O.S.P.E. LAND DRAINAGE COMMITTEE
January 23, 2024 MINUTES OF MEETING
Best Western Lamplighter Inn

1.0 General Business

1.1 Welcome, Call to Order and Attendance

Members Present:

Paul Marsh, Chairman
Tony Peralta
Carla Coveart
Jeremy Taylor, Vice Chairman.
George Vereyken
Josh Warner, Secretary

Liaison Members:

David Moores (Drainage Superintendents Association of Ontario, DSAO)
Davin Heinbuck (Conservation Ontario)
Tim Brook, Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA)
Amanda Conway, Department of Fisheries and Oceans (DFO) (Virtual)
Mariel Mading, Open Learning & Education Support (University of Guelph) (Virtual)
Olena Czajkowski, Ministry of Transportation (MTO) (Virtual)
Stefanie Black, Ontario Society of Professional Engineers (OSPE) (Virtual)

Regrets:

Clarissa Whitelaw, Ministry of Environment, Conservation and Parks (MECP) (Virtual)

Chairman Paul Marsh called the meeting to order at 1:19pm

1.2 Approval of Agenda

Motion by Jeremy, seconded by Tony that the agenda as prepared by the Chairman be accepted.
Terms of Reference?

1.3 Minutes of last Meeting – October 19, 2023 LDC Meeting and Practitioners Meeting

Motion by Tony, seconded by Jeremy that the minutes for October 19, 2023 and Practitioners Meeting be accepted as amended. Carried.

1.4 Business Arising from the Minutes

Action Items from the October 19, 2023 meeting were reviewed below:

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<td>Jeremy</td>
<td>Call and Email – Waiting for Follow Up</td>
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<td>2. Investigate the creation of a LinkedIn page for the drainage community (DSAO/LDC)</td>
<td>Carla</td>
<td>To Remain</td>
</tr>
<tr>
<td>3. Talk to PEO about updating practice guideline</td>
<td>Tony/Tim</td>
<td>Complete</td>
</tr>
<tr>
<td>4. Develop business case for Engineer’s Course</td>
<td>Subcommittee-Josh, John, Jeremy</td>
<td>Complete – Evaluate apart of Meeting</td>
</tr>
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<td>5. Write letter to OMAFRA to initiate conversation about Municipal Freedom and Protection of Privacy Act’s conflict with the Drainage Act.</td>
<td>Tony</td>
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1.5 Correspondence

Received:

Staffing Issues at DFO: Length of time to review reports, particularly for reports under 78-5 where there is 180 days to complete the report

Queen’s Park MPP Reception: March 6, 2024 at 5:30pm

Letter from Minister of Agriculture, Food and Rural Affairs, Lisa Thompson
Comments regarding new Terms of Reference

Order of Court of Drainage Referee for Railways (Tim)

Robinson Consultants reached out to the LDC in regards to an Archaeological Investigation on a Drainage Project. The LDC provided a written response.

Sent:

Tony sent email to PEO regarding PEO updating guidelines for “Services of the Engineer Acting Under the Drainage Act”

Correspondence can be provided upon request.

2.0 Liaison Reports (1:44pm)

2.1 Stefanie Black (OSPE)

OSEP is available to provide support for committee. Advocacy on all topics.

Eng Talk series invites experts from different fields to present. 150 people in attendance typically, and a lot of students to potentially increase outreach.

Eng Talk is delivered virtually.

2.2 Olena Czajkowski (MTO)

Not too much to report. Highway Drainage Design Standards to be complete in February. Updates include TW-1 standard. Changes to water crossings in 1 to 2 years.

Updates to specifications for installation of subdrains and inspection of storm, sanitary and water by CCTV.

Frequency of storms updated in Highway Drainage Design Standards.

Not updating IDF curves yet.

Olena to investigate Potential Topic for MTO

2.3 Davin Heinbuck (Conservation Ontario)

Transition Period Complete – Conservation Authorities will have entered into all necessary cost-apportioning agreements with participating municipalities by January 1, 2024. All CAs will have also completed a final inventory of their programs and services.
The regulation does allow for an extension of the transition date, so several CAs may be working towards a new transition date further to the Minister’s approvals.

Minister’s Direction on Fees – In late 2022, the Minister provided direction to all Conservation Authorities to not raise fees associated with reviewing and commenting on planning and development related proposals, applications or policies, or for CA permitting (Section 28 permits). An extension to this direction was provided from the Minister on December 13, 2023. Conservation Authority fees will continue to be frozen at current levels until December 31, 2024.

Drainage Superintendents Course – Davin Heinbuck will be presenting on the Conservation Authorities Act and the DART Protocol on behalf of Conservation Ontario.

George: Inconsistency’s from CAs: Agricultural crossings being designed to 100-year storm.

Davin: CA’s act doesn’t prevent local policies. They need to be able to provide rationale for policy.

2.4 Tim Brook (OMAFRA)

Through Engineer’s Reports OMAFRA should be provided with digital information to allow them to add/update the Constructed Drain layer in AgMaps.

- This will also help with keeping the DFO Drain Classification layer updated.

The province is moving all content from the omafra.gov.on.ca site to Ontario.ca and drainage information is being moved over.

Drainage Publications being reviewed/updated/created is moving forward but slowly – new Property Owners Guide is slowly moving forward.

LDC/selected drainage engineer will be able to complete peer review on content once developed.

Black Ash issue –

- OMAFRA met with MECP on Dec. 11, 2023 to discuss the issue of ESA protection for Black Ash when the period of temporary suspension ends on January 25, 2024.
- MECP proposes to limit the application of the “species protection” prohibitions in subsection 9(1) of the ESA to healthy Black Ash that are located in areas of the province that have experienced significant EAB-caused mortality of ash trees – which is all of southern Ontario and healthy black ash trees:
  - A healthy black ash tree is defined as:
    - One that has appeared to survive exposure to, and
    - Has a trunk diameter at breast height of at least 8cm.
    - According to the proposed regulations, identification of and the determination of whether a Black Ash tree is healthy must be made by a qualified professional – therefore still a burden to the DS.
  - A drainage works exemption already exists under the ESA and OMAFRA staff believe this exemption combined with the definition of a healthy black ash tree
will adequately address stakeholder concerns regarding the burden associated with the new ESA protections.

- As Black Ash was added to the SARO List in January 2022, any new or existing mitigation plans developed under section 23.9 would need to be developed or updated to include Black Ash by January 2025.

Update of Excess Soil Regulation

- OMAFRA met with MECP in November 2023 to discuss the proposal on the EBR
- It was presented that the posting will not impact drainage works as per the clarification provided by Chris Lompart at the 2022 Drainage Engineer’s conference and previous guidance around project area, etc.

Federally regulated railway issue

- Likely being discussed at AMO by many municipalities.
- Issue is being monitored by Drainage Staff – report any new issues, etc. to me – timothy.brook@ontario.ca
- There are 2 active files/cases:
  - City of Sarnia and CN before the Canadian Transportation Agency – no update
  - Chatham-Kent and CP before the Court of the Drainage Referee
    - Order issued November 22, 2203 by Acting Referee Andrew Wright
    - Available on CanLII and has some potential for municipalities to engage in the process
  - MAG is managing these cases for the province.

Tony: Qualifications Requirements for Drainage Superintendents seems to be increasing. Some Municipalities requiring P.Eng to apply for Drainage Superintendent position.

OMAFRA previously provided list of Drainage Engineers (contact info) to Municipalities
- Tim: there is intention to bring this back

2.5 Clarissa Whitelaw (MECP)

Not able to attend.

2.6 Amanda Conway (DFO)

For 2024, DFO is planning on issuing drain sampling contracts to Conservation Authorities and Municipalities as they have done in previous years

Planning on hiring two student drain crews to complete sampling of unrated drains in 2024

GIS Technicians are working to get the data from 2023 updated to the OMAFRA drains layer, we expect it to be updated by late April/early May.
Once budgets have been confirmed for next year, emails will be circulated with details on applying for a DFO Drain Sampling contract for 2024 as well as an email with Drain Sampling Priority Requests – Unrated Drains.

DFO review times were discussed:
- Drain maintenance and repair works for rated drains are given priority review status in our Triage group. For drain enclosure or new drainage reports, a fulsome review is required which does take more time.
- Issue with shortage of staff in DFO, but hiring shortly.

There were a few other comments on fish passage and bank brushing. These items are best dealt with at the site-specific review level – please provide as much context and details in submissions to DFO to help the assessor understand constraints or other considerations.

Amanda: Utilization of SPOT tool for required velocities.

Josh Question: DFO is increasingly requesting the velocities of the culverts under a 2-year storm event. With future works not being reviewed by the DFO what is the expectation for Drainage Superintendents when those culverts get replaced. Will the assumption be that they should be presenting the 2-year velocities when they send in their application?

Josh Question: What is the reason the DFO is evaluating the velocities under a 2 year storm event? My understanding was that it represents an approximate of a spring melt. I know in our area by the spring there is virtually no snow left.

George: been requested to not touch any vegetation on one bank. Decrease in capacity of drain if not brushing entire drain.

Discussed the validity of modelling a 2-year storm for fish passage. Some have been able to justify utilizing base flows for the required velocities.

Tony to bring up question and concerns to DAWG for further discussion.

2.7 David Moores (DSAO)

2024 Meetings
- Tuesday, January 23, 2024
- AGM – Wednesday, January 24, 2024
- June Board Meetings – June 5th to June 7th – Keane Ontario
- There will be a virtual All Chapters June Meeting – Date TBD
- October Board Meeting – October 23rd to October 24th - Guelph
- All Chapters Meeting - October 24th - Guelph
Information and Promotion
  o We have hard hat stickers and bumper stickers available at our AGM

DSAO Constitution and Policies
  o Constitution changes have been emailed around to all members for comments and these changes will be adopted at the January AGM
  o Policies will be revised at our June Meetings – one big ticket is voting virtual

RALP
  o David Moores – Primary
  o Ken McCallum – Alternate

Fish Resiliency Study
  o Currently in Phase 2 - $6000 split by DSAO and DFO
  o Scope being developed with Chris Phol of Burnside and Sara / Lisa DFO
  o We have budgeted for Phase 3 – actual work in the field and report – cost $20,000 – split by DSAO and DFO

Board Member Changes
  o New President – Lorne Franklin
  o Chapter 5 – Darren McKenzie
  o Chapter 2 – David Moores
  o Director at large – up for Election at the AGM
  o Associate Position is always voted on each year at the AGM

Continuing to follow our Strat Plan – have a committee looking into an admin staff member

Mentorship program – letter to come out through OMAFRA – application for mentors will be available and mentors approved by the Board

2.8 U of G – Open Learning and Education Support (Mariel Mading)

  Paul: Can emails be added to the website (Mariel to determine if this is feasible)
3.0 Sub-Committee Reports

3.1 Conference Planning

2023 Conference Review and Evaluations

Conference: good feedback
- satisfied with facilities
- food and menu received overall good comments
- Enjoyed case studies and update from suppliers

Suggestions:
- Shortening lunch time for those with longer drives
- More visual content
- Audio clarity for presenters
- Hotel had a strong sent
- Slightly different food options

Financially: successful. 20 more people than budget. Good relationship with Delta. Fine of $900 for not booking all of the rooms. Hotel compensated for audio due to difficulties. 2 additional sponsors.

Rooms reserved: 70. 50 for no penalties. Booked. DSAO to have contract or be apart of conference.

Paul and Mariel to facilitate discussion with DSAO for room bookings apart of conference

2024 Conference Plan

- October 17th and 18th are dates available at Delta. Book for 2024 at Delta.
- Book as soon as possible after conference next year.

Ideas for Presentations

Mariel sent suggested topics:
- Drainage Experienced from outside country
- Spills
- Case Studies

Section of the Act.
Abandonment of Municipal Drains in Urban Areas.

Paul: CWRA: AI in water resources. ENR-CAN

Paul: send email for case studies for conference

George: erosion control projects. Potential presentation

Paul: Reach out to someone to talk about financial side of Marijuana industry.

3.2 DAWG Update (Tony Peralta)

Meeting last week.

New DFO request for review forms for new engineers report, will be issued shortly
  o Intended to eliminate miss-information in the document

Drain enclosure fact sheet (Ontario Only) will be issued shortly as well (March 2024)
  o Suggested to include it in the landowners guide

Looking to increase staffing at DFO.

Concerns about practicality of half bottom cleanout.

Drainage Superintendents have concern with the following:
  o Staged Cleanouts
    ▪ Related to SAR and specific species
    ▪ Inconsistencies in DFO’s requests
    ▪ Would like to see a standard length
  o That they can’t replace culvert with bigger size when not meeting DFO fish passage issues.

Tony-bring up velocities at DAWG.

Advocating for base flows with rest areas for fish passage.

3.3 DSAO Railway Sub-Committee (Tony Peralta)

CK filed an application to the Referee for 2 things
  1) To gain access to a project to install a pipe underneath the railway and have a railway agreement.
  2) Order from the Referee to pay costs for assessments.

ROMA has been approved to be intervener for the CN/CK fight if the Constitutional question is raised. MAG (Ministry Attorney General) may be interested in joining as well.
Warwick & Plympton Wyoming are willing to join:
  o They are currently in discussions as to start action in small claims court or considering joining CK’s fight. Small Claims court could be dependent on the Constitutional issue and may be put on hold.
  o Other municipalities indicated that they are interested in joining.
  o There is a process for municipalities to intervene. CK lawyers may discuss the process with any legal counsel retained by a municipality to discuss the process. AMO/ROMA will set up another meeting with interested parties to discuss.
  o Proceedings will most likely take all of 2024 and most of 2025 if not moving into 2026.

Update from ROMA meeting with select municipalities – December 6, 2023

There were three main take aways from this meeting:
  1. Municipalities should continue to communicate with ROMA/AMO prior to taking actions that could undermine the collective municipal position.
  2. Municipalities should support evidence gathering by ROMA/AMO (by providing data to a new survey)
  3. Municipalities may wish to consider a joint action to recover outstanding costs.

Tony to reach out to Paul Courey about any required support

3.4 RALP Sub-Committee (Representative to be named)

Ask to have two:
Tony and Josh.

3.5 Consideration of Drainage Course

Paul: doesn’t include any business information. Fees?

Tim to forward comments from LDC to subcommittee (DONE). Subcommittee to revise proposal

  Ridgetown pathway to course: funding under Transfer payment agreement to fund development of course

  Pay for service or recovery basis

Drainage Superintendent: $565 for the week

5-10 students.
$1000/day for person.

Subcommittee to meet and revise document to bring to next meeting.
**Urban Drainage:** Form subcommittee to review exemption for Drainage Act. Mandate: Meet with MOE to discuss guidelines to harmonize with CLI ECA process and the Drainage Act


Paul to reach out to MOE.

**3.9 Terms of Reference Sub-Committee (Paul Marsh)**

Motion to adopt. Tony. Seconded by: Carla

**Discussion:**

Discussed and voted on the following amendments:

Josh: Motion to Amend name to Land Drainage Association:

Vote: 5-1. Carried.

Tony: Motion to amend definition of Drainage Engineer to someone who has authored a report under the Drainage Act.

Tied: 3-3. Not carried.

Josh: Motion to amend Section 2 under 7. Executive Membership to add OLS. Good standing with regulated body (PEO Act and Surveyors Act)

Vote: 6-0. Carried.

George: Motion to amend order of headings to have “operations” last.

Vote: 6-0. Carried.

Vote on Adopting the Motion as Amended.

Recorded Vote:
- Josh-Yes
- George-No
- Tony-No
- Carla-No
- Paul-Yes
- Jeremy-Yes

Not Carried.

Next Steps to be Discussed at Next LDC Meeting.
Paul to email people at AGM about not passing of Terms of Reference.

4.0 New Business

None

5.0 Summary of Action Items (6:00)

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<td>5. Olena to consider conference topic related to MTO’s drainage work</td>
<td>Olena</td>
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<td>6. Facilitate discussion with DSAO for room bookings apart of conference.</td>
<td>Paul and Mariel</td>
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<td>7. Look into including new LDC email apart of website</td>
<td>Mariel</td>
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<td>8. Reach out to drainage contacts about case studies for conference</td>
<td>Paul</td>
<td></td>
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<td>9. Discuss with DAWG the requirement to provide a 2-year storm velocity as part of DFO approval and how that may affect culvert replacements under maintenance.</td>
<td>Tony</td>
<td></td>
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<td>10. Reach out to Paul Courey to offer any required support to the Railway Issues</td>
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<td>LDC</td>
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<td>12. Meet with MOE to discuss guidelines to harmonize with CLI ECA process and the Drainage Act</td>
<td>Sub-Committee: Chair: Paul. George. Jeremy</td>
<td>In Progress or Completed</td>
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<tr>
<td>13. Email attendees of Practitioner’s Meeting the results of Terms of Reference discussion</td>
<td>Paul</td>
<td>In Progress or Completed</td>
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<tr>
<td>14. Reach out to Paul Courey to provide any required support to the Railway Issues</td>
<td>Tony</td>
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6.0 Adjournment

Motion to adjourn 6:04 by Paul, seconded by Josh. Carried

Next In Person Meeting: May 31, 2024