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# HALDIMAND COUNTY

Report PW-ES-07-2018 Carter Municipal Drain Updated Engineer's Report  
For Consideration by Council in Committee on May 15, 2018

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## OBJECTIVE:

To receive Council approval to adopt the Carter Municipal Drain updated Engineer's Report and continue the process outlined in the Drainage Act.

## RECOMMENDATIONS:

1. THAT Report PW-ES-07-2018 Carter Municipal Drain Updated Engineer's Report be received;
2. AND THAT the timeline for submission of the Carter Municipal Drain Engineer's Report, under Section 39 (1) of the Drainage Act, for the Carter Municipal Drain Updated Engineer's Report be extended to May 15, 2018;
3. AND THAT the Carter Municipal Drain Updated Engineer's Report be adopted by Provisional By-law as per Section 45 (1) of the Drainage Act, R.S.O. 1990;
4. AND THAT the first sitting for the Court of Revision be held on a date to be determined by the Court of Revision, between 20 and 30 days of the mailing of the Provisional By-law, at the Haldimand County Cayuga Administration Building;
5. AND THAT the Clerk be directed to send a copy of the Provisional By-law and a notice of first sitting of the Court of Revision to the required landowners;
6. AND THAT the revised budget as outlined in Report PW-ES-07-2018 be approved;
7. AND THAT upon the successful completion of the required appeal process, staff be directed to continue with the Drainage Act procedure and make the required arrangements for the construction of the proposed drainage works.

**Prepared by:** Kristopher R. Franklin, Project Manager, Municipal Drains

**Respectfully submitted:** Tyson Haedrich, M. Eng., P. Eng., Director, Engineering Services

**Approved:** Donald G. Boyle, Chief Administrative Officer

## EXECUTIVE SUMMARY:

The updated Engineer's Report for the Carter Drain, considered by Council at the May 15<sup>th</sup>, 2018 Council in Committee meeting, must be adopted by by-law to proceed with the Drainage Act process. After sufficient time for the appeal process, staff will be authorized to proceed with the tender and construction phase following the procedures set out in the Drainage Act.

## **BACKGROUND:**

The Carter Drain is located in the former Moulton Township in Haldimand County (see Attachment 1). The top end of the drain begins at Hutchinson Road and continues into Wainfleet. The outlet for the drain is the Black Creek Municipal Drain located approximately 150m from the Welland River.

In 2005, County staff initiated the process of producing an updated Engineer's Report for the Carter Drain. The first Engineer's Report for the Carter Drain dates back to 1915 when the drain consisted of 4,744 metres of open ditch. The timing of the last complete maintenance on the Carter Drain cannot be determined and only records of spot maintenance can be found. An update to the maintenance schedule was completed in 1982, but no changes to the design, capacity or watershed was completed.

In order to complete the maintenance of municipal drains, a valid, applicable Engineer's Report is required. Based on a review of the 1915 Engineer's Report, staff determined that significant changes had occurred in farming practices and general land use, as well as the ability to better determine the watershed boundary and the capacity of the drain. There were also a number of farms across the watershed that had disputed the watershed boundaries and farms that have tiled their fields. The 1915 Engineers' Report was lacking an applicable profile and does not include farm crossing culverts. In order to address these discrepancies and update the overall capacity of the drain, an updated Engineer's Report was required.

Through Report PS-EI-19-2005 Re: Award of Contracts PS EI-05-070, 072, 073, Updated Engineers' Reports for Municipal Drains, Spriet Associates London Ltd. was appointed as the Engineer to complete an updated Engineer's Report for the Carter Drain as per Section 78 (1) of the Drainage Act.

Since the appointment, the Engineer has followed the process outlined in the Drainage Act, holding on-site and evening public meetings to discuss concerns and requests of landowners, as well as examinations of the drain and drain watersheds. This process culminated in the final Carter Drain Engineer's Report dated April 16<sup>th</sup>, 2018 (see Attachment 2).

## **ANALYSIS:**

The Drainage Act provides a one year timeframe for the submission of an Engineer's Report. Due to multiple rounds of public consultation and feedback, it is quite common for reports to take many years to complete. Accordingly, before proceeding further with this initiative, Council must extend the timeframe for the filing of the Carter Drain Engineer's Report by resolution to meet the requirements of Section 39 (1) of the Drainage Act.

Based on a review of the updated Carter Drain Engineer's Report, staff confirm that the report is sufficient. Council can now proceed to adopt the Engineer's Report by giving two readings to the by-law (see Attachment 3). The adopted by-law will be provisional until sufficient time has been allowed for the required appeal process and the Court of Revision. Once the by-law is formally adopted by the third reading and following the appeal period, Council is committed to the construction of the drain. Should Council not proceed with the adoption of the by-law, any landowner within the drain may appeal to the appropriate appeal body.

Within 30 days of the adoption of the report, a copy of the by-law and notice of the time and date of the first sitting of the Court of Revision must be sent to any landowner receiving allowances, compensation or assessments. The date of the first sitting must be between 20 and 30 days of the mailing of the last notice.

The jurisdiction of the Court of Revision is limited to three types of appeals. Any landowner assessed for the drainage works can appeal to the Court on the following grounds:

- That land or road has been assessed too high or too low.
- That land or road should have been assessed, but has not been assessed.
- Due consideration has not been given to the type of use of the land.

The Court of Revision has no authority to change the Engineer’s Report in any way other than to alter the schedule of assessments. If one assessment is reduced, others must be increased.

Following the adoption of the final Engineer’s Report, the tendering and construction for the work may proceed once all Court of Revision appeals (if any) are resolved.

## **FINANCIAL/LEGAL IMPLICATIONS:**

All lands and roads within the drainage area of the Carter Municipal Drain will be assessed a portion of the total project costs. The costs are comprised of the Engineer’s fees, construction costs, allowances and other miscellaneous costs (advertising, taxes, etc.).

An estimated breakdown of the costs of this project and the County’s share is shown in the following table. The cost of construction for the drain will be assessed as per Schedules ‘A’, ‘B’ and ‘C’ of the Carter Drain 2018 Engineer’s Report, minus the agricultural grant, if eligible. All costs below are exclusive of HST.

<b>Drain</b>	<b>Engineer’s Fees (estimate)</b>	<b>Construction Costs (estimate)</b>	<b>Allowances</b>	<b>Total Cost of Report Allowances and Construction (estimate)</b>	<b>Haldimand County Portion of Total Cost (estimate)</b>	<b>Township of Wainfleet Portion of Total Cost (estimate)</b>	<b>Total Cost to Landowners (estimate)</b>
<b>Carter Drain</b>	<b>\$63,920</b>	<b>\$214,200</b>	<b>\$44,880</b>	<b>\$323,000</b>	<b>\$48,022</b>	<b>\$17,735</b>	<b>\$257,243</b>

The actual costs to provide the contracted construction work will be the subject of a subsequent report. Provincial grants from the Ontario Ministry of Agriculture, Food & Rural Affairs (OMAFRA) for up to one-third of the cost of construction for drainage works are available for eligible agricultural landowners. The Engineer has identified lands that are eligible for a grant, and the net assessments are summarized in the following table. All costs below are exclusive of HST.

Land Use	Total Assessment	Eligible Grant	Allowances	Net Assessment
Agricultural Haldimand	\$137,679	\$45,894	\$29,780	\$62,005
Non-Agricultural Haldimand	\$32,919	\$0	\$270	\$32,649
Haldimand County	\$ 48,022	\$0	\$0	\$48,022
Agricultural Wainfleet	\$30,565	\$10,188	\$14,830	\$5,547
Non-Agricultural Wainfleet	\$0	\$0	\$0	\$0
Township of Wainfleet	\$ 17,735	\$0	\$0	\$17,735
CP Rail	\$56,080	\$0	\$0	\$56,080
<b>Total</b>	<b>\$323,000</b>	<b>\$56,082</b>	<b>\$44,880</b>	<b>\$222,038</b>

The Carter Drain reconstruction project currently has a revised budget of \$260,300. The active project currently has expenditures totalling just under \$59,000 (including the non-rebateable portion of HST) relating to engineering costs, mailings and public consultation. As a result of the Engineer's estimate in the Carter Drain Report, a revision to the budget is recommended as follows:

	Current Budget	Change	Proposed Revised Budget
<b>Capital Expenditures:</b>			
Carter Drain Reconstruction	\$260,300	\$3,600	\$263,900
Carter Drain Engineering	\$0	\$65,100	\$65,100
<b>Total Capital Expenditures</b>	<b>\$260,300</b>	<b>\$68,700</b>	<b>\$329,000</b>
<b>Financing:</b>			
OMAFRA Drain Maintenance Grant	\$0	\$56,100	\$56,100
Carter Municipal Drain Recoveries	\$182,740	\$40,160	\$222,900
CRR Roads-Infrastructure	\$77,560	(\$27,560)	\$50,000
<b>Total Financing</b>	<b>\$260,300</b>	<b>\$68,700</b>	<b>\$329,000</b>

Once all costs have been incurred and grants have been received, the total cost is assessed out to landowners according to Schedule 'C' of the Engineer's Report. The Schedule of Net Assessment in the Engineer's Report indicates the estimated actual assessment that landowners will receive once all applicable grants and allowances are accounted for.

Once completed, the Carter Drain will be maintained as part of the annual Haldimand County Municipal Drain Maintenance Program, where all municipal drains are maintained on a ten year cycle. Costs of future maintenance will be assessed to the watershed according to Schedule 'D' of the Carter Drain 2018 Engineer's Report.

## **STAKEHOLDER IMPACTS:**

Due to the number of landowners in the assessment area, there is an impact to the Finance Division related to the number of properties that will have the final assessment amount tax-rolled, once the final cost of the construction is known and provincial grants have been received.

When a municipal drain crosses into more than one municipality, Section 41 of the Drainage Act requires that additional notification be sent to the adjoining municipality. The Township of Wainfleet was notified of the meeting to consider on April 23<sup>rd</sup>, 2018. Section 97(3) of the Drainage Act, requires that the Court of Revision be made up of two members from the initiating municipality (Haldimand) and one member from the adjoining municipality (Wainfleet).

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: Yes

Policy: No

## **ATTACHMENTS:**

1. Map of Carter Drain.
2. Carter Drain Engineer's Report.
3. Carter Drain By-law.