

MEMO / NOTE DE SERVICE



To / Destinataire	Chair and Members of the Agriculture and Rural Affairs Committee	File/N° de fichier: Legal G04-01 KIZE
From / Expéditeur	Tim Marc Senior Legal Counsel	
Subject / Objet	Kizell Municipal Drain - Clarification on the staff report presented at ARAC September 4, 2014	Date: 23 September 2014

ISSUE

The purpose of this Memo is to provide the Agriculture and Rural Affairs Committee and City Council with an outline of the discussion that took place immediately prior to the ARAC meeting that clarified the report for the delegations.

SUMMARY

Prior to the meeting, Tim Marc, Senior Legal Counsel, and Dave Ryan, Drainage Superintendent and Program Lead, Municipal Drainage, met with the 4 delegations that had registered to speak to clarify the staff report.

Staff provided the following clarification on the report:

1. The purpose of the staff report is to recommend that City Council appoint a qualified drainage engineer to provide Council with information on the implications of the connection to the Kizell Municipal Drain that has been requested by the developer, KNL Developments Inc.
2. This appointment of a drainage engineer to prepare a report on the implications does not supersede any regulatory requirements that may be associated with the natural environment issues raised in the various other public consultations to date. Note: Works under the Drainage Act do not require an EA (Environmental Assessment) however all other regulatory permits and approvals under the Drainage Act are required.
3. This appointment of the drainage engineer to prepare a report on the implications does not mean that the request to connect to the drain has been approved or will be approved by Council.
4. In the preparation of this report, the drainage engineer will review other required environmental studies, reports and regulatory requirements of relevant agencies (i.e. conservation authorities, Ministry of Natural Resources, and Department of Fisheries and Oceans) to examine the implications of the connection requested.
5. The preparation of a drainage engineer's report is required in order for the City to properly evaluate the various proposed stormwater management system options that may be submitted by KNL Developments Inc., some of which may involve the connection of additional lands to the subwatershed of the Kizell Municipal Drain.

NEXT STEPS

1. As soon as the drainage engineer's report is filed with the City Clerk, staff will advise all persons who submitted comments to ARAC and/or attended the ARAC meeting on September 4, 2014, in relation to the Kizell Municipal Drain Modifications staff report, ARAC Agenda 26, Item 2 (the "Interested Persons") so that the Interested Persons may attend at the office of the City Clerk, or such other location as advised by the Deputy City Clerk, to view the drainage engineer's report. Staff will consult with the drainage engineer on having additional hard copies of the report produced and the cost of same.
2. After the engineer's report has been on file with the City Clerk for 30 days, staff will prepare a report for ARAC and Council. The staff report will include the drainage engineer's report on the implications of the connection requested by the developer. At least 30 days prior to the release date of the staff report for the ARAC meeting, staff will provide the draft report recommendations to the Interested Persons.
3. Depending on the implications detailed in the drainage engineer's report, staff will recommend one of the following:
 - A. That ARAC and Council not approve the connection based on the reasons set out in the staff report.
 - B. That ARAC and Council approve the connection subject to a condition or conditions being satisfied.*

Residents will have the opportunity to attend at ARAC at the time of this staff report to indicate their support or opposition to staff's recommendation A or B above.

*The conditions will depend on the implications detailed in the drainage engineer's report. *Possible* conditions may include the following:

1. If the drainage engineer reports that the drain would need to be expanded to accommodate the connection, staff may recommend that the developer file a request that a by-law be enacted under Section 58 of the *Drainage Act* authorizing the construction of the additional drainage works under the *Drainage Act*. In order for such a by-law to be enacted, the developer would need to file a petition under Section 4 of the *Drainage Act*, City Council would need to consider the petition and then decide whether or not to proceed with the drainage works under the petition and appoint an engineer to prepare a report under Section 8 of *Drainage Act*. The process, from start to finish (i.e. the required enactment of the By-law), could take up to two (2) years or more to complete.
2. If the drainage engineer reports that the existing drainage works would require modifications to accommodate the connection, staff may recommend that a drainage engineer be appointed under Section 78 of the *Drainage Act* to prepare a report providing the details of the modifications to be made, the estimated costs and the assessment schedule showing the allocation of the estimated costs the lands that are assessed under the existing engineer's report for the Kizell drain under By-law No. 34-73 (Township of March).

The difference between the drainage engineer's report that is currently being prepared and the possible Section 78 report is that the current report will not provide any details of the estimated costs of the required modifications or the allocations of those costs to the assessed lands.

A copy of this memo is being provided to those present at the discussion prior to the meeting of Agriculture and Rural Affairs Committee on September 4, 2014, at the Bearbrook Community Centre.