

**THE CORPORATION OF THE CITY OF WINDSOR
OFFICE OF THE CITY ENGINEER – Engineering**



MISSION STATEMENT:

"Our City is built on relationships – between citizens and their government, business and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together."

LiveLink REPORT #: 17785 SW2015	Report Date: June 16, 2015 (4079-06/22/15:eb)
Author's Name: Paul Mourad	Date to Council: July 6, 2015
Author's Phone: 519-255-6257 ext. 6119	Classification #:
Author's E-mail: pmourad@city.windsor.on.ca	

TO: Mayor and Members of City Council

SUBJECT: A By-Law for the Repair and Improvement to the 10th Concession Drain

1. RECOMMENDATION: City Wide: _____ Ward(s): 9

- I. That Council **GIVE 3RD READING** to Provisional By-law 42/2015 which adopted the drainage report for the Repair and Improvement to the 10th Concession Drain in accordance with Section 58 of the Drainage Act, and
- II. That the City Engineer **BE AUTHORIZED** to proceed with the tendering and Award of Tender to the low bidder, subject to the tender meeting project specifications, and being within the approved estimated budget; and subject to the terms and conditions of the City of Windsor's Purchasing By-law 93-2012, and
- III. That the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign a contract with the low tenderer, satisfactory in form to the City Solicitor, in financial content to the City Treasurer, and in technical content to the City Engineer.
- IV. That the City Engineer **BE REQUIRED** to provide a Reconciliation Report to Council on the Tender Award.

EXECUTIVE SUMMARY: N/A

2. BACKGROUND:

The 10th Concession Drain originates in the City of Windsor on the north side of Highway 401 and flows north toward Baseline Road, then flows approximately 1.5 kilometres easterly along the south side of Baseline Road through the Town of Tecumseh, ultimately outletting into Sullivan Creek.

In 1983, the firm of C.A. Russell Armstrong prepared a drainage report for the 10th Concession Drain for the former Township of Sandwich South. The report recommended the repair and improvements to the 10th Concession Drain and provided a Schedule of Assessment that

distributed the cost of the recommended work to all those lands that benefited from the drain. At the time of the 1983 report, which was prior to annexation of lands from the Township of Sandwich South, the costs were borne to landowners within the Township of Sandwich South. The lands are now a part of the City of Windsor and will be assessed to the City of Windsor in accordance with Council Resolution CR388/2007, passed on October 1, 2007, which states the following:

CR388/2007 The City of Windsor CONTINUE to use the general tax levy or the sewer surcharge levy, depending on location for drain maintenance costs in accordance with the City of Windsor Act, 1968: a) with the exception of private access structures, which are to be assessed to the benefiting property owners as per a completed engineers report and assessment schedule as a special benefit in accordance with s. 24 of the Drainage Act; b) Municipal Drains, excluding access structures will be maintained at the general tax rate or sewer surcharge, depending on location, provided the landowners allow soil from the drains to be spread on their lands, as provided for in the Engineers Report.

A signed request for drain improvements was received by the Engineering Department on August 12, 2013, by a property owner on Baseline Road, adjacent to the 10th Concession Drain, within the City of Windsor. The property owner complained of flooding of his land due to recent rainfall events and requested the City of Windsor to investigate the 10th Concession Drain for any deficiencies. In accordance with the Ontario Drainage Act, the City is obligated to respond to drainage requests and if the request is accepted, must appoint a drainage engineer to carry out an examination of the drain and prepare a drainage report for any proposed drainage works, under Section 8 of the Drainage Act.

Pursuant to the Roster Method in accordance with section 113 of Purchasing By-law 93-2012, Dillon Consulting Limited was appointed as the drainage engineer to make an examination of the 10th Concession Drain and prepare a drainage report to make recommendations for any repairs and improvements to the drain. This was done in accordance with Section 78 of the Ontario Drainage Act.

A draft drainage report was received by the Engineering Department on January 29th, 2015. The recommended repairs as outlined in the drainage report included cleaning out the drain bottom and drain banks in order to improve flow. In addition to drain cleaning, there are three (3) culverts found to be deficient and recommended to be replaced. Further to this, and upon request by the Town of Tecumseh, the section of the 10th Concession Drain from the 11th Concession Road to the Sullivan Creek, which is located within the Town of Tecumseh, will be relocated away from Baseline Road as the Town is scheduling to rebuild the road with wider shoulders. The drain relocation costs are 100% assessed to the Town of Tecumseh.

A pre-consideration meeting was held on March 5, 2015, between representatives of the City of Windsor, the Drainage Superintendent from the Town of Tecumseh, the Drainage Engineer, and the affected property owners to discuss the drainage report and address any questions or concerns the property owners may have. Most concerns noted were based on the rationale for replacement of certain culverts and the corresponding property drainage assessments. All concerns were addressed and incorporated into the revised drainage report.

At the Council Meeting on April 7, 2015, Council considered the drainage report for the Repair and Improvement to the 10th Concession Drain. Council Resolution CR63/2015 was passed when Provisional By-law 42-2015 was given two readings by Council and the drainage report was then deemed to be adopted. This is in accordance with Section 45 of the Drainage Act.

3. DISCUSSION:

In accordance with section 46 of the Drainage Act, a copy of the provisional by-law and Notice of the Court of Revision meeting were sent to all affected landowners listed in the Schedule of Assessment both in the City of Windsor and the Town of Tecumseh. The notice informed each landowner of their right to appeal their drainage assessment and/or allowances to a Court of Revision by filing notice to the City Clerk not later than 10 days prior to the first sitting of the Court of Revision. At the Court of Revision held on June 4, 2015, no assessment appeals were filed or heard. Therefore, the members of the Court of Revision passed Motion M207-2015 (copy attached) to support the Schedule of Assessment as recommended by Dillon Consulting in their drainage report dated March 16, 2015. The by-law may now be passed by giving third and final reading of the provisional by-law by City Council.

4. RISK ANALYSIS

Associated risks to the Corporation resulting from the undertaking of this project include risks typical of a construction project, such as bodily injury, property damage, and matters arising from violations of the Occupational Health and Safety Act. These risks will be transferred to the successful proponent, through the agreement entered into. As part of the agreement with the successful proponent, the Low Bidder will be required to provide proof of insurance to the Corporation, as well as indemnify the Corporation from any claims which may arise from their work during or after construction. The risks of not undertaking this drain project might be potential flooding damages to adjacent lands, which could present a financial liability against the City.

5. FINANCIAL MATTERS:

All expenses associated with the repair and improvements to the 10th Concession Drain, within the City boundary, will be assessed to the Corporation of the City of Windsor in accordance with CR388/2007, with the exception of the drainage report costs and any private access culvert replacements, which will be partially assessed to the benefiting landowners. All drain work occurring within the Town of Tecumseh, including the drain relocation work, will be assessed to the Town of Tecumseh.

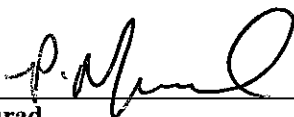
Gross estimated cost (including engineering fees)	\$ 390,720.00
Less:	
Recoveries from the Town of Tecumseh	\$(308,953.00)
Recoveries from Windsor property owners	\$ (10,230.00)
Net Cost to City of Windsor (estimate)	\$ 71,537.00

There are sufficient funds available in the capital project to incur these expenses. All costs will be charged to project ID 7086004 (Drain Maintenance).

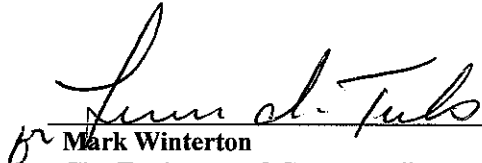
6. CONSULTATIONS:


7. CONCLUSION:


Administration recommends that City Council pass the Final By-law by giving 3rd reading to Provisional By-law 42-2015, which provisionally adopted the drainage report entitled, "Drainage Report for the 10th Concession Drain", dated March 16, 2015, in accordance with Section 58 of the Ontario Drainage Act.

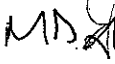


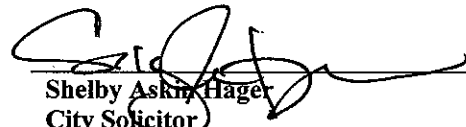
Paul Mourad
Engineer II



for Mark Winterton
City Engineer and Corporate Leader
Environmental Protection and Transportation 



MS.  Onorio Colucci
Chief Financial Officer/City Treasurer and
Corporate Leader Finance and Technology



Shelby Askin Hager
City Solicitor



for Helga Reidel
Chief Administrative Officer

PM/mb

APPENDICES: Motion M207-2015

DEPARTMENTS/OTHERS CONSULTED:

Name:
Phone #: 519 ext.

NOTIFICATION:

Name	Address	Email Address	Telephone	FAX
Hilary Payne - Ward 9		hpayne@city.windsor.on.ca	519-972-6071	
Mr. Tim Byrne ERCA	360 Fairview Ave W, Suite 311 Essex, ON N8M 1Y6	tbyrne@erca.org	519-776-5209 x350	519-776-8688
Chris Thibert, P.Eng. Dillon Consulting Ltd.	3200 Deziel Dr., Suite 608 Windsor, ON N8W 5K8	cthibert@dillon.ca	519-948-4243 x3215	519-948-5054
Sam Paglia, E.I. Town of Tecumseh	917 Lesperance Rd Tecumseh, ON N8N 1W9	spaglia@tecumseh.ca	519-735-2184 x 105	519-735-6712

Adopted by Council at its meeting held June 15, 2015 [M207-2015]

KK

Windsor, Ontario, June 15, 2015

REPORT NO. 1
of the
COURT OF REVISION
of its meeting held
June 4, 2015
Walkerville Meeting Room, 3rd floor, City Hall

Present: Councillor Rino Bortolin, Acting Chair
Councillor Ed Sleiman

Absent: Councillor Tania Jobin, Town of Tecumseh

Your Committee submits the following recommendation:

Moved by Councillor Sleiman, seconded by Councillor Bortolin,
That the report of Christopher D. Thibert, Dillon Consulting Inc. dated March 16, 2015 entitled "Drainage Report For The 10th Concession Drain – City of Windsor & Town of Tecumseh (Final – Council Consideration)" including the construction and incidental costs assessed to the affected properties in accordance with the Schedule of Assessment **BE APPROVED**.

Carried.

Note: The report of Christopher D. Thibert, Dillon Consulting Inc. dated March 16, 2015 entitled "Drainage Report For The 10th Concession Drain – City of Windsor & Town of Tecumseh (Final – Council Consideration)" – attached.

COUNCILLOR BORTOLIN ACTING CHAIR

COMMITTEE COORDINATOR

Notification:		
Court of Revision	On File	