

Report to/Rapport au :

Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales

and Council / et au Conseil

June 25, 2012
Le 25 juin 2012

Submitted by/Soumis par :
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OSGOODE (20)

Ref N°: ACS2012-COS-ESD-0016

SUBJECT: PETITION FOR DRAINAGE WORKS – 1566 AND 1600 STAGECOACH
ROAD

OBJET : PÉTITION POUR LES TRAVAUX DE DRAINAGE – 1566 ET 1600 RUE
STAGECOACH

REPORT RECOMMENDATION

That the Agriculture and Rural Affairs Committee recommend that Council consider the attached report pertaining to a petition for drainage works under Section 4 of the *Drainage Act* and appoint John van Gaal, P. Eng. of Stantec Consulting Ltd. as the Engineer of record to prepare a report in accordance with Section 8(1) of the *Drainage Act* and as outlined in this report.

RECOMMANDATION DU RAPPORT

Que le Comité de l'agriculture et des questions rurales recommande au Conseil en vue d'examiner le rapport ci-joint et la pétition et entreprenne les travaux de drainage en désignant John van Gaal, ing. de Stantec Ltée comme étant l'ingénieur visé qui préparera un rapport en vertu de la section 8(1) de la *Loi sur le drainage* et comme indiqué dans le présent rapport.

BACKGROUND

The City of Ottawa is in receipt of a petition for new drainage works under Section 4 of the *Drainage Act* from a landowner at 1566 and 1600 Stagecoach Road, in Osgoode Ward.

A petition for the drainage of an area, by means of a drainage works, may be filed with the Clerk of the local municipality in which the area is situated by the following parties:

- (a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;
- (b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectareage in the area;
- (c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part, despite subsection 61 (5);
- (d) where a drainage works is required for the drainage of lands used for agricultural purposes, the Director. R.S.O. 1990, c. D.17, s. 4 (1).

Under Section 5(1) of the *Drainage Act*, Council must consider the petition and choose from one of three options:

1. accept the petition and proceed with the drainage works by appointing an Engineer under Section 8 of the *Drainage Act*, to prepare a report; or,
2. appoint an Engineer to prepare a preliminary report to determine an approximate cost estimate of the drainage works, in accordance with Section 10 of the *Drainage Act*; or,
3. reject the petition and not proceed with the drainage works.

While the validity of the petition will ultimately be determined by the Council-appointed Engineer, it is the opinion of the Drainage Superintendent that there are sufficient signatures on the petition to satisfy conditions (a) and (b), above, should Council decide to proceed as recommended.

In any case, written notice of Council's decision must be provided to each petitioner and the local conservation authority, who may appeal the decision of Council to the Ontario Drainage Tribunal. The tribunal may direct the municipality in such respects as the Tribunal considers proper.

Two existing ditches running southwest from 1566 and 1600 Stagecoach Road to the Grey's Creek Municipal Drain have historically provided outlet for local surface water. With the proposed development on the site, there will be a requirement for outlet downstream requiring the landowner to seek permanent legal and sufficient outlet for excess surface water through the *Drainage Act*.

DISCUSSION

The *Drainage Act* prescribes the process and timelines that must be followed for a petition filed with the City Clerk and Solicitor under Section 4 of the *Drainage Act*, and

any subsequent construction of, or modification to, a municipal drain. (The “⇒” below indicates the current step in the process for this petition.) In brief, the process includes:

- ⇒ Consideration of the Petition by Council; and the appointment of an Engineer to prepare a report under Subsection 8(1) or a preliminary report under Subsection 10(1);
 - Conduct an On-site Meeting with affected landowners to review their drainage requirements;
 - Conduct a Meeting to Consider under Sections 41 and 42 of the *Drainage Act* – The meeting of the Agriculture and Rural Affairs Committee to consider the engineer’s report (or preliminary report) and decide whether or not to adopt the engineer’s report. At the meeting to consider Council shall provide an opportunity for (i) each person who signed the petition to withdraw his/her name from the petition, and (ii) any person who owns land in the area requiring drainage to add his/her name to the petition. If at the end of the meeting the petition does not contain a sufficient number of names to comply with Section 4 of the *Drainage Act*, the original petitioner is liable to the City for all costs incurred by the City in connection with the preparation of the engineer’s report (or the preliminary report). If the petition contains a sufficient number of names then Council may adopt the report (*or*, if a preliminary report is adopted, instruct the engineer to proceed with the preparation of a full report under Subsection 8(1) of the *Drainage Act*).
 - Council consideration of the of the Committee recommendation to either adopt or to not adopt the engineer’s report (or preliminary report);

This report places the petition before the Agriculture and Rural Affairs Committee and Council pursuant to Subsection 5(1) of the *Drainage Act* for consideration and decision as to whether or not to appoint an engineer to prepare either a report under Subsection 8(1) or a preliminary report under Subsection 10(1) of the *Drainage Act*.

Process and Timelines

Should Agriculture and Rural Affairs Committee (ARAC) recommend and Council approve to proceed with the drainage works pursuant to Subsection 5(1) of the *Drainage Act*, and appoint an engineer to prepare a report under Subsection 8(1) of the *Drainage Act*, the estimated schedule will be as follows:

- Council approval and appointment of Engineer – July 2012
- Preparation of engineer’s report and consultation with regulatory agencies – July 2012 to January 2013
- Any environmental appraisal requested by a local municipality, conservation authority or the Minister of Natural Resources under Subsection 6(1) of the *Drainage Act*, fish habitat studies required to satisfy federal *Fisheries Act* requirements, and wetland impact assessments to meet conservation authority requirements - September to November 2012
- Review of draft Engineer’s Report by conservation authority and Department of Fisheries and Oceans (DFO) – January to February 2013

- Submission of final engineer's report, preparation of Provisional By-law and notification period – March 2013

Should ARAC and Council subsequently consider and adopt the engineer's report under Sections 41 and 42 of the *Drainage Act*, the following conceptual schedule, subject to various regulatory approvals and appeals processes, will be as follows, :

- Consideration of engineer's report by Committee and Council and 1st and 2nd reading of the provisional By-law – April 2013
- Court of Revision at ARAC – May/June 2013
- Subject to the filing of any appeals to the Court of Revision and appeals of the Court of Revision decision to the Drainage Tribunal, 3rd and final reading of the By-law – June/July 2013
- Construction of drainage works, if approved – Summer/Fall 2013

RURAL IMPLICATIONS

The drainage works will provide legal and sufficient outlet for area requiring drainage as well as surrounding rural roads and lands.

CONSULTATION

Pursuant to the *Drainage Act*, the South Nation Conservation Authority will be notified of the decision of Council and may request that an Environmental Appraisal of the effects of the drainage works be conducted. Under Section 6(1) of the *Drainage Act*, the cost of the environmental appraisal shall be paid by the party requesting the study. Discussions have been held with the petitioner and the local Councillor.

COMMENTS BY THE WARD COUNCILLOR(S)

The Councillor for Ward 20 is aware of this report and the proposed drainage works.

LEGAL IMPLICATIONS

There are no legal impediments to the implementation of the recommendation in this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with this report.

FINANCIAL IMPLICATIONS

This report has no tax or budget implications. All costs associated with this undertaking will be paid for from Internal Order 906194 Municipal Drain Improvements and subsequently recovered through assessments to the benefiting landowners pursuant to

the *Drainage Act* and according to the Report of the Engineer and associated By-law. Funds in this account are available in the 2012 Approved Capital budget.

ACCESSIBILITY IMPACTS

There is no accessibility impact associated with this report.

ENVIRONMENTAL IMPLICATIONS

Under the *Drainage Act*, should Council ultimately decide to proceed with the drainage works and upon receipt of a notice from the initiating municipality under subsection 5 (1), a local municipality, conservation authority, or the Minister of Natural Resources, as the case may be, may send to the Council of the initiating municipality within thirty days a notice that an environmental appraisal of the effects of the drainage works on the area is required, and the cost thereof shall be paid by the party who requested it. The Council of the initiating municipality may obtain an environmental appraisal on its own initiative, the cost of which shall be paid by the municipality from its general funds.

TECHNOLOGY IMPLICATIONS

There are no direct technical implications associated with this report.

TERM OF COUNCIL PRIORITIES

The proposed drainage work to 1566 and 1600 Stagecoach Road will fulfill the Environmental Stewardship Priority ES1 – Improve stormwater management.

SUPPORTING DOCUMENTATION

DOCUMENT 1 – Location Plan

DISPOSITION

The City's Drainage Superintendent of the Surface Water Management Branch, Environmental Services Department, shall notify all petitioners and the local conservation authority of the decision of Council.

