## COUNCIL INFORMATION PACKAGE

**December 4, 2020**

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The Honourable Doug Ford, Premier of Ontario  
Room 281, Legislative Building, Queen’s Park  
Toronto, ON M7A 1A1

Honourable and Dear Sir:

Re: Town of Grimsby - Amendment to Bill 108 - More Homes, More Choice Act, 2019, which amended the Ontario Heritage Act - Request to Remove the Powers provided to the Local Planning Appeal Tribunal, Retain Authority for Hearing Certain Appeals by the Conservation Review Board, and Return the Authority for Final Decisions to Municipal Councils

Please be advised the Municipal Council of the Town of Fort Erie at its meeting of November 16, 2020 received and supported correspondence from the Town of Grimsby dated November 4, 2020 strongly recommending that Schedule 11 of Bill 108 be amended to return the authority for final decisions to municipal council’s as the elected representatives of the communities wherein the property and its features of cultural heritage value exist.

Attached please find a copy of the Town of Grimsby’s correspondence dated November 4, 2020.

Thank you for your attention to this matter

Yours very truly,

Carol Schofield, Dipl.M.A.
Manager, Legislative Services/Clerk
cschofield@forterie.ca

CS:dlk

The Honourable Lisa MacLeod, Ministry of Heritage, Sport, Tourism and Culture Industries Lisa.macleodco@pc.ola.org  
Andrea Horwath, MPP and Leader of the Official Opposition and the Ontario NDP Party, MPP horwatha-qp@ndp.on.ca  
Steven Del Duca, Leader of the Ontario Liberal Party steven@ontarioliberal.ca  
Mike Schreiner, MPP and Leader of the Green Party of Ontario Mschreiner@ola.org  
Sam Oosterhoff, MPP, Niagara West sam.oosterhoff@pc.ola.org  
Devanne Kripp, Deputy Town Clerk, Town of Grimsby d.kripp@grimsby.ca  
Association of Municipalities of Ontario amo@amo.on.ca  
Ontario Municipalities  
All MPP’s in the Province of Ontario  
Niagara Region ann-marie.norio@niagararegion.ca

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1 Municipal Centre Drive, Fort Erie ON L2A 2S6  
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Dear Hon. Doug Ford:

At its meeting of October 19, 2020, the Town of Grimsby Committee of the Whole passed the following resolution, which was subsequently approved by Council on November 2, 2020:

Moved by Councillor Bothwell; Seconded by Councillor Freake;

Resolved that the Report PA20-22 dated October 19, 2020, be received; and,
That the report be endorsed and submitted to the Province, along with the following motion, as the Town of Grimsby’s comments to the Environmental Registry.

WHEREAS Royal Assent has been granted to Bill 108 entitled ‘More Homes, More Choice Act, 2019’ on June 6, 2019; and,

WHEREAS Schedule 11 of Bill 108 contains amendments to the Ontario Heritage Act which require appeals under the Ontario Heritage Act to be heard by the Local Planning Appeal Tribunal not the Conservation Review Board; and,

WHEREAS the Conservation Review Board is an adjudicative tribunal that, through the mandate provided by the Ontario Heritage Act, considers a number of matters such as:
   • The proposed designation of a property as having cultural heritage value or interest;
   • Applications for the repeal of a By-law on a specific property;
   • Applications related to the alteration of a property covered by a By-law; and,
   • Matters related to archaeological licensing, and,

WHEREAS Schedule 11 of Bill 108 will come into effect on a date to be proclaimed by the Lieutenant Governor; and,

WHEREAS the Local Planning Appeal Tribunal are not experts in heritage matters unlike members of the Conservation Review Board; and,

WHEREAS the Local Planning Appeal Tribunal decisions are binding decisions unlike the Conservation Review Board non-binding recommendations; and,

WHEREAS the Ontario Heritage Act provides a means for municipalities to protect and preserve the cultural heritage value or interest of the municipality for generations to come; and,
WHEREAS the Conservation Review Board currently provides reports to municipal council’s setting out its findings of fact, and its recommendations so that a final decision can be rendered by municipalities about what is valuable in their community;

WHEREAS the Town of Grimsby remains committed to the preservation and protection of property of cultural heritage value or interest;

NOW THEREFORE BE IT RESOLVED THAT the Town of Grimsby strongly recommends that Schedule 11 of Bill 108 be amended to remove the powers provided to
the Local Planning Appeal Tribunal, retaining authority for hearing certain appeals by the Conservation Review Board; and,

BE IT FURTHER RESOLVED THAT the Town of Grimsby strongly recommends that Schedule 11 of Bill 108 be amended to return the authority for final decisions to municipal council’s as the elected representative of the communities wherein the property and its features of cultural heritage value exist; and,

BE IT FURTHER RESOLVED THAT a copy of this motion be sent to the Honourable Doug Ford, Premier of Ontario, Lisa McLeod the Minister of Heritage, Sport, Tourism and Culture Industries, Andrea Horwath, MPP and Leader of the Official Opposition and the Ontario NDP Party, MPP Steven Del Duca Leader of the Ontario Liberal Party, Mike Schreiner MPP and Leader of the Green Party of Ontario, Sam Oosterhoff MPP Niagara West; and,

BE IT FURTHER RESOLVED THAT a copy of this motion be sent to the Association of Municipalities of Ontario (AMO), all MPP’s in the Province of Ontario, the Niagara Region and all Municipalities in Ontario for their consideration."

We strongly recommend that the Ontario government consider amendments to Bill 108 to return the final authority to municipal Council’s to determine what is of cultural heritage value or interest in their communities with the benefits of the expert and professional advice provided by the Conservation Review Board.

CARRIED

YES: Councillors Bothwell, Dunstall, Freake, Kadwell, Ritchie, Sharpe, Vaine, Vardy and Mayor Jordan

A copy of the report has been enclosed.

Regards,

Deanne Kripp, Dipl. M. A.
Deputy Town Clerk
905 945 9634 ext. 2177
Town of Grimsby | 160 Livingston Avenue, P.O Box 159 | Grimsby ON L3M 4G3 | www.grimsby.ca
Report To: Committee of the Whole

Meeting Date: October 19, 2020

Subject: Proposed Regulation under the Ontario Heritage Act (Bill 108)

Recommendation(s)

1. That the Report PA20-22 dated October 19, 2020, be received and

2. That the report be endorsed and submitted to the Province, along with the following motion, as the Town of Grimsby’s comments to the Environmental Registry.

WHEREAS Royal Assent has been granted to Bill 108 entitled ‘More Homes, More Choice Act, 2019’ on June 6, 2019; and,

WHEREAS Schedule 11 of Bill 108 contains amendments to the Ontario Heritage Act which require appeals under the Ontario Heritage Act to be heard by the Local Planning Appeal Tribunal not the Conservation Review Board; and,

WHEREAS the Conservation Review Board is an adjudicative tribunal that, through the mandate provided by the Ontario Heritage Act, considers a number of matters such as:

• The proposed designation of a property as having cultural heritage value or interest;

• Applications for the repeal of a By-law on a specific property;

• Applications related to the alteration of a property covered by a By-law; and,

• Matters related to archaeological licensing. AND,

WHEREAS Schedule 11 of Bill 108 will come into effect on a date to be proclaimed by the Lieutenant Governor; and,

WHEREAS the Local Planning Appeal Tribunal are not experts in heritage matters unlike members of the Conservation Review Board; and,

WHEREAS the Local Planning Appeal Tribunal decisions are binding decisions unlike the Conservation Review Board non-binding recommendations; and,
WHEREAS the Ontario Heritage Act provides a means for municipalities to protect and preserve the cultural heritage value or interest of the municipality for generations to come; and,

WHEREAS the Conservation Review Board currently provides reports to municipal council's setting out its findings of fact, and its recommendations so that a final decision can be rendered by municipalities about what is valuable in their community;

WHEREAS the Town of Grimsby remains committed to the preservation and protection of property of cultural heritage value or interest;

NOW THEREFORE BE IT RESOLVED THAT the Town of Grimsby strongly recommends that Schedule 11 of Bill 108 be amended to remove the powers provided to the Local Planning Appeal Tribunal, retaining authority for hearing certain appeals by the Conservation Review Board; and,

BE IT FURTHER RESOLVED THAT the Town of Grimsby strongly recommends that Schedule 11 of Bill 108 be amended to return the authority for final decisions to municipal council's as the elected representative of the communities wherein the property and its features of cultural heritage value exist; and,

BE IT FURTHER RESOLVED THAT a copy of this motion be sent to the Honourable Doug Ford, Premier of Ontario, Lisa McLeod the Minister of Heritage, Sport, Tourism and Culture Industries, Andrea Horwath, MPP and Leader of the Official Opposition and the Ontario NDP Party, MPP Steven Del Duca Leader of the Ontario Liberal Party, Mike Schreiner MPP and Leader of the Green Party of Ontario, Sam Oosterholt MPP Niagara West; and,

BE IT FURTHER RESOLVED THAT a copy of this motion be sent to the Association of Municipalities of Ontario (AMO), all MPP's in the Province of Ontario, the Niagara Region and all Municipalities in Ontario for their consideration."

We strongly recommend that the Ontario government consider amendments to Bill 108 to return the final authority to municipal Council's to determine what is of cultural heritage value or interest in their communities with the benefits of the expert and professional advice provided by the Conservation Review Board.
Purpose

To provide staff with direction to provide comments to the Environmental Registry on the proposed changes to the Ontario Heritage Act (Bill 108). As the impetus for the new proposed regulations is Bill 108, The More Homes, More Choices Act, staff remain concerned that the Province’s stated objective to increase housing supply should not come at the expense of the Town of Grimsby’s irreplaceable cultural heritage resources, as the purpose of the Ontario Heritage Act being to protect and conserve heritage properties.

Background

Updates to the Ontario Heritage Act (Bill 108)

In November 2018, the Province introduced a consultation document: "Increasing Housing Supply in Ontario." On May 2, 2019, the Minister of Municipal Affairs and Housing introduced "More Homes, More Choice: Ontario’s Housing Supply Action Plan" and the supporting Bill 108 – the proposed More Homes, More Choice Act. The Province stated that the objective of these initiatives is to ensure more housing choices/supply and address housing affordability. The Ontario Heritage Act was one of 13 provincial statues impacted by Bill 108.

At that time, the proposed regulations for the OHA were unknown but the Ministry of Tourism, Culture and Sport indicated that regulations were to be released “later this year” after consultation and would be posted for comment. At that time, the changes to the OHA were expected to be proclaimed and in full force and effect for July 1, 2020. Later this date was changed to January 1, 2021. The proposed regulations were released for public comment on September 21, 2020, being partially delayed by the COVID-19 pandemic. The changes to the OHA are still anticipated to be proclaimed on January 1, 2021. Comments on the proposed regulations are due to the Environmental Registry by November 5, 2020. Communication from the Ministry of Tourism, Culture and Sport indicates that ‘Updates to the existing Ontario Heritage Tool Kit, which will support implementation of the amendments and proposed regulation, are forthcoming. Drafts of the revised guides will be made available for public comment later this fall.’ Staff will share this information with the Grimsby Heritage Advisory Committee and Council as it becomes available.
Analysis/Comments

The Environmental Registry posting includes the proposed regulations and a summary of the proposed regulations for the following:

1. Principles that a municipal council shall consider when making decisions under specific parts of the OHA.


3. Events which would trigger the new 90-day timeline for issuing a notice of intention to designate and exceptions to when the timeline would apply.

4. Exceptions to the new 120-day timeline to pass a designation by-law after a notice of intention to designate has been issued.

5. Minimum requirements for complete applications for alteration or demolition of heritage properties.

6. Steps that must be taken when council has consented to the demolition or removal of a building or structure, or a heritage attribute.

7. Information and material to be provided to Local Planning Appeal Tribunal (LPAT) when there is an appeal of a municipal decision to help ensure that it has all relevant information necessary to make an appropriate decision.

8. Housekeeping amendments related to amending a designation by-law and an owner's reapplication for the repeal of a designation by-law.


Many of the proposed regulations are procedural and provide clarity on the new processes that were including in Bill 108. The summary of the proposals is as follows:

Regulatory Proposals

1. Principles to guide municipal decision making

The amendments to the Ontario Heritage Act give authority to prescribe principles that a municipal council shall consider when making decisions under prescribed provisions of Parts IV and V of the Act. The proposed principles relate to the purpose of the Ontario Heritage Act and are intended to help decision-
The proposed principles are consistent with Ontario’s policy framework for cultural heritage conservation. The proposed principles provide context for a municipality to follow when making decisions about designated heritage properties, including the minimization of adverse impacts to the cultural heritage value of a property or district. They also require the municipality to consider the views of all interested persons and communities. The new principles will be used in conjunction with Ontario Regulation 9/06, for which no changes have been proposed at this time. While staff already use many similar principles to guide the review process, it is noted that many of the principles use ‘should’ rather than ‘shall’ in reference to the principles. The most problematic is the principle that “property that is determined to be of cultural heritage value or interest should be protected and conserved for all generations”. Using ‘should’ rather than ‘shall’ contradicts the Provincial Policy Statement 2020, which states “Significant built heritage resources and significant cultural heritage landscapes shall be conserved”. Staff would prefer consistency in the language in these two provincial policies and recommend that the language from the PPS 2020 be adopted as a principle for the Ontario Heritage Act.

An additional recommendation would be that the definition of ‘adaptive reuse’ included in this section be revised from “the alteration of a property of cultural heritage value or interest to fit new uses or circumstances while retaining the heritage attributes of the property” to “the alteration of a property of cultural heritage value or interest to fit new uses or circumstances while retaining the cultural heritage value or interest and the heritage attributes of the property”.

2. Mandatory content for designation by-laws

The Ontario Heritage Act amendments provide a regulatory authority to prescribe mandatory content for designation by-laws. The goal is to achieve greater consistency across municipalities and to provide improved clarity for property owners through designation by-laws including:

- Identifying the property for the purposes of locating it and providing an understanding of its layout and components;

- Establishing minimum requirements for the statement of cultural heritage value or interest; and

- Setting standards for describing heritage attributes.

From staff’s perspective, the most significant changes to the requirements for a
The requirement to include a map or image of the area. This has not typically been done in the past due to the preferences of the Land Registry Office; however, from a staff perspective, this would not be difficult or onerous.

- The description of the heritage attributes must be 'brief' and also explain how each attribute contributes to the cultural heritage value or interest of the property. Staff note that the requirement for explanations may make the description less brief, but are generally supportive of this requirement as it may help clarify both the heritage attributes and the cultural heritage value of the property. However, this requirement will likely increase the amount of staff time required to draft designation by-laws.

- The by-law may list any features of the property that are not heritage attributes. Including a formal list of non-heritage attributes within the by-law could provide clarity to both the property owner and the Town of Grimsby.

3. 90-day timeline to issue a Notice of Intention to Designate Amendments to the Ontario Heritage Act establish a new 90-day timeline for issuing a notice of intention to designate (NOID) when the property is subject to prescribed events. It also allows for exceptions to this restriction to be prescribed.

The new timeline is intended to encourage discussions about potential designations with development proponents at an early stage to avoid designation decisions being made late in the land use planning process. The ministry has proposed three triggers which would place this restriction on council's ability to issue a NOID. These are applications submitted to the municipality for either an official plan amendment, a zoning by-law amendment or a plan of subdivision.

The proposed regulation also provides exceptions to when the 90-day timeline applies. The ministry is proposing the following categories of exceptions.

- Mutual agreement – Where an extension of, or exemption from, the 90-day restriction on issuing a NOID is mutually agreed to by the municipality and the property owner who made the application under the Planning Act.

- Administrative restrictions – Where municipal council or heritage committee are limited in their ability to reasonably fulfill the statutory requirements for issuing a NOID within the original 90-day timeframe. This would apply in cases of a declared emergency or where a municipal heritage committee would be unable to provide its recommendations to council. The timeframe would be extended by 90 days.

- New and relevant information – Where new and relevant information could have an impact on the potential cultural heritage value or interest of the
property is revealed and needs further investigation. Council would be able to extend the timeframe through a council resolution. In the case of new and relevant information council would have 180 days from the date of the council resolution to ensure there is sufficient time for further information gathering and analysis to inform council's decision.

Expiration of restriction – The 90-day restriction on council's ability to issue a NOID would not remain on the property indefinitely and would no longer apply when the application that originally triggered the 90-day timeframe is finally disposed of under the Planning Act.

The proposed regulation also provides notification requirements related to the exceptions to the 90-day timeframe restriction.

Overall, the regulations provide required clarity to the proposed new timelines. Staff are pleased that one of the exemptions to the new regulated timelines is through mutual agreement, as many developers in Grimsby have demonstrated their willingness to work with staff and Council to work towards heritage conservation goals through the planning process.

The exemption for ‘new and relevant’ materials is useful to ensure that all parties have all of the information needed to make a decision. To this end, the regulations also provide a definition of ‘new and relevant’ to be applied in this context.

The termination period for the 90-day timelines is limited to the lifespan of the specific planning application. This will ensure that properties are not prohibited from heritage conservation indefinitely.

However, staff have several concerns in regards to these proposed regulations. First, the 90 day timeline will not provide enough time for the town to request and review a peer review of a Heritage Impact Assessment, should the town feel that review is necessary. Staff recommend that the 90 day timeline be increased, or that an additional exemption be included that provides municipalities more time to address requirements for peer review. Likewise, the substantially reduced time limit for planning decisions in Bill 108, especially in regards to decisions for zoning by-law amendments, will create challenges for staff where heritage properties are involved in a planning application.

Staff also note that these new timelines will require significant changes to internal processes in order to accommodate the regulations, which in turn will take a significant amount of staff time to coordinate between Heritage Planning staff, and Planning staff.

4. 120-day timeline to pass a designation by-law Amendments to the Ontario Heritage Act establish a new requirement for designation by-laws to be passed within 120 days of issuing a Notice of Intention to Designate (NOID). It also
allows for exceptions to be prescribed. The ministry is proposing the following categories for exceptions.

- **Mutual agreement** - Where an extension of, or exemption from, the requirement to pass a by-law within 120 days of issuing a NOID is mutually agreed to by the municipality and the property owner.

- **Administrative restrictions** – Where municipal council is limited in its ability to reasonably fulfill the statutory requirements for passing a designation bylaw within the original 120-day timeframe. This would apply in cases of a declared emergency.

- **New and relevant information** – Where new and relevant information that could have an impact on the potential cultural heritage value or interest of the property is revealed and needs further investigation.

- **Council would be able to extend the timeframe through a council resolution to ensure there is enough time for further information gathering and analysis to inform its decision.**

- **Council would have an additional 180 days from the date of the council resolution to pass the bylaw.**

Exceptions allowing for the extension of the 120-day timeframe for passing a by-law must occur prior to the expiry of the initial 120 days. The proposed regulation includes notification requirements related to the exceptions to the 120-day timeframe.

Similar to the exemptions for the 90-day designation notice timeline, the proposed exemptions to pass a designation by-law, especially through mutual agreement, are generally considered helpful. The practice of passing a by-law soon after the objection period has expired (or an appeal has been resolved), is already undertaken in Grimsby for most designations. However, staff would note that implementing these regulations will require staff time to accomplish.

5. **60-day timeline to confirm complete applications, alteration or demolition and contents of complete applications**

Amendments to the Ontario Heritage Act establish a new timeline of 60 days for the municipality to respond to a property owner about the completeness of their application for alteration of, or demolition or removal affecting, a designate heritage property. It also provides a regulatory authority for the Province to set out minimum requirements for complete applications. The purpose of these provincial minimum standards is to ensure transparency so that property owners are aware of what information is required when making an application. The
details of what is proposed in regulation reflect current municipal best practices. The proposed regulation also enables municipalities to build on the provincial minimum requirements for complete applications as a way of providing additional flexibility to address specific municipal contexts and practices. Where municipalities choose to add additional requirements, the proposed regulation requires them to use one of the following official instruments: municipal by-law, council resolution or official plan policy. The proposed regulation establishes that the 60-day timeline for determining if the application is complete and has commenced starts when an application is served on the municipality. It further proposes that applications may now be served through a municipality’s electronic system, in addition to email, mail or in person.

The introduction of a timeline to confirm a complete application for heritage issues is new, but is not unwelcome as it will provide clarity for the property owner and the town. The list of submission requirement set out in the regulations is similar to the requirements that the town already requires; however, a more thorough review of any proposed materials should be undertaken and a report brought forward to Council to confirm Grimsby’s list of required submissions and be adopted by municipal by-law as required by the regulation. The ability for the town to set its own additional requirements (through due process) is important to ensure that the town’s heritage conservation goals are met.

However, staff note that the requirements for a complete application are only applied to subsections 33 (2) and 34 (2) of the Ontario Heritage Act, meaning that there are no requirements for a complete application for properties designated under Part V as part of heritage conservation districts. Staff recommend that the requirements for complete application also be applied to district properties.

6. Prescribed steps following council’s consent to a demolition or removal under s. 34.3

Amendments to the Ontario Heritage Act provide that municipal council consent is required for the demolition or removal of any heritage attributes, in addition to the demolition or removal of a building or structure. This is because removal or demolition of a heritage attribute that is not a building or structure, such as a landscape element that has cultural heritage value, could also impact the cultural heritage value or interest of a property.

Prior to the amendments, where council approved a demolition or removal under s. 34, the Act required council to repeal the designation by-law. However, in cases where only certain heritage attributes have been removed or demolished, or where the demolition or removal was of a structure or building that did not have cultural heritage value or interest, the property might still retain cultural
heritage value or interest. In these cases, repeal of the by-law would not be appropriate.

The proposed regulation provides municipalities with improved flexibility by requiring council to first determine the impact, if any, of the demolition or removal on the cultural heritage value or interest of the property and the corresponding description of heritage attributes. Based on the determination council makes, it is required to take the appropriate administrative action, which ranges from issuing a notice that no changes to the by-law are required, to amending the by-law as appropriate, to repealing the by-law. Council’s determination and the required administrative actions that follow are not appealable to LPAT.

The proposed regulation provides that, where council has agreed to the removal of a building or structure from a designated property to be relocated to a new property, council may follow an abbreviated process for designating the receiving property. The proposed regulation provides a series of administrative steps to support the designation by-law. Council’s determination that the new property has cultural heritage value or interest and the subsequent designation by-law made under this proposed regulation would not be appealable to LPAT.

The requirement to issue notice for demolition of any heritage attributes of a property was a concern, however, the clarification that a repealing by-law may not be required for every demolition is helpful. Following the demolition or removal, if the cultural heritage value or interest and heritage attributes do not need amending, the only notice requirement is to the Ontario Heritage Trust, who are already required to receive notice of all decisions regarding alterations, demolitions, removals and relocations.

However, staff would note that the wording of the regulation is slightly confusing: “After the demolition or removal of a building, structure or heritage attribute on the property is complete, the council of the municipality shall, in consultation with the municipal heritage committee established under section 28 of the Act, if one has been established, make one of the following determinations..” Staff are unclear on if this means that removal of any building, even one that is not a heritage attribute (i.e. a modern garden shed), requires Council approval.

7. Information to be provided to LPAT upon an appeal with the exception of decisions made under section 34.3 as described above, all final municipal decisions related to designation, amendment and repeal, as well as alteration of a heritage property under the Act will now be appealable to LPAT, in addition to decisions related to demolition and Heritage Conservation Districts, which were already appealable to LPAT. The decisions of LPAT are binding. Preliminary objections to designation matters will now be made to the municipality, before the final decision is made. Prior to the amendments, appeals of designation-related notices or appeals of alteration decisions were made to the Conservation Review Board, whose decisions were not binding.
A regulatory authority was added to ensure that appropriate information and materials related to designations, alteration and demolition decisions are forwarded to the LPAT to inform appeals. The proposed regulation outlines which materials and information must be forwarded for every LPAT appeal process in the Act by the clerk within 15 calendar days of the municipality’s decision.

The two-tier process of objection to the municipality, followed by appeal to the LPAT, is a noted concern as this new process will create delays for property owners, staff, the Grimsby Heritage Advisory Committee and Council. The updated regulation does not change this; it provides a list of the materials and information required for LPAT appeals.

8. Housekeeping amendments
Amendments to the Act included regulatory authority to address a few housekeeping matters through regulation. Previously, where a municipality proposed to make substantial amendments to an existing designation by-law it stated that the designation process in section 29 applied with necessary modifications. The proposed regulation clearly sets out the modified process, including revised language that is more appropriate for an amending by-law. The proposed regulation also makes it clear that there is no 90-day restriction on issuing a notice of proposed amendment to a by-law and provides that council has 365 days from issuing the notice of proposed amendment to pass the final amending by-law and that this timeframe can only be extended through mutual agreement.

The proposed regulation also outlines restrictions on a property owner’s ability to reapply for repeal of a designation by-law where the application was unsuccessful, unless council consents otherwise. The one-year restriction on an owner’s reapplication maintains what had been included in the Act prior to the amendments.

The ability to amend a heritage designation by-law is improved through the regulations that provide clarity to the stated process. Staff support this regulation as it will make it easier to update old designation by-laws as required, as well as make amendments to by-laws that require updating to remove listed heritage attributes as per the new regulation.

9. Transition
Section 71 of the Ontario Heritage Act establishes a regulation-making authority for transitional matters to facilitate the implementation of the amendments, including to deal with any problems or issues arising as a result of amendments. The proposed transition rules provide clarity on matters that are already in progress at the time the amendments come into force.

General Transition Rule
All processes that commenced on a date prior to proclamation would follow the process and requirements set out in the Act as it read the day before proclamation. The proposed regulation sets out the specific triggers for determining if a process had commenced.

Exceptions

Outstanding notices of intention to designate. Where council has published a notice of intention to designate but has not yet withdrawn the notice or passed the by-law at the time of proclamation, the municipality will have 365 days from proclamation to pass the by-law, otherwise the notice will be deemed withdrawn. Where a notice of intention to designate has been referred to the Conservation Review Board, the 365 days would be paused until the Board either issues its report or until the objection has been withdrawn, whichever occurs earlier.

90-Day restriction on issuing a NOID
The 90-day restriction on council’s ability to issue a NOID would only apply where all notices of complete application have been issued by the municipality in relation to a prescribed Planning Act application, on or after proclamation.

Prescribed steps following council’s consent to demolition or removal (s.34.3)
The ministry is proposing that the prescribed steps would apply following consent to an application by the municipality or by order of the Tribunal, where at the time of proclamation council had not already repealed the by-law under s. 34.3.

Staff would note that the transitions proposed will place increased demand on staff time and resources in order to prepare for the January 1, 2021 implementation deadline. As this has not been accounted or planned for, staff would recommend that the proclamation deadline be pushed to July 1, 2021 to allow municipalities more time to prepare, especially in consideration of the COVID-19 pandemic, which has already created additional stress on staff resources.

Regulatory Impact Assessment
The objective of the proposed regulation is to improve provincial direction on how to use the Ontario Heritage Act, provide clearer rules and tools for decision making, and support consistency in the appeals process. Direct compliance costs and administrative burdens associated with the proposed regulations are unknown at this time. New rules and tools set out in the proposed regulations are expected to result in faster development approvals.

There are anticipated social and environmental benefits as the proposed regulation seeks to achieve greater consistency to protecting and managing heritage property across the province.

Overall, staff support many of the proposed regulation changes, as they provide greater clarity for the new processes created through Bill 108. Some of the concerns identified
by the town in their comments on Bill 108 remain, such as all appeals being moved to the Local Planning Appeal Tribunal (LPAT) from the Conservation Review Board (CRB).

The proposed regulations appear to be consistent with the objectives of Provincial policy and the OHA to conserve significant cultural heritage resources. However, many of the town’s existing processes will need to be adjusted to conform to the proposed regulation changes. Staff would recommend to the Province that more time be provided to municipalities to accommodate the new regulations, especially given that the COVID-19 pandemic is in the second wave and also because the revised Ontario Heritage Took Kit has not been provided for draft comment and review. Additionally, staff resources will need to be evaluated in light of the current volume of heritage alteration applications to ensure the delivery of heritage reports and notices occur within the specified timelines. The substantially reduced time limit for planning decisions in Bill 108, especially in regards to decisions for zoning by-law amendments, will create challenges for staff where heritage properties are involved in a planning application.

The Province has noted that the direct compliance costs and administrative burdens are unknown at this time. Staff would suggest that the cost and burden on already stressed municipalities operating in an ongoing pandemic would be significant.

**Strategic Priorities**

This report addresses the corporate strategic goal to: Protect, preserve and enhancing Grimsby’s distinct heritage and culture

**Financial Impact**

There are no direct financial implications arising from the recommendations in this report. However, the proposed regulation changes will have undetermined financial impacts for the town.

**Public Input**

Members of the public may provide comments on Bill 108’s proposed changes through the related postings on the Environmental Registry of Ontario (ERO) website.

**Conclusion**

As the impetus for the new proposed regulations is Bill 108, *The More Homes, More Choices Act*, staff remain concerned that the Province’s stated objective to increase housing supply should not come at the expense of the Town of Grimsby’s irreplaceable cultural heritage resources, as the purpose of the *Ontario Heritage Act* being to protect and conserve heritage properties.
Prepared by,

[Signature]

Name: Bianca Verrecchia
Title: Assistant Heritage Planner

Submitted by,

[Signature]

Name: Antonietta Minichillo
Title: Director of Planning, Building & Bylaw
November 25, 2020

Hon. Sylvia Jones  
Solicitor General  
George Drew Building, 18th Floor  
25 Grosvenor St.  
Toronto, ON M7A 1Y6

RE - Bill 229 and the Conservation Authorities

Dear Honourable Sylvia Jones:

Shelburne Town Council passed the following resolution unanimously at its Council meeting held Monday November 23, 2020:

Moved By Councillor Walter Benotto  
Seconded By Councillor Kyle Fegan

WHEREAS the Province has introduced Bill 229, Protect, Support and Recover from COVID 19 Act - Schedule 6 - Conservation Authorities Act; and

WHEREAS the Legislation introduces a number of changes and new sections that could remove and/or significantly hinder the conservation authority’s role in regulating development, permit appeal process and engaging in review and appeal of planning applications; and

WHEREAS we rely on the watershed expertise provided by local conservation authorities to protect residents, property and local natural resources on a watershed basis by regulating development and engaging in reviews of applications submitted under the Planning Act; and

WHEREAS the changes allow the Minister to make decisions without conservation authority watershed data and expertise; and
WHEREAS the Legislation suggests that the Minister will have the ability to establish standards and requirements for non-mandatory programs which are negotiated between the conservation authorities and municipalities to meet local watershed needs; and

WHEREAS municipalities believe that the appointment of municipal representatives on Conservation Authority Boards should be a municipal decision, and the Chair and Vice Chair of the Conservation Authority Board should be duly elected; and

WHEREAS the changes to the 'Duty of Members' contradicts the fiduciary duty of a Conservation Authority Board member to represent the best interests of the conservation authority and its responsibility to the watershed; and

WHEREAS conservation authorities have already been working with the Province, development sector and municipalities to streamline and speed up permitting and planning approvals through Conservation Ontario's Client Service and Streamlining Initiative; and

WHEREAS changes to the legislation will create more red tape and costs for the conservation authorities, and their municipal partners, and potentially result in delays in the development approval process; and

WHEREAS municipalities value and rely on the natural habitats and water resources within our jurisdiction for the health and well-being of residents; municipalities value the conservation authorities work to prevent and manage the impacts of flooding and other natural hazards; and municipalities value the conservation authority's work to ensure safe drinking water;

NOW THEREFORE BE IT RESOLVED:

1. That the Province of Ontario repeal Schedule 6 of the Budget Measures Act (Bill 229);

2. THAT the Province continue to work with conservation authorities to find workable solutions to reduce red tape and create conditions for growth;

3. THAT the Province respect the current conservation authority and municipal relationships; and
4. THAT the Province embrace their long-standing partnership with the conservation authorities and provide them with the tools and financial resources they need to effectively implement their watershed management role.

CARRIED, Mayor Wade Mills

This motion was passed unanimously.

Thank You

J. Willoughby

Jennifer Willoughby
Director of Legislative Services/Clerk
Town of Shelburne

CC: Hon. Doug Ford, Premier
Hon. Rod Phillips, Minister of Finance
Hon. Jeff Yurek, Minister of the Environment, Conservation and Parks
Andrea Horwath, Leader, Official Opposition
Steven Del Duca, Leader, Ontario Liberal Party
Mike Schreiner, Leader, Green Party of Ontario
Sandy Shaw, Critic, Finance and Treasury Board
Ian Arthur, Critic, Environment
Peter Tabuns, Critic, Climate Crisis

Email copies to: NVCA, CVC, TRCA, Canadian Environmental Law Association, AMO & all Ontario municipalities
November 25, 2020

Hon. Sylvia Jones  
Solicitor General  
George Drew Building, 18th Floor  
25 Grosvenor St.  
Toronto, ON M7A 1Y6

Re: Schedule 6 of Bill 229 - Open Letter to the Honourable Sylvia Jones, MPP for Dufferin-Caledon

Dear Honourable Sylvia Jones:

Mono Council unanimously passed a resolution at its meeting of November 24, 2020 and we append a copy of it to this letter. Mono is a member of three conservation authorities – Toronto Region, Credit and the Nottawasaga. We value the services provided – all services but in particular the assistance in making planning decisions that protect our drinking water, that protect us from developing in flood-prone areas and that protect our wetlands and aquifers.

In 2021 Mono will spend $133,365 on conservation authorities. If we had to hire our own employees – engineers, planners, ecologists, hydrogeologists, foresters, outdoor educational staff, etc. – to do its own work, we would spend much more than $133,365 for these services.

We were not impressed with Schedule 6 to Bill 229. It undermines the power of conservation authorities to do their job. And we were particularly unimpressed when your government slipped these proposed changes to the Conservation Authorities Act into a Budget Bill.

We are concerned that Schedule 6 undermines the ability of conservation authorities to make non-political, technical decisions based on science. It does this by allowing the Minister to overrule the decisions of conservation authorities. Schedule 6 will also interfere with the fiduciary duty of a conservation authority board member. Board members have to think of watershed-wide interests in making decisions. We are also concerned that Schedule 6 limits the enforcement powers of conservation authorities.

We have to agree with the Canadian Environmental Law Association (CELA) assessment of Schedule 6 of Bill 229, “the package of amendments as proposed are likely to set back watershed planning and implementation of an ecosystem-based approach by decades. As such, CELA recommends..."
that Schedule 6 not be enacted in its present form and instead be withdrawn in its entirety from Bill 229.”

Sincerely,

The Council of the Town of Mono

Mayor Laura Ryan
Deputy Mayor John Creelman
Councillor Ralph Manktelow
Councillor Sharon Martin
Councillor Fred Nix

Attachments:

1. Town of Mono Resolution 6-VC17-2020 passed November 24, 2020

CC: Hon. Doug Ford, Premier
Hon. Rod Phillips, Minister of Finance
Hon. Jeff Yurek, Minister of the Environment, Conservation and Parks
Andrea Horwath, Leader, Official Opposition
Steven Del Duca, Leader, Ontario Liberal Party
Mike Schreiner, Leader, Green Party of Ontario
Sandy Shaw, Critic, Finance and Treasury Board
Ian Arthur, Critic, Environment
Peter Tabuns, Critic, Climate Crisis

Email copies to: NVCA, CVC, TRCA, Canadian Environmental Law Association, AMO & all Ontario municipalities
Resolution #6-VC17-2020
Moved by Ralph Manktelow, Seconded by Fred Nix

WHEREAS the Province has introduced Bill 229, Protect, Support and Recover from COVID 19 Act - Schedule 6 – Conservation Authorities Act;

AND WHEREAS the Legislation introduces several changes and new sections that could remove and/or significantly hinder conservation authorities’ role in regulating development, permit appeal process and engaging in review and appeal of planning applications;

AND WHEREAS we rely on the watershed expertise provided by local conservation authorities to protect residents, property, and local natural resources on a watershed basis by regulating development and engaging in reviews of applications submitted under the Planning Act;

AND WHEREAS the changes allow the Minister to make decisions without conservation authority watershed data and expertise;

AND WHEREAS the Legislation suggests that the Minister will have the ability to establish standards and requirements for non-mandatory programs which are negotiated between the conservation authorities and municipalities to meet local watershed needs;

AND WHEREAS the $133,365 that Mono spends on three conservation authorities (1% of budget) is a bargain for the services provided and begs the question as to why Mono would have to enter into three separate agreements for services it now happily receives - without further red tape;

AND WHEREAS municipalities believe that the appointment of municipal representatives on conservation authority boards should be a municipal decision; and the Chair and Vice Chair of the conservation authority boards should be duly elected;

AND WHEREAS it is sometimes not practical for the Town of Mono to appoint only council members (particularly if this excludes mayors and deputy mayors) to each of the three conservation authorities that service our municipality;

AND WHEREAS it has been the Town of Mono’s experience with the Nottawasaga Valley Conservation Authority that having a chair or vice-chair serve for more than one year has produced experienced individuals;

AND WHEREAS the changes to the ‘Duty of Members’ contradicts the fiduciary duty of a conservation authority board member to represent the best interests of the conservation authority and its responsibility to the watershed;

AND WHEREAS conservation authorities have already been working with the Province, development sector and municipalities to streamline and speed up permitting and planning approvals through Conservation Ontario’s Client Service and Streamlining Initiative;
AND WHEREAS changes to the legislation will create more red tape and costs for the conservation authorities, their municipal partners, and potentially result in delays in the development approval process;

AND WHEREAS municipalities value and rely on the natural habitats and water resources within conservation authority jurisdictions for the health and well-being of residents; municipalities value conservation authorities’ work to prevent and manage the impacts of flooding and other natural hazards; and municipalities value conservation authorities’ work to ensure safe drinking water;

THEREFORE, BE IT RESOLVED THAT: (i) the Province of Ontario repeal Section 6 of the Budget Measures Act (Bill 229), and (ii) that the Province continue to work with conservation authorities to find workable solutions to reduce red tape and create conditions for growth;

AND FURTHER THAT while we would prefer that Bill 229, Schedule 6 be repealed in its entirety, Council for the Town of Mono recommends the following amendments (in descending order of importance):

1. Delete the option for a person to appeal to LPAT or directly to the Minister;
2. Maintain the proposed stop work orders and property access;
3. Allow non mandatory programs as deemed advisable by each Conservation board;
4. Allow appointment of a member of the public to the Board and specify 'municipally elected official' rather than 'municipal councillor' which may exclude mayors, and continue to allow board chairs and vice chairs to serve more than one consecutive term.

"Carried"

This motion was passed unanimously.
November 26, 2020
F18-30

Steve Clark
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay St.
Toronto, ON M5G 2E5
Sent via e-mail to: steve.clark@pc.ola.org

Dear Honourable Minister:

Re: PDL-CAS-20-14.1, Regional Council Composition Review – Selection of Final Option

Please be advised that the Council of the Regional Municipality of Waterloo at their special meeting held on November 25, 2020, approved the following motion:

a) That the Region of Waterloo affirms the current composition of Regional Council being a 16 Member Council consisting of 1 Regional Chair, 7 Mayors, 2 Cambridge Councillors, 4 Kitchener Councillors, and 2 Waterloo Councillors in accordance with Section 218 (6) of the Municipal Act;

b) That resolutions consenting to the current composition of Regional Council from the Cities of Cambridge, Kitchener, and Waterloo; and the Townships of North Dumfries, Wellesley, Wilmot, and Woolwich representing a majority of the area municipalities and majority of the electors in the Region of Waterloo, be received as outlined in report PDL-CAS-20-14, dated November 25, 2020; and

c) That a copy of this report be forwarded to the Minister of Municipal Affairs and Housing.

Please accept this letter and corresponding report for information purposes only. If you have any questions or require additional information, please contact Kris Fletcher, Regional Clerk/Director, Council & Administrative Services at kfletcher@regionofwaterloo.ca or 519-575-4029
Regards,

Kris Fletcher  
Regional Clerk/Director, Council and Administrative Services  
KF/vc

cc (via e-mail): Rod Regier, Commissioner, Planning, Development and Legislative Services  
Kris Fletcher, Regional Clerk/Director, Council & Administrative Services  
Area Clerks
Region of Waterloo
Planning, Development and Legislative Services
Council and Administrative Services

To: Regional Council
Meeting Date: November 25, 2020
Report Title: Regional Council Composition Review – Selection of Final Option

1. Recommendation:

   a) That the Region of Waterloo affirms the current composition of Regional Council being a 16 Member Council consisting of 1 Regional Chair, 7 Mayors, 2 Cambridge Councillors, 4 Kitchener Councillors, and 2 Waterloo Councillors in accordance with Section 218 (6) of the Municipal Act;

   b) That resolutions consenting to the current composition of Regional Council from the Cities of Cambridge, Kitchener, and Waterloo; and the Townships of North Dumfries, Wellesley, Wilmot, and Woolwich representing unanimous approval from the area municipalities and majority of the electors in the Region of Waterloo, be received as outlined in report PDL-CAS-20-14, dated November 25, 2020; and

   c) That a copy of this report be forwarded to the Minister of Municipal Affairs and Housing.

2. Purpose / Issue:
This report is to provide Council with an opportunity to affirm the current composition of Regional Council as required by the Municipal Act.

3. Key Considerations:

   a) Legislation requires a review of the composition of Regional Council

   The Municipal Act requires the Region to review the number of Members of Council that represent each area municipality after every second election. The Act requires the Region pass a resolution to affirm the current composition of Regional Council or pass a by-law to change the composition of Regional Council by the end of 2020.

   b) Triple majority support is required

   The by-law or resolution must be endorsed by a triple majority, being:
• a majority of the votes on Regional Council;
• supportive resolutions from a majority of the Councils of the area municipalities; and,
• the area municipalities that have passed resolutions consenting to the by-law or the resolution must represent a majority of the electors in the Region.

Table 1: Voters by Municipality

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Voters</th>
</tr>
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<tbody>
<tr>
<td>Cambridge</td>
<td>85,731</td>
</tr>
<tr>
<td>Kitchener</td>
<td>148,584</td>
</tr>
<tr>
<td>North Dumfries</td>
<td>7,742</td>
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<tr>
<td>Waterloo</td>
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<td>Wellesley</td>
<td>7,895</td>
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<tr>
<td>Wilmot</td>
<td>17,623</td>
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<tr>
<td>Woolwich</td>
<td>17,482</td>
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<tr>
<td><strong>Region Total</strong></td>
<td><strong>357,655</strong></td>
</tr>
</tbody>
</table>

The Cities of Cambridge, Kitchener, and Waterloo; and the Townships of North Dumfries, Wellesley Wilmot, and Woolwich have all passed resolutions consenting to the current composition of Regional Council. These resolutions from the area municipalities fulfills two thirds of the triple majority requirements.

At the time of writing the initial report, a final resolution formally consenting to the current composition, has not been received from the City of Cambridge. Cambridge Council passed a resolution on November 18th approving the status quo. and an additional clause similar to the City of Kitchener, as outlined below.

The City of Kitchener and Cambridge Councils included additional information in their resolution to request the Region of Waterloo to include public engagement on alternative representation methods, including, but not limited to, the double-direct model, in the next Regional Composition Review (following the 2026 election). Regional Council can direct staff on this matter.

c) Risk of provincial intervention if the triple majority is not obtained

To ensure that the composition of Regional Council is a locally made decision, it is necessary to obtain triple majority support for an option. If the triple majority is not obtained, the Municipal Act allows the Minister to change the composition of Regional Council through a regulation.

4. Background:

The Region is required to conduct a Council composition review by the end of 2020.
Staff worked with a consultant, Dr. Robert Williams, on four options that were presented to the public in a survey on Engage Waterloo Region and at a public input meeting. The status quo option was the most popular first choice in the survey and was supported by the one delegation that appeared at the public input meeting.

On October 14, 2020, Regional Council issued notice that it intended to pass a resolution affirming the current composition of Regional Council and requested that the area municipalities pass resolutions consenting to the current composition.

5. Area Municipality Communication and Public/Stakeholder Engagement:

Area Municipality Communication:

Copies of the reports on the Regional Council Composition were provided to the area municipalities throughout the process. On October 14, Regional Council requested that the area municipal councils each pass a resolution consenting to current composition of Regional Council for the purposes of the fulfilling the triple majority. Resolutions consenting to the current composition have been received from the Cities of Cambridge, Kitchener, and Waterloo; and the Townships of North Dumfries, Wilmot, and Woolwich, representing all of the area municipalities in the Region of Waterloo.

Public/Stakeholder Engagement:

A public survey was available on Engage Waterloo Region from June 25 – August 15, with 379 responses received and a public input meeting was held on September 30th. The current composition was supported most often by the public.

Strategic Plan:

The proposed review of council composition aligns with Focus Area 5 of the Strategic Plan – Responsive and Engaging Public Service and Strategic Imperative, Balance of Rural and Urban Communities.

6. Financial Implications:

Nil.

7. Conclusion / Next Steps:

The formal resolutions passed by the area municipalities represent both a majority of the area municipalities and a majority of the voters in the Region. In order to obtain the triple majority required by the Act, Council needs to pass a resolution affirming the current composition.

8. Attachments / Links:

Attachment A – Resolutions from the area municipalities.
November 27, 2020

Steve Clark
Minister of Municipal Affairs and Housing
17th Floor
777 Bay St.
Toronto ON  N5G 2E5

Dear Mr. Clark:

This is to advise that City Council, at a meeting held on November 23, 2020, passed the following resolution regarding proposed changes to the Municipal Elections Act:

“WHEREAS on November 16, 2020, Ontario Bill 218, Supporting Ontario’s Recovery and Municipal Elections Act, 2020, passed third reading by the Legislative Assembly of Ontario; and,

WHEREAS Bill 218 proposes amending the Municipal Elections Act of 1996,

- to prohibit the use of ranked ballots in future Municipal Elections, and,
- extend nomination day from the end of July to the third Friday in August; and,

WHEREAS municipalities in Ontario are responsible for conducting fair and democratic elections of local representatives; and,

WHEREAS each municipal election is governed by the Municipal Elections Act which was amended in 2016 to include the option to allow Municipalities to utilize ranked ballots for their elections and shorter nomination periods; and,

WHEREAS London, Ontario ran the first ranked ballot election in 2018 and several other municipalities since have approved by-laws to adopt the practice, or are in the process of doing so including our regional neighbours in Kingston via a referendum return of 63%; and,
WHEREAS the operation, finance and regulatory compliance of elections is fully undertaken by municipalities themselves; and,

WHEREAS local governments are best poised to understand the representational needs and challenges of the body politic they represent, and when looking at alternative voting methods to ensure more people vote safely, it becomes more difficult to implement these alternatives with the proposed shorter period between Nomination day and the October 24, 2022 Election day.

THEREFORE BE IT RESOLVED that the City of Kitchener urges the Ministry of Municipal Affairs and Housing and the Government of Ontario to respect Ontario municipalities’ ability to apply sound representative principles in their execution of elections; and,

THEREFORE BE IT FURTHER RESOLVED that the City of Kitchener recommends that the Government of Ontario supports the freedom of municipalities to run democratic elections by returning the authority for municipalities to choose if ranked ballots are appropriate for their communities and reinstate Nomination Day at the end of July of an election year; and,

BE IT FINALLY RESOLVED that this resolution be circulated to the Region of Waterloo and local municipalities, all Ontario MPPs, AMO and AMCTO.”

Yours truly,

C. Tarling
Director of Legislated Services
& City Clerk

Legislative Assembly of Ontario
Monika Turner, Association of Municipalities of Ontario
Andy Koopmans, Executive Director, AMCTO
Kris Fletcher, Clerk, Region of Waterloo
Ashley Sage, Clerk, Township of North Dumfries
Dawn Mittelholtz, Director of Information and Legislative Services/Municipal Clerk, Township of Wilmot
Grace Kosch, Clerk, Township of Wellesley
Julie Scott, Acting City Clerk, City of Waterloo
Val Hummel, Director of Corporate Services/Clerk, Township of Woolwich
Danielle Manton, City Clerk, City of Cambridge
November 19, 2020

The Honourable Doug Ford
Premier of Ontario
Legislative Building
Queen’s Park, Toronto, ON M7A 1A1

RE: Bill 229 - Protect, Support, and Recover from Covid-19 Act (Budget Measures), 2020

Dear Premier Ford:

This letter will serve to advise that at a meeting of City of Quinte West Council held on November 16, 2020 Council passed the following resolution:

Motion No. 20-222 – Bill 229 - Protect, Support, and Recover from Covid-19 Act (Budget Measures), 2020
Moved by Cassidy
Seconded by Alyea

That the Council of the City of Quinte West requests that the Province withdraw Schedule 6 from proposed Bill 229 pertaining to the Conservation Authorities Act;

And further requests that the Province consult with municipalities in relation to the above;

And further that this resolution be forwarded to the Premier of Ontario, the Minister of Environment, Conservation and Parks, Minister of Natural Resources and Forestry, Minister of Municipal Affairs and Housing, Bay of Quinte MPP Todd Smith and the Association of Municipalities of Ontario. Carried

We trust that you will give favourable consideration to this request.

Sincerely,

CITY OF QUINTE WEST

Jim Harrison
Mayor

cc: The Honourable Jeff Yurek, Minister of the Environment, Conservation and Parks
The Honourable John Yakabuski, Minister of Natural Resources and Forestry
The Honourable Steve Clark, Minister of Municipal Affairs and Housing
The Honourable Todd Smith, Bay of Quinte MPP
Mr. Jamie McGarvey, President, Association of Municipalities of Ontario
Background Information to the Township of Howick
Resolution No. 288-20 Requesting Amendments to the
Agricultural Tile Drainage Installation Act

Rational for Proposed Amendments

Over the years, Howick Township staff have received many requests for tile drainage information on farmland. Usually these requests come after a change in ownership of the farm. Some of these drainage systems were installed recently but many are 30 to 40 or more years old. Many were installed by contractors who are no longer in business or who have sold the business and records are not available.

Information is generally available if the tile was installed under the Tile Drain Loan Program because a drainage plan is required to be filed with the municipality. If the tile system was installed on a farm without using the Tile Drain Loan Program, there likely are no records on file at the municipal office.

The other benefits to filing tile drainage plans with the municipality are identified in Section 65 of the Drainage Act.

- 65(1) – Subsequent subdivision of land (severance or subdivision)
- 65(3) – Drainage connection into a drain from lands not assessed to the drain
- 65(4) – Drainage disconnection of assessed lands from a drain
- 65(5) – Connecting to a municipal drain without approval from council

Section 14 of the Act states:

(1) “The Lieutenant Governor in Council may make regulations,

(a) providing for the manner of issuing licences and prescribing their duration, the fees payable therefor and the terms and conditions on which they are issued;

(a.1) exempting classes of persons from the requirement under section 2 to hold a licence, in such circumstances as may be prescribed and subject to such restrictions as may be prescribed;

(b) Repealed: 1994, c. 27, s. 8 (5).

(c) establishing classes of machine operators and prescribing the qualifications for each class and the duties that may be performed by each class;
(d) providing for courses of instruction and examinations and requiring licence holders or applicants for a licence under this Act to attend such courses and pass such examinations;

(e) prescribing the facilities and equipment to be provided by persons engaged in the business of installing drainage works;

(f) prescribing standards and procedures for the installation of drainage works;

(g) prescribing performance standards for machines used in installing drainage works;

(h) prescribing forms and providing for their use;

(i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1990, c. A.14, s. 14; 1994, c. 27, s. 8 (4, 5).”

I believe it would be beneficial if a regulation required the installer, of agricultural drainage, to file a plan of the drainage system with the municipality following completion of the work.

While most of Section 14 deals with contractor, machine and installer licences, I think that Section 14(f) or 14(i) may allow a regulation change. This would be a better solution than an amendment to the Act.

Recommendations:

- Request by municipal resolution that the Ministry of Agriculture, Food and Rural Affairs amend the Tile Drainage Installation Act and/or the regulations, under the Act, that would require tile drainage contractors file all farm tile drainage installation plans in the Municipality where the installation took place

- Send the municipal resolution to:
  - Minister of Agriculture, Food and Rural Affairs
  - Lisa Thompson, MPP Huron Bruce
  - Randy Pettapiece, MPP Perth Wellington
  - Rural Ontario Municipal Association  roma@roma.on.ca
  - OFA
  - CFFO
  - All Ontario municipalities
  - the Land Improvement Contractors of Ontario (LICO), and
  - the Drainage Superintendents Association of Ontario (DSA0)

Wray Wilson, Drainage Superintendent
Township of Howick
drainage@howick.ca
December 3, 2020

The Honourable Ernie Hardeman
Minister of Agriculture, Food and Rural Affairs

By email only minister.omafra@ontario.ca

Dear Mr. Hardeman:

Please be advised that the following resolution was passed at the December 1, 2020 Howick Council meeting:

Moved by Councillor Hargrave; Seconded by Councillor Illman:
Be it resolved that Council request the Ministry of Agriculture, Food and Rural Affairs amend the Tile Drainage Installation Act and/or the regulations under the Act that would require tile drainage contractors file farm tile drainage installation plans with the local municipality; and further, this resolution be forwarded to Minister of Agriculture, Food and Rural Affairs, Huron-Bruce MPP Lisa Thompson, Perth-Wellington MPP Randy Pettapiece, Rural Ontario Municipal Association, Ontario Federation of Agriculture, Christian Farmers Federation Of Ontario, Land Improvement Contractors of Ontario, Drainage Superintendents of Ontario and all Ontario municipalities. Carried. Resolution No. 288/20

If you require any further information, please contact this office, thank you.

Yours truly,

Carol Watson

Carol Watson, Clerk
Township of Howick