



CITY OF HAMILTON
Public Works Department
Operations Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	May 30, 2016
SUBJECT/REPORT NO:	By-Law Drainage Superintendent (PW16042) - (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Brian Hughes 905-546-2424, Extension 7875
SUBMITTED BY:	Betty Matthews-Malone, P.Eng. Director, Operations Division Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That By-law 13-021, being a By-Law to appoint a Drainage Superintendent for the City, dated January 23, 2013 be repealed;
- (b) That a By-law appointing Ryan Moore as the Drainage Superintendent for the City of Hamilton, in the form outlined in Appendix A to Report PW16042 be passed and enacted.

EXECUTIVE SUMMARY

The City of Hamilton is responsible for Municipal Drains as defined by The *Drainage Act*. In order to fund, inspect, maintain and receive grant monies from the Province, the City is responsible for the appointment and assignment of a Drainage Superintendent.

The previous Drainage Superintendent for The City was Wayne Song. Mr. Song left the City in 2015. Ryan Moore, Project Manager in the Operations Division, has successfully completed the required training provided by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and is qualified to serve as the City's Drainage Superintendent. The necessary appointing By-law is attached as Appendix A.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial:

The demand for new or maintenance of existing municipal drains varies from year to year. The appointment of an approved Drainage Superintendent will enable the City to obtain as much as 33 1/3% of the assessment eligible for grants on maintenance and repair works carried out under the *Drainage Act*. In addition it is possible for the City to apply for a grant from the Ministry for 50% of the costs incurred in the employment of a Drainage Superintendent, but only for the performance of duties and responsibilities of

the Drainage Superintendent. Grant monies from the Ministry, are only available to those municipalities who have appointed, by By-law, a Drainage Superintendent and who has also been approved by OMAFRA.

Staffing:

As a requirement of the position of the Project Manager, dealing with storm water management, the incumbent must have or be able to obtain OMAFRA Drainage Superintendent Certification and act, at the will of Council, as the Drainage Superintendent for the City of Hamilton.

Ryan Moore is the current Project Manager in the Drainage portfolio and has successfully completed the required provincial training through the Ontario Ministry of Agriculture, Food and Rural Affairs establishing his qualifications to serve as the City's Drainage Superintendent. An appointment by By-law, as the City's Drainage Superintendent is a prerequisite to his registration with the Ministry as the City's Drainage Superintendent.

Legal:

Drainage Act

Common law does not provide a means for drainage outlet except for riparian landowners (one whose land is in actual contact with a watercourse). The *Drainage Act* was introduced to provide non-riparian landowners, with a method of obtaining outlet drainage. The *Drainage Act* provides a procedure or mechanism whereby landowners can overcome the obstacles of the common law and obtain solutions to their drainage problems.

The Drainage Superintendent has a responsibility to provide the information about the *Drainage Act*, the procedures involved, and then follow up with the necessary maintenance programs on behalf of all the owners on the drain. The *Drainage Act* is a Provincial statute that gives the authority to the municipality to carry out procedures of the Act. Councils act as the "facilitator" in carrying out the procedures while the role of the Drainage Superintendent is to initiate, supervise and assist in the maintenance, repair, construction and/or improvement of drains created under the Act.

Perpetual Care Obligations

Any drain constructed under a By-law passed under the *Drainage Act* is the responsibility of the municipality to maintain and repair. Section 94 of the *Drainage Act* requires the Drainage Superintendent to inspect every drainage works for which the municipality is responsible. The Drainage Superintendent is obliged to report periodically to Council on the condition of the drain.

Drainage Superintendent Limits of Responsibility

Once appointed to the role of Drainage Superintendent the incumbent's responsibilities will remain the same within the department. His authority beyond the road allowance and other city owned land remains the same unless he is involved with the investigation of an existing or potential municipal drain. The latter of which is only initiated when the Drainage Superintendent has been invited by a landowner to inspect or discuss the *Drainage Act* or any remedial action.

The Drainage Superintendent has no authority to intercede with civil drainage matters other than to offer advice and give witness if legal action is undertaken by one of the parties.

HISTORICAL BACKGROUND

Municipal Drains

The *Drainage Act* of Ontario contains several mechanisms whereby landowners may make drainage improvements to their lands undertaken and the costs shared among the benefiting landowners. The drains are referred to as Municipal Drains because the municipality is required to administrate the petitions, approvals, carryout the work and establish the cost sharing arrangements for the local landowners. The perpetual care obligation for the drains remains the responsibility of the municipality to organize the work, but the cost plus administration are charged back to the benefiting landowners.

The municipality does not own the drain or the land they are constructed upon unless they are built upon a road allowance or other City property. The drains tend to be names after the original petitioner such as the “Collin’s Drain” or the “Fortino Drain”.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Following third reading, the appointment By-law together with a resume of drainage experience must be forwarded to the Ontario Ministry of Agriculture, Food and Rural Affairs, Environmental Management Branch, requesting formal approval of the Minister.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The City of Hamilton is responsible for Municipal Drains as defined by The *Drainage Act* of Ontario. In order to fund, inspect, maintain and receive grant monies from the Province, the City must appoint a Drainage Superintendent. Ryan Moore is currently employed with the City as a Project Manager dealing with stormwater issues in the Roads Section of the Operations Division and has successfully completed the required training. He is qualified to serve as the City’s Drainage Superintendent. In order for the City to be eligible for the available grants, it will be necessary to have Ryan Moore appointed, by By-law, as the City’s Drainage Superintendent.

ALTERNATIVES FOR CONSIDERATION

As an alternative, Council may choose not to designate a Drainage Superintendent; this is not supported by staff as it would impede the creation and maintenance of municipal drains as a means of servicing non-riparian properties and it would require the engagement of consultants to administer duties under the *Drainage Act*.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.
- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.
- 2.3 Enhance customer service satisfaction.

Strategic Priority #3

Leadership & Governance

We work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

- 3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.
- 3.3 Improve employee engagement.
- 3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES AND SCHEDULES ATTACHED

Appendix A – To Appoint a Drainage Superintendent