

**Report to/Rapport au:**

**Agriculture and Rural Affairs Committee  
Comité de l'agriculture et des affaires rurales**

**and Council / et au Conseil**

**November 1, 2012  
1 novembre 2012**

**Submitted by/Soumis par:  
Steve Kanellakos, Deputy City Manager / Directeur municipal adjoint  
City Operations / Opérations municipales**

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WARD 21 / QUARTIER 21 – RIDEAU-GOULBOURN Ref N°: ACS2012-COS-ESD-0027

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**SUBJECT: DAVID ADAMS MUNICIPAL DRAIN - REPORT ON STATUS OF  
DRAINAGE WORKS PURSUANT TO THE DECISIONS OF THE  
COURT OF REVISION AND AGRICULTURE, FOOD AND RURAL  
AFFAIRS APPEAL TRIBUNAL**

**OBJET : INSTALLATIONS MUNICIPALES DE DRAINAGE DAVID ADAMS –  
RAPPORT D'ÉTAPE DES TRAVAUX DE L'ACCORD DU TRIBUNAL  
DE RÉVISION ET DE LA COMMISSION D'AGRICULTURE, DE  
L'ALIMENTATION ET DES AFFAIRES RURALES**

**REPORT RECOMMENDATIONS**

**That the Agriculture and Rural Affairs Committee and Council receive this report  
for information.**

**RECOMMANDATIONS DU RAPPORT**

**Que le Comité de l'agriculture et des affaires rurales prenne connaissance de ce  
rapport.**

## BACKGROUND

The purpose of this report is to provide the members of the Agriculture and Rural Affairs Committee (ARAC) with information on the status of the David Adams Municipal Drainage Works at its meeting of 1 November 2012.

The David Adams Municipal Drain is located in the vicinity of the intersection of First Line Road and Century Road.

The David Adams Municipal Drain provisional By-law received first and second reading at Council on 22 June 2011.

The Court of Revision was held before ARAC on 16 August 2011 and adjourned to 1 September 2011; the decision was as follows:

*THURSDAY, 16 AUGUST 2011*

*DAVID ADAMS MUNICIPAL DRAIN COURT OF REVISION*  
*COMMISSION DE RÉVISION DE DRAINAGE MUNICIPAL DAVID ADAMS*  
[ACS2011-ICS-ESD-0041](#) *RIDEAU-GOULBOURN (21)*

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*First sitting of the Court of Revision:* 16 August 2011

### *DECISION OF THE COURT*

1. *After careful consideration of the appeals filed and the submissions made, the Court orders that the assessments of the properties listed below are reduced from the amount shown in the column entitled "Assessment in Report" to the amount shown in column entitled "Revised Assessment" and the Drainage Engineer will amend the Report accordingly:*

<i>Properties Bordering Carsonby Road</i>	<i>Assessment in Report</i>	<i>Revised Assessment</i>
<i>Roll no. 06 14 182 825 05209 (currently owned by the appellant Scott Klatt)</i>	<i>\$1,602.15</i>	<i>\$801.08</i>
<i>Roll no. 06 14 182 825 05210 (currently owned by Raymond Baldwin)</i>	<i>\$1,520.87</i>	<i>\$760.44</i>
<i>Roll no. 06 14 182 825 05211 (currently owned by Peter Ryan &amp; Diana Dakers- Ryan)</i>	<i>\$1,703.75</i>	<i>\$851.88</i>

<i>First Line Road Residents</i>	<i>Assessment in Report</i>	<i>Revised Assessment</i>
<i>Roll no. 06 14 182 825 05201</i>	<i>\$818.14</i>	<i>\$409.07</i>

(currently owned by and Ernest Deschamps & Shirley Todd-Deschamps)		
Roll no. 06 14 182 825 05202 (currently owned by Scott & Elizabeth Tweedie)	\$908.13	\$454.07
Roll no. 06 14 182 825 05203 (currently owned by Kimberly & Linda Studholme )	\$369.79	\$184.90
Roll no. 06 14 182 825 05204 (currently owned by James & Gina Campbell)	\$840.71	\$420.36
Roll no. 06 14 182 825 05205 (currently owned by Michael & Marlene Casey)	\$846.64	\$423.32

2. The Court orders that the assessments of the properties listed below are increased from the amount shown as "Assessment in Report" to the amount shown as the "Revised Assessment" and the Drainage Engineer will amend the Report accordingly:

Assessment in Report for Carsonby Road	\$19,321.67
Add to Carsonby Road	+\$2,413.37
Revised Assessment for Carsonby Road	\$21,735.04

Assessment in Report for First Line Road	\$2,368.30
Add to First Line Road	+\$1,891.69
Revised Assessment for First Line Road	\$4,259.99

As a result of an increase of the assessment for Carsonby Road and the increase in the assessment for First Line Road, the Superintendent of Roads for the City of Ottawa shall be notified in accordance with Section 53 of the Drainage Act and the Court of Revision will reconvene on September 1, 2011 to consider any submissions the Superintendent of Roads for the City of Ottawa wishes to make.

Court of Revision stands adjourned until 01 September, 2011.

Second sitting of the Court of Revision: 01 September 2011

DECISION OF THE COURT

*The authorized representative for the City Clerk and Solicitor of the initiating municipality (being the City of Ottawa) has advised the members of the Court that on August 26, 2011 the Superintendent of Roads for the City of Ottawa was notified in accordance with Section 53 of the Drainage Act of the Decision of the Court of Revision issued August 16, 2011 and that the Court of Revision would reconvene on September 1, 2011 to consider any submissions the Superintendent of Roads for the City of Ottawa wished to make.*

*On August 29, 2011 the Superintendent of Roads for the City of Ottawa notified the authorized representative for the City Clerk and Clerk of the City of Ottawa that the Superintendent of Roads did not wish to make any submissions to the Court of Revision concerning the Decision of the Court issued August 16, 2011 and the Superintendent of Roads for the City of Ottawa has not appeared before the Court on September 1, 2011.*

*The Court confirms its decision of August 16, 2011, as set out above.*

*Accordingly, the Drainage Engineer shall redistribute the assessments in the Report in accordance with the Court's decision of August 16, 2011, as set out above.*

#### *CARRIED*

The decision of the Court of Revision was appealed to the Province's Agriculture, Food and Rural Affairs Appeal Tribunal and a hearing was held on 23-25 April 2012. The decision of the Agriculture, Food and Rural Affairs Appeal Tribunal was rendered on 19 July 2012; the tribunal order was as follows:

*The tribunal orders as follows:*

- 1. The appeals of Grinnell G. Douglas & Kelly-Grinnell R. Elaine (Roll No. 18282-504000-0000) under Section 48 of the Drainage Act are denied.*
- 2. The modified Summary Schedule of Assessment appended hereto as Schedule 'A' shall replace the Schedule of Assessment contained in the Report. The modifications included in Schedule 'A'*
  - a) The affected area and assessments for Campbell Marlene Gladys & Campbell Herbert J. (Roll No. 18282-504200-0000) have been modified as follows:*
    - i. The affected area reduced from 27.24 hectares to 25.04 hectares;*
    - ii. Assessment for benefit reduced from \$2,061.13 to \$1,917 with the corresponding increase assessed to the all other lands and roads; and*
    - iii. Assessment for outlet reduced from \$10,249.84 to \$9,602.00 with the corresponding increase assessed to all the other lands and roads.*
  - b) The special benefit assessments for Grinnell G. Douglas & Kelly-Grinnell R Elaine (Roll No. 18282-504000-0000) have been modified as follows*

- i. *Special benefit assessment for culverts reduced from \$27,750 to \$25,550 with the corresponding increase assessed to upstream landowners; and,*
  - ii. *Special benefit assessment for heron rookery mitigation measures reduced from \$16,000 to \$0.00 with the corresponding increase added to the special assessment to the Municipality.*
3. *The non-administrative costs of the Municipality in respect of this appeal shall form part of the cost of the drainage works, and it is ordered that there be no other order as to costs and all parties are responsible for their own costs.*

*Harold McNeely  
Vice-Chair*

*Dated at Ottawa, Ontario this 19<sup>th</sup> day of July, 2012*

As a result of the decisions of the Court of Revision and the July 19, 2012 decision of the Agriculture, Food and Rural Affairs Appeal Tribunal, the assessments on the David Adams Municipal Drain have been altered (see Schedule 'A' entitled "David Adams Municipal Drain Schedule of Assessment" on page 34 of the Appeal Tribunal Decision) and these changes are now reflected in the David Adams Municipal Drain provisional By-law, attached, which will be proceeding to Council on 14 November 2012 for third and final reading.

Accordingly, this report is being presented to Committee and Council for information.

#### RURAL IMPLICATIONS

The David Adams Municipal Drain will provide outlet for surrounding rural roads and lands and its status under the *Drainage Act* will allow for the provision of future maintenance, as required, by the municipality.

#### CONSULTATION

This report is administrative in nature and therefore no consultation was required.

#### COMMENTS BY THE WARD COUNCILLOR(S)

The Councillor for Ward 21 is aware of this report and the proposed drainage works.

#### LEGAL IMPLICATIONS

There are no legal impediments to receiving the information in this report.

### RISK MANAGEMENT IMPLICATIONS

There are no risk management impediments to implementing these drainage works.

### FINANCIAL IMPLICATIONS

The revised estimated total cost of the Drainage works, including the Engineer's Report and associated studies, is \$503,999 (compared to \$503,968 in 2011). As a result of the decisions of the Court of Revision and Ontario Drainage Tribunal, the assessments on the David Adams Municipal Drain have been altered. The City's share of the costs have increased from \$241,372 to \$257,537, while the costs to be assessed to and recovered from benefiting landowners has decreased from \$262,596 to \$246,462. Funds are available in the 2012 Approved Capital Budget in internal order 906194 Municipal Drains Improvements.

### ACCESSIBILITY IMPACTS

There are no accessibility impacts to implementing these drainage works.

### TECHNOLOGY IMPLICATIONS

There are no technology implications to implementing these drainage works.

### TERM OF COUNCIL PRIORITIES

The David Adams Municipal Drain will fulfill the Environmental Stewardship Priority ES1 to Improve Stormwater Management.

### SUPPORTING DOCUMENTATION

Document 1: Decision of the Ontario Drainage Tribunal – 19 July 2012

Document 2: David Adams Municipal Drain By-law

### DISPOSITION

The report is provided in response to the decisions made through the *Drainage Act* approval process by the Court of Revision and the Agriculture, Food and Rural Affairs Appeal Tribunal. The provisional by-law, which has been amended in accordance with Section 56 of the *Drainage Act*, will be placed on the November 14, 2012 Council agenda to receive third (3<sup>rd</sup>) reading so that it is passed pursuant to Section 58 of the *Drainage Act*.



Decision of the Agriculture, Food and Rural Affairs Appeal Tribunal – 19 July 2012

The July 19, 2012 decision of the Agriculture, Food and Rural Affairs Appeal Tribunal is available for viewing as a separate document.

David Adams Municipal Drain By-law

## BY-LAW NO. 2012 –

A by-law of the City of Ottawa to provide for the construction of drainage works and the future maintenance of drainage works in the City of Ottawa to be known as the David Adams Municipal Drain.

AND WHEREAS a petition for the drainage by means of a drainage works of an area requiring drainage, as described in the petition, was filed on March 30, 2005 with the City Clerk of the City of Ottawa by the owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectareage in the area in accordance with clause 4.(1)(b) of the *Drainage Act*;

AND WHEREAS a Drainage Engineer, Robinson Consultants Inc., was appointed on May 11, 2005 by the Council of the City of Ottawa pursuant to section 4 of the *Drainage Act* to prepare an engineer's report for the area requiring drainage, being parts of Lots 6 to 14, Concession I, geographic Township of Rideau;

AND WHEREAS a report entitled *Engineer's Report, David Adams Municipal Drain, Rideau-Goulbourn Ward*, dated April 2011, was prepared by Robinson Consultants Inc. (the "Engineer's Report") and the report is attached hereto as Schedule "A";

AND WHEREAS the David Adams Municipal Drain, after it is constructed in accordance with the Engineer's Report, will be located entirely within the City of Ottawa and pursuant to section 74 of the of the *Drainage Act* the City of Ottawa is responsible to attend to the required future maintenance and repair;

AND WHEREAS the estimated total cost associated with the construction, engineering, contract administration, allowances, report and contingencies of the drainage works is \$504,000.00 as set out in Schedule 'A' entitled "David Adams Municipal Drain Schedule of Assessment" that is found on page 34 of the July 19, 2012 decision of the Agriculture, Food and Rural Affairs Appeal Tribunal;

AND WHEREAS \$257,537.00 is the amount to be charged to the City of Ottawa for construction of the drainage works in accordance with Schedule 'A', entitled "David Adams Municipal Drain Schedule of Assessment" that is found on page 34 of the July 19, 2012 decision of the Agriculture, Food and Rural Affairs Appeal Tribunal;

AND WHEREAS the remaining cost of the construction of the drainage works, \$246,463.00 is to be charged to the landowners in the drainage basin in accordance with Schedule 'A', entitled "David Adams Municipal Drain Schedule of Assessment" that is found on page 34 of the July 19, 2012 decision of the Agriculture, Food and Rural Affairs Appeal Tribunal;

AND WHEREAS the provisional by-law has been amended, in accordance with the Section 56 of the *Drainage Act*, to carry out the changes made by the Agriculture, Food and Rural Affairs Appeal Tribunal as stated in its decision dated July 19, 2012;

AND WHEREAS Council of the City of Ottawa is required to give this by-law 3rd reading so that it is passed pursuant to Section 58 of the *Drainage Act*:

THEREFORE the Council of the City of Ottawa enacts as follows:

1. The report entitled *Engineer's Report, David Adams Municipal Drain, Rideau-Goulbourn Ward*, dated April 2011 and attached hereto as Schedule "A", is hereby adopted and the drainage works as therein indicated and set forth are hereby authorized and shall be completed in accordance therewith.
2. The Corporation of the City of Ottawa may borrow on the credit of the Corporation the amount of \$504,000.00 being the amount necessary for construction of the drainage works.
3. The Corporation of the City of Ottawa may arrange for the issue of debentures on its behalf for the amount borrowed less the total amount of:
  - (a) grants received under Section 85 of the Act;
  - (b) commuted payments made in respect of lands and roads assessed within the municipality;
  - (c) money paid under Subsection 61(3) of the *Drainage Act*, and
  - (d) money assessed in and payable by another municipality,

and such debentures shall be made payable within ten (10) years from the date of the debenture and shall bear interest at a rate to be set by the City of Ottawa.

4. Of the \$257,537.00 to be charged to the City of Ottawa for the construction of the drainage works, the sum of \$235,682.00 is assessed for special benefit.
5. The remaining cost of the construction and future maintenance of the drainage works shall be charged to the landowners in the drainage basin in accordance with Schedule 'A', entitled "David Adams Municipal Drain Schedule of Assessment" that is found on page 34 of the July 19, 2012 decision of the Agriculture, Food and Rural Affairs Appeal Tribunal.
6. All net assessments of \$1,000.00 or less are payable in the first year in which the assessment is imposed.



BY-LAW NO. 2012 -

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A by-law of the City of Ottawa to provide for the construction of drainage works and the future maintenance of drainage works in the City of Ottawa to be known as the David Adams Municipal Drain

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1<sup>st</sup> Reading..... June 22, 2011  
2<sup>nd</sup> Reading..... June 22, 2011  
3<sup>rd</sup> Reading..... November 14, 2012

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Enacted by City Council at its meeting of  
November 14, 2012.

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LEGAL SERVICES  
CLC/

COUNCIL AUTHORITY:  
The *Drainage Act*, sections 4, 42, 45, 56, 57, 58, 74, 78 and 84  
City Council May 11, 2005,  
ARAC Report 10, Item 2  
City Council June 22, 2011,  
ARAC Report 7, Item 7  
Court of Revision September 1, 2011 decision  
Agriculture, Food and Rural Affairs Appeal  
Tribunal July 19, 2012 decision