



The Corporation of the Town of Tecumseh

Public Works & Environmental Services

To: Mayor and Members of Council

From: Phil Bartnik, Director Public Works & Environmental Services

Date to Council: November 12, 2019

Report Number: PWES-2019-55

Subject: Amendment to 2019-2023 PWES Five Year Capital Works Plan
Manning Road Secondary Plan Area, Stormwater Management Facility

Recommendations

It is recommended:

That the Manning Road Secondary Plan Area, Stormwater Management Facility **be added** to the 2019-2023 PWES Five Year Capital Works Plan;

And that the initial expenditures of \$40,000 to **be authorized and funded** out of the Storm Sewer Lifecycle Reserve, for costs associated with the acquisition of lands related to legal, surveyors and land appraisals;

And further that additional funding **be referred** to budget deliberations in the 2020-2024 PWES Five Year Capital Works Plan specific to the detailed design, property acquisition and construction costs.

Background

2005-2010: Manning Road Secondary Plan Area, Stormwater Management Class Environmental Assessment (EA) Environmental Study Report (ESR), April 2010

The Town of Tecumseh completed the Manning Road Secondary Plan Area, Stormwater Management (SWM) Class Environmental Assessment (EA) Environmental Study Report (ESR) in April 2010. The study identified the preferred stormwater management solution and design to accommodate future development of multiple landholdings in the Manning Road Secondary Plan Area (MRSPA). The study was completed as a Schedule 'C' Class EA following the Municipal Engineers Association, Class Environmental Assessment (June 2000).

Figure 2.0 attached illustrates the basic pattern of ownership of lands within the boundaries of the MRSPA together with the preferred location of the SWM.

The ESR evaluated six alternative solutions consisting of various configurations of a regional SWM facility within the Study Area. Based on the evaluation that was completed, the preferred solution involved the implementation of a single regional stormwater management facility at the southerly limits of the Study Area to serve the development needs of the MRSPA. A stormwater pump station would serve to discharge the runoff volume collected in this facility to the East Townline Drain at a controlled rate, while the Baillargeon Drain would continue to discharge separately and directly to the East Townline Drain. The ESR was available for the required public review period, during which time no Part II Order requests (“bump-ups”) were received and the project was confirmed as being approved under the Environmental Assessment (EA) Act.

At the April 13, 2010 Regular Council Meeting under the Public Works Department Report No.20/10 (Motion: RCM-116/10), Council approved the recommendations of the report, to receive the Manning Road Secondary Plan Area, Stormwater Management Study, Class EA Environmental Study Report, and placed on the 30-day public review period.

2010-2013: Manning Road Secondary Plan Area – Functional Servicing Report & Area-Specific Development Charges Study (DRAFT)

Development within the MRSPA portion of the Study Area has not taken place since the 2010 ESR was completed. In order to facilitate development and to assist with the coordination of servicing and its financing within the MRSPA, the Town initiated the functional design of site services, including an area-specific development charges study with an accompanying “Area-Specific Development Charge By-law”. The purpose of the Area-Specific Development Charge By-law was to assist developing landowners with the MRSPA to cost-share localized but over-sized stormwater, sanitary and road works.

At the August 14, 2012 Regular Council Meeting under the Planning and Building Services Department Report No.22/12 (Motion: RCM-269/12), Council approved the recommendations of the report, including the scheduling of a public meeting to offer public review and comments on the Area-Specific Development Charges Background Study Report – Manning Road Secondary Plan Area and associated by-law in accordance with the requirements of the *Development Charges Act*.

Subsequent to the public meeting, further refinements were made to the background documents in order to properly capture a number of additional works that required cost-sharing, including addressing the issue of land valuation for the single stormwater management facility that is entirely situated on one landowner’s property. This work culminated in the delivery of Planning and Building Services Department Report No.37/13 at the November 26, 2013 Regular Council Meeting which recommended adoption of a number of documents and By-laws. However, two property owners requested that additional analysis be undertaken with respect to a number of issues and Administration therefore recommended that Planning and Building Services Report No. 37/13 be received and referred back to Administration for further review, public consultation and reporting to Council. This recommendation was supported by Council (Motion: RCM-404/13).

2013-2014: Manning Road Secondary Plan Area, Stormwater Management Class Environmental Assessment (EA) Addendum, December 2014

Between the time of the 2010 ESR and the referral of the various issues back to Administration in November 2013, Town Administration had been reviewing its stormwater servicing strategy in this area and identified an opportunity to incorporate the Baillargeon Drain as part of the MRSPA storm sewer system and SWM facility to better utilize the capacity of the existing and proposed storm drainage infrastructure in the area. Significant cost-savings would be realized by the developers in the MRSPA as the existing drain could now simply be decommissioned rather than being enclosed at the time of development in the area (which enclosure is typically an expense born by the developer of the land abutting the drain).

The total estimated cost of the proposed MRSPA SWM facility was not significantly affected by introduction of the Baillargeon Drain drainage area. It was also more cost effective to incorporate the Baillargeon Drain as part of the MRSPA storm sewer system rather than separately enclosing this open drain through the MRSPA as previously proposed.

At the December 9, 2014 Regular Council Meeting under the Public Works Environmental Services Report No.88/14 (Motion: RCM-462/14), Council approved the recommendations of the report, to receive the 'Town of Tecumseh, Manning Road Secondary Plan Area (MRSPA), Stormwater Management (SWM) Environmental Study Report Addendum, December 2014', and advertised the Notice of Filing of Addendum for the 30-day public review period in accordance with the Environmental Assessment Process.

2015: Manning Road Secondary Plan Area – Functional Servicing Report, April 2015

During the same relative time frame, the Town had retained the services of Dillon Consulting Limited to assess the infrastructure service needs (water, wastewater, storm, roads) for the MRSPA to facilitate the servicing of the area in an orderly manner. More specifically, this study estimates the shareable portion of the cost to construct trunk infrastructure in order for the Town to complete an area-specific development charge study and by-law. Since the referral of the various issues back to Administration in November 2013, Town Administration had been working with Dillon Consulting to complete final revisions to the noted document.

Since the completion of the Functional Servicing Report, 2013 ("FSR"), further updates affecting the functional design and area-specific project cost estimates were incorporated. These updates as outlined within the Planning and Building Services Report No. 12/15 (Motion: SCM-11/15), resulted in the issuance of the revised FSR 2015 document.

With the recent completion of the MRSPA SWM Environmental Study Report Addendum (December 2014 – Updated March 2015), the various reports for the Functional Design Study & Area-Specific Development Charges Study were being finalized in 2015, and collectively brought before Council under a new covering report by Planning & Building Services in May 2015.

2015-2017: Manning Road Secondary Plan Area – Area-Specific Development Charges Study and the Ontario Municipal Board Hearing

Subsequent to the holding of a statutory public meeting in May of 2015 and the addressing of a number of issues arising at that meeting from the Valentès, Council adopted the MRSPA Area-Specific Development Charge (DC) By-law 2015-67 along with a number of associated supporting documents on October 13, 2015. The purpose of the proposed Area-Specific DC By-law was to assist developing landowners within the MRSPA to cost-share localized but over-sized stormwater, sanitary and road works. It was expected that all Development Charge works provided within the By-law would be constructed by developing landowners and the charges provided therein would assist in cost sharing major facilities and oversizing of works to the benefit of all landowners. It was also anticipated that the Town would enter into development charge agreements with landowners to provide for credits and recovery of these works.

The Area-Specific DC By-law was appealed to the OMB by the Sylvestres, who were joined by the Valentès on the first day of the 10-day hearing, which took place in November of 2016. After considerable evidence on a range of complex issues, ranging from the validity of the Municipal Class EA SWM document, counterproposals on a revised design and location of the SWM facility, possible “benefit” of the SWM solution to existing development areas necessitating a substantial reduction of the charge, and the rationale of providing for a MRSPA area-specific Local Service Policy, the OMB ultimately issued a decision months later (June 2017) that upheld the appeal and dismissed the Area-Specific DC By-law on technical reasons relating to the manner in which the Local Service Policy had been amended. The OMB did not offer any opinions or findings with respect to the substantive issues that were argued at the hearing.

Clarity on the substantive issues raised by the Appellants would have been helpful in assessing the merits of proceeding with a revised by-law in the future. Unfortunately, the Board’s decision provided no guidance on these issues.

2017-2019: Manning Road Secondary Plan Area – Continued Discussions with the two largest landowners, Sylvestre & Valente

Subsequent to the OMB Decision being issued in June 2017, there were a number of meetings held between the Sylvestres, Valentès and Town Administration starting in August 2017 to the end of 2018. At these meetings, various issues were discussed with the developers as well as the possibilities on how the Town could assist with the facilitation of their development – including the stormwater management facility and the trunk sanitary sewer and pump station. This ultimately led to the Town summarizing those discussions in the form of the November 27, 2018 Letter, which was presented to and endorsed by Council at the November 26, 2018 Policies and Priorities Meeting and subsequently mailed to the Sylvestres and Valentès.

While administration dialogued with the two largest landowners and issued a letter attempting to move everyone towards a consensus on next steps, it has been nearly a year since the issuing of the letter and no response from either of the owners has been forthcoming.

While the Valente Group has recently expressed interest in advancing their next phase of development, they have yet to confirm their ability to construct and finance the Municipal Class EA's preferred solution for the stormwater management facility.

Comments

With the completion of the 2010 Municipal Class EA and the 2015 Municipal Class EA Addendum, the Town is now taking the necessary next steps in ensuring the approved Stormwater Management Facility solution for the Manning Road Secondary Plan Area is implemented.

Consistent with the general direction given at the In-Camera Council Meeting of October 22, 2019, to move forward with this solution, Form 1 - Application for Approval to Expropriate Land and Form 2 - Notice of Application for Approval to Expropriate Land (Notice) were mailed to the registered owner (Mr. Valente) on November 5, 2019, to allow for acquisition of the relevant lands. The Notice will also be first published in the Essex Free Press on Thursday, November 7, 2019 and in the Shoreline Week on Friday, November 8, 2019, and the next two weeks thereafter for a total of three consecutive weeks in accordance with Section 6(1) of the *Expropriations Act*. At the appropriate time, Council, as the approving authority, will be requested to consider a by-law approving the expropriation. It should be noted that the commencement of an expropriation proceeding does not preclude reaching a negotiated settlement on the timing of the transfer and/or the amount to be paid for the lands being acquired should the opportunity arise during the proceeding.

The plan to undertake the detailed design and construction of the Stormwater Management Facility is in keeping with:

- i) the 2010 MRSPA SWM Municipal Class EA and the 2015 MRSPA SWM Municipal Class EA Addendum;
- ii) the Town's Strategic Priorities;
- iii) the Town's Storm Drainage Master Plan; and
- iv) the recent comments received from James Sylvestre Developments Ltd. on the 2019 Development Charges Background Study, all of which are further discussed in the subsections below.

2010 MRSPA SWM Municipal Class EA and the 2015 MRSPA SWM Municipal Class EA Addendum

The preferred solution for addressing stormwater management in relation to the development of land in the MRSPA was evaluated through a Municipal Class EA process. The Municipal Class EA process, having regard to all of the issues, determined that the preferred solution is for the construction of a single, regional Stormwater Management Facility in the south portion of the planning area. In order to implement this preferred solution so as to support the development of the planning area, it is appropriate to commence the detailed design and construction of the facility.

Town's Strategic Priorities

At the July 9, 2019 Regular Council Meeting under the Chief Administrative Officer Report No. CAO-2019-05, Council adopted the Town of Tecumseh Strategic Priorities 2019-2022, and directed the CAO to incorporate these strategic priorities into objectives and action plans as part of the municipal work plans. (Motion: RCM-202/19).

The Strategic Priorities report as prepared by Strategy Corp. identified that the Town of Tecumseh is a recognized leader in using strategic planning to deliver results to its residents and taxpayers.

In the course of the discussion of Strategic Directions by members of Town Council and senior staff, a number of points of consensus or favoured approaches emerged. Smart Growth and Economic Development remained priority areas of interest, and Council emphasized:

- The importance of job creation to facilitate smart growth.
- Moving forward with land development and growth opportunities in the Town.
- Promoting the Town of Tecumseh as a place for business and life.

Storm Drainage Master Plan, 2019

At the June 25, 2019 Regular Meeting of Council, Council received Report No. PWES-2019-35 titled "Storm Drainage Master Plan Filing the Notice of Study Completion" and subsequently authorized Administration to advertise the Notice of Completion in the local newspaper and the Town's website and social media accounts to initiate the mandatory 30-day public review period (Motion: SCM-17/19).

The Town undertook this Storm Drainage Master Plan to confirm the long-term storm drainage infrastructure solutions that are required to address the risks of surface flooding in the northern urban communities. This included the integration of the Stormwater Management Facility within MRSPA that had already been approved under a separate Schedule C Municipal Class EA. This is depicted as a component of the recommended solution (BD-1) contained with the Storm Drainage Master Plan.

Given that the Town addressed all comments received during the 30-day public review period and no Part II Orders were submitted to the Minister of Environment, Conservation and Parks; the Storm Drainage Master Plan, including the specified Schedule B projects that form part of the preferred solutions, is considered approved under the Municipal Class EA process and may now proceed to the detailed design and implementation phases. A further Administrative Report to Council will be forthcoming shortly to formally adopt the Storm Drainage Master Plan.

2019 Development Charges Background Study (By-Law 2019-63)

At the August 13, 2019 Regular Council Meeting under the Planning & Building Services Department Report No. PBS-2019-26, Council adopted the 2019 Development Charges Background Study, dated June 13, 2019 as amended (Motion: RCM-243/19).

As part of the public consultation process, Council held a public meeting on July 9, 2019. This meeting was attended by Town Administration and staff from Watson & Associates Economists Ltd. (the Town's consultant), and Mr. Jeff Sylvestre representing James Sylvestre Developments Ltd. who provided verbal comments with regard to the Background Study. Subsequent to the public meeting, James Sylvestre Developments Ltd. also provided a formal written submission on July 19, 2019.

As part of their submission, James Sylvestre Developments Ltd., provided comments on Section B: Stormwater Management of Appendix E: Local Servicing Policy.

Appendix E, Section B (1) states:

- Stormwater Management Facilities will be the responsibility of the developing landowners, designed and constructed to the Town's satisfaction and fulfilling the municipality's objective for larger, regional facilities.

James Sylvestre Developments Ltd. comments:

- By their description - a larger, regional facility is likely to cross multiple landowners. Municipalities that take a leadership role for the design and construction responsibility are more likely to create an environment of progress for development and avoid stagnation. While it is agreed that cost sharing across benefiting developing landowners is appropriate, allocating the responsibility for design and construction to developers is likely to result in immense red tape and delay.

Consultations

Chief Administrative Officer
Corporate Services & Clerk
Financial Services
Planning & Building Services
Town Solicitor

Financial Implications

Funding for the initial expenditures of \$40,000 in 2019 is recommended to be provided from the Storm Sewer Lifecycle Reserve.

Additional funding will be referred to the budget deliberations in the 2020-2024 PWES Five Year Capital Works Plan specific to the detailed design, property costs, and construction. Subsequent reports to council will also be prepared outlining phasing and cost recovery strategies as they are developed.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh’s current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh’s plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town’s “continuous improvement” approach to municipal service delivery to residents and businesses.
<input checked="" type="checkbox"/>	Demonstrate the Town’s leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable

Website

Social Media

News Release

Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

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Director Public Works & Environmental Services

Reviewed by:

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Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Figure 3.0 Proposed Land Use, Functional Servicing Report, MRSPA April 2015