

Terms of Reference

Name: City of Kawartha Lakes Drainage Board

Date Established by Council:
(Terms of Reference revised December 11, 2018)

Mission:

The City of Kawartha Lakes Drainage Board is established to provide advice and recommendations to Staff and/or Council with the objective of recommending improvements to Policy and/or Management Directive and/or Standard Operating Processes for establishing and maintaining municipal drains and providing outlets to tile drain relative to the Drainage Act and other legislated mechanisms with a goal to reduce time and costs to the landowner and the municipality while supporting and effective municipal drain system and following the Drainage Act.

Roles and Responsibilities:

It is the responsibility of all appointed members to comply with:

- the City Code of Conduct for Board Members
- the City Procedural By-law
- Other applicable City by-laws and policies
- Municipal Act
- Municipal Freedom of Information and Protection of Privacy Act
- Municipal Conflict of Interest Act
- Act as a facilitator in carrying out the procedures of the Drainage Act
- Provide advice and recommendations respecting process improvements to the City current Drainage processes. Improving the drain establishment and maintenance processes would include reviewing practices in other municipalities with similar drainage systems in Ontario to identify a set of best practices for adoption.
- Process improvements to be focused on the customer (landowner) with time and cost as key factors.

No individual member or the Board as a whole has the authority to make direct representations of the City to Federal or Provincial Governments.

Members shall abide by the rules outlined within the Municipal Conflict of Interest Act and shall disclose any pecuniary interest to the Secretary and absent himself or herself from meetings for the duration of the discussion and voting (if any) with respect to that matter.

The Board will abide by any terms and conditions which may be set out by the City's Council, CAO, City Clerk, City Solicitor, Auditor and/or Insurer for any activities relating to Board business in keeping with the Committee's Terms of Reference and established Policies.

Additional duties and responsibilities include:

Authority:

- a) Pursuant to the provisions of the City of Kawartha Lakes Act, the Board shall have all the powers and duties of Council under the Drainage Act, including the power to receive public input on matters where Council would otherwise be required to hold a hearing or afford an opportunity for the public to be heard
- b) Except as is otherwise hereinafter expressly set out, the Board has no power to pass by-laws or resolutions the effect of which would be to bind the municipal Council to either a course of action or expenditures

Petition for Drainage Works:

- a) The Board shall forthwith convene and review all petitions for Drainage Works filed with the City Clerk and shall make a recommendation to Council at a regularly scheduled meeting of Council as to whether the petition should proceed or not and, if it is recommended to proceed, further recommend the Engineer or Engineering firm to be appointed from the pre-approved list of qualified Engineers.
- b) In the event that there is no pre-approved list of qualified Engineers from which to recommend and Engineer, staff may recommend to the Board such other Engineer as it deems suitable, but in no circumstance is such a recommendation binding upon Council.

Engineer's Report:

In the event that an Engineer's report is prepared under either Section 4 or Section 78 of the Drainage Act, the Board shall receive and review the report and recommend to Council whether or not the report should proceed to a formal meeting of the Board for consideration of the report and establish a date and time for such consideration in its recommendation to Council which allows sufficient time for the Director of Engineering and Corporate Assets to receive the direction of Council and, if Council's resolution is to proceed, send out the notices required by Section 41 of the Drainage Act.

Consideration Meeting:

The Board shall hold the meeting required to consider the Engineer's report pursuant to Section 42 of the Drainage Act, including addressing the sufficiency of the petition, excepting that the Board has no power to authorize the Head of Council to sign the petition but may recommend to Council that it do so and shall recommend whether or not Council should adopt the report and pass the by-law provisionally.

Progress Reports:

The Director of Engineering and Corporate Assets, or designate, shall receive and review progress reports from the appointed Engineer and shall report to the Drainage Board at a scheduled meeting.

Engineer's Report Extension:

In the event the Engineer will be unable to complete the report within the time frame for completion provided by Section 39 of the Drainage Act and has requested an extension in writing to the Board, the Board shall so advise Council of that fact, the reasons why and provide Council with a recommendation with respect to whether or not to extend the time for the filing of such report and recommended period of time for the extension.

Court of Revision:

3 members of the Drainage Board (Section 97(1) of the Drainage Act) shall sit as a Court of Revision to hear appeals on assessments in accordance with Section 52 to 56 of the Drainage Act. The Board shall appoint the Court of Revision at the first meeting of each term 3 members plus an alternate to serve in place of an absent member. If a position on the Court of Revision becomes vacant for any reason another member of the Drainage Board shall be appointed by the Board.

Notwithstanding the provisions of the Municipal Conflict of Interest Act, in no circumstances can a member of the Board who may wish to exercise the right of appeal of the Court of Revision to the Tribunal sit as a member of the Court of Revision. A member of the Board who may wish to appeal the decision of the Court of Revision to the Tribunal shall withdraw from the deliberations of the Court of Revision or else forfeit the right of appeal. In the event that more than two members declare a pecuniary interest, the Board shall appoint another member to achieve the 3 member Court of Revision.

Drain Construction:

The Director of Engineering and Corporate Assets, or designate shall receive and review the tenders for construction of the Drainage Works in accordance with the City's procurement policy.

The Drainage Superintendent be required to assist and monitor the progress of new drain construction and bring updates back to the Drainage Board for their information.

Municipal Drains:

In all instances not otherwise provided for, issues related to the cost, repair, improvement or abandonment of a municipal drain shall be directed to Council which may seek the advice and recommendations of the Board if it so chooses, bearing in mind the special knowledge, ability and expertise of the members of the Board. The Board's purpose, intent and function are otherwise hereby confirmed and intended to be advisory only, with the exception of the role of Court Revision.

Activities:

The following represent the general activities of the Board:

- a) To review the existing policies, procedures and operating processes for establishing and maintaining municipal drains and the outlet of tile drains relative to the Drainage Act and other legislative mechanisms and recommend strategies and improvements for consideration
- b) To facilitate a public forum through regular meetings for Council, City Staff, development stakeholders and the public to provide input to comments respecting the Drainage installation and maintenance processes.

- c) The Drainage Board and the Drainage Superintendent will consult with the Communications, Advertising and Marketing division to develop new and improved communication and public education processes.

Composition:

The Board shall be comprised of a maximum of 7 members consisting of up to 5 members of the public and 2 Council representative(s) all of whom will have full authority to debate and vote. The Committee/Board shall consist of a minimum of 3 members. Board members will be appointed by Council in accordance with established policy.

The following persons do not qualify for membership on the Board:

- a) Full or part-time employees of the City;
- b) Non-residents of the City of Kawartha Lakes
- c) Persons under the age of eighteen years; and
- d) Persons who do not meet the general requirements for membership on City Boards and Committees as established by Council through by-law or policy.

Appointment of Officers:

The Board shall, at its first meeting in each year, elect from its membership a Chair, and Vice-Chair. It is acknowledged that there are no per diems for any Board positions and it is acknowledged that none of the above positions shall be paid for their services. All Board members are considered volunteer positions.

Term of Appointment:

Unless exempted by legislation, members will be appointed for the full term of Council. Members shall continue to serve beyond the end of their term until the appointments of their successors have been approved by Council.

Resources:

The Engineering and Corporate Assets Department will provide support in the form of advice, day-to-day liaison with the City, updates on program and promotional ideas and initial assistance in their implementation to the

degree resources are available. The Engineering and Corporate Assets Department will also assist in the preparation and submission of budget recommendations/grant submissions, if needed and attend meetings of the Board.

The City Clerk, or alternate, shall be designated as Recording Secretary by the Engineering and Corporate Assets Department. The Recording Secretary shall prepare and publish agendas; attend all formal business Board Meetings for the purpose of taking Minutes; and prepare and publish minutes in an accessible format acceptable to the City Clerk's Office.

The Recording Secretary shall ensure that a current Terms of Reference for the Board has been provided to the City Clerk's Office and is posted on the City website.

The Supervisor, Technical Services, for the Department of Engineering and Corporate Assets, or alternate, shall provide technical support, but will not constitute a voting member and shall not be counted when quorum is considered.

Timing of Meetings:

Meetings will be held on a set day and time as may be determined by the Board or at the call of the Chair.

Location of Meetings:

The location of the meetings will be set by the Board and must be held in an accessible City facility.

Meetings:

The Board shall hold a meetings as required in each calendar year to report on municipal drain work programs. The Chair, through the Engineering and Corporate Assets Department, shall cause notice of the meetings, including the agenda for the meetings, to be provided to members of the Board and posted to the City website a minimum of six (6) business days prior to the date of each meeting through the Recording Secretary. Quorum for meetings shall consist of a majority of the members of the Board. No meeting shall proceed without quorum.

Procedures:

Procedures for the formal business meetings of the Board shall be governed by the City's Procedural By-law and Legislation or, where both of these are silent, by Robert's Rules of Order.

Council approves the delegation of responsibilities assigned to the City Clerk under the Drainage Act to the Director of Engineering and Corporate Assets where the City Clerk has provided such delegation in writing in accordance with Section 228 (4) of the Municipal Act.

Closed Meetings:

The Board may, upon affirmative vote of the majority of its members present at a meeting, determine to hold any meeting or part of a meeting as a closed session in order to discuss subject matter allowed to be discussed in a closed session under the Municipal Act.

If the Board elects to hold a closed session, all persons not entitled to vote (with the exception of the staff liaison and visiting members of Council, if any, and all persons excepted by the members) shall vacate the premises where the meeting is taking place. Closed session meetings can only be held in accordance with Section 239 of the Municipal Act. Prior to the commencement of the closed session, a resolution shall be passed stating the general nature of the matter to be discussed and what section of the Municipal Act applies.

Agendas and Minutes:

A copy of the Agenda shall be provided to the City Clerk's office at the same time it is provided to Board Members. The City Clerk's office will distribute the agenda to Council members as per established procedures.

Minutes of all formal business meetings and notes from working meetings of the Board shall be forwarded to the Engineering and Corporate Assets Department, and to the City Clerk's Office, not later than two weeks after the meeting. Action items requested of staff and/or Council will be brought to the attention of the Engineering and Corporate Assets Department at that time. The City Clerk's Office will electronically circulate the formal business meeting minutes to all members of Council for their information. The City Clerk's Office will maintain a set of printed minutes on file for public review.

The Recording Secretary shall ensure that all Board Agendas and Minutes are posted to the City website at the same times as they are circulated to the City Clerk's Office.

Reports:

If there are recommendations of the City of Kawartha Lakes Drainage Board that fall outside of this report, they are to be forwarded to Council, through the Engineering and Corporate Assets Department in a formal written report on the City report template. It will be the responsibility of the Board Chair to provide a memo to the Engineering and Corporate Assets Department identifying the Board recommendations for final preparation of the report.

Purchasing Policy:

The City of Kawartha Lakes Drainage Board shall follow the Procurement Policy of the City unless another policy has been endorsed for the City of Kawartha Lakes Drainage Board by Council.

Insurance:

The City of Kawartha Lakes' General Liability Policy and Errors and Omissions Liability Policy will extend to this Board and its members. The applicable insurance policies extend to Board members while in the performance of his/her duties and to those activities authorized by the City of Kawartha Lakes and Council. Members must adhere to the policies and procedures of the City of Kawartha Lakes and Council, including the Terms of Reference.

The Board must provide, via the Engineering and Corporate Assets Department an annual updated listing of all members, including member positions, to the City of Kawartha Lakes to ensure the applicable insurance coverage remains in force.

Board members are not entitled to any benefits normally provided by the Corporation of the City of Kawartha Lakes, including those provided by the Workplace Safety and Insurance Board of Ontario ("WSIB") and are responsible for their own medical, disability or health insurance coverage.

Expulsion of Member:

Any member of the Board who misses three consecutive formal business meetings, without being excused by the Board, may be removed from the Board in accordance with adopted policy.

Any member of the Board may be removed from the Board at the discretion of Council for reasons including, but not limited to, the member being in contravention of the Municipal Act, the Municipal Freedom of Information and Protection of Privacy Act, the Provincial Offences Act, The Municipal Conflict of Interest Act or the Code of Conduct for Board Members; disrupting the work of the Board; or other legal issues. The process for expulsion of a Board member is outlined in the City's **Council Committee, Board and Task Force Policy**.

Terms of Reference:

The Recording Secretary shall ensure that a current Terms of Reference for the Board has been provided to the City Clerk's Office and is posted on the City website.

Any responsibilities not clearly identified within these Terms of Reference shall be the responsibility of the City of Kawartha Lakes. Council may, at its discretion, change the Terms of Reference for this Board at any time. Any changes proposed to these Terms of Reference by the Board shall be recommended to Council via the Engineering and Corporate Assets Department through a report to Council.

At the discretion of Council the Board may be dissolved by resolution of Council.