



Council Report

Report Number:	PLAN2023-059
Meeting Date:	November 2, 2023
Title:	Memorandum of Understanding between the City of Kawartha Lakes and Applicable Conservation Authorities
Description:	The City of Kawartha Lakes is required to have MOUs with Conservation Authorities in place by January 1, 2024 due to Provincial legislative changes
Author and Title:	Maximilian Faulhammer, Planner II

Recommendations:

That Report PLAN2023-059, **Memorandum of Understanding between the City of Kawartha Lakes and Applicable Conservation Authorities**, be received;

That Council authorize staff to execute a Memorandum of Understanding (MOU) with the Ganaraska Region Conservation Authority (GRCA) for the delivery of municipally requested services, and that staff be authorized to enter into and sign any such procurement agreements as may be necessary for the delivery of municipally requested services as needed;

That Council authorize staff to execute a Memorandum of Understanding (MOU) with the Kawartha Region Conservation Authority (KRCA) for the delivery of municipally requested services, and that staff be authorized to enter into and sign any such procurement agreements as may be necessary for the delivery of municipally requested services as needed;

That Council authorize staff to execute a Memorandum of Understanding (MOU) with the Lake Simcoe Region Conservation Authority (LSRCA) for the delivery of municipally requested services, and that staff be authorized to enter into and sign any such

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

procurement agreements as may be necessary for the delivery of municipally requested services as needed; and

That Council authorize staff to execute a Memorandum of Understanding (MOU) with the Otonabee Region Conservation Authority (ORCA) for the delivery of municipally requested services, and that staff be authorized to enter into and sign any such procurement agreements as may be necessary for the delivery of municipally requested services as needed.

Background:

Due to legislative changes at the Provincial level, there is a need to review policies pertaining to Conservation Authority programs and services provided to the City as new legislation from the Province takes effect January 1, 2024. The City of Kawartha Lakes has a history of working with four local conservation authorities whose jurisdiction covers four watersheds within the City. These include the GRCA, KRCA, LSRCA, and ORCA. Conservation Authorities in the past have conducted programs and services as prescribed by the Conservation Authorities Act. These programs and services, along with others not required in the Conservation Authorities Act, included water monitoring, flood and erosion protection and remediation, land stewardship, environmental assessments, development review, special studies and more.

Legislative Context

The Conservation Authorities Act has been amended many times in the past six years to provide further clarity surrounding the programs and services that Conservation Authorities provide, agreements for the provision of municipally requested services, and the overall operations of Conservation Authorities. These were undertaken through the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139), the More Homes, More Choice Act, 2019 (Bill 108), and the Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020 (Bill 229), and Build More Homes Faster Act, 2022 (Bill 23).

Staff (Maximilian Faulhammer, Planner II and Mark Majchrowski, Chief Administrative Officer of Kawartha Conservation) made a presentation to Council on the impacts of these changes at the August 29th, 2023 Regular Council Meeting. The resolution and result was as follows:

CR2023-394

Moved By: Deputy Mayor Richardson

Seconded By: Councillor Warren

That the presentation by Maximilian Faulhammer, Planner II, and Mark Majchrowski, Chief Administrative Officer of Kawartha Conservation, **regarding the Impacts of Provincial Changes on Conservation Authorities and the City of Kawartha Lakes**, be received.

Carried

Through these various pieces of legislation, a clear distinction emerged between mandatory services related to natural hazards risk management and other non-

mandatory services which have otherwise been provided in the past to municipalities by Conservation Authorities. Mandatory programs and services included those related to the risk of natural hazards (flood, erosion, etc.), those related to the conservation and management of lands owned by the respective Conservation Authority, those related to the authority's duties, functions, and responsibilities as a source protection authority under the Clean Water Act, 2006, and those related to an authority's duties, functions, and responsibilities under an *Act* prescribed by the regulations. This can be found in Section 21.1 of the Conservation Authorities Act. These amendments also allow for Conservation Authorities and municipalities to enter into agreements whereby municipalities are able to request non-mandatory programs and services be carried out on behalf of the municipality under Section 21.1.1 of the Conservation Authorities Act.

Programs and services are separated into three different categories. Per [Conservation Ontario](#):

- **Category 1** services and programs are mandatory, defined by regulation, and where a municipal levy could be used without an MOU agreement;
- **Category 2** services and programs are provided at the request of a municipality with funding provided through an MOU agreement; and
- **Category 3** services and programs are advisable by an authority and requires an MOU agreement.

Transition Period for Conservation Authorities

Phase 1 regulations were released by the Ministry of Environment, Conservation, and Parks (MECP) on October 1, 2021, which included four key elements to be addressed. It required that a Transition Plan be completed by December 31, 2021, which included a timeline/work plan to meet the requirements of the first and second transition phases. Other elements of this phase included an Inventory of Programs and Services to be completed by February 28, 2022, Consultation on Inventory and Cost Apportioning Agreements/Memoranda of Understanding to be completed by January 1, 2024, and, for Conservation Authorities, Progress Reports and a Final Report with the final report being submitted on January 31, 2024. For a full breakdown on Phase 1, please find the details [here](#) provided by Conservation Ontario.

Phase 2 regulations were released April 22, 2022 which set out requirements associated with Budget and Apportionment, Determining Amounts Owed by Specified Municipalities, Information Requirements, and Amending Regulation for the Transition

Plans regulation re: fees in cost apportioning agreements. For more information on Phase 2, please find the details [here](#) provided by Conservation Ontario.

Municipalities are required to have an MOU in place by January 1, 2024 for non-mandatory programs and services.

Bill 23 Amendments to Conservation Authorities Act

Bill 23, the More Homes Built Faster Act, 2022, is part of Ontario's Housing Supply Action Plan: 2022-2023. On January 1, 2023, amendments to Subsections 21.1.1(1.1) and 21.1.2 (1.1) of the Conservation Authorities Act came into effect. These sections provide that Conservation Authorities may not provide a municipal or other program or service related to "reviewing and commenting on a proposal, application, or other matter made under a prescribed Act". The corresponding, Ontario Regulation 596/22: Prescribed Acts – Subsections 21.1.1 (1.1) and 21.1.2 (1.1) of the Act became effective January 1, 2023 and lists the prescribed *Acts* as follows:

- Aggregate Resources Act;
- Condominium Act, 1998;
- Drainage Act;
- Endangered Species Act, 2007;
- Environmental Assessment Act;
- Environmental Protection Act;
- Niagara Escarpment Planning and Development Act;
- Ontario Heritage Act;
- Ontario Water Resources Act; and
- Planning Act.

Due to Bill 23, Conservation Authorities are able to provide only mandatory review as outlined in the Conservation Authorities Act (i.e. natural hazards) for applications and proposals made under prescribed *Acts*.

Rationale:

Conservation Authorities provide value to the City of Kawartha Lakes by reducing risk to life and property in an environmentally responsible manner from flooding, erosion, and natural hazards. Conservation Authorities also provide cost effective management of projects which may have the potential to impact the natural environment through the

use of their expertise, ability to facilitate community involvement, and satisfy both federal and provincial environmental standards.

Conservation Authorities provide a wide breadth of services and knowledge to the City of Kawartha Lakes.

As of January 1, 2024, Conservation Authorities will be unable to provide non-mandatory services to municipalities without an MOU in place. Several benefits exist to continuing the City's partnership with the respective conservation authorities including the continued sustainable management of lands, natural hazard risk reduction, promotion of environmental stewardship, programming, and providing a greater level of expertise on the natural environment.

It is recommended that Council approve the City entering into an MOU with each respective Conservation Authority. This will ensure that municipally requested programs and services which benefit from Conservation Authority expertise and shared objectives are able to continue.

Proposed Memorandum of Understanding

The Conservation Authorities have prepared draft MOUs for the City's consideration appended to this report as Attachments 1-4. Each MOU varies dependent upon the area in which the Conservation Authority has jurisdiction within the City of Kawartha Lakes and the services they provide. Each draft MOU includes the following components:

- Agreement length (Between 4-5 years);
- Renewal and cancellation;
- Categories and types of services; and
- Financial implications.

Agreements between the four Conservation Authorities and the City of Kawartha Lakes, as required by the Province for non-mandatory services, must fall under the agreement by January 1, 2024. Through the annual budget approval process, Council will have the opportunity to confirm relevance and value of non-mandatory services to the City (Category 2 & 3). Category 1 mandatory services will be required to continue to be funded by the City.

Examples of Category 2 and 3 services included by the respective Conservation Authority as part of their Draft MOU include:

GRCA: Forest Centre Education Program.

KRCA: Lake Management Plan Implementation, Tree Planting and Forestry Services, Surface Water Quality Monitoring and Reporting, and others. For a full list, please see Attachment 2 – Draft Kawartha Region Conservation Authority MOU.

LSRCA: Research, Education and Engagement, Forestry and Greenspace Management, and Water Risk Management.

ORCA: Local Water Monitoring Programs, Climate Change Initiatives, and Land Stewardship Services.

Other Alternatives Considered:

No alternatives were considered.

Alignment to Strategic Priorities

The Council Adopted Strategic Plan identifies these Strategic Priorities:

1. Healthy Environment
2. An Exceptional Quality of Life
3. A Vibrant and Growing Economy
4. Good Government

Establishing an MOU with Conservation Authorities will ensure continued high quality services provided, environmental stewardship, protection and enhancement, programs, and long term sustainable growth.

Financial/Operation Impacts:

As defined in Ontario Regulation 402/22 under the Conservation Authorities Act, Conservation Authorities may reallocate a maximum of 3% of the apportioned value the City is required to pay for general expenses and Category 1 Programs and Services (mandatory, does not require MOU) for Category 3 Programs and Services (advisable, requires MOU). Category 2 and 3 Programs and Services may be provided above and beyond the Category 1 mandatory level, at the recommendation of Staff/Council pending budget availability and apportionment process through individual procurement agreements.

Conservation Authorities will continue to charge fees for development review set by their own organizations. The City will continue to be required to fund all mandatory services and pay the general Municipal Levy.

To date, GRCA and ORCA have provided their proposed Municipal Levy, of which 3% of the apportioned value is recommended to be reallocated for Category 3 Programs and Services.

GRCA: \$103 Operating Levy for Category 2 & 3 Programs and Services, which represents 3% of \$3,440.45 Municipal Levy 2024

KRCA: \$31,182 Operating Levy for Category 2 & 3 Programs and Services, which represents 3% of \$1,039,378 Municipal Levy 2024

ORCA: \$286 Operating Levy for Category 2 & 3 Programs and Services, which represents 3% of \$9,586 Municipal Levy 2024

The proposed Municipal Levy is forthcoming from LSRCA. MOUs are to be finalized through the budget approval process, and by January 1, 2024.

Consultations:

Staff from GRCA, KRCA, LSRCA, ORCA
Chief Administrative Officer
Director of Development Services
Manager of Development Services

Conclusions:

The City's past work with the partner CA's has resulted in continued protection of environmental areas, increased public awareness of the environment, and innovation in the form of the City's lake management plans. Based on this report, staff respectfully request that the recommendations in this report be approved.

Memorandum of Understanding between the City of Kawartha Lakes and Applicable

Attachments:

Appendix A: Draft Ganaraska Region Conservation Authority MOU



DRAFT MOU -
GRCA.pdf

Appendix B: Draft Kawartha Region Conservation Authority MOU



DRAFT MOU -
KRCA.pdf

Appendix C: Draft Lake Simcoe Region Conservation Authority MOU



DRAFT MOU -
LSRCA.pdf

Appendix D: Draft Otonabee Region Conservation Authority MOU



DRAFT MOU -
ORCA.pdf

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