

## REPORT TO COUNTY COUNCIL

# Report Regarding Conservation Authority Service Agreements (Upper Thames River CA and Grand River CA)

**To:** Warden and Members of County Council

**From:** Director of Community Planning

## RECOMMENDATION

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1. That County Council authorize the Chief Administrative Officer and the Director of Public Works to enter into agreements with the Upper Thames River Conservation Authority and the Grand River Conservation Authority for the provision of non-mandatory services as set out in Report CP 2023-381.

## REPORT HIGHLIGHTS

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- The purpose of this report is to provide Council with a brief overview of the regulatory changes to the Conservation Authorities (CA) Act that came into effect in late 2020 (including various regulations that were introduced through 2021 and 2022) and outline the process that has been followed by the CAs with respect to transitioning to a new service delivery model.
- The report also includes details regarding two Memorandums of Understanding (MOU) that have been negotiated by County Planning and Corporate Services staff with the Upper Thames River Conservation Authority (UTRCA) and the Grand River Conservation Authority (GRCA) regarding the provision of certain services by these CAs.

## Implementation Points

Adopting the recommendations in this report would authorize the signing of MOUs with both the UTRCA and GRCA for the provision of certain services within the County of Oxford, as set out in this report.

## Financial Impact

The municipal costs associated with funding the activities of the various CAs with jurisdiction in Oxford County have historically been paid via the County levy. The costs associated with non-mandatory programs (as discussed in this report) and the CAs' core, or mandatory programs and services will continue to be paid through the County levy, however, in light of the changes introduced by the Province as to how non-mandatory services are to be funded, these non-mandatory services are now separated from the CA's core services and subject to agreements with participating municipalities. Notwithstanding this distinction between mandatory and non-mandatory services, it is anticipated that the total cost of CA activities attributable to municipalities will be similar as in previous years.

## Communications




Information regarding the regulatory changes to the Conservation Authorities Act, and the two MOUs that are outlined in this report, was provided to all Area Municipalities in Oxford for their consideration. Staff attended Area Municipal Council meetings (where requested by the municipality) and answered questions regarding the service agreements with a view to obtaining support for proceeding with MOUs with the UTRCA and GRCA.

## 2023-2026 STRATEGIC PLAN

Oxford County Council approved the [2023-2026 Strategic Plan](#) on September 13, 2023. The Plan outlines 39 goals across three strategic pillars that advance Council's vision of "Working together for a healthy, vibrant, and sustainable future." These pillars are: (1) *Promoting community vitality*, (2) *Enhancing environmental sustainability*, and (3) *Fostering progressive government*.

The recommendation in this report supports the following strategic goals:

### Strategic Plan Pillars and Goals

PILLAR 1	PILLAR 2	PILLAR 3
		
<b>Promoting community vitality</b>	<b>Enhancing environmental sustainability</b>	<b>Fostering progressive government</b>
	Goal 2.1 – Climate change mitigation and adaptation Goal 2.2 – Preserve and enhance our natural environment	

See: [Oxford County 2023-2026 Strategic Plan](#)

## DISCUSSION

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### Background

#### Provincial Legislative Changes

Planning staff provided information (by way of Briefing Note) to all Area Municipal CAOs and Clerks in November, 2020 regarding Bill 229, *Protect, Support and Recover from Covid-19 Act (Budget Measures, 2020)*, which provided an overview of the key changes that were contained in the Bill and outlined the potential implications for the County and Area Municipal partners. The noted Briefing Note is attached to this report for Council's information.

The amendments introduced via Bill 229 in December 2020 were intended to improve transparency and consistency in CA operations, strengthen municipal and provincial oversight, and streamline the role of CAs with respect to the issuance of permits, and land use planning in general. Bill 229, and subsequent regulations, propose to make growth and development more efficient, both in support of the provincial economy coming out of the COVID-19 pandemic, and going forward.

Bill 229 was supported by several regulations that have come into effect since the amendments introduced by the Bill received Royal Assent. Among these regulations, Ontario Regulation 686/21 – Mandatory Programs and Services prescribes the mandatory programs and services that CAs will be required to provide, including core watershed-based resource management strategies and permit review and issuance related to natural hazards.

In addition to the mandatory programs prescribed (identified as Category 1 programs), the regulation also provides for municipal programs and services (Category 2) and programs and services determined by the CAs as advisable (Category 3). O. Reg. 686/21 came into effect in January, 2022.

Further to O. Reg. 686/21, Ontario Regulation 687/21 – Transition Plans and Agreements for Programs and Services came into effect in October, 2021 and requires that each CA create a 'transition plan' that outlines the steps to be taken to develop an inventory of programs and services and enter into agreements with participating municipalities to fund non-mandatory programs and services through the municipal levy. In accordance with O. Reg. 687/21 final transition reports are to be completed by January 2024 with a view to providing sufficient time to review, discuss and complete the agreements regarding non-mandatory services.

Subsequent to the foregoing legislation and regulations coming into force, the Province enacted legislation referred to as Bill 23, *More Homes Built Faster Act, 2022* which implemented further measures intended to streamline land use approvals, including amendments to the *Conservation Authorities Act*. The approval of Bill 23 was followed by additional regulation that restricted the CAs' role with respect to providing services related to reviewing and commenting on proposals or applications made under a number of provincial acts, including the *Planning Act*. For clarity, while the CAs continue to review and provide comments on development applications related to their mandate in regard to natural hazards, the CA's have not been reviewing or providing comments on development applications regarding matters pertaining to natural heritage resources.

## Conservation Authorities Act: Program Categories

Report No. [CP 2022-366](#), Regulatory Proposals Under the Conservation Authorities Act, was considered by County Council in September, 2022. The report, which was received by County Council and circulated to all Area Municipal CAOs and Clerks for distribution to their respective Councils and staff, provided an overview of the transition plans and list of categorized programs provided by each of the CAs having jurisdiction in Oxford County, those being Catfish Creek, Long Point, Grand River and Upper Thames.

Briefly, Category 1 programs are identified as those which the CAs are required to deliver and will be funded by municipal levy and/or user fees and include Programs and Services (P/S) related to permit administration and compliance activities (i.e. reviewing and processing permit applications, technical studies, enforcement activities and legal expenses) related to Sections 28 and 30 of the CA Act.

Category 2 P/Ss are those that will be provided at the request of the municipality and will be carried out by the CA on behalf of the municipality and are generally to be funded via government and other agency grants and/or municipal funding via a Memorandum of Understanding (MOU) or other agreement. Plan review not related to Natural Hazards (such as Natural Heritage resources) is an example of a P/S under Category 2.

Category 3 P/Ss are generally described as those that the respective CA Boards determine to be advisable and can be funded via CA generated revenue, user fees, government/agency grants, donations, etc. While this category is not subject to municipal funding, any voluntary funding by a municipality would require a cost-apportioning agreement. Category 3 P/Ss include operation of campgrounds, private land stewardship and restoration, and community education and outreach programs.

## Comments

### Memorandums of Understanding / Letter Agreements

As noted previously in this report, Bill 23 (and subsequent regulation) essentially removed the CA role in reviewing or commenting on applications made under the Planning Act with respect to Natural Heritage matters. The Catfish Creek Conservation Authority (CCCA) and the Long Point Region Conservation Authority (LPRCA) have advised that this P/S was the only Category 2 service that would potentially be offered by each and further, neither of these CAs have any Category 3 P/Ss that require municipal funding via an MOU or other agreement with the County. In light of the foregoing, MOUs are not required with either the CCCA or the LPRCA. To be clear, these CAs will continue to offer P/Ss of benefit to their respective watersheds, however, the non-mandatory services that are or will be provided will be supported via means other than municipal funds.

The Upper Thames River Conservation Authority (UTRCA) and the Grand River Conservation Authority (GRCA) have both identified non-mandatory P/Ss that benefit the health of the respective watersheds, protect and educate residents regarding natural hazards and mitigate the effects of climate change. Similar to the CCCA and LPRCA, both Grand River and Upper Thames offer a number of non-mandatory P/Ss that are funded through means other than municipal funding. However, there are a number of services offered by these CAs that are undertaken on behalf of municipalities or are of local interest, as well as programs that are considered to be advisable and provide a benefit to the broader watershed(s). County staff have been in discussions with both the GRCA and the UTRCA through 2023 with a view to crafting MOUs that identify the P/Ss that will be offered in Oxford County, the terms for providing those services and the cost to the County and Area Municipal partners.

Draft versions of both of the above-noted MOUs are attached to this report for Council's consideration and are summarized below. Council will note that the two agreements are structured differently and in some instances, there are variations on what constitutes a Category 2 P/S vs Category 3, as interpreted by the CAs.

### UTRCA

The UTRCA MOU is a single-document cost apportioning agreement between the CA and the County of Oxford that includes the following provisions:

- Term of the agreement is 4 years, from January, 2024 to December, 2028;
- The agreement can be terminated by either party with 180 days notice;
- The Programs and Services subject to the agreement (and cost apportionment) are included in Schedule A of the agreement and are generally identified as;
  - o Stewardship and restoration
  - o Subwatershed planning and monitoring
  - o Community outreach and education
- The actual apportionment of program costs are illustrated in Schedule B to the agreement.

Further to the above, P/Ss included in the UTRCA agreement are set out only generally. However, the CA has developed a Cost Apportioning Agreement Guide that provides more detail regarding these programs and includes a number of specific examples of activities that have been undertaken in Oxford County for each of the identified general programs. While this guide does not form part of the agreement, it is a useful document in understanding the various P/Ss undertaken by the CA in Oxford (see attached for reference).

With respect to Schedule B, the cost apportionment among municipalities within the UTRCA watershed is calculated in the same manner as the general levy (i.e. modified current value assessment) and increases to the Schedule B amounts (which reflect only the amounts attributable to the Category 3 Programs noted above) will be the same as increases (or decreases) to the general levy. The figures contained in Schedule B attached to the agreement in this report reflect 2023 calculations.

## GRCA

The GRCA agreement includes an MOU between the CA and the County that sets out the basic parameters of the agreement (similar to the UTRCA), but is accompanied by a 'Letter Agreement' which includes an appendix that outlines the P/Ss covered by the agreement as well as deliverables. The GRCA agreement also contains the following provisions:

- Term of the agreement is 5 years from the date the agreement is made;
- The agreement can be terminated by either party with 180 days notice;
- The actual apportionment costs attributable to the County are included in the Letter Agreement and are subject to the same criteria for increases (or decreases) as described for the UTRCA agreement.

While the GRCA MOU does not include a guide document similar to the UTRCA, the GRCA has provided a list of non-mandatory programs that are supported by the CA in Oxford County. The list is attached to this report for Council's information.

The Letter Agreement portion of the GRCA MOU indicates that the amount attributable to the County of Oxford in 2024, based on the draft 2024 GRCA budget is approximately \$8,100.

## Comments

Council will note that the agreements prepared by the UTRCA and GRCA are somewhat different in format. From information provided by the CAs, it appears that there is no standard template for these agreements mandated by Conservation Ontario and that the agreements prepared by Grand River and Upper Thames were determined by the respective CAs, in consultation with their memberships, to be appropriate for their needs.

Further, reviewing the agreements on a 'side-by-side' basis, staff are of the opinion that the basic content of the agreements is generally consistent and that the programs and services that are being included in each appear to be similar at a high level (i.e. subwatershed services, stewardship and restoration, community outreach and education).

While there would appear to be some discrepancy in the agreements as to what each CA has determined to be a Category 2 or Category 3 program, this (according to the CAs) is attributed to internal interpretations as to how particular programs are being delivered.

From the County of Oxford's perspective, the P/Ss being offered through both agreements are beneficial to the County and Area Municipalities and the costs attributed to those services by each (approximately \$132,000 for the UTRCA, based on 2023 calculations, and approximately \$8,000 for the GRCA, being a draft figure for consideration in the GRCA's 2024 budget).

For information, the P/Ss included in the agreements subject to this report are delivered to the entire, respective watersheds. This approach provides for economies of scale that allow Oxford County and the Area Municipalities to take advantage of programs beneficial to the County at a cost that may not be feasible (or desirable) otherwise. Staff are of the opinion that taking advantage of these economies of scale to offer and/or participate in P/Ss related to education and outreach (e.g. Groundwater Festival), stewardship and restoration (e.g. Clean Water Program, Annual Stewardship Awards) and broad watershed planning is useful and valuable to Oxford.

Area Municipal Support

Prior to bringing this report to County Council regarding MOUs with the UTRCA and GRCA, staff provided similar information (in the form of a draft report and attachments) to each Area Municipality (AM) within the County with a view to obtaining input and a resolution in support of the agreements. While it is recognized that the noted CAs presence within the AMs varies (EZT, Blandford-Blenheim, Woodstock and Norwich are within both watersheds, while Zorra, SWOX and Ingersoll are within only the UTRCA watershed; and Tillsonburg is not within either), because the CA levies are paid via the County levy, the costs that are identified in the agreements are borne by all ratepayers in Oxford.

For Council’s information, staff have received support for the agreements from all eight AM Councils.

**CONCLUSIONS**

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Staff are of the opinion that the programs and services being offered through the MOU/agreements with the UTRCA and GRCA are beneficial to the County and Area Municipalities and the costs attributed to those services by each are reasonable and appropriate.

**SIGNATURES**

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**Report author:**

Original signed by \_\_\_\_\_  
Gordon K Hough, RPP  
Director of Community Planning

**Approved for submission:**

Original signed by \_\_\_\_\_  
Benjamin R. Addley  
Chief Administrative Officer

**ATTACHMENTS**

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- Attachment 1 – Briefing Note Regarding Bill 229; November 2020
- Attachment 2 – Draft UTRCA Agreement
- Attachment 3 – UTRCA Cost Apportioning Agreement Guide
- Attachment 4 – GRCA MOU
- Attachment 5 – Email from GRCA outlining Category 2 Program/Services Support in Oxford