

MEMBERS

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Pages

6. NEW BUSINESS STAFF REPORTS

6.7 BILL 108 AND CA ACT AMENDMENTS

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A report on the above mentioned subject as submitted by Deborah Martin-Downs, CAO is included in the agenda package as Schedule 'G'.

Recommended Resolution:

WHEREAS the province has released Bill 108 the More Homes More Choice Act, 2019 that is open for comment on the Environmental Registry of Ontario until June 1, 2019;

WHEREAS Schedule 2 of Bill 108 contains proposed amendments to the Conservation Authorities Act, and

WHEREAS the amendments seek to divide programs and services into mandatory and non-mandatory categories which will alter the municipal levy and potentially the opportunity to provide desired support activities to the municipalities

THEREFORE BE IT RESOLVED THAT the report entitled "Bill 108 and CA Act Amendments" be received and appended to the minutes of this meeting as Schedule 'G'; and

THAT the Board of Directors delegate authority to the CAO, Chair and Vice Chair of the Authority to prepare and submit comments on the Bill 108

Schedule 2 on behalf of the board; and

THAT *copies of the submission be provided to MPPs, Watershed Municipalities and the Minister of Environment Conservation and Parks and further*

THAT *all municipalities and watershed residents be encouraged to submit comments on the Conservation Authorities Act amendments in support the need for watershed programs and services in maintaining safe and healthy environments for all.*

TO: The Chair and Members
of the Board of Directors,
Credit Valley Conservation

SUBJECT: BILL 108 AND CA ACT AMENDMENTS

PURPOSE: To request approval by the Board of Directors of CVC to delegate responsibility to the CAO, Chair and Vice Chair to prepare and submit comments on Bill 108, Schedule 2 respecting the *Conservation Authorities Act*

BACKGROUND:

On April 5th 2019 the Ministry of Environment, Conservation and Parks (MECP) posted proposals to amend the *Conservation Authorities Act* (CA Act) with the intent to help conservation authorities (CA) focus and deliver on their core mandate and to improve governance.

CA Staff prepared comments on the proposals to inform the proposed amendments to the act which are being considered by the Board for endorsement at their meeting of May 10, 2019 as Schedule 'F' to be submitted to the Environmental Registry of Ontario (ERO) by May 20th, 2019. As the agenda was being finalized for the Board meeting, the province released Bill 108, *an act to amend various statutes with respect to housing, other development and various other matters*, also known as the *More Homes, More Choices Act 2019* (<https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-108>) In the act there are 13 schedules (see list below) amending 13 different acts to support Ontario's Housing Supply Action Plan. Included in this Bill as Schedule 2 are proposed amendments to the *Conservation Authorities Act*. Other acts of interest to the Authority include the *Endangered Species Act* (Schedule 5), *Environmental Assessment Act* (Schedule 6), and the *Planning Act* (Schedule 12). Comments on the proposed changes to the act are being accepted on the ERO until June 1st, 2019.

Bill 108 Schedules:

Schedule 1 *Cannabis Control Act, 2017*
Schedule 2 *Conservation Authorities Act*
Schedule 3 *Development Charges Act, 1997*
Schedule 4 *Education Act*
Schedule 5 *Endangered Species Act, 2007*
Schedule 6 *Environmental Assessment Act*
Schedule 7 *Environmental Protection Act*
Schedule 8 *Labour Relations Act, 1995*
Schedule 9 *Local Planning Appeal Tribunal Act, 2017*

Schedule 10 *Occupational Health and Safety Act*
Schedule 11 *Ontario Heritage Act*
Schedule 12 *Planning Act*
Schedule 13 *Workplace Safety and Insurance Act, 1997*

ANALYSIS:

Staff have not had sufficient time to digest the implications of these proposed changes to the CA Act. Nor have we had the opportunity to confer with other conservation authorities to develop consistent approaches to our responses. However, some of the concerns that were expressed in our letters of comment on the proposals as found in Schedule 'F' have now been alleviated, specifically, our concerns with respect to missing references to natural resources and watersheds. No modifications are proposed to the purpose of the CA Act or to the powers of the authority in section 21 (1) –

Purpose:

"0.1 The purpose of this Act is to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario;

21 (1) For the purposes of accomplishing its objects, an authority has power:

a) to study and investigate the watershed and to determine programs and services whereby the natural resources of the watershed may be conserved, restored, developed and managed,

This has the effect of maintaining our watershed jurisdiction, focus and scope of programs and services in executing of these powers.

The biggest change is to Section 21.1 that outlines programs and services which has been repealed and replaced with a new Section 21.1. The essence of this change is around the definition of what are considered core/mandatory programs and those which are non-mandatory. Previously the CA Act (2017) had a clause 21.1 (1) 3. "Such other programs and services as the authority may determine are advisable to further its objects" which allowed us to include programs and services in our levy that were related to natural resources management and watershed studies.

As section 21.1 (1) now reads (excerpt below), more specificity is made with respect to our role in natural hazards, land management and they have added the source water protection responsibilities to our mandatory programs. This means that the source protection program will now form part of the levy to the municipalities where previously the costs were covered by the province.

21.1 (1) *If a program or service that meets any of the following descriptions has been prescribed by the regulations, an authority shall provide the program or service within its area of jurisdiction:*

1. Programs and services related to the risk of natural hazards.

2. *Programs and services related to the conservation and management of lands owned or controlled by the authority, including any interests in land registered on title.*
3. *Programs and services related to the authority's duties, functions and responsibilities as a source protection authority under the Clean Water Act, 2006.*
4. *Programs and services related to the authority's duties, functions and responsibilities under an Act prescribed by the regulations.*

Similarly, the natural hazard function of the CA is considered core mandate and with the recent cuts by the province to the transfer payment to the CAs for the hazard management functions (see 7.3 correspondence item from MNRF) will now be made up by increased levy to the municipalities or cuts to the programs. For CVC the cut was \$89,589, leaving us with \$95,606.17 as a provincial contribution.

While the devil is in the details, the scope of "programs and services related to the risk of natural hazards" is uncertain as the wording is vague. We will be commenting that the wording should be changed to that which was used in the proposals to modernize the act "natural hazard protection and management" which we understand and currently undertake.

The key question becomes, what is included in the bucket of activities that are necessary to be able to carry out a hazard management function? The programs and services will be prescribed by regulation after the act is passed. Therefore, the impact on our work and budget will not be known for some time.

The following are the minimum elements of a successful program for hazard management:

- Operations, inspections, maintenance or reconstruction of dams, channels, and erosion and ice control structures
- Flood forecasting and warning (hydrometric monitoring, data management, models, communications)
- Emergency operations with municipalities (data support, communications, media, vulnerability assessments; post event assessments)
- Plan input and review (planning, engineering)
- Regulation (permitting and enforcement)
- Watershed planning to input to hazard management and planning decisions; determine effective mitigation measures including protection and expansion of natural areas and wetlands
- Floodline/Hazard and Risk Mapping (hydraulic and hydrologic modelling; base mapping; air photography, field assessment)
- Training/administration

As well, **restoration activities** (tree planting, wetland restoration, forest management) and **monitoring of watershed health** have been long standing activities that have ensured that the impacts of land use change on hazards have been minimized.

For those programs and services that are not captured in the core mandatory programs, they will be subject to the requirement to develop a Memorandum of Understanding

(MOU) with our member municipalities for the delivery of those programs and services. Should a municipality not be willing to enter into an MOU for those programs and services then there will be no expectation of municipal contribution toward those programs. The implications of this requirement are not understood as yet but a transition period is included proposed to be in the order of 18-24 months. This will potentially be influenced by the outcome of the regional governance review.

As comments are due in advance of the next board meeting, staff are seeking permission to work with the Chair and Vice Chair to complete our assessment, prepare comments on Schedule 2 and submit them to the ERO on or before the closing date.

COMMUNICATIONS PLAN:

There are no Communications implications of this report.

FINANCIAL IMPLICATIONS:

There is no financial impact to CVC of this report. Non-mandatory programs now subject to developing an MOU, will have a window of approximately 18-24 months to complete it. We assume this means that there will be no change to the levy formula or budget development for the next one to two budget cycles.

RECOMMENDED RESOLUTION:

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WHEREAS Schedule 2 of Bill 108 contains proposed amendments to the Conservation Authorities Act, and

WHEREAS the amendments seek to divide programs and services into mandatory and non-mandatory categories which will alter the municipal levy and potentially the opportunity to provide desired support activities to the municipalities

THEREFORE BE IT RESOLVED THAT the report entitled "Bill 108 and CA Act Amendments" be received and appended to the minutes of this meeting as Schedule 'G'; and

THAT the Board of Directors delegate authority to the CAO, Chair and Vice Chair of the Authority to prepare and submit comments on the Bill 108 Schedule 2 on behalf of the board; and

THAT copies of the submission be provided to MPPs, Watershed Municipalities and the Minister of Environment Conservation and Parks and further

THAT all municipalities and watershed residents be encouraged to submit comments on the Conservation Authorities Act amendments in support the need for watershed programs and services in maintaining safe and healthy environments for all.

Recommended by:



Deborah Martin-Downs
Chief Administrative Officer