



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: April 27, 2021

Report Number: PWES-2021-18

Subject: Amendment to Drainage Assessment Schedules for Works Completed under Section 78 of the Drainage Act in 2020 – Dawson Drain and Lachance Drain

Recommendations

It is recommended:

That report PWES-2021-18 entitled “Amendment to Drainage Assessment Schedules for Works Completed under Section 78 of the Drainage Act in 2020 – Dawson Drain and Lachance Drain”, **be received**.

And that By-law No. 2021-29 being a Capital Drain Levying By-Law to provide for the collection of construction drainage assessments for the Dawson Drain, approved by By-Law No. 2019-22, **be given** first, second, third and final reading.

And further that By-law No. 2021-30 being a Capital Drain Levying By-Law to provide for the collection of construction drainage assessments for the Lachance Drain, approved by By-Law No. 2019-42, **be given** first, second, third and final reading.

Background

Dawson Drain

Council, at their meeting on March 26, 2019, adopted the engineer’s drainage report by Gerard Rood, P.Eng. of Rood Engineering Inc., dated February 4, 2019 under By-law No. 2019-22, for the repair and improvement to the Dawson Drain under Section 78 of the *Drainage Act*, R.S.O. 1990 (Act). Construction was completed over 2019/2020 and consisted of culvert

replacements and restoring the entire length of the Dawson Drain to its original design cross-section and grade. Construction took longer than anticipated due to conflicts with hydro poles that had to be relocated.

Lachance Drain

Council, at their meeting on July 23, 2019, adopted the engineer's drainage report by Mark Hernandez, P.Eng. of Dillon Consulting Ltd., dated May 3, 2019 under By-law No. 2019-42, for the repair and improvement to the Lachance Drain under Section 78 of the *Drainage Act*, R.S.O. 1990 (Act). Construction was substantially completed in August of 2020 and consisted of culvert removal, repairs and restoring the entire length of the Lachance Drain to the engineer's design cross-section and grade.

Municipal Drainage Works Procedures

Section 4 and 78 of the Act provides in that the Town can construct, repair, or improve municipal drains in response to a request or petition from an affected landowner, in the Town, experiencing drainage issues. Appointed engineer reports proceed through required meetings and appeal opportunities as legislated under the Act. Assessments are established for each affected property and are legislated by by-law after the timelines for any appeals have expired (Drainage By-law).

Once a drainage report has been adopted by by-law, construction, repair or improvement works for the drain are tendered according to the Town's Procurement By-law and Purchasing Policy.

After the contract for the drainage works is awarded, and following substantial completion of the construction of the recommended works in the adopted drainage report, the Town applies to the Ontario Minister of Agriculture, Food and Rural Affairs (OMAFRA) for grant funds for eligible agricultural lands. These properties must be classified at the Farm Tax Rate to receive the grant monies which are applied for by the Drainage Superintendent and deducted from the gross assessment for each individual property.

The Town subsequently recovers eligible project costs by invoicing the total cost of the works to the affected landowners in the proportions as shown in the assessment schedule approved in the Drainage By-law, less any grant funding, inclusive of any non-pro-ratable costs determined during construction by the appointed engineer.

Comments

Under Section 62(1) of the Act, any by-law for the assessment upon lands and roads liable to contribute for any drainage works and upon completion of the drainage works where more than sufficient funds, or where insufficient funds have been provided for the completion of the drainage works, shall be amended to raise or lower the funds to pay for such drainage works proportionately according to the assessment in payment of rates imposed.

In many cases, the work under the adopted by-law is an estimate by the Engineer as required by the Act. In reality, the actual costs of the project are market dependent and will vary from the engineer's estimate. In order to recover costs that have varied from the assessment schedule adopted under the Drainage By-law, the by-law shall be amended based on actual costs incurred during construction in the same proportions of the assessment schedule excluding any non-pro-ratable special benefit costs as determined by the engineer during construction and at the time rectification of the grant application occurs. Any non-pro-ratable costs are levied and assessed to the affected lands and roads as determined by the engineer in accordance with sections 24 and 26 of the Act.

Consultations

Corporate Services & Clerk
Financial Services

Financial Implications

Dawson Drain

Original By-Law	Name of Drain	Engineer's Estimate	Actual Total Project Cost	Actual Pro-Rateable Costs	Actual Non-Pro-Rateable Costs	OMAFRA Grant
2019-22	Dawson Drain	\$174,200	\$182,031.54	\$175,755.98	\$6,275.56	\$22,784.04*

* The grant amount is part of the actual pro-rateable costs and is applied to agricultural lands only at the time of assessment.

Lachance Drain

Original By-Law	Name of Drain	Engineer's Estimate	Actual Total Project Cost	Actual Pro-Rateable Costs	Actual Non-Pro-Rateable Costs	OMAFRA Grant
2019-42	Lachance Drain	\$126,540	\$166,135.16	\$161,454.20	\$4,680.96	\$19,431.86*

* The grant amount is part of the actual pro-rateable costs and is applied to agricultural lands only at the time of assessment.

As shown in the above tables, the actual total project costs for the Dawson Drain and the Lachance Drain are \$182,031.54 and \$166,135.16 respectively.

The actual total project cost above includes construction, engineering, environmental monitoring, eligible administrative expenses, permit fees, allowances, interest and non-recoverable HST. These project costs are 100% recoverable by affected lands, including the Town's portion, as detailed in the ratios set out in the adopted assessment schedule.

The total drainage assessments to the Town for municipal road right-of-ways within the drainage area for the Dawson Drain and the Lachance Drain are \$29,825.04 and \$11,028 respectively. The Town will utilize the Municipal Drain Lifecycle Reserve to pay for its drainage assessments.

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 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:

Dana Reid
Clerk I Administrative Clerk

Reviewed by:

John Henderson, P.Eng.
Manager Engineering Services

Reviewed by:

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

Reviewed by:

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

Reviewed by:

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

Recommended by:

Margaret Misek-Evans, MCIP, RPP

Chief Administrative Officer

Attachment Number	Attachment Name
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None	N/A
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