



The Corporation of the Town of Tecumseh

Public Works & Environmental Services

To: Mayor and Members of Council

From: Sam Paglia, Drainage Superintendent/Engineering Technologist

Date to Council: September 25, 2018

Report Number: PWES-2018-22

Subject: Request for Repair and Improvements to South Talbot-Holden Outlet and Branch Drain
Appointment of Drainage Engineer

Recommendations

It is recommended:

That Dillon Consulting Limited (Dillon) **be appointed** Drainage Engineer to:

- (i) Make an examination of the South Talbot-Holden Outlet and Branch Drain and drainage area as submitted by the County of Essex in the “Notice of Request for Drain Improvement” dated August 20, 2018; and
- (ii) Prepare a Drainage Report in accordance with Section 78 of the *Drainage Act*, including provisions for future maintenance of the Drain.

Background

The Town of Tecumseh (Town) received correspondence from the County of Essex (County) respecting the preliminary and detail design for improvements to the intersection at County Road 11 (Walker Road) and South Talbot Road. There are currently two Municipal Drains that are affected by this intersection:

- Oldcastle Road and Branch Drain
- South Talbot-Holden Outlet and Branch Drain

The Town has appointed N.J. Peralta Engineering Ltd. (Peralta) to complete a Section 78 report on the Oldcastle Road & Branch Drain (Motion: RCM-254/15). This report is in the early

stages of development and thus will allow Peralta to include the coordination with the County's engineering consultant, CIMA+, for the final design of drainage works into their scope of work.

The Town has also recently appointed Dillion Consulting Ltd. (Dillon) to complete a Section 78 report on the South Talbot-Holden Outlet and Branch Drain for the installation of a private culvert at 1600 South Talbot Road to meet their conditions for a Severance Consent Application (Motion: RCM-139/17). This report is in its final stages and is ready to be reviewed by Administration and brought forward to Council for consideration. In order to avoid delays associated with a change in scope of the existing report, discussions have taken place with the Town, County, and Dillon on initiating a new Section 78 Report to address the proposed changes to the Drain specific to the County's intersection improvement project.

Comments

Legislation

Section 78 of the *Drainage Act* requires Council by by-law or resolution to appoint an Engineer to make an examination of the areas requiring drainage as described in the Request and to prepare a Drainage Report. The report shall include:

- a) plans, profiles and specifications of the drainage works, including a description of the area requiring drainage;
- b) an estimate of the total cost thereof;
- c) an assessment of the amount or proportion of the cost of the works to be assessed against every parcel of land and road for benefit, outlet liability and injuring liability;
- d) allowances, if any, to be paid to the owners of land affected by the drainage works; and
- e) such other matters as are provided for under the *Act*.

Section 78(1) If a drainage works has been constructed under a by-law passed under this Act or any predecessor of this Act, and the council of the municipality that is responsible for maintaining and repairing the drainage works considers it appropriate to undertake one or more of the projects listed in subsection (1.1) for the better use, maintenance or repair of the drainage works or of lands or roads, the municipality may undertake and complete the project in accordance with the report of an engineer appointed by it without the petition required in section 4.

Section 78(1.1) the projects referred to in subsections (1) are:

1. Changing the course of the drainage works.
2. Making a new outlet for the whole or any part of the drainage works.
3. Construction a tile drain under the bed of the whole or any part of the drainage works.
4. Constructing, reconstructing or extending embankments, walls, dykes, dams, reservoirs, bridges, pumping stations or other protective works in connection with the drainage works.
5. Otherwise improving, extending to an outlet or altering the drainage works.
6. Covering all or part of the drainage works.
7. Consolidating two or more drainage works.

Section 78(1) of the Act states that where, for the better use, maintenance or repair of any drainage works constructed under a by-law passed under this Act or any predecessor of this Act or to otherwise improve, extend to an outlet or alter the drainage works or to cover the whole or any part of it, the Council of any municipality whose duty it is to maintain and repair the drainage works or any part thereof may, on the report of an Engineer appointed by it, undertake and complete the drainage works as set forth in such Drainage Report.

All proceedings, including appeals, under Section 78 shall be the same as on a report for the construction of a drainage works (Section 78(4)).

Notice to conservation authority

(2) An engineer shall not be appointed under subsection (1) until thirty days after a notice advising of the proposed drainage works has been sent to the secretary-treasurer of each conservation authority that has jurisdiction over any of the lands that would be affected. R.S.O. 1990, c. D.17, s. 78 (2); 2010, c. 16, Sched. 1, s. 2 (28).

Powers and duties of engineer

(3) The engineer has all the powers and shall perform all the duties of an engineer appointed with respect to the construction of a drainage works under this Act. R.S.O. 1990, c. D.17, s. 78 (3).

Proceedings

(4) All proceedings, including appeals, under this section shall be the same as on a report for the construction of a drainage works. R.S.O. 1990, c. D.17, s. 78 (4).

Required approvals

On August 21, 2018, the Town sent notification to the Essex Region Conservation Authority (ERCA) that it received a request for the repair and improvement of the Drains. On August 27, 2018, ERCA sent notification of the receipt of the request, stating that they do not expect there will be any extraneous comments or concerns with respect to this project.

As outlined in Section 78(2) of the Act, the Engineer shall not be appointed until after the 30 day notification to the Conservation Authority who has regulation of the area. This administrative report is in line with those provisions and the 30 day period expires on September 20, 2018.

The proposed drainage works will need to be self-assessed by the Town through the Department of Fisheries and Oceans (DFO). In order to obtain a federal Authorization, it may be necessary to provide habitat compensation for loss habitat for the proposed works. The resulting habitat impacts must be replaced with equivalent habitat features. If a Biologist is necessary, the cost of same becomes the responsibility of the proponent.

The Drain may contain significant species (aquatic species at risk (SAR) as well as plants, animals, habitat, etc.) that are protected under the provincial Endangered Species Act (ESA).

The Town will use its SAR Mitigation Plan for Drainage Works under Section 23.9 of Ontario Regulation 242/08. The Town's registered municipal drainage works permitted under Section 23.9 of Ontario Reg. 242/08 will provide the MNRF with the Notice of Drainage Work Activity Form annually and provide information on any encountered species and mitigation plan for same.

Appointment of Engineer

It is recommended that Dillon be appointed Drainage Engineer to this Drain for consistency and efficiency as Dillon has already examined the Drain, established the extents of the watershed area, conducted a hydraulic analysis, and completed assessment schedules and future maintenance schedules for their previous appointment on the South Talbot-Holden Outlet and Branch Drain. Additionally, Dillon is experienced in examining the Town's municipal drainage infrastructure and completes thorough and timely reports.

Administration recommends that the Town appoint a Drainage Engineer under Section 78 of the *Drainage Act* to review the proposed project and its potential impacts on the South Talbot-Holden Outlet and Branch Drain.

For the benefit and conveyance of the water received by all affected lands within the watershed and adjacent to the Drain who depends on the Drain as their outlet for the water that they receive, it is recommended that Dillon be appointed Drainage Engineer to:

- (i) Make an examination of South Talbot-Holden Outlet and Branch Drain and drainage area as submitted by the County of Essex in the "Notice of Request for Drain Improvement" dated August 20, 2018; and
- (ii) Prepare a Drainage Report in accordance with Section 78 of the Drainage Act, including provisions for future maintenance of the Drain.

Consultations

Financial Services
Corporate Services & Clerk
Dillon Consulting Ltd.

Financial Implications

The Engineer's Report shall assess for benefit, outlet liability and injuring liability. A schedule of assessment is to be contained in the report which details in separate columns, the sums assessed for each parcel of land and the road authority's liability. The Town of Tecumseh will be responsible for the amount assessed for the benefit of its road(s).

Link to Strategic Priorities

Applicable	2017-18 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 the Town of 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 the Town 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:

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Assistant Drainage Superintendent

Reviewed by:

Sam Paglia, P.Eng.
Drainage Superintendent/Engineering Technologist

Reviewed by:

John Henderson, P.Eng.
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Reviewed by:

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Reviewed by:

Luc Gagnon, CPA, CA, BMath
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Reviewed by:

Laura Moy, Dipl. M.M., CMMIII HR Professional
Director Corporate Services & Clerk

Recommended by:

Tony Haddad, MSA, CMO, CPFA
Chief Administrative Officer

Attachment Number	Attachment Name
1	Letter of Request for Drain improvement, dated August 10, 2018
2	Notice of Request for Drain Improvement, dated August 20, 2018
3	South Talbot-Holden Outlet and Branch Drain Map