



Special Meeting of the Board of Directors

Meeting No. BOD-08-22

Friday, November 18, 2022

9:00 a.m.

Agenda

Meeting Location:

To be held virtually by Zoom

Minutes and agendas are available at www.LSRCA.on.ca

Upcoming Events

Board of Directors' Meeting

Friday, November 25, 2022 at 9:00 a.m.

To be held virtually by Zoom

Board of Directors' Meeting

Friday, December 16, 2022

120 Bayview Parkway, Newmarket

Annual General Meeting

Friday, January 27, 2023

Newmarket Old Town Hall

A full listing of events can be found at www.LSRCA.on.ca

I. Acknowledgement of Indigenous Territory

II. Declarations of Pecuniary Interest and Conflicts of Interest

III. Approval of Agenda

Pages 1 - 2

Recommended: That the content of the Agenda for the Special Meeting of the Board of Directors held on November 18, 2022 be approved as presented.

IV. Proposed Provincial Bill 23 - More Homes Built Faster Act, 2022

Pages 3 - 10

CAO Rob Baldwin will provide a presentation on the proposed Provincial Bill 23 – More Homes Built Faster Act, 2022 as it impacts the *Conservation Authorities Act*. This presentation will be provided at the meeting and will be available on our website following the meeting.

Recommended: That the presentation by CAO Rob Baldwin regarding an overview of the impacts to the *Conservation Authorities Act* of the proposed Provincial Bill 23 be received for information.

Included in the agenda is Staff Report No. 40-22-BOD regarding proposed Provincial Bill 23 - More Homes Built Faster Act, 2022.

Recommended: That Staff Report No. 40-22-BOD regarding Provincial Bill 23 – More Homes Built Faster Act, 2022 regarding Amendments to the *Conservation Authorities Act* be received; and

Further that Staff be directed to provide a submission to Environmental Registry of Ontario No. 019-6141 based on comments within this report; and

Further that Staff be directed to submit a letter to the Minister of Natural Resources and Forestry and the Minister of Environment, Conservation and Parks requesting that the Conservation Authorities Working Group be re-engaged.

V. Adjournment

Staff Report

To: Board of Directors

From: Rob Baldwin, Chief Administrative Officer

Date: November 11, 2022

Subject:

Proposed Provincial Bill 23 – More Homes Built Faster Act, 2022

Recommendation:

That Staff Report No. 40-22-BOD regarding Provincial Bill 23 – More Homes Built Faster Act, 2022 regarding Amendments to the *Conservation Authorities Act* be received; and

Further that Staff be directed to provide a submission to Environmental Registry of Ontario No. 019-6141 based on comments within this report; and

Further that Staff be directed to submit a letter to the Minister of Natural Resources and Forestry and the Minister of Environment, Conservation and Parks requesting that the Conservation Authorities Working Group be re-engaged.

Purpose of this Staff Report:

The purpose of this Staff Report No. 40-22-BOD is to inform the Board of Directors on the potential impacts of Provincial Bill 23 – More Homes Built Faster Act, 2022 (Bill 23) regarding amendments to the *Conservation Authorities Act* and to seek the Board's direction to provide a submission in response to Environmental Registry of Ontario's No. ERO 019-6141 (ERO).

Background:

On October 25, 2022, the Ministry of Municipal Affairs and Housing introduced legislation under Bill 23, More Homes Built Faster Act, 2022. Bill 23 proposes sweeping changes for municipalities and conservation authorities in Ontario. It will impact almost every aspect of the development process, as well as community building and the ability to keep residents safe while protecting the environment.

This staff report will focus on the proposed changes to the *Conservation Authorities Act* as introduced in Bill 23 and further outlined in [ERO 019-6141](#) – Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0. The comment period regarding this ERO is October 25, 2022 to November 24, 2022.

The general theme of the proposed changes is to limit the role of conservation authorities in the development review process, support faster and less costly approvals, streamline processes of conservation authorities, and assist in identifying conservation authority lands suitable for development.

There are four central categories in which the proposed changes are outlined:

1. Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario;
2. Focusing conservation authorities' role in the review of development related proposals and applications;
3. Freezing conservation authority fees; and
4. Identifying conservation authority lands suitable for housing and streamlining conservation authority severance and disposition processes that facilitate faster development.

An overview of the proposed legislative changes and the associated issues with each can be found below in the Issues section.

Issues:

1. Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario

- Legislative change
- Enable the exemption of development (a permit) authorized under the *Planning Act* from requiring a permit in municipalities set out in regulation, where certain conditions are met as set out in regulation
- Remove the terms “conservation of land” and “pollution and add the terms “unstable soils and bedrock”
- Reduce timeline after which an applicant may appeal for failure to issue a permit from 120 to 90 days
- Minor amendments regarding permits issued under a zoning order

Comments:

- The primary concern is the extent of what types of development or where developments occur being exempt from any review by conservation authorities. The conditions and/or criteria for what may qualify for an exemption must be clearly considered to ensure development does not occur inappropriately in a hazard area and/or exacerbate a hazard

area as a result. Conservation authorities need to be part of this discussion as the regulation is developed.

- The term “unstable soils and bedrock” will certainly be easier to communicate and address in the permitting process as it is easier to understand than “conservation of land”.
- No significant concerns regarding timing for appeal or zoning order permits.
- The removal of “pollution” is concerning as there is always a need to ensure a development activity does not create another environmental issue through improper practice causing pollution. This test may be able to be replaced through permit conditions germane to the hazard and the development activity ensuring no pollution.

2. Focusing conservation authorities’ role in review of development related proposals and applications

- Legislative and regulatory changes
- Proposed legislative change would scope conservation authorities’ review and commenting role to only matters within their core mandate as already defined in O.Reg.686/21. The core mandate generally being natural hazards, source water protection and the *Lake Simcoe Protection Act* (only for Lake Simcoe Region Conservation Authority).
- The new regulation proposes to prescribe the following Acts under which a conservation authority could not perform the review and commenting role on behalf of a municipality:
 - *The Aggregate Resources Act*
 - *The Condominium Act*
 - *The Drainage Act*
 - *The Endangered Species Act*
 - *The Environmental Assessment Act*
 - *The Environmental Protection Act*
 - *The Niagara Escarpment Planning and Development Act*
 - *The Ontario Heritage Act*
 - *The Ontario Water Resources Act*
 - *The Planning Act*

Comments:

- This proposed change will ensure chaos in the development review and approvals process. The Conservation Authority provides development review services under clear agreements ensuring no duplication occurs. Under this proposed legislative change, a

large portion of these services will no longer be eligible for a conservation authority to implement.

- There appears to be potential for conflict interpretation in the wording of the ERO posting, where if the Minister's regulation once developed includes the above-mentioned Acts as prescribed Acts, a conservation authority may not even be circulated. This potential conflict needs to be addressed through clearly articulated language.
- The Conservation Authority provides this service to its member municipalities acting as one window for reviewing development for natural heritage, stormwater, groundwater, source water protection, Lake Simcoe Protection Plan, hazards and floodplain related aspects.
- This service is provided through 18 municipal agreements to provide cost appropriate and efficient development review in a watershed context at cost recovery. These legislative changes will place much of this review at the feet of the municipalities who do not have the staff or expertise. In essence, instead of a one-window approach, there will be 18 windows. This one-window approach ensures a focused and high caliber technical team as the costs are shared across member municipalities and through fees.
- There is not sufficient existing consulting service and/or available technical staff in the province to fulfill each municipalities needs if taken on by them respectfully.
- The *Lake Simcoe Protection Act* is a mandatory program under O.Reg.686/21 for the Lake Simcoe Region Conservation Authority and as such provides additional opportunity for development review to ensure consistency with the provisions of the Lake Simcoe Protection Plan. This will capture much of the existing technical review for development; however, there may be some gaps which will be identified as a better understanding of the details of regulation is gained.
- The natural environment does not recognize municipal boundaries, rather it lives in a watershed. Strong community building relies on its natural environment. Removing a watershed approach from the development review process will create conflict and, in the end, negative impacts.

3. Freezing conservation authority fees

- Legislative change
- Proposed amendment enables the Minister to direct a conservation authority to maintain its fees charged for programs and services at current levels

- The intent of this proposed change is to enable a reduction of the financial burden on developers and other landowners making development related applications further accelerating housing in Ontario.

Comments:

- The freezing of fees is contradictory to the premise that “development must pay for development”. The Conservation Authority has for many years operated to almost full cost recovery, as only the costs of enforcement and supporting municipalities during the official plan reviews relying on levy.
- The long-term freezing of fees will ensure a move away from cost recovery and potentially increase the burden on the levy, which is supported by the taxpayer.
- Clear criteria should be established on which the Minister would use to render a decision on freezing fees.
- The Conservation Authority has already undertaken an extensive cost-based analysis that has been benchmarked against other development review fees to ensure fees, processes and service standards are transparent. The Conservation Authority works closely with its development industry and always has detailed consultation regarding fees in which their support is provided prior to any new fees being approved by the Board.
- The Conservation Authority recommends that in an instance of freezing fees, conservation authorities will have the ability to amend fees to address inflation only.
- The Conservation Authority recommends that the Province requires all conservation authorities to demonstrate that permit and planning fees do not exceed the cost to deliver a program or service through the budget and audit process.

4. Identifying conservation authority lands suitable for housing and streamlining conservation authority severance and disposition processes that facilitate faster development

- Legislative and Regulation changes to Mandatory Programs and Services regulation O.Reg.686/21
- Land inventory required under O.Reg.686/21 will also require conservation authorities to identify owned or controlled lands that could support housing development. In identifying these lands, a conservation authority would consider the current zoning, and the extent to which the parcel or portions of the parcel may augment natural heritage land or integrate with provincially or municipally owned land or publicly accessible lands and trails.

- The following proposed changes only apply to lands previously acquired using a provincial grant under section 39 of the *Conservation Authorities Act*:
 - Written notice to be provided to the Minister at least 90 days prior to the disposition;
 - Post a notice of public consultation for a minimum of 45 days prior to providing the Minister notice if the land includes any of the following:
 - Areas of natural and scientific interest,
 - The habitat of threatened or endangered species,
 - Lands in which the conservation authority has an agreement under section 2 of the *Forestry Act*,
 - Land that is impacted by a type of natural hazard as described in O.Reg.686/21.
- The notice of public consultation will identify the type of land, proposed disposition date, future use of the lands if known.
- If public consultation is required, the written notice to the Minister must include a summary of comments and if or how they were considered.
- If the disposition is for municipally or provincially approved infrastructure, there is an exemption from the timelines and public consultation processes.
- Enable the Minister to direct the Conservation Authority to apply a specified share of the proceeds of a disposition to support their core mandate outlined in O.Reg.686/21.

Comments:

- The Conservation Authority strongly supports the proposed changes making land disposition for land/s purchased under a section 39 grant more streamlined, efficient and removing the formal Minister approval. This will greatly reduce the timelines and burden when addressing minor land takings, easements and other dispositions associated with municipal and provincial infrastructure.
- The proposed changes to land disposition processes will also assist in potential land transfers from the Conservation Authority to a municipality in cases where the municipality would be the better suited owner of specific urban lands or lands under long term management agreements.
- The Conservation Authority would support reducing the notification periods to the Minister and public consultation to increase efficiencies.
- The proposed regulatory changes that require the Conservation Authority to identify potential lands suitable for housing development are concerning. The Conservation Authority has always focused on significant hazard or ecological lands and not

developable land. There is little detail on what criteria may be used to determine if lands are suitable for housing development, who makes the decision and what the process is. There needs to be clearly established “guard rails” created to ensure that safety is paramount and by working to solve a housing issue an environmental issue is not created.

Conservation Authorities Working Group

The Conservation Authorities Working Group has been a successful undertaking during the past term of the current government. Representing the government, municipalities, conservation authorities, agriculture, and the development industry, the group navigated and built consensus for positive changes that are being implemented in every conservation authority. This group must be utilized again to work with the government to assist in making consensus-built changes to address the housing supply crisis in Ontario.

Relevance to Conservation Authority Policy:

The proposed legislative and regulatory changes may require either the elimination or amendment of existing Conservation Authority policies. The full scale of changes is unknown at this time and may be significant. Detailed review will continue to occur over the following weeks and months and any policy changes, amendments or elimination will be brought to the Board for discussion and ratification.

Impact on Conservation Authority Finances:

The direct impact to Conservation Authority finances may be significant but difficult to define at this time. The loss of revenue across many aspects of planning and development review may result from the sweeping proposed changes. Losses may be offset by correlating reduction in workload; however, impacts to broader overhead may also exist. The freezing of fees during this time of significant inflation may significantly impact overall Conservation Authority finances. The intent is to always strive for cost recovery and any loss in revenue may require additional levy to ensure program sustainability.

More detailed analysis will be undertaken if proposed changes are enacted whether through legislation or subsequent regulations. The timing of these proposed legislative and regulatory changes is challenging in relation to finalizing the 2023 budget, as potential negative impacts may not be able to be identified or understood.

Summary and Recommendations:

The proposed legislative and regulatory amendments outlined in Bill 23 will have significant impacts to conservation authorities and municipalities. If implemented as proposed, the development review and approval process will be thrown into immediate chaos with little clear

direction on who does what, how, when and why. The proposed legislation does not outline any date or dates of effect for implementation, which adds to the confusion.

Building and growing great communities relies on partnering across all sectors to implement efficient review processes, protect critical natural heritage, protect people and places, and ensure critical infrastructure is in place. This is best done through consensus building which has been the successful hallmark of the Conservation Authorities Working Group to date, and their continued role is critical in addressing the housing supply crisis.

It is therefore **Recommended That** Staff Report No. 40-22-BOD regarding Provincial Bill 23 – More Homes Built Faster Act, 2022 regarding Amendments to the *Conservation Authorities Act* be received; and **Further that** Staff be directed to provide a submission to Environmental Registry of Ontario No. 019-6141 based on comments within this report; and **Further that** Staff be directed to submit a letter to the Minister of Natural Resources and Forestry and the Minister of Environment, Conservation and Parks requesting that the Conservation Authorities Working Group be re-engaged.

Signed by:

Rob Baldwin
Chief Administrative Officer