



Date: Wednesday, November 25, 2020

Time: 6:45 p.m.

Location: Microsoft Teams

1. Roll Call and Round Table

2. Adoption of Agenda

A. **That** the agenda **Be Adopted** as circulated.

3. Declaration of Conflict of Interest

4. Delegation / Presentation

5. Approval of Previous Minutes and Notes

6. Business Arising

7. Items for Consideration

7.1. [Proposed Changes to the Conservation Authorities Acts \(report IR-108-20\)](#)

B. **That** Report IR-108-20, Proposed Changes to the Conservation Authorities Acts, **Be Received**; and,

That a letter **Be Circulated** to the Minister of Finance, the Minister of Municipal Affairs and Housing, the Minister of the Environment, Conservation and Parks, and the Minister of Natural Resources and Forestry recommending Schedule 6 be removed from Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020, to allow for consultation with municipalities who are directly affected by the work of Conservation Authorities; and,

That copies of the letter **Be Provided** to the Premier of Ontario and all MPs and MPPS within the Cataraqui Conservation watershed.

8. Minutes

There were none

9. Committee Reports

There were none.

10. Announcements or Inquiries / Information

11. Motions / Notice of Motion

12. Adjournment



Date: November 25, 2020
To: Full Authority Board
From: Katrina Furlanetto, M.Env.Sc
General Manager

1.0 Type of Report

Consent Item
Item for Board Consideration

2.0 Topic

Proposed Changes to the Conservation Authorities Act

3.0 Recommendations

That Report IR-108-20, Proposed Changes to the Conservation Authorities Acts, **Be Received**; and,

That a letter **Be Circulated** to the Minister of Finance, the Minister of Municipal Affairs and Housing, the Minister of the Environment, Conservation and Parks, and the Minister of Natural Resources and Forestry recommending Schedule 6 be removed from Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020, to allow for consultation with municipalities who are directly affected by the work of Conservation Authorities; and,

That copies of the letter **Be Provided** to the Premier of Ontario and all MPs and MPPS within the Cataraqi Conservation watershed.

4.0 Purpose

To inform the Board of the proposed legislative amendments to the Conservation Authorities Act through Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020.

5.0 Background

Amendments to the Conservation Authority act were included in the Building Better Communities and Conservation Watersheds Act, 2017 followed by additional changes proposed within the More Homes, More Choices Act, 2019. While many of the amendments came into affect at the time of the proclaimed legislation, many were left un-proclaimed, pending the release of supporting regulations and consultation efforts.

On November 5, 2020, the Ontario government tabled a provincial budget bill (Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020) for first reading, which included proposed legislature updates and fundamental changes to the Conservation Authorities Act (Schedule 6, Conservation Authorities Act). In doing so, amendments are proposed that could impact conservation authorities' purpose and role in natural resources management, governance, land use planning, provide greater oversight to the province in local decision-making, and reduce the protection of the environment for our communities in the long-term.

A backgrounder document outlining the concerns of Conservation Authorities (CAs) through Conservation Ontario is attached ([Attachment #1](#)).

As these changes are proposed through the budget bill, there is no direct avenue for comment. As of this report, the legislation is anticipated to move quickly and may receive a second reading within the week.

6.0 Strategic Plan

This report supports Goal 'F' in the Strategic Plan, Cataraqui to 2020.

To operate an efficient and financially sound organization that provides excellent service to the community; promotes best environmental practices; and that offers a healthy, positive and nurturing workplace environment for staff, members and volunteers.

- Maintain a positive image in the community.
- Make customer service a top priority in all work areas.
- Maximize the efficient use of time and resources to avoid waste.
- Demonstrate leadership in environmental design as well as energy and materials conservation.
- Foster the health, safety, morale and career development of our staff.

- Maintain up-to-date corporate policies.
- Maintain internal capacity in support services such as accounting, communications, document management, geomatics and information technology.
- Manage capital assets in a long-term, sustainable way.

7.0 Input from Other Sources

The General Manager has been in communication with Conservation Ontario, CA General Managers from across the province and participated in a webinar with Ministry of Environment, Conservation and Parks (MECP) staff on Monday, November 9, 2020. Three webinars were also offered to municipal partners.

Conservation Ontario initially put out a press release dated November 6, 2020 outlining the high-level concerns of the proposed amendments. In addition, they have developed an advocacy strategy to influence provincial amendments by arranging meetings with all Ministry offices, developing common messaging, reaching out to multiple political party leaders to share concerns and advocate change, as well as leading a social media campaign to engage the public and stakeholders for support on behalf of their local conservation authority. As of Monday, November 16, 2020, the CA collective discussed the intent to advocate for the removal of Schedule 6 from the provincial budget bill to allow for discussion with municipalities to fully understand the intent and potential impacts of the legislation. On November 18, 2020, Conservation Ontario circulated an updated press release with this positioning ([Attachment #2](#)).

Local partners such as Ontario Nature, Environmental Defense, and the Canadian Environmental Law Association have developed resources, e-mail petitions, and hosted webinars to educate the public and stakeholders on the impact of the proposed legislation.

The Leadership Team has also discussed the impact of the legislative changes on the organization and are working to circulate key messages on social media, inform community partners of concerns, encourage engagement on a municipal and stakeholder level, and support the ongoing service delivery of the authority. After speaking with the Chair, Cataraqui Conservation on community engagement and messaging, a press release was circulated on November 19, 2020.

8.0 Analysis

Cataraqui Conservation has reviewed the proposed amendments under Schedule 6 of the provincial budget bill to the Conservation Authorities Act legislation impacting governance, program implementation, and the CA role in Section 28 permitting. Staff are supportive of the provincial intent to modernize the watershed-based scope, good governance, overall service delivery and sustainability of the conservation authority model. Notwithstanding the provincial intent, staff are concerned that as written, some of the proposed amendments will:

- significantly hinder the conservation authority's role in regulating development;
- reduce support to municipalities in protecting people and property from natural hazards (e.g., floodplain management);
- allow the appropriate Minister to make decisions on permit appeals and issue permits without watershed data and expertise; and,
- redirect fiduciary role of Board members to promote the interest and needs of individual municipalities versus maintaining the watershed approach

In doing so, there is potential need for increased administration and legal costs, budget redevelopment, and policy updates to ensure successful implementation of regulatory requirements.

During the previous review, there were three mandatory program areas outlined within the Conservation Authorities Act for approval and proclamation. Associated regulations are expected to become available in the coming weeks which may prescribe the mandatory programs, standards, and requirements related to natural hazard management, the conservation and management of lands owned by the CA, and drinking water source protection. All other programs and services currently being delivered to further the conservation, restoration, development, and management of natural resources require a memorandum of understanding with all participating municipalities. Cataraqui Conservation is disappointed to see that proposed changes do not include conservation education, stewardship such as watershed monitoring, and public programming within the core mandate, which is contradictory to the science-based watershed approach to protect Ontario's environment.

Of additional concern is the proposed timeline for implementation. A transition plan will be required by each CA to address the legislative and regulatory changes. All proposed changes are requested to be negotiated, developed, modified, and implemented prior to the start of the 2022 fiscal year. Based on the capacity of the organization and administrative requirements to achieve this target, this timeline is unrealistic.

Conservation authorities have worked hard to streamline development review initiatives, implement service level agreements on planning and permitting with municipal partners, and meet the growing volume and demands of land use planning across the watershed. It is unclear how the province will pay for the technical expertise to advise permit decisions by the Minister or the Local Planning Appeal Tribunal (LPAT) to ensure that decisions are not increasing the liability costs for the province, CAs and municipalities while putting the community at risk.

Areas of concern to municipalities also include the following:

- Removal of citizen appointees as Board members
- Removal of the watershed-based approach contrasting the purpose of CAs and environmental protection
- Removal of public safety provisions towards natural hazard management, protecting people and property, and complicating appeals by allowing the Minister to order conservation authorities not to issue permits
- Aggressive timelines for implementation of municipal service agreements within future budgets to allow for essential non-mandatory programming
- Restricting budgets, fees, and levies and authorize limits on capital and operating costs
- Removal of a CA as a public body within the Planning Act to participate in a “one window approach”

9.0 Financial Implications

There is currently no financial impact to the organization. However, depending on the timing and proclamation of legislation and associated regulation, there may be significant financial impacts in 2022 with a review of the operating and capital budgets to be completed in early 2021.

10.0 Conclusion

Conservation authorities look forward to working with our partners in achieving community resilience under the Made-in-Ontario Environment Plan and recognize the need for improvement. However, as a framework many of the proposed legislative amendments are concerning and may have long-term unintended consequences.

It is therefore recommended to notify the province of Cataraqui Conservation's support to remove Schedule 6, Conservation Authorities Act, from Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020 to allow municipalities time to fully interpret, comment, and understand the potential impacts of this framework on the environment, community resilience, and the wellbeing of our residents.

Approved for circulation,

(Original signed by)

Katrina Furlanetto, M.Env.Sc
General Manager
Cataraqui Region Conservation Authority

Attachment:

- 1) Conservation Ontario Backgrounder document dated November 16, 2020
re: Concerns About Changes to the Conservation Authorities Act and Planning Act Which Affect Conservation Authorities
- 2) Conservation Ontario Media Release dated November 18, 2020 re: Province Tying Conservation Authorities Up in Red Tape – Repeal Schedule 6



Backgrounder

Concerns About Changes to the *Conservation Authorities Act* and *Planning Act* Which Affect Conservation Authorities

November 13, 2020

The Province has introduced a number of changes to the *Conservation Authorities Act* and the *Planning Act* that significantly either limit or completely change the role of conservation authorities to protect Ontario's environment and ensure people and property are safe from natural hazards. The changes risk watering down or limiting the conservation authorities' ability to ensure a watershed-based approach to development and to overall protection of Ontario's environment.

Highlights of Key Changes:

- remove and/or significantly hinder the conservation authorities' role in regulating development, and engaging in review and appeal of municipal planning applications
- allow the Minister make decisions on permit appeals and issue permits without watershed data and expertise from the conservation authorities
- redirect the fiduciary role (Duty of Members) for municipally appointed CA Board members. They are being told to make decisions in the best interest of the municipalities and not the conservation authority.

Conservation Authority Transparency and Accountability

There are a number of changes which appear administrative in nature which we acknowledge will address concerns around conservation authorities' transparency and accountability. CA Administrative By-Laws were completed by the December 2018 legislated deadline and should already address these concerns including making key documents publicly available; including meeting agendas, meeting minutes, and annual audits.

Conservation Ontario Concerns

Ontario's environment will be at risk.

Provincial changes to both the *Conservation Authorities Act* and the *Planning Act* risk watering down or losing the conservation authorities' science-based watershed approach which currently protects Ontario's environment.

- Conservation authorities are important agencies who help protect Ontario's environment. Their science-based watershed information helps to steer development to appropriate places where it will not harm the environment or create risks to people.
- CAs bring the watershed science and information to the various tables where development and growth are being reviewed and discussed.
- Provincial changes limit the conservation authorities' ability to provide input to municipal planning applications and to permit decisions and appeals.

- The conservation authority watershed model has served Ontario well and is relied upon by many levels of government, businesses and residents to protect the environment from upstream to downstream.
- Conservation authorities undertake watershed-scale monitoring, data collection management and modelling; watershed-scale studies, plans, assessments and strategies; and watershed-wide actions including stewardship, communication, outreach and education activities that protect our environment on a watershed basis.

Provincial changes will actually create more costs, delays and red tape around permit and planning applications and appeals.

- There are new appeal processes which will significantly slow down the permitting process creating delays and more red tape.
- If applicants are not satisfied with decisions made by the Hearing Boards (CA Board of Directors or Executive), then applicants can now appeal directly to the Minister who can make his or her own decision without a hearing and even issue a permit.
- Alternatively, or in addition, the applicant can appeal a decision of the conservation authority to the Local Planning Appeal Tribunal (LPAT).
- These changes could add as many as almost 200 days to the application process.

Changes made by the Province to the conservation authorities' role in not being allowed to independently appeal decisions made around municipal planning applications will put more people and infrastructure at risk of flooding and other natural hazards and add additional stressors to Ontario's biodiversity.

- Changes have been made to the conservation authorities' role in the land use planning process. They are no longer allowed to appeal these decisions independently.
- Being able to participate in appeals processes ensures that the watershed lens is being applied to planning and land use decisions and that people and their property are protected from natural hazards such as flooding.
- Without our ability to look at development applications on a watershed basis, we run the risk of the plan review process being piecemealed and ultimately the potential to exacerbate risks associated with natural hazards and for cumulative negative environmental impacts.

The Province has removed the responsibility for municipally appointed CA Board members to represent the interests of the Conservation Authority.

- The Province has changed the 'Duty to Members' section of the CAA to have municipal representatives on CA Boards actually act in the interests of their own municipality rather than the conservation authority's interests.
- It contradicts the fiduciary duty of board members of any organization to represent the best interests of the corporation they are overseeing. It puts an individual municipal interest above the conservation authority and watershed interests.

- This change undermines the ability of the CA Board to address the broader environmental/resource management issues facing our watersheds today. It limits discourse on these issues and consideration of programs and services that address watershed-wide issues that span municipal boundaries is paramount in a time of increasing climate change.

For more information:

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Conservationontario.ca

Media Release

Attachment #2 - Report IR-108-20 Proposed Changes to the CA Act

FOR IMMEDIATE RELEASE

Province Tying Conservation Authorities Up in Red Tape – *Repeal Schedule 6*

NEWMARKET (November 18, 2020) – Conservation Ontario (CO) recommends the Province repeal (remove) Schedule 6 which amends the *Conservation Authorities Act* and the *Planning Act* because the changes being proposed will create more red tape and higher costs for Ontario taxpayers as well as threaten the independent watershed-based approach used by conservation authorities (CAs) in land use planning.

There are a number of proposed changes contained in [Bill 229: Protect, Support and Recover from COVID 19 Act \(Budget Measures Act\)](#) which Conservation Ontario believes will have the potential to add significant delays and costs in conservation authority enforcement, planning and permitting processes as well as ultimately have the potential for significant impacts on Ontario's ability to provide cost-effective flooding and natural hazards management/protection and drinking water protection to Ontarians.

The proposed amendments are not administrative but, in fact, could have significant environmental impact due to decisions being made without consideration of the local watershed science and data provided by conservation authorities.

“The changes the Province is proposing will achieve the opposite of what they say they want to do which is to reduce red tape and create conditions for growth,” said Kim Gavine, General Manager of Conservation Ontario. Conservation Ontario represents Ontario's 36 conservation authorities which are community-based watershed management agencies. Conservation Ontario was already on track with addressing these issues through [CO's Client Service and Streamlining Initiative](#) which rolled out last year.

Through a review of the current permit review process, Conservation Ontario estimates that the new changes to the permitting appeals process could delay approvals by as much as 200 days. As well costs can be expected to increase due to more staff time being required for permit appeals processes rather than time being spent on actually issuing permits.

Changes to regulatory enforcement tools will also increase costs. During the pandemic, conservation authorities have been experiencing an increase in illegal activities on CA-owned and/or regulated lands. Extensive remediation costs and damages to neighbouring properties can be avoided if tools such as enhanced powers of inspection and stop (work) orders are available to CA officers.

Conservation Ontario feels that if the changes around the planning appeals process proceed, we run the risk of the plan review process having a piecemeal approach which could ultimately create the potential for cumulative negative environmental impacts.

“What the Province is proposing to do through the changes in Schedule 6 significantly threatens the independent, [watershed-based approach of Ontario’s conservation authorities](#) that municipalities and others rely on to protect our natural resources and to steer development away from creating or exacerbating flooding and other natural hazards,” Gavine said. “This isn’t what you would expect a government to do in light of the growing and more complex climate change impacts we are experiencing.”

“Conservation authorities bring the local watershed science to the planning process. They apply this knowledge in permit and planning application reviews. With the new ability of the Minister to issue a permit, it’s not clear what science the Minister will rely upon to review an application and issue a permit. The proposed changes raise the risks of having the permitting process veer away from a science-based decision,” Gavine says.

“Conservation authorities rely on science-based watershed information to ensure that Ontario’s communities are protected from upstream to downstream,” Gavine points out.

Conservation Ontario is encouraging residents and watershed partners to reach out to the Premier, the Minister of Finance, the Minister of Environment, Conservation and Parks, the Minister of Natural Resources and Forestry and the Minister of Municipal Affairs and Housing, as well as their local MPPs to request them to repeal Schedule 6 of the *Bill 229: Protect, Support and Recover from COVID 19 Act (Budget Measures Act)*.

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For more information:

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For more information on the changes being proposed in Schedule 6, [click here](#).