

**3. CRANBERRY CREEK MUNICIPAL DRAIN – APPOINTMENT OF ENGINEER
DRAINAGE MUNICIPAL DU RUISSEAU CRANBERRY– NOMINATION D'UN
INGÉNIEUR**

COMMITTEE RECOMMENDATION

That Council appoint Mr. Andy Robinson, P. Eng of Robinson Consultants Inc. as the Engineer of record to prepare a report under Section 76(1) of the Drainage Act to revise the assessment schedule of the Cranberry Creek Municipal Drain Engineer's Report (1969) prepared by Graham, Berman and Associates Ltd. in response to the decision of the Agriculture, Food and Rural Affairs Appeal Tribunal regarding Cranberry Creek Municipal Drain dated 30 June 2020.

RECOMMANDATION DU COMITÉ

Que le Conseil nomme M. Andy Robinson, ing., de la firme Robinson Consultants Inc., comme ingénieur chargé de rédiger un rapport aux termes du paragraphe 76(1) de la Loi sur le drainage, pour qu'il révise l'annexe d'évaluation accompagnant le rapport d'ingénieur sur le drain municipal du ruisseau Cranberry (1969) préparé par Graham, Berman and Associates Ltd., en réponse à la décision rendue le 30 juin 2020 par le Tribunal d'appel de l'agriculture, de l'alimentation et des affaires rurales au sujet de ce drain municipal.

Documentation/Documentation

1. Director's report, Parks, Forestry & Stormwater Services, dated July 5, 2021 (ACS2021-PWE-PFS-0003)

Rapport de la Directrice, Services des parcs, de la foresterie et des eaux pluviales, daté le 5 juillet 2021 (ACS2021-PWE-PFS-0003)

2. Extract of draft Minutes, Agriculture and Rural Affairs Committee, September 2, 2021

Extrait de l'ébauche du procès-verbal, Comité de l'agriculture et des affaires rurales, le 2 septembre 2021

**AGRICULTURE AND RURAL
AFFAIRS COMMITTEE
REPORT 24
SEPTEMBER 8, 2021**

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**COMITÉ DE L'AGRICULTURE ET
DES AFFAIRES RURALES
RAPPORT 24
LE 8 SEPTEMBRE 2021**

**Report to
Rapport au:**

**Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales
2 September 2021 / 2 septembre 2021**

**and Council
et au Conseil
8 September 2021 / 8 septembre 2021**

**Submitted on July 5, 2021
Soumis le 5 juillet 2021**

**Submitted by
Soumis par:
Allyson Downs, Director, Parks, Forestry & Stormwater Services / Directrice,
Services des parcs, de la foresterie et des eaux pluviales**

**Contact Person
Personne ressource:
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Ward: RIDEAU-GOULBOURN (21)

File Number: ACS2021-PWE-PFS-0003

SUBJECT: Cranberry Creek Municipal Drain – Appointment of Engineer

**OBJET: Drainage municipal du ruisseau Cranberry– Nomination d'un
ingénieur**

REPORT RECOMMENDATIONS

**That the Agriculture and Rural Affairs Committee recommend that Council
appoint Mr. Andy Robinson, P. Eng of Robinson Consultants Inc. as the Engineer**

of record to prepare a report under Section 76(1) of the Drainage Act to revise the assessment schedule of the Cranberry Creek Municipal Drain Engineer's Report (1969) prepared by Graham, Berman and Associates Ltd. in response to the decision of the Agriculture, Food and Rural Affairs Appeal Tribunal regarding Cranberry Creek Municipal Drain dated 30 June 2020.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil de nommer M. Andy Robinson, ing., de la firme Robinson Consultants Inc., comme ingénieur chargé de rédiger un rapport aux termes du paragraphe 76(1) de la Loi sur le drainage, pour qu'il révise l'annexe d'évaluation accompagnant le rapport d'ingénieur sur le drain municipal du ruisseau Cranberry (1969) préparé par Graham, Berman and Associates Ltd., en réponse à la décision rendue le 30 juin 2020 par le Tribunal d'appel de l'agriculture, de l'alimentation et des affaires rurales au sujet de ce drain municipal.

BACKGROUND

The decision of the Agriculture, Food and Rural Affairs Appeal Tribunal, dated June 30, 2020, ordered that the provisionally adopted Engineer's Report entitled Engineer's Report Cranberry Creek Municipal Drain, Modifications, Improvements and Maintenance, prepared by Robinson Consultants Inc., dated December 20, 2017, be set aside.

Given this decision, maintenance and/or repair of the Cranberry Creek Municipal Drain is governed by the drainage works as set out in the Engineer's Report entitled Engineer's Report for Cranberry Creek Municipal Drain prepared by Graham, Berman, and Associates Ltd., dated March 24, 1969 and revised September 5, 1969.

In response to a request for maintenance and/or repair of the Cranberry Creek Municipal Drain, the Drainage Superintendent recommends that Council proceed and appoint an engineer to prepare a report under Section 76(1) of the Drainage Act R.S.O. 1990, c. D.17 to revise the assessment schedule to account for the varying original assessments.

DISCUSSION

The Cranberry Creek Municipal Drain is located in Rideau-Goulbourn Ward west of the Rideau River and south of North Gower and was first constructed in 1895 by the former Townships of North Gower and Marlborough (former Rideau Township). The Engineer's Report was updated in 1953, 1969, 1971 and 1973 to address improvements to the drainage works, new branches, and associated watersheds.

The 1969 Engineer's Report by Graham, Berman and Associates Ltd. provided for a dyke and pump system to improve the outlet to the Rideau River. The effectiveness of the dyke and pump system was limited and sometime over the course of the following twenty years the dyke and pump system fell into disrepair. As a result, the former Township of Rideau appointed, under Section 78 of the Drainage Act, A.J. Robinson Inc. to prepare an updated Engineer's Report for the drainage works towards re-instating the system. This 1991 report was presented to the landowners in the watershed but did not proceed due to the higher than anticipated estimated cost.

On September 10, 2014 the Council of the City of Ottawa appointed Andy Robinson, P.Eng. of Robinson Consultants Inc., as the Engineer of record to prepare a report under Section 78 of the *Drainage Act* to address the concerns of the owners of lands, assessed in the existing Engineer's Report (1969) for the Cranberry Creek Municipal Drain, about an increase in flooding events along the Cranberry Creek Municipal Drain. The Engineer's Report entitled Engineer's Report Cranberry Creek Municipal Drain Modifications, Improvements and Maintenance prepared by Robinson Consultants Inc., dated December 2017, was presented to and provisionally adopted by the Council of the City of Ottawa. The Engineer's Report was subsequently appealed by select landowners to the Agriculture, Food and Rural Affairs Appeal Tribunal.

The Clerk of the City of Ottawa received a decision from the Agriculture, Food and Rural Affairs Appeal Tribunal, dated June 30, 2020, in response to the appeals submitted by select landowners. This decision, in part, set aside the Engineer's Report entitled Engineer's Report Cranberry Creek Municipal Drain Modifications, Improvements and Maintenance prepared by Robinson Consultants Inc., dated December 2017.

Given the decision of the Agriculture, Food and Rural Affairs Appeal Tribunal, the City of Ottawa is not able to appropriately assess costs associated with maintenance and/or repair of the Cranberry Creek Municipal Drain using the existing assessment schedule(s) enclosed in the Engineer's Report entitled Cranberry Creek Municipal Drain, prepared by Graham, Berman, and Associates Ltd., dated 1969, given the inaccurate representation of the watershed boundary and various changes in land use throughout. As such, maintenance and/or repair cannot be conducted until the assessment schedule(s) of the Cranberry Creek Municipal Drain have been revised accordingly. The preparation and adoption of an Engineer's Report under section 76(1) of the *Drainage Act* would allow the City of Ottawa to maintain and/or repair the Cranberry Creek Municipal Drain to the design specifications as set out in the Engineer's Report dated 1969. This would also allow the work completed to be assessed appropriately to the landowners within the watershed under the authority of the newly prepared schedules and the associated by-law.

The limitations of an Engineer's Report prepared under Section 76(1) of the *Drainage Act* include the ineligibility for landowner grants under the Agricultural Drainage Infrastructure Program. Engineer's Reports prepared under this section of the Act do not allow for any improvements to the physical condition of the drain, work can only be undertaken using the specifications outlined in the 1969 Engineer's Report.

Staff are recommending the appointment of Andy Robinson, P.Eng. of Robinson Consultants Inc., as the engineer of record as he has over 40 years experience with similar *Drainage Act* projects, a specialized field of engineering in Ontario. Work previously completed by Mr. Robinson on this specific project will provide helpful background information for the preparation of this report and allow for significant cost savings.

If adopted under by-law, this report has no tax or budget implications. All costs associated with the Engineer's Report will be initially paid by the City but, recovered from the landowners within the watershed in proportions as determined by the Drainage Engineer upon completion of the Section 76 report, pursuant to the *Act*. The estimated initial cost to prepare the report is \$16,000. Funding is available in the 2021 approved capital budget for the Municipal Drains Program for the cost of the engineer's report.

The *Drainage Act* prescribes the process and timelines to be followed for any variations in assessments within the Engineer's Report of an existing Petition Drain.

This report places the request for an Engineer's Report to vary the assessment for maintenance and/or repair of the drainage works before the Agriculture and Rural Affairs Committee and Council as required under Section 76(1) of the *Drainage Act*.

RURAL IMPLICATIONS

A report prepared under Section 76(1) of the Drainage Act will allow the City of Ottawa to conduct maintenance and/or repair activities of the existing Cranberry Creek Municipal Drain to allow for the designed level of service for drainage as outlined in the Engineer's Report prepared in 1969.

CONSULTATION

Consultation with the Ward Councillor and City staff is ongoing.

COMMENTS BY THE WARD COUNCILLOR(S)

The Councillor is aware of this report.

LEGAL IMPLICATIONS

There are no legal impediments to Committee and Council's approval of the recommendation of this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with this report.

FINANCIAL IMPLICATIONS

This report has no tax or budget implications. The estimated initial cost of \$16,000 for the Engineer's Report will be initially paid by the City of Ottawa, Parks, Forestry and Stormwater Services of the Public Works and Environmental Services Department and recovered, as per the assessment schedule included in the final Engineer's Report. Funds are available in the 2021 approved Capital Budget - Municipal Drainage Program.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

The preparation of a revised assessment schedule(s) under Section 76 of the *Drainage Act* does not have any environmental implications.

TERM OF COUNCIL PRIORITIES

The recommendations of this report align with the current Strategic Priority as part of the sustainable environmental services strategic priority by supporting an environmentally sustainable Ottawa.

SUPPORTING DOCUMENTATION

DOCUMENT 1 – Location Plan

DISPOSITION

Once approved by Council, a separate new internal order will be created for this specific drain and all necessary funding will be transferred accordingly.

Document 1

