



## 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:** April 26, 2022

**Report Number:** PWES-2022-14

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

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### Recommendations

It is recommended:

**That** the Report and Specifications for the Lachance Drain (Lachance Bridge) (Drain) as prepared by Mark Hernandez, P.Eng., of Dillon Consulting Limited, dated February 24, 2022 (Drainage Report) **be received**;

**And that** consideration **be given** to the first and second readings of Provisional By-law No. 2022-29 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 May 24, 2022 at 6:30 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 Section 78 of the Act. A brief summary of the Drainage Report is included in Attachment 1, with the full Drainage Report included in Attachment 2.

On July 13, 2021 Council accepted the recommendation by the Drainage Superintendent under Public Works & Engineering Services Report No. PWES-2021-33 and passed resolution (Motion: RCM-230/21) as follows:

- (i) **That** Dillon Consulting Limited **be appointed** drainage engineer to make an examination of the drainage area as submitted in the "Notice of Request for Drainage Improvement" dated April 30, 2021.
- (ii) **And that** a Drainage Report **be prepared** in accordance with Section 78 of the *Drainage Act* (Act), including provisions for future maintenance.

An on-site meeting was held on August 31, 2021. A summary of this meeting is included in the Schedule "A" of the Drainage Report.

On February 25, 2022, Dillon, filed a report dated February 24, 2022 for a new residential access and lawn enclosure serving Pt. Lot 148, Concession 3 (Roll No. 570-34700) over the Lachance Drain being a repair and improvement to the Drain in accordance with Section 41 of the Act. On March 28, 2022, invitations were sent to all affected landowners and agencies that the Public Council Meeting to consider the Engineer's Report would be held on Tuesday, April 26, 2022 at 5:00 pm.

The Drainage Report outlines that the access culvert is part of a recent severance and is needed to provide access across the Drain to a residential building lot. The landowner is also requesting a lawn enclosure along the frontage of the lot.

## Comments

The sections of the Act referenced within this report are included in Schedule A which is attached to this Council Report as Attachment 3.

## 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 Town has submitted an application to the Essex Region Conservation Authority (ERCA) on February 10, 2022 for an approval permit under Section 28 of the *Conservation Authorities Act*.

The Consultant and the Town of Tecumseh conducted a self-assessment with respect to the Federal requirements of the Department of Fisheries & Oceans (DFO). The proposed length of the culvert requested prompted an application for review to the DFO. The Town received authorization from the DFO under No. 22-HCAA-00196 on February 14, 2022, which included the implementation of various measures to avoid and mitigate the potential for prohibited effects to Fish and Fish Habitat.

This does not eliminate the requirements under the *Fisheries Act* (R.S.O., 1985, c. F-14) to avoid causing death of fish or harmful alteration, disruption or destruction of fish habitat which are prohibited under subsections 34.4(1) and 35(1) of the *Fisheries Act*. 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, potential adverse impacts to fish and fish habitat can be avoided/mitigated.

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). As of April 1, 2019, the administration of the ESA transitioned responsibility from the Ministry of Natural Resources and Forestry (MNRF) 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. Annual reports may be requested by the MECP.

## Consultations

Financial Services  
Legislative Services & Clerk  
Dillon Consulting Limited

## Financial Implications

As per the Drainage Report, the total estimated cost for this access culvert is \$56,350, which is assessed to the requesting landowner's 0.22 hectare (0.55 acres) property as Special Benefit Liability. The subject property is shown on the Watershed Plan (page 1 of 3) included in the Drainage Report.

Other than costs to administer the project, the cost of preparing this report and construction is 100% recoverable from affected lands. In addition, the Drainage Report includes an

Assessment Schedule for future maintenance that includes lands owned by the Town of Tecumseh.

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:

Alessia Mussio, E.I.T.  
Assistant Drainage Superintendent

Reviewed by:

John Henderson, P.Eng.  
Manager Engineering Services

Reviewed by:

Phil Bartnik, P.Eng.  
Director Public Works & 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

Recommended by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

<b>Attachment Number</b>	<b>Attachment Name</b>
1	PWES 2022-14 - Summary Page - AODA
2	PWES 2022-14 - Drainage Report dated February 24, 2022
3	PWES 2022-14 - Schedule A – Drainage Act Excerpts