



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-2020-03

Subject: Request for Repair and Improvement to the Dawson Drain
Appointment of Drainage Engineer

Recommendations

It is recommended:

That Gerard Rood P. Eng., of Rood Engineering Inc. **be appointed** drainage engineer to make an examination of the Dawson Drain drainage area as submitted by the affected landowner in the “Notice of Request for Drainage Improvement” dated October 30, 2019;

And that a Drainage Report **be prepared** in accordance with Section 78 of the *Drainage Act*, including provisions for future maintenance.

Background

The purpose of this report is to provide a summary of the background and other information to assist Council in appointing an engineer to examine the drainage area on the Dawson Drain (Drain).

The Drain is located on the north side of South Talbot Road between Malden Road and Concession 10 with its outlets into the West Delisle Drain to the west and the Malden Road West Drain to the east. A drainage map of the Drain is attached to this report as Attachment No. 2.

Improvements to this drain were recently completed in accordance with By-Law 2019-22 for the Repair and Improvement to the Dawson Drain. During construction of the recommended drain improvements in 2019, a benchmark error was discovered which was corrected in the field causing no adverse impacts to the project.

Comments

The Town completed construction on the Drain in the fall of 2019. Following construction, a landowner requested the installation of a new farm access culvert to their lands. This request for the new farm access culvert was not submitted during the previous *Drainage Act* process for the entire drain and therefore a new Engineer's Report is required under Section 78 of the Act.

As a result of the above noted error, the Town is legislatively required to update the By-Law to reflect the corrections. This process would typically entail an application to the Drainage Tribunal under Section 58(4) of the Act prior to any assessments being levied. However, with the current landowner request triggering a new Section 78 Engineer's Report, the revisions regarding the benchmark error can be corrected through the Section 78 process in place of applying to the Drainage Tribunal.

Legislation

The sections of the Act referenced within this report are included in Schedule A, which is attached to this Council Report as Attachment No. 3.

Required Approvals

On November 6, 2019, the Town sent notification to the Essex Region Conservation Authority (ERCA) that the Town received a request for the repair and improvement of the Drain.

As outlined in Section 78(2) of the Act, the Engineer shall not be appointed until after the 30-day notification to ERCA, which has jurisdiction (regulations) over lands that will be affected by the works. This administrative report is in line with those provisions and the 30-day period expired on December 6, 2019.

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 requested by the MNRF.

The Town will also be required to perform a self-assessment through the Department of Fisheries and Oceans (DFO) website to determine if proposed drain improvements could result in the death of fish or the harmful alteration, disruption or destruction of fish habitat (HADD). If it is determined through the self-assessment that the proposed works will not result in the death of fish or a HADD, the works may proceed 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. If it is determined that the works will result in the death of fish or a HADD, a formal authorization may be required

from DFO under the provisions of the *Fisheries Act*. If a Biologist is required to assess the impacts to fish and fish habitat, the cost of same becomes the responsibility of the proponent.

Appointment of Engineer

It is recommended that Gerard Rood, P.Eng., be appointed Drainage Engineer to the Drain as a result of their extensive work and examination already performed on this drain and for ease of producing a cost effective report reflecting the improvements herein.

Consultations

Financial Services
Corporate Services & Clerk

Financial Implications

The Engineer's Report shall assess for Special Benefit, Benefit, Outlet and Liability. A schedule of assessment is to be contained in the report, which details in separate columns, the sums assessed for each parcel of land/utility liable for drainage assessments under the Act. It is required that the requesting landowner is assessed the cost associated to produce this report and construct the improvement therein.

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:

Sam Paglia, P.Eng.
Drainage Superintendent/Engineering Technologist

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	Notice of Request for Drain Improvement, dated October 30, 2019
2	Dawson Drain Map
3	Schedule A – <i>Drainage Act</i> Excerpts