



Administrative Report

Office of the Manager, Planning Services

To: Warden MacDonald and Members of Essex County Council

From: Rebecca Belanger, MCIP, RPP
Manager, Planning Services

Date: Wednesday, April 03, 2024

Subject: Response to County Council direction Natural Heritage Areas Preservation By-law

Report #: 2024-0403-IPS-R04-RB

Purpose

The purpose of this Administrative Report (the "**Report**") is to report back to County Council following direction received at the meeting on November 1, 2023 with respect to the Motion of County Council on March 15, 2023, which was as follows:

That Essex County Council direct County Administration to review the feasibility of a tree cutting and site alteration by-law pertaining to designated protected natural heritage features and land identified on the natural environment overlay in the Essex County Official Plan and report back to County Council with recommendations.

Background

As noted in the report to County Council on November 1, 2023 attached as **Appendix A** to this Report, the County of Essex Official Plan (the "**OP**") depicts those areas protected through designation as Natural Environment as well as areas identified as Natural Environment Overlay on schedules of the OP.

Further as provided in the November 1, 2023 report to Council, the *Municipal Act* requires that all municipalities adopt and maintain policies with respect to the protection and enhancement of the tree canopy and natural vegetation in the municipality. The County does not presently have a policy

or by-law that addresses the County's requirements pursuant to Section 270(1)7 of the *Municipal Act*, 2001.

The intent of the recommendation in the previous report was that a Natural Heritage Areas Preservation By-law could cover both the County's requirements under Section 270(1)7 of the *Municipal Act*, 2001 as well as regulating inadvertent destruction of natural features occurring in the County prior to obtaining development approvals. At a minimum, to meet the obligations of the *Municipal Act*, 2001, a policy is required to be enacted by the County regarding "*protection and enhancement of tree canopy and vegetation in the municipality*".

Discussion

At the County Council Meeting that addressed this matter, there were options provided to County Council which included examples of by-laws and policies from basic implementation of a policy as required by the Section 270(1)7 of the *Municipal Act* to a comprehensive tree protection by-law as recently updated by the City of Ottawa.

County Council brought forward several questions and comments to administration and this Report will provide responses to same. One of the key issues identified during the discussion at the November 1, 2023 meeting, was the lack of ability by the County and local municipalities to enforce a Natural Heritage Areas Preservation By-law. As the County has no by-law enforcement staff, the prospect of implementation was discussed with the local municipalities. The overall response by municipal Planning Departments was that local By-law Enforcement lacked the capacity to take on the responsibility for enforcement of a Natural Heritage Areas Preservation By-law.

There was also discussion on advancing restoration efforts in the County particularly implementing the sustainability targets from the Essex Region Natural Heritage System Strategy ("**ERNHSS**"). Several years ago, the Essex Region Conservation Authority ("**ERCA**") put in place the Clean Water Green Spaces program (the "**CWGS Program**") with annual funding from their regional municipalities aimed at projects to improve water quality and provide natural areas protection. The funding has been utilized over the years to purchase or assist local municipalities in purchasing at-risk properties as well as a variety of restoration efforts.

Municipalities along with agencies and private service clubs have undertaken fundraising or set aside municipal contributions over the years to purchase natural heritage features. The CWGS Program has an existing acquisition strategy that utilizes municipal funds to purchase at-risk properties as well

as completing restoration projects/wetland creation. ERCA has the ability with the CWGS program to leverage municipal dollars and obtain matching Provincial and Federal funding to significantly increase the funds available for property purchase/restoration projects.

The current CWGS Program that has been in place for many years and could be reviewed to determine if modifications could be made by ERCA, with the support of the County, toward implementation of restoration activities in support of the County's statutory obligation to protect and enhance its tree canopy and vegetation. For example, at the time of development approvals should there be the need to remove some limited trees and vegetation (such as a hedgerow) adhering to all Provincial legislation and in accordance with an approved Environmental Impact Assessment, a financial contribution may be an option utilized to strategically plant trees/vegetation as identified in the ERNHSS priority or secondary restoration areas.

ERCA is widely recognized for its forestry program having planted more than 7 million trees in the Essex Region. As such, there appears to be benefits to the County partnering with ERCA as the expert in tree and vegetation protection, to assist the County in fulfilling its statutory obligations.

It is Administration's recommendation that while producing a by-law pertaining to protecting designated natural heritage features in the County is possible, the enforcement of such a by-law is presently not feasible. Further, Administration would suggest that encouraging preservation and enhancing the natural heritage system may be better served through a program that is funded by both the County and through the development approvals process where applicable.

Financial Implications

The financial implications associated with this report include additional requirements for administration either at the County or local level to collect necessary fees from developers.

Consultations

David Sundin, County Solicitor was consulted during the preparation of this report.

As noted earlier in this report, consultation has taken place with municipal Planning Departments that note a concern regarding the possibility of downloading enforcement to local municipalities.

Consultation has also taken place with Tim Byrne, CAO and Paul Giroux, Forester, from ERCA.

Recommendation

That Essex County Council receive report number 2024-0403-IPS-R04-RB-DS, Natural Heritage Areas Preservation By-law from Rebecca Belanger, Manager, Planning Services;

That Essex County Council direct Administration to consult with ERCA on the feasibility of reviewing and enhancing the Clean Water Green Spaces Program with an aim at achieving an accelerated rate of natural restoration in the County and provide a report back to Council;

And, further that Essex County Council direct Administration to bring back a report and draft by-law/policy to meet the obligations of Section 270(1)7 of the *Municipal Act* with regard to the protection and enhancement of tree canopy.

Approvals

Respectfully Submitted,

Rebecca Belanger

Rebecca Belanger, MCIP, RPP, Manager, Planning Services

Concurred With,

Sandra Zwiers

Sandra Zwiers, MAcc, CPA, CA, Chief Administrative Officer

Appendix	Title
A	2023-1101-IPS-R37-RB-DS-Natural Heritage Areas Preservation By-law