

8.1) Conservation Ontario Governance Accountability and Transparency Initiative

Date: April 15, 2021
Memo to: LTVCA Board of Directors
Subject: Conservation Ontario Governance Accountability and Transparency Initiative
From: Mark Peacock, P. Eng., C.A.O. / Secretary Treasurer

Summary

Recent amendments to the Conservation Authorities Act (CAA) include items that relate to governance in support of a provincial government commitment to improving Conservation Authority (CA) accountability and transparency. On behalf of the collective CAs, Conservation Ontario (CO) has been communicating conservation authorities' commitment to accountability and transparency over the past several years. As part of this initiative, all CAs updated their administrative bylaws by December 2018.

A CO Governance Accountability and Transparency Initiative has been developed with input from Conservation Authorities and includes the following three actions to demonstrate CA commitment in this regard:

- a) Updates to CA Administrative By-laws,
- b) Proactive Reporting on Priorities, and
- c) Promotion/Demonstration of Results.

Individual CA resolutions in support of the three actions identified are also requested by Conservation Ontario. A copy of this resolution is included in this report.

Background:

Conservation Ontario and the conservation authorities share the Provincial government's commitment to governance accountability and transparency. The LTVCA approved its new Administrative By-Laws by mid 2018 in compliance with the December 2017 amendments to the Conservation Authorities Act. The legislated deadline was achieved with support from Conservation Ontario which developed the Conservation Authority Best Management Practices (BMP) and Administrative By-Law Model (Conservation Ontario, April 2018 as amended) document which included Code of Conduct and Conflict of Interest policies.

Despite these efforts, the Province continues to emphasize the importance of governance accountability and transparency, and amendments were made to the Conservation Authorities Act through Schedule 6 of Bill 229 which received Royal Assent on December 8, 2020. On February 2, 2021 a number of these clauses relating to Conservation Authority governance were proclaimed. There have been a number of General Manager meetings (February 10, 26, and March 22) where actions on these clauses have been

discussed. As outlined in the table attached (Appendix A), Required Actions and the Best Management Practice actions are recommended and all have been undertaken by the LTVCA. In general, these actions demonstrate accountability and transparency to the Province through compliance with the legislation, and of course to municipalities and the public.

An outcome of the February 26th General Managers meeting was to form a Steering Committee for the development of a Governance Accountability and Transparency Initiative to support this work. The Steering Committee has drafted a proposed CO Governance Accountability and Transparency Initiative that includes the following three action categories to demonstrate CA commitment to Governance Accountability and Transparency:

- a) Updates to CA Administrative By-laws,
- b) Proactive Reporting on Priorities, and
- c) Promotion/Demonstration of Results.

Demonstrating our commitment to Governance Accountability and Transparency enables conservation authorities to control the narrative that has been attributed to conservation authorities in general for the past several years. We heard it expressed as a ‘problem’ in the Conservation Authorities Act review undertaken in 2015-2018 and again in the more recent review.

In order to best position the Lower Thames Valley Conservation Authority to address suggestions that our CAs are not accountable or transparent, the following actions will/has been undertaken:

(As recommend by the Conservation Ontario Governance Accountability and Transparency Initiative Steering Committee)

1. Updates to CA Administrative By-Laws

The Lower Thames Valley Conservation Authority will ensure our Administrative By-Laws are updated in fulfillment of legislative amendments to the Conservation Authorities Act being proclaimed over the course of 2021. This will be accomplished through the following activities:

- i) Conservation Ontario will review understandings with MECP staff regarding sections to be proclaimed, scheduling, and the need for updates to CA administrative bylaws; and obtain any other confirmations as required.
- ii) Subject to i), Conservation Ontario will undertake a comprehensive update of the Conservation Authority Best Management Practices (BMP) and Administrative By-Law Model (Conservation Ontario, April 2018 as amended), obtain legal review of amendments as necessary, and provide training to CAOs as necessary
- iii) LTVCA will work to bring amendments to the Board of Directors meeting of August 2021 pending completion of items i) and ii)
- iv) Conservation Ontario will track all 36 CAs re: status of updated administrative bylaws

2. Proactive Reporting on Governance Accountability and Transparency(GAT) Priorities

Ensure proactive reporting on GAT priorities as initially identified as those governance-related clauses in the Conservation Authorities Act that were proclaimed on February 2, 2021. This will be accomplished through the following activities:

- i) LTVCA will complete Required Actions and BMP Actions for each of the newly proclaimed governance-related clauses. (all required actions and BMPs completed: see letter to Minister Yurek in package)
- ii) Conservation Ontario will implement a tracking system to enable easy reporting on the status of the Actions and for collection of information that will enable the analysis of CA issues/impacts raised in relation to implementation of the clauses. (summary of all LTVCA actions and BMPs sent to CO)
- iii) As actions are taken will be reported to the LTVCA board and there will be Bi-annual reports to Conservation Ontario Council on the status of priority Actions.

3. Promotion/Demonstration of Results

Evidence of governance accountability and transparency results will be promoted and demonstrated through advocacy materials and the LTVCA website. This will be accomplished through the following activities:

- i) Conservation Ontario will promote the initiative and prepare analyses of results and appropriate advocacy materials, as necessary including a checklist of governance material that should be available on CA websites to permit ease of public access.
- ii) The checklist is proposed to include: (LTVCA actions completed in brackets)
 - a. Members (individuals and Member agreements) (no agreement therefore no posting required) (members bio etc. posted on LTVCA website)
 - b. Administrative by-laws (posted on website and to be updated when revised)
 - c. Annual Meeting Schedule with information on how to participate (posted on website)
 - d. Agendas – full package (posted on website)
 - e. Minutes (posted within 30 days of meeting as per new Act requirements)
 - f. Audited financial statement (posted on website)
 - g. Annual Fee schedule (posted on website)
 - h. Other corporate documentation as available including Strategic Plans, Annual Reports, Watershed Report Cards (all posted on website)
- iii) Conservation Ontario will track implementation of actions and create CO webpage promoting Initiative and that this information can be found on CA webpages

Conclusion:

The Lower Thames Valley Conservation Authority has and will continue to be accountable and transparent through undertaking all recommended actions and best management practices outlined in this initiative.

Conservation Ontario has asked member CAs to pass the following resolution to show support for this initiative.

Resolution:

WHEREAS the provincial government has passed legislative amendments related to the governance of Conservation Authorities;

AND WHEREAS the Conservation Authorities remain committed to fulfilling accountable and transparent governance;

THEREFORE BE IT RESOLVED THAT the Lower Thames Valley Conservation Authority endorses the three key actions developed by the Conservation Ontario Steering Committee to update CA Administrative By-laws, to report proactively on priorities, and to promote/demonstrate results;

AND THAT staff be directed to work with Conservation Ontario to implement these actions and to identify additional improvements and best management practices.

The report aligns with the following objectives of the LTVCA's Strategic Plan:

1. Strengthen and Increase Collaboration with Community Stakeholders

Respectfully Submitted

Mark Peacock, P. Eng.
C.A.O. / Secretary Treasurer

Appendix A

Area of Impact	Section	Change to Act	Interpretation, Required Actions and DRAFT BMP Actions Recommended for CAs
Municipal Appointments	14(1.1), 14(1.2)	At least 70% of a municipality's appointees must be municipal councillors. Municipality can apply to Minister to have percentage reduced; the decision is at the Minister's direction (including adding any conditions or restrictions).	Current members may complete the remaining duration of their appointment. As new members are appointed, participating municipalities must appoint them in accordance with the new requirements. Exceptions can be requested from the Minister (See ca.office MECF Feb 22, 2021 email re: Complete application requirements). Required Action: letters to municipalities notifying them of changes and exception process; update to Administrative bylaw re: 'Governance: Member appointments' BMP Action: send letters as soon as possible re: above and reminding them of their next scheduled appointment date. Coordinate with your neighbouring CAs that share a municipality.
Municipal Agreements	14(2.2) & 14(2.3)	The Minister is to be provided with a copy of any agreement amongst participating municipalities affecting the number of members. Must be available to the public (on website or by any other means)	The number of members is established through the population formula under the CAA (s.2(2)) or under a past Order in Council unless there is an agreement confirmed by municipal resolutions (s.14(2.1)) Required Action: Existing agreements sent to Minister by April 3, 2021 and made available to the public (s14(2.2) & 14(2.3)) BMP Action: letter to the Minister (b.c.c. CO) advising if CA does not have any agreements with respect to the number of members and confirming compliance with current legislation BMP Action: post member status documentation on website
Agricultural Appointee	14(4), 14(4.0.1), 14(4.1)	The Minister has the authority to appoint an additional member to a conservation authority to represent the agricultural sector. The voting powers of such a representative are limited (i.e. can't vote on a decision to enlarge, amalgamate or dissolve an authority or on budgetary matters presented at a meeting). Term up to 4 years, as determined by Minister	No Action at this time. If the Minister appoints an agricultural representative staff will provide an orientation briefing to the new member. BMP Action: Possibility to include reference in the <i>CO Model Administrative Bylaw</i> document and an update to the Administrative By-law re: 'Governance: Member appointments' e.g. voting powers
Agenda/ Minutes	15(2.1),	Authority and executive committee meeting agendas to be available to the public before a meeting takes place and the minutes are to be available to the public within 30 days following a meeting.	Required Action: ensure agenda is available to the public in advance of meetings and minutes are available to the public within 30 days after the meeting; update to the Administrative By-law re: 'Meeting Procedures'

Area of Impact	Section	Change to Act	Interpretation, Required Actions and DRAFT BMP Actions Recommended for CAs
	15(2.2)	Both to be available by posting on website or by any other means the authority considers appropriate.	BMP Action: make agendas and minutes available to public on CA website
Chair/Vice Chair Term	17(1.1), 17(1.2), 17(1.3)	A chair or vice-chair shall hold office for a term of one year and shall serve for no more than two consecutive terms. Appointments must rotate amongst participating municipalities, a member from a specific municipality cannot be appointed to succeed an outgoing chair or vice-chair appointed by the same municipality. The Minister may grant permission to appoint a chair or vice-chair for a term of more than one year or to hold office for more than two consecutive years or waive the rotating provision	From Feb 2, 2021 an individual is not eligible for appointment if they have just finished servicing in the position for two years or if they are from the same municipality as the previous incumbent. Any appointments made under the old rules prior to Feb 2nd are valid until the next election. Exceptions can be requested from the Minister (see ca.office MECF Feb 22, 2021 email re: Complete application requirements) Required Action: review of Chair/Vice Chair history; adjust elections accordingly or request an exception; update to the Administrative By-law re: 'Governance: Terms & Election Chair & Vice Chair' BMP Action: if you are out of compliance; send Minister email (b.c.c. CO) with plan to get into compliance
Powers of authorities	21(1)	Amendments were made to sub-clauses (a),(b),(c) and, (p).	Required Action: Update to the Administrative By-law re: 'Introduction: Powers of authorities'.
Appointment of an Investigator and Appointment of an Administrator	23.1 (1)-(10),	Minister can appoint one or more investigators to conduct an investigation of an authority's operations, including the programs and services it provides. Investigator powers: <ul style="list-style-type: none"> Inquire into any or all of the authority's affairs, financial or otherwise Require production of records Inspect, examine, audit and copy anything Conduct financial audit Require any member of the authority and any other person to appear before the investigator and give evidence under oath. Investigator shall provide copy of report to Minister, who shall promptly transmit a copy to the authority. Minister may require CA to pay all or part of cost of investigation.	No Action at this time. If the Minister appoints an investigator then CA Members and staff may be required to appear before investigator and give evidence under oath. There may be unplanned expenses in a given year, if required to pay for the investigation. CA must comply with all resultant orders. BMP Action: Possibility to include reference to these new sections in the Background section of the <i>CO Model Administrative Bylaw</i> document.

Area of Impact	Section	Change to Act	Interpretation, Required Actions and DRAFT BMP Actions Recommended for CAs
	23.2 (1)-(3), 23.3 (1)-(6)	<p>Investigators have immunity (if done in good faith). After Minister's review of report, and CA has failed or is likely to fail to comply with a provision of this Act, the Minister can:</p> <ul style="list-style-type: none"> • Order Authority to do or refrain from doing anything • Recommend to LGIC that an administrator be appointed to take over control and operation of authority • CAs must comply with any issued orders by a specified date • Orders to be made public. <p>Administrator has power to:</p> <ul style="list-style-type: none"> • May exercise all the powers and shall perform all the duties of the administrator and of its members subject to such terms and conditions as outlined by Minister • Minister shall notify Authority and member municipalities • Minister may issue directions to the administrator • Administrator has immunity (if done in good faith) 	
Annual Audit	38 (1), 38(4)	<p>Annual audits are still required by a person licensed under the <i>Public Accounting Act, 2004</i> and it is additionally specified that it be prepared in accordance with generally accepted accounting principles for local governments recommended by the Public Section Accounting Board of the Chartered Professional Accountants of Canada, as they exist from time to time.</p> <p>Within 60 days of receiving audit report, must make available to public on its website and any other means the authority considers appropriate.</p>	<p>Required Action: Review current audit practices and make any required adjustments to align with legislative requirements e.g. advise Audit firm when contracted. Ensure audit report is available to the public within 60 days of receipt by the authority; possible update to the Administrative By-law re: 'Governance: audited financial statements'.</p> <p>BMP Action: make audit report available to public on CA website</p>