



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: July 12, 2022

Report Number: PWES-2022-28

Subject: Request to Consider Engineer's Report – Sullivan Creek Drain

Recommendations

It is recommended:

That the Report and Specifications for the Sullivan Creek Drain as prepared by Gerard Rood, P.Eng., of Rood Engineering Inc., dated March 1, 2022 (Drainage Report) **be received**;

And that consideration **be given** to the first and second readings of a Provisional By-Law 2022-053 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 September 12, 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 to assist Council in considering the Drainage Report in accordance with the Act. A summary of the Drainage Report is included in Attachment No. 1, with the full Drainage Report included in Attachment No. 2.

On April 28, 2015, Council accepted the recommendation by the Drainage Superintendent under Public Works & Engineering Services Report No. 19/15 and passed resolution (Motion: RCM-137/15) as follows:

That Mr. Gerard Rood, P.Eng., of Rood Engineering be appointed Drainage Engineer to:

- a) make an examination of the Sullivan Creek drainage area as submitted by the affected landowner at Roll No. 530000047200000 in the "Notice of Request for Drain Improvement" dated March 16, 2015;
- b) prepare a Drainage Report for the Sullivan Creek 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 October 21, 2015. A summary of this meeting is included in Section III of the Drainage Report.

The Town received a draft report dated June 16, 2021, for discussion at a Public Information Centre (PIC). Invitations were sent to landowners and a PIC was held virtually on Thursday, August 19, 2021, to discuss the content of the draft report.

On March 2, 2022, Mr. Gerard Rood, P.Eng., filed a report dated March 1, 2022 for the repair and improvement to the Sullivan Creek Drain (Drain) in accordance with Section 41 of the Act. On June 27, 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, July 12, 2022 at 6:30 pm.

In general, the report recommendations include bridge/culvert repairs/replacements, specifications for future bridge/culvert replacements, flushing of existing bridges/culverts, removal of silt and debris from the drain and the installation of new buffer strips.

Comments

The sections of the Act referenced within this report are included in Schedule A, which is attached to this Council Report as Attachment No. 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 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 March 31, 2015, indicating that the proposed works cannot change the Drain 1:100 year flood elevations. The Town must also perform a self-assessment through the Department of Fisheries and Oceans (DFO) website, apply for a permit, and follow standard measures to protect fish and fish habitat.

The Consultant and the Town of Tecumseh conducted a self-assessment with respect to the requirements of the DFO related to the federal Fisheries Act and the federal Species at Risk Act. Subsequent to the self-assessment, the Town reached out to DFO and it was determined that the lower portion of the Drain was classified as a Class E municipal drain. Class E municipal drains have permanent flow and fish species that are sensitive to drain maintenance. DFO further advised that this drain may contain Northern Pike and Grass Pickerel and they provided mitigating measures to the Town in March of 2021 and an update to these measures in March of 2022. These mitigation measures are detailed in the report and include, but are not limited to, sediment traps/refugia pools, 2-stage/low flow channels and brushing one side of the banks.

The Drain may contain significant species at risk (SAR), which may be aquatic, plants, animals, habitat, etc., that 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 comply 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
Rood Engineering Inc.

Financial Implications

The Engineer's total estimated project cost is \$631,800. The Town of Tecumseh lands have been assessed \$18,636 in the engineer's report including \$18,211 for Benefit, Outlet and Special Benefit Liability for works involving 10.1 hectares (24.96 acres) of the roads and \$425 for Benefit, Outlet and Special Benefit Liability for 0.7 hectares (1.74 acres) of lands encompassing the area as shown in the Watershed Plan included as plan 1 of 51 in the Engineer's Report.

Other than costs to administer the project, the cost of constructing the project is 100% recoverable by affected lands. The Town’s portion of land mentioned above and detailed in the Assessment Schedule will be funded as follows: \$18,211 from the Roads Lifecycle Reserve; \$425 from the Watermain Reserve Fund.

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:

Zora Visekruna, MBA
Deputy Treasurer & Manager Financial Services

Reviewed by:

Jennifer Alexander, MPA
Acting Clerk

Reviewed by:

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

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	PWES-2022-28 - Summary Page – AODA
2	PWES-2022-28 - Drainage Report dated March 1, 2022 by Gerard Rood, P.Eng., of Rood Engineering Inc.
3	PWES-2022-28 Schedule A – Drainage Act Excerpts