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TITLE: Comments, Environmental Registry of Ontario posting 019-2986
TO: Liz Mikel, Conservation and Source Protection Branch, MECP c/o ca.office@ontario.ca
FROM: Carl Jorgensen, General Manager, Secretary-Treasurer
DATE: June 27, 2021

Thank you for the opportunity to comment on ERO posting [019-2986](#). The following comments are provided on behalf of Conservation Sudbury and were reviewed by the Members of our General Board on June 14, 2021. We appreciate that the comment period was 45 days, as this enables conservation authorities to review regulatory documents and prepare reports for consideration by their Boards. We encourage the Ministry to ensure that all future ERO postings related to the *Conservation Authorities Act* are posted for a minimum of 45 days.

We also appreciate that Minister Yurek formed a Conservation Authorities Working Group and is soliciting feedback from this multi-stakeholder group when drafting regulatory proposals. Soliciting input from those who will be impacted – conservation authorities, municipalities, developers and agriculture – is essential to help ensure changes are effective, implementable and do not have unintended consequences. It is particularly important that:

- all regulatory proposals are practical for municipalities and conservation authorities to implement;
- municipalities and conservation authorities have adequate time to implement changes; and
- changes do not erode the integrated watershed management function of conservation authorities that protects people, property and natural resources – the underpinnings of sustainable growth and climate resilient communities.

Following a review of the recommendations included in the guide, Conservation Sudbury identified our main areas of concern as listed below.

Capacity of Conservation Sudbury to complete all the requirements as outlined in the guide by the specified transition period (i.e., prior to January 1, 2023 – some tasks are due sooner).

- Our staff complement is 10.6 FTEs all with full workloads.
- The consultation guide outlines that the following deliverables will be required to be completed:
 - Strategy for all conservation authority owned or controlled lands
 - Land Acquisition and Disposition Strategy.
 - Develop a Land Management Plan for each property owned or controlled by the authority.
 - Create an inventory of all programs and services, by December 31, 2021.
 - Develop a Transition Plan.
 - Develop a core Watershed-Based Resource Management Strategy.

- Enter into agreements for municipal funding of non-mandatory programs and services that require municipal levy by January 1, 2023.
- Oversee the formation and operation of a Public Advisory Board.

Costs Given the unknowns re: timelines, the estimated total cost of accommodating the requirements described above cannot be calculated. The Province should however be reminded that it is critical that it provides on-going adequate funding to carry out provincially-mandated natural hazard programming; complete the provincially mandated strategies and plans that will be required; and administer mandatory Public Advisory Boards if put in place.

- Between the mid-1990s to 2019 funding to Conservation Authorities remained at the same level (no increases), with a 50% reduction in mid-2019.
- Conservation Sudbury currently receives \$79 631 per year from the Province to administer all delegated (in the future to be called “mandatory”) natural hazard programs and \$115 823 to administer Source Water Protection. The remainder of the required funding to undertake provincial programs is paid by self-generated revenue, other sources of funding, with the majority included in operating levy to the City of Greater Sudbury (\$738 919 in 2021)
- For 2021, the operating budget is \$1 678 381 of which the Province will contribute ~12% whereas the City’s contribution is 44% with the remaining 44% being self generated.
- New costs will be related to the completion of the required strategies/plans if additional staff capacity is required to meet the deadlines.
- On-going new costs to maintain plans and strategies, administer and operate the Public Advisory Boards (i.e. per diems, meeting costs, staff time to administer, etc.), and potentially to complete any recommended actions if approved by the Members of the General Board.

Public Advisory Boards will be required to be formed whether needed or desired in a watershed.

- The current General Board is considered to provide adequate oversight and governance to Conservation Sudbury and includes a combination of elected members of City Council along with citizens appointed by Council.
- An additional “Board” to advise the current Board could be considered redundant, may duplicate activities, has the potential to create conflict, and will cause unwarranted expense to the City of Greater Sudbury.

Recreational opportunities categorized as a non-mandatory program, thereby requiring Memorandums of Understanding (MOU) with the City of Greater Sudbury if levy funds are required to operate, maintain or carry out any capital works within any property deemed for recreational purposes.

- This is primarily focussed at the Lake Laurentian Conservation Area where outdoor passive recreation is provided to the public. These opportunities are provided at no cost to visitors and have become even more important during COVID-19 in providing a safe space for people to maintain their mental and physical well-being.
- Open accessible natural spaces fundamentally are in the public interest and the greater good of a community.
- Conservation areas are visited by residents of all area communities and draw visitors and tourists to the area and provide economic benefit.
- If self-generated revenue and/or other funding sources are not available in the future, and recreation is considered to be non-mandatory and future councils decide to not fund

recreation through a MOU, it may lead to eventual closure of these spaces to the public.

Education and Outreach categorized excluded from the mandatory category, thereby requiring Memorandums of Understanding (MOU) with the City of Greater Sudbury if levy funds are required to operate, maintain or carry out educational or outreach activities.

- This is primarily of concern to the School Visits program based at the Lake Laurentian Conservation Area. This program provides low-barrier access to natural learning for all students and teachers.
- This is also concerning to the free educational workshops offered from time to time as well as events such as the popular Family Fishing Days.

With respect to specific sections of the consultation guide, Conservation Sudbury has the following comments and/or questions:

1. Mandatory Programs and Services

Natural Hazards

- Would the regulation require conservation authorities to deliver all mandatory programs and services or will delivery still be contingent on local capacity? Some conservation authorities would not be able to deliver all mandatory programs and services without a significant increase in municipal levy or provincial funding. For example, funding limitations currently prevents Conservation Sudbury from delineating and mapping all hazard areas in our watersheds.
- Please confirm that the list of “mandatory programs and services related to the risk of natural hazards” is exhaustive meaning these are the only programs and services that can be considered mandatory related to the risk of natural hazards (conservation authorities cannot consider other programs and services related to the risk of natural hazards as mandatory)?
- An authority’s entire portfolio of water control structures should be included in the mandatory program and service regulation. This would provide the ability to levy member municipalities for funding to deal with public safety and dam safety issues or to decommission structures no longer required.

Conservation Lands

- Confirm that providing recreational opportunities on a property still allows non-recreation management and maintenance costs on that property to fall under mandatory programs and services.
- Will there be a prescribed deadline for the completion of strategies, policies and management plans now required for conservation lands?
- Conservation Sudbury strongly supports the ability to cover multiple properties under one management plan where the properties are similar in nature. This flexible and practical approach supports the efficient use of taxpayer dollars.
- Conservation Sudbury feels strongly that low maintenance passive recreation opportunities (such as gravel parking lots and dirt / stone trails) should be added to the list of management and maintenance activities listed for conservation authority owned or controlled lands under mandatory programs and services. Some conservation authorities have found that having passive recreation on properties can help reduce encroachment and other illegal activities.

- It is also important that conservation authorities have adequate time after the finalization of municipal agreements and 2023 budgets to then prepare strategies, policies and management plans for conservation authority lands as the outcome of municipal agreements may shape their content. Completion should be phased in so that smaller conservation authorities are given more time to comply with new requirements. This will ensure implementation progress is made by larger conservation authorities while giving conservation authorities with less capacity more time to complete the task.

Drinking Water Source Protection

- It is essential that the province continue to fully fund the Drinking Water Source Protection program as most municipalities do not have the capacity to absorb these program costs.

Core Watershed-based Resource Management Strategy

- Will MECP prescribe a deadline for the completion of these strategies?
- “Municipal agreements” should be listed as a “potential funding mechanism” for all programs and services (this option always exists between municipalities and conservation authorities without limitation).
- Conservation Sudbury strongly supports the inclusion of core watershed-based resource management strategies as a mandatory program and service to reflect our watershed-based resource management mandate and expertise.
- The purpose of the watershed-based resource management strategy concept should be broadened to better address the Province’s commitment of conserving natural resources
- The Province should commit to a collaborative process for developing a guidance document for the preparation of a watershed-based resource management strategy.
- It is important that conservation authorities have adequate time after the finalization of municipal agreements and 2023 budgets to prepare resource management strategies as the outcome of municipal agreements may shape these strategies.
- It is also suggested that completion be phased in so that smaller conservation authorities are given more time to comply with new requirements. This will ensure implementation progress is made by larger conservation authorities while giving conservation authorities with less capacity more time to complete the task.

Provincial Water Quality and Quantity Monitoring

- That the Ontario Benthos Biomonitoring Network (OBBN) program be included as a prescribed monitoring program for those CAs currently involved and for those who may add this program in future.

Organizational Costs

- Conservation authorities would be able to levy municipalities for on-going organizational costs (e.g. administrative, operating and capital costs) that are not directly related to the delivery of any specific program or service, but are the overhead and support costs of a conservation authority
- Would costs associated with Community Advisory Boards be included in the on-going organization costs that conservation authorities are allowed to levy municipalities for (like costs associated with our Boards of Directors)?
- Will administrative costs (General Managers, finance, IT) have to be split between mandatory

and non-mandatory programs or will the full cost of core administrative staff be considered mandatory organizational costs?

- Conservation Sudbury strongly supports the inclusion of on-going organizational costs under mandatory programs and services as these costs are necessary to deliver all other programs and services and should therefore be included as part of the conservation authority's municipal levy.
- The Province should work with CAs to create an approach to establish costs not related directly to the delivery of programs and services that is simple and easy to apply.

2. Non-Mandatory Programs and Services

- For conservation authorities to complete transition plans by December 31, 2021 and municipal agreements by January 1, 2023, we need final regulations shortly including the levy regulation. A substantial delay in the finalization of regulations may make these timelines unachievable.
- The upcoming municipal election could make it difficult for some municipalities to execute agreements with their conservation authorities in 2022. The Minister's ability to grant an extension would be a solution.
- When preparing a transition plan, conservation authorities have to consult with municipalities on the inventory to ensure they agree with the classification of each program and service. What happens if a municipality disagrees with the classification?
- Conservation Sudbury strongly supports allowing flexible agreement arrangements (agreements with multiple municipalities, agreements covering multiple programs and services) as this practical approach will ensure the most efficient use of taxpayer money and will be the least burdensome for member municipalities.
- Conservation Sudbury also strongly supports the Minister being able to grant an extension for completing municipal agreements where an authority, with the support of one or more municipalities, submits a written request.

3. Community Advisory Boards

- The Province (MECP) is proposing that each conservation authority be required to establish a community advisory board to provide advice to the conservation authority. Will MECP stipulate a date by which community advisory boards must be appointed?
- Conservation Sudbury strongly supports the approach to structure community advisory boards (if mandatory) with minimal prescribed requirements to enable local flexibility and effectiveness.
- Also, Conservation Sudbury strongly supports that the Members of the General Board develops and approves terms of reference that outline the composition, activities, functions, duties, and procedures of the community advisory board, if mandatory.
- Conservation Sudbury recommends changing the maximum authority (Member) representation on community advisory boards to 20% instead of 15% as this would allow one of the five members to be a conservation authority member and to 33% where a conservation authority's Community Advisory Board requires only three persons, i.e. where an authority has fewer than 10 Members.
- Conservation authorities will also require sufficient time following the completion of

transition plans, municipal agreements and 2023 budgets to then prepare a Terms of Reference, advertise and appoint a community advisory board.

- Members appointed to advisory boards should receive per diems and mileage expenses for scheduled meetings as established for authority boards and/or source protection committees.

4. Section 29 Regulation

- The wording of some provisions in the current regulation could be improved to allow for better interpretation by regulatory staff and to broaden certain permissions and prohibitions
- An opportunity to consider minor improvements to wording and structure of the existing regulation would be welcomed.

Thank you for the opportunity to comment on the consultation guide and it is hoped that the ministry will consider our comments when drafting phase 1 regulations. We encourage the ministry when drafting regulations to take an enabling rather than prescriptive approach. This would give conservation authorities and their member municipalities much needed flexibility to implement changes in the most practical, efficient and effective manner that will vary from one region to another.

We look forward to providing further comments on the phase 2 regulations.

Sincerely,



Carl Jorgensen
Conservation Sudbury

Copy: Eric Labelle, Clerk of the City of Greater Sudbury
Jamie West, MPP for Sudbury
France Gelin, MPP for Nickel Belt
Bonnie Fox, Conservation Ontario