



## 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 28, 2023

**Report Number:** PWES-2023-15

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

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### Recommendations

It is recommended:

**That** the Reconsidered Drainage Report for the Sullivan Creek Drain (Drain) as prepared by Gerard Rood, P.Eng., of Rood Engineering Inc., dated January 9, 2023, (Drainage Report) **be received**;

**And that** consideration **be given** to the first and second readings of a provisional by-law to adopt the Reconsidered 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 March 28, 2023, 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 reconsideration to the Drainage Report in accordance with the Act.

On March 2, 2022, Mr. Gerard Rood, P.Eng., filed a report dated March 1, 2022, for the repair and improvement to the 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.

At the Public Council Meeting to consider the Engineer's Report, revisions to the report to incorporate Excess Soil requirements were discussed and the report was referred back to the Engineer.

On January 4, 2023, Gerard Rood, P.Eng., filed a report dated January 9, 2023, for reconsideration (see Attachment 1 & 2). On February 13, 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 February 28, 2023, at 6:30 pm.

The Engineer's Report provides recommendations for bridge/culvert repairs/replacements, specifications for future bridge/culvert replacements, flushing of existing bridges/culverts and removal of silt and debris from the Drain.

## **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.

## **Considerations 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.

## Approvals

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

- 1) Essex Region Conservation Authority (ERCA) – *Conservation Authorities Act*
  - a. A permit from ERCA will be required prior to construction.
  - b. The proposed works cannot change the Drain's 1:100 year flood elevations.
- 2) Department of Fisheries & Oceans (DFO) – *Fisheries Act*
  - a. A self-assessment has been completed which identified 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.
  - b. DFO advised that the Drain may contain Northern Pike and Grass Pickerel and provided mitigating measures to the Town in March of 2021 and an update to these measures in March of 2022. These mitigation measures are included within the Drainage Report.
- 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  
Rood Engineering Inc.

## Financial Implications

The Engineer's total estimated project cost is \$832,000. The Town of Tecumseh lands have been assessed \$24,339 in the engineer's report including \$23,778 for Benefit, Outlet and Special Benefit Liability for works involving 10.1 hectares (24.96 acres) of the roads and \$561 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 Drainage 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 through the Drains 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

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

Recommended by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

<b>Attachment Number</b>	<b>Attachment Name</b>
1	Engineers Drainage Report Summary
2	Drainage Report dated January 9, 2023, by Gerard Rood, P.Eng., of Rood Engineering Inc.
3	Schedule A – Drainage Act Excerpts