




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Hamilton Water Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	May 30, 2022
SUBJECT/REPORT NO:	By-law Drainage Superintendent (PW22044) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Dave Alberton (905) 546-2424 Ext. 1090
SUBMITTED BY:	Shane McCauley Acting Director, Water and Wastewater Operations Public Works Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That By-law 16-160, being a By-law to appoint a Drainage Superintendent for The City of Hamilton, dated May 30, 2016 be repealed; and,
- (b) That a By-law appoint Donald Young as the Drainage Superintendent for the City of Hamilton; in the form outlined in Appendix "A" attached to Report PW22044.

EXECUTIVE SUMMARY

The City of Hamilton (City) 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 of a Drainage Superintendent by By-law. The primary responsibility of the Drainage Superintendent is to maintain, repair, and operate the municipality's drainage systems constructed under the Drainage Act. The Superintendent's responsibilities may also include other duties related to municipal drains.

The previous Drainage Superintendent for the City was Ryan Moore. Mr. Moore left the City on March 30, 2022. Donald Young, Superintendent Water Distribution and Wastewater Collection 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" to Report PW22044.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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 who has also been approved by the OMAFRA.

Staffing: The Project Manager dealing with stormwater management, must have or be able to obtain OMAFRA Drainage Superintendent Certification and act if appointed by Council, as the Drainage Superintendent for the City. This position was previously held by Ryan Moore who has left the City. The City currently does not have an appointed Drainage Superintendent. This appointment is intended to be temporary until a new Project Manager of Stormwater and Drainage can be hired and the successful candidate has achieved the required qualifications to be appointed as Drainage Superintendent.

Hamilton Water currently has staff who have successfully completed the required provincial training through OMAFRA and have the qualifications to serve as the City's Drainage Superintendent. An appointment by By-law as the City's Drainage Superintendent is a prerequisite to the Drainage Superintendent's registration with the Ministry as the City's Drainage Superintendent.

Legal: Section 93 of the *Drainage Act* authorizes the council of a local municipality to appoint a Drainage Superintendent by By-law. Where so appointed, a Drainage Superintendent has the following duties and responsibilities specified in section 93(3) of the *Drainage Act*:

- (a) To inspect every drainage works for which the municipality is responsible and report periodically to council on the condition of those drainage works;
- (b) To initiate and supervise the maintenance and repair of the drainage works for which the municipality is responsible;

- (c) To assist in the construction or improvement of the drainage works for which the municipality is responsible; and,
- (d) To report to council on the Superintendent's activities mentioned in clauses (b) and (c).

HISTORICAL BACKGROUND

The *Drainage Act* of Ontario contains several mechanisms whereby landowners may make drainage improvements to their lands 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 named after the original petitioner such as the Collin's Drain or the Fortino Drain.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Not Applicable

RELEVANT CONSULTATION

Ministry of Agriculture, Food and Rural Affairs - Drainage Program Coordinator
Corporate Services Department, Legal and Risk Management Services Division. Legal Services Solicitor

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The City is responsible for Municipal Drains as defined by the *Drainage Act* of Ontario. For the City to be eligible for available grants, it is necessary to have an individual appointed by By-law, as the City's Drainage Superintendent. Donald Young is currently employed with the City as a Superintendent with Hamilton Water. He is responsible for the Operations and Maintenance of Stormwater and Drainage Assets and has successfully completed the required training. He is qualified to serve as the City's Drainage Superintendent.

ALTERNATIVES FOR CONSIDERATION

Council may choose not to designate a Drainage Superintendent. This is not recommended by staff as it would impede the creation, operation, and maintenance of municipal drains as a means of servicing non-riparian properties. It would also require the engagement of a consultant to administer Drainage Superintendent

duties under the *Drainage Act*.

Financial: The City would not be eligible for a grant from the Ministry for 50% of the costs incurred in the administration of the Drainage Superintendent duties.

Staffing: N/A

Legal: The City would have to engage a consultant to fulfil the following duties under section 93 (3) of the *Drainage Act*:

- (a) To inspect every drainage works for which the municipality is responsible and report periodically to council on the condition of those drainage works;
- (b) To initiate and supervise the maintenance and repair of the drainage works for which the municipality is responsible;
- (c) To assist in the construction or improvement of the drainage works for which the municipality is responsible; and,
- (d) To report to council on the Superintendent's activities mentioned in clauses (b) and (c).

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PW22044 - To Appoint a Drainage Superintendent