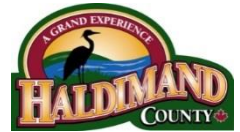

HALDIMAND COUNTY

Report PDD-04-2019 Grand River Conservation Authority and Niagara Peninsula Conservation Authority Levy-2019

For Consideration by Council in Committee on February 5, 2019



OBJECTIVE:

To advise Council of the upcoming Grand River Conservation Authority (GRCA) budget meeting to approve their 2019 levy, and the approved Niagara Peninsula Conservation Authority (NPCA) budget, both of which require funding from Haldimand County.

RECOMMENDATIONS:

1. THAT PDD-04-2019 Grand River Conservation Authority and Niagara Peninsula Conservation Authority Levy-2019 be received as information.

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Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

Historically, in advance of the Operating Budget, a report is prepared that outlines the impact of the Conservation Authority (CA) levies. That is the main purpose of this report, with its focus being on the municipal levy notices of the Grand River Conservation Authority (GRCA) and the Niagara Peninsula Conservation Authority (NPCA). The notice from Long Point Region Conservation Authority (LPRCA)—the third of the three CAs covering the County—was received in late 2018 and previously presented to Council (Report PD-42-2018).

Haldimand County has been provided with information outlining a proposed 2019 levy of \$166,879 for the GRCA, an increase of 2.6% over last year's levy representing a \$4,272 increase to Haldimand. The Authority's meeting to approve this proposed budget is scheduled for February 22, 2019.

Haldimand County has also received correspondence from the NPCA outlining that they approved their 2019 budget on November 21, 2018 which represents a 2019 municipal levy of \$118,434, an increase of 3.3% over last year's levy representing a \$3,791 increase to Haldimand.

The combination of the levies of the three Conservation Authorities (CAs) represents a 3.7% increase in Haldimand's contributions, with a total levy impact of approximately \$567,000 (an increase of \$19,993 from 2018). There are no special levy assessments proposed by any of the CAs.

A protocol developed many years ago between Conservation Ontario and the Association of Municipalities of Ontario gives municipalities control over only the amount of non-matching conservation authority levies to be set annually (i.e. special assessments/projects). These levies are set by the Authority Board and are allocated to member municipalities based on their share of assessment in the watershed. Appointees to each Authority are expected to vote on proposed Conservation Authority levies based on the direction of their respective Municipal Council. Given the

small magnitude of change, and the fact that there are no special levies proposed, staff have not recommended that any specific direction be given to this municipality's appointees regarding the general levies proposed by the GRCA and NPCA for 2019.

BACKGROUND:

Haldimand County funds three Conservation Authorities whose watersheds fall within this municipality's boundaries. The general levy for each Conservation Authority is apportioned to its watershed municipalities on the basis of a "modified current value assessment" model as set out in Ontario Regulation 670/2000.

The *Conservation Authorities Act* (the "Act") requires Conservation Authorities to provide notice to their member municipalities regarding the coming year's levies. Ontario Regulations 139/96 and 106/98 both state that 30 days notice must be provided to the municipality of a meeting being held by the Conservation Authority to approve the non-matching levy. As well, this notice is to include the amount of the non-matching levy to be voted on. The GRCA has provided the requisite notice, while the NPCA has not, with the latter already approving its budget.

The non-matching levy is for Conservation Authority programs that do not qualify for provincial subsidies. These can be special one time and/or multi-year projects such as the on-going Lake Erie Hazard Mapping and Risk Assessment project. The non-matching portion is the discretionary part of the levy which municipalities, through their appointees, will vote on. The final non-matching levy for a given year is decided by the "weighted majority" of the member municipalities, with the weighting determined by the percentage of "modified" current value assessment for each municipality. As noted above, there are no special levies proposed by either CA.

In past years' reports on this matter, Haldimand Council members have questioned their authority and role in regards to the approval of the annual levies of Conservation Authorities. Such information is available through Report CS-GM-07-2010 if any Member wishes to review it again. The *Conservation Authorities Act* (the Act) states that appointed members are to "generally act on behalf of their respective municipalities", recognizing that the Authority members and their Executive have a responsibility to the Authority as a whole, as well as to their local municipality.

Both the Grand River Conservation Authority (GRCA) and Niagara Peninsula Conservation Authority (NPCA) have provided the County with information regarding their 2019 municipal levies (Attachments 1 and 2, respectively). The GRCA has requested input from its member municipalities prior to its Annual General Meeting of February 22, 2019. As per their letter, the NPCA has already voted on its 2019 budget, without providing advance notice to Haldimand County. Staff also notes that Council in Committee previously received information regarding the proposed 2019 budget for the Long Point Region Conservation Authority (LPRCA) at its December 11, 2018 Council in Committee meeting (Report PD-42-2018). The LPRCA Board has since approved its budget at its January 9, 2019 meeting, including the levy for Haldimand County which is \$281,697 (an increase of 4.4% over last year's levy representing an \$11,930 increase).

Both GRCA and NPCA, since 2001, had allocated their annual levies to their member municipalities using an "agreement" developed by staff from the City of Hamilton and its four conservation authorities (GRCA, NPCA, Hamilton Conservation Authority and Halton Conservation Authority). Essentially, this resulted in other affected municipalities unknowingly subsidizing the City of Hamilton's conservation authority levies since restructuring in 2001. In late 2014, new NPCA staff determined that the apportionment of their 2015 levy could not be based on this historic methodology in the absence of a formal agreement so, instead, relied on the default funding formula as set out in Ontario Regulation 670/00. The resulting apportionment of the NPCA 2015 levy caused a significant shift of the levy to the City of Hamilton, who subsequently appealed this allocation to the Office of the Mining and Lands

Commissioner in accordance with the *Conservation Authorities Act*. On December 21, 2017, the Office of the Mining and Lands Commissioner released its findings, via issuance of an “Order”, regarding this matter which essentially upheld the way the levy was apportioned in 2015. It should be noted that the City of Hamilton has decided to bring forward an application for a Judicial Review of this Order which is anticipated to be heard in February. In the interim however, the NPCA and GRCA have used the default funding formula. It is also noted that the GRCA addressed this with a rebate to the County in 2018 which reduced the overall levy by approximately \$20,000 while NPCA’s rebate represented a reduction of approximately \$30,000.

ANALYSIS:

The County’s share of the total **general** municipal levy for 2019 for the GRCA is 1.43% and 1.37% for the NPCA. As reflected by these percentages, Haldimand County does not comprise the weighted majority membership of either Conservation Authority. As a result, there may be little control or influence that the County’s appointees can exert on the decisions of the authorities in setting their 2019 budget for the general levy component. Any proposed special levies are subject to the approval of only the benefiting municipality. That means that Haldimand County Council has direct approval authority over any of the proposed 2019 special levy projects to be funded by this municipality. There are no special levy projects for the County in the GRCA and NPCA budgets (nor LPRCA per previous report).

The table below shows the total impact of the municipal levies of the three Conservation Authorities (CAs) covering Haldimand County. The levies of two of those CAs—GRCA and NPCA—are the subject of this report, while the third was the focus of report PD-42-2018 which was presented to Council in Committee on December 11, 2018.

	Increase from 2018 Levy	2019 Levy
GRCA (per Attachment 1)	\$4,272 (+2.6%)	\$166,879
NPCA (per Attachment 2)	\$3,791 (+3.3%)	\$118,434
LPRCA (per report PD-42-2018)	\$11,930 (+4.4%)	\$281,697
TOTAL	\$19,993 (+3.7%)	\$567,010

As noted in the Background section of the report, the City of Hamilton has commenced an application before the Divisional Court for Judicial Review seeking a reconsideration of the Commissioner’s decision on General Levy apportionment. This application is set to be heard in February 2019. Accordingly, the apportionment of the General Levy for 2018 and 2019 is subject to change depending upon the outcome of the City of Hamilton’s application. Should the Divisional Court determine that the City of Hamilton’s apportionment of the General Levy be reduced, the GRCA and NPCA would provide notice of the corrected apportionment for 2018 and 2019 years. As Haldimand is an affected party, County staff and the solicitor will be further involved in this process.

Generally, appointees to each Conservation Authority are to vote on the proposed levy apportionment based on the direction of their respective Municipal Councils. Given the overall minor impact in costs to the County, Staff have not recommended that any specific direction be given to Haldimand’s appointees regarding the 2019 levies proposed by any of the three Conservation Authorities funded by this municipality. If the current Council supports the same approach in 2019, this report need only be received as information; otherwise, specific direction by resolution should be given to the County’s appointees.

FINANCIAL/LEGAL IMPLICATIONS:

When the projected 2019 levy of the GRCA and NPCA is added to the previously notified 2019 levy for the LPRCA, the total County contribution towards the three conservation authorities amounts to approximately \$567,000. This represents an overall net increase of \$19,993, or 3.7%, compared to the final 2018 apportionment for all three authorities. This amount is lower than in previous years (2017 and earlier), in great part because of the change in apportionment formula which was historically used by GRCA, resulting in a decrease in our share of its levy.

NPCA has used the proper levy allocation formula since 2015 so the Order has no impact on Haldimand's apportionment for 2019. Staff are, however, pursuing a response from NPCA regarding surplus levy funds that they have held in "reserve" since 2015 while awaiting the outcome of the Hamilton appeal. This appears to be monies that should have been credited to Haldimand and Niagara Region when the apportionment error was found in 2015. NPCA staff advise that their Board will be discussing this matter. An update will be provided to Council as more information is obtained on this issue.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Grand River Conservation Authority Budget Information.
2. Niagara Peninsula Conservation Authority Budget Information.