



## The Corporation of the Town of Kingsville

**To:** Mayor and Members of Council

**Prepared By:** Lu-Ann Marentette, Drainage Superintendent

**Department:** Planning and Development - Capital Projects and Engineering

**Date of Meeting:** April 20, 2026

**Subject:** Union Water Drain – Request to Abandon the Section 78 Report

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### Recommended Action

That upon the recommendation from the appointed Drainage Engineer, R.C. Spencer, the Section 78 request to extend the outlet of the Union Water Drain **be abandoned**.

### Background

A letter, along with a Notice of Request for Drain Major Improvements, dated September 21, 2021, was received from three landowners abutting a natural watercourse that runs from County Road 20 to Lake Erie between 1485 and 1495 County Road 20. The landowners (1495 Seacliff Drive West, 2 Buona Vista Drive, and 1467 Wellington Union Avenue) requested a new legal outlet to accommodate stormwater from existing Municipal Drains to the north, under Section 78 of the Drainage Act. Basically, asking that the natural watercourse from County Road 20 to the lake be converted to a Municipal Drain.

As a result, staff brought a report to Council in November of 2022 recommending that Council appoint R.C. Spencer and Associates as the engineer. The recommendation was approved.

Through the appointment of R.C. Spencer, additional investigations of the natural watercourse were completed. It was determined that around 2005, the property at 1491 Lawson Lane was experiencing erosion. This owner, along with the owner of 1467 Wellington Union Avenue, decided to hire an engineer, obtain the necessary approvals from ERCA, and enclosed a large portion of this natural watercourse.

The Permit issued by ERCA to the two landowners in 2010 states that:

*“The works are being proposed to stabilize an eroding ravine that is located adjacent to an existing dwelling. These works have not been designed to satisfy requirements for new development on these properties and do not imply that the proposed works provide adequate protection to your properties from the threat of flooding and erosion.”*

When the natural watercourse was enclosed, several posts were installed in front of the enclosed pipe to collect tree branches as they travelled downstream, preventing them

from entering and blocking the pipe. Continual debris and branch removal from the posts is a challenging, ongoing maintenance issue for 1467 Wellington Union Avenue, which is why this property owner prefers that the Town assumes this natural watercourse as a Municipal Drain.

In and around 2024, the now Drainage Superintendent began reviewing several open / active capital drainage projects, confirming status, legitimacy, etc. The Drainage Superintendent began reviewing this project with the Engineer to understand what the concerns were, versus the current sufficient outlet.

## **Discussion**

R.C. Spencer reviewed the request to confirm if the existing outlet for the Municipal Drains at County Road 20 is a sufficient outlet. Under the Drainage Act, a sufficient outlet means a point at which water can be discharged safely so that it will do no damage to lands or roads downstream.

R.C. Spencer confirmed the existing outlet is sufficient, as there is currently no property damage or significant erosion south and along the natural watercourse. Engineers are required to take Municipal Drains to a sufficient outlet, and not further, to avoid creating unnecessary costs for those assessed into the Municipal Drains. It was also noted that the enclosure doesn't appear to be up to Municipal Drainage standards as the pipe is potentially too small and thus requiring a collection system for tree branches upstream.

Staff note that a similar project came before Council in 2019, whereby it was declined because the existing Municipal Drains had sufficient outlet into a natural watercourse, and natural watercourses do not need to be designated as Municipal Drains. For the current project, the Drainage Coordinator from OMAFRA at the time noted concerns about how few landowners had requested the work and how the numerous upstream landowners might react to being assessed the costs for preparing a new report and the ongoing maintenance that would follow.

Staff are advising Council to cancel this project for the following reasons:

1. The enclosure isn't built to a Municipal Drainage standard;
2. There is already a sufficient outlet for the existing Municipal Drains;
3. If this were to be a Municipal Drain, it would be very costly to convert to municipal standards.
4. We expect the properties to the north that are assessed into the existing Municipal Drains to appeal this project under the premise that they already have sufficient outlet. Appeals require administrative time and lead to increased costs.
5. Further, there will be significant costs for those along the natural watercourse and we expect them to dispute these costs as well; and
6. The Town is taking on additional risk with this project as a Section 78 as the Drainage Act is relatively silent on how to expense and recover engineering fees for Section 78 projects that do not advance to construction. There is concern that this project could be appealed and ultimately not proceed while engineering fees continue to escalate.

7. Owners can always petition again under Section 4 for a new Municipal Drain. This would be less financial risk to the Town but the appointed engineer will likely arrive at the same conclusion.

In the interests of complete transparency, one senior member of Administration owns a property referenced in this report. This staff member has declared a conflict of interest and is not involved in the decision making for Administration.

### **Financial Considerations**

Approximately \$6,000 was expensed for engineering fees for this project. These costs were expensed to the Capital Drainage Budget.

### **Environmental Considerations**

OMAFRA – Ontario Ministry of Agriculture, Food and Agribusiness

ERCA – Essex Region Conservation Authority

### **Consultations**

Kingsville Administration

R.C. Spencer

### **Prepared By:**

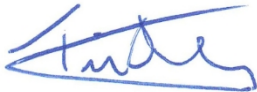


Lu-Ann Marentette  
Drainage Superintendent

### Report Approval Details

Document Title:	Union Water Drain - Request to Abandon the Section 78 Report.docx
Attachments:	Spencer - Union Water Drain - Letter (2025-10-29).pdf mapforstaffreport.pdf
Final Approval Date:	April 15, 2026

This document and all of its attachments were approved and signed as outlined below:



Tim Del Greco, Senior Manager of Capital Projects and Engineering



Richard Wyma, Director of Planning and Development



John Norton, Chief Administrative Officer