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Town of Aurora
Information Report
No. PDS22-061

Subject: Update in Changes to the *Conservation Authorities Act* Phase 2 Regulations and Transition Plan

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Department: Planning and Development Services

Date: May 3, 2022

In accordance with the Procedure By-law, any Member of Council may request that this Information Report be placed on an upcoming General Committee or Council meeting agenda for discussion.

Executive Summary

On January 26, 2022, the Province of Ontario released Phase 2 of the regulatory and policy proposals under the *Conservation Authorities Act* (CAA). These Phase 2 regulations further define required changes and identify proposed budgeting processes and review mechanisms for municipalities in assessing possible levies. As part of the transition planning, an inventory of programs and services offered by the Conservation Authorities was required by February 28, 2022. These programs and services were required to be sorted into three categories based on funding source and prioritized by being closest in alignment with the core mandates of the Conservation Authority (CA). The Town is in receipt of a letter from Lake Simcoe Region Conservation Authority (LSRCA) outlining this categorization and describing next steps of transitioning. Consultation of this inventory and preparation of any expected agreements is subject to review in consultation with the relevant Conservation Authority, with a deadline for new agreements and budget approvals by December 31, 2023.

- **Phase 2 Regulations propose to govern the apportionment of the Conservation Authority's capital costs and operating expenses as paid by partner municipalities.**
- **Town of Aurora staff, in consultation with LRSCA and TRCA, will continue to transition toward the deadline of December 31, 2023. Immediate steps include**

itemization of any agreements or procurement of services between the Town and LSRCA or TRCA, and preparing any new or revised agreements as required.

- **Staff await the finalization of the CAA regulations to fully understand levy requirements and any changes to capital budget considerations.**

Background

Bill 108, the *More Homes, More Choice Act, 2019* introduced major amendments to the Conservation Authorities Act. Between May and August 2021, the Ministry of the Environment, Conservation and Parks consulted on Phase 1 of the Regulatory Proposals under the *Conservation Authorities Act*.

On October 5th 2021, staff presented an Information Report to General Committee (PDS21-118) on the Phase 1 regulations proposed as part of changes to the *Conservation Authorities Act*. Under Phase 1, services and programs as offered by the partner Conservation Authority were presented and differentiated by funding source and sorted into three categories. These categories were grouped into mandatory programs, non-mandatory programs requested by the municipality, and non-mandatory programmes as advisable by the partner CA. The Phase 1 regulations were finalized on October 7, 2021.

To assist in integration of the CAA changes, the Phase 1 regulatory guide outlines transition plans and key milestone dates for municipalities and partner CAs.

Identified below are the key dates and required milestones;

- A transition 'work' plan due from CAs by December 31, 2021
- Inventory of Programs and Services due from CAs by February 28, 2022
- Consultation on inventory to be conducted as soon as the inventory is received, until December 31, 2023
- Service Agreements/Memoranda of Understanding and/or Cost Apportionment agreements between CAs/Municipal Government(s) which need to be in place for January 1, 2024
- CAs are required to submit Six Progress Reports due to the Ministry of the Environment, Conservation and Parks.

The Town of Aurora is in receipt of the first two milestones referenced above. LSRCA's "Transformation 2022-2024" Strategic Plan offers a brief contextual insight into the strategic planning of the CAA transition, which was required by December 31, 2021. On February 28, 2022 the Town received a list of services and programs offered by LSRCA

classified in one of three categories as described above. This itemization included average budget totals from 2018-2022 for each service/program and the expected 2022 budget hit. This list, however, was not specific to the Town of Aurora and is inclusive of LRSCA's total sum budget cap in providing these services across the watershed boundaries.

It should be noted that the Town of Aurora does not expect a transition plan or inventory of services from Toronto and Region Conservation Authority (TRCA) as there are presently no service agreements in place.

Analysis

Phase 2 Regulations propose to govern the apportionment of the Conservation Authority's capital costs and operating expenses as paid by partner municipalities.

On January 26, 2022, the Province of Ontario released Phase 2 of the regulatory and policy proposals under the *Conservation Authorities Act*. The Phase 2 regulations further define required changes and identify proposed budgeting processes and review mechanisms for municipalities in assessing possible levies.

As part of the proposals related to budgeting, the Phase 2 regulations are summarized;

- Proposed Municipal Levies Regulation – Maintaining consistency with current budget and municipal levy processes (i.e., budget, voting and apportionment methods as described in this guide). Using and adapting existing voting and apportionment methods and practices set out in current regulations or provincial policy. In order, this would involve the CA presenting a draft annual budget, followed with a budget consultation meeting, a municipal levy vote, a budget vote and a final budget.
- Proposed Minister's Regulation For Determining Amounts Owed By Specific Municipalities – For the proposed Minister's regulation with respect to determining amounts owed by specified municipalities related to the programs and services under the *Clean Water Act 2006* and the *Lake Simcoe Protection Act, 2008*, as set out in the Mandatory Programs and Services Regulation the regulations propose to clearly identify the specified municipalities for each of these Acts; and identify the methods available for conservation authorities to determine the costs that the specified municipalities may need to pay.

- Proposal for Minister's Published List Of Classes of Programs And Services for Which a Conservation Authority May Charge A Fee – The Regulations are propose to proclaim s. 21.2 of the *Conservation Authorities Act*, which provides that the Minister may determine a list of 'classes of programs and services' that a conservation authority may charge a fee for, publish this list and distribute it to each conservation authority. An authority would be permitted to charge a fee for a program or service only if it is set out in the Minister's list of classes of programs and services. Once a conservation authority is granted the power to charge a fee for a program and service, the authority may determine the fee amount to charge
- Complimentary Proposals To Increase Transparency Of Authority Operations – This may involve a Minister's regulation that CAs be required to maintain a Governance section on their website in a conspicuous and easily accessible location for the public to access key information.

Town of Aurora staff, in consultation with LRSCA and TRCA, will continue to transition toward the deadline of December 31, 2023. Immediate steps include itemization of any agreements or procurement of services between the Town and LSRCA or TRCA, and preparing any new or revised agreements as required.

As above-mentioned, the Town of Aurora is in receipt of the first two major milestone items from LSRCA. Staff will consult with TRCA to ensure the marginal portion of Town lands within the Humber River Watershed are considered within this process. Specific to LRSCA, the Town will seek a further detailed categorized list of programs and services that is specific to Aurora, and outline Town needs as compared to past agreements. This should include specific annual budget commitments. Currently, the Town has active agreements with LSRCA with respect to development planning review (Category 1, mandatory), as well as stormwater pond inspection and maintenance (non-mandatory as requested by the municipality). Upon receipt of an Aurora specific inventory of services and delivery fees specific to the Town, next steps involve a detailed review and then evaluating which of the newly categorized programming or services the Town may require going forward or wish to engage in.

Staff await the finalization of the CAA regulations to fully understand levy requirements and any changes to capital budget considerations.

Until the finalization of the proposed Phase 2 regulations, it is difficult to anticipate how funding apportionment rules will be applied and therefore, difficult to assess changes to municipal budget contributions to LRSCA. Staff will await confirmation and prepare

agreements for services understood to be necessary and fall within the Category 1 and Category 2 listings. Specific to impending budget implications, this is still unclear. Staff will work closely with LSRCA (and TRCA) to anticipate of any increases in capital budget and report back to Council once the Phase 2 regulations are finalized with more information.

It is important to note that a considerable portion of Category 1 and 2 mandatory and non-mandatory services as they relate to water and wastewater, are currently funded by York Region and therefore any levy associated with the service should continue to be funded by the Region and would not impact the Town of Aurora capital budget.

Legal Considerations

None.

Financial Implications

As the Town does not currently make any funding apportionment payments of this nature to the LRSCA, any related payments that are required under these new regulations will represent a new tax pressure. Once the extent of the resulting tax pressure is known, it will be brought to Council for its review and consideration.

Communications Considerations

No considerations.

Climate Change Considerations

The outcome of the proposed regulations incorporated within the *Conservation Authorities Act* update have unknown impacts on greenhouse gas emissions and climate change adaptation. In review of itemized non-mandatory services and programs from partnering CAs, staff should consider which offerings may further progress Town of Aurora strategic goals as it relates to climate adaptation. Regarding classified mandatory programs or services, staff can expect these programs to continue and therefore have no change or impact to Climate Change considerations.

Link to Strategic Plan

The strategic goal of supporting environmental stewardship and sustainability contains two key objectives; both of which are indicative of the importance of collaborating with our partner CAs. “Working with community partners to promote environmental protection” and “supporting innovative green infrastructure” are often facilitated through assistance from CAs and therefore it is beneficial to partner together where appropriate and feasible.

Alternative(s) to the Recommendation

Not Applicable.

Conclusions

The unproclaimed Phase 2 regulations offer further understanding of impending changes to business protocols between the Town and partnering CAs. While there is still uncertainty in fiscal changes and impact to capital budget, next steps include consultation with LSRCA to itemize active agreements and procurement of services with cost analysis, or determine if any new services should be retained given the updated mandatory and non-mandatory classification. Staff will work closely with partner CAs within the prescribed timelines for this determination and report back to Council once the Phase 2 regulations are proclaimed.

Attachments

None.

Previous Reports

Update on Bill 229 and the *Conservation Authorities Act*, October 5, 2021(PDS21-118)

Pre-submission Review

Agenda Management Team review on April 14, 2022

Approvals

Approved by Marco Ramunno, Director, Planning and Development Services

Approved by Doug Nadorozny, Chief Administrative Officer