

For Information

DATE: March 1, 2011

REPORT TITLE: **TORONTO AND REGION CONSERVATION AUTHORITY
RECOMMENDATIONS RELATED TO THE ENVIRONMENTAL
COMMISSIONER OF ONTARIO 2009/2010 ANNUAL REPORT**

FROM: Norma Trim, Chief Financial Officer and Commissioner of Corporate Services

OBJECTIVE

This report is in response to Regional Council direction at the February 24, 2011 Regional Council meeting regarding communication item MA-D1 which attached the Toronto and Region Conservation Authority's (TRCA) recommendations on the Environmental Commissioner of Ontario's annual report, titled "Redefining Conservation Annual Report 2009/2010." The Council direction referred the TRCA Report to staff to review and comment on what, if any, implications arise as a result of the TRCA recommendations on the ECO's report.

REPORT HIGHLIGHTS

- The Environmental Commissioner of Ontario (ECO) annual report is advice to the Provincial Government and does not have any legally binding impacts or direct implications to the Region.
- The TRCA endorses three of the fifteen recommendations made by the ECO regarding the Ministry of Natural Resources' (MNR) Tree Planting Program, Integrated Watershed Management Planning and Stormwater Management.
- Overall, the ECO's report focuses on the need to rethink the current approach to conservation.

DISCUSSION**1. Background**

The Environmental Commissioner of Ontario (ECO) is the Province's independent environmental watchdog. Appointed by the Legislative Assembly, the ECO is tasked with monitoring and reporting on compliance with the Environmental Bill of Rights, and the government's success in reducing greenhouse gas emissions and achieving greater energy conservation in Ontario.

In September 2010, the ECO released the Annual Report for 2009/2010. In the report, the ECO is mandated to review and report on how Provincial Ministries carry out their responsibility during the year in relation to the Environmental Bill of Rights (EBR) and whether ministry staff complied with legislation. In the 2009/2010 report the ECO has

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focused on "conservation" and has made 15 recommendations to the Provincial Government.

On November 26, 2010, the TRCA passed a resolution endorsing recommendations 2, 8 and 15 of the ECO's report. These recommendations are as follows:

Recommendation 2

The ECO recommends that the Ministry of Natural Resources lead a co-coordinated afforestation strategy for southern Ontario, with a target of planting one billion trees of native species, to address the long-term ecological function of natural heritage systems and the impacts of climate change.

Recommendation 8

The ECO recommends that the Ministry of Municipal Affairs and Housing amend the Provincial Policy Statement to require integrated watershed management planning.

Recommendation 15

The ECO recommends that the Ministry of the Environment take the lead on collecting appropriate hydrologic data, and creating models, to allow stormwater management planning to reflect changing climate patterns.

The following provides an analysis of the TRCA's recommendations and a brief overview of the ECO report.

2. Implications of the TRCA Recommendations

The TRCA envisions a role for Conservation Authorities (CA) in addressing recommendations 2, 8 and 15. Although the TRCA has endorsed the recommendations, there are no immediate implications for the Region. The ECO annual report is advice to the Provincial Government. The Region would only be affected if the Province chose to amend or establish legislation or policy to implement the recommendations. If the Province chose to act on the recommendations, there would be subsequent consultation with municipalities at that time. These consultations would allow staff to review and comment on any proposed initiatives with respect to the potential impact to Regional mandate, programs or policy. The TRCA endorsements of the ECO's recommendations are not binding on the Region.

a) Recommendation 2: Coordinated Afforestation (Tree Planting) Strategy

The ECO has recommended that MNR coordinate an afforestation strategy to plant one billion trees. The ECO has stated the province's target of 50 million trees falls far short of the one billion trees that need to be planted in Ontario to achieve desirable forest cover. The ECO goes on to note, there is little if any overall provincial strategic direction for tree planting programs in Ontario. In the background information, the ECO summarized some provincial programs and noted CA involvement in programs and activities related to tree planting. An expanded tree planting program at the provincial level would potentially provide additional provincial support, including funding, for tree planting.

In response to the ECO recommendations, the MNR restated a commitment to its 50 Million Tree Program with its partner Trees Ontario, but acknowledged that to

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reach a target of one billion trees a significant increase in resources would be needed.

The TRCA Report reiterates that CA's currently provide valuable research and programs related to urban forest and stewardship activities and therefore could play a role in implementing an afforestation strategy as envisioned by the ECO.

b) Recommendation 8: Integrated Watershed Management Planning

The second recommendation endorsed by the TRCA recommends an amendment to the Provincial Policy Statement (PPS) to require integrated watershed management planning. The ECO comments that the need for provincial plans, such as the Lake Simcoe Protection Plan, indicates that Ontario's land use planning system (i.e. the *Planning Act* and the Provincial Policy Statement) is failing to protect ecosystem features and functions. The ECO goes on to say that integrated watershed management, currently practiced by most conservation authorities, is an excellent example of how natural landscape features can be conserved and protected and recommends that the Ontario government create a comprehensive water policy to consistently guide integrated watershed management planning, to be implemented by conservation authorities.

In their response to the ECO report, the Ministry of Municipal Affairs and Housing states they will take the ECO comments into consideration upon the review of the PPS.

The Regional Official Plan already includes policy direction related to integrated watershed planning in the Region. Currently, watershed plans guide municipal decision making under the Planning Act with advice provided by the CAs as technical advisors to municipalities. Updated guidance related to integrated watershed planning through a coordinated water policy at the provincial level would be welcome; however, implementation of updated policy guidance should respect current roles and responsibilities of municipalities.

c) Recommendation 15: Stormwater Management Planning

The third recommendation endorsed by the TRCA calls for a shift in stormwater management planning to reflect climate change patterns. The ECO recommends that the Ministry of the Environment (MOE) coordinates collection of hydrologic data to ensure that stormwater management reflects changing climate patterns; that it undertakes monitoring; and that it reviews and updates provincial best management practices for stormwater management. The ECO identified MOE as the lead agency related to this initiative.

In their response to the ECO, the MOE stated that its storm water policy framework is to be coordinated with the Ministry's new Water Opportunities Act, 2010 that would require, through regulation, Municipal Water Sustainability Plans and that such plans would set out an integrated approach to municipal infrastructure planning, including stormwater management. Regulations that would finalize direction with respect to Municipal Water Sustainability Plans and stormwater management have not been released by the Ministry. Appendix I provides a brief summary of the legislation.

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Stormwater management is an area municipal mandate. The TRCA, area municipalities and the Region are currently working in conjunction to address climate change through a regional strategy, including considerations related to stormwater management. The ECO recommendation that the Province take responsibility to ensure that municipalities have the tools they need to adapt stormwater systems to the impacts of climate change is a supportive comment. Regional and area municipal staff regularly monitors revisions to provincial policies, standards and requirements and evaluates financial implications of these initiatives. The implication for municipalities and the CAs is potentially positive as updated guidance would provide clear and consistent standards.

3. Other ECO Discussion Related to Conservation Authorities - Provincial Underfunding of Conservation Authorities

The ECO commented but did not make a recommendation on MNR's response to an Environmental Bill of Rights request to review provincial funding to the conservation authorities. The request related to a Conservation Ontario report that noted a decline in funding since the 1990s and that estimated the funding shortfall for provincially mandated programs to be \$14.3 million in 2007. Under section 39 of the Conservation Authorities Act (CAA), MNR provides an annual operating cost transfer payment (up to 50 percent of costs) to each of the CAs for provincially mandated activities related to public safety and emergency management (e.g. operation of flood and erosion control structures, flood forecasting and warning, etc.). To put this into context, the 50 percent provincial funding from MNR, matched by Peel, was budgeted at \$267 thousand for 2010 for CVC and TRCA combined. The ECO indicated that MNR's decision not to review the adequacy of funding to CAs as transfer payments under section 39 was not reasonable.

Underfunding of provincially mandated programs has potential financial implications to the Region if CAs are forced to secure funding from other sources such as through municipal special levies.

CONCLUSION

The ECO report concludes that the province needs to enhance environmental protection and recommends re-approaching conservation to consider the cumulative impacts of activities, incorporate a precautionary approach and integrate conservation ideals into decision making. The implementation of enhanced conservation efforts could involve greater municipal and CA participation. However, the ECO report is advice to government and has no immediate policy impact on municipalities or the CAs.

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PPAR GC 11-08

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APPENDIX I

Background Information on Water Opportunities Act, 2010

On May 18, 2010, Bill 72 (The Water Opportunities and Water Conservation Act, 2010) was introduced and proclaimed on November 29, 2010. Subsequent regulations are currently being finalized.

The Act establishes a Water Technology Acceleration Project, a non-crown corporation to encourage collaboration and coordination between industry, governments and academia. The purpose is to assist in facilitating the creation and growth of globally competitive companies in the water and wastewater sector. This includes increasing the capacity of these sectors to develop, test, demonstrate and commercialize innovative technologies for the treatment and management of water and wastewater and expand business opportunities in Canada.

Included in the Act is a regulation-making authority to require municipal water sustainability plans and allows the Minister of the Environment to establish performance indicators and targets for municipal water, wastewater and stormwater services. It is proposed that through regulation, prescribed entities would prepare a municipal water sustainability plan which would include an asset management plan, a financial plan, a water conservation plan, strategies for maintaining and improving the service, a risk assessment and other prescribed information. A regulation-making authority is proposed to prescribe details of municipal water sustainability plans, set timing and reporting requirements and other actions as necessary. The Ministry of the Environment may require prescribed information on or with municipal water bills to promote transparency.

The Government has regulation-making authority to require public agencies to consider water conservation and innovation in their procurement practices. The Act also provides regulation-making authority to require prescribed public agencies to prepare water conservation plans.

Finally, other schedules of the Act amend existing legislation in order to help achieve the goals of innovation, creation of economic opportunities, sustainable infrastructure and water conservation. Amendments will be made to the *Building Code Act, 1992* to include consideration of water conservation in the Minister of Municipal Affairs and Housing's reviews of the Building Code and an enhanced mandate for the Building Code Energy Advisory Council to include water conservation. Amendments will be made to the *Capital Investment Plan Act, 1993* to expand the objects of the Ontario Clean Water Agency, to allow OCWA to finance and promote the development, testing, demonstration and commercialization of technologies for the treatment and management of water, wastewater and stormwater and to allow OCWA to conduct business outside of Ontario. The legislation also transfers regulation-making authority for water efficiency standards from the *Green Energy Act, 2009* to the *Ontario Water Resources Act, 1990*. The *Green Energy Act, 2009* will be amended to expand the guiding principles for the Government of Ontario to consider the efficient and wise use of water when constructing, acquiring, operating and managing government facilities.