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November 20, 2020

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

Dear Premier Ford:

On behalf of the Association of Municipalities of Ontario (AMO) I am writing with regard to Schedule 6, *Conservation Authority Act, Bill 229 An Act to implement Budget measures and to enact, amend and repeal various statutes*. The changes to the *Conservation Authority Act* are very important to municipal governments. Over the past number of years, tremendous effort has been put forward by municipal governments to find a collective path forward that refines certain matters and bolsters the ability to protect the environment in a meaningful way. Municipalities were looking for needed refinements, not this proposed wholesale change.

There are a number of changes introduced in Schedule 6 that have the potential to create a breakdown in conservation authority (CA) governance and stymie operations so that the mandate and goals of conservation authorities may be frustrated.

We are quite concerned about the conflict in law that municipal conservation authority board members may experience from proposed governance changes. This draft legislation may create a conflict between the fiduciary duty of all board members to put the interest of the conservation authority first, and the proposed amendment requiring board members to act on behalf of their municipal councils. This governance change on how members of a board are to conduct themselves and whose interests they are representing is a fundamental administrative law change. It may cause more conflict on the board as the fiduciary duty to work together in a common direction is no longer clear and, may decrease the ability of the board to manage its role and responsibility effectively.

It also raises the question of whether each municipal representative would need to get local council approval on all agenda items prior to voting at the conservation authority (CA) Board. Finally, the rationale for a conservation authority is that there are environmental matters that need to be dealt with across jurisdictions in a holistic watershed manner, rather than in the distinct interest of individual municipal councils.

We are also hearing from municipal council members concerns about the proposed two-year term of the chair/vice chair to be taken in rotation. While there is agreement one municipality should not have the chair indefinitely, a restriction on the number of terms would be preferable. This way, the CA Board members could choose their chair based on skill, capacity, and their demonstrated fairness.

We have heard from a number of smaller councils that the ability to appoint non-council members to CA Boards has been helpful. In some places, there are a large number of committee obligations for council members, and they simply do not have the person hours to be at all the boards and committees they should attend. Having the option of appointing a non-council member to a CA has been one way to relieve this problem.

Questions have arisen about agricultural board members. Where CAs encompass rural lands and agriculture is prominent, generally there are CA Board members who are also farmers, so agriculture is represented. In the areas where additional agricultural insights are needed, the best practice is to have an agricultural advisory committee reporting to the CA Board. If the intent is to have municipal influence over the CA Board, it is unclear why the addition of a non-municipal representative is proposed rather than striking agricultural advisory committees.

AMO supports clearly defensible fees and that they should be available publicly. Conservation Authorities have made improvements in this regard. We are concerned that, under the proposed amendments, third parties would be able to appeal or adjust those fees. The CA Board should be able to set fees that reflect the value of the service. If fees are not fully realized, because of third party appeals, then the municipal contributions will increase. This seems to go against the thrust of protecting municipal interests and managing financial costs.

Finally, there are a number of changes to development approvals that are also creating questions. While we appreciate the One Window approach, CAs have several roles in the development approval process. Municipalities need to be able to call on CA staff as their witnesses at the Local Planning Appeal Tribunal. While removing CAs as a public body may assist with one of the roles CAs take in the development process, it may frustrate other roles.

It is vital that development decisions be based on good local science and data. Some of the proposed amendments have raised questions about the potential to circumvent this important lens. In times when people need to abide by the limitations on a property's uses due to erosion or flooding hazards, we must do all we can to rely on science and ensure we are not facilitating losses or damages to properties. It is increasingly difficult to find insurance for certain properties. In some cases, emergency services cannot attend properties in storm conditions. Local science-based development permits are essential to protect people and property.

The removal of the unproclaimed “stop work order” clause is also of concern. Illegal dumping of soils has been a significant problem. This clause was intended to harmonize conservation authority and municipal by-laws and powers to close loopholes. While great strides are being made by the Ministry of Environment, Conservation and Parks on the management of excess soils, local ability to enforce is needed.

There are quite a number of our members’ questions and concerns that the changes proposed in Schedule 6 are being raised at a time that the public is very concerned about climate change and increased flooding and storm events. It is critical that we make sure that the changes to the *Conservation Authority Act* are a positive step forward, without unintended consequences.

AMO and our members are seeking clarity on these matters which will take time. At the same time, we are mindful that the Schedule is a part of the Budget Bill, which we know must proceed swiftly. One option would be to withdraw Schedule 6 and work on these matters separately. If this is not possible, we ask that you delay proclamation of Schedule 6 until these matters can be clarified and any operational problems can be resolved. AMO is more than willing to work with you and your ministers on this important legislation.

Sincerely,



Graydon Smith  
AMO President  
Mayor of the Town of Bracebridge

cc: The Honourable Rod Phillips, Minister of Finance  
The Honourable Steve Clark, Minister of Municipal Affairs and Housing  
The Honourable Jeff Yurek, Minister of Environment, Conservation and Parks