



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-2022-29

Subject: Request to Consider Engineer's Report – South Talbot Road Drain East and 12th Line Drain

Recommendations

It is recommended:

That the Report and Specifications for the South Talbot Road Drain East and 12th Line Drain as prepared by Josh Warner, P.Eng., of R. Dobbin Engineering Inc., dated May 18, 2022 (Drainage Report) **be received**;

And that consideration **be given** to the first and second readings of a Provisional By-law 2022-052 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 13, 2022, at 6:00 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 giving consideration to 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 May 25, 2021, Council accepted the recommendation by the Drainage Superintendent under Public Works & Engineering Services Report No. PWES-2021-26 and passed resolution (Motion: RCM-166/21) as follows:

- (i) **That** R. Dobbin Engineering Inc. **be appointed** drainage engineer to make an examination of the drainage area as submitted by the landowner in the "Notice of Request for Drainage Improvement" dated April 16, 2021.
- (ii) **And that** a Drainage Report **be prepared** in accordance with Section 78 of the *Drainage Act*, including provisions for future maintenance.

An on-site meeting was held on July 9, 2021. A summary of this meeting is included on Page 2 of the Drainage Report.

The Town received a draft report dated March 23, 2022, for discussion at a Public Information Centre (PIC). Invitations were sent to landowners and a PIC was held virtually on Friday, April 22, 2022, to discuss the content of the draft report.

On May 24, 2022, Josh Warner, P.Eng., filed a report dated May 18, 2022 for the repair and improvement to the South Talbot Road Drain East and 12th Line 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 6:00 pm.

In general, the report provides for the cleanout of a portion of the South Talbot Road Drain East to accommodate a proposed culvert, replacement of existing access culverts as required, future replacement specifications for remaining culverts, and the construction of a buffer strip.

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 April 29, 2021 indicating the Town must 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 Federal requirements of the 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 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 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
R. Dobbin Engineering

Financial Implications

The Engineer's total estimated project cost is \$154,554. The Town of Tecumseh lands have been assessed \$67,623 in the engineer's report including \$58,050 for Special Benefit, \$7,868 for Benefit and \$1,705 for Outlet Liability for works involving 8.15 hectares (20.14 acres) of the roads encompassing the area as shown in the Overall Watershed Plan view included as plan 1 of 10 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 drainage assessment totalling \$67,623 for the Town’s portion of land mentioned above and detailed in the Assessment Schedule included in the engineer’s report dated May 18, 2022 will be funded by the Roads Lifecycle Reserve.

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.
Drainage Superintendent/Engineering Technologist

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-2022-29 – Summary Page - AODA
2	PWES-2022-29 - Drainage Report dated May 18, 2022 by Josh Warner, P.Eng., of R. Dobbin Engineering
3	PWES-2022-29 - Schedule A – Drainage Act Excerpts