



## 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:** October 9, 2017

**Report Number:** PWES-2018-28

**Subject:** East Townline Drain (St. Clair Outlet) – Consider Engineer's Drainage Report

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### Recommendations

It is recommended:

**That** the Drainage Report and Specifications for the East Townline Drain (St. Clair Outlet) as prepared by Mr. Mark Hernandez, P.Eng., of Dillon Consulting Ltd., dated September 7, 2018 **be received**;

**And that** consideration **be given** to the first and second readings of a provisional by-law to adopt the Drainage Report;

**And further that** the Clerk **give notice** to all affected landowners of the Court of Revision to be held on Tuesday, November 27, 2018 at 5:00 pm in accordance with Section 46(1) of the Drainage Act subject to adoption of the provisional by-law.

### Background

The Town received a Request for Repair and Improvement of a Municipal Drain on May 24, 2014, in accordance with Section 78 of the *Drainage Act* (Act). On July 8, 2014, Council accepted the recommendation by the Drainage Superintendent under Public Works & Environmental Services Report No. 56/14 and passed resolution [RCM-297/14] as follows:

**THAT** Dillon Consulting Ltd. be appointed Drainage Engineer to:

- a) make an examination of the drainage area; and
- b) to prepare a Drainage Report for the East Townline Drain (St. Clair outlet)

in accordance with Section 78 of the Drainage Act as submitted by the landowner at Roll No. 570-0004-890-00000 and 850-0004-850-00000 in the Request for Repair and Improvements form date May 29, 2014...

An on-site meeting was held on September 23, 2014 at the request of the landowner at Roll No. 570-0004-890-00000 and 850-0004-850-00000 respecting their drain concerns, which include:

- Localized depression along an enclosed section of drain (lawn enclosure) in front of 1951 Manning Road (Roll No. 570-48500).
- A new road culvert required for a proposed development. The location of this road culvert fronts municipally owned lands but would provide temporary access to land westerly that are proposed to be developed.
- Failing access culverts (Bridges Nos. 9 and 17).

A summary of the meeting is included in the Drainage Report for consideration as per the requirements in the Act.

The Town received a draft report dated May 24, 2017 for discussion at a public information meeting. Invitations were sent to landowners to a Public Information Centre (PIC) that was held on June 15, 2017 in Council Chambers to discuss the content of the draft report. Minutes of the PIC are appended to the Drainage Report.

The results of comments received from landowners at the PIC required that the Engineer revise the report with respect to the proposed development enclosure and the rerouting of the Baillargeon Drain. The costs for these revisions are assessed to the landowner requesting the revisions.

## **Comments**

### **Section 41 Notice of Drainage Works**

(1) Upon the filing the Engineer's Drainage Report with the Clerk, and within 30 days of the filing, a copy of the Drainage Report was sent together with a notice of the date of the Council meeting at which the Drainage Report will be considered, to:

1. Affected property owners, within the initiating municipality, according to the last revised assessment roll to be the owners of lands and roads assessed for the drainage works or for which compensation or other allowances have been provided in the report;
2. The Clerk of every other municipality in which any land or road is assessed for drainage works or compensation, or other allowances provided in the Report;
3. The Secretary-Treasurer of the Essex Region Conservation Authority (ERCA);
4. Any railway, public utility or road authority affected by the report;
5. The Minister of Agriculture, Food and Rural Affairs; and
6. The Director appointed for the purposes of the *Drainage Act*.

## **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 use of land.

## **Engineer may assess a block, etc.**

**Section 25** (1) The council of the local municipality may direct the engineer to assess as a block, a built-up area designated by the council, and the sum assessed therefor may be levied against all the rateable properties in the designated area proportionately on the basis of the assessed value of the land and buildings. R.S.O. 1990, c. D.17, s. 25 (1).

## **Imposition of special assessment**

**Section 61** (1) The council of each local municipality that is required to raise the whole or any part of the cost of the drainage works shall by by-law impose upon the land assessed for the drainage works the assessment with which it is chargeable, and the amount so imposed is payable in such instalments as the council may prescribe. R.S.O. 1990, c. D.17, s. 61 (1).

## **Commutation of special assessment**

(2) The council of any local municipality may provide that persons whose lands are assessed may commute for a payment in cash the assessments imposed thereon and may prescribe the terms and conditions thereof. R.S.O. 1990, c. D.17, s. 61 (2).

## **Assessments of \$50 or less**

(3) Where the assessment against any parcel of land is \$50 or less, the council of the local municipality may provide that the assessment shall be paid out of the general funds of the municipality or that the assessment shall be paid in the first year in which the assessment is imposed upon the land assessed. R.S.O. 1990, c. D.17, s. 61 (3).

## **Approvals**

The Town made initial submissions to the Essex Regional 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 October 12, 2016 and indicated that the Town must apply for a permit and follow standard mitigation requirements.

The Consultant and the Town of Tecumseh conducted a self-assessment in respect to the Federal requirements of the Department of Fisheries and Oceans (DFO) at <http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>. It has been determined that this project does not require a formal review by DFO because the Drain is considered a Class F drain as well as an Agricultural Drainage Ditch. This does not eliminate the requirements under the *Fisheries Act* (R.S.C., 1985, c. F-14) to avoid causing serious harm to fish by following best practices such as minimizing the duration of in-water work and respecting the timing windows to protect fish. 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 that are at risk (SAR) and may be aquatic, plants, animals, habitat, etc. These species are protected under the provincial Endangered Species Act (ESA) and the Town utilizes its compliance document with the Ministry of Natural Resources and Forestry (MNRF) under Section 23.9 of Regulation 242/08 for SAR Mitigation Plan for Drainage Works. The Town along with its contractors gather 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 and reports to the MNRF annually.

Based on the comments above, it is recommended:

1. That the Drainage Report and Specifications for the East Townline Drain (St. Clair Outlet) as prepared by Mr. Mark Hernandez, P.Eng., of Dillon Consulting Ltd., dated September 7, 2018 be received; and that
2. Consideration be given to the first and second readings of a provisional by-law to adopt the Drainage Report; and further that
3. The Clerk give notice to all affected landowners of the Court of Revision to be held on Tuesday, November 27, 2018 at 5:00pm in accordance with Section 46(1) of the Drainage Act subject to adoption of the provisional by-law.

## **Consultations**

Financial Services  
Corporate Services & Clerk  
Public Works & Environmental Services  
Dillon Consulting Ltd.

## Financial Implications

<b>Engineer's Estimates for the East Townline Drain (St. Clair Outlet)</b>	
<b>Description</b>	<b>Estimate</b>
Construction	\$350,020
Incidentals	\$120,003
Permit	\$800
Allowances/Compensation	\$9,225
<b>Total</b>	<b>\$480,048</b>
<b>Assessment Summary</b>	
County of Essex - Road Authority	\$17,784
Town of Tecumseh - Road Authority	\$12,570
Town of Tecumseh – Lands – BLOCK C	\$27,336
Agricultural lands (non-grantable)	\$97,412
Section 26 – Non-Pro-ratable	\$89,533
Town of Tecumseh portion (\$63,370)	
Hydro One, Union Gas and CP Rail (\$26,163)	
Privately owned Agricultural lands **	\$156,942
Provincial Grants *	\$78,471
<b>Total</b>	<b>\$480,048</b>

\*\*As shown in the table above, a portion of a Section 78 assessment for drainage works to agricultural lands described in an engineer's report are eligible for grants by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) through the provisions set out in Sections 85, 86 and 87 of the *Drainage Act*, and under the Agricultural Drainage Infrastructure Program (ADIP) policies. Upon completion of the application form, the Minister may pay to the treasurer of the Town \*33 1/3 per cent of the assessments eligible for grant in accordance with the Agricultural Drainage Infrastructure Program.

The Town of Tecumseh lands have been assessed in the engineer's report for Benefit and Outlet Liability, in Block C of \$27,336 for works involving 75.6 hectares (186.8 acres) of land encompassing the urban residential area of Block C shown on page 1 of 15 in the Overall Watershed Plan view. The Town also is assessed \$12,570 for its roads and \$63,370 for Section 26 non-pro-ratable costs.

The Engineer has provided the block assessment under Section 25 of the Act. Although the Town is required to impose the cost of the drainage works by by-law (Section 61(1)), upon the lands assessed for drainage works, the assessment with which it is chargeable, may also be paid out of the general funds for assessments with a \$50 balance or less under Section 61(3) of the Act. The assessment to all properties in the designated Block C area is proportionately basis on the assessed value of the lands and buildings.

For assessments in excess of \$5,000 the Town offers landowners the option of paying the balance, plus interest at 3.1%, over a five (5) year period; the annual payments are added as a special charge on their taxes.

Other than costs to administer the project, the cost of constructing the project is 100% recoverable by affected lands including the Town's portion of land mentioned above and

detailed in the Assessment Schedule included in the engineer's report dated September 7, 2018. The Town will utilize the Lifecycle Reserves to pay for the Town's drainage assessment totalling \$103,276.

## 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 checked="" 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:

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

Reviewed by:

John Henderson, P.Eng.  
Manager Engineering Services

Reviewed by:

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

Reviewed by:

Luc Gagnon, CPA, CA, BMath  
Director Financial Services & Treasurer

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**

1

**Attachment  
Name**

Drainage Report dated September 7, 2018  
By Mark Hernandez, P.Eng of Dillon Consulting Ltd.