



## 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:** February 8, 2022

**Report Number:** PWES-2022-02

**Subject:** Request to Consider Engineer's Report – Antaya Drain

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### Recommendations

It is recommended:

**That** the Report and Specifications for the Antaya Drain (Drain) as prepared by Mark Hernandez, P.Eng., of Dillon Consulting Limited., dated November 12, 2021 (Drainage Report) **be received;**

**And that** consideration **be given** to the first and second readings of Provisional By-law No. 2022-06 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, March 8, 2022, at 5:30 pm in accordance with Section 46(1) of the 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 the Act.

On November 14, 2017 Council accepted the recommendation by the Drainage Superintendent under Public Works & Environmental Services Report No. 49/17 and passed resolution (Motion: RCM-400/17) as follows:

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

- (i) Make an examination of drainage area as submitted by the Drainage Superintendent for the Town of Tecumseh in the "Notice of Request for Drain Improvement" dated September 15, 2017; and
- (ii) To prepare a Drainage Report for the Antaya Drain in accordance with Section 78 of the Drainage Act, including provisions for future maintenance of the Drain.

An on-site meeting was held on February 8, 2018. A summary of this meeting is included in the Drainage Report.

The Town received a draft report dated March 6, 2020, for discussion at a Public Information Centre (PIC). Invitations were sent to landowners and a PIC was scheduled for Thursday, April 2, 2020, to discuss the content of the draft report. Due to conditions in Ontario associated with the COVID-19 pandemic, along with related recommendations from the local, Provincial and Federal governments, the PIC had to be postponed.

The Town received an updated draft report dated October 1, 2021, for a rescheduled PIC. Notices were sent and the PIC was held virtually on October 26, 2021. A summary of this meeting is included in the Drainage Report. As a result of this PIC, revisions to the draft report were incorporated as necessary and a final copy of the Drainage Report was filed with the Town.

In accordance with Section 41 of the Act, on January 5, 2022, invitations were sent to all affected landowners and agencies that the Public Council Meeting to consider the Engineer's Report is being held on Tuesday, February 8, 2022 at 6:15 pm.

## **Comments**

The Drainage Report referenced within this report is attached to this Council Report as Attachment 1.

The sections of the Act referenced within this report are 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 approved 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 October 5, 2017 and indicated that the Town must apply for a permit and follow standard mitigation requirements.

The Town of Tecumseh conducted a self-assessment with respect to the Federal requirements of the Department of Fisheries & Oceans (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 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.

As of April 1, 2019, the administration of the Endangered Species Act (ESA) transitioned responsibility from the Ministry of Natural Resources and Forestry (MNR) to the Ministry of Environment, Conservation and Parks (MECP). Though the responsibility has transitioned to the MECP, the Town's Species-At-Risk (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](mailto: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

Legislative Services & Clerk  
Financial Services  
Dillon Consulting Limited.

## Financial Implications

The Town of Tecumseh is not assessed in the Drainage Report as the Drain does not have any land or road within the watershed area as shown in the Drainage Report detailed drawings on page 1 of 5 entitled Overall Plan.

Other than costs to administer the project, the cost of constructing the project is 100% recoverable by affected lands in the ratios set out in the Assessment Schedule included in the engineer's report as "Schedule C".

For assessments in excess of \$5,000, the Town offers landowners the option of paying the balance plus interest over a five (5) year period; the annual payments are added as a special charge on their taxes.

## 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:

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

Reviewed by:

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

Reviewed by:

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

Recommended by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

<b>Attachment Number</b>	<b>Attachment Name</b>
1	PWES-2022-02 Attachment 1 - Engineers Report dated November 12, 2021 by Mark Hernandez, P.Eng., of Dillon Consulting Ltd.
2	PWES-2022-02 Attachment 2 - Schedule A - Drainage Act Excerpts - 2022 AODA
3	PWES-2022-02 Attachment 3 - Engineers Report AODA Summary Page