

Regular Council Community Development Services Report



To: Mayor & Members of Council
Department: Community Development Services
Meeting Date: July 14, 2021
Subject: I&D 2021-23 Bailey Creek Municipal Drain Assessment Update & Capacity Evaluation

RECOMMENDATION

That Administration Report I&D 2021-23 dated July 14th, 2021, entitled "Bailey Creek Municipal Drain Assessment Update & Capacity Evaluation" be received; and

That R. J. Burnside & Associates Ltd. be appointed to prepare a report under Section 76 of the Drainage Act to update the assessment schedule for the portion of the Bailey Creek Municipal Drain (the Drain) located in the Township of Adjala-Tosorontio; and further

That the Clerk be directed under Section 65(3) of the Drainage Act to instruct R. J. Burnside & Associates Ltd. to investigate and report on the capacity of the Drain to accommodate the additional flows from the proposed Colgan 1 and Colgan 2 developments (Colgan lands) and to determine the amount of assessment to be paid by the Colgan lands to connect those lands to the Drain.

PURPOSE/BACKGROUND

Drainage systems constructed under the Drainage Act are built by the municipality and become municipal infrastructure even though they are predominantly located on private land. The municipality pays the initial cost of the construction, but these costs are recovered through a levy on the lands and roads in the watershed of the drainage system. The municipality has a responsibility to manage the system, and any maintenance or repair costs are recovered through a special levy on the lands that benefit from the drainage system or contribute water into it.

While the Drainage Act assigns responsibility for maintenance and repair of drainage systems to the municipality, it also provides the municipality with management tools:

- To make improvements to the existing drainage system (S. 78)
- To update the assessment schedule for the drainage system (S. 76)
- To control connections to the existing drainage system (S. 65(5))
- To require connecting lands to pay a fair share of the initial cost of the existing drainage system (S. 65(3))

The Bailey Creek Municipal Drain (the Drain) was initiated by the Township of Adjala in 1923 and an engineer's report was produced and adopted by By-law 615-1924. The initial construction took place in 1924. The Drain was continued downstream through a portion of the Town of New Tecumseth (Township of Tecumseth). The section of the Drain located in the Town was improved in 1979 under a new engineer's report.

As the Draft Approved Colgan 1 & 2 Developments have proposed to discharge the treated Wastewater Effluent from their proposed Treatment Facility into the Bailey Creek, The Township requires the results of the above undertakings to properly respond to their proposal.

ANALYSIS AND DISCUSSION

New Assessment Schedule: The engineer's report for the Drain only assesses the lands near the Drain. It does not assess all the lands in the watershed which is inconsistent with the assessment provisions of the current Drainage Act. In addition, severances and land use changes have occurred in the watershed of this drain since 1924. For this reason, a new assessment schedule is needed for the section of the Drain located within the Township of Adjala-Tosorontio. This can be accomplished through an appointment of an engineer under S. 76 of the Drainage Act.

Analysis of Connection of Colgan Lands: With their development proposal, Tribute Homes has requested to connect the Colgan lands to the Drain. These lands were not assessed in the original engineer's report, but this will be addressed with the development of a new assessment schedule under S. 76 of the Drainage Act. When a property that is assessed into a drain proposes to change the land use resulting in more water being directed into that drain, then Section 65(5) requires the property owner to request permission from municipal council to connect into the Drain. Council, if prepared to consider this request, would direct the Clerk to instruct an engineer under S. 65(3) to "...inspect the land and assess it for a just proportion of the drainage works...". In response to this request, the engineer would prepare a brief report that:

- Verifies that the receiving drain has sufficient capacity to accommodate any additional water. While this is not a requirement clearly identified in S. 65(3), it is direction provided by the Ministry of Agriculture, Food and Rural Affairs in their "Guide for Engineers working under the Drainage Act" (P. 102, Pub. 852, 2018).
- Identifies the assessment that must be paid (S. 65(3) and 65(10)) to connect these lands to a drainage system that was built and paid by others in the past.
- Identifies the engineering cost that must be paid by these lands (S. 65(10))

This work has been estimated to cost a maximum of \$75,000 (which will be fully recovered under the Municipal Drain Act) and can be completed in approximately 2 to 3 months.

LEGAL IMPLICATIONS

New Assessment Schedule: A new assessment schedule will allow the Township to recover the cost of repair work performed on the Drain in a fair and equitable manner.

Analysis of Connection of Colgan Lands: Since Tribute Homes has requested permission to connect their lands to the Drain, there is an obligation to respond.

FINANCIAL IMPLICATIONS

New Assessment Schedule: Once the engineer's report under S. 76 is adopted by by-law, the cost of developing this report can be assessed to property owners in the watershed of the drain. Municipal roads would be assessed a share of the cost.

Analysis of Connection of Colgan Lands: The cost of the engineer's analysis and report under S.65(3) of the Drainage Act is assessed to the property owner making application to connect to the Drain. While the Township would initially pay these engineering costs, these costs would be recovered through a specific levy on the Colgan lands under S. 65(10) of the Drainage Act.

POLICY IMPLICATIONS

N/A

COMMUNITY BASED STRATEGIC PLAN IMPLEMENTATION

Effective Governance - to provide governance that is responsive to the needs of its residents in a manner that is open, transparent and fiscally responsible., Environmental Stewardship - to promote responsible use and protection of the natural environment through conservation and sustainable practices, in areas that fall under the jurisdiction of the Township.

CONSULTATIONS

Tom Pridham, P.Eng., A-T Drainage Superintendent, R. J. Burnside & Associates Ltd.
Sid Vander Veen, P. Eng., Drainage Specialist, R. J. Burnside & Associates Ltd.
Rhonda Bunn, CAO
Steve Kimberley, Supervisor, Technical Services & Asset Management

NEXT STEPS

Direct R. J. Burnside & Associates Ltd. to undertake these actions.
Upon receipt of the information, be in a position to properly respond to the Development request.

CONCLUSION

The acceptance of the recommendations made in this report is expected to:

- Result in the development of a new assessment schedule for the section of the Drain located in the Township of Adjala-Tosorontio.
- Analyze the impact of connecting the Colgan lands, in their proposed developed state to the Drain and to provide Tribute Homes with a response to their request.

Prepared By: John Thompson, Director of Infrastructure

Approved By:
Rhonda Bunn, CAO

Approved - 04 Jul 2021