



**Raisin Region Conservation Authority
Full Authority Meeting
Agenda**

June 15, 2017
4:00 p.m.
RRCA Administration Office

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1. Call to Order	
2. Approval of Agenda	
3. Declaration of Conflict of Interest	
4. Approval of Minutes	
a) Minutes of May 18, 2017	1-3
5. Delegations / Presentations	
a) Directors and Officers Liability – Marsh Insurance	
b) RRCA Project Update – PowerPoint Presentation (Staff)	
6. Business Arising From the Minutes	
7. New Business	
a) Gilmor v. Nottawasaga Conservation Authority (Kim)	4-5
b) Conservation Authorities Act Review – Proposed Amendments (Richard)	6-10
8. Financial Reports	
a) Statement of Operations as of April 30, 2017 (Sandy)	11-12
9. Future Meetings	
RRCA Full Authority – Sep 21 st , Oct 19 th , Nov 16 th	
10. Adjournment	

Richard Pilon
General Manager / Secretary-Treasurer

RAISIN REGION CONSERVATION AUTHORITY
FULL AUTHORITY MINUTES
MAY 18, 2017 – 4:00 P.M.
RRCA ADMINISTRATION BUILDING

PRESENT: Frank Prevost, South Glengarry, Chair
Alton Blair, North Stormont, Vice-chair
Michel Depratto, North Glengarry
Tammy Hart, South Stormont
David Smith, South Stormont
Claude McIntosh, City of Cornwall
Carilyne Hebert, City of Cornwall

REGRETS: Ian McLeod, South Glengarry

STAFF: Richard Pilon, General Manager/Secretary-Treasurer
Josianne Sabourin, Administrative Assistant
Sandy Cites, Manager of Finance
Phil Barnes, Project Manager
Chris Critoph, Manager of Environmental Services
Normand Genier, Forestry Specialist
Kim MacDonald, Manager of Planning & Regulations
Lissa Deslandes, Regulations Officer / Communications Coordinator
Matthew Levac, Planning & Regulations Assistant
Pete Sabourin, Manager of Field Operations

CALL TO ORDER

Frank Prevost, Chair, called the meeting to order at 4:00 p.m.

APPROVAL OF AGENDA

RESOLUTION #42/17:

Moved by: David Smith
Seconded by: Michel Depratto

THAT the agenda be approved as circulated.

CARRIED

PECUNIARY INTEREST

No pecuniary interest was declared.

APPROVAL OF MINUTES

RESOLUTION #43/17:

Moved by: Alton Blair
Seconded by: Claude McIntosh

THAT the minutes of the April 20, 2017 meeting of the Raisin Region Conservation Authority, be approved.

CARRIED

DELEGATIONS / PRESENTATIONS

Staff presented project and program updates.

BUSINESS ARISING FROM THE MINUTES

None

NEW BUSINESS

2017 TREE PLANTING PROGRAM

RESOLUTION #44/17:

Moved by: Michel Depratto
Seconded by: Carilyne Hebert

THAT the Board of Directors receive and file the 2017 Tree Planting Program Report, as presented.

CARRIED

WATERSHED CONDITIONS – SPRING 2017

RESOLUTION #45/17:

Moved by: Tammy Hart
Seconded by: Alton Blair

THAT the Board of Directors receive and file the Watershed Conditions – Spring 2017 Report, as presented.

CARRIED

FINANCIAL REPORTS

ACCOUNTS PAYABLE REPORT

RESOLUTION #46/17:

Moved by: David Smith
Seconded by: Carilyne Hebert

THAT the Board of Directors receive and file the Accounts Payable Report, as presented.

CARRIED

FUTURE MEETINGS

RRCA Full Authority – Jun 15th, Sep 21st, Oct 19th, Nov 16th, 2017

ADJOURNMENT

RESOLUTION #47/17:

Moved by: Claude McIntosh
Seconded by: Carilyne Hebert

THAT the Full Authority meeting of May 18, 2017 be adjourned at 5:15 p.m.

Frank Prevost
Chair

Richard Pilon
General Manager / Secretary-Treasurer

/js



Raisin Region Conservation Authority

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To: Board of Directors
From: Kimberley MacDonald, Manager of Planning & Regulations
Date: June 5, 2017
Subject: Gilmor v. Nottawasaga Valley Conservation Authority

RECOMMENDATION:

That the Board of Directors receive and file the Gilmor v. Nottawasaga Valley Conservation Authority report, as presented.

BACKGROUND:

- In 2009, Alex and Tania Gilmor purchased a lot in Dufferin County and started construction of a single family residential dwelling without first obtaining the necessary permits and approvals. Part of the lot is located within hazardous lands due to floodplain as administered by the Nottawasaga Valley Conservation Authority (NVCA).
- The County of Dufferin issued a Stop Work Order in 2010. The Gilmors continued to construct the residential dwelling past the Stop Work Order and the County proceeded to seek a court injunction to make the Gilmors cease work on the property.
- Due to flooding concerns, NVCA staff could not recommend approval of the retroactive permit application. In 2011 the NVCA Board of Directors denied the permit application.
- The Gilmors appealed the NVCA's decision to the Mining and Lands Commissioner, who conducted a four day hearing in 2013. The Mining and Lands Commissioner ruled that the Gilmor development was neither appropriate nor safe and dismissed the appeal.
- The Gilmors appealed the Mining and Lands Commissioner (MLC) decision to the Divisional Court. Divisional Court overturned the MLC's decision on September 9, 2015.
- The NVCA Board directed staff and its legal counsel in October 2015 to proceed with an appeal of the Divisional Court decision to the Court of Appeal for Ontario.
- On July 14, 2016 the Court of Appeal for Ontario granted intervenor status to Conservation Ontario and the MNRF.
- The Court of Appeal heard the case on December 20, 2016 and released its decision on May 23, 2017. In its unanimous decision, the Court of Appeal reinstated the Mining and Lands Commissioner's decision to deny the Gilmor permit.
- The NVCA was awarded costs, including the Court of Appeal for Ontario and the Divisional Court. The intervenors such as Conservation Ontario and the Ministry of Natural Resources and Forestry were responsible for their own costs.

DISCUSSION:

The Court of Appeal's decision was based on the following:

- Divisional Court applied the wrong standard of review to the Mining and Lands Commissioner Decision. For example, it applied the test of correctness and not one of reasonableness.
- Divisional Court erred in concluding that the Mining and Land Commissioner's authority overlapped with authority under the Building Code Act and that correctness review applied as a result.
- NVCA and the MLC are the only bodies with development approval authority under the Conservation Authorities Act and the regulations.
- Divisional Court erred in concluding Conservation Authorities and the MLC are "usurping" (infringing) on municipalities decision-making authority concerning public safety, the Provincial Policy Statement, and the Planning Act.
- Divisional Court failed to consider safety under the "control of flooding". Furthermore, the court wrongfully assumed Conservation Authorities do not have the power to deny a permit based on safety and development within the floodplain.
- Divisional Court erred in concluding that the MLC Commissioner misinterpreted certain sections of NVCA O. Reg. 172/06 made under the Conservation Authorities Act.
- Divisional Court misinterpreted testimony and wrongfully substituted its view rather than allowing the Commissioner, with specialized expertise in the matter (i.e. hazard management) to make a decision.

CONCLUSION:

In the end, the Court of Appeal for Ontario rejected the Divisional Court of Appeal decision in its entirety and reinstated the Mining and Lands Commissioner decision to support the NVCA board decision. It was a very strong ruling that points out the specialization that Conservation Authorities and the Mining and Lands Commissioner have.

Conservation Authorities have been watching this case very closely, and in the interim, had impacted internal policies and procedures. Based on this strong court decision, it is now business as usual for Conservation Authorities. The regulations have effectively been clarified.



Kimberley MacDonald
Manager of Planning & Regulations



To: Board of Directors
From: Richard Pilon, General Manager
Date: June 7, 2017
Subject: Conservation Authorities Act Review – Proposed Amendments

RECOMMENDATION:

That the Board of Directors receive and file the Conservation Authorities Act Review – Proposed Amendments report, as presented.

BACKGROUND:

In 2015, the Province initiated a review of the *Conservation Authorities Act*. Two Discussion Papers were developed followed by multi-stakeholder engagement sessions.

Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017* was introduced into the legislature and passed First Reading on May 30, 2017. Bill 139 groups various Acts to be amended including the *Conservations Authorities Act*.

The Bill also encompasses changes to the *Planning Act* and proposes replacing the Ontario Municipal Board with a new Local Planning Review Tribunal.

DISCUSSION:

Attached is a FAQ document prepared by Conservation Ontario that provides some answers to questions regarding the proposed amendments to the *Conservation Authorities Act*.

In the coming weeks the Province will be posting a policy document entitled *Conserving our Future: A Modernized Conservation Authorities Act* that supports Bill 139 by describing the changes being proposed and other policy and program changes resulting from the review.

The Bill is being reviewed by a Conservation Ontario CA Act Working Group comprised of a number of CA General Managers and CO staff. This will take place over the next few weeks and draft comments will be prepared by CO and sent to all CAs for review prior to submission in July.

A handwritten signature in black ink, appearing to be 'R. Pilon', with a long horizontal line extending to the right.

Richard Pilon
General Manager



Conservation Authorities Act Review – Proposed Amendments Bill 139 – Building Better Communities and Conserving Watersheds Act (2017)

What is the name of the Bill?

Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017* was introduced into the legislature and passed First Reading on May 30, 2017. The Bill proposes amendments to the *Conservation Authorities Act* and can be viewed at http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session2/b139_e.pdf

Bill 139 is an ‘omnibus bill’ which groups various Acts to be amended including the *Conservation Authorities Act*. In addition to other Acts, the Bill also encompasses changes to the *Planning Act* and proposes replacing the Ontario Municipal Board with a new Local Planning Review Tribunal.

Conservation Authorities and Conservation Ontario are focused on **Schedule 4** of Bill 139 which refers to the *Conservation Authorities Act*.

Bill 139 is on the Orders and Notices Paper for the next session of Parliament scheduled to commence Monday, September 11, 2017. It joins approximately 72 other Bills that will start at the Second Reading stage.

The Province’s media release about the Bill can be read here: <https://news.ontario.ca/mma/en/2017/05/building-better-communities-and-conserving-watersheds.html>

When will the Bill be enacted?

The Bill has to pass through two more readings in the legislature before it could be enacted which could take place during the next sitting of the Legislature which starts September 11, 2017. During this time, it will be debated by Members of the Legislature and could be referred to a Standing Committee for a ‘clause by clause’ review.

What is the policy document still to be posted?

In the coming weeks the Province will be posting *Conserving our Future: A Modernized Conservation Authorities Act* that supports the Bill by describing the changes being proposed and other policy and program changes resulting from the review. Members will be circulated the document as soon as it is available on the Environmental Bill of Rights registry.

What are the objectives of the proposed changes?

The Province states that the proposed changes will modernize the *Conservation Authorities Act* framework by:

- Strengthening oversight and accountability.
- Increasing clarity and consistency in programs and services.
- Increasing clarity and consistency in regulatory requirements.
- Improving collaboration and engagement.
- Modernizing funding mechanisms.

What are the proposed amendments to the *Conservation Authorities Act*?

Bill 139: *Building Better Communities and Conserving Watersheds Act*, 2017,

In its “explanatory note” for the amendments, the Province posted the following information on the Legislative Assembly of Ontario website

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=4936 :

Schedule 4:

The Schedule makes numerous amendments to the *Conservation Authorities Act*. In addition to many housekeeping amendments, the Schedule makes more significant amendments as follows:

1. A new purpose section (section 0.1) is added to the Act.

From the proposed amended CA Act: “The purpose of this Act is to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario.”

2. Enlargement of the area of jurisdiction of an authority, the amalgamation of authorities and dissolution of an authority

Various amendments are made in relation to the enlargement of the area of jurisdiction of an authority, the amalgamation of two or more authorities and the dissolution of an authority (sections 10, 11 and 13.1), including amendments relating to the notice that is required before some of these events can occur. Also, the amendments to section 11 add a requirement for the Minister’s approval of any amalgamation of two or more authorities.

3. Membership and governance of authorities

Some amendments are made in relation to the membership and governance of authorities (sections 14 to 19.1). The rules relating to the appointment and term of office of members of an authority are clarified. The maximum term of office of a member is increased from three to four years.

A requirement that meetings of the authority be open to the public is added, subject to exceptions that may be provided in an authority’s by-laws.

Authorities are required to establish advisory boards in accordance with the regulations.

A new section 19.1 is enacted setting out the power of an authority to make by-laws in relation to its governance, including its meetings, employees, officers and its executive committee. Many of these powers were previously regulation-making powers that the authorities held under section 30 of the Act. The Minister may direct an authority to make or amend a by-law within a specified time. If the authority fails to do so, the Minister has the power to make a regulation that has the same effect as the by-law was intended to have.

4. Objects, powers and duties of authorities

Amendments are made to the objects, powers and duties of authorities (sections 20 to 27.1) in particular their powers in relation to programs and services and in relation to projects that they undertake. New section 21.1 sets out the three types of programs and services that an authority is required or permitted to provide: the mandatory programs and services that are required by regulation, the municipal programs and services that it provides on behalf of municipalities and other programs and services that it determines to provide to further its objects.

New section 21.2 sets out the rules for when an authority may charge fees for the programs and services it provides and the rules for determining the amount of the fees charged. Authorities are required to maintain a fee schedule that sets out the programs and services in respect of which it charges a fee and the amount of the fees. The fee schedule is set out in a written fee policy that is available to the public. Persons who are charged a fee by an authority may apply to the authority to reconsider the charging of the fee or the amount of the fee.

Sections 24 to 27 of the Act are repealed and replaced with new sections allowing authorities to recover their capital costs with respect to projects that they undertake and their operating expenses from their participating municipalities. Currently the apportionment of those costs and expenses is based on a determination of the benefit each participating municipality receives from a project or from the authority. The amendments provide that the apportionment will be determined in accordance with the regulations.

5. Regulating-making powers

The provisions regulating activities that may be carried out in the areas over which authorities have jurisdiction are substantively amended (sections 28 and 29). Section 28 of the Act is repealed. That section currently gives authorities certain regulation-making powers, including the power to regulate the straightening, changing and diverting of watercourses and development in their areas of jurisdiction and to prohibit or require the permission of the authority for such activities. The re-enacted section 28 prohibits such activities so that the previous regulation-making power is no longer required.

Furthermore, new section 28.1 gives the authorities the power to issue permits allowing persons to engage in the prohibited activities and section 28.3 allows authorities to cancel the permits in specified circumstances. New regulation-making powers are set out in section 28.5 in respect of activities that impact the conservation, restoration, development or management of natural resources.

6. Enforcement of the Act and offences

Sections 30 and 30.1 are repealed and sections 30 to 30.4 are enacted in relation to the enforcement of the Act and offences. Authorities are given the power to appoint officers who may enter lands to ensure compliance with the Act, the regulations and with permit conditions. The officers are also given the power to issue stop orders in specified circumstances.

Offences for contraventions of the Act, the regulations, permit conditions and stop orders are set out in section 30.4 and the maximum fines under the Act are increased from \$10,000 to \$50,000 in the case of an individual and to \$1,000,000 in the case of a corporation. An additional fine of

\$10,000 a day for individuals and \$200,000 a day for corporations may be imposed for each day the offence continues after the conviction.

Section 30.6 expands the existing powers of the court when ordering persons convicted of an offence to repair or rehabilitate any damage resulting from the commission of the offence.

Various regulation-making powers are enacted.

What has been the initial response from Conservation Ontario?

On May 31, 2017 Conservation Ontario issued a media release which said that CO and the Conservation Authorities would be reviewing the Bill in detail and will continue to work with the Province in moving forward.

The media release can be found on Conservation Ontario's website:

http://conservationontario.ca/images/Media_Releases/MediaRelease_CA_Act_COMay2017_FN_L_rev.pdf

The Bill is being reviewed by a Conservation Ontario CA Act Working Group comprised of a number of CA General Managers and CO staff. A report to the broader membership is scheduled for the June 2017 Council meeting.

Background

In 2015, the Province initiated a review of the *Conservation Authorities Act (CA Act)* which governs Ontario's 36 Conservation Authorities. They developed an initial Conservation Authorities [Discussion Paper](#) (Fall 2015) to provide an overview of Conservation Authorities, their funding and governance.

In Spring 2016, MNRF posted a second discussion paper which identified priorities for moving forward with the *CA Act* review: [Conserving Our Future: Proposed Priorities for Renewal](#). This was followed up by multi-stakeholder engagement sessions.

Conservation Ontario and the Conservation Authorities have provided input to both documents. An amended *Conservation Authorities Act* was introduced to the legislature on May 30, 2017 for first reading.

For more information:

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Raisin Region Conservation Authority

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To: Board of Directors
From: Sandy Crites, Manager of Finance
Date: June 8, 2017
Subject: Statement of Operations as of April 30, 2017

RECOMMENDATION:

That the Board of Directors receive and file the Statement of Operations Report, as presented.

DISCUSSION:

The RRCA Statement of Operations for the year ending December 31, 2017, as of April 30, 2017 is attached.

A handwritten signature in blue ink, appearing to read 'Sandy Crites', written over a horizontal line.

Sandy Crites
Manager of Finance

STATEMENT OF OPERATIONS
For the period ending April 30, 2017

	Final Budget 2017	Updated Forecast Dec 31, 2017	Actual as of April 30, 2017	% of Updated Forecast
<u>REVENUE</u>				
Municipal	777,169	777,169	0	0%
MNRF	164,721	164,721	41,180	25%
Provincial	377,310	390,285	15,429	4%
Federal	33,462	33,462	28,570	85%
Authority Generated	862,388	954,388	506,347	53%
TOTAL REVENUE	2,215,050	2,320,025	591,527	25%
<u>EXPENDITURES</u>				
Watershed Management				
Watershed Studies	27,971	27,971	8,151	29%
Source Water Protection	242,390	242,390	47,890	20%
Flood Forecasting & Warning	60,661	60,661	17,647	29%
Flood Control Structures	282,307	295,282	129,558	44%
Environmental Services				
Plan Input & Review	162,848	162,848	49,121	30%
CA Regulations	71,777	71,777	22,445	31%
Stewardship Programs				
ALUS	84,438	104,438	46,568	45%
Tributary	171,014	171,014	57,800	34%
Forestry	156,503	156,503	27,190	17%
Provincial Monitoring	7,055	7,055	2,776	39%
Conservation & Communication	15,000	15,000	9,095	61%
Conservation & Education				
Cooper Marsh	81,422	153,422	77,608	51%
Gray's Creek Conservation Area	69,294	69,294	10,477	15%
Gray's Creek Marina	151,416	151,416	40,402	27%
Charlottenburgh Park	369,147	369,147	59,514	16%
Corporate Services				
Administration	149,793	149,793	55,307	37%
Staff & Board Expenses	41,000	41,000	8,010	20%
Supplies & Maintenance	88,851	88,851	32,688	37%
General	47,275	47,275	32,681	69%
Vehicle & Equipment	(65,142)	(65,142)	(9,760)	15%
TOTAL EXPENDITURE	2,215,020	2,319,995	725,169	31%
Net surplus (deficit)	0	0	(133,642)	