



Report to Council

Department: Infrastructure Services

Division: Drainage

Date: June 7, 2021

Prepared by: Lindsay Dean, Drainage Superintendent

Report Number: Drainage-2021-06

Subject: Appointment of an Engineer under Section 78 & 76 to review crossings and updated cost sharing for the Elford Creek Drain

Number of Pages: 4

Recommendation(s)

That Drainage-2021-06 entitled Appointment of an Engineer under Section 78 & 76 to review crossings and updated cost sharing for the Elford Creek Drain prepared by Lindsay Dean, Drainage Superintendent dated June 7, 2021 be received, and

That Council under Section 76(1) make an application to receive approval from the Tribunal to appoint Rood Engineering Incorporated under Section 76 of the Drainage Act for the Elford Creek Drain, and

That Council under Section 78 of the Drainage Act appoint Rood Engineering Incorporated to the Elford Creek Drain.

Purpose

The Town of Essex has been notified from the Town of Kingsville that maintenance is required on the Elford Creek Drain as it serves as an outlet to their lands and roads. The current assessment schedule on the Elford Creek Drain is outdated and needs to be updated before maintenance is completed in an effort to fairly assess the cost of those works. In addition, the crossings should be reviewed to ensure they are sufficient and can be replaced under Section 74 of the Drainage Act as required.

Background and Discussion

The Elford Creek Drain runs from County Road 23 heading northwesterly eventually crossing the 9th Concession Road continuing to its outlet into the Canard River.

The most recent report containing a plan, profile and assessment schedule for the Elford Creek Drain was completed in 1966 and was passed under municipal by-law. In the time since that report was prepared, many severances have occurred, therefore, the engineer will update the assessment schedule to make sure all parcels and roads are fairly assessed in both the Town of Essex and the Town of Kingsville. In addition, all the drain crossings should be reviewed to ensure that design details are provided and that cost sharing is included for all the structures that are considered to be part of the Elford Creek Drain. This will allow these crossings to be replaced through the drain maintenance program as required without **another engineer's report.**

Under Section 76(1) of the Drainage Act, when multiple Municipalities are involved in the process, Council may make application to the Tribunal to appoint an engineer to vary the original assessments for maintenance purposes. Since this watershed involves both the Town of Essex, the initiating Municipality, and the Town of Kingsville, the Town of Essex is required to notify the Town of Kingsville that an application has been sent to the Tribunal to vary the assessments. If approval from the Tribunal is received, then the engineer can be appointed to prepare the report.

In addition, under Section 78 of the Drainage Act, Council may appoint an engineer to make repairs or improvements to existing municipal drains that have been passed under municipal by-law. The Elford Creek Drain is a municipal drain that has been adopted by municipal by-law and any design changes made to the drain would qualify under this section of the act. After notification to ERCA under Section 78(2) of the Drainage Act, the engineer will be appointed to prepare the report.

The procedures and appeals under Section 78 & 76 are followed in the same manner as Petition Drains, Section 4 of the Drainage Act aside from the need to apply to the Tribunal for approval. The general procedure is as follows:

- Council makes an application to the Tribunal to appoint an engineer
- Council appointment of an engineer to prepare a report;
- Conduct an on-site meeting with affected landowners;
- Meeting to consider the report and passing of the provisional by-law;
- Court of Revision;
- 3rd and Final Reading of the by-law;
- Maintenance work can be completed

Schedule

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

- Council applies to the Tribunal – June 2021
- Council approval and appointment of Engineer –July/August 2021
- On Site Meeting – September 2021
- Preparation of the Report – March 2022
- Submission of Report and notification period – April 2022
- Consideration of the Report by the Drainage Board –April 2022
- Provisional By-law and Adoption by Council – May 2022
- Court of Revision –June 2022
- 3rd and Final Reading of the By-law – July 2022
- Maintenance work – Summer/Fall 2022

Financial Impact

The lands and roads assessed to the Elford Creek Drain within the Town of Essex and the Town of Kingsville will be responsible for all cost associated with the engineering and incidental costs and construction (if applicable).

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 Section 78 76 to review crossings and updated cost sharing for Elford Creek.docx
Attachments:	
Final Approval Date:	Jun 2, 2021

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

Norm Nussio, Manager Operations and Drainage - Jun 2, 2021 - 9:43 AM

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

Kevin Girard, Director, Infrastructure Services - Jun 2, 2021 - 9:45 AM

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

Chris Nepszy, Chief Administrative Officer - Jun 2, 2021 - 11:40 AM