



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: June 8, 2021

Report Number: PWES-2021-25

Subject: Request to Consider Engineer's Report – South Talbot Drain

Recommendations

It is recommended:

That the Report and Specifications for the Re-alignment of South Talbot Drain (Drain) as prepared by Mark Hernandez, P.Eng., of Dillon Engineering Ltd. dated March 17, 2021 (Drainage Report) **be received**;

And that consideration **be given** to the first and second readings of Provisional By-law No. 2021-42 to adopt the Drainage Report in accordance with Section 42 of the Drainage Act (Act);

And further that notice **be given** to all affected landowners of the Court of Revision to be held on Tuesday, July 13, 2021 at 6:15 pm in accordance with Section 46(1) of the Act, subject to the adoption of the provisional by-law.

Background

The works included in this Drainage Report relate to the County of Essex roundabout project at County Road 11 and South Talbot Road. The purpose of this report to Council 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 the Act.

On September 25, 2018, Council accepted the recommendations of Public Works & Environmental Services (PWES) Report No. PWES-2018-22 for the request for Repair and Improvement to the South Talbot-Holden Outlet and Branch Drain - Appointment of a Drainage Engineer and passed resolution RCM-287/18 as follows:

That Dillon Consulting Limited (Dillon) be appointed Drainage Engineer to:

Make an examination of the South Talbot-Holden Outlet and Branch Drain and drainage area as submitted by the County of Essex in the "Notice of Request for Drainage Improvement" dated August 20, 2018; and

Prepare a Drainage Report in accordance with Section 78 of the *Drainage Act*, including provisions for future maintenance of the Drain.

An on-site meeting was held on January 22, 2020. A summary of this meeting is included in the Drain History and Schedule 'A' of the Report (Attachment 1).

On February 18, 2021 the Town received a copy of the draft report dated February 17, 2021 and scheduled a Public Information Center (PIC). Notices were sent to landowners for a virtual PIC to be held on March 5, 2021. Although not required under the Act, the Engineer and the Drainage Superintendent elected to conduct the PIC to allow landowners the opportunity to ask questions or present any concerns virtually before bringing the final report to Council for consideration and provisional adoption. On March 5, 2021, the virtual PIC was held with affected landowners on the Drain. A summary of this meeting is included in Schedule 'A' of the Report (Attachment 1).

On April 15, 2021, Mark Hernandez, P. Eng., filed a report dated March 17, 2021 for the Re-alignment of the Drain in accordance with Section 41 of the Act.

Notice of the Public Council Meeting, as well as a copy of the Drainage Report was sent to affected parties in accordance with section 41(1) of the Act on May 7, 2021.

This report recommends the incorporation of drainage alterations as a result of the construction of a new roundabout at County Road 11 and South Talbot Road.

Comments

The sections of the Act referenced within this report are included in Schedule A which is attached to this Council Report as Attachment 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 County's Consultant 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 August 5, 2020.

The Town of Tecumseh conducted a self-assessment with respect to the Federal requirements of Fisheries and Oceans Canada (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 control, and planning in water work 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 includes aquatics, plants, animals, and habitats. These species are protected under the provincial Endangered Species Act, 2007 (ESA) which the Town has previously been complying with through the utilization of a Species at Risk Mitigation Plan with the Ministry of Natural Resources and Forestry (MNRF) under Section 23.9 of Regulation 242/08 for Drainage Works.

As of April 1, 2019, the administration of the ESA transitioned responsibility from the MNRF to the Ministry of the Environment, Conservation and Parks (MECP). Though the responsibility has transitioned to the MECP, the Town's SAR Mitigation plan continues to be in compliance with the ESA. As such, 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.

As directed by the MECP, administration continues to send notification to the MECP through the SAROntario@ontario.ca submission mailbox. To date, the Town has not received any further inquiry from MECP staff relating to this project. Administration will continue to include MECP in notifications, inclusive of the sending of any reports, as set out in the Drainage Act.

Consultations

Corporate Services and Clerk
Financial Services
Dillon Consulting Limited

Financial Implications

The Engineer's Report shall assess for Special Benefit, Benefit and Outlet 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.

The Town of Tecumseh has no financial implications for these works.

The County of Essex is assessed 100% of the cost for construction and Engineering on this project so there are no capital costs to any affected landowner including the Town.

The Report includes a Future Maintenance Schedule where the Town of Tecumseh is assessed \$1864 for Benefit and Outlet Liability in Schedule 'E' of the Report for an arbitrary amount of Future Maintenance Cost of \$10,000.

The cost of administering this project is 100% recoverable by the Assessment Schedule included in the Engineer's Report dated March 17, 2021.

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	Engineers Report – South Talbot Drain
2	Schedule A – Drainage Act Excerpts