



The Corporation of the Town of Tecumseh

Public Works & Environmental Services

To: Mayor and Members of Council

From: Phil Bartnik, Director Public Works & Environmental Services

Date to Council: September 10, 2019

Report Number: PWES-2019-44

Subject: Request for Repair and Improvements to Malden Road East Drain
Appointment of Drainage Engineer

Recommendations

It is recommended:

That N.J. Peralta Engineering Ltd. **be appointed** Drainage Engineer to make an examination of the Malden Road East Drain (Drain) as submitted by the owner of Roll No. 400000024000000 in the “Notice of Request for Drain Improvement” dated July 23, 2019;

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

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 of the Malden Road East Drain (Drain) affected by the improvements of the requested access culvert.

The Malden Road East Drain is located on the southeast side of Malden Road with its upper limit located on the south side of South Talbot Road and its outlet into the Pike Creek Drain via the southeast side of Malden Road. The current by-law for the Drain is Sandwich South By-Law No. 80-50 and the appended Engineers Report (1980 Report) was prepared by C.G. Russell Armstrong Ltd and dated October 15, 1980 under the provisions of the then *Act*.

This 1980 Report included the examination of several Municipal Drains, which included the Malden Road East Drain, the South Talbot Road Drain East, the 12th Line Drain, the Croft

Drain and the South Talbot Road Drain West Drain. As a result of all of these drainage schemes all utilizing the Pike Creek as their outlet, the engineer provided one assessment schedule for all parcels from the upstream most reach of the 12th Concession Drain on the west side of 12th Concession at County Road 8.

As a result of the improvements to the access bridge under the current request, a new report (under Section 78 of the Act) must be completed to reflect any provisions of the 1990 version of the Act. The engineer is to provide for the construction improvements and to distinguish the special benefit, benefit, outlet and injuring liability assessments for same to all upstream lands and roads.

In an effort to be proactive, the Town will request that the entire drain be considered for examination at the prescribed onsite meeting so that recommendations to restore the Drain can be provided for the benefit of all landowners due to the age of the current By-Law.

Comments

Legislation

The sections of the Act referenced within this report are included in Schedule A which is attached to this Council Report as Attachment No. 3.

Required approvals

On July 24, 2019 the Town sent notification to the Essex Region Conservation Authority (ERCA) that the Town had received a request for the repair and improvement of the Drain. On July 26, 2019, 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 report is in line with those provisions and the 30 days has lapsed.

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

The Drain may contain significant species [aquatic species at risk (SAR) as well as plants, animals, habitat, etc.] that are protected under the 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

The recommended engineer has completed previous drainage projects for the Town. N.J. Peralta Engineering Ltd. also has information from drainage projects upstream of the current appointment and can utilize that information for better efficiency to all affected landowners. As the Town continues to meet their Strategic Priorities, these attributes from a consultant are crucial in order to ensure future growth is built upon principles of sustainability and strategic decision-making.

Consultations

Public Works & Environmental Services
Financial Services
Corporate Services & Clerk
N.J. Peralta Engineering Ltd.

Financial Implications

The Engineer's Report shall assess for Special Benefit, Benefit, Outlet and 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 each road authority's liability. It is anticipated that the Town will be assessed for both their affected roads and lands within the watershed.

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:

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:

Tom Kitsos, CPA, CMA, BComm
Director Financial Services & Chief Financial Officer

Reviewed by:

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

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Request for Improvement
2	Malden Road Drain – Location Map
3	Schedule A - Drainage Act