



Report to Council

Department: Infrastructure Services

Division: Drainage

Date: June 6, 2022

Prepared by: Lindsay Dean, Drainage Superintendent

Report Number: Drainage-2022-06

Subject: Appointment of an Engineer under Section 78(5) of the Drainage Act to stabilize the road bank on the Richmond Drain

Number of Pages: 5

Recommendation(s)

That Drainage-2022-06 entitled Appointment of an Engineer under Section 78(5) of the Drainage Act to stabilize the road bank on the Richmond Drain prepared by Lindsay Dean, Drainage Superintendent dated June 6, 2022 be received, and

That Council is of the opinion that the activity meets the criteria of Section 78(5) and appoint Rood Engineering Incorporated under Section 78(5) of the Drainage Act to provide the proposed minor improvements to the Richmond Drain to protect the 5th Concession Road.

Purpose

To make improvements under the new minor improvement section of the Drainage Act to the Richmond Drain bank to stabilize the 5th Concession Road from further deterioration.

Background and Discussion

The outlet portion of the Richmond Drain runs along the south side of the 5th Concession Road through Lot 13, Concession 4. This section of drain bank has been slowly deteriorating causing damage to the road surface. The most easterly 108 metre portion of this stretch of drain was improved in 2020 through a report authored by Rood Engineering Inc. under Section 77 of the Drainage Act. It is apparent based on the continual deterioration that the remaining portion of the drain adjacent to south portion of the road will also need to be improved and it is recommended that repairs can be made over time with a phased approach.

As identified under Section 78(5) of the Drainage Act that was implemented in 2021 through O. Reg. 500/21, Council may appoint an engineer to make minor improvements to existing municipal drains, that have been passed under municipal by-law, that meet the following criteria:

1. *The activity takes place on,*
 - i. *an individual property, or*
 - ii. *two or more adjacent properties if those properties,*
 - A. *are owned by the same person,*
 - B. *are owned by members of the same family,*
 - C. *are owned by corporations where a majority of the directors of each of the corporations are members of the same family, or*
 - D. *are owned by partnership where the majority of the partners for each partnership are members of the same family.*

This improvement will take place fully on the road allowance.

2. *The costs and fees associated with the activity, including the fees and expenditures of the engineer and the construction, contingency, incremental future maintenance and eligible municipal administrative costs, are the responsibility, whether the activity proceeds or not, of,*
 - i. *the person initiating the activity,*
 - ii. *the Municipality in which the activity is taking place, or*
 - iii. *both the person initiating the activity and the Municipality in which the activity is taking place.*

All costs associated with this project will be paid by the Town of Essex. Therefore, it meets this criteria.

3. *The activity,*

- i. *does not require construction access from neighbouring properties, or*
- ii. *does require construction access from neighbouring properties and the person initiating the activity has,*
 - A. *obtained the consent for the construction access from all applicable owners of the neighbouring properties prior to beginning the activity, and*
 - B. *provided such proof of consent to the municipality as part of the application to carry out the activity.*

This project will be accessible from the road allowance.

4. *The activity will not result in any changes to the way in which future repair and maintenance costs are allocated to other property owners in the watershed.*

Future maintenance of the drain will be assessed as per the latest assessment schedule and the Town of Essex will be fully responsible for the maintenance of the bank protection, as identified in the previous Engineer's report.

5. *The activity does not change existing drainage capacity or erosion capacity.*

The engineer will ensure these are not impacted.

6. *The activity does not result in the existing drainage works being enclosed.*

This project is not for an enclosure.

7. *The activity does not take place within any wetlands.*

This project location is not within a wetland.

As identified above, the proposed project criteria qualifies under Section 78(5) of the Act.

Prior to the appointment of an engineer, notice must be sent to the Conservation Authority.

An engineer appointment under Section 78 of the Drainage Act, gives the engineer authority to review the drainage works and prepare a report outlining their recommendations.

The procedures and appeals under Section 78 are followed in the same manner as Petition Drains, Section 4 of the Drainage Act. The general procedure is as follows:

- Council appointment of an engineer to prepare a report;

- Meeting to consider the report and provisional by-law;
- Circulation of provisional by-law;
- Passing of the by-law;
- Tender;
- Construction of drainage works.

Schedule

Should Council approve to proceed with the report and appoint an Engineer, the estimated schedule will be as follows:

- Council approval and appointment of Engineer –June 2022
- Meeting to consider the report and provisional by-law –October 2022
- Circulation of provisional by-law – November 2022
- Passing of the by-law – December 2022
- Tender – January 2023
- Construction (dependent on weather and agency approvals)- Summer 2023

Financial Impact

The Town of Essex will be responsible for the full cost of the incidentals and construction associated with this project since the road is owned by the town and is the only benefitting party for the improvement. The engineering costs will be incurred in 2022 and funded through the 2022 Operating Budget (Roads-Municipal Drainage). The construction cost will be included in the draft 2023 Capital Budget for Council deliberation.

Link to Strategic Priorities

- ☒ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☐ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☐ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.

Report Approval Details


Document Title:	Appointment of Engineer for Richmond Drain bank stabilization Drainage-2022-06.docx
Attachments:	
Final Approval Date:	May 31, 2022

This report and all of its attachments were approved and signed as outlined below:

Norm Nussio, Manager Operations and Drainage - May 31, 2022 - 9:22 AM

A handwritten signature in black ink, appearing to read 'N. Nussio', with a large loop at the end.

Kevin Girard, Director, Infrastructure Services - May 31, 2022 - 10:50 AM

A handwritten signature in black ink, appearing to read 'K. Girard', with a stylized 'G' and 'R'.

Doug Sweet, Chief Administrative Officer - May 31, 2022 - 11:09 AM