

6. **CASSIDY MUNICIPAL DRAIN – APPOINTMENT OF ENGINEER**
DRAIN MUNICIPAL CASSIDY – NOMINATION D'UN INGÉNIEUR

COMMITTEE RECOMMENDATION

That Council appoint Mr. Adam O'Connor, P. Eng of McIntosh Perry Consulting Engineers Ltd. 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 Cassidy 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. Adam O'Connor, ing., de la firme McIntosh Perry Consulting Engineers Ltd., 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 Cassidy 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 19 September 2017 (ACS2018-PWE-GEN-0001).

Rapport du Directeur, Services des parcs, de la foresterie et des eaux pluviales daté le 19 septembre 2017 (ACS2018-PWE-GEN-0001).

**AGRICULTURE AND RURAL
AFFAIRS COMMITTEE
REPORT 31
14 FEBRUARY 2018**

69

**COMITÉ DE L'AGRICULTURE ET
DES AFFAIRES RURALES
RAPPORT 31
LE 14 FÉVRIER 2018**

**Report to
Rapport au:**

**Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales
1 February 2018 / 1er février 2018**

**and Council
et au Conseil
7 February 2018 / 7 février 2018**

**Submitted on September 19, 2017
Soumis le 19 septembre 2017**

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

**Contact Person
Personne ressource:
Dave Ryan, Drainage Superintendent
613-580-2424, x25106 David.Ryan@ottawa.ca**

Ward: OSGOODE (20)

File Number: ACS2018-PWE-GEN-0001

SUBJECT: Cassidy Municipal Drain – Appointment of Engineer

OBJET: Drain municipal Cassidy – Nomination d'un ingénieur

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend Council appoint Mr. Adam O'Connor, P. Eng of McIntosh Perry Consulting Engineers Ltd. 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 Cassidy 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. Adam O'Connor, ing., de la firme McIntosh Perry Consulting Engineers Ltd., 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 Cassidy 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

The Drainage Superintendent has been made aware of localised flooding and other drainage issues within the watershed of the Cassidy Municipal Drain as the result of multiple changes which have occurred over time through new development and changes in land use. These changes in storm water, generated by land within the watershed of the Cassidy Municipal Drain require an update to the engineer's report and By-law for the drainage works.

The Cassidy Municipal Drain is located within and North of the village of Metcalfe in the former Township of Osgoode, Osgoode Ward, in Part Lots 10 to 23, Concessions 7 and 8 Osgoode, Osgoode Ward. It was first constructed in 1927 by the former Township of Osgoode under an engineer's report prepared by W. H. Magwood C. E. dated June 22, 1927 By-law 9-1927. This report was updated by Graham, Berman and Associates Ltd. Consulting Engineers under the engineer's report, dated January 17, 1968 revised April 24, 1968 By-law 8-1968.

DISCUSSION

The Cassidy 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 Adam O'Connor, P.Eng., a qualified Drainage Engineer from McIntosh Perry Consulting Engineers Ltd., as the engineer of record as he has experience with similar *Drainage Act* projects, a specialized field of engineering in Ontario.

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 and associated By-law. The Engineers' Report will include an updated assessment for each parcel of land within the existing watershed of the Cassidy 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 cost of the engineer's 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 *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 Cassidy Municipal Drain

Should the Agricultural and Rural Affairs Committee and Council approve the appointment of the Engineer, Mr. Adam O'Connor, P.Eng., of McIntosh Perry Consulting Engineers Ltd., the anticipated schedule will be as follows:

- Council appointment of Engineer to prepare a report for Council's consideration of the proposed drainage works – February 2018
- Preparation of engineer's report – February 2018 to December 2019
- 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 – Q1 of 2019
- Consideration of report and Council decision under 78 based on implications and evaluation in the engineer's report and staff's recommendation to Council – Q1 of 2019

RURAL IMPLICATIONS

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

CONSULTATION

The Ward Councillor is aware of this report.

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 2018 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 Cassidy Municipal Drain will require compliance with City, provincial and federal policies, standards, regulations and legislation.

TERM OF COUNCIL PRIORITIES

The proposed works to the Cassidy Municipal Drain will fulfill the City's Strategic Plan's environment and infrastructure protection priorities.

SUPPORTING DOCUMENTATION

DOCUMENT 1 – Cassidy Municipal Drain, Location Plan

DISPOSITION

The Drainage Superintendent shall notify all affected landowners and other stakeholders 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

