



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 25, 2023

Report Number: PWES-2023-04

Subject: Request to Reconsider Engineer's Report – Antaya Drain

Recommendations

It is recommended:

That the Reconsidered Drainage Report for the Reassessment of the Antaya Drain (Drain) as prepared by Mark Hernandez, P.Eng., of Dillon Consulting Ltd., dated March 16, 2022, (Drainage Report) **be received**;

And that consideration **be given** to the first and second readings of a provisional by-law 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 February 14, 2023, at 4:00 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 reconsideration to the Drainage Report in accordance with the Act.

On January 28, 2022, Mark Hernandez, P.Eng., filed a report dated November 12, 2021 for the repair and improvement to the Drain 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 would be held on Tuesday, February 8, 2022 at 6:15 pm.

The original report dated November 12, 2021, was provisionally adopted on February 8, 2022. At the Court of Revisions meeting on March 8, 2022, revisions to the assessment schedules were discussed and the report was referred back to the Engineer.

On March 18, 2022, Mark Hernandez, P.Eng., filed a report dated March 16, 2022, for reconsideration. On January 10, 2023, invitations were sent to all affected landowners and agencies that the Public Council Meeting to reconsider the Engineer's Report would be held on January 25, 2023, at 6:00 pm.

The changes to the Reconsidered Report are summarized as follows:

- The frontage component of the benefit assessment for Roll No. 570-48900 has been revised to result in a fairer assessment when compared to similar properties. This change is reflected in Schedule 'C' for assessment of construction costs, and in Schedule 'E' for assessment of future maintenance costs.
- The special benefit assessment to property Roll No. 570-48950 for the supply and installation of stone erosion protection was previously under Schedule 'D' for 'Non-Agricultural Lands'. This special benefit item has been relocated under Schedule 'D' to 'Agricultural Lands'.
- The factored areas were revised for property numbers 1-10 to be consistent between Schedule 'C' and Schedule 'E'.

Comments

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

Consideration by Council

Subject to the discretion of Council, the Reconsidered 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.

Subject to the discussions that take place at the Public Council Meeting to reconsider the report, and if no issues are raised that would warrant the report being referred back to the engineer, Administration recommends giving the first and second readings of a Provisional By-law to adopt the Reconsidered Drainage Report.

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.

Regulatory Approvals

Regulatory Approvals have been reviewed for the Antaya Drain and consist of:

- 1) Essex Region Conservation Authority (ERCA) – *Conservation Authorities Act*
 - a. A permit from ERCA will be required prior to construction.
- 2) Department of Fisheries & Oceans (DFO) – *Fisheries Act*
 - a. A self-assessment has been completed and determined that this project does not require a formal review by DFO and the Drain should not contain any aquatic species at risk or critical habitat.
- 3) Ministry of Environment, Conservation & Parks (MECP) – *Endangered Species Act*
 - a. The Town's Species-At-Risk Mitigation Plan continues to comply with the *Endangered Species Act*. The Town and Contractor will gather information on encountered species and/or mitigation plans implemented prior to and throughout construction.

Consultations

Financial Services
Dillon Consulting Limited

Financial Implications

The Town of Tecumseh is not assessed in the Drainage Report as the Town does not have any lands or roads 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:

Alessia Mussio, E.I.T.
Drainage Superintendent

Reviewed by:

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

Reviewed by:

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

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Engineers Report Summary
2	Drainage Report dated March 16, 2022 by Mark Hernandez, P.Eng., of Dillon Consulting Ltd.
3	Schedule A – Drainage Act Excerpts