

**7. KILROE MUNICIPAL DRAIN – APPOINTMENT OF ENGINEER
DRAIN MUNICIPAL KILROE – NOMINATION D'UN INGÉNIEUR**

COMMITTEE RECOMMENDATION

That Council appoint Mr. Andy Robinson, P. Eng of Robinson 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 Kilroe 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 Kilroe 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 22 August 2017 (ACS2017-PWE-GEN-0024).

Rapport de la Directrice, Services des parcs, de la foresterie et des eaux pluviales daté le 22 août 2017 (ACS2017-PWE-GEN-0024).

**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 August 22, 2017
Soumis le 22 août 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-0024

Ward: RIDEAU-GOULBOURN (21)

SUBJECT: Kilroe Municipal Drain – Appointment of Engineer

OBJET: Drain municipal Kilroe – Nomination d'un ingénieur

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend Council appoint Mr. Andy Robinson, P. Eng of Robinson 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 Kilroe 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 Kilroe 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

A developer of lands within the existing watershed of the Kilroe Municipal Drain is proposing a new residential subdivision which will result in changes in the land use, surface, subsurface and storm water flows from the existing parcel of land. The proposed development is located in Part of Lot 8, Concession 2 former Nepean, Barrhaven Ward.

Development of lands Lots 7 and 8, Concession 2 former Nepean, Barrhaven Ward has taken place within the existing watershed of the Kilroe Municipal Drain since the adoption of the latest Engineers Report in 1979. 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 Kilroe Municipal Drain. As historical development has taken place within Lots 7 and 8, Concession 2, 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 Kilroe 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 current Kilroe Municipal Drain engineer's report is dated May 22, 1979 and By-law No. 118-79 former City of Nepean. The Kilroe Municipal Drain is located in Nepean and Rideau-Goulbourn Wards, South East of Barrhaven and was first constructed in 1979 by the former City of Nepean.

DISCUSSION

The Kilroe Municipal Drain 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.

Examination by a qualified Drainage Engineer under Section 78 of the Drainage Act RSO 1990 c. 17 is requested in order to examine both the historical and proposed changes in the extent or nature of use of the within the watershed of the Kilroe Municipal Drain. An Engineers Report will be required in order to address any work required as a result of the deficiencies in the existing drainage works due to the historical changes and the potential improvements required to address the developer's proposed changes.

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 Kilroe 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 \$75,000. 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.

Council's appointment of the Drainage Engineer to prepare a report does not supersede any regulatory requirements that may be associated with any natural environment issues raised in any other public consultations to date.

The developer of the Subject Land (2741 Longfield Drive) 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 for the Subject Land.

Council's appointment of the Drainage Engineer to prepare a report does not supersede any regulatory requirements that may be associated with any natural environment issues raised in any other public consultations to date.

The developer of the Subject Land (2741 Longfield Drive) 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 for the Subject Land.

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 proposed connection to the Kilroe 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 July 2018
- Submission of engineer's report and staff report containing staff's recommendation to Council – July 2018
- Consideration of report and Council decision under Section 78 based on implications and evaluation in the engineer's report and staff's recommendation to Council – July 2018
- Court of Revision – August 2018
- Drainage Tribunal 40 day appeal period – September/October 2018

RURAL IMPLICATIONS

The proposed rural subdivision will benefit from this undertaking through 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. 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 Kilroe 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).

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

The change in land use of the Subject Lands within the existing watershed of the Kilroe Municipal Drain is associated with final approval of the subdivision. 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 Kilroe Municipal Drain will fulfill the City's Strategic Plan's environment and infrastructure protection priorities.

SUPPORTING DOCUMENTATION

DOCUMENT 1 – Kilroe Municipal Drain, Location Plan

DISPOSITION

The Drainage Superintendent shall notify all affected landowners of the decision of Council. Once 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

