authority lands, drinking water source protection (as prescribed under the [Clean Water Act](#)), and protection of the Lake Simcoe watershed (as prescribed under the [Lake Simcoe Protection Act](#))
   - increase transparency in how conservation authorities levy municipalities for mandatory and non-mandatory programs and services. Update the [Conservation Authorities Act](#) an Act introduced in 1946, to conform with modern transparency standards by ensuring that municipalities and conservation authorities review levies for non-core programs after a certain period of time (e.g., 4 to 8 years)
   - establish a transition period (e.g., 18 to 24 months) and process for conservation authorities and municipalities to enter into agreements for the delivery of non-mandatory programs and services and meet these transparency standards
   - enable the Minister to appoint an investigator to investigate or undertake an audit and report on a conservation authority
   - clarify that the duty of conservation authority board members is to act in the best interest of the conservation authority, similar to not-for profit organizations.

   The Province is also proposing to proclaim un-proclaimed provisions of the Conservation Authorities Act related to:
   - fees for programs and services
   - transparency and accountability
   - approval of projects with provincial grants
   - recovery of capital costs and operating expenses from municipalities (municipal levies)
   - regulation of areas over which conservation authorities have jurisdiction (e.g., development permitting)
   - enforcement and offences
   - Additional regulations.
Staff Comments:
The full impacts of the proposed changes are not clear from the proposal. We recommend that the Province provide further detail about the proposed changes for Municipalities, Conservation Authorities, and other stakeholders to provide further comments.

Bruce County and its lower-tier Municipalities rely upon a number of programs and services delivered by conservation authorities within the County to support an integrated approach to watershed management through a combination of levy-based funding, service agreements, and memoranda of understanding.

The current multi-municipal governance model used by our Conservation Authorities recognizes that conditions in our watersheds can vary widely from their headwaters to Lake Huron, and that programs delivered in one municipality can benefit other municipalities as well. For example, erosion reduction upstream benefits water quality downstream; dam removal downstream benefits fish migration upstream.

While regular review of program effectiveness is important, the governance model and levy approach that includes input from Local Municipal Councils allows the Conservation Authority to manage funding uncertainty and focus resources on program delivery for these ‘non-core’ programs. For that reason, we recommend that amendments not limit the role that conservation authorities play in watershed management and maintain flexibility in program delivery.

2. Amendments to the Regulations and permitting process

Proposed changes to the process for permitting and municipal plan review as outlined in EBR posting ERO-013-4992 (posted April 5) are as follows:

- Consolidating and harmonizing the existing 36 individual conservation authority-approved regulations into one Minister of Natural Resources and Forestry approved regulation will help to ensure consistency in requirements across all conservation authorities while still allowing for local flexibility based on differences in risks posed by flooding and other natural hazards.
- For the purposes of this regulation the Ministry is also proposing to:
  - Update definitions for key regulatory terms to better align with other provincial policy, including: “wetland”, “watercourse” and “pollution”;
  - Defining undefined terms including: “interference” and “conservation of land” as consistent with the natural hazard management intent of the regulation;
  - Reduce regulatory restrictions between 30m and 120m of a wetland and where a hydrological connection has been severed;
  - Exempt low-risk development activities from requiring a permit including certain alterations and repairs to existing municipal drains subject to the Drainage Act provided they are undertaken in accordance with the Drainage Act and Conservation Authorities Act Protocol;
  - Allow conservation authorities to further exempt low-risk development activities from requiring a permit provided in accordance with conservation authority policies;
  - Require conservation authorities to develop, consult on, make publicly available and periodically review internal policies that guide permitting decisions;
- Require conservation authorities to notify the public of changes to mapped regulated areas such as floodplains or wetland boundaries; and
- Require conservation authorities to establish, monitor and report on service delivery standards including requirements and timelines for determination of complete applications and timelines for permit decisions.

Staff Comments:
Consolidation of regulations will help to provide clarity and consistency across the different conservation authorities and make it easier for municipalities and for developers to navigate the review process.

While defining ‘interference’ and ‘conservation of land’ to be consistent with the natural hazard management intent of the regulation will assist in clarity, defining this scope too narrowly may impact the ability of Conservation Authorities to monitor and manage changes within watersheds that can have cumulative impacts on their ability to absorb rainfall.

This could lead to increased stormwater runoff and downstream flooding risks and reduce the accuracy of floodplain models, maps, and flood forecasting ability.

A reduction in regulatory restrictions between 30 metres and 120 metres of a wetland or where hydrologic connections have been severed may be appropriate if the reductions can be supported from a technical and science-based perspective. Opportunity for case-by-case review may be appropriate subject to the internal policies that would also be required.

Exempting low-risk development activities from requiring a permit may be beneficial for municipalities and landowners, especially as it relates to municipal drains.

Publication of best practices may assist with mitigation of potential impacts from exempted low-risk activities.

Staff see merit in notifying the public of mapping changes, provided they do not duplicate municipal processes and do not limit the ability of conservation authorities to make changes to regulation mapping based on further review, for example where new information is provided as part of a planning application process or through detailed site review. If a municipality is updating their zoning by-law and the hazard land boundaries are changing as part of the by-law, then the municipality and conservation authority should not both be required to give separate notice. Instead, the municipality can give notice in accordance with the Planning Act, and the conservation authority can play a supportive role in the municipal public consultation (i.e. to help explain the mapping changes).

3. Funding changes for Conservation Authorities

The Province has a significant role to play in flood risk reduction, emergency management, and support and relief in flood events, often at great cost.

Provincial funding for Conservation Authorities has been static for over 20 years and has been further reduced in the 2019 provincial budget.
The Grey Sauble Conservation Authority has already identified a need for resources to support floodplain mapping updates to reflect changes in development and weather patterns.

Funding to proactively identify areas where flood risks exist or are increasing can help to guide the location and development of much-needed housing.

Financial/Staffing/Legal/IT Considerations:

There are no direct financial, staffing, legal or IT considerations attached to this report, however there may be implications as the County and its member Conservation Authorities revisit their Memorandum of Understanding, scheduled to be completed by July 31st, 2019.

Provincial funding reductions for Conservation Authorities may lead to program impacts or additional costs needing to be covered by Bruce County, its Municipalities and applicants to the land development process.

Changes to the Conservation Authorities Act could impact the services conservation authorities are able to provide to municipalities and residents. For example, if municipalities cannot enter into agreements with conservation authorities to provide natural heritage comments then municipalities will need to hire consultants and/or staff to address this gap, with increased costs for municipalities and developers and duplication of efforts as natural heritage features and functions often occur in and relate to natural hazard areas.

Interdepartmental Consultation:

Staff consulted with Grey County and Conservation Authority staff to gather information for this report.

Link to Strategic Goals and Elements:

Goal #6 Explore alternate options to improve efficiency, service
Elements - D. Coordinate working with other agencies (e.g. Saugeen Valley CA)
E. Eliminate duplication of services

Goal #7 Stimulate and reward innovation and economic development
Element - A. Streamline and simplify our planning processes (Official Plan, Zoning By-law)

Goal #9 Coordinated, concerted effort to advance our agenda
Element - B. Politicians and staff lobby associations and government in support of local policy needs.

Written by: Jakob Van Dorp, Senior Planner, Planning and Development.

Approved by: Murray Clarke
Acting Chief Administrative Officer