

Council Report

Report Number:	ENG2024-009
Meeting Date:	April 30, 2024
Title:	Waite Drain – Refer Engineer’s Report back to Engineer
Description:	Recommendations from the Drainage Board after holding a Meeting to Consider the Engineer’s Report pursuant to Section 42 of the Drainage Act.
Author and Title:	Richard Monaghan, Drainage Superintendent

Recommendation(s):

That Report **ENG2024-009, Waite Drain – Consideration of Engineer’s Report**, be received; and,

That pursuant to Section 57 of the Drainage Act, Council refer the Waite Drain Engineer’s Report as prepared by E. DeLay, M.Eng, P.Eng back to the Engineer to reconsider landowner concerns raised at the Meeting to Consider; and,

That pursuant to Section 39(1) of the Drainage Act, Council extend the timeline for submission of the Waite Drain Engineer’s Report to April 30, 2025.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Regular Council Meeting of September 12, 2017, Council adopted the following resolution:

CR2017-760

Moved By Councillor Junkin

Seconded By Councillor Strangway

RESOLVED THAT Report ENG2017-017, **Petition for Drainage Works by Owner – Waite**, be received;

THAT Council proceeds with the petition submitted by Joseph and Carol Waite for drainage works by owners for Part Lt. 10 West Half of Concession 6, Fenelon, and instruct the City Clerk to proceed with the notices required under Section 5 of the Drainage Act;

THAT Council appoints and retains, R.J Burnside & Associates in accordance with the Drainage Act, as the Engineer of Record and for the petition and to proceed with the requirements of a petition drain; and

THAT should, R.J Burnside & Associates not be available, that Council instructs staff to retain an alternate qualified Engineer from its standing list.

CARRIED

This resolution accepted a Petition for Drainage submitted to the Municipality and appointed R.J. Burnside and Associates at the engineer of record. After some internal discussion at the City, it was determined to be advantageous for the City to submit a separate Petition for Drainage as the Road Authority to provide legal outlet of drainage for Cameron Road which is in the near vicinity of the first petition.

At the Regular Council Meeting of March 6, 2018, Council adopted the following resolution:

CR2018-110

Moved By Councillor Strangway

Seconded By Councillor Veale

That Report EA2018-008, **Petition for Drainage Works by Road Authority (Cameron)**, be received;

That Council proceed with the petition submitted by the Road Authority for drainage works and instruct the City Clerk to proceed with the notices required under Section 5 of the Drainage Act;

That Council appoint RJ Burnside & Associates for this project; and

That Council instruct RJ Burnside & Associates to combine the Waite petition and the Road Authorities petition into one report as per section 8(4) of the Ontario Drainage Act.

Carried

Since that time, in accordance with Section 9(1) of the Drainage Act, an on-site meetings have been held on November 7, 2017 to address the initial petition. Based on this on-site meeting the petition was deemed valid under Section 4(1)(a) of the Drainage Act by the Engineer.

A second on-site meeting was held on May 2, 2018 to address the second petition. Based on this on-site meeting the petition was deemed valid under Section 4(1)(c) of the Drainage Act by the Engineer.

Two additional stakeholder meetings were held on May 2, 2018 and July 25, 2018. These meetings are not a requirement of the Drainage Act but were used by the Engineer to gather feedback on the proposed design, cost estimate and assessment schedules for the proposed drain.

On March 1, 2024, The Engineer submitted the final version of the Waite Drain Engineer's Report to the City. On April 2, 2024, the City's Drainage Board held a meeting to consider the report pursuant to Section 42 of the Drainage Act. At this meeting, Ed DeLay P.Eng presented his report to the board and members of the public and was available for questions from the board member and members of the public. Following question and answer period, all petitioners confirmed that they do not wish to remove their names from the petition.

At the conclusion of the Meeting to Consider, the Drainage Board adopted the following recommendation:

DB2024-03

Moved By C. Clarke

Seconded By D. Skrabek

Recommend that the Waite Municipal Drain Engineer's Report, as prepared by E. DeLay M. Eng, P. Eng, R.J. Burnside and Associates Limited, be referred back to the Drainage Engineer for further consultation with the members of the community regarding the issues raised at the Meeting to Consider.

Carried

This report addresses that direction.

Rationale:

The City of Kawartha Lakes Drainage Board is established under the authority of the City of Kawartha Lakes Act, 2000. The Act states the following regarding Drainage Matters:

- 6 (1) The council may by by-law,
- (a) establish a drainage board;
 - (b) delegate to the drainage board any of the council's powers and duties under the *Drainage Act*, except for its power to make by-laws and resolutions; and
 - (c) require the drainage board to exercise the council's powers and duties with respect to any matter under the *Drainage Act* in which the council is required by law to hold hearings or afford an opportunity to be heard. 2000, c. 43, s. 6 (1).

As the City of Kawartha Lakes Drainage Board does not have authority to make resolutions or pass by-laws, this report is presented to Council to confirm the recommendations made at the most recent Drainage Board meeting.

The recommendations made at the last Drainage Board meeting were made based on the material submitted to the Drainage Board. The material is attached to this report for Council's review.

Other Alternatives Considered:

Where a report is not adopted by Council, a petitioner may appeal to the Drainage Tribunal or where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Drainage Tribunal.

Where a report is adopted by Council, an affected landowner that has concerns about the Engineer's Report, has the option to appeal to the Drainage Tribunal.

There is a possibility of an appeal to the Drainage Tribunal in either scenario.

Alignment to Strategic Priorities

The Kawartha Lakes Strategic Plan identifies the following two priorities that bolster support for an active and effective Drainage Program in the City of Kawartha Lakes:

- Protect and support agricultural land and agri-business

- Offer business development programs to support the agricultural, tourism, arts, culture, heritage, small business, manufacturing and innovation sectors

Financial/Operation Impacts:

By referring the report back to the Engineer, the overall cost of the drainage project will increase to examine and implement changes as required. These costs are shared among all affected landowners, including the City, as outlined in the assessment schedule within the Engineer's Report.

Consultations:

Manager of Technical Services

City Clerk

Engineer of Record

Attachments:

Appendix A –Waite Drain Engineer's Report



Waite Drain
Engineer's Report

Appendix B – Minutes of the April 02, 2024 Drainage Board Meeting



Appendix B -
Minutes of the April

Department Head email: jrojas@kawarthalakes.ca

Department Head: Juan Rojas