

To: Warden and Members of County Council

From: Director of Community Planning

Regulatory Proposals - Conservation Authorities Act; Transition Plans and Agreements for Programs and Services

RECOMMENDATIONS

1. That Report No. CP 2022-366 be received as information; and
2. And further, that Report No. CP 2022-366 be circulated to all Area Municipal CAOs and Clerks for distribution to their respective Councils and staff.

REPORT HIGHLIGHTS

- The purpose of this report is to provide County 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 have been introduced through 2021 and 2022) and outline the process that is being followed by the CAs with respect to transitioning to a new service delivery model.

Implementation Points

There are no specific implementation measures that result from the recommendations contained in this report.

Financial Impact

The adoption of the recommendations contained in this report will have no immediate budget impact on the County. The regulatory changes that will come into effect in January 2024 (as per the relevant legislation) will impact the County levy as it pertains to CA budgets and will also include consideration of agreements (including funding) for certain municipal programs/services that may be provided to the County and Area Municipalities by the CAs.







Communications

Planning staff provided a 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 the Area Municipal partners.

Communication regarding the proposed changes was undertaken via the 'briefing note' approach and directly to the Area Municipalities rather than through a report to County Council due to the somewhat surprising inclusion of the CA Act measures in Bill 229 and the Province's stated position that there was no requirement for public consultation under the Environmental Registry of Ontario (ERO) because the proposed amendments to the CA Act formed part of the approved provincial budget.

The initial stages of the transition under Bill 229 have been completed (i.e. Transition Plans and the development/categorization of inventories of programs and services) as of February 2022. Each CA having jurisdiction in Oxford communicated these documents directly to the respective member Area Municipalities. Going forward, as CA levies are paid to the respective CAs via the County levy, County staff will be the primary lead in developing agreements regarding those programs and services that are not provided by the CAs as mandatory services. Notwithstanding the foregoing, all discussions and negotiations with the CAs will be undertaken via full consultation with Area Municipal staff and Councils.

Strategic Plan (2020-2022)

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DISCUSSION

Background

The amendments introduced via Bill 229 in December 2020 are 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. 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 is supported by several regulations that have come into effect since the noted amendments received Royal Assent. Two key regulations impacting the County and Area Municipalities through the remainder of 2022 and 2023 are as follows:

Ontario Regulation 686/21 – Mandatory Programs and Services prescribes the mandatory programs and services CAs will be required to provide, including core watershed-based resource management strategies and CA 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 two categories of non-mandatory services, comprised of municipal programs and services (Category 2) and programs and services determined by the CAs as advisable to implement (Category 3). Ontario Regulation 686/21 came into effect on January 1, 2022. The foregoing is discussed further later in this report.

Ontario Regulation 687/21 – Transition Plans and Agreements for Programs and Services came into effect on October 1, 2021 and requires each CA to 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. This regulation also establishes the transition period during which any agreements are to be completed.

According to the regulations, the final transition and associated reports are to be completed by January 31, 2024, with a view to providing ample time for review, discussion and the completion of agreements regarding Category 2 (and to a lesser extent, Category 3) services.

The Transition Plan completed by the Upper Thames River Conservation Authority (UTRCA) has been attached to this report for Council's information. Each of the CAs having jurisdiction in Oxford have provided similar plans, however, as the transition process for all CAs is subject to similar timelines and deliverables as per the *Conservation Authorities Act* (and related regulations), the UTRCA Plan provides a good overview of the process.

Comments

As Council is aware, Oxford County is within the watersheds of four CAs (Catfish Creek, Long Point, Grand River and Upper Thames). In accordance with the above-noted regulations, each CA has provided the County with a high level transition plan and list of categorized programs.

Category 1 programs and services (P&S), as identified by *Ontario Regulation 686/21*, are those which the CAs are required to deliver and will be funded by municipal levy and/or user fees. Common examples of Category 1 P&Ss include CA permit administration and compliance activities (i.e. for CA regulated areas), which involves 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 may be provided at the request of the municipality and will be carried out by the CA on behalf of a municipality. Funding for these programs can include government and other agency grants, and/or municipal funding under a Memorandum of Understanding (MOU) or agreement between the CA and the municipality. An example of a Category 2 P&S that will be of particular interest in Oxford is plan review (e.g. review of planning

applications) not related to Natural Hazards to identify potential natural heritage impacts and related requirements, and potentially some related data and mapping services. For clarity, CA program and services activities related to Natural Hazards (i.e. flood and erosion hazards, unstable soils, etc.) generally fall within Category 1, while those related to Natural Heritage resources (water, woodlands, wetlands, valleylands, etc.) will generally fall within Category 2.

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

A detailed list of each CAs P&Ss is attached to this report for Council's information. For each CA, P&Ss are categorized as described above and includes a brief description as to why a particular P&S falls into the assigned category. The charts also include the funding mechanism for each P&S and an estimated annual cost of the P&S based on the 5 year average.

In addition to the foregoing, the Province has introduced 'Phase 2' regulations in support of the changes to the CA Act which came into effect in April 2022. These regulations, which include *O. Reg 402/22* (which details the CA budget process and municipal apportionment methods and requirements), support the transition of existing CA funding mechanisms and budget processes to the new legislative funding framework and imposes on CAs requirements to improve transparency of CA operations. The new municipal/CA funding framework is slated to take effect for the 2024 CA budget cycle.

Conclusions

The amendments to the *Conservation Authorities Act* introduced via Bill 229 in December 2020 are 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. The transition of CA operations, including the budgeting and funding of programs and services provided by the Act is underway and the CAs having jurisdiction in Oxford County are currently preparing draft agreements for consideration regarding those programs and services that are not mandatory under the Act, but may be desirable for Oxford and the Area Municipalities.

At this time, the only agreement that has been provided to the County for consideration is from the Catfish Creek Conservation Authority (CCCA). This CA has jurisdiction in only a small area of the County located in the southwest corner of South-West Oxford (SWOX) Township. Staff have been working with the CA and Township staff to complete an agreement with the CCCA and this agreement will be brought forward to County Council for consideration at an upcoming meeting of Council.

Reports regarding subsequent agreements with remaining CAs having jurisdiction in Oxford will be brought forward for Council consideration as they are received, and after consultation and discussion with the Area Municipalities that are affected by the programs and services that are proposed.

SIGNATURES

Report Author and Departmental Approval:

Original Signed By

Gordon K. Hough, RPP
Director of Community Planning

Approved for submission:

Original Signed By

Benjamin R. Addley
Interim Chief Administrative Officer

ATTACHMENTS

- Attachment 1 – UTRCA Transition Plan
- Attachment 2 – Catfish Creek Conservation Authority Programs and Services Guide
- Attachment 3 – Grand River Conservation Authority Programs and Services Inventory Listing
- Attachment 4 – Long Point Region Conservation Authority Current Programs and Services
- Attachment 5 – Upper Thames River Conservation Authority Inventory of Programs and Services