

4. HAZELDEAN ROAD MUNICIPAL DRAIN
INSTALLATIONS MUNICIPALE DE DRAINAGE HAZELDEAN ROAD

COMMITTEE RECOMMENDATION

That Council adopt the Engineer's Report for the Hazeldean Road Municipal Drain and give first and second reading to the attached By-law in accordance with Sections 42 and 45 of the *Drainage Act* of Ontario.

RECOMMANDATION DU COMITÉ

Que le Conseil municipal approuve le rapport de l'ingénieur concernant les installations municipales de drainage Hazeldean Road et de présenter en première et deuxième lectures le règlement ci-joint, conformément aux articles 42 et 45 de la *Loi sur le drainage de l'Ontario*.

DOCUMENTATION

1. Deputy City Manager's Report, Infrastructure Services and Community Sustainability, dated 14 February 2011 (ACS2011-ICS-ESD-0005).
2. Extract of Draft Minutes, 3 March 2011.

Report to / Rapport au :**Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales****and Council / et au Conseil****February 14 2011/ le 14 fevrier 2011****Submitted by / Soumis par: Nancy Schepers, Deputy City Manager / Directrice municipale
adjointe, Infrastructure Services and Community Sustainability /
Services d'infrastructure et Viabilité des collectivités**

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Rideau-Goulbourn (21),
Stittsville-Kanata West (6)

Ref N°: ACS2011-ICS-ESD-0005

SUBJECT: HAZELDEAN ROAD MUNICIPAL DRAIN

OBJET: INSTALLATIONS MUNICIPALE DE DRAINAGE HAZELDEAN ROAD

REPORT RECOMMENDATION

That the Agriculture and Rural Affairs Committee recommend Council adopt the Engineer's Report for the Hazeldean Road Municipal Drain and give first and second reading to the attached By-law in accordance with Sections 42 and 45 of the *Drainage Act* of Ontario.

RECOMMANDATION DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil municipal d'approuver le rapport de l'ingénieur concernant les installations municipales de drainage Hazeldean Road et de présenter en première et deuxième lectures le règlement ci-joint, conformément aux articles 42 et 45 de la *Loi sur le drainage de l'Ontario*.

BACKGROUND

In January 2008, the City of Ottawa was served with a petition for drainage works under Section 4 of the *Drainage Act*, R.S.O. 1990.

Stantec Consulting Ltd. was appointed by the City of Ottawa in May 2008 to prepare a preliminary Engineer's Report under the *Drainage Act*, R.S.O. 1990 to address the drainage issues within the area.

The required On-site Meeting was held on 13 August 2008. The preliminary Engineer's Report was tabled at ARAC on 27 August 2009 at which time the Drainage Engineer was instructed to prepare a full Engineer's Report. The committee recommendation received Council approval on 9 September 2009.

The area requiring drainage is located in Goulbourn Ward, immediately west of Stittsville bordering

Hazeldean Road. A map of the area, including the affected drainage area is attached as Document 1.

The *Drainage Act* prescribes the process and timelines that must be followed for any modification or construction of a municipal drain. (The “E” below indicates the current step in the process for the Hazeldean Road Municipal Drain.) In brief, the process includes:

- ... Council appointment of the Drainage Engineer (28 May 2008);
- ... Conduct an On-site Meeting with affected landowners to review the proposed modifications, (13 August 2008);
- ... Submission of the preliminary Engineer's Report (June 2009);
- ... Meeting to Consider the preliminary Engineer's Report (27 August 2009);
- ... Council approval of ARAC recommendation (9 September 2009);
- ... Submission of full Engineer's Report (February 2011);
- ... Conduct a Meeting to Consider – (The meeting of the Agriculture and Rural Affairs Committee to consider the Engineer's Report and the By-law (Document 2) presented in this report) (3 March 2011);
- ... Council approval of the Committee recommendation and first and second reading of the By-law (subject to the outcome of the Meeting to Consider and associated appeals process) (9 March 2011);
- ... Convene a Court of Revision – (A meeting of the Agriculture and Rural Affairs Committee where landowners may appeal their assessment. Notices to be sent out within 30 days of provisional adoption of the By-law and Court of Revision to be held between 20 and 30 days of notices being sent). Committee may direct the Engineer to revise the assessment contained in the report. All affected landowners must then be advised of any revisions and the *Drainage Act* contains provisions for further appeal by landowners of their assessment within prescribed timeframes;
- ... Third reading of the By-law at Council;
- ... Construction of the drainage works; and,
- ... Assessment of the costs to benefiting landowners and road authorities (2011).

This report, places the Engineer's Report, dated February 2010 before the Agriculture and Rural Affairs Committee as the Meeting to Consider as required by the *Drainage Act*.

Pursuant to Section 41 of the *Drainage Act*, within 30 days of the filing of the Engineer's Report the initiating municipality shall send a copy of the report and notice of the Meeting to Consider to the various landowners, municipalities, conservation authorities and utilities as described in the *Act*.

DISCUSSION

The area subject to the petition has experienced poor drainage over the past several years due to significant beaver activity on private and City-owned properties. The fact that an existing ditch, located for the most part on private lands, does not have status under the *Drainage Act* has prevented the City of Ottawa staff from conducting preventative maintenance, managing beaver activity and restricting or correcting modifications to the watercourse and its watershed.

The northern half of the Hazeldean Road drainage area encompasses part of the Provincially Significant Wetland (PSW) known as the Goulbourn Wetland Complex. Certain lands within the area requiring drainage have been evaluated under the wetland evaluation process and have initially been found to be considered wetlands through complexing with other nearby Provincially Significant Wetland areas.

Proposed Drainage Works

The Engineer's Report sets specific details for the modified watercourse.

Key among the recommended modifications is that, due to the environmental features in the area, there will be no deepening, widening or straightening of the existing channel.

Existing beaver dams currently within the watercourse will be removed, thereby restoring flow. With the designation as a Municipal Drain, the City's Drainage Superintendents will be able to re-enter the Drain in the future on an as-needed basis to remove beaver dams restoring and maintaining normal flows.

With Council's approval of the Hazeldean Road Municipal Drain, further changes to the drain will require proper approvals under the *Drainage Act* and other related regulatory approvals. Should unauthorized modifications or alterations to the drain occur, the City can intercede with legal action, if required, to address.

In summary, the Engineer's Report recommends no deepening, widening or straightening of the existing channel together with bank restoration and stabilization all with the intent of restoring adequate drainage to the area.

ENVIRONMENTAL IMPLICATIONS

The Mississippi Valley Conservation Authority (MVCA) and the Ontario Ministry of Natural Resources (MNR) have been consulted on the project and have been provided with a copy of the Engineer's Report. Consultation with the MVCA has been undertaken from the outset and necessary regulatory approvals have been received.

Pre-screening of the proposed drainage works has been completed by the MNR with regard to the Endangered Species Act (ESA) and a Letter of Advice issued by the MNR.

The Screening Report and Letter of Advice are provided in Appendix F of the Engineer's Report and provide direction for dealing with and mitigating impacts on species present along the proposed drain.

Certain lands within the area requiring drainage have been evaluated under the wetland evaluation process and have initially been found to be considered wetlands through complexing with other nearby Provincially Significant Wetland areas.

The drainage problems in the area are, in large part, the result of extensive beaver activity south of Hazeldean Road, which has limited flows in the ditch. Status under the *Drainage Act* will allow for the management of the beaver which will improve the functionality and health of the watercourse and allow for future maintenance of the watercourse. The Engineer's Report and By-law will also define legal subwatershed boundaries thereby preventing future unauthorized changes to the waterway and its associated subwatershed and ensure legal and sufficient outlet in perpetuity.

RURAL IMPLICATIONS

The Hazeldean Road Municipal Drain will continue to provide outlet for surrounding rural roads and lands and its status under the *Drainage Act* will allow for the provision of future maintenance, as required, by the municipality. Affected landowners have been consulted and provided with a copy of the Engineer's Report and notified of the date, time and location of the Meeting to Consider.

CONSULTATION

The On-site Meeting, as required under the *Drainage Act*, was held on 13 August 2008. Affected landowners, agencies and utilities in the watershed were notified in advance of the meeting.

Assessed landowners have been notified of the Meeting to Consider and have been provided with a copy of the Engineer's Report, as required.

The Mississippi Valley Conservation Authority and Ontario Ministry of Natural Resources have been consulted on the project and have been provided with a copy of the Engineer's Report. Necessary approvals have been received.

COMMENTS BY THE WARD COUNCILLOR

The Councillors for Ward 21 and Ward 6 are aware of this report and the proposed drainage works.

LEGAL/RISK MANAGEMENT IMPLICATIONS

There are no legal/risk management impediments to implementing the recommendation in this report.

CITY STRATEGIC PLAN

These works will fulfill the City's 2007 – 2010 Strategic Plan service delivery goals by improving drainage in the area, and managing infrastructure in a cost effective and efficient manner.

TECHNICAL IMPLICATIONS

There are no technical implications.

FINANCIAL IMPLICATIONS

The estimated total cost of the drainage works, including the Engineer's Report and associated studies, is \$187,999.96. Of this amount, \$75,341.63 is to be assessed to benefiting property owners, including \$28,393.11 to the Ontario Ministry of Transportation (MTO), and \$112,658.32 to the City of Ottawa.

Project costs have and will be paid initially by the City of Ottawa, Surface Water Management Services, Environmental Services Department, and will be recovered through assessments/ recoveries to the benefiting landowners. Funds are available in the 2010 Capital Budget in internal order 902960 Municipal Drains Improvements. The City's share of \$112,658.32 will be identified and included in the City's 2011 Draft Operating Budget.

SUPPORTING DOCUMENTATION

Document 1 – Hazeldean Road Municipal Drain Location Plan

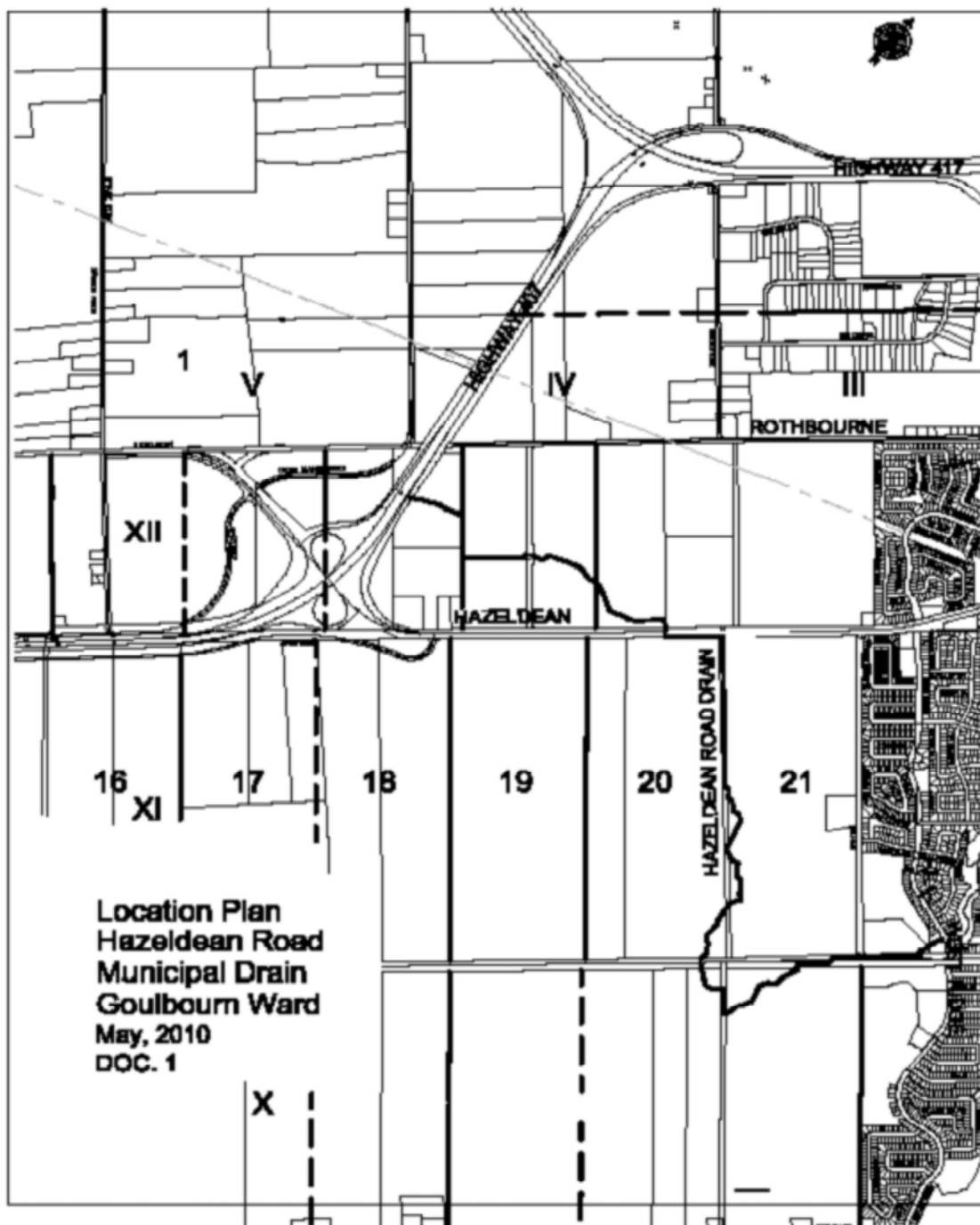
Document 2 – Hazeldean Road Municipal Drain By-law

A copy of the Engineer's Report has been provided to all Agriculture and Rural Affairs Committee Members.

DISPOSITION

Upon approval by Council, the City Drainage Superintendent will notify all assessed landowners of the date of the Court of Revision.

Hazeldean Road Municipal Drain Location Plan



BY-LAW NO. 2011 -

A by-law of the City of Ottawa to provide for drainage works in the City of Ottawa to be known as the Hazeldean Road Municipal Drain.

WHEREAS a Drainage Engineer, Stantec Consulting Ltd., was appointed on May 28, 2008 by the Council of the City of Ottawa in accordance with the provisions of Section 4 of the *Drainage Act*, R.S.O. 1990, c. D.17 (the "*Drainage Act*") to prepare an engineer's report for the area requiring drainage, being (i) Lots 15 to 21, Concession XII, Lots 7 through 22, Concession XI, and Lots 18 through 22, Concession X, in the City of Ottawa, formerly the geographic Township of Goulbourn; and (ii) Lot 1 Concessions 4 and 5, City of Ottawa, formerly the geographic Township of West Carleton (Huntley);

AND WHEREAS the Hazeldean Road Municipal Drain upon enactment and passage of this by-law and shall be maintained in accordance with the provisions of the *Drainage Act*;

AND WHEREAS the Council of the City of Ottawa has procured an Engineer's Report pursuant to Section 4 of the *Drainage Act*, R.S.O. 1990, c. D.17 and the report dated February 2011 prepared by Stantec Consulting Ltd., Consulting Engineers is on file with the City Clerk and Solicitor;

AND WHEREAS the estimated total cost associated with the construction, engineering, contract administration, allowances, report and contingencies of the drainage works is \$187,999.96 as per the Stantec Consulting Ltd., Consulting Engineer's Report dated February 2011;

AND WHEREAS \$112,658.32 is the amount to be charged to the City of Ottawa for construction of the drainage works in accordance with Schedule A, Summary Schedule of Assessment, in the Stantec Consulting Ltd., Consulting Engineer's Report dated February 2011;

AND WHEREAS the remaining cost of the construction of the drainage works, \$75,341.63, is to be charged to the landowners in the drainage basin in accordance with Schedule A, Summary Schedule of Assessment, in the Stantec Consulting Ltd., Consulting Engineer's Report dated February 2011;

AND WHEREAS Council of the City of Ottawa is of the opinion that the drainage of the area is desirable;

AND WHEREAS Council of the City of Ottawa considers it desirable to give this by-law 1st and 2nd reading on 9 March 2011 so that it is provisionally adopted pursuant to Section 45 of the *Drainage Act*:

THEREFORE the Council of the City of Ottawa enacts as follows:

1. The report entitled *Engineer's Report, Hazeldean Road Municipal Drainage and Watercourse Management Plan*, dated February 2011, filed with the City Clerk, is hereby adopted and the drainage works as therein indicated and set forth is hereby authorized and shall be completed in accordance therewith.
2. The Corporation of the City of Ottawa may borrow on the credit of the Corporation the amount of \$187,999.96 being the amount necessary for construction of the drainage works.
3. The Corporation of the City of Ottawa may arrange for the issue of debentures on its behalf for the amount borrowed less the total amount of:
 - (a) grants received under Section 85 of the *Act*;
 - (b) commuted payments made in respect of lands and roads assessed within the municipality;
 - (c) money paid under Subsection 61(3) of the *Drainage Act*; and,

(d) money assessed in and payable by another municipality,

and such debentures shall be made payable within ten (10) years from the date of the debenture and shall bear interest at a rate to be set by the City of Ottawa.

4. The sum of \$112,658.32 to be charged to the City of Ottawa for the construction of the drainage works is assessed for special benefit.

5. The remaining cost of the construction and future maintenance of the drainage works shall be charged to the landowners in the drainage basin in accordance with Schedule A, Summary Schedule of Assessment, of the Stantec Consulting Ltd., Consulting Engineer's Report dated February 2011.

6. All net assessments of \$1,000.00 or less are payable in the first year in which the assessment is imposed.

7. This by-law comes into force on the passing thereof and may be cited as the "Hazeldean Road Road Municipal Drain By-law, 2011".

ENACTED AND PASSED this XXth day of May, 2011

CITY CLERK

MAYOR

BY-LAW NO. 2011 -

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A by-law of the City of Ottawa to provide for drainage works in the City of Ottawa to be known as the Hazeldean Road Municipal Drain.

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1st Reading.....March 9, 2011

2nd Reading.....March 9, 2011

3rd Reading.....

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Enacted by City Council at its meeting of May XX, 2011.

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LEGAL SERVICES

CLC/ File

COUNCIL AUTHORITY:

The *Drainage Act*, sections 4, 42, 45, 63, 74 and 84

HAZELDEAN ROAD MUNICIPAL DRAIN
INSTALLATIONS MUNICIPALE DE DRAINAGE HAZELDEAN ROAD

RIDEAU-GOULBOURN (21)

ACS2011-ICS-ESD-0005

STITTSVILLE-KANATA WEST (6)

At the outset, Chair Thompson read a statement advising that the current meeting was being held pursuant to Section 42 of the *Drainage Act* and was only for the purpose of considering the Engineer's report and associated By-law, and to receive any written submissions with respect to the *technical* aspect of the construction of the drainage works. He noted that consideration of appeals to assessments by landowners will be heard by the Court of Revision at a time yet to be determined, prior to which, all assessed landowners will be provided with written notice of the time and place of the convening of the Court. He explained that at this time, landowners will also be provided with an opportunity to file an appeal of their assessment by submitting it in writing to the City Clerk. The Chair then encouraged anyone wishing to submit written comments on the technical merits of the Engineer's report only, to do so by providing their details to the Committee Assistant.

Councillor Qadri noted that Poole Creek, the point at which the Hazeldean Municipal Drain (HMD, the Drain) would outlet, had been identified as unique because of its cooler water temperature. He noted that regular maintenance of the Drain would likely increase water flow, and he asked whether this could potentially affect the temperature of the Creek. He also asked if any studies had been undertaken to consider potential long-term effects of future development.

Mr. David Ryan, Project Manager, Municipal Drainage, Stormwater and Municipal Drainage Unit, Surface Water Management Services Branch, Environmental Services, Infrastructure Services and Community Sustainability, offered that the maintenance to be undertaken on the watercourse would be both minimal and infrequent. He noted there was a Mississippi Valley Conservation Authority-imposed restriction in the City's permit to limit maintenance to five per cent of the total length of the Drain at any one time. Mr. Ryan then introduced Mr. Mr. John van Gaal, Stantec Consulting Ltd., the Council-appointed Drainage Engineer, to speak to the potential effects on Poole Creek.

Mr. van Gall explained that in terms of impact, Municipal Drainage considers only land uses as they relate to agricultural purposes, and not at possible future land use changes resulting from zoning changes under the *Planning Act*. He said that any such changes would require their own studies, including watercourse and watershed management plans to deal with the potential impacts of their development on the watercourse. With the existing situation, Mr. van Gaal said that after the preliminary report was presented in August of 2009, directions were given to examine the issues of flooding, and the provision of good and sufficient outlet for the HMD downstream to Poole Creek. He further noted the technical report concluded that the impact on downstream flows would be minimal in terms of both increases (for minor, low-frequency events), or reductions (i.e., peak flows from major one-in-100-year type events). As for temperature changes, Mr. van Gaal felt it could be assumed that the removal of some smaller ponding areas associated with beaver activity might improve water temperatures downstream.

PUBLIC DELEGATIONS

Mr. David Grierson, who identified himself as a landowner in the vicinity of the Hazeldean Road Municipal Drainage subject area, briefly commented that he was in support of the report recommendation, and submitted his comments in writing (held on file with the City Clerk).

Mr. Ken McRae did not attend the meeting, but had submitted his comments to the Committee by e-mail earlier to outline that none of the subject lands were zoned for agriculture and that the main purpose of the drainage works were not to drain land for the purpose of agricultural activity. Hence, he felt a Sewage Works Approval would be required if the proposed Drain was to be established. A full copy of Mr. McRae's correspondence, wherein he noted he would provide additional comment by the time this matter was to be considered by Council, is held on file with the City Clerk.

Mr. Erwin Dreessen, although registered to speak, and had indicated his opposition to the report recommendation on the speakers' form, had left by this point in the meeting.

There being no further questions or discussions, the Committee approved the report recommendations as presented.

That the Agriculture and Rural Affairs Committee recommend Council adopt the Engineer's Report for the Hazeldean Road Municipal Drain and give first and second reading to the attached By-law in accordance with Sections 42 and 45 of the *Drainage Act* of Ontario.

CARRIED