



Site Meeting: Colchester Townline Drain		
7.14.2015	09:30	Intersection of CR 8 & Malden Rd
Meeting called by	Sam Paglia, EI, Drainage Superintendent	
Type of meeting	Site Meeting: General Overview of Proposed Repair & Maintenance to the Colchester Townline Drain	
Facilitator	Sam Paglia, EI, Drainage Superintendent	
Note taker	Cheryl Curran	
Attendees	<u>Landowners:</u> Gerry Santo, Roy Tayfel, Carmen Tayfel, Charley Farough <u>County of Essex:</u> Dan Vujovic, Dan Newman <u>Tecumseh:</u> Sam Paglia, Cheryl Curran	
Background		
Discussion	Purpose of Meeting & <i>Drainage Act</i> Information	
<p>Mr. Paglia informed the attendees that the Town received a Request for Maintenance from the County of Essex for the Colchester Townline Drain. The drain banks are failing at several locations along the extent of the drain and sediment and phragmites are prohibiting water from draining efficiently. The drainage problems have also been communicated to the Drainage Superintendent by landowners.</p> <p>Mr. Paglia explained the purpose of the meeting:</p> <ol style="list-style-type: none"> 1. To discuss the bank failures along the drain and the required repair; 2. To discuss the drain maintenance going forward; and 3. To discuss the process of repair and maintenance with respect to the <i>Drainage Act</i>. 		
Drain Maintenance		
Discussion	Drain Maintenance	
<p><u>Overview</u></p> <p>Mr. Paglia provided an overview of the past maintenance work completed on the Colchester Townline Drain. This drain is characteristic of steep slopes (due to its proximity to the road shoulder) and historically has been and continues to be susceptible to bank failure.</p> <p>Repair and maintenance to the drain was last completed in 2011 – 2012, commencing at the eastern limit of Walker Road and continued upstream to the drain’s upper reaches located at the western limit of the 12th Concession. The assessment schedule set out in By-law SS 78-32 was initially used to apportion the costs of the works and the Town issued invoices to the affected landowners in January 2013.</p> <p>Following a review of the assessment apportionment by Crozier Baird Engineers at that time and concerns voiced by the affected landowners relating to the costs assessed to each landowner, it was found that a new assessment schedule was required to account for severances, zoning and use changes, inequities in the 1978 By-law and changes to drainage patterns in the Colchester Townline Drain.</p> <p>Council adopted a new maintenance schedule of assessment for the Colchester Townline Drain on May 13th, 2014 under By-law 2014-14.</p>		



Section 74	
Discussion	Process
<p data-bbox="228 499 634 527"><u>Landowner Concerns with Process</u></p> <p data-bbox="228 527 1377 716">The landowners in attendance at the meeting held July 14, 2015 voiced their frustration with the process to complete the drain maintenance. The landowners agreed that they were dissatisfied with the repair and maintenance work completed by Goodreau Excavating Ltd. in 2012. The landowners and County of Essex representatives agreed that the bank failures occurring today were caused by the contractor undermining the banks of the drainage ditch during their 2012 work. The attendees asked why the Engineer was not on site during construction to ensure the quality of the maintenance work was done in accordance with the approved design.</p> <p data-bbox="228 743 1386 884">Sam could not speak to the amount of time the Project Engineer was on-site during Goodreau's work but did indicate to the attendees that the Engineer is normally not required to be on-site 100% of the time. The Engineer is to take notes, pictures and discuss any issues with the Contractor. All affected landowners are encouraged to walk the extent of the drainage works respecting their safety and report on any notable deficiencies to ensure the quality of work is acceptable.</p> <p data-bbox="228 911 542 938"><u>Quality of the Construction</u></p> <p data-bbox="228 938 1377 1020">According to Section 64 of the <i>Drainage Act</i>, any owner of land dissatisfied with the quality of the construction of a drainage works at any time during construction or up to one year from the date of completion of the drainage works may inform the Town of said concerns.</p> <p data-bbox="228 1047 1386 1320">The landowners at today's meeting stated that they did contact the Town with concerns but action was not taken at that time. The landowners questioned whether the previous Drainage Superintendent followed the Act. Sam does not have a record of the landowners (and County) concerns that they state were submitted within a year of the construction. Sam will meet with Goodreau to request they fix some of the failures. Sam requests that if landowners and/or the County of Essex have a copy of any documentation sent to the Town at that time outlining their concerns to please forward them to his attention to ensure it is filed within the Town's records. The landowners then asked if the Town could claim this construction work under its insurance. Sam did indicate that there is a section within the Act that may provide financial assistance to the repair work:</p> <p data-bbox="272 1348 1321 1514" style="padding-left: 40px;"><i>Section 118(2) states the following: Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers or employees in the construction, improvement, maintenance or repair of the drainage works or in carrying out the provisions of this Act, the referee or court may direct that the whole or any part of such damages and costs shall be borne by the municipality and be payable out of the general funds thereof.</i></p> <p data-bbox="228 1541 1380 1650">The landowners stated that according to the by-law, the work was to be completed from the landowner side of the drain, not the road side. Goodreau did not follow the engineer's Report and completed the drain maintenance from the road side. This deviation from the by-law was approved by Council.</p> <p data-bbox="228 1677 1380 1843">It was asked by landowners if the municipality's taxpayers could pay for the maintenance and repair of the drain. Sam informed the attendees that any drainage work is to be assessed to the benefiting landowners based on the adopted report and By-law 2014-14, but that a letter to Council will be drafted asking for assistance for some of the failures if Goodreau Excavating Ltd. does not agree to fix. Sam also noted that if in fact, Goodreau fixes any of the failures, they will do so out of good faith and not obligation to the contract as the warranty period for this work has long elapsed.</p>	



Bank Slopes

It was questioned by the landowners why the slopes of the drain bank are so steep. Sam indicated that while the standard bank slope should be no steeper than a 2:1 slope gradient (the ideal slope being 3:1), these ideal slope gradients cannot be achieved due to the close proximity of the municipal drain to the roadway shoulder and private property. The only way to construct the drain with 2:1 or 3:1 bank slopes is to relocate the drain away from the roadway and encroaching on private property.

It was pointed out at the meeting that ‘someone’ had placed stone along the banks of the drain from the 9th Concession Road westerly to just east of Walker Sideroad. Sam indicated that this work was done without authorization.

It was noted by one of the attendees that if the downstream ditches were maintained, this would facilitate the drainage of the Colchester Townline Drain. One of the landowners inquired if the Town could make one of the other landowners along a downstream drain submit a request for repair and maintenance. The Town cannot solicit requests, but has the responsibility to maintain and repair all municipal drains; the appointed engineer has a duty to provide that the downstream drain remains a sufficient outlet for the Colchester Townline Drain during the examination and report.

Required Repair & Maintenance Work

Sam inspected the drain earlier this summer (2015) and noted approximately 12 bank cave-ins along the length of the Colchester Townline Drain. Three additional issues were also brought to Sam’s attention by abutting landowners.

The repair and maintenance work to the drain, currently requested by the County of Essex, would be completed under Section 74 of the *Drainage Act*. The current by-law for the drain, By-law 2014-14, will be used to recover costs. Assessments to all affected lands would follow the ratios set out and adopted in By-law 2014-14.

Sam further indicated that he cannot speak to what occurred prior to his employment with the Town nor the decisions made regarding this matter beyond what is documented in Town files. Sam requests the affected landowners together make a decision to:

- a) Expend their money and efforts in court to ascertain who is responsible for the existing cave-ins along the length of the drain and thus who is responsible for the cost to repair and maintain the drain; or
- b) Agree to repair the failing banks and maintain the drain to its original design; the total cost to be assessed to all affected landowners as set out in the assessment schedule. And, to further set a maintenance schedule going forward on a by-annual basis to maintain the condition and efficiency of the drain (i.e. remove phragmites, etc.).

Cost of Work

Discussion

Estimated Cost of Work & Assessment Schedule

Mr. Paglia explained the maintenance and repair work will be assessed to all benefiting landowners (including the County and Town of Tecumseh) according to the future maintenance schedule in By-law 2014-14.

Agricultural land abutting a municipal drain is assessed 2/3 cost to the landowner and 1/3 grant from OMAFRA (Section 85 (a) of the Act). No other costs (i.e. engineering; surveying) will be included in the repair and maintenance work.

Sam will not assess costs for work without first communicating with the affected landowners.



Contractors	
Discussion	Tender Submissions for Repair and Maintenance
<p>The affected landowners request a list of all contractors that are able to perform the required repair and maintenance. Sam will provide a Contractor List of estimates for the work based on the Town's Procurement Policy.</p> <p>Sam noted that many small contractors do not submit quotes for drain work, as some are not equipped to do the work; some do not have the required insurance or the required bond.</p>	
Meeting Adjournment & Contact Information	
<p>Meeting adjourned at 10:30 a.m. Should any of the attendees wish to discuss the drain maintenance work further, please contact:</p> <p>Sam Paglia, EI, Drainage Superintendent Town of Tecumseh -- 519-735-2184 ext. 105</p>	