

<p>7. TOMPKINS DIVERSION MUNICIPAL DRAIN – APPOINTMENT OF ENGINEER</p> <p>DRAIN MUNICIPAL TOMPKINS DIVERSION – NOMINATION D'UN</p> <p>INGÉNIEUR</p>
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COMMITTEE RECOMMENDATION

That Council appoint Mr. Adam O'Connor, P. Eng of McIntosh Perry Consulting Engineers Ltd. as the engineer of record to prepare a report under Subsection 78 (1) of the *Drainage Act* to inform Council on the current status of the Tompkins Diversion Municipal Drain and whether one or more of the projects listed under subsection 78 (1.1) is required for the better use, maintenance or repair of the drainage works or lands or roads.

RECOMMANDATION DU COMITÉ

Que le Conseil nomme M. Adam O'Connor, ingénieur chez McIntosh Perry Consulting Engineers Ltd., comme ingénieur chargé de rédiger un rapport aux termes du paragraphe 78 (1) de la *Loi sur le drainage*, afin d'informer le Conseil sur l'état de l'installation municipale de drainage Tompkins Diversion et de lui indiquer si un ou plusieurs des projets énumérés à l'alinéa (1.1) sont nécessaires pour améliorer l'utilisation, l'entretien ou la réparation des installations de drainage ou encore des terrains ou des routes.

DOCUMENTATION / DOCUMENTATION

Director, Parks, Forestry & Stormwater Services, report dated 25 April 2017
(ACS2017-PWS-GEN-0023)

Rapport du Directrice, Services des parcs, de la foresterie et des eaux pluviales
daté le 25 avril 2017 (ACS2017-PWS-GEN-0023).

**AGRICULTURE AND RURAL
AFFAIRS COMMITTEE
REPORT 26
12 JULY 2017**

76

**COMITÉ DE L'AGRICULTURE ET
DES AFFAIRES RURALES
RAPPORT 26
LE 12 JUILLET 2017**

**Report to
Rapport au:**

**Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales
6 July 2017 / 6 juillet 2017**

**and Council
et au Conseil
12 July 2017 / 12 juillet 2017**

**Submitted on April 25, 2017
Soumis le 25 avril 2017**

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

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Ward: OSGOOD (20)

File Number: ACS2017-PWS-GEN-0023

SUBJECT: Tompkins Diversion Municipal Drain – Appointment of Engineer

OBJET: Drain municipal Tompkins Diversion – Nomination d'un ingénieur

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend Council appoint Mr. Adam O'Connor, P. Eng of McIntosh Perry Consulting Engineers Ltd. as the engineer of record to prepare a report under Subsection 78 (1) of the *Drainage Act* to inform Council on the current status of the Tompkins Diversion Municipal Drain and whether one or more of the projects listed under subsection 78 (1.1) is required for the better use, maintenance or repair of the drainage works or lands or roads.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil de nommer M. Adam O'Connor, ingénieur chez McIntosh Perry Consulting Engineers Ltd., comme ingénieur chargé de rédiger un rapport aux termes du paragraphe 78 (1) de la *Loi sur le drainage*, afin d'informer le Conseil sur l'état de l'installation municipale de drainage Tompkins Diversion et de lui indiquer si un ou plusieurs des projets énumérés à l'alinéa (1.1) sont nécessaires pour améliorer l'utilisation, l'entretien ou la réparation des installations de drainage ou encore des terrains ou des routes.

BACKGROUND

The Clerk of the City of Ottawa has received a request from a developer to connect additional land to the Tompkins Diversion Municipal Drain pursuant to Section 78 of the *Drainage Act*. A portion of the land known as 1175 Manotick Station Road (the "Unassessed Land") is currently unassessed under the current Tompkins Diversion Municipal Drain engineer's report dated October 2005 and By-law No.2006-168.

The Tompkins Diversion Municipal Drain is located in Osgoode Ward in the village of Manotick Station and was first constructed in 1988 by the former Township of Osgoode. This report was updated by Stantec Consulting Ltd. under the engineer's report entitled Engineer's Report for the Tompkins Diversion to Greys Creek Municipal Drain, dated October 2005.

DISCUSSION

The Drainage Superintendent is recommending that Council appoint a qualified drainage engineer to address proposed modifications to the Tompkins Diversion to Grey's Creek Municipal Drain.

The Drainage Superintendent is recommending the appointment of Adam O'Connor, P.Eng. of McIntosh Perry Consulting Engineers Inc., as the engineer of record as he has experience with similar *Drainage Act* projects, a specialized field of engineering in Ontario.

This report has no tax or budget implications. All costs associated with the engineer's report will be initially paid by the Parks, Forestry and Stormwater Services Branch of the City but eventually recovered from the owners of land as determined by the engineer's report that will include an updated assessment for each parcel of land within the existing watershed of the Tompkins Diversion Municipal Drain for a proportion of the costs of any drainage works projects that the drainage engineer determines is required under subsection 78 (1.1).

Under the *Drainage Act*, all lands that will benefit from the drainage works are assigned an assessment by the engineer. "Benefit" is defined under the *Drainage Act* as the advantages to any lands from the construction, improvement, repair or maintenance of a drainage works such as will result in a higher market value or increased crop production or improved appearance or better control of surface or subsurface water, or any other advantages relating to the betterment of the lands.

As such, the lands that benefit the most from improved drainage as a result of a Subsection 78 (1.1) project will be assessed a greater proportion of the costs of the project.

The estimated initial engineering cost of the report is \$75,000. Until the costs are recovered from the owners of the assessed lands, all costs associated with the preparation of the engineer's report, including all *Fisheries Act* studies, engineering, administration, implementation and regulatory documentation required to complete any

improvements recommended by the engineer and approved by Council, will be paid from the 2017 Approved Rate Supported Capital Budget, Municipal Drains Program.

The developer of the land will be required to provide environmental studies, reports and regulatory requirements of relevant agencies (i.e. Conservation Authorities, Ministry of Natural Resources, and Department of Fisheries and Oceans) through the development process.

The *Drainage Act* prescribes the process and timelines that must be followed for any modification or construction of a municipal drain.

Schedule for the proposed connection to the Tompkins Diversion Municipal Drain

Should the Agricultural and Rural Affairs Committee and Council approve the appointment of the Engineer, Mr. Adam O'Connor, P.Eng., of McIntosh Perry Consulting Engineers Ltd., the anticipated schedule will be as follows:

- Council appointment of Engineer to prepare a report for Council's consideration of the proposed connection drainage works – July 2017
- Preparation of engineer's report – July 2017 to December 2017
- Submission of engineer's report and staff report containing staff's recommendation to Council on whether to approve the connection based on the implications set out in the engineer's report – December 2017
- Consideration of report and Council decision under 78 based on implications and evaluation in the engineer's report and staff's recommendation to Council – January 2018

RURAL IMPLICATIONS

The proposed rural subdivision will benefit from this undertaking through the provision of legal and sufficient outlet, improved drainage and reduced risk of flooding.

CONSULTATION

Consultation with the Ward Councillor, and City staff is ongoing.

LEGAL IMPLICATIONS

For the reasons set out below, there are no legal impediments to the implementation of the recommendation in this report.

The City has a legislated duty to maintain and repair all *Drainage Act* works at the expense of all the upstream lands and roads assessed for the construction or improvement of the drainage works in the proportion determined by the most current *Drainage Act* by-law until such time as the maintenance and repair assessment schedules under the most recent engineer's report are varied by an engineer appointed under the *Drainage Act*, in which case the drainage works will be maintained in the proportion determined by the updated assessment schedules under the most recent engineer's report (*Drainage Act*, Section 74).

As such, if an engineer appointed under Subsection 78(1) reports that one or more of the drainage works projects listed in Subsection 78 (1.1) is required to address deficiencies in an existing drainage works, the most recent drainage engineer's report will need to be updated and revised assessment schedules produced for the maintenance and repair of the existing drainage works (*Drainage Act*, Subsections 78(2) and (3)).

Unless a local municipality, conservation authority or the Minister of Natural Resources specifically requests an environmental appraisal under Subsection 6(1) of the *Drainage Act*, all *Fisheries Act* studies, engineering, administration, implementation and regulatory documentation required to complete any improvements recommended by the engineer and approved by Council, are fees and expenditures of the engineer that form part of the cost of the drainage works costs under Section 70 of the *Drainage Act*.

The City may be liable for any damages incurred by an owner or owners of land affected by the condition of drainage works that are the subject of a *Drainage Act* engineer's report if the City fails to perform the duties conferred or imposed upon it by the *Drainage Act* as to maintenance and repair of the existing drainage works (*Drainage Act*, Section 79).

RISK MANAGEMENT IMPLICATIONS

There are no risk implications associated with this report.

FINANCIAL IMPLICATIONS

This report has no tax or budget implications. The estimated costs of \$75,000 for the engineer's report will be initially paid by the City of Ottawa, Parks, Forestry and Stormwater Services Branch, Public Works and Environment Services Department, and recovered from the owner of 1175 Manotick Station Road. Funds are available in the approved Municipal Drainage capital program. Once approved by Council, a separate new internal order will be created for this specific drain and all necessary funding will be transferred accordingly.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

The modifications to the Tompkins Diversion Municipal Drain is associated with final approval of the subdivision. Any proposed works will require compliance with City, provincial and federal policies, standards, regulations and legislation.

TERM OF COUNCIL PRIORITIES

The proposed works to the Tompkins Diversion Municipal Drain will fulfill the City's Strategic Plan's environment and infrastructure protection priorities.

SUPPORTING DOCUMENTATION

DOCUMENT 1 – Tompkins Diversion Municipal Drain, Location Plan

DISPOSITION

The Drainage Superintendent shall notify all affected landowners and the local conservation authority of the decision of Council. If this report is approved by Council, a separate new internal order will be created for this specific drain and all necessary funding will be transferred to it from within the Municipal Drains Program.

Document 1

Tompkins Diversion Municipal Drain, Location plan

