



CITY OF KINGSTON  
**REPORT TO COUNCIL**

Report No.: 10-262

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**TO:** Mayor and Members of Council

**FROM:** Stephen Dickey, Deputy Treasurer

**RESOURCE STAFF:** James English, Pollution Prevention Specialist, Engineering  
Cathy Lewis, Administrative Assistant, Financial Services

**DATE OF MEETING:** 2010-08-24

**SUBJECT:** Delegation of Authority to the Director of Financial Services and the Director of Engineering for Various Routine Processes Related to Tile Drainage Loan Applications under the Tile Drainage Act.

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**EXECUTIVE SUMMARY:**

In keeping with the design principles of the City's organizational structure to enhance customer service and do more with the same resources, Financial Services and the Engineering Department have reviewed the Tile Drainage Loan Application process. The purpose of this report is to introduce an opportunity to streamline the process with the delegation of authority to the Director of Financial Services, or his/her delegate, and the Director of Engineering, or his/her delegate, for the approval of various routine processes related to Tile Drainage Loan Applications. The delegation of authority to these Directors will result in a more timely administration of routine duties and will reduce the number of reports to be considered by Council. The elimination of two routine Council reports for each application will reduce staff time in preparing the reports, as well as time required by Council. There will be a reduction in the wait time for land owners to get approvals, as well as greater efficiencies in meeting the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) time restrictions.

Under the Tile Drainage Act, R.S.O. 1990, the rating by-law must be established by by-law; therefore, as part of the process, the Director of Financial Services, or his/her delegate, will prepare the draft rating by-law, have it approved by Legal Services and provide it to the City Clerk to place on the upcoming Council Agenda under by-laws. In order to work within OMAFRA timelines, it is recommended that Council waive the requirements of By-Law 2010-1 so that rating by-laws may be given three readings at the same Council meeting.

**RECOMMENDATION:**

1. That Council approve a "By-Law to Delegate Authority to the Director of Financial Services and the Director of Engineering for Various Routine Processes Related to Tile Drainage Loan Applications under The Tile Drainage Act"; and
2. That the by-law shall come into force and take effect on the date of its passing.

August 24, 2010  
 - Page 2 -

**AUTHORIZING SIGNATURES:**

ORIGINAL SIGNED BY DIRECTOR OF FINANCIAL SERVICES _____ Stephen Dickey, Deputy Treasurer
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER _____ Gerard Hunt, Chief Administrative Officer

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Cynthia Beach, <i>Sustainability &amp; Growth</i>	N/R
Terry Willing, <i>Community Services</i>	N/R
Denis Leger, <i>Transportation, Properties &amp; Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	√

*(N/R indicates consultation not required)*

August 24, 2010  
- Page 3 -

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## OPTIONS/DISCUSSION:

In 2005 By-law No. 2005-280, a borrowing "By-law to Raise \$150,000 to Aid in the Construction of Drainage Works under the Tile Drainage Act, R.S.O. 1990" was passed and the City of Kingston approved funds totalling \$150,000 under the Tile Drainage Act, with the understanding that funds shall be provided through a Tile Drainage Debenture with the Province of Ontario, subject to the availability of funding from the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA). There is the understanding that the City of Kingston will continue to have a borrowing by-law to aid in the construction of drainage works under the Tile Drainage Act, R.S.O. 1990, as long as funding is available from OMAFRA.

Land that is well drained is imperative to modern agriculture and high yield crop production. Owners of land in the municipality apply to Council under the Tile Drainage Act for loans for the purpose of constructing subsurface tile drainage work in order to improve the soil drainage of their agricultural land. Under the Tile Drainage Act council is required to consider an application for loan and provide written notification of the status. In order for the application to be considered, taxes levied against the property described in the application for loan cannot be past due.

Under the Tile Drainage Act, council may approve lending the applicant(s) an amount of not more than 75% of the total cost of the drainage work with respect to which the loan is made, to a maximum of \$50,000 per fiscal year. The provincial policy states that "The sum of all loans issued in a fiscal year, to an individual, as an individual, or in his/her role in a partnership or corporation shall not exceed \$50,000".

Once the application for loan has been approved, the applicant(s) is notified and may then proceed to complete the tile drain work with the knowledge that the application for loan has been approved up to a specific dollar amount. The elimination of the first council report requesting Council to approve the tile drainage loan by delegating the authorization to approve the tile drainage loan to the Director of Engineering, or his/her delegate, will enhance customer service by reducing the wait time for land owners to get approvals in order to proceed with tile drainage work.

The Inspector of Tile Drainage will perform inspections to confirm that the work is being done on the property. When the work is satisfactorily completed, the Inspector of Tile Drainage will complete an Inspection and Completion Certificate, which will then be forwarded to Financial Services, confirming that funds can be released to the applicant(s).

Council is then required to approve a rating by-law in order to impose special annual drainage rates upon the land in respect of the loan. Under the Tile Drainage Act, R.S.O. 1990, the rating by-law must be established by by-law; therefore, as part of the process, the Director of Financial Services, or his/her delegate, will prepare the draft rating by-law, have it approved by Legal Services and provide it to the City Clerk to place on the upcoming Council Agenda under by-laws.

The elimination of the second report requesting Council to pass the rating by-law will create greater time efficiencies in meeting OMAFRA's deadline. The debenture, offer to sell, by-law and schedules must be submitted to OMAFRA prior to the 20<sup>th</sup> of the month in order for the Tile Drainage Debenture to be issued on the 1<sup>st</sup> of the following month. If these documents are not submitted before the 20<sup>th</sup> of the month, the process is delayed for a full month. Funds are not released to the landowner until the Tile Drainage Debenture is issued, so the submission of these documents prior to the 20<sup>th</sup> of the month ensures the expedient release of funds to the land owner. The special rates imposed for the annual payments shall have priority lien status and be added to the tax roll as described in Section 1 and Section 149 of the *Municipal Act, 2001*.

It is recommended that Council waive the requirements of By-Law 2010-1 so that rating by-laws may be given three readings at the same Council meeting to allow for the submission of documents to the OMAFRA prior to the 20<sup>th</sup> of the month so a debenture payable to the Minister of Finance can be issued on the 1<sup>st</sup> of the following month. If the requirement is not waived, the debenture process would be extended by a full month, delaying the release of funds to the land owner.

August 24, 2010  
- Page 4 -

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**EXISTING POLICY/BY LAW:**

Tile Drainage Act, R.S.O. 1990  
Municipal Act, 2001  
By-law 2005-280

Council has the authority to delegate powers and responsibilities of an administrative nature to staff. Where it has been deemed appropriate by Council, for the purpose of improving a particular process to make it more effective and timely, authority for the enactment of a process has been delegated to staff.

**NOTICE PROVISIONS:**

N/A

**ACCESSIBILITY CONSIDERATIONS:**

N/A

**FINANCIAL CONSIDERATIONS:**

There are no financial implications arising from this recommendation. Applications for Loan under the Tile Drainage Act will be funded through a Tile Drainage Debenture with the Province of Ontario. A council approved Rating By-Law will allow special annual drainage rates to be levied on the land in an amount equal to the annual Tile Drainage Debenture principal and interest charges and collected in the same manner as property taxes. Debentures issued through the Province of Ontario are repaid from amounts collected annually from the landowner.

**CONTACTS:**

Stephen Dickey, Deputy Treasurer	Ext. 2370
Mark Van Buren, Director, Engineering	Ext. 3218

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Alan McLeod, Senior Legal Counsel, Legal Services	Ext. 1237
Pat Carrol, Manager, Revenue and Taxation	Ext. 2468

**EXHIBITS ATTACHED:**

Appendix A: A By-Law to Delegate Authority to the Director of Financial Services and the Director of Engineering for Various Routine Processes Related to Tile Drainage Loan Applications under The Tile Drainage Act.

BY-LAW NO. 2010-XXX

BY-LAW TO DELEGATE AUTHORITY TO THE DIRECTOR OF FINANCIAL SERVICES AND THE DIRECTOR OF ENGINEERING FOR VARIOUS ROUTINE PROCESSES RELATED TO TILE DRAINAGE LOAN APPLICATIONS UNDER THE TILE DRAINAGE ACT.

PASSED:

WHEREAS the Council of The Corporation of the City of Kingston deems it appropriate to extend the approval authority of the Director of Financial Services, or his/her delegate, and the Director of Engineering, or his/her delegate, for routine processes related to Tile Drainage Loans of an administrative nature in order to support ongoing efforts to streamline processes;

AND WHEREAS in 2005 By-law No. 2005-280, a borrowing "By-law to Raise \$150,000 to Aid in the Construction of Drainage Works under the Tile Drainage Act, R.S.O. 1990" was passed and the City of Kingston approved funds totalling \$150,000 under the Tile Drainage Act;

AND WHEREAS to date the city has applied \$59,400 to By-law 2005-280, leaving a balance of \$90,600 in funds available under this by-law for future tile drainage loan applications;

AND WHEREAS there is the understanding that the City of Kingston will continue to have a borrowing by-law to aid in the construction of drainage works under the Tile Drainage Act, R.S.O. 1990, subject to the availability of funding from the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA);

AND WHEREAS there is the understanding that funds shall be provided through a Tile Drainage Debenture with the Province of Ontario, subject to the availability of funding from the OMAFRA;

AND WHEREAS owners of land in the municipality apply to Council under the *Tile Drainage Act* for loans for the purpose of constructing subsurface drainage works on such land in order to improve agricultural land;

AND WHEREAS under the Tile Drainage Act regulations, council is required to consider the application for the loan and provide written notification of the status;

AND WHEREAS under legislation, council may approve lending to the applicant an amount of not more than 75% of the total cost of the drainage work with respect to which the loan is made, to a maximum of \$50,000;

AND WHEREAS council is required to approve a rating by-law once the work is completed satisfactorily in order to impose special annual drainage rates upon the land in respect of the loan;

**BE IT THEREFORE ENACTED** by the Council of the Corporation of the City of Kingston:

1. The Director of Engineering or, in the absence of the Director, his/her designate, is authorized to approve applications for loans under the Tile Drainage Act in the absence of explicit Council authority where all of the following conditions have been satisfied:
  - i) There is sufficient funding remaining under an existing borrowing by-law (By-law 2005-280 and any subsequent borrowing by-laws.);
  - ii) The application for loan has been reviewed for accuracy;
  - iii) It has been confirmed that the applicant(s) is/are the owners of the property, and that no other parties, other than the applicant(s), have ownership in the property or control of the property;
  - iv) There are no other outstanding Tile Drainage applications for the property described on the application for loan;
  - v) The sum of all tile drainage loans issued in any fiscal year, to an individual, as an individual or in his/her role in a partnership or corporation shall not exceed \$50,000;
  - vi) It has been confirmed that taxes levied against the property described in the application for loan are not past due; and,
  - vii) The application for loan is for an amount of not more than 75% of the total cost of the drainage work with respect to which the loan is made, to a maximum of \$50,000.
2. Where any one of the above-noted criteria is not present, the application for loan will be denied.
3. The Director of Financial Services or, in the absence of the Director, his/her designate, is authorized to prepare the draft rating by-law for loans under the Tile Drainage Act, have it approved by Legal Services, and provide it to the City Clerk to place on the upcoming Council Agenda under by-laws.
4. Rating by-laws are time sensitive. In order to allow for the submission of documents to the OMAFRA prior to the 20<sup>th</sup> of the month so a debenture payable to the Minister of Finance can be issued on the 1<sup>st</sup> of the next month, Council hereby waives the requirements of By-Law 2010-1 so that rating by-laws may be given three readings at that same Council meeting.
5. This by-law shall come into force and take effect on the date of its passing.

**GIVEN FIRST AND SECOND READINGS:**

**GIVEN THIRD READING AND PASSED:**

**CITY CLERK**

**MAYOR**