



The Corporation of the Town of Tecumseh

Public Works & Engineering Services

To: Mayor and Members of Council

From: Phil Bartnik, Director Public Works & Engineering Services

Date to Council: January 11, 2022

Report Number: PWES-2022-01

Subject: Appointment of an Engineer – New Drain

Recommendations

It is recommended:

That Mark Hernandez, P.Eng., of Dillon Consulting Ltd., **be appointed** drainage engineer to make an examination of the area requiring drainage as submitted by the owner of 3425 County Road 43 (11th Concession) in a “Petition for Drainage Works by Owners” dated November 22, 2021 and signed by the Clerk on November 23, 2021;

And that a Drainage Report **be prepared** in accordance with Section 4 of the *Drainage Act* (Act), including provisions for future maintenance.

Background

The purpose of this report is to provide a summary of the background and other information in order to assist Council in appointing an engineer to examine the Petition for Drainage Works by the Owner of 3425 County Road 43 (Owner) and the area requiring drainage.

There is an existing roadside drainage enclosure located on the west side of County Road 43 from County Road 42 to approximately 200 metres south of County Road 42. This enclosure conveys stormwater northerly to County Road 42 and into the St. Louis Drain. It appears that the portion of this existing enclosure located in front of the Owner’s land is County of Essex infrastructure. A topographic map showing the location of the current roadside drain enclosure is included as Attachment 1.

Under Severance Application B04-2021, the Owner requires connection to a drainage system in order to fulfill a condition of severance for storm water. In order to satisfy this condition, the Owner was required to obtain permission from the owners of the drainage system, the County of Essex, in order to make the connection.

Comments

Through discussions with the Owner and the County of Essex, it was the County's position that stormwater connections, from the adjacent properties, into their roadside drain enclosure would not be permitted. The County did however indicate their preference for the roadside drain enclosure to be petitioned to become a Municipal Drain under the *Drainage Act*, which would then provide the adjacent landowner the opportunity to make direct connections to the enclosure.

The Owner was informed of their responsibility under Statute Law and provided with the application for "Petition of Drainage works" under the authority of the Ministry of Agriculture, Food and Rural Affairs (OMAFRA). By applying under the *Drainage Act* for a Municipal Drain, the Owner can satisfy the condition of severance and obtain a legal and sufficient outlet in order to convey the stormwater that the proposed severed lands will receive. It will not be possible to have the Drainage Act process completed before the severance will lapse. Accordingly, it is anticipated that a Consent Agreement may be required between the Owner and the Town to satisfy the conditions of severance. It is further anticipated that the Consent Agreement would be prepared to the satisfaction of the Town's solicitor and that it would be registered on title of the retained and severed parcels, prior to the severance being finalized, and be binding upon any future owners.

Legislation

The sections of the Act referenced within this report are included in Schedule A, which is attached to this Council Report as Attachment 2.

Required Approvals

On November 26, 2021, the Town sent notification to the Essex Region Conservation Authority (ERCA) that the Town received a Petition for drainage works for the creation of a municipal drain.

The Town received a response from the ERCA on December 2, 2021, which indicated that they do not have any comments or concerns with respect to this project at this time, but strongly advocated that the appointed Engineer continue to provide opportunity for ERCA to review the report prior to scheduling a public meeting to consider so that any comments can be addressed.

As outlined in Section 4 of the Act, the Engineer shall not be appointed until after the 30-day notification to the Conservation Authority that has regulation of the area has expired. This administrative report is in line with those provisions and the 30-day period expired on December 26, 2021.

The enclosure may contain significant species [aquatic species at risk (SAR) as well as plants, animals, habitat, etc.] that are protected under the provincial *Endangered Species Act* (ESA). The Town will use its SAR Mitigation Plan for Drainage Works under Section 23.9 of Ontario Regulation 242/08. The Town's registered municipal drainage works permitted under Section 23.9 of Ontario Reg. 242/08 will provide the Ministry of Environment, Conservation and Parks (MCEP) with the Notice of Drainage Work Activity Form annually and provide information on any encountered species and mitigation plan for same.

Appointment of Engineer

It is recommended that Mark Hernandez , P.Eng., of Dillon Consulting Ltd., be appointed Drainage Engineer to examine the area requiring drainage as he is currently working on the St. Louis Drainage area under Section 78 of the Act and can utilize the examination completed thus far to facilitate this petition in a timely and efficient manner.

Consultations

Legislative Services & Clerk
Dillon Consulting Ltd.

Financial Implications

The Engineer's Report shall assess the cost of this petition as Special Benefit, Benefit, and Outlet Liability 100% to the applicant on the petition for drainage form. A schedule of assessment for future maintenance of the drain shall also be contained in the report that details the sums assessed for each parcel of land/utility liable for future drainage assessments under the Act.

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:

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 & Engineering Services

Reviewed by:

Laura Moy, Dipl. M.M.
Director Legislative Services & Clerk

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Location of Drain Map
2	Schedule A – Drainage Act Excerpts

Report Approval Details

Document Title:	PWES-2022-01 Appointment of an Engineer - New Drain.docx
Attachments:	- PWES-2022-01 Attachment 2 - Schedule A - Drainage Act Excerpts-AODA.pdf - PWES 2022-01-Attachment 1 - SLD 2021-11-26- Drain topo Axes.pdf
Final Approval Date:	Jan 5, 2022

This report and all of its attachments were approved and signed as outlined below:

No Signature found

John Henderson

Phil Bartnik

No Signature found

Laura Moy

Ellen Preuschat

Margaret Misek-Evans