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Sent: Monday, May 27, 2019 4:32 PM

To: Aurora Clerks Department; Becky Jamieson (Brock); Cathie Ritchie (Kawartha Lakes); Raynor, Christopher; Cindy Maher (New Tecumseth); Debbie Leroux (Uxbridge); Fernando Lamanna; Gillian Angus-Traill; Jennifer Connor (Ramara); John Daly (Simcoe); JP Newman (jnewman@scugog.ca); Karen Shea (kshea@innisfil.ca); Karen Way (Oro-Medonte); Kathryn Smyth (King); Kiran Saini (Newmarket); Lisa Lyons (Newmarket); Megan Williams; Mike Derond (Aurora); Patty Thoma; Rachel Dillabough (Georgina); Ralph Walton; Rebecca Murphy (Clerk, Bradford/West Gwillimbury); Wendy Cooke (Barrie)

Subject: LSRCA Comments on Modernizing Conservation Authority Operations - Conservation Authorities Act, ERO No. 013-5018

Good afternoon Regional and Municipal Clerks:

We are pleased to provide you a copy of LSRCA's staff report and comments on the Ministry of the Environment, Conservation and Parks' ERO Posting No. 013-5018, Modernizing conservation authority operations - *Conservation Authorities Act*, and we ask that you please circulate this staff report and comments to your members of Council for their information.

Please do not hesitate to contact us if you have any questions.

Thank you and best regards,
Trish

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TO: Board of Directors

FROM: Mike Walters, Chief Administrative Officer

DATE: May 17, 2019

SUBJECT: Modernizing Conservation Authority Operations - *Conservation Authorities Act*, ERO No. 013-5018

RECOMMENDATION: THAT Staff Report No. 29-19-BOD and attached comments in response to Environmental Registry of Ontario Posting No 013-5018, *Modernizing Conservation Authority Operations - Conservation Authorities Act* be received; and

FURTHER THAT staff be directed to circulate final comments to LSRCA's member municipalities, Conservation Ontario and Lake Simcoe watershed MPPs.

Purpose of this Staff Report:

The purpose of this Staff Report No. 29-19-BOD is to provide the Board of Directors with comments being submitted in response to the Environmental Registry of Ontario No. 013-5018, entitled *Modernizing Conservation Authority Operations - Conservation Authorities Act*.

Background:

On April 12, 2019, the Province of Ontario posted on the Environmental Registry of Ontario (ERO) No. 013-5018: *Modernizing Conservation Authority Operations - Conservation Authorities Act*, proposing further changes to the *Conservation Authority Act*. The posting may be accessed via this link: www.ero.ontario.ca/notice/013-5018. The Province has moved very quickly on the proposed changes, and requests to extend the deadline to 60 days from 45 were denied. The Province's rationale for the proposed changes was described in some detail in the previous staff report No. 26-19-BOD. The proposed legislative amendments are summarized below:

1. Defining the core mandatory programs and services offered by Conservation Authorities (CAs).
2. Increasing transparency in how CAs levy municipalities for mandatory and non-mandatory programs and services.

3. Updating the *Conservation Authorities Act* to conform to modern transparency standards by ensuring that municipalities and CAs review levies for non-core programs after a certain period of time (e.g. 4 to 8 years).
4. Establishing a transition period (e.g. 18-24 months) and process for CAs and municipalities to enter into agreements for delivering non-mandatory programs and services and meet these transparencies.
5. Enabling the Minister to appoint an investigator to investigate or undertake an audit and report on a CA.
6. Clarifying the duties of CA Board members to act in the best interest of the CA, similar to not-for-profit organizations.

Given the current understanding, the attached comments reflect LSRCA's response to the ERO posting.

Relevance to Authority Policy:

The proposed changes to conservation authority legislative framework (*Conservation Authorities Act*) will directly impact LSRCA's operations. Potential changes to the Section 28 regulations will have more of an impact on policy and are addressed in Staff Report No. 31-19-BOD of this agenda.

Impact on Authority Finances:

There could be significant impacts to LSRCA's programs and services, budget and future finances associated with the proposed changes in legislation. Unfortunately the significance of the change is dependent on the continued commitment of the Province to fund conservation authorities, potential impacts of budget cuts to member municipalities, and the ability of LSRCA to charge fees for services.

Summary and Recommendations:

It is therefore RECOMMENDED THAT Staff Report No. 29-19-BOD and attached comments responding to Environmental Registry of Ontario Posting No 013-5018, Modernizing Conservation Authority Operations - Conservation Authorities Act be received; and FURTHER THAT staff be directed to circulate final comments to LSRCA's member municipalities, Conservation Ontario and Lake Simcoe watershed MPPs.



Michael Walters
Chief Administrative Officer

The Lake Simcoe Region Conservation Authority is pleased to provide the following comments in response to Modernizing Conservation Authority Operations - *Conservation Authorities Act*, ERO No. 013-5018.

1. Defining Core Mandatory programs and services offered by Conservation Authorities

The *Conservation Authorities Act* was created by the Ontario Provincial Legislature in 1946, not to control flooding as is commonly believed, but to mitigate the impacts of human land use activities (deforestation and cropland soil erosion) that were destroying the health of our lakes, rivers and streams. The Act empowered municipalities to create authorities to ensure the conservation, restoration and responsible management of hydrological features through programs that balance human, environmental and economic needs.

It wasn't until eight years later in 1954 that Hurricane Hazel made landfall in Ontario causing extensive flooding resulting in 81 deaths and more than \$135 million in damages (approximately \$1.3 billion in today's economy). In response to the catastrophic damage and severe death tolls the province looked to conservation authorities for a solution and amended the Conservation Authorities Act to delegate flood forecasting, warning, and management responsibilities to authorities to be delivered on a watershed basis.

The creation of Conservation Authorities, which recognizes that water does not stop flowing at political boundaries, has gained international recognition and is used as a model that has been adopted by other countries. In 2009, the Lake Simcoe Region Conservation Authority was honoured to win the International Thiess Riverprize in Brisbane Australia for excellence in watershed management. The recognition was a validation of the work that has and continues to be completed in partnership with the province, our member municipalities and watershed community.

During this same period that LSRCA began the process of reinventing service delivery within the organization to become more "client centric" and create more value for our customers and partners. Specifically the LSRCA began to improve the interaction and relationship with our clients and partners especially within the Planning and Permitting departments. This has resulted in routine consultations with the BILD industry and creating collaborative working groups to define service delivery boundaries. Additionally programs and services were evaluated to find efficiencies, reduce time lines for approvals all while balancing the social and environmental needs within the watershed. The LSRCA has evolved into a highly collaborative transparent and consultative organization which utilizes best management practices such as strategic planning and key performance indicators to ensure that our programs and services are meeting the desired outcomes of our partners and clients.

Today the Province has proposed to change Conservation Authorities core mandatory programs and services to:

- Natural Hazard Protection and Management
- Conservation and Management of conservation authority lands
- Drinking water source protection (as prescribed under the *Clean Water Act*)
- Protection of the Lake Simcoe watershed (as prescribed under the *Lake Simcoe Protection Plan*)

LSRCA understands that these and only these four core mandatory programs and services are to be placed in the legislation and then standards and requirements would be described in regulation, making them a legal requirement. It is extremely important that the Province understand that the consequence of this proposed legislative change will be to significantly diminish the role of Conservation Authorities and to reduce our value proposition and eliminate associated social, economic and environmental benefits. These benefits provide much needed added value to the province, our member municipal partners and most of all the watershed community. Therefore it is recommended that:

- **That conservation, restoration, development and management of natural resources, the foundation of the *Conservation Authorities Act* commonly referred to as watershed planning and management is added to the list of core mandatory programs.** Watershed planning provides the basis to inform natural resource management decisions to create policy, and to direct restoration activities and educational programs to change behaviour.
- **That Conservation Authorities be consulted during the drafting of the regulation as a stakeholder and given due consideration in defining what constitutes eligible activities within each of the core mandated programs.** The timelines associated with commenting on the proposed changes have not allowed conservation authorities to properly consult with their municipal partners, clients or community stakeholders. In addition, the ability to achieve the desired outcomes of the core mandatory programs is reliant on specific activities which, if not included per the regulation, could impair the ability of conservation authorities to successfully deliver core mandated programs setting that authority on a path to fail.

2. Increasing transparency in how Conservation Authorities levy municipalities for mandatory and non-mandatory programs and services – New Funding Model

LSRCA fully supports increasing transparency especially in relation to funding. Currently, LSRCA collaborates with member municipalities through the strategic planning process to identify what programs and services are wanted and valued. LSRCA's provides annual presentations to funding partners regarding priority activities, as well as a companion

document to the budget describing the specific outcomes to be achieved during the year. LSRCA also publishes audited financial statements and an annual report. It is therefore recommended that:

- **That the Province of Ontario continues to provide a financial contribution to assist in the delivery of conservation authority mandated or core programs.** There is concern that provincial responsibilities are being wholly downloaded to the municipal tax base. Given that programs such as Natural Hazards, Source Water and the Lake Simcoe Protection Plan are provincially mandated programs, it is reasonable that the province continues to provide financial support.
- **That one collective agreement including all watershed member municipalities is developed for non-mandatory programs and services.** The current proposal involves individual agreements for each program and service with each participating municipality. One agreement which outlines the municipal commitment towards the defined non-mandatory programs and services is more efficient and would require much less administration, saving time and money and improving transparency.
- **That the Province consider the unintended consequence of the proposed non-mandatory programs and services approach which enables individual municipalities to 'opt in/opt out' of programs and services.** Such an approach undermines the entire governance concept of watershed management and lead to further divisiveness and inconsistency in the delivery of programs and services. This could not only occur within a watershed but will further impact consistency of service delivery across conservation authorities. Furthermore, if programs and services are only 'partially' supported, there is the potential for increased costs for those municipal partners that 'opt in' and want to deliver those programs. In conclusion the benefit of the collect is lost as is the economy of scale and program efficiencies.
- **That Conservation Authorities retain the ability to apply user fees or donations to support mandatory conservation programs in addition to, or rather than, municipal levy.** LSRCA does recognize there is only one taxpayer and limited tax dollars available to its municipal partners. Therefore, not everyone should be burdened with a cost if a service is provided to an individual and only that individual benefits. An example would be user fees for Section 28 permits to cover the cost of a review specific to a property and landowner. In this instance, user fees represent a significant source of revenue which reduces the cost of the Natural Hazard program to member municipalities. Currently the LSRCA consults the BILD industry and municipalities in the setting of fees and does not proceed without a signed acknowledgement from the BILD industry that they are satisfied. Revenue collected is only used for the purpose it is collected, for example planning fee revenue is only applied to planning operations and not to support any other LSRCA program.

3. Updating the *Conservation Authorities Act* to conform to modern transparency standards by ensuring that municipalities and Conservation Authorities review levies for non-core programs after a certain period of time (e.g. 4 to 8 years)

LSRCA fully supports the recommendation for increased transparency by ensuring review of levies for non-core programs and has the following recommendation:

- **That the review period for non-core programs occurs every four years.** A four-year cycle is acceptable as long as it is staggered one or two years from the municipal election cycle. A four-year cycle aligning with the municipal election would not be ideal as it would result in new Board members being asked to make decisions without being particularly familiar with Conservation Authority programs and services. Currently under the strategic planning process, the CAO is responsible for a review of programs and services every five years so that results can be presented to the Board of Directors and used to inform the development of a new strategic plan.

4. Establishing a transition period (e.g. 18-24 months) and process for Conservation Authorities and municipalities to enter into an agreement for delivering non-mandatory programs and services and meet these transparencies

- **The transition period proposed by the Province is reasonable (e.g. 18-24 months), and it is recommended that a 24 month transition period be adopted.** Given some uncertainty with the results of the regional/county/municipal review, it would be best to extend the transition period to 24 months should there be change in the composition of municipal partners.

5. Enabling the Minister to appoint an investigator to investigate or undertake an audit and report on a conservation authority

- **LSRCA has no concerns with the appointment of an investigator to hold conservation authorities accountable and supports the recommendation.**

6. Clarifying the duties of Conservation Authority Board members to act in the best interest of the Conservation Authority, similar to not-for-profit organizations

- **LSRCA has no concerns with this recommendation, as the Board orientation program and governance model inform the decisions of the Board of Directors, and therefore LSRCA supports the recommendation.**