

The Corporation of the City of Kawartha Lakes
Agenda
Drainage Board Meeting

DB2020-01

Wednesday, February 5, 2020

7:00 P.M.

Victoria Room

City Hall

26 Francis Street, Lindsay, Ontario K9V 5R8

Members:

Councillor Ron Ashmore

Councillor Andrew Veale

Charles Clarke

Jim Oriotis

Mike Verbik

Accessible formats and communication supports are available upon request. The City of Kawartha Lakes is committed to accessibility for persons with disabilities. Please contact AgendaItems@kawarthalakes.ca if you have an accessible accommodation request.

1.	Call to Order	
1.1	Appointment of Chair & Vice-Chair	
2.	Administrative Business	
2.1	Adoption of Agenda	
2.2	Declaration of Pecuniary Interest	
2.3	Adoption of Minutes from Previous Meeting	4 - 8
	October 23, 2019 Drainage Board Meeting Minutes	
3.	Deputations	
4.	New Business	
4.1	Drainage Act Discussion Paper	9 - 15
	Ernie Hardeman, Minister of Agriculture, Food, & Rural Affairs	
4.2	Memorandum	16 - 17
	Subsequent Connection to Drainage Works - Rich Municipal Drain	
	Lucas Feitler, Drainage Superintendent	
4.3	Memorandum	18 - 19
	Error in the Original Drainage Report - Robertson Drain (Verulam)	
	Lucas Feitler, Drainage Superintendent	
5.	Other Business	
5.1	Update on New Municipal Drains	
	Webster Municipal Drain	
	Waite Municipal Drain	
	MacEachern Brown Municipal Drain	
5.2	Update on Maintenance Work	
	2019 Maintenance Work Review	
	2020 Maintenance Work Plan	

6. Adjournment

The Corporation of the City of Kawartha Lakes
Minutes
Drainage Board Meeting

DB2019-04
Wednesday, October 23, 2019
7:00 P.M.
Victoria Room
City Hall
26 Francis Street, Lindsay, Ontario K9V 5R8

Members:
Councillor Ron Ashmore
Councillor A. Veale
Charles Clarke
Jim Oriotis
Mike Verbik

Accessible formats and communication supports are available upon request. The City of Kawartha Lakes is committed to accessibility for persons with disabilities. Please contact AgendaItems@kawarthalakes.ca if you have an accessible accommodation request.

1. Call to Order

Chair A. Veale called the meeting to order at 7:01 p.m. Drainage Board members Councillor Ashmore, and C. Clarke, were in attendance.

Deputy Clerk and Recording Secretary J. Watts, Supervisor of Technical Services M. Farquhar, and Drainage Superintendent L. Feitler were also in attendance.

Absent: M. Verbik, and J. Oriotis

2. Administrative Business

2.1 Adoption of Agenda

DB2019-026

Moved By C. Clarke

Seconded By Councillor Ashmore

That the amended agenda be adopted as circulated.

Carried

2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest disclosed.

2.3 Adoption of Minutes from Previous Meeting

DB2019-027

Moved By Councillor Ashmore

Seconded By C. Clarke

That the minutes of the Drainage Board meeting held on September 17, 2019, be adopted as circulated.

Carried

3. Deputations

4. New Business

4.1 Memorandum

Lucas Feitler, Drainage Superintendent
Contravention of Drainage Act
Anderson Municipal Drain

Drainage Superintendent L. Feitler presented an overview of his memorandum noting:

- the contravention of the Drainage Act
- discussions with various stakeholders to determine next steps; and
- possible options for proceeding

He recommended that the City initiate proceedings under the provisions of Section 65(3) of the Drainage Act, and appoint an engineer to inspect the land in accordance with that section of the Act. Mr. Feitler and Mr. Farquhar responded to questions from the Board members.

DB2019-028

Moved By C. Clarke

Seconded By Councillor Ashmore

Recommend that the memorandum from L. Feitler, Drainage Superintendent - Engineering and Corporate Assets, dated October 23, 2019, regarding the Contravention of the Drainage Act - Anderson Municipal Drain, be received;

That the Engineering and Corporate Assets Department initiates proceedings under the provisions of Section 65(3) of the Drainage Act, R.S.O. 1990, c. D.17;

That the City Clerk be instructed to advise an engineer in writing to inspect the land and assess it for a just proportion of the drainage works, taking into account any compensation paid to the owner of the land in respect of the drainage works as per section 65(3) of the Drainage Act, R.S.O. 1990, c. D.17; and

That that Engineering and Corporate Assets Department staff complete a detailed survey of the Anderson Municipal Drain to determine any changes from the original design.

Carried

4.2 Memorandum

Lucas Feitler, Drainage Superintendent
Request to Connect to Sandringham Drain – Kressibucher

Drainage Superintendent L. Feitler presented an overview of his memorandum noting:

- the request from the landowner that was received via their tile drainage contractor
- possible impacts and outcomes; and
- alternative options for proceeding

He recommended that the City initiate proceedings under the provisions of Section 65(3) of the Drainage Act, and appoint an engineer to inspect the land in accordance with that section of the Act. Mr. Feitler and Mr. Farquhar responded to questions from the Board members.

DB2019-029

Moved By Councillor Ashmore

Seconded By C. Clarke

Recommend that the memorandum from L. Feitler, Drainage Superintendent - Engineering and Corporate Assets, dated October 21, 2019, regarding the section 65(3) request from the Kressibuchers be received;

That the Engineering and Corporate Assets Department initiates proceedings under the provisions of Section 65(3) of the Drainage Act, R.S.O. 1990, c. D.17;

That the City Clerk be instructed to advise an engineer in writing to inspect the land and assess it for a just proportion of the drainage works, taking into account any compensation paid to the owner of the land in respect of the drainage works as per section 65(3) of the Drainage Act, R.S.O. 1990, c. D.17; and

Carried

5. Other Business

5.1 Update on MacEachern Brown Municipal Drain

Mr. Farquhar stated that at the October 22, 2019 Regular Council meeting, the motion to proceed with the Drainage Works was adopted. He also advised that Council appointed D.M. Wills and Associates Limited as the engineer of record for the project. He concluded by providing a brief synopsis of the upcoming timelines, and notices that would be required to start the process.

5.2 Update on 2019 Drainage Maintenance

L. Feitler presented an update on Drainage Maintenance projects for 2019 including:

- the Murdoch Drain cleanout
- the Dykstra Drain cleanout
- the Van Shaik Drain
- the McArthur Drain
- the Oakwood Drain; and
- various locations for riprap

Mr. Feitler responded to questions from the Board members.

6. **Adjournment**

DB2019-030

Moved By C. Clarke

Seconded By Councillor Ashmore

That the Drainage Board Meeting adjourn at 7:27p.m.

Carried

**Ministry of Agriculture,
Food and Rural Affairs**

Office of the Minister

77 Grenville Street, 11th Floor
Toronto, Ontario M7A 1B3
Tel: 416-326-3074
www.ontario.ca/OMAFRA

**Ministère de l'Agriculture, de
l'Alimentation et des Affaires rurales**

Bureau du ministre

77, rue Grenville, 11^e étage
Toronto (Ontario) M7A 1B3
Tél. : 416 326-3074
www.ontario.ca/MAAARO



January 22, 2020

Ron Taylor
CAO
City of Kawartha Lakes
rtaylor@kawarthalakes.ca

Dear Mr. Taylor:

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) is seeking input on a proposal to streamline Drainage Act approval processes that would address common stakeholder concerns about the act while maintaining our province's high environmental standards. This is part of our government's broader initiative to reduce regulatory burden in consultation with the farm and agri-food sector while preserving rules that keep Ontarians safe and healthy.

The Drainage Act Discussion Paper is posted on the province's Environmental Registry at ero.ontario.ca/notice/019-1187. It describes some of the proposed changes which would reduce costs and project delays for farmers and other rural landowners and municipalities. The paper also poses questions for your feedback.

OMAFRA will be hosting webinars for key stakeholders who play an important role in the Drainage Act. The webinars are scheduled for:

January 31st	10:00 - 11:00 a.m.	Municipalities
January 31st	1:00 - 2:00 p.m.	Conservation Authorities
February 7th	10:00 - 11:00 a.m.	Drainage Industry
February 7th	1:00 - 2:00 p.m.	General Farm Organizations

To register, please contact the Agricultural Information Contact Centre (AICC) by email to ag.info.omafra@ontario.ca or call 1-877-424-1300. Although the webinars are targeted to specific audiences, you are very welcome to enroll at a time or date that better suits your schedule.

.../2



Good things grow in Ontario
À bonne terre, bons produits

Ministry Headquarters: 1 Stone Road West, Guelph, Ontario N1G 4Y2
Bureau principal du ministère: 1 Stone Road West, Guelph (Ontario) N1G 4Y2

Printed copies of the French Discussion Paper are also available from the AICC on request.

Our Ministry is committed to relieving the red tape burden that will ensure drainage continues to deliver critical economic and environmental benefits that will help rural communities, agricultural landowners and drainage contractors save money and/or time. We are confident the proposed changes will assist in making this a reality.

I look forward to your input.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ernie Hardeman', with a large, stylized initial 'E'.

Ernie Hardeman
Minister of Agriculture, Food and Rural Affairs

Drainage Act Discussion Paper

Summary of Proposal

Ontario's agri-food sector is an important component of the provincial economy, contributing \$39.5 billion in Gross Domestic Product (GDP) and employing nearly 822,500 people in 2017. Primary agriculture accounted for roughly 11 per cent of the sector's GDP (\$4.4 billion), generating \$13.1 billion in farm cash receipts and employing 68,500 people in 2017 while producing a diverse range of over 200 different commodities.

Drainage is critical for supporting agricultural productivity and the production of food. It also enables sector growth by delivering environmental and economic benefits such as improved crop productivity, nutrient loss reduction, reduced soil erosion, habitat protection and flood control. Though mostly unnoticed, it is an essential part of the rural Ontario landscape with more than 45,000 kilometers of municipal drains servicing approximately 1.75 million hectares of cropland.

It also positively impacts the economy as over \$100M is privately invested in drainage annually which has created 800-900 jobs and supports over 100 independent businesses.

To permit the construction and maintenance of municipal drains and private agricultural drainage systems, the agricultural sector has relied on drainage legislation for over 150 years. OMAFRA administers three pieces of agricultural drainage legislation: the *Drainage Act*, the *Tile Drainage Act* and the *Agricultural Tile Drainage Installation Act*.

The *Drainage Act* is unique in many ways. It establishes a process for resolving property right disputes involving water flow and drainage. It is premised on a user pay system where costs are fairly assessed to the property owners within the watershed. A drainage engineers report provides the design and allocation of project costs for a municipal drain that involves multiple private properties. Through collaboration between private landowners, it has helped address broader societal benefits such as flood control within Ontario's rural communities.

The *Drainage Act* is one of the Province's oldest pieces of legislation. Passed in 1859, there have not been any significant changes to the legislation since 1975. This has led to stakeholders requesting changes to the Act. For example, some stakeholders have indicated there are too many steps and agencies involved for drainage construction, maintenance and improvements to be approved in a timely and less costly way. Others have suggested that additional protocols (such as the *Drainage Act and Conservation Authorities Act Protocol*) could help with streamlining approvals for low risk activities.

To address some of these stakeholder concerns and reduce burden (e.g. project delays and projects costs) while maintaining environmental standards, OMAFRA is considering changes to the *Drainage Act*. This is part of the Ontario Government's broader approach to cutting red tape and reducing regulatory burden for all businesses, to lower business operating costs and improve Ontario's competitiveness.

OMAFRA is proposing changes to the *Drainage Act* that would, if passed:

- Create a new streamlined *Drainage Act* process for minor improvements to drainage systems;
- Enable a simplified process to update the engineer's report to account for changes to the design made during construction; and
- Provide the minister with legislative authority to adopt technical protocols such as the DART Protocol by reference in regulation.

1. Supporting Technical Protocols

Authority to adopt protocols by reference in regulation

Currently, projects under the *Drainage Act* typically require approvals from multiple agencies (e.g. conservation authorities, Department of Fisheries and Oceans, Ministry of Natural Resources and Forestry) to address protection of endangered species, water management and flood risks and other environmental considerations. When not coordinated, these additional approvals can add cost and project delays.

Protocols (such as the *Drainage Act and Conservation Authorities Act Protocol*) when adopted, have been demonstrated to reduce project delays and project costs while maintaining environmental protections. OMAFRA is proposing to amend the *Drainage Act* to enable broader adoption of this collaborative approach by providing legislative authority for the minister to develop and sign off on technical protocols.

Similar to the DART Protocol that originated from a multi-agency Drainage Act and Regulations Team (DART), OMAFRA would work in collaboration with other ministries, regulatory agencies, conservation authorities, municipalities, farming organizations, indigenous organizations and others on the development of any new protocols.

The DART Protocol was established in 2008 to streamline approvals for municipal drain repair and maintenance projects that meet *Conservation Authorities Act* permitting requirements in order to support compliance with *Drainage Act* requirements. For example, specific drainage maintenance and repair that follows environmental mitigation measures recommended in the

DART Protocol are provided with a streamlined approval under section 28 of the *Conservation Authorities Act* where conservation authorities have adopted the Protocol.

Numerous stakeholders contributed to the development of the DART protocol including the Ministry of Natural Resources and Forestry, Conservation Ontario, conservation authorities, the Drainage Superintendents Association of Ontario, the Society of Professional Engineers Land Drainage Committee, Ontario Federation of Agriculture, Ontario Farm Environmental Coalition and the Rural Ontario Municipal Association.

2. Streamlining Approvals

Creating a new process for minor improvements

The *Drainage Act* establishes a process for resolving issues involving water flow and drainage. However, it doesn't enable a streamlined process for simple drain improvement projects that have minimal impact on the environment and other properties. This leads to a very lengthy and involved process that involves all assessed landowners, creating additional cost and burden, and can result in delaying or avoiding improvement activities.

OMAFRA is considering a new *Drainage Act* process for minor improvements so projects could be completed in a less costly and more efficient way. Examples of minor improvements could include: creating or widening a crossing, relocating a drain on an individual property or the addition of a feature with environmental benefits (e.g. buffer, water retention area). It would also allow for easier adoption of some green infrastructure technologies that have multiple benefits.

It is estimated that a streamlined minor improvement process could reduce the approval process by half; from 9 months to possibly 4-5 months. Less process and fewer meetings could result in an estimated 10 per cent savings a year for minor improvement project costs. The reduced process and costs would be especially important in facilitating environmental improvements to drains.

Moving the requirements into a new regulation would define minor improvement projects and describe a process to implement them in a streamlined way.

3. Simplifying Administrative Processes

Accounting for changes to drain design during construction

An engineer's report is prepared at the beginning of a drainage project to assess water drainage needs, affected landowners, system design and costs. It is common for drainage systems built under the *Drainage Act* to deviate from the design plans in the engineer's report because of unforeseen site conditions in the field. These changes are currently not identified in the engineer's report since there is no authority or defined process in the Act to follow to amend the report with new information. This can lead to a lack of clarity for municipal drainage superintendents who plan and implement maintenance and repair activity in accordance with the engineer's report.

OMAFRA is considering amendments to the *Drainage Act* to enable a simplified process to update the engineer's report to account for any changes made during construction. This would recognize and align with existing engineering practices.

It would also ensure the municipality has the authority to maintain the drain "as built" which would ensure that landowners are fairly assessed for the costs of maintaining and repairing the drain. By providing clarity to municipalities on the content of the engineer's report (accounting for changes made to the design during construction), cost savings could also be expected for municipalities while increasing certainty for landowners.

Summary

Changes to the *Drainage Act* are proposed that would, if passed, enable a streamlined process for drainage projects to meet the requirements of property owners, municipalities and a cross section of government agencies. Additional housekeeping amendments may be considered.

The ministry is seeking your feedback on potential amendments to the *Drainage Act* and related programs. Your feedback will be considered during the development of possible legislative amendments.

We are also committed to consulting further on more specific changes to be included in a regulatory proposal for minor drain improvements.

Questions for Consultation

- i. Beyond the DART Protocol, what additional protocols could be established to help streamline approvals?*
- ii. What projects should be included in the definition of minor improvements? What else would you like a minor process to achieve?*
- iii. Do you have any specific concerns with any of the items discussed in the paper?*
- iv. Do you have any additional suggestions to reduce burden or contribute to additional opportunities for your business?*

Email

OMAFRA: sara.peckford@ontario.ca

Address

Ontario Ministry of Agriculture, Food and Rural Affairs
Food Safety and Environmental Policy Branch
1 Stone Road West, 2nd Floor SW
Guelph, ON N1G 4Y2
c/o Sara Peckford



**The Corporation of the
City of Kawartha Lakes**
12 Peel Street P.O. Box 9000
Lindsay, ON K9V 5R8
Phone: 705-324-9411, Ext. 1167
Fax: 705-324-2982

Memorandum

Date: February 5, 2020
To: Drainage Board
From: Lucas Feitler, Drainage Superintendent – Engineering & Corporate Assets
Re: Subsequent connection to drainage works
Rich Municipal Drain
CC: Juan Rojas Director of Engineering and Corporate Assets
Mike Farquhar, Supervisor of Technical Services.

Recommendation:

Recommend that the memorandum from L. Feitler, Drainage Superintendent - Engineering and Corporate Assets, dated October 21, 2019, regarding the section 65(3) subsequent connection to drainage works be received;

That the Engineering and Corporate Assets Department initiates proceedings under the provisions of Section 65(3) of the *Drainage Act, R.S.O. 1990, c. D.17*;

That the City Clerk be instructed to advise an engineer in writing to inspect the land and assess it for a just proportion of the drainage works, taking into account any compensation paid to the owner of the land in respect of the drainage works as per section 65(3) of the *Drainage Act, R.S.O. 1990, c. D.17*; and

Background:

During the Fall, Craig McGill (MFDrainage) informed me that he intended to connect some unassessed lands to the Rich drain.

Over the Christmas holidays work was completed and connected into the rich drain. One 12 inch tile outlet was placed in the north roadside ditch of CressWell Road.

I was contacted by and spoke with Dick Rich when this work was completed. I explained that this additional land can be accounted for through the Section 65(3) process.

Alternatives:

1. Deny the connection and obstruct or remove tile outlet.
2. Do nothing
3. Petition for a branch/ new drain under Section 4 of the *Drainage Act, R.S.O. 1990, c. D.17*
4. Peition for an improvement to the drain under Section 78 of the *Drainage Act, R.S.O. 1990, c. D.17*

Recommendation for appointment of a Drainage Engineer:

Currently the City has a pool of Drainage Engineers which list in the following. Depending on availability the Engineer firm is to be:

Burnside Engineering
Tulloch Engineering
K-Smart Engineering
R. D. Dobbin Engineering
DM Wills Engineering

Attachments:

Location Map and Engineer's Drawing.



**The Corporation of the
City of Kawartha Lakes**
12 Peel Street P.O. Box 9000
Lindsay, ON K9V 5R8
Phone: 705-324-9411, Ext. 1167
Fax: 705-324-2982

Memorandum

Date: February 5, 2020
To: Drainage Board
From: Lucas Feitler, Drainage Superintendent – Engineering & Corporate Assets
Re: Error in original drainage report
Robertson Municipal Drain
CC: Juan Rojas Director of Engineering and Corporate Assets
Mike Farquhar, Supervisor of Technical Services.

Recommendation:

Recommend that the memorandum from L. Feitler, Drainage Superintendent - Engineering and Corporate Assets, dated October 21, 2019, regarding the section 65(3) error in original drainage report be received;

That the Engineering and Corporate Assets Department initiates proceedings under the provisions of Section 65(3) of the *Drainage Act, R.S.O. 1990, c. D.17*;

That the City Clerk be instructed to advise an engineer in writing to inspect the land and assess it for a just proportion of the drainage works, taking into account any compensation paid to the owner of the land in respect of the drainage works as per section 65(3) of the *Drainage Act, R.S.O. 1990, c. D.17*; and

Background:

During the review of the Robertson municipal drain assessment schedule, it has come to the attention of the engineering department that an error was made in the original report. The assessment schedule incorrectly overlooks the Cities' unopened road allowance and does not account for the natural land severance this creates. It incorrectly identifies this as one property when it should be two. The land is currently held by two separate owners, with no direction of assessment costs allocated between them.

There are current maintenance costs that must be assessed to land owners.

Alternatives:

1. Have the City of Kawartha Lakes pay all maintenance costs.

Recommendation for appointment of a Drainage Engineer:

Currently the City has a pool of Drainage Engineers which list in the following. Depending on availability the Engineer firm is to be:

Burnside Engineering
Tulloch Engineering
K-Smart Engineering
R. D. Dobbin Engineering
DM Wills Engineering

Attachments:

Location map and engineered drawing with assessment schedule.