



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-2020-01

Subject: Request to Consider Engineer's Report
West Branch of the East Branch Delisle Drain

Recommendations

It is recommended:

That the Report and Specifications for the West Branch of the East Branch Delisle Drain (Drain) as prepared by Mr. Gerard Rood, P. Eng., of Rood Engineering Inc. (Rood), dated November 18, 2019, (Drainage Report) **be received;**

And that consideration **be given** to the first and second readings of a provisional by-law to adopt the Drainage Report;

And further that notice **be given** to all affected landowners, of the Court of Revision to be held on Tuesday, February 11, 2020, at 6:30 p.m. in accordance with Section 46(1) of the *Drainage Act* (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 Drainage Report in accordance with Section 42 of the Act.

The Town of Tecumseh (Town) received a "Notice of Request for the Repair and Improvement" from the Owners of Parcel No. 460000034000000 requesting a new access culvert for access to their farmland as per Severance Application B08-18.

As a condition of severance, the Owners must provide access to the farmlands being retained. As this access is over a Municipal Drain, the Owners are required to request an update to the current By-Law No. 77-15 and Drainage Report for the Drain to include the design of the new culvert.

Additionally, as a condition of severance, the Owners must enter into an agreement for the reapportionment of the drainage assessment for the subject lands. In order to maintain a fair assessment schedule, and due to the fact that the Drain's watershed only encompasses five individual assessments, a new assessment schedule in accordance with Section 76 of the Act was requested.

On February 12, 2019, Council accepted the recommendation by the Drainage Superintendent under Public Works & Environmental Services Report PWES-2019-04 and passed resolution (Motion: RCM-32/19) as follows:

That Rood Engineering Inc. (Rood) be appointed Drainage Engineer to:

Make an examination of the West Branch of the East Branch of the Delisle Drain (Subject Drain) and drainage area as submitted by the owner of 11079 County Road 34 in the "Notice of Request for Drain Improvement" dated September 5, 2018; and

Prepare a report in accordance with Section 78 of the Drainage Act.

An on-site meeting was held on March 12, 2019. A summary of this meeting is included in Section III of the Drainage Report.

The Town received a draft report dated October 10, 2019, for discussion at a Public Information Centre (PIC). Invitations were sent to landowners and a PIC was held on November 15, 2019, at the proposed culvert site to discuss the content of the draft report.

On November 19, 2019, Rood filed a report dated November 18, 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 5:30 p.m.

Comments

The sections of the Act referenced within this report are included in Schedule A that 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 ERCA was received by email on September 25, 2018, indicating 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.

The Consultant and the Town 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 (MNRF) 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 MNRF.

Consultations

Corporate Services & Clerk
Financial Services
Rood Engineering Inc.

Financial Implications

The Town does not have any affected roads or lands in this watershed. Accordingly, the Town has no financial implications for these works.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
☐	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
☒	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
☐	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
☒	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
☐	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 18 th , 2019 by Gerard Rood, P.Eng., of Rood Engineering Inc.
2	Schedule A – Drainage Act Excerpts