



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 23, 2024

Report Number: PWES-2024-40

Subject: Request for Repair and Improvement to the Washbrook Drain
Appointment of Drainage Engineer

Recommendations

It is recommended:

That Oliver Moir, P.Eng., of Dillon Consulting Limited **be appointed** Drainage Engineer to make an examination of the Washbrook Drain segment as submitted by the Road Authority in the "Notice of Request for Drainage Improvement" dated March 5, 2024;

And that a Drainage Report **be prepared** in accordance with Section 78 of the *Drainage Act* (Act), including provisions for future maintenance;

And further that Council **delegate the authority** to the Chief Administrative Officer, the Purchasing Coordinator, and the Director Public Works & Engineering Services to execute an agreement, satisfactory in form to the Town Solicitor, with Dillon Consulting Limited.

Background

The purpose of this report is to provide a summary of the background and other information in order to assist Council in appointing an engineer to examine the drainage area on the Washbrook Drain (Drain).

The Drain is located on the south side of North Talbot Road, drains easterly, and is primarily located with an outlet into the 9th Concession Drain on the 9th Concession Road. Please refer to Attachment 1 for the Drain location map.

Comments

A Request for Improvement was submitted to analyze the available bottom grade within the section of drain generally located between Oldcastle Road and County Road 46, and to determine if the current level of service can be improved. The request initiates the process to supplant or supplement the current By-Law(s) to provide a new drain bottom profile for this segment of the Drain. This section of Drain was last examined by Bruce D. Crozier Engineering Inc. through a report submitted in 2003 and passed through By-Law 2003-74.

Legislation

The sections of the Act referenced within this report are included in Schedule A, which is attached to this Report as Attachment No. 2.

Required Approvals

On March 6, 2024, the Town sent notification to the Essex Region Conservation Authority (ERCA) that the Town received a request for the repair and improvement of the Drain.

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 expired on April 5, 2024.

The Town will be required to conduct a self-assessment with respect to the requirements of the Department of Fisheries and Oceans Canada (DFO) to determine if this project will require a formal review by DFO for issues related to the federal Fisheries Act and/or the federal Species at Risk Act.

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). As of April 1, 2019, the administration of the ESA transitioned responsibility from the Ministry of Natural Resources and Forestry (MNR) 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.

Delegation of Authority

The following sections are provided from Section 4.7 of the Town's Purchasing Policy (Policy 17):

- c) It shall be the responsibility of the Department Director and/or Town Solicitor to

determine if it is in the best interest of the Town to establish a formal agreement with the supplier.

- d) Where it is determined that Subsection 4.7 c) is to apply, the formal agreement may be reviewed and approved for execution by the Town Solicitor.
- e) Where a formal agreement is required, as a result of the award of a contract, and approval for such a formal agreement has been provided in accordance with Schedule “A” of By-law Number 2021-60, the Mayor and Town Clerk shall execute the agreement in the name of the Town of Tecumseh.

With regard to Schedule “A” of By-law Number 2021-60, the ultimate engineering cost for a municipal drainage project is unknown at the time of appointment. Under the provisions of the Drainage Act, the Drainage Engineer is required to hold an on-site meeting with all affected property owners at the start of the project. In addition to the Road Authority’s requested improvements, other affected property owners may also request additional works at the on-site meeting. It is therefore impossible to know the entire project scope before the on-site meeting. In addition, the Drainage Act includes processes for property owners to appeal the Drainage Engineer’s recommended works and/or assessments. These appeal processes can be lengthy and result in significant engineering costs. As a result, Drainage Engineers typically work on a time and material basis for municipal drainage projects.

Dillon Consulting Limited has requested that a formal agreement be prepared for their professional services for the Washbrook Drain project on a time and material basis. Due to proprietary information contained within their scope of services, Administration is recommending an exception to Section 4.7 (e) of the Purchasing Policy (Policy 17). In this instance, it is recommended that Council delegate the authority to the Chief Administrative Officer, the Purchasing Coordinator, and the Director of Public Works & Engineering Services to execute an agreement, satisfactory in form to the Town Solicitor, with Dillon Consulting Limited.

Appointment of Engineer

It is recommended that Oliver Moir, P.Eng., of Dillon Consulting Limited be appointed Drainage Engineer to the Drain to produce an updated report for the Drain that will include the watershed boundary, plans and profiles, and construction and future maintenance assessment schedules.

Consultations

Legislative and Clerk Services
Dillon Consulting Limited

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 benefit of its road(s).

Link to Strategic Priorities

Applicable	2023-2026 Strategic Priorities
<input checked="" type="checkbox"/>	Sustainable Growth: Achieve prosperity and a livable community through sustainable growth.
<input type="checkbox"/>	Community Health and Inclusion: Integrate community health and inclusion into our places and spaces and everything we do.
<input type="checkbox"/>	Service Experience: Enhance the experience of Team Tecumseh and our citizens through responsive and respectful service.

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:

Matthew Shiha, 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

Recommended by:

Brian Hillman, MA, MCIP, RPP
Director Development Services and Acting Chief Administrative Officer

Attachment Number	Attachment Name
1	Washbrook Drain Map
2	Schedule A – Drainage Act Excerpts