



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: January 14, 2020

Report Number: PWES-2020-04

Subject: Request to Consider Engineer's Report
Hurley Relief Branch Drain & Upper Part of the Hurley Relief Drain

Recommendations

It is recommended:

That the Report and Specifications for the Hurley Relief Branch Drain and Upper Part of the Hurley Relief Drain (Drainage Report) as prepared by Mr. Gerard Rood, P.Eng., of Rood Engineering Inc., dated November 20, 2019 **be received**;

And that consideration **be given** to first and second readings of a provisional by-law to adopt the Drainage Report in accordance with Section 42 of the *Drainage Act*;

And further that notice **be given** to all affected landowners, of the Court of Revision to be held on Tuesday, February 11, 2020, at 6:00 p.m. in accordance with Section 46(1) of the *Drainage Act*, subject to the adoption of the provisional by-law.

Background

The purpose of this report is to provide a summary of the background and other information in order to assist Council in giving consideration to the Report and Specifications for the Hurley Relief Branch Drain and Upper Part of the Hurley Relief Drain (Drainage Report) in accordance with the *Drainage Act* (Act).

The Town of Tecumseh (Town) received a "Notice of Request for the Repair and Improvement" from the Owners of Parcel No. 540000010500000 for an enclosure over the Hurley Relief Branch to facilitate use of the Owners' entire property. Additional to this request,

the Town submitted a request to examine the Hurley Relief Drain (Drain) and its Branches to address landowner inquiries and complaints about the upper reach of the Drain.

On June 28, 2016, Council accepted the recommendation by the Drainage Superintendent under Public Works & Environmental Services Report No. 33/16 and passed resolution (Motion: RCM-240/16) as follows:

That Gerard Rood, P.Eng., of Rood Engineering Inc. be appointed Drainage Engineer to:

- i. make an examination of the drainage area as submitted by 8707570 Canada Corp. in the "Notice of Request for Drain Improvement" dated May 2, 2016; and
- ii. to prepare a Drainage Report for the Hurley Relief & Branch & Extension Drain (Drain) in accordance with Section 78 of the *Drainage Act*, including provisions for future maintenance of the Drain;

An on-site meeting was held on March 8, 2017. A summary of this meeting is included in Section III of the Drainage Report.

The Town received a draft report dated February 8, 2019, for discussion at a Public Information Centre (PIC). Invitations were sent to landowners and a PIC was held on April 10, 2019, at Tecumseh Fire Station #2 to discuss the content of the draft report.

On November 21, 2019, Rood filed a report dated November 20, 2019 for the repair and improvement to the Drain in accordance with Section 41 of the Act. On December 9, 2019, Invitations were sent to all affected landowners and agencies that the Public Council Meeting to consider the Engineer's Report would be held on January 14, 2020 at 5:00 p.m.

Comments

The sections of the Act referenced within this report are included in Schedule A, which is attached to this Council Report as Attachment No. 2.

Consideration by Council

Subject to the discretion of Council, the Drainage Report may be:

- a. Referred back to the Drainage Engineer for reconsideration if it appears that there are, or may be errors in the report or for any other reason the report should be reconsidered; or
- b. Provisionally approve by giving first and second readings to a Provisional By-law.

Following provisional adoption of the By-law, a meeting of the Court of Revision shall be scheduled to allow any affected owner of land assessed for the drainage works to appeal their assessed costs subject to the following:

- a. Any land or road has been assessed too high or too low; or
- b. Any land or road that should have been assessed has not been assessed; or

- c. Due consideration has not been given as to type of land use.

Approvals

The Town made initial submissions to the Essex Region Conservation Authority (ERCA) regarding their requirements for approval under Section 28 of the Conservation Authorities Act. A response from the ERCA was received by email on May 13, 2016 indicating that local natural heritage feature, Site 10, was located within this section of the waterway. Additionally, the ERCA indicated that the Town must perform a self-assessment through the Department of Fisheries and Oceans (DFO) website, apply for a permit, and follow standard measures to protect fish and fish habitat. On April 3, 2019, the ERCA sent email correspondence that they had received the Draft Report dated February 8, 2019 and had found it acceptable.

The Consultant and the Town of Tecumseh conducted a self-assessment with respect to the Federal requirements of the DFO. It has been determined that this project does not require a formal review by DFO as the Drain should not contain any aquatic species at risk or critical habitat. This does not eliminate the requirements under the *Fisheries Act* (R.S.O., 1985, c. F-14) to avoid causing the death of fish or harmful alteration, disruption or destruction of fish habitat by following best practices such as preventing the entry of deleterious substances in water, ensuring proper sediment and erosion control, and planning in water work with respect to timing windows to protect fish. The resulting habitat impacts (if any) must be replaced with equivalent habitat features. If a Biologist is required, the cost of same becomes the responsibility of the proponent.

The Drain may contain significant species that are at risk (SAR) which may be aquatic, plants, animals, habitat, etc. These species are protected under the provincial Endangered Species Act (ESA) and the Town utilizes its compliance document with the Ministry of Natural Resources and Forestry (MNR) under Section 23.9 of Regulation 242/08 for SAR Mitigation Plan for Drainage Works. The Town, along with its contractors, gathers data with respect to information on any encountered species and/or mitigation plans implemented before and during construction for all registered municipal drainage works permitted under Section 23.9 of Ontario Reg. 242/08. Annual reports may be request by the MNR.

Consultations

Corporate Services & Clerk
Financial Services
Rood Engineering Inc.

Financial Implications

Engineer's Estimate for the Hurley Relief Branch Drain & Upper Part of Hurley Relief Drain

Description	Estimate
Construction	\$121,603
Incidentals	\$52,897
Total	\$174,500

Hurley Relief Branch Drain Assessment Summary	Estimate
County of Essex – Roads	\$4,270
Town of Tecumseh - Road Authority	\$8,884
Privately Owned - Non-Agricultural Lands (Non-Grantable)	\$41,324
Privately Owned - Agricultural Lands (Grantable)**	\$1,837
Privately Owned – Agricultural Lands (Non-Grantable)	\$4,283
Provincial Grants *	\$919
Total	\$61,517

Upper Part of the Hurley Relief Drain Assessment Summary	Estimate
County of Essex – Roads	\$2,209
Town of Tecumseh - Road Authority	\$304
Privately Owned - Non-Agricultural Lands (Non-Grantable)	\$102,816
Privately Owned – Agricultural Lands (Non-Grantable)	\$7,654
Total	\$112,983

**As shown in the table above, a portion of a Section 78 assessment for drainage works to agricultural lands described in an engineer's report are eligible for grants by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) through the provisions set out in Sections 85, 86 and 87 of the Act., and under the Agricultural Drainage Infrastructure Program (ADIP) policies.

*Upon completion of the application form, the Minister may pay to the treasurer of the Town 33 1/3 per cent of the assessments eligible for grant in accordance with the Agricultural Drainage Infrastructure Program.

The Town of Tecumseh lands have been assessed \$9,188 in the engineer's report for Benefit and Outlet Liability for works involving 4.43 hectares (10.95 acres) of the roads encompassing the area as shown on page 1 of 10 in the Overall Watershed Plan view.

Other than costs to administer the project, the cost of constructing the project is 100% recoverable by affected lands including the Town's portion of land mentioned above and detailed in the Assessment Schedule included in the engineer's report dated November 20th, 2019. The Town will utilize the Lifecycle Reserve to pay for the Town's drainage assessment totalling \$9,188. The Lifecycle Reserve is included as Attachment No. 3.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input 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 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:

Cameron Hedges, E.I.T.
Assistant Drainage Superintendent

Reviewed by:

John Henderson, P.Eng.
Manager Engineering Services

Reviewed by:

Phil Bartnik, P.Eng.
Director Public Works & Environmental Services

Reviewed by:

Tom Kitsos, CPA, CMA, BComm
Director Financial Services & Chief Financial Officer

Reviewed by:

Laura Moy, Dipl. M.M., CMMIII HR Professional
Director Corporate Services & Clerk

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Drainage Report dated November 20 th , 2019 by Gerard Rood, P.Eng., of Rood Engineering Inc.
2	Schedule A – Drainage Act Excerpts
3	Lifecycle – Drains Reserve – November 25 th , 2019
4	Town of Tecumseh Natural Heritage Inventory – Site 10