



**TOWNSHIP OF WILMOT  
SPECIAL COUNCIL MEETING AGENDA  
MONDAY, SEPTEMBER 21, 2015**

**SPECIAL COUNCIL MEETING  
ST. AGATHA COMMUNITY CENTRE  
7:00 P.M.**

- 1. MOTION TO CONVENE INTO CLOSED SESSION (IF NECESSARY)**
- 2. MOTION TO RECONVENE IN OPEN SESSION**
- 3. MOMENT OF SILENCE**
- 4. DISCLOSURE OF PECUNIARY INTEREST UNDER THE MUNICIPAL CONFLICT OF INTEREST ACT**
- 5. REPORTS**
  - 5.1 CLERKS**
    - 5.1.1 REPORT NO. CL2015-25  
St. Agatha Municipal Drain 2015  
Consideration of Engineer's Report**

**Recommendation**

**THAT Option \_\_\_ as outlined in REPORT NO CL 2015-25 be adopted, and further;**

**THAT the Director of Clerk's Services notify the affected parties accordingly under the Drainage Act.**

**6. BY-LAWS**

- 6.1 By-law No. 2015-54 – Provisional By-law for St. Agatha Municipal Drain 2015**

**Recommendation**

**THAT By-law No. 2015-54 be read a first and second time in Open Council.**

**7. CONFIRMATORY BY-LAW**

- 7.1 By-law No. 2015-55**

**Recommendation**

**THAT By-law No. 2015-55 to Confirm the Proceedings of Council at its Meeting held on September 21, 2015 be introduced, read a first, second, and third time and finally passed in Open Council.**

**8. ADJOURNMENT**

**Recommendation**

**THAT we do now adjourn to meet again at the call of the Mayor.**



# **Township of Wilmot REPORT**

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**REPORT NO.** CL2015-25  
**TO:** Council  
**PREPARED BY:** Barbara McLeod, Director of Clerk's Services  
**DATE:** September 21 2015  
**SUBJECT:** St. Agatha Drain 2015  
Adoption of Revised Drainage Engineer's Report

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## **Recommendation:**

**THAT** Option \_\_\_ as outlined in REPORT NO CL 2015-25 be adopted, and further;

**THAT** the Director of Clerk's Services notify the affected parties accordingly under the Drainage Act.

## **Background:**

As Council is aware, the *revised* Drainage Engineer's Report for the abovementioned municipal drain was filed with the Clerk on August 17, 2015. As per Council resolution on August 31, 2015, the date to consider the Report was scheduled for a Special Council Meeting on Monday, September 21, for 7:00 p.m. at the St. Agatha Community Centre, to be preceded by an Open House at 6:00 pm.

## **Discussion:**

Pursuant to the requirements of the Drainage Act, copies of the Report have been mailed to all persons and affected agencies entitled to receive them, along with a Notice that the Engineer's Report will be considered by Council. (Notice included mention of the Open House). Both meetings and the Notice were advertised on the Township's website. In addition, the Notice included a link to the OMAFRA site wherein information relative to landowners' rights regarding appeals could be found.

The Drainage Engineer will be in attendance at the Open House to respond to any questions from all parties. He will also attend the Special Council Meeting that follows to present his Report to Council and again, respond to any questions that may arise.

At this meeting, the landowners and affected parties will be given the opportunity to voice their concerns relating to any aspect of the Report. Although landowners could voice concern about their assessments at this meeting, Council should not focus on whether or not the assessments are proper because that responsibility is undertaken at the Court of Revision where property owners' appeals of their assessments are heard and changes may be made.

In addition, the Drainage Act requires Council to provide an opportunity at this meeting for the petitioners to withdraw their names from the petitions or for owners in the area requiring drainage to add their names. (Section 42) If any petitioner chooses to withdraw from the petition at this meeting, then the petition would be rendered invalid. If this should occur, proceedings for the drainage work related to that petition would stop and any costs incurred to-date would be borne by the Petitioners in accordance with their assessments in Schedule A in the Report. (Section 43).

**COUNCIL'S OPTIONS:**

**A) Adopt the Report by giving two readings to the Provisional By-law and move forward to the next step in the process under the Drainage Act as follows:**

**1. THAT the Revised Drainage Engineer's Report dated August 6, 2015, prepared by J. Kuntze of K. Smart & Associates Inc. for the St. Agatha Drain 2015, serving the following drainage works:**

- 1. improved drainage outlet for the low area in the south part of the Kraehling Farms Inc property; SE part of Lot 6, Concession NER;**
- 2. improved drainage outlet for Notre Dame Drive north of Erb's Road;**
- 3. improved drainage outlet for the low area in the southwest part of the Dietrich property in the E 1/2 Lot 4, Con NER;**
- 4. improved drainage outlet for the low area in the northwest part of the Haid property in the SE part of Lot 5, Con NER;**
- 5. improved drainage outlet for the low area on the RJS Farms Ltd. property on the south side of Erb's Road in the northeast part of Lot 5, Concession SER;**

**be adopted and further,**

**2. THAT the Provisional By-law be given first and second reading, and further;**

**3. THAT the date for the Court of Revision be scheduled for Tuesday, October 20, 2015 at 7:00 pm at the St. Agatha Community Centre and that Mayor L. Armstrong, Councillors A. Junker, P. Roe, B. Fisher, M. Murray be appointed to the Court of Revision and that Councillor J. Gerber be appointed as an alternate member.**

- B) Do not adopt the Report, in which case the Petitioners may appeal to the Ontario Drainage Tribunal;**
- C) Refer the Report back to the Engineer for reconsideration and report back to Council**

**OPTION A:**

If Council agrees that the Engineer's Report offers the best solution, it should select Option A to move forward in the process to adopt the Report by giving two readings to the Provisional By-law. The date of the Court of Revision would be set for Tuesday, October 20, 2015 at 7:00 p.m. The Provisional By-law and Notice of the time and place of the first sitting of the Court of Revision would then be forwarded to every affected agency and property owner. Any owner/agency that wishes to appeal their assessment would be required to submit a written notice to the Clerk within the prescribed timelines of the Drainage Act, outlining their intent. Any revisions to their assessments would be decided by the Court of Revision.

**Property Owner Appeal Rights**

If Council adopts the Report and gives two readings to the Provisional By-law, within 40 days of the Township sending out Notice of the Provisional By-law, any owner of land or any agency affected by the drainage works, may appeal to the Ontario Drainage Tribunal (Section 48) if they are dissatisfied with the Engineer's Report, by submitting a notice of appeal to the Clerk of the Township. Under this section, an appellant would be dissatisfied with the Engineer's Report on the grounds that:

- i) The benefits to be derived from the drainage works are not commensurate with the estimated cost thereof; or
- ii) The drainage works should be modified on the grounds to be stated by the appellant; or
- iii) The compensation or allowances provided by the engineer are inadequate or excessive.

The costs to the Township of having the Engineer attend at the Hearing would be part of the final cost of the drain and pro-rated as per Schedule C in the report.

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**OPTION B:**

If Council chooses Option B, to not adopt the Engineer's Report - the project would not move forward but would be subject to appeal by the Petitioners. If there is no appeal, any costs to-date for engineering works (\$96,395.00) would be borne by the Township and would be allocated from the overall general levy.

**Petitioner/Property Owner Appeal Rights**

Any petitioner may appeal to the Ontario Drainage Tribunal under Section 45 (2) if the Engineer's Report is not adopted by Council. If the appeal is upheld, the Tribunal will order Council to proceed with the report and may require that the expense of the Engineer's attendance at the Hearing not be added to the final cost of the drain.

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**OPTION C:**

If there appears to be an error in the Report, or for any other reason the Report should be reconsidered, Council may refer the Report back to the Engineer. The Engineer shall reconsider the Report and report back to Council, and the new Report will be subject to the same procedures as the original report in terms of the mailing of notices and the meetings that are required to be held. (Section 57)

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If, at the end of the Special Council meeting Council wishes to proceed to adopt the Report, a By-law known as the Provisional By-law for the drainage works is given first and second reading only. Council sets the date for the Court of Revision (where written appeals to the assessments are received and reviewed) and appoints members to the Court. Subsequently, all affected parties will be mailed a Notice of the Court of Revision date and time.

Staff did provide Council with a summary of previous correspondence relative to the St. Agatha Drain for their review in advance of this meeting.

**Strategic Plan Conformity:**

By proceeding with the requirements of the Drainage Act, Council is supporting the infrastructure within the municipality. Providing an Open House will give the landowners/affected parties an additional opportunity to raise questions/concerns with the Engineer which will ensure that Council is communicating municipal matters to the public

**Financial Considerations:**

If Council chooses Option A to proceed with the drainage works, the estimated cost for the St. Agatha Drain is assessed to the lands and roads within the drain watershed as outlined in Schedule A in the Report. Final assessments are not levied until the drainage work is certified as complete by the engineer. The final assessments will be levied to the owners of the identified parcels at the time that the final cost is levied. The final cost of the drain may vary depending on final construction and engineering costs.

In accordance with the provisions of Section 85 of the Drainage Act, a Provincial grant not exceeding 1/3 may be available on the assessments against privately owned parcels of land which are used for agricultural purposes.

If Council chooses Option B, not to proceed with the drainage works, and if there are no appeals to this decision, then any costs to-date for the engineering works would be borne by the Township, allocated from the general levy.

**Conclusion:**

It is recommended that Council provide direction on its intentions regarding the St. Agatha Drain 2013 with its selection of either Option A, B or C of this report.

**\*Note: Please bring the Engineer's Report that was provided on August 31 to this meeting.**

  
\_\_\_\_\_  
Barbara McLeod, Director of Clerk's Services

  
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Reviewed by CAO





### 3. DEBENTURE(S)

The Corporation may arrange for the issue of debenture(s) on its behalf for the amount borrowed less the total amount of:

- (a) grants received under section 85 of the *Drainage Act*;
- (b) monies paid as allowances;
- (c) commuted payments made in respect of lands and roads assessed with the municipality;
- (d) money paid under subsection 61(3) of the *Drainage Act*; and
- (e) money assessed in and payable by another municipality.

### 4. PAYMENT

Such debenture(s) shall be made payable within \_\_\_\_\_ years from the date of the debenture(s) and shall bear interest at a rate not higher than 2% more than the municipal lending rates as posted by Infrastructure Ontario on the date of sale of such debenture(s).

(1) A special equal annual rate sufficient to redeem the principal and interest on the debenture(s) shall be levied upon the lands and roads as shown in the schedule and shall be collected in the same manner and at the same as other taxes are collected in each year for \_\_\_\_\_ years after the passing of this by-law.

(2) For paying the amount \_\_\_\_\_ being the amount assessed upon the lands and roads belonging to or controlled by the municipality a special rate sufficient to pay the amount assessed plus interest thereon shall be levied upon the whole rateable property in the Township of Wilmot in each year for \_\_\_\_\_ years after the passing of this by-law to be collected in the same manner and at the same time as other taxes collected.

(3) All assessments of \_\_\_\_\_ or less are payable in the first year in which the assessments are imposed.

### 5. SCHEDULE OF ASSESSMENTS OF LANDS AND ROADS

in the Township of Wilmot

Property Description				Equal Annual Rate to be Imposed
Lot or Part Lot No.	Concession	Geographic Township	Parcel Roll No.	
<b>Total</b>				

**6. CITATION**

This by-law comes into force on the passing thereof and may be cited as the "St Agatha Drain 2015 \_\_\_\_\_ by-law".

First reading 2015/09/21

Second reading 2015/09/21

Provisionally adopted this 21 day of September, 2015

Name of Head of Council (Last, First Name) <u>Armstrong, Les</u>	Signature
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Name of Clerk (Last, First Name) <u>McLeod, Barbara</u>	Signature
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Third reading \_\_\_\_\_

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2015

Name of Head of Council (Last, First Name) <u>Armstrong, Les</u>	Signature
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Name of Clerk (Last, First Name) <u>McLeod, Barbara</u>	Signature
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I, \_\_\_\_\_  
clerk of the Corporation of the Township of Wilmot,  
certify that the above by-law was duly passed by the council of the Corporation and is a true copy thereof.

Name of Clerk (Last, First Name)	Signature
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