



**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:** October 17, 2019  
**To:** Drainage Board  
**From:** Lucas Feitler, Drainage Superintendent – Engineering & Corporate Assets  
**Re:** Contravention of Drainage Act  
Anderson Municipal Drain  
**CC:** Juan Rojas Director of Engineering and Corporate Assets  
Mike Farquhar, Supervisor of Technical Services.

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### Recommendation:

**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.

## Background:

In the summer I was contacted by Ron Anderson regarding the Anderson Municipal Drain. He was concerned about water ponding in the ditch and vegetation that was growing downstream of the Anderson property. Mr. Anderson stated his intention was to install tile drainage this summer and wanted the water to get away quicker. Mr. Anderson stated he maintained his section of drain by cutting the vegetation before it became overgrown.

I inspected the site and completed a preliminary survey of the drain at the request of Mr. Anderson. The survey, as well as the visual inspection confirmed that the drain required a cleanout.

Mr. Anderson was concerned about the allocation of costs. He was concerned that his neighbour (Robert Kelly) would have to pay a portion of the cleanout at his request. It was explained by Mr. Anderson that Mr. Kelly is not an active farmer and the condition of the drain does not matter to him. I explained the provisions of the Drainage Act for maintenance, and that the current report and assessment schedules must be used. Mr. Anderson also had concerns about the total cost of cleanout. He was concerned about contractors charging a markup when dealing with the government. I explained our procurement policy and that it is competitive.

Mr. Anderson and I went through the current maintenance assessment schedule, using prices from current bids on other drains to get an estimated cost for the cleanout. We also discussed the possibility of receiving grants from OMAFRA.

Over the course of the summer I had several site visits with Mr. Anderson. I explained on several occasions the procedure to initiate maintenance through the Drainage Act.

Because of Mr. Anderson's concerns about his neighbours, our discussions concluded with me stating I would not initiate maintenance unless a request was submitted by Mr. Anderson. I explained that I had completed a full inspection of the drain and most likely won't be completing another one for some time. It was left with Mr. Anderson.

In September I saw Walker Wright Drainage on site tiling Mr. Anderson's property. I noticed they tiled outside the watershed, which contravenes Section 65 of the Drainage Act. I emailed Kevin Braiser on September 19<sup>th</sup>, 2019 (Walker Wright Drainage) to see if they had tiled into the Anderson drain or found an alternative outlet. I received no response so I completed an inspection.

Upon inspection I found:

- The tile extended outside the Anderson Drain watershed
- An additional open channel branch drain was excavated and connected to the Anderson Drain
- A clean out of the entire open section of drain had been completed.

At this time I wrote up the attached contravention letter and sent it to the City Solicitor for review. It was reviewed and sent to land owners on October 8<sup>th</sup>, 2019 via registered mail. The department of Fisheries and Oceans and Kawartha Conservation have been informed of this work via email.

A discussion was also had with Tim Brook, Drainage Coordinator for OMAFRA, regarding possible next steps for the drain.

### **Alternatives:**

1. Pursue an action for damages through the Drainage referee against Ron Anderson pursuant to Section 82 of the Drainage Act.
2. Pursue a new engineer report under Section 78 on the premise that the additional land brought into the watershed necessitates an improvement to the drain.
3. Pursue an appeal to the drainage referee pursuant to Section 106(1) for any other action the Drainage board determines of which the referee has original jurisdiction.

### **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:**

Contravention Letter