Conserving Our Future: A Modernized Conservation Authorities Act

Latornell Conservation Symposium

November 22, 2017
Overview

• The Conservation Authorities Act
  o Background and History
  o Conservation authority governance, funding, roles & responsibilities

• The Conservation Authorities Act Review
  o Review Process and Proposed Changes

• Moving Forward
The Conservation Authorities Act

- Poor land, water & forestry practices in the 1930s and 1940s led to extensive drought, soil loss, deforestation & exacerbated flooding.


1944 A Report on the Ganaraska Watershed, 1944

1946 The Conservation Authorities Act was passed, incorporating 3 foundational principles:

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<th>Watershed Jurisdiction</th>
<th>Local Initiative</th>
<th>Provincial-Municipal Partnership</th>
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Ontario
The Act is enabling and focuses on the process to establish and operate a conservation authority.

The Act allows municipalities in a common watershed to petition the province to establish a conservation authority, and sets out the general objectives for conservation authority programs and the powers to achieve these objectives.

Supported by various regulations:
- Municipal levies
- Conservation authority land
- Prohibiting development and activities for purposes of public safety/natural hazard management.

The objects of an authority are to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development and management of natural resources other than gas, oil, coal and minerals. S.20
The Conservation Authorities Act

• CAs are created as corporate bodies with boards of directors appointed by municipalities
  - over 3/4 are elected municipal councillors.

• A CA is not an agency, board, or commission of the Province.

• CAs have established a separate organization, Conservation Ontario, that advocates for and represents the common interests of the 36 CAs.

• Four revenue sources enabled by the Act:
  - Municipal Levies – 53%
  - Self-Generated Revenue – 35%
  - Provincial Funding – 9%
  - Federal Funding – 3%
Conservation Authorities across Ontario
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Conservation Authority Roles and Responsibilities

**Provincially-delegated programs**
- MOUs, guidelines, policies and procedures

**Development Regulations (Hazard Management)**

**One-Window Plan Review – PPS Natural Hazard Policies**

**Flood and Erosion Control**
- Ice management
- Flood forecasting and Warning
- Shoreline Management

**Local Resource Management**
- Determined by CA board

**Planning & review, natural heritage technical expertise**

**Municipal Service Agreements**
- Optional contracts with municipalities

**Lands and Conservation Areas**
- Recreation
- Outdoor education and outreach
- Stewardship

**Other Interests**
- Other federal, provincial legislation and/or agreements

**Source water protection**

**Monitoring, IM, Data Collection, Mapping**
- Research, Watershed Plans,

**Water quality monitoring & improvement**

**Hydrogeology**
- Storm water management
- Septic system review
Conservation Authority Roles and Responsibilities

- Roles and responsibilities of conservation authorities have been shaped by various events, legislative reviews and new regulatory initiatives.

- **1946 CA Act**
  - Natural Hazard Program; land acquisition, flood control and fill regulations

- **1954 Hurricane Hazel**
  - Shoreline hazard management delegated to CAs

- **1987 Burger Report**
  - MNRF delegation of ensuring municipal compliance with PPS Natural Hazard policies

- **1988 MNRF Delegation**
  - Shift to municipally based-governance, reduced grants to CAs

- **1989 Ballinger Report**
  - MNRF delegation of ensuring municipal compliance with PPS Natural Hazard policies

- **1995 MNRF Delegation**
  - Expanded CA role in regulating development in hazard areas

- **1996, 98 Savings and Restructuring Act, Red Tape Reduction Act**
  - CAs given technical advisory role in source water protection

- **2000 Walkerton Tragedy**
  - Wide updates to modernize legislation and address priorities

- **2006 Regulatory Amendments**
  - 2007 Clean Water Act (MOECC)

- **2000 Walkerton Tragedy**
  - Building Better Communities and Conserving Watersheds Act, 2017

- **2006 Regulatory Amendments**
  - Building Better Communities and Conserving Watersheds Act, 2017

- **2012 Drummond Commission**
  - 2015-17 CA Act Review

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Conservation Authorities Act Review

• Three stage, province wide consultation process initiated in Spring 2015

• Review Objective:
  Identify opportunities to improve the legislative, regulatory and policy framework that currently governs the creation, operation and activities of conservation authorities.
Conservation Authorities Act Review

**Stage 1: Discussion Paper**
- Seeking feedback on opportunities for improvement.
- Complete
  - Summer 2015 to Winter 2016

**Stage 2: Proposed Priorities**
- Seeking feedback on identified priorities and actions being considered.
- Complete
  - Spring 2016 to Fall 2016

**Stage 3: Proposed Changes**
- Release of final proposed changes and introduction of legislative amendments.
- Final Stage
  - Spring 2017 to Winter 2018

Conservation Authorities Act Review

A Modernized Conservation Authorities Act
Conserving Our Future

Range of proposed actions under the themes of:
1) Strengthening Oversight & Accountability
2) Increasing Clarity and Consistency in Programs & Services
3) Increasing Consistency in Regulatory Requirements
4) Enhancing Collaboration & Engagement
5) Modernizing Funding Mechanisms
The Building Better Communities and Conserving Watersheds Act, 2017

• Bill 139 proposes new Acts and amendments to various planning related Acts as well as the *Conservation Authorities Act* (CAA)

• Changes are intended to reform the province’s land use planning appeal system and strengthen conservation of our natural environment:
  
  o **Schedule 1-3 & 5**: Proposed legislation and legislative amendments resulting from the review of the Ontario Municipal Board.
  
  o **Schedule 4**: Proposed amendments to the *Conservation Authorities Act* resulting from the *Conservation Authorities Act* review.
The Conservation Authorities Act provides a framework for program and service delivery in Ontario:

**Purpose**

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

**Programs and Services**

The following are the programs and services that an authority is required or permitted to provide within its area of jurisdiction:

1. Mandatory programs and services that are required by regulation
2. Municipal programs and services that the authority agrees to provide on behalf of municipalities
3. Such other programs as the authority may determine are advisable to further its objects
Clarity and Consistency in Programs & Services

- Enabling the province to prescribe programs and services
- Prescribing CA’s role in hazard management, plan review, wetland conservation, and climate change mitigation and adaptation
- Developing policies and procedures for the development and use of MOUs between CAs and municipalities
- Requiring MOUs between CAs and municipalities to be made publically available and periodically reviewed
- Clarifying the ability of CAs to provide additional board-approved programs and services
Example of Implementation: Provincially-Mandated Programs and Services

- If passed, Bill 139 would give Cabinet the authority to make regulations outlining programs and services CAs are required to provide.

- MNRF has proposed to use this authority to outline the role of CAs in:
  
  - Managing water-related natural hazards.
  
  - Reviewing planning documents for consistency with the *Provincial Policy Statement*.
  
  - Supporting Ontario’s Wetland Conservation Strategy.
  
  - Mitigating and adapting to climate change.
  
  - Other areas of provincial interest – such as: natural heritage identification, assessment and reporting; land and cultural heritage conservation; biodiversity conservation; and watershed planning and management.
Proposed Changes

Clarity & Consistency in Regulatory Requirements

- Outlining prohibitions against interference with a watercourse or wetland within the Act
- Transferring authority to make regulations to the Minister, including definitions and enabling rules in regulation
- Clarifying that CA’s may permit prohibited activities if no impacts to the management of natural hazards or the protection of persons and property
- Updating compliance mechanisms and enforcement tools
- Enabling the province to make regulations governing other activities within the area of a CA
Example of Implementation: Regulatory Requirements

- If passed, Bill 139 would enable the MNRF to clarify the scope of CA’s existing role in regulating development and interference with watercourses and wetlands for the purpose of managing natural hazards.

- New regulations could be used to:
  - Consolidate individual CA regulations into a single, provincial regulation
  - Update the definition of regulatory terms (e.g. development activity, wetlands, watercourse, etc.)
  - Establish “rules in regulation” for low risk activities or otherwise exempt activities
  - Outline information to be provided when requesting a permit
Strengthening Oversight & Accountability

- Clarifying municipal authority to set terms and replace board members
- Enabling the province to make regulations governing appointments
- Updating requirements for administrative by-laws
- Enabling MNRF to require CAs to provide or publish information
- Updating guidance on the use of dispute-resolution mechanisms
- Aligning requirements for enlarging, amalgamating, & dissolving a CA
Improving Collaboration & Engagement

- Developing BMPs for Indigenous, public and stakeholder engagement
- Enabling the Province to establish consultation standards and require CAs to establish advisory boards
- Promoting Indigenous partnerships and participation
- Establishing a Multi-Ministry Working Group and Multi-Stakeholder Committee to support implementation of proposed changes
- Establish a MOU between MNRF and Conservation Ontario
Modernizing Funding Mechanisms

- Updating language to align with current accounting practices
- Enabling the province to make regulations governing how costs are apportioned and appealed
- Updating requirements for the use of fee administration policies
- Enabling the province to make regulations governing the use of fees
- Assessing provincial funding requirements for new and existing programs
Next Steps

• Should the Bill pass, the province will move forward with consultations on future proposed regulatory and policy changes.

• Many legislative are enabling and require a regulation to implement them; others would not come into effect until proclaimed.

• *Conserving our Future: A Modernized Conservation Authorities Act* (Environmental Registry # 012-7583) contains a range of other proposed actions.

• *Conserving our Future* commits to a collaborative and consultative approach to implementation.
Moving Forward

• Meeting current and future challenges
Moving Forward

- Clarity, transparency and accountability
  - Building on CA best practices, utilizing new tools in the CA Act

- Provincial, municipal, and watershed programs
  - Continued flexibility and responsiveness

- Working with partners and stakeholders/communities
  - Collaboration, cooperation, innovation

WORKING WITH CAS

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<td>Local knowledge/expertise</td>
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<td>NGOs/ENGOs</td>
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<td>Individual CAs</td>
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<td>Community involvement/communications</td>
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Questions?