

Grand River Conservation Authority

Report number: GM-05-23-45

Date: May 26, 2023

To: Members of the Grand River Conservation Authority

Subject: Changes to the Land Disposition Process for Section 39 Land Holdings

Recommendation:

THAT Report Number GM-05-23-45 – Changes to Land Disposition Process for Section 39 Land Holdings be received as information.

THAT the 2008 Property Disposition Guidelines for Establishing Standards for Sustainable Development policy be rescinded.

Summary:

The GRCA currently adheres to the 1997 Ministry of Natural Resources and Forestry (MNRF) guidelines for land dispositions. More recently, Bill 23, More Homes Built Faster Act, 2022, incorporated a number of legislative changes, including the review and approval processes as they relate to disposing of Section 39 lands for conservation authorities. This report highlights the proposed changes related to land disposition process and identifies the approach that the Grand River Conservation Authority (GRCA) will be incorporating to comply with the new legislation.

Part of these changes included updates to Section 21 of the Act wherein the disposition of Section 39 land holdings now requires conservation authorities to provide a notice of the proposed disposition to the Minister of Natural Resources and Forestry instead of requiring the Minister's approval. Section 39 land holdings represent land initially acquired through financial contributions from the MNRF. The Act now also requires conservation authorities to conduct public consultations prior to disposition of lands that meet specific criteria.

After reviewing the land disposition process, GRCA staff recognized that the 2008 Property Disposition Guidelines for Establishing Standards for Sustainable Development policy should be rescinded to reflect limited opportunities for implementation and changes in building standards.

Report:

The GRCA's current process for land disposition follows the MNRF guidelines (1997), specifically 37.3 Section 7: Policies and Procedures for the Disposition of Conservation Authority Property. This guideline outlines requirements and a detailed process for the disposition of Section 39 lands in order to obtain written approval from the Minister.

At a high level this process includes:

1. From time to time, staff will identify land holdings that are eligible to be declared as surplus, specifically for lands that no longer align with the strategic priorities of the GRCA or the mandates of the Province. When this occurs, staff seek resolution from the General Membership to declare the land surplus and then prepare the land for sale. The report is received and considered in closed session, with all resolutions taking place in open session.
2. Staff obtain an appraisal to determine fair market value of the property.

3. Staff initially approach local government and public agencies to provide an opportunity to consider the purchase of the lands. If the local government / public agencies have not expressed interest in the purchase, the land is made available for sale on the open market and equal opportunity to acquire the property is provided to all interested parties.
4. Once an acceptable offer has been received by staff, a conditional Agreement of Purchase and Sale (APS) is prepared and executed by GRCA staff and the buyer. Among other project-specific conditions deemed necessary, property dispositions are (with certain exceptions) conditional on:
 - a. Approval of the offer by the GRCA's General Membership; and,
 - b. Approval of the disposition by the Minister of Natural Resources and Forestry
5. A report is presented to the General Membership recommending approval of the best offer. The report is received and considered in closed session, with all resolutions taking place in open session. Upon approval, Step 4a above is considered fulfilled in the APS.
6. Staff then prepare and submit an application for approval to MNRF. Upon approval of the disposition by the Minister, the GRCA can proceed to close the disposition. This process could take upwards of 12 months to complete the transaction.

Further, in 2008 the GRCA Board approved Property Disposition Guidelines for Establishing Standards for Sustainable Development that provided opportunities for the GRCA to influence sustainable design and construction when disposing of surplus lands for urban development, which is attached as Appendix A. These guidelines form part of Step 3 of the disposition process and were developed to encourage all urban development that occurs on GRCA surplus lands to exhibit exemplary standards of sustainable development that could also serve as a target or benchmark for others. Since inception, GRCA staff found that there were limited opportunities to enact the objectives of this policy and also received legal advice that incorporating this policy could present barriers to land disposition in urban areas due to the limited influence that the GRCA would have to enforce these standards.

Changes to the Conservation Authorities Act

Bill 23, More Homes Built Faster Act, 2022, was passed this fall, receiving Royal Assent on November 28, 2022. Several changes were made to the Conservation Authorities Act ("the Act") that are intended to support faster and less costly approvals, streamline conservation authority processes, and help make land suitable for housing available for development.

As a result, disposition processes for Section 39 land holdings have changed for conservation authorities and now include a public consultation requirement and written notice of the proposed land disposition to the Minister.

The public consultation process includes posting disposition information on a conservation authority's website for a minimum of 45 days and is required to include the following information at minimum:

- A description of the type of land that the authority is proposing to dispose of, including details related to (if applicable):
 - areas of natural or scientific interest
 - habitats of threatened or endangered species
 - forestry developments
 - natural hazard features
- The proposed date of disposition
- The proposed future use of the lands (if known)

After the public consultation period closes, the Authority must provide written notice of the proposed land disposition to the Minister at least 90 days before the disposition, which includes

the comments received through public consultation, and consideration taken for the comments. The Minister may determine how we use the funds from the land sale. If there is no direction received, the GRCA will place proceeds into the Land Sale Reserve Fund.

GRCA Approach to Incorporate Changes into Existing Practices

The new legislative changes will not have an impact on the current process under Steps 1 through 4 above and these steps will remain the same. The remaining steps of the process would be modified to reflect the requirements of public consultation. GRCA staff obtained a legal opinion to ensure compliance with the intent of the new legislation. After Step 4 as noted above, the following would take place:

5. A report to the Board summarizing all offers received and a resolution to begin the 45-day public consultation period for the best offer with a draft transaction notice for board approval. The draft notice will contain:
 - Property identification number (for internal use)
 - Location (address, municipality, and GIS Link)
 - a description of the type of land that the authority is proposing to dispose of;
 - the proposed date of disposition; and
 - the proposed future use of the lands, if known.
6. Staff will prepare for public notification, which will consist of:
 - A transaction notification (including the details noted in step 5) will be posted on the Land Disposition webpage of the GRCA website
 - Comments will be received through the website and documented internally. Individuals submitting comments will receive information on how to stay informed on the progress of the disposition.
7. A report to the Board will summarize public comments. The report will include a recommendation to accept the best offer. The report will be received and considered in closed session, with all resolutions taking place in open session.
8. Staff will then prepare a notification to the Minister. If no comments are received by the Minister after the 90-day period, staff will proceed to finalize the land disposition.

This change in process exceeds the legislative requirements in order for the GRCA to effectively implement the change, while ensuring that the General Membership is receiving as much information about the land disposition as required to make an informed decision.

Overall, Bill 23 imposes changes that have an impact on existing GRCA processes for land disposition. The next steps for staff include:

1. Staff will post the updated process on our Land Disposition webpage on the GRCA website.
2. Rescind the 2008 Property Disposition Guidelines for Establishing Standards for Sustainable Development policy. Since inception, GRCA staff found that there were limited opportunities to enact the objectives of this policy and received legal advice that incorporating this policy could present barriers to land disposition in urban areas due to the limited influence that the GRCA would have to enforce these standards. Further, there are other mechanisms that require more restrictive sustainable design, including recent iterations of the Building Code, which recognizes high standards in sustainable design for new infrastructure.

Financial Implications:

There are no anticipated financial implications at this time.

Other Department Considerations:

Land Management staff are collaborating with Strategic Communications staff to develop an online resource to support the implementation of this process.

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