

# Municipal Drainage Presentation

2025

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# Drainage

## So, what's a Municipal Drain???

- It is a Drainage System either open ditch or enclosed pipe system or any other water control structure such as, storm water management pond
- Petitioned for by landowners needing drainage under the Ontario Drainage Act, 1990.
- The affected landowners pay all costs of construction and maintenance of the system they benefit from.

# Drainage - Topics

- Topics of Discussion:
  - Introduction
  - Common Law Aspect of Drainage
  - Early Drainage Law
  - Process under the Drainage Act
    - Petition (Section 4)
    - Appointment of the Engineer
    - Site Meeting
    - Meeting to Consider
    - Court of Revision

# Drainage - Topics

- Process under the Drainage Act (Cont'd)
  - Repair and Improvement (Section 78)
  - Maintenance and Repair (Section 74)
- Future Considerations
- Final Thoughts

# Introduction

- Water issues causes disputes between:
  - Neighbours
  - Family Members
  - Landowners vs Road Authority
- Drainage Act was created to provide drainage to those landowners requiring drainage.
- The Drainage Act empowers the municipality to facilitate & maintain the resulting drainage scheme at the cost of lands and roads benefiting from the drainage system.
- Drainage projects are communal projects
- Involvement of the Landowners is necessary

# Common Law Aspect of Water

- Common Law – foundation of today’s Statute Law
- Common Law as it relates to natural watercourse states the following:

*“A natural watercourse is a natural channel where water flows between defined banks. The flow of water does not need to be constant, but the channel must be a permanent landmark.”*

- Natural watercourse in Town of Pelham include:
  - Welland River

# Common Law Aspect of Water

- Landowners adjacent to Natural Watercourses are considered riparian owner
- These landowners have the rights under “The Riparian Doctrine”
- One of the rights is “the right to drain their property”

# Common Law Aspect of Water

- Common Law also states the following regarding surface water:

*“No right of drainage to mere surface water exists as long as the flow is not in a defined channel”*



# Early Drainage Law

- The first Drainage Law was the Ditches and Watercourses Act
- Passed in 1874
- Limited involvement for Municipalities
- Ditches & Watercourses (D&W) drains still exist today

# Drainage Act Process

- Current legislation 1990 with revisions completed in 2010.
- One of the most democratic Acts in Ontario
- Provides landowners with the ability to obtain legal drainage
- Requires the municipality to manage the drainage systems and recover cost from all benefitting landowners including Road Authorities, Railroads and other utilities.

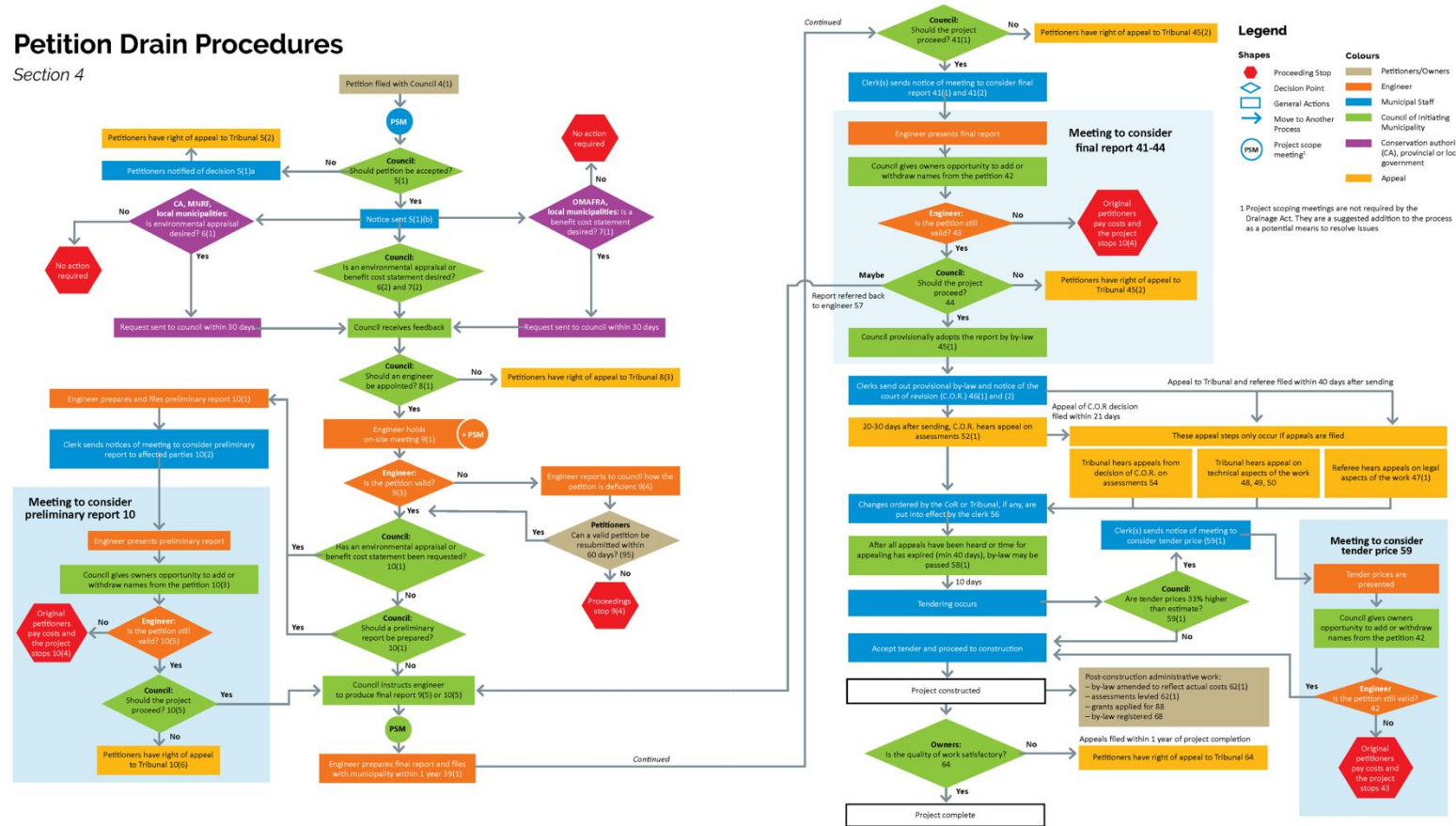
# Drainage Act Process

## Petition Drains

- Section 4 – Petition is the method for landowners start the process for a new municipal drain
- The petition is valid based on the following 4 criteria:
  1. Majority of numbers of the property owners
  2. The area representing at least 60% of the hectares in the area requiring drainage
  3. Road Authority (road requires drainage)
  4. Director of Ministry of Agriculture, Food and Rural Affairs. (drainage is req for Agg lands).

# Petition Drain Procedure (Section 4)

## Petition Drain Procedures Section 4



# Drainage Act Process On-Site Meeting

- Meeting is schedule with all of the landowners impacted by the proposed project
- The meeting is held to review the drainage concern
- Fact gathering meeting for the engineer in order to understand the landowners concerns



# Drainage Act Process Report Preparation



- With the information gathered at the meeting, the engineer:
  - Research of existing drainage systems in the area
  - Survey of the affected area is completed

# Drainage Act Process Report Preparation

- The engineer will also make inquiries to:
  - Niagara Peninsula Conservation Authority
  - Department of Oceans & Fisheries (ERCA)
  - Ministry of Natural Resources – Endangered Species Act – (Agreement w/ municipality)

# Drainage Act Process

## Meeting to Consider

- Report is prepared based on all the information
- The Engineer's Report is filed with the municipality
- The report is circulated to the benefitting properties outlined in the report
- Administration schedules a "Meeting to Consider" to review the report with the assessed landowners



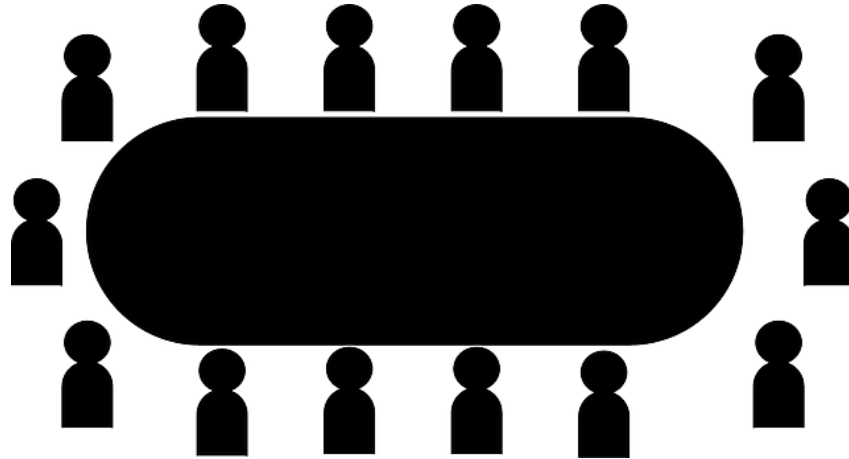
# Drainage Act Process Meeting to Consider



MEETING TO CONSIDER THE REPORT IS HELD BEFORE COUNCIL



THIS ALLOWS THE LANDOWNERS THE OPPORTUNITY TO PROVIDE INPUT INTO THE TECHNICAL ASPECTS OF THE DESIGN

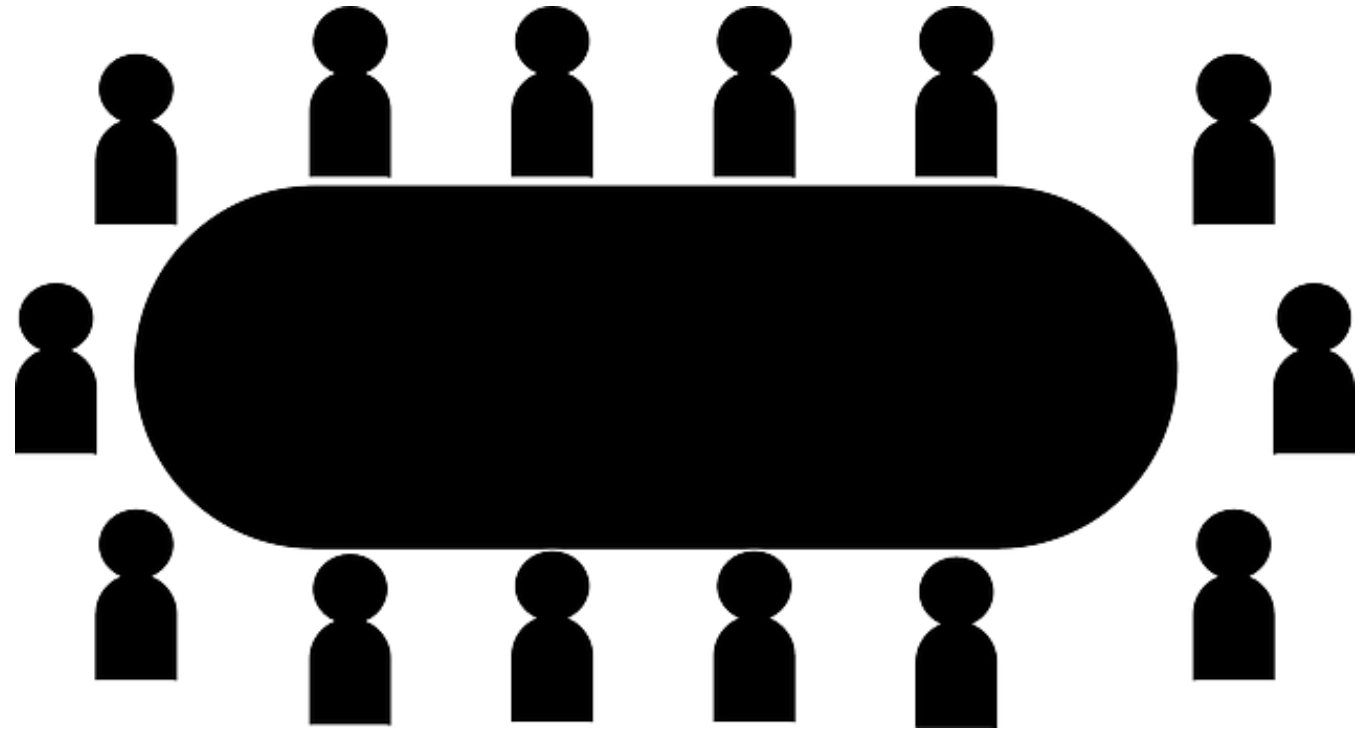


# Drainage Act Process Meeting to Consider

- With the information from the meeting, Council has three options:
  - Stop the project (subject to landowner concerns)
  - Refer the report back to the Engineer
  - Adopt the report by giving two readings to a by-law
- If adopted, administration schedules the Court of Revision

# Drainage Act Process Court of Revision

- The Court of Revision is scheduled between 20 and 30 days from Council adopting the report
- Court of Revision is where landowners raise concerns regarding their assessments or discrepancies in affected land areas



# Drainage Act Process

## Court of Revision

- Court of Revision Members are appointed by Council. By-law is passed appointing the members.
- Concerns must be based on facts:
  - Property size
  - Amount of area drained for the property

# Drainage Act Process

## Court of Revision

- Based on the concerns raised by the owners, Court of Revision has options:
  1. Approve the schedule of assessment as submitted
  2. Request the engineer to make changes to the schedule of assessment and pro-rate cost to other affected lands
    - Second Court of Revision will be necessary if the entire schedule changes

# Drainage Act Process Appeals

- Landowners are given 21 days from the date of the Court of Revision's decision to make an appeal to the Ontario Tribunal.
- Once the 21 days has lapsed, and the Clerk does not receive an appeal, Council can give third and final reading to the by-law.
- There are various stages throughout the process where landowners can appeal to the tribunal or the referee.

# Drainage Act Process

## Construction & Assessing Cost

- Engineer/Administration tenders the project
- Council awards tender to the successful tenderer
- Project is completed and costs are billed to owners as per the assessment schedule
- Owners have the option to debenture costs on their taxes



# Drainage Act Process

## Petition Drain

- Recap of New Drains (Petition)
  - Landowners initiate the process
  - Council appoints Engineer
  - Landowners are involved at various public meetings
  - Engineer prepares municipal drain report “Engineer’s Report”
  - Costs are assessed to the benefiting landowners

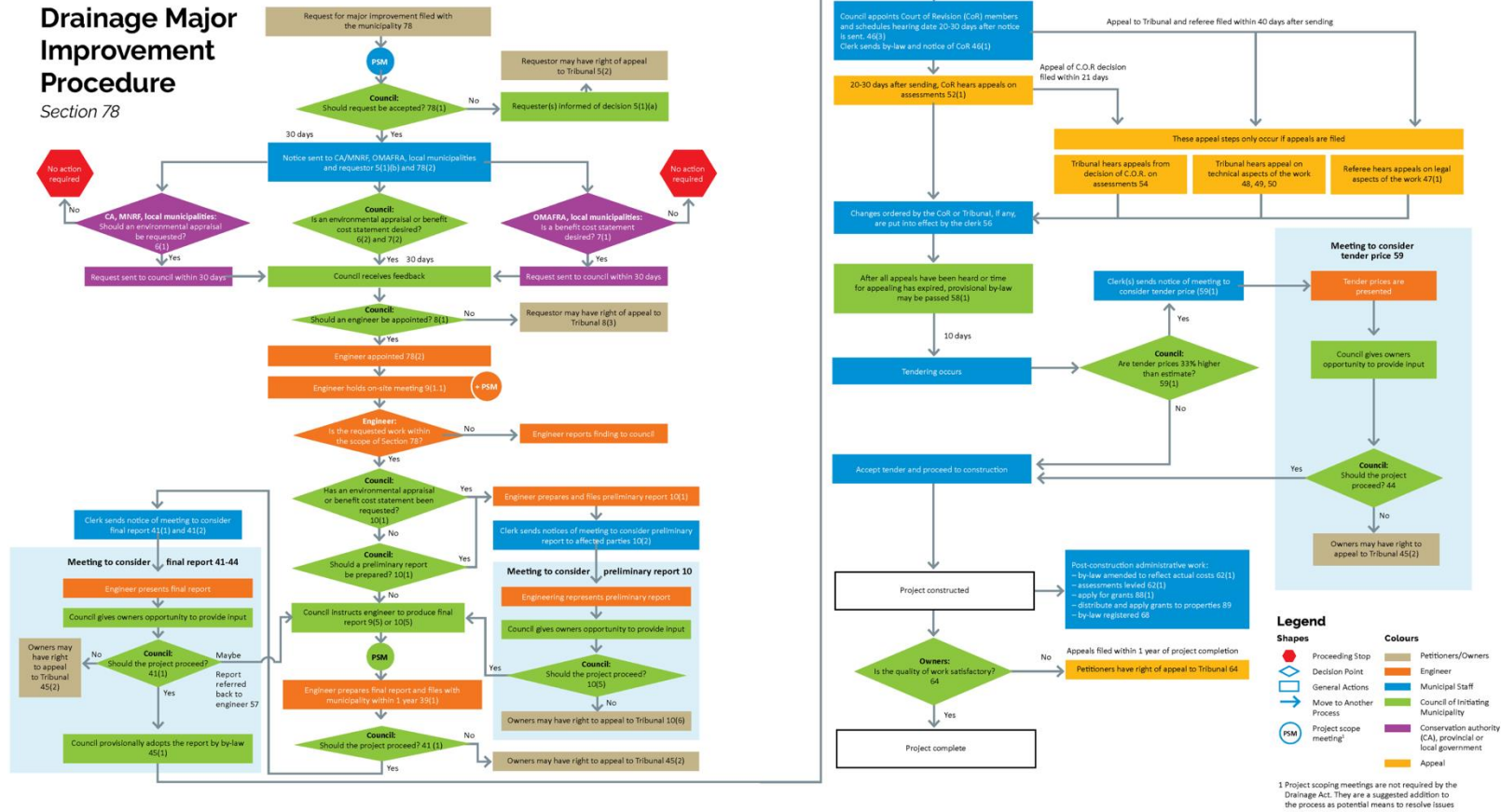


# Drain Improvement Process

- Under Section 78 – Drains are improved or repaired
- Landowners submits request – not a petition
- Council can also request improvements based on information provided by administration
- Council appoints engineer, if necessary
- Examples are:
  - New Culvert installations
  - Work required that maintenance can not deal with

# Drain Improvement Procedure (Section 78)

## Drainage Major Improvement Procedure Section 78



# Drain Maintenance Process

- Under Section 74 of the Drainage Act
- Landowner driven – Reactive process
- Landowner submits maintenance form to Drainage Superintendent
- Drainage Superintendent reviews the drain



Date: August 26, 2015

## OFFICIAL NOTICE

According to the provisions of the Drainage Act, R.S.O. 1990, Chapter D.17, all Municipalities are responsible for the maintenance and repair of drainage works constructed under a by-law passed under this Act, and are required to:

1. Inspect every Municipal Drain periodically.
2. Maintain in good repair according to the last revised Engineer's Report Every Municipal Drain, if said drain so requires.

The Keenan Municipal Drain has been inspected and has been found to be in an unsatisfactory condition to provide drainage in accordance with the last revised Engineer's Report and therefore requires cleaning and repairing to restore the original condition. This work will be done by excavating. From Regional #20 North approximately 650 meters

The maintenance work will be undertaken between September 1, 2015 and September 30, 2015.

If your property is physically located on the Municipal Drain, please ensure that all tile drain outlets, survey stakes, private gas/utility/telephone/electrical lines, tree or fruit plantations or any property which could be damaged, are clearly marked by you prior to September 1, 2015, so that the machine operator is aware of these obstructions, since the Municipality shall not be responsible for damages. If your property is not physically on the Municipal Drain, you need do nothing at this time. Also please ensure that at least the 5 meter (16.5 feet) working space measured from the top of the bank on each side of the drain is free from any obstructions which may affect the operation of the mechanical equipment required for the maintenance. Any trees that may be in the working space will be removed and the timber piled neatly along the area.

Description of proposed maintenance work: **brushing, bottom cleaning, level spoil.**

Should any landowner require that all or a portion of the spoil be trucked away from their property, rather than levelled adjacent to the drain, the cost of trucking spoil away shall be assessed totally to the landowner requesting the same (unless stated otherwise in the Engineer's Report).

If you are contemplating transferring your property, prior to the payment of your costs of the maintenance of this drain, it is recommended that you advise the new owner and their solicitor of the impending drainage tax, in order to avoid any misunderstanding to the Agreement of Sale.

Should you have any questions, concerns, preferences, or require an estimate for removal off site of spoil or timber, please contact Mike Zimmer at the number below prior to September 1, 2015; otherwise, the Municipality will assume that you have no concerns regarding the maintenance of the aforementioned drain.

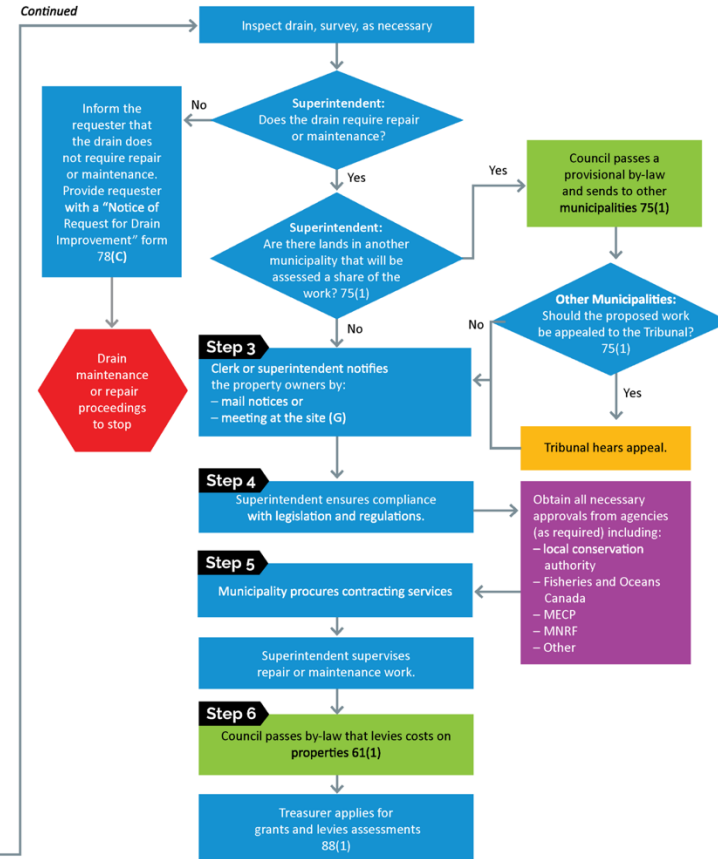
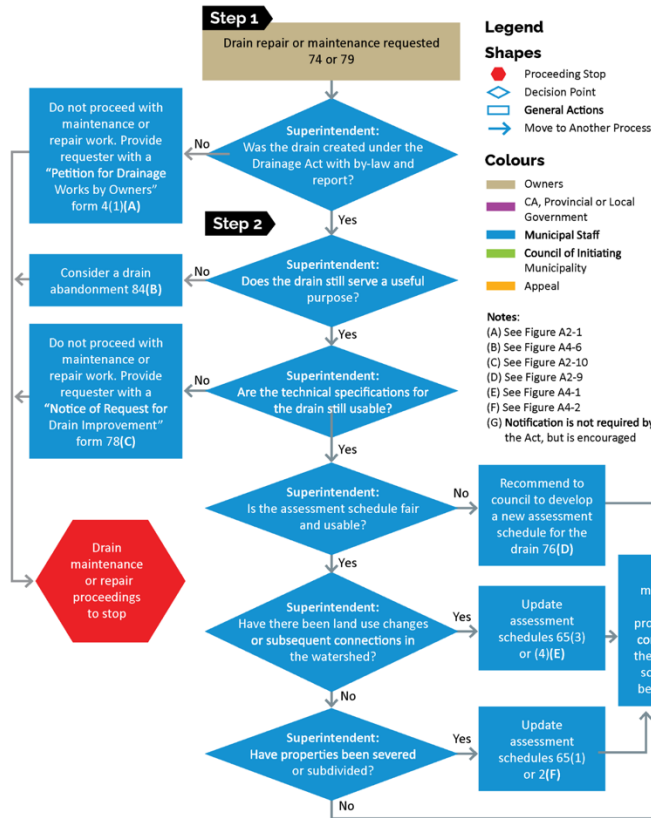
Mike Zimmer, Drainage Superintendent  
905-892-2607 ext. 323  
[mzimmer@pelham.ca](mailto:mzimmer@pelham.ca)

NOTE: Spoils will be placed and levelled in accordance with the current Engineering Reports and by-law. If you require any special conditions regarding the location of the spoil, please notify this office prior to September 1, 2015 as previously mentioned, in writing.



# Drain Maintenance Procedure (Section 74)

## Drain Maintenance or Repair Procedures



# Drain Maintenance Process



- Drainage Superintendent may hold a site meeting:
  - Advises landowners of the request to maintain drain
  - Provides landowner with an estimated cost and timing of project
  - Provides landowners in attendance to provide input to the overall project

# Drain Maintenance Process

- Drainage Superintendent makes application to the following agencies:
  - NPCA – Application for Permit is submitted
  - Department of Fisheries & Oceans

# Drain Maintenance Process

- Based on the information from the site meeting:
  - Survey is completed (if necessary)
  - Tender is prepared by Drainage Superintendent
  - Council awards project to the successful bidder
  - Maintenance is completed as per the tender



# Drain Maintenance Process

- Costs are incurred by the municipality
- Costs are assessed to the landowners as defined in the current engineer's report
- Landowners are billed directly
- Landowners have the option to let the cost be placed on their final tax bill



# Environmental Agencies

- Approvals are required from the following three agencies:
  - Niagara Peninsula Conservation Authority (Conservation Act)
  - Ministry of Natural Resources (Endangered Species Act)
  - Department Fisheries & Oceans (Fisheries Act & Species At Risk Act)



# Environmental Agencies

- Niagara Peninsula Conservation Authority
  - Review Drainage Projects
  - Verifies no impacts to wetlands
  - Verifies no impacts to flood plains
  - Drainage Superintendent submits application for municipal drain projects
  - Conservation Authority provides approval and letter of advice

# Environmental Agencies

- Niagara Peninsula Conservation Authority
  - Complete screening for Department of Fisheries and Oceans
  - Highlights concerns and can negotiate mitigation/compensation plans
  - Level 3 Agreement for Department of Fisheries & Oceans
  - Department of Fisheries & Oceans becomes involved in complex drainage projects

# Environmental Agencies

- Department of Fisheries & Oceans
  - NRCA completes the initial screening
  - Department of Fisheries & Oceans reviews and approves NPCA recommendations
  - Department of Fisheries & Oceans gets involved on complex projects causing a HADD
  - HADD stands for Harmful Alteration, Destruction and Disruption of Fish or Fish Habitat

# Environmental Agencies

**Latin Name**

*Noturus stigmosus*

**Group Name**

Freshwater



**Latin Name**

*Quadrula quadrula*

**Group Name**

Molluscs



- Department of Fisheries & Oceans
  - Species At Risk Act (SARA)
  - Covers fish and mussels that are endangered, threatened and special concerns federally

# Environmental Agencies

- Ministry of Natural Resources
  - Some species affected by the Endangered Species Act
    - Birds Species
    - Fish Species
    - Mussel Species
    - Snake Species
    - Turtle Species
    - Plant Species
    - Tree Species

# Environmental Agencies

- The municipality enters into an agreement with Ministry of Natural Resources for the Endangered Species Act for projects under the Drainage Act.
- The agreement includes:
  - List of Species
  - Mitigation Plans
  - Sensitive Area Maps
    - Birds, Fish, Mussels, Turtles & Snakes
- Drainage Superintendent completes the review and provides the consultant with the mitigation plans from the agreement

# Final Thoughts

- Drainage Act Process
  - Owners can petition for drainage works
    - 50% of the landowners
    - 60% of the lands
  - Report completed by Engineer
  - Various Public Meetings – Landowner involvement
  - Council adopts the project by By-Law



# Final Thoughts

- Drainage Act Process
  - Once constructed – Cost is recovered
  - Landowners have the ability to request:
    - Maintenance (Section 74)
    - Improvements (Section 78)
- Environmental Agencies
  - Niagara Peninsula Conservation Authority, Department of Fisheries and Oceans and Ministry of Natural Resources are involved in drainage projects