

4. O'KEEFE MUNICIPAL DRAIN – APPOINTMENT OF ENGINEER  
DRAIN MUNICIPAL O'KEEFE – NOMINATION D'UN INGÉNIEUR

**COMMITTEE RECOMMENDATION**

That Council appoint Mr. Andy Robinson, P. Eng of Robinson Consultants Inc. as the engineer of record to prepare a report under Section 78 (1) of the *Drainage Act* to inform Council on the current status of the O'Keefe Municipal Drain and whether one or more of the projects listed under Section 78 (1.1) is required for the better use, maintenance or repair of the drainage works or lands or roads.

**RECOMMANDATION DU COMITÉ**

Que le Conseil nomme M. Andy Robinson, ing., de la firme Robinson Consultants Inc., comme ingénieur chargé de rédiger un rapport aux termes du paragraphe 78(1) de la *Loi sur le drainage* afin de renseigner le Conseil sur l'état actuel du drain municipal O'Keefe et de lui indiquer si un ou plusieurs des projets énumérés au paragraphe 78(1.1) sont nécessaires pour faciliter l'utilisation, l'entretien ou la remise en état des installations de drainage, des terrains ou des routes.

**DOCUMENTATION / DOCUMENTATION**

Director, Parks, Forestry & Stormwater Services, report dated 11 September 2017 (ACS2017-PWE-GEN-0034).

Rapport de la Directrice, Services des parcs, de la foresterie et des eaux pluviales daté le 11 septembre 2017 (ACS2017-PWE-GEN-0034).

**AGRICULTURE AND RURAL  
AFFAIRS COMMITTEE  
REPORT 29  
8 NOVEMBER 2017**

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**COMITÉ DE L'AGRICULTURE ET  
DES AFFAIRES RURALES  
RAPPORT 29  
LE 8 NOVEMBRE 2017**

**Report to  
Rapport au:**

**Agriculture and Rural Affairs Committee  
Comité de l'agriculture et des affaires rurales  
2 November 2017 / 2 novembre 2017**

**and Council  
et au Conseil  
8 November 2017 / 8 novembre 2017**

**Submitted on September 11, 2017  
Soumis le 11 septembre 2017**

**Submitted by  
Soumis par:  
Laila Gibbons, Director, Parks, Forestry & Stormwater Services / Directrice,  
Services des parcs, de la foresterie et des eaux pluviales**

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**Ward: BARRHAVEN (3)**

**File Number: ACS2017-PWE-GEN-0034**

**SUBJECT: O'Keefe Municipal Drain – Appointment of Engineer**

**OBJET: Drain municipal O'Keefe – Nomination d'un ingénieur**

## **REPORT RECOMMENDATIONS**

**That the Agriculture and Rural Affairs Committee recommend Council appoint Mr. Andy Robinson, P. Eng of Robinson Consultants Inc. as the engineer of record to prepare a report under Section 78 (1) of the Drainage Act to inform Council on the current status of the O'Keefe Municipal Drain and whether one or more of the projects listed under Section 78 (1.1) is required for the better use, maintenance or repair of the drainage works or lands or roads.**

## **RECOMMANDATIONS DU RAPPORT**

**Que le Comité de l'agriculture et des affaires rurales recommande au Conseil de nommer M. Andy Robinson, ing., de la firme Robinson Consultants Inc., comme ingénieur chargé de rédiger un rapport aux termes du paragraphe 78(1) de la *Loi sur le drainage* afin de renseigner le Conseil sur l'état actuel du drain municipal O'Keefe et de lui indiquer si un ou plusieurs des projets énumérés au paragraphe 78(1.1) sont nécessaires pour faciliter l'utilisation, l'entretien ou la remise en état des installations de drainage, des terrains ou des routes.**

## **BACKGROUND**

Development is proposed on multiple parcels of land within the existing watershed of the O'Keefe Municipal Drain which will result in changes in the land use, surface, subsurface and storm water flows from the existing parcels of land. The proposed developments are located in Part of Lots 16 to 25, Concession 4 former Nepean, Barrhaven Ward.

Development of lands North of the Jock River has taken place within the existing watershed of the O'Keefe Municipal Drain since the adoption of the latest Engineers Report in 2015. These changes in land use have not been examined by a drainage engineer to determine any potential deficiencies and the extent of the impact of those changes on the functioning of the O'Keefe Municipal Drain. As historical development has taken place within Part of Lots 16 to 25, Concession 4 former Nepean, Barrhaven Ward, a qualified Drainage Engineer needs to examine both the historical and proposed

changes in the extent and nature of use within the watershed of the O'Keefe Municipal Drain. An engineer's report will be required in order to address any work required as a result of deficiencies in the existing drainage works due to the historical changes and the potential improvements required to address the developer's proposed changes.

The original O'Keefe Municipal Drain is located in Part Lots 14 to 20, Concession 4, Nepean, Barrhaven Ward and was first constructed in 1967 by the former Township of Nepean under the engineer's report prepared by Graham, Berman and Associates Ltd. dated October 10, 1967 By-law 17-68. Two modifications to the existing O'Keefe Municipal Drain by Robinson Consultants Inc. were adopted under engineer's reports, the first modification dated March 2006 and By-law No. 2006-389 and the second modification dated March 2015 and By-law No. 2016-149.

## **DISCUSSION**

The O'Keefe Municipal Drain is a private communal drainage system which has legal status under the provincial *Drainage Act*, RSO 1990 c.17. As such, any changes to the drainage works requires the approval of Council based on the report of a qualified Drainage Engineer, pursuant to Section 78 of the *Act*. The City's Drainage Superintendent is recommending the appointment of Andy Robinson, P.Eng., a qualified Drainage Engineer from Robinson Consultants Inc., as the engineer of record as he has experience with similar *Drainage Act* projects, a specialized field of engineering in Ontario. He was also involved in the 2006 and 2015 Engineer's Reports on this drainage works.

This report has no tax or budget implications. All costs associated with the engineer's report will be initially paid by the Parks, Forestry and Stormwater Services Branch of the Public Works and Environmental Services Department but eventually recovered from the owners of land as determined by the engineer's report. The Engineers' Report will include an updated assessment for each parcel of land within the existing watershed of the O'Keefe Municipal Drain for a proportion of the costs of any drainage works projects that the drainage engineer determines is required under subsection 78 (1.1).

Under the *Drainage Act*, all lands that will benefit from the drainage works are assigned an assessment by the engineer. "Benefit" is defined under the *Drainage Act* as the

advantages to any lands from the construction, improvement, repair or maintenance of a drainage works such as will result in a higher market value or increased crop production or improved appearance or better control of surface or subsurface water, or any other advantages relating to the betterment of the lands.

As such, the lands that benefit the most from improved drainage as a result of a Subsection 78 (1.1) project will be assessed a greater proportion of the costs of the project.

The estimated initial engineering cost of the report is \$100,000. Until the costs are recovered from the owners of the assessed lands, all costs associated with the preparation of the engineer's report, engineering, administration, implementation and regulatory documentation required to complete any improvements recommended by the engineer and approved by Council, will be paid from the 2017 Approved Rate Supported Capital Budget, Municipal Drains Program.

The developer of the land will be required to provide environmental studies, reports and regulatory requirements of relevant agencies (i.e. Conservation Authorities, Ministry of Natural Resources, and Department of Fisheries and Oceans) through the development process to the Council-appointed Drainage Engineer.

The *Drainage Act* prescribes the process and timelines that must be followed for any modification to or construction of a municipal drain.

### **Schedule for the modifications to the O'Keefe Municipal Drain**

Should the Agricultural and Rural Affairs Committee and Council approve the appointment of the Engineer, Mr. Andy Robinson, P.Eng., of Robinson Consultants Inc., the anticipated schedule will be as follows:

- Council appointment of Engineer to prepare a report for Council's consideration of the proposed connection drainage works – November 2017
- Preparation of engineer's report – November 2017 to September 2018
- Submission of engineer's report and staff report containing staff's recommendation to Council on whether to approve the connection based on the implications set out in the engineer's report – September 2018

- Consideration of report and Council decision under 78 based on implications and evaluation in the engineer's report and staff's recommendation to Council – September 2018

### **RURAL IMPLICATIONS**

The proposed development will benefit from this undertaking through the provision of legal and sufficient outlet, improved drainage and reduced risk of flooding.

### **CONSULTATION**

Consultation with the Ward Councillors, and City staff is ongoing.

### **LEGAL IMPLICATIONS**

For the reasons that follow, there are no legal impediments to the implementation of the recommendation in this report.

The City has a legislated duty to maintain and repair all drainage works constructed under a report that has been prepared by an engineer appointed under the provincial Drainage Act (the said drainage works shall hereinafter be referred to as a "Municipal Drain").

Each Municipal Drain is to be maintained and repaired at the expense of the owners of the assessed upstream lands and roads, in accordance with the assessments under the most recent Drainage Act engineer's report (hereinafter referred to as the "Engineer's Report").

If the maintenance and repair assessment schedules under the Engineer's Report are varied by a further Engineer's Report, the Municipal Drain will be maintained in accordance with the updated assessment schedules under the most recent Engineer's Report (Drainage Act, Section 74).

As such, if a drainage engineer appointed under Subsection 78 reports that one or more of the drainage works projects listed in Subsection 78 (1.1) is required to address deficiencies in the Municipal Drain and/or if the nature or extent of the use of land assessed for the Municipal Drain is altered, the most recent Engineer's Report will need

to be updated and revised assessment schedules produced for the maintenance and repair of the Municipal Drain (Drainage Act, Subsections 78 (2) and 78(3)).

Unless a local municipality, conservation authority or the Minister of Natural Resources specifically requests an environmental appraisal under Subsection 6(1) of the Drainage Act, all Fisheries Act studies, engineering, administration, implementation and regulatory documentation required to complete any improvements recommended by the drainage engineer and approved by Council, are fees and expenditures that are to be included in the cost of the drainage works (Drainage Act, Section 70).

The City may be liable for any damages incurred by an owner or owners of land affected by the condition of a Municipal Drain if the City fails to perform the duties conferred or imposed upon it by the Drainage Act as to maintenance and repair of a Municipal Drain (Drainage Act, Section 79).

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk implications associated with this report.

### **FINANCIAL IMPLICATIONS**

This report has no tax or budget implications. The estimated costs of \$100,000 for the engineer's report will be initially paid by the City of Ottawa, Parks, Forestry and Stormwater Services Branch, Public Works and Environment Services Department, and recovered from the owner of the proposed developments. Funds are available in the approved Municipal Drainage capital program. This cost estimate does not include the cost of any required construction or construction related work. Once approved by Council, a separate new internal order will be created for this specific drain and all necessary funding will be transferred accordingly.

### **ACCESSIBILITY IMPACTS**

There are no accessibility impacts associated with this report.

## **ENVIRONMENTAL IMPLICATIONS**

The modifications to the O'Keefe Municipal Drain are associated with final approval of the individual parcels proposing development. Any proposed works will require compliance with City, provincial and federal policies, standards, regulations and legislation.

## **TERM OF COUNCIL PRIORITIES**

The proposed works to the O'Keefe Municipal Drain will fulfill the City's Strategic Plan's environment and infrastructure protection priorities, and is a legislative requirement.

## **SUPPORTING DOCUMENTATION**

DOCUMENT 1 – O'Keefe Municipal Drain, Location Plan

## **DISPOSITION**

The Drainage Superintendent shall notify all affected landowners and the local conservation authority of the decision of Council. If this report is approved by Council, a separate new internal order will be created for this specific drain and all necessary funding will be transferred to it from within the Municipal Drains Program.



Document 1

O'Keefe Municipal Drain, Location plan

