



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: March 26, 2019

Report Number: PWES-2019-19

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

Recommendations

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 February 13, 2019 **be received**;
2. **And that** consideration **be given** to the first and second readings of a provisional by-law to adopt the Drainage Report;
3. **And further that** notice be given to all affected landowners of the Court of Revision to be held on Tuesday, May 14, 2019 at 6:00pm in accordance with Section 46(1) of the *Drainage Act* (Act) subject to adoption of the provisional by-law;
4. **And furthermore that** lands with assessments less than \$50 **be assessed** as imposed under Section 61 of the Act.

Background

The Town initially received a draft copy of the report dated May 24, 2017 and invitations were sent out to all affected landowners excluding Block C for a Public Information Centre (PIC) held on June 15, 2017 in Council Chambers to discuss the content of the draft report. A summary of the meeting is appended to the Engineer's Report as Schedule A-1.

As a result of comments received from the PIC, the Engineer revised the Report and submitted a Report dated September 7, 2018. Invitations were sent out with a copy of the Report to all

landowners excluding Block C for a Public Council Meeting held on October 9, 2018 to consider the Engineer's Report.

The recommendation under Public Works & Environmental Services Report (PWES) No. 2018-28 was to give first and second reading to a Provisional By-Law. After discussion regarding the requirement to provide a copy of the Engineer's Report to landowners within a Block assessment under Section 41(3), Motion PCM-31/18 was passed:

That Report No. PWES-2018-28 East Townline Drain Consideration Meeting and the Drainage report prepared by Mr. Mark Hernandez, P. Eng., of Dillon Consulting Ltd., dated September 7, 2018 be deferred until the additional affected landowners in "Block C" watershed be notified of a second Public Information Centre, prior to rescheduling the Consideration Meeting.

Administration sent out three (3) separate invitations to affected landowners as follows:

1. Invitations to landowners who previously received the invitation with a copy of the September 7, 2018 Engineer's Report for consideration. These landowners were not provided a copy of the Report, but the invitations referenced the September 7, 2018 Engineer's Report already sent to them previously for the October 9, 2018 Public Meeting to Consider the Report.
2. Invitations to landowners within Block C, who previously did not receive the invitation to the October 9, 2018 Public Meeting and who were not provided a copy of the Engineer's Report and whose assessments were anticipated to be below \$50. A link to the Engineer's Report was provided in the invitation so that landowners who wished to view the Report could do so on the Town's website.
3. Invitations to landowners within Block C, who previously did not receive the invitation to the October 9, 2018 Public Meeting and whose assessment is anticipated to be greater than \$50. A copy of the Engineer's Report, dated September 7, 2018 was provided with the invitation.

Administration held a Public Information Centre (PIC) on October 23, 2018 and a summary of the meeting is included in Schedule A-2 of the attached Engineer's Report dated February 13, 2019.

As a result of comments received from the October 23, 2018 PIC, as well as new steel tariffs affecting the price of material for the project, the Engineer made revisions to the September 7, 2018 Engineer's Report and submitted a final Report to the Town on, and dated February 13, 2019, for re-consideration. A copy of the final Report is appended as Attachment No.2.

The steel tariffs affected the number of landowners within Block C who are entitled to receive a physical copy of the Engineer's Report under Section 41(3.1).

Based on a meeting with the Director Financial Services & Treasurer regarding assessment to Block C, it was determined that the Town intends to invoice all landowners within the Block utilizing Section 61 of the Act.

Invitations were sent on March 5, 2019, with a copy of the February 13, 2019 Engineer's Report to all affected landowners, including the lands within Block C whose estimated assessment is greater than \$50. Additionally, invitations were sent to all other affected landowners whose assessment is estimated to be less than \$50, with a link to the Engineer's Report on the Town's website.

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 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.

(3) Despite subsections (1) and (2), where a block assessment is made, the notice to the owners of the lands so assessed need not be accompanied by a copy of the report.

(3.1) Despite subsections (1) and (2), the council of a local municipality is not required to send a copy of the report to owners of lands and roads assessed for a sum of less than \$100.

Section 61 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).

(4) The assessments and rates imposed under this Act shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 14.

Section 26 - Increased cost, how borne

26 In addition to all other sums lawfully assessed against the property of a public utility or road authority under this Act, and despite the fact that the public utility or road authority is not otherwise assessable under this Act, the public utility or road authority shall be assessed for and shall pay all the increase of cost of such drainage works caused by the existence of the works of the public utility or road authority. R.S.O. 1990, c. D.17, s. 26.

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 February 13, 2019 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, May 14, 2019 at 6:00pm in accordance with Section 46(1) of the *Drainage Act* (Act) subject to adoption of the provisional by-law; and further that
4. Lands with assessments less than \$50 be assessed as imposed under Section 61 of the Act.

Consultations

Financial Services
Corporate Services & Clerk
Dillon Consulting Limited

Financial Implications

For lands assessed in excess of \$5,000, the Town offers landowners the option of paying the balance, plus interest at 4.0%, over a five (5) year period; the annual payments are added as a special charge on the property 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 and roads, in the ratios detailed in the Assessment Schedule included in the Engineer's Report dated February 13,

2019. The Town will utilize the respective Lifecycle Reserves to pay for the Town's drainage assessment. A copy of the Municipal Drain Lifecycle Reserve is appended to this report as Attachment No. 1, and a summary of estimated cost is provided below.

Agricultural lands assessed for drainage under the Drainage Act are eligible to receive a 1/3 grant from the Agricultural Drainage Infrastructure Program. The Town applies for these grants when invoicing the final schedule and files for the eligible grants on completed projects annually to the Minister.

Engineer's Estimates	
East Townline Drain (St. Clair Outlet)	
Total Cost Estimate	\$ 544,638
Assessment Summary	
Total to agricultural lands (1/3 grantable)	\$265,077
Total to non-agricultural lands	\$138,283
County of Essex - Roads	\$ 24,539
Town of Tecumseh - Drain Life cycle fund	\$17,957
Town of Tecumseh – Roads Life Cycle Fund	\$8,424
Town of Tecumseh – Water Life Cycle Fund	\$ 63,342
Section 26 Non-pro-ratable costs to utilities	\$27,016
Total assessments	\$544,638

Link to Strategic Priorities

Applicable	2017-18 Strategic Priorities
------------	------------------------------

- Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
- Ensure that the Town of Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
- Integrate the principles of health and wellness into all of the Town of Tecumseh's plans and priorities.
- Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
- 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:

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

Reviewed by:

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

Recommended by:

Tony Haddad, MSA, CMO, CPFA
Chief Administrative Officer

Attachment Number	Attachment Name
1	Municipal Drain Life Cycle Reserve
2	2019-02-13-East Towline Drain Report