



Council Report

Report Number:	ENG2022-025
Meeting Date:	June 21, 2022
Title:	Court of Revision Amendments to Engineer's Reports for Hugh Davidson, MacEachern Brown and Martin Municipal Drains
Description:	Municipal Drains
Author and Title:	Richard Monaghan, Drainage Superintendent, Engineering and Corporate Assets

Recommendation(s):

That Report ENG2022-025, **Court of Revision Amendments to Engineer's Reports for Hugh Davidson, MacEachern Brown and Martin Municipal Drains**, be received;

That City Council proceed with the third and final reading and subsequent adoption of the provisionally adopted By-law 2022-050 for the Hugh Davidson Municipal Drain – Section 78 Improvement Report;

That City Council proceed with the third and final reading and subsequent adoption of the provisionally adopted By-law 2022-049 for the MacEachern Brown Municipal Drain Report; and

That City Council proceed with the third and final reading and subsequent adoption of the provisionally adopted By-law 2022-065 for the Martin Municipal Drain Report.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the February 22nd 2022 Council meeting the following resolution was adopted for the Hugh Davidson Municipal Drain Section 78 Improvement Report.

CR2022-043

That Report ENG2022-008, **Hugh Davidson Municipal Drain Improvement Consideration Report**, be received;

That Council adopt the Hugh Davidson Municipal Drain Section 78 Improvement Report (as prepared by M. Gerrits P. Eng.) and proceed with first and second reading of a by-law to provide for improvements to existing drainage works in the City of Kawartha Lakes known as the Hugh Davidson Municipal Drain; and

That Council instructs staff to make the necessary arrangements for a Court of Revision to be held on the Hugh Davidson Municipal Drain Section 78 Improvement.

Carried

At the March 22nd, 2022 Council meeting the following resolution was adopted for the MacEachern Brown Municipal Drain Report.

CR2022-092

That Report ENG2022-009, **MacEachern Brown Municipal Drain Consideration Report**, be received;

That Council adopt the MacEachern Brown Municipal Drain Engineer's Report (as prepared by Ken Smith and Mark Hoar of DM Wills Consulting) and proceed with first and second reading of a by-law to provide drainage works In the City of Kawartha Lakes known as the MacEachern Brown Municipal Drain; and

That Council instructs staff to make the necessary arrangements for a Court of Revision to be held on the Engineer's Report for the MacEachern Brown Municipal Drain.

Carried

At the April 19th, 2022 Council meeting the following resultion was adopted for the Martin Municipal Drain Engineer's Report.

CR2022-138

Moved By Councillor Ashmore

Seconded By Councillor O'Reilly

That Report ENG2022-016, **Martin Municipal Drain – Consideration of Engineer's Report**, be received;

That City Council adopt the Martin Municipal Drain Engineer's Report (as prepared by M. Gerrits P. Eng) and proceed with first and second reading of a by-law to provide drainage works In the City of Kawartha Lakes known as the Martin Municipal Drain; and

That City Council instructs staff to make the necessary arrangements for a Court of Revision to be held on the Engineer's Report for the Martin Municipal Drain.

Carried

After the adoption of the above Municipal Drain Engineer's Reports and provisional adoption of the corresponding By-laws, the Court of Revision was convened on May 12th, 2022 as required under Section 97 of the Drainage Act.

At this meeting the Court heard that no appeals had been received for the Martin Municipal Drain Report or the Hugh Davidson Municipal Drain – Section 78 Improvement Report. In the absence of any appeals, the following decisions were made by the Court of Revision.

COFR2022-002

Moved By Councillor Veale

Seconded By Councillor O'Reilly

That the assessments contained in the **Hugh Davidson Municipal Drain - Section 78 Improvement Report**, by Drainage Engineer M. Gerrits, and as provisionally adopted by By-law 2022-050, are hereby confirmed; and

That should no other appeals be heard within the prescribed timelines, that Council proceed with the third reading of By-law 2022-050 at the next possible City Council meeting.

Carried

COFR2022-003

Moved By Councillor O'Reilly

Seconded By Councillor Veale

That the assessments contained in the **Martin Municipal Drain Report**, by Drainage Engineer M. Gerrits, and as provisionally adopted by By-law 2022-065, are hereby confirmed;

That should no other appeals be heard within the prescribed timelines, that Council proceed with the third reading of By-law 2022-065 at the next possible City Council meeting.

Carried

The Court of Revision received two appeals for the MacEachern Brown Municipal Drain Report. The Engineer's of Record Ken Smith and Mark Hoar of DM Wills were in attendance to respond to the appeals.

The first appeal was filed by Carson and Margaret Thorn. They were not in attendance for the Court of Revision and in the absence of any compelling evidence to support the appeal, after deliberation the following decision was made by the Court of Revision.

COFR2022-004

Moved By Councillor O'Reilly

Seconded By Councillor Veale

That we the Court of Revision for the MacEachern Brown Municipal Drain make the following decision with respect to the appeal filed by Carson and Margaret Thorn:

- That the appeal of Carson and Margaret Thorn be dismissed as the outlet and benefit liability assessments are consistent with other lands in the watershed; and
- That the owners failed to show justification for changes to their assessment.

Carried

The second appeal was filed by Paul Lokoff. Mr Lokoff was in attendance and was given an opportunity to expand and provide further insight into his appeal. The Engineer of Record, Ken Smith responded to the appeal and provided rationale for the assessment to Mr Lokoffs property. Following deliberation by the Court of Revision, the following decision was made.

COFR2022-005

Moved By Councillor Veale

Seconded By Councillor O'Reilly

That we the Court of Revision for the MacEachern Brown Municipal Drain make the following decision with respect to the appeal filed by Paul Lokoff:

- That the appeal of Paul Lokoff be dismissed as the outlet and benefit liability assessments are consistent with other lands in the watershed; and
- That the owner failed to show justification for changes to their assessment.

Carried

At the conclusion of both appeals being heard and decisions rendered for each, the Court of Revision made the following decision regarding the MacEachern Brown Municipal Drain Report.

COFR2022-006

Moved By Councillor O'Reilly

Seconded By Councillor Veale

That the assessments contained in the **MacEachern Brown Municipal Drain Report**, by Drainage Engineers M. Hoar and K. Smith, and as provisionally adopted by By-law 2022-049, are hereby confirmed; and

That should no other appeals be heard within the prescribed timelines, that Council proceed with the third reading of By-law 2022-049 at the next possible City Council meeting.

Carried

This report addresses the above 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 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 the decisions of the Court of Revision are not adopted by Council, any petitioner may appeal to the Tribunal or, where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Tribunal. In light of the Court of Revision's position, it is recommended that Council proceed with the recommendations of this report.

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 businesses
- Offer business development programs to support the agricultural, tourism, cultural, manufacturing and innovation sectors

Financial/Operation Impacts:

Engineer's Reports prepared under the Drainage Act have costs assessed to affected landowners as outlined within the assessment schedule in the report.

Consultations:

City Clerk's Office

Attachments:

Appendix A – Minutes of the May 12, 2022 Court of Revision Meeting



Appendix A –
Minutes of the May

Department Head email: irojas@kawarthalakes.ca

Department Head: Juan Rojas