



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 www.notl.com

REPORT #: OPS-23-066 **COMMITTEE DATE:** 2024-10-22
REPORT TO: COTW-General **DUE IN COUNCIL:** 2024-10-29
SUBJECT: Niagara Peninsula Conservation Authority Memorandum of Understanding – Agreement for Services

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council endorses the “Niagara Peninsula Conservation Authority Memorandum of Understanding – Agreement for Services” attached as **Appendix I** and;
- 1.2 Council authorizes the Lord Mayor and Clerk to sign the “Niagara Peninsula Conservation Authority Memorandum of Understanding – Agreement for Services” on behalf of the Corporation for the delivery of municipally requested services and operational requirements of the Virgil Reservoirs, and;
- 1.3 Council authorizes staff to execute procurement agreements with the Niagara Peninsula Conservation Authority as may be necessary for the delivery of municipally requested services.

2. EXECUTIVE SUMMARY

- With the changes to the Conservation Authorities Act over the last six years, a clear delineation of mandated and non-mandated programs has been identified.
- Mandated programs allow Conservation Authorities (CA) to levy municipalities for the services provided; however, for non-mandated programs, CA’s must now enter into a Memorandum of Understanding (MOU) with the municipality to provide Fee for Service programs.
- The MOU provided by the Niagara Peninsula Conservation Authority (NPCA), attached as Appendix I, provides a list of Fee for Service items in which the Town can enter into agreements with the NPCA to perform on the Town’s behalf.
- Also, with the changes to the Conservation Authorities Act, the operation and maintenance agreement for the Virgil Reservoirs is required to be formalized. Information on this agreement is included as Schedule B in the MOU.

3. PURPOSE

The purpose of this report is to seek Council approval on the proposed MOU between the Town and NPCA for potential procurement of services (on an as needed basis) and to formalize the agreement between the Town and the NPCA for the usage of the Virgil Reservoirs.

4. BACKGROUND

Due to legislative changes at the Provincial level, there is a need to review policies pertaining to Conservation Authority programs and services provided. These changes took effect on January 1, 2024, requiring CAs to enter into MOUs with each of the municipalities they represent for programs that are not considered leviable under the Conservation Authorities Act, including items such as water monitoring, flood and erosion protection and remediation, land stewardship, environmental assessments, development review, special studies and more.

As part of the MOU, the operation and maintenance of the Virgil Reservoirs also need to be formalized. The Virgil Reservoirs were created for irrigation purposes when CAs focused on dealing with drought conditions. The Town and NPCA have worked together over the years to operate and maintain these structures but no formal agreement outlining the roles and responsibilities currently exists. Schedule B of the MOU has been created to formalize our partnership and ensure the system's longevity.

5. DISCUSSION / ANALYSIS

The *Conservation Authorities Act* has been amended many times in the past six years to provide further clarity surrounding the programs and services that CAs provide, agreements for the provision of municipally requested services, and the overall operations of the Conservation Authorities. These were undertaken through the Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139), the More Homes, More Choice Act, 2019 (Bill 108), and the Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020 (Bill 229) and Build More Homes Faster Act, 2022 (Bill 23).

Through these various pieces of legislation, a clear distinction emerged between mandatory services related to natural hazards risk management and other non-mandatory services that have otherwise been provided in the past to municipalities by Conservation Authorities.

With this distinction now clear, services outside the CA's normal mandate are no longer leviable and require an MOU with their municipal partners to create fee-for-service agreements.

In addition to the normal aspects of the MOU, the NPCA also required a written agreement on the operation and maintenance of the Virgil Reservoirs. These reservoirs belong to the NPCA; however, they have been utilized since their creation for irrigation waters to help ensure food security. These reservoirs are instrumental in helping maintain Niagara-on-the-Lake crops.

There has long been an understanding between the Town and NPCA on how to operate and maintain the reservoirs. However, it had never been formalized in writing, which is now required under the updates to the Act.

It is also important to note that at the July 17, 2024, Environmental Advisory Committee (EAC) meeting, members reviewed the MOU and the EAC recommended changes have been incorporated into this report and agreement.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

3.2 Environment

Action

2.2 a) Shared Services

Pillar

3. Enrich Community Assets, Environment, & Infrastructure

Priority

3.2 Environment

Action

3.3 a) Infrastructure Investment (Physical & Green)

7. OPTIONS

- 7.1 Option 1: That Council endorses the “Niagara Peninsula Conservation Authority Memorandum of Understanding – Agreement for Services and operational parameters for the Virgil Reservoirs” attached as Appendix I (**Recommended**)
- 7.2 Option 2: That Council does not approve the “Niagara Peninsula Conservation Authority Memorandum of Understanding – Agreement for Services and direct staff to continue discussions with the NPCA. (*Not Recommended*)

8. FINANCIAL IMPLICATIONS

As this is a Fee for Service, there will be costs associated when the Town engages the NPCA for work. These costs would be negotiated at that time. It should also be noted that Schedule B of the MOU relates to the operational components of the Virgil Reservoirs and their upkeep. There will be costs associated with this that will be included in the budget. The Town and NPCA will work together to seek funding sources to ensure the operation and integrity of the facility to help meet our irrigation needs.

The current NPCA Fee Guide is also included as Appendix II to provide a guide to the cost of services.

9. ENVIRONMENTAL IMPLICATIONS

This MOU with the NPCA allows the Town to engage the NPCA for a Fee for Service to utilize their expertise in areas related to environmental concerns and review. It allows the Town to ensure environmental concerns are addressed appropriately.

10. COMMUNICATIONS

Upon approval by Council and signing by the Lord Mayor and Clerk, a copy of the executed document will be sent to the NPCA to be included in their upcoming Board meeting for approval. Once both parties have approved and signed the document, staff will work with the Communications team to place it on the Town's website.

11. CONCLUSION

Approval of the NPCA Memorandum of Understanding—Agreement for Services provides opportunities for the Corporation to utilize the NPCA's expertise on a number of Fee for Service programs (that the Town does not have the in-house resources to provide); and, it also frames a working agreement for the use and maintenance of the Virgil Reservoirs.

12. PREVIOUS REPORTS

N/A

13. APPENDICES

- Appendix I – Agreement for Services
- Appendix II – 2023 Planning and Regulation Fee Schedules (Including Tax)
- Appendix III – EAC July 17, 2024, Minutes
- Appendix IV – 2024-0XX - Agreement between NPCA and Town By-law

Note that Bylaw 4157-07 (between the Region of Niagara, the 12 Municipalities and the NPCA) will be reviewed to determine if it should be repealed. However, this MOU is separate and distinct from this Bylaw and MOU.

Respectfully submitted:

Prepared by:



Darren MacKenzie, C.Tech., rcsi
(A) Director of Operations

Submitted by:



Bruce Zvaniga
Chief Administrative Officer (Interim)