



The Corporation of the Municipality of Leamington

Meeting of Municipal Council

Agenda

Monday, September 21, 2015

Commencing at 6:00 PM

In Leamington Council Chambers

Special closed meeting of Council to be held at 5:45 PM in the Ante Room

(A) **Call to Order:**

(B) **National Anthem:**

(C) **Disclosures of Pecuniary Interest:**

(D) **Adoption of Council Minutes:**

1. Minutes of the Council Meeting (including Public Meeting for ZBA # 119) held September 14, 2015
Pages 3 to 13
2. Minutes of the Special Closed Meeting held September 14, 2015
Pages 14 to 15

(E) **Business Arising Out of the Minutes:**

(F) **Public Meetings/Court of Revision:**

None

(G) **Reports of Staff and Delegations:**

1. Report DR-08-15 dated September 10, 2015 regarding 1st Concession Road Drain East, Tiessen Acres Ltd., Bridge Replacement, Part Lots 14 Concession
Pages 16 to 19
2. Report DR-21-15 dated July 28, 2015 regarding Petition for Drainage, Gillanders Drain, Mersea Road 1 Extensions (Tiessen/Lehn)
Pages 20 to 25

3. Report BLD-04-15 dated September 11, 2015 regarding Notice to Proceed Council Blanket Resolution for Rooftop Solar Installation under the Rules Governing the Feed in Tariff (FIT) Program
Pages 26 to 28
4. Report ENG-14-15 dated September 16, 2015 regarding 2016 CWATS Application
Pages 29 to 35

(H) Matters for Approval:

None

(I) Other Matters for Consideration:

None

(J) Report on Closed Session:

Director of Legal and Legislative Services to provide report on the closed session.

(K) Consideration of By-laws:

By-law 509-15 being a by-law to confirm the proceedings of the Council of The Municipality of Leamington at its meeting held September 21, 2015

(L) Notices of Motion:

None

(M) Open Session:

(N) Announcement of Upcoming Meetings/Events:

Wednesday, September 23, 2015

- Leamington Police Services Board, 8:30 AM, West End Boardroom
- Leamington Heritage Advisory Committee, 3:00 PM, Ante Room

Monday, September 28, 2015

- Council Meeting, 6:00 PM, Council Chambers

(O) Statement of Members: non-debatable

(P) Adjournment:

The Corporation of the Municipality of Leamington

Minutes of the Council Meeting

Held Monday, September 14, 2015 at 6:02 PM

In Leamington Council Chambers

Members Present: Deputy Mayor Hilda MacDonald
Councillors: Bill Dunn, John Hammond, John Jacobs,
Larry Verbeke, Tim Wilkinson

Members Absent: Mayor John Paterson

Staff Present: Chief Administrative Officer Peter Neufeld
Director of Legal and Legislative Services Ruth Orton
Director of Infrastructure Services Rob Sharon
Director of Community & Development Services Tracey Pillon-Abbs
Director of Finance & Business Services Ramona Nordemann
Economic Development Officer Jeanine Lassaline-Berglund
Manager of Engineering Services Allan Botham
Manager of Planning Services Danielle Truax
Manager of Environmental Services Kit Woods
Development Planner Brian Nagata
Records Co-ordinator Lucy Jackson

Disclosures of Pecuniary Interest:

None.

Adoption of Council Minutes:

No. C-256-15

Moved by: Councillor Verbeke
Seconded by: Councillor Wilkinson

That the Minutes of the Council Meeting (including Public Meeting Minutes, Zoning By-law Amendments #120 and Consent Application B/21/15) held August 24, 2015 be adopted.

Carried

No. C-257-15

Moved by: Councillor Dunn
Seconded by: Councillor Hammond

That the Minutes of the Special Closed Meeting held August 24, 2015 be adopted.

Carried

Business Arising Out of the Minutes:

None.

Public Meetings:

1. Zoning By-law Amendment:

- ZBA 119, 1 Henry Avenue

A copy of the minutes is attached.

Reports of Staff and Delegations:

1. Report PLA-51-15 dated August 27, 2015 re: Zoning Amendment Application ZBA #109 108 Erie Street North; (080-00300) 4 Ivan Street (080-12400) & 6 Ivan Street (080-12300); 9 Foundry Street (080-10100) & 13 Foundry Street (080-10200)

Development Planner Brian Nagata presented his report. Ms. Jackie Lassaline, Principle Planner for Crozier Baird advised she was in attendance only to answer any questions and would be making a formal presentation about the application the night of the public meeting.

Councillor Hammond advised he once resided at 9 Foundry and it is a duplex, not a single detached dwelling as stated in the report.

In response to a question from Council, Mr. Nagata clarified his comment in the report that the previously noted expansion to 4 and 6 Ivan did not undergo the site plan approval process.

In response to a question from Council, Mr. Nagata advised that the public meeting is anticipated to be scheduled for October 19, 2015.

No. C-258-15

Moved by: Councillor Verbeke

Seconded by: Councillor Wilkson

That Zoning By-law Amendment Application ZBA #109, to recognize an existing automobile sales and service establishment as a permitted use on properties located at 108 Erie Street North, 4 and 6 Ivan, and to permit a parking lot as an accessory use to an existing automobile sales and service establishment including the establishment of zone provisions through Site Plan Control, on properties located at 9 and 13 Foundry Street, was reviewed and deemed to be complete pursuant to the requirements of the Planning Act;

And that Administration be directed to schedule the required Public Meeting for the purpose of receiving public comments. (PLA-51-15)

Carried

2. Report PLA-49-15 dated August 24, 2015 re: Raymond Koop and Michelle Koop Site Plan Control Approval (SPC/11/15), Greenhouse Development - Phase 1329 Essex Road 18 (660-00900)

The Manager of Planning Services, Danielle Truax reviewed her report to authorize Council to enter into a site plan agreement for the development at 329 Essex Road 18.

Mr. Raymond Koop, owner, was in attendance to answer any questions.

No. C-259-15

Moved by: Councillor Jacobs
Seconded by: Councillor Wilkinson

That the site plan for Phase 1 of the proposed greenhouse development located at 329 Essex Road 18 (Raymond Koop and Michelle Koop) be approved;

That the Mayor and Clerk be authorized to enter into the site plan agreement with Raymond Koop and Michelle Koop for the greenhouse development at 329 Essex Road 18. (Report PLA-49-15).

Carried

3. Report ENG-13-15 dated September 4, 2015 re: Tender Award for Mersea Road #3 Reconstruction

Allan Botham, Manager of Engineering Services, reviewed the report, noting the condition of Mersea Road #3 warrants the need of a deeper reconstruction process. Mr. Botham advised the C.I.R.E.A.M. (Cold In-Place Recycling with Expanded Asphalt Mix) process should result in a longer lasting road base and Administration is recommending funding the \$90,000 over expenditure from the Federal Gas Tax Reserve.

In response to a question from Council, Mr. Botham advised the late start to this project was due to the need to complete a proper investigation of the condition of the road.

In response to a question from Council as to why a strip of grass was left between this trail and the road, Mr. Botham will review his design drawings to confirm if this buffer is needed.

In response to a question from Council, Mr. Botham explained the material testing funds covers the cost of the geo-technical engineering investigation which is required.

In response to a question from Council, Mr. Botham further noted administration ensures that contractor is following standards and recommendations of geo-technical engineer; however, he cannot guarantee how long the road will last as a result of this work.

The Manager noted that contractors are currently busy, but should the project need to be halted due to weather and continued next year, there will not be any increase in cost.

No. C-260-15

Moved by: Councillor Hammond
Seconded by: Councillor Verbeke

That the Mersea Road #3 Reconstruction Project be awarded to Coco Paving Inc. 949 Wilson Avenue, North York Ontario M3K1G2 for \$859,636.00, plus applicable taxes and charged to account # 10-7-0620-8050-301440-600025;

And that the \$89,765.60 over expenditure be approved and funded from the Federal Gas Tax Reserve. (ENG-13-15).

Carried

4. Report LWS-04-15 dated August 14, 2015 re: Leamington Distribution System, (Union Supply System) - Inspection Report dated July 21, 2015

The Manager of Environmental Services Kit Woods reviewed report for the Leamington Distribution System, noting it is comprised of two sub-systems, namely the Leamington (Union) Distribution System and the Wheatley system. The Manager noted it is the responsibility of the water system owner to ensure their systems are in compliance with applicable legal requirements.

No. C-261-15

Moved by: Councillor Jacobs
Seconded by: Councillor Dunn

That the Ontario Ministry of the Environment and Climate Change Drinking Water System Inspection Report for the Leamington Distribution System – (Union Supply System) dated July 21, 2015 be received;

That the report be placed on the Municipality's website and also be made available for public inspection at the Municipal Clerk's office, during normal business hours. (LWS-04-15).

Carried

5. Report IS-03-15 dated August 6, 2015 re: New Building Canada Fund, Small Communities Fund (SCF): Pelee Drive & Bevel Line Sanitary Sewer Servicing

The Director of Infrastructure Services Rob Sharon reviewed the report to enter into a contribution agreement noting project details will be forthcoming. The Director noted administration proposing project time line be compressed from 4 to 2 years. He further noted once an agreement is executed, costs incurred as of June 2015 will be eligible for 50% funding, up to 4 million dollars.

In response to a question from Council, Mr. Botham advised that construction of Phases One and Two would see the sanitary sewer installed between Seacliff Drive and Ellis Street.

No. C-262-15

Moved by: Councillor Verbeke
Seconded by: Councillor Wilkinson

That the Municipality of Leamington enter into a contribution agreement with Her Majesty the Queen in Right of Ontario, as represented by the Minister of Agriculture, Food and Rural Affairs to provide 50% funding, up to \$4 Million dollars, toward the total eligible costs of the Pelee Drive & Bevel Line Sanitary Sewer Servicing project. (Report IS-03-15)

Carried

6. Report IS-11-15 dated September 8, 2015 regarding Feed in Tariff (FIT) Program

The Director of Infrastructure Services Rob Sharon reviewed the report, noting the FIT program is open to projects with generating capacity from 10 kW up to 500 kW. Mr. Sharon further noted this funding would amount to \$7,200 per year for the next twenty years.

In response to a question from Council, Mr. Sharon advised there will be a buffer zone between the street and the solar panels.

In response to a question from Council, Mr. Sharon noted maintaining the lands below the solar panels should not pose any significant additional work.

No. C-263-15

Moved by: Councillor Jacobs
Seconded by: Councillor Hammond

Whereas capitalized terms not defined herein have the meanings ascribed to them in the FIT Rules, Version 4.0;

And whereas Essex Energy Corporation (the "Applicant") proposes to construct and operate a 500kW AC ground mounted solar PV project (the "Project") on Leamington Pollution Control Centre lands (the "Lands") in the Municipality of Leamington under the Province's FIT Program;

And whereas the Applicant has requested that the Council of the Corporation of the Municipality of Leamington indicate by resolution Council's support for the construction and operation of the Project on the Property;

And whereas pursuant to the FIT Rules, Version 4.0, Applications whose Projects receive the formal support of Local Municipalities will be awarded Priority Points, which may result in the Applicant being offered a FIT Contract prior to other Persons applying for FIT Contracts;

Now therefore be it resolved that the Council of the Corporation of The Municipality of Leamington supports the construction and operation of the Project on the Lands.

This resolution's sole purpose is to enable the Applicant to receive Priority Points under the FIT Program and may not be used for the purpose of any other form of municipal approval in relation to the Application or Project, or for any other purpose. (IS-11-15)

Council exempts the Project on the Lands as described above from any or all of the residential, commercial and industrial land-use restrictions as identified in Sections 2.3(e), 2.3(f), 2.3(g) and 2.3(h) in the FIT Rules, Version 4.0.

This resolution's sole purpose is to provide municipal exemption from the above noted specific residential, commercial and industrial land-use restrictions under the FIT Program and may not be used for the purpose of any other form of municipal approval in relation to the Application or Project, or for any other purpose.

And further, that the Mayor and Clerk be authorized to sign the Resolutions and other necessary documents to apply for the Feed in Tariff Program for the installation of solar panels at the Leamington Pollution Control Centre.

And further, that the Mayor and Clerk be authorized to sign the necessary option to lease agreement with Essex Energy Corporation for the purposes of the application, and if the application is successful to sign the necessary land lease agreement, both satisfactory in form to the Director of Legal & Legislative Services. (IS-11-15)

Carried

7. Report FIN-16-15 dated September 3, 2015 regarding Financial Audit Services Proposal Award

Ramona Nordemann, Director of Finance and Business Services presented her report, noting the firm of Hicks, MacPherson, latonna & Driedger attained the highest score from the evaluation committee.

No. C-264-15

Moved by: Councillor Verbeke
Seconded by: Councillor Wilkinson

That the Mayor and Clerk be authorized to execute the required documents to enter into financial audit services with Hicks, MacPherson, latonna & Driedger LLP for five (5) years. (FIN-16-15).

Carried

8. Report FIN-18-15 dated August 31, 2015 regarding Uncollectible Property Tax Write Off under Section 354 of the Municipal Act, 2011

Director of Finance and Business Services Ramona Nordemann, presented her report, noting the taxes on this parcel will continue to be written off annually.

No. C-265-15

Moved by: Councillor Verbeke
Seconded by: Councillor Dunn

That the municipal property tax write off of \$8,394.94 for the Wheatley Harbour tax roll 540-34000 charged to account number 10-5-0520-6300-002100 be approved;

And that the municipal property tax write off of \$27,647.67 for the Wheatley Harbour tax roll 540-34200 charged to account number 10-5-0520-6300-002100 be approved;

And further that the request for a refund from the County of Essex totalling \$16,763.86 for 540-34000 and 540-34200 be approved;

And further that the request for a refund from the school boards totalling \$49,161.21 for 540-34000 and 540-34200 be approved. (FIN-18-15).

Carried

9. Report LLS-32-15 dated September 1, 2015 regarding Essex Power Corporation - Appointment of Proxyholder for the 2015 Annual Meeting of Shareholders

Director of Legal and Legislative Services Ruth Orton, presented her report, noting the only practical way for Council to cast their vote is by way of proxy.

No. C-266-15

Moved by: Councillor Wilkinson
Seconded by: Councillor Dunn

That Mayor John Paterson be appointed proxyholder for the Municipality of Leamington to cast its shareholder's votes at Essex Power Corporation's 2015 shareholders' annual meeting;

And that Frank Ricci be appointed as an alternate proxyholder for the Municipality of Leamington to cast its shareholder's votes at Essex Power Corporation's 2015 shareholders' annual meeting if Mayor John Paterson is absent from the meeting;

And further, that the Director of Legal & Legislative Services be authorized to sign and forward to Essex Power all necessary proxy forms to implement this resolution. (LLS-32-15)

Carried

Matters for Approval:

No. C-267-15

Moved by: Councillor Jacobs
Seconded by: Councillor Dunn

That the minutes of the Leamington Accessibility Advisory Committee Meeting held August 12, 2015 be approved.

Carried

Other Matters for Consideration:

Motions for Consideration:

No. C-268-15

Moved by: Councillor Verbeke
Seconded by: Councillor Wilkinson

That Leamington's tax levy due dates be established in two (2) installments of October 28, 2015 and November 26, 2015 for supplementary assessment notices issued on or about August 31, 2015 under Sections 33 and 34 of the Assessment Act.

Carried

No. C-269-15

Moved by: Councillor Wilkinson
Seconded by: Councillor Hammond

That Councillor Jacobs be removed as Council representative to the Migrant Worker Community Program effective May 2015;

And that Councillor Dunn be appointed to the Migrant Worker Community Program for the term effective May 2015 until November 30, 2018.

Carried

Report on Closed Session:

The Director of Legal and Legislative Services Ruth Orton reported that a closed meeting was held at 5:30 PM prior to the regular Council meeting pursuant to Subsections 239 (2)(e) and (c) of the Municipal Act, 2001 to consider two (2) items, Confidential Report PLA-50-15 dated August 26, 2015 regarding Notice of Appeal, ZBA #115, N/S Talbot Street East and Report CAO-05-15 dated September 1, 2015 regarding Assembly of Lands. Proper notice of the meeting was given. The meeting adjourned at 6:01 PM. During the meeting Council passed a motion to bring forward the following:

No. C-270-15

Moved by: Councillor Verbeke
Seconded by: Councillor Jacobs

That Council receive the appeal to the Ontario Municipal Board of the approval of By-law #495-15;

And that Council direct staff to retain outside legal representation and pay a maximum of \$5,000 toward that cost for the purpose of representing the Municipality in the appeal, if deemed necessary by the Municipal Solicitor.
(PLA-50-15)

Carried

Consideration of By-laws:

No. C-271-15

Moved by: Councillor Verbeke
Seconded by: Councillor Wilkinson

That the following by-law be read a third time and finally enacted:

By-law 494-15, being a by-law to provide for the construction of a new access culvert over the Silver Creek Drain 9th Concession Road Branch and an updated schedule of assessment, in Part Lots 4 & 5, Concession 8 in the Municipality of Leamington in the County of Essex.

Carried

No. C-272-15

Moved by: Councillor Dunn
Seconded by: Councillor Hammond

That the following by-laws be read a first, second and third time and finally enacted:

By-law 507-15, being a by-law to consolidate the sums authorized to be borrowed by certain municipal drainage by-laws into one sum and to borrow the same by the issue of debentures.

By-law 508-15 being a by-law to confirm the proceedings of the Council of The Municipality of Leamington at its meeting held September 14, 2015.

Carried

Notices of Motion:

None.

Open Session of Council and Administration:

Councillor Verbeke advised of the following dates for candidates' nights for the federal election:

- Wednesday, September 16, 2015 at 7:00 PM, Essex Arena, Essex riding;
- Thursday, September 24, 2015 at 7:00 PM, Tilbury Knights of Columbus, new riding of Chatham-Kent-Leamington
- Tuesday, October 6, 2015 at 7:00 PM, Rhine Danube, Leamington, new riding of Chatham-Kent-Leamington

Councillor Hammond advised the Leamington Flyers will be playing their first game of the season against the Strathroy Rockets on Thursday, September 17th, 2015 at the Highbury Canco Arena.

Peter Neufeld, CAO, advised that earlier in the day he attendance an outdoor presentation at Hillman Marsh organized by ERCA and LDSS's Eco Team, led by teacher Lisa Jeffery. He advised several speakers including Dr. David Suzuki and approximately 200 people were in attendance to discuss environmental concerns. Mr. Neufeld stated he was proud to represent Leamington at this event and report on the Municipality's efforts to help reduce algae blooms in Lake Erie, which include upgrades to the PCC plant, the installation of rain gardens and the upcoming sanitary sewer project for Bevel Line and Pelee Drive.

Statement of Members: non-debatable

None.

Adjournment:

No. C-273-15

Moved by: Councillor Wilkinson

Seconded by: Councillor Dunn

That the meeting adjourn at 7:16 PM.

Carried

John Paterson, Mayor

Ruth Orton, Clerk

Minutes approved at Council Meeting held
September 21, 2015, Resolution C-XXX-15,
Confirmation By-law XXX-15

The Corporation of the Municipality of Leamington

Public Meeting Minutes, Zoning By-Law Amendment

Monday, September 14, 2015 at 6:03 PM

In Leamington Council Chambers

Members Present: Deputy Mayor Hilda MacDonald
Councillors: Bill Dunn, John Hammond, John Jacobs,
Larry Verbeke, Tim Wilkinson

Members Absent: Mayor John Paterson

Staff Present: Chief Administrative Officer Peter Neufeld
Director of Legal and Legislative Services Ruth Orton
Director of Infrastructure Services Rob Sharon
Director of Community & Development Services Tracey Pillon-Abbs
Director of Finance & Business Services Ramona Nordemann
Economic Development Officer Jeanine Lassaline-Berglund
Manager of Engineering Services Allan Botham
Manager of Planning Services Danielle Truax
Manager of Environmental Services Kit Woods
Development Planner Brian Nagata
Records Co-ordinator Lucy Jackson

1. Zoning By-law Amendment #119 for 1 Henry Avenue

Development Planner, Brian Nagata reviewed Report PLA-43-15 which was previously presented to Council on August 10, 2015. Mr. Nagata noted that the purpose of this public meeting was to gather comments regarding this development.

Mr. Karl Tanner from Dillon Consulting Limited was in the audience representing his client, CSH-HCH (Leamington) Inc.

In response to a question from Council, Mr. Nagata advised there is a signed agreement with Baker Investments for the 5 parking spaces which are temporarily leased.

In response to a question from Council, the Director Legal and Legislative Services advised the required by-law will be presented to Council on September 28, 2015.

Deputy Mayor MacDonald asked if there was anyone in the audience wishing to speak regarding this public meeting. No one responded.

The meeting adjourned at 6:14 PM.

Minutes approved at Council Meeting held
September 21, 2015, Resolution C-XXX-15,
Confirmation By-law XXX-15

The Corporation of the Municipality of Leamington

Special Closed Meeting Minutes

Monday, September 14, 2015 at 5:30 PM

Leamington Ante Room

Members Present: Deputy Mayor Hilda MacDonald
Councillors: Bill Dunn, John Hammond, John Jacobs, Larry Verbeke,
Tim Wilkinson

Members Absent: Mayor John Paterson

Staff Present: Chief Administrative Officer Peter Neufeld
Director of Legal and Legislative Services Ruth Orton
Director of Infrastructure Services Rob Sharon
Director of Community & Development Services Tracey Pillon-Abbs
Director of Finance & Business Services Ramona Nordemann
Manager of Planning Services Danielle Truax

Disclosures of Pecuniary Interest:

None.

Moving into Closed Session:

No. S-94-15

Moved by: Councillor Dunn
Seconded by: Councillor Hammond

That Council move into closed session at 5:30 PM pursuant to Subsection 239(2)(c) of the Municipal Act, 2001 to consider Confidential Report PLA-50-15 dated August 26, 2015 regarding Notice of Appeal, ZBA #115, N/S Talbot Street East and Confidential Report CAO-05-15 dated September 1, 2015 regarding Assembly of Lands.

Carried

Matters for Consideration:

- 1. Confidential Report PLA-50-15 dated August 26, 2015 regarding Notice of Appeal, ZBA#115, N/S Talbot Street East**

Manager of Planning Services, Danielle Truax presented the report.

No. S-95-15

Moved by: Councillor Verbeke
Seconded by: Councillor Jacobs

That Administration be directed to forward the suggested action, as amended contained in Confidential Report PLA-50-15 to Council in Open Session for consideration.

Carried
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2. Confidential Report CAO-05-15 dated September 1, 2015 regarding Assembly of Lands

Chief Administrative Officer Peter Neufeld, presented the report.

No. S-96-15

Moved by: Councillor Hammond

Seconded by: Councillor Dunn

That Administration be directed to take the suggested action contained in Confidential Report CAO-05-15 dated September 1, 2015.

Carried

Moving into Public Session:

No. S-97-15

Moved by: Councillor Verbeke

Seconded by: Councillor Dunn

That Council move into public session at 6:01 PM.

Carried

Adjournment:

No. S-98-15

Moved by: Councillor Hammond

Seconded by: Councillor Derbyshire

That the meeting adjourn at 6:01 PM.

Carried

John Paterson, Mayor

Ruth Orton, Clerk

Report

To: Mayor and Members of Council
From: Lu-Ann Barreto, Drainage Superintendent
Date: September 10, 2015
Re: 1st Concession Road Drain East
Tiessen Acres Ltd. Bridge Replacement
Part Lot 14, Concession 1,
Municipality of Leamington

Aim:

For the referral of the 1st Concession Road Drain East - Bridge Replacement to Road Engineering for the preparation of a Report and the necessary plans, pursuant to the provisions of Section 78 of the Drainage Act R.S.O. 1990.

Background:

On February 11, 2015 a Request for Repairs & Improvements under Section 78 of the Drainage Act was received by the Municipality to replace an existing bridge over the 1st Concession Road Drain East.

Section 78 of the Drainage Act states:

Improving, upon examination and report of engineer

78. (1) Where, for the better use, maintenance or repair of any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, or of lands or roads, it is considered expedient to change the course of the drainage works, or to make a new outlet for the whole or any part of the drainage works, or to construct a tile drain under the bed of the whole or any part of the drainage works as ancillary thereto, or to construct, reconstruct or extend embankments, walls, dykes, dams, reservoirs, bridges, pumping stations and other protective works as ancillary to the drainage works, or to otherwise improve, extend to an outlet or alter the drainage works or to cover the whole or any part of it, or to consolidate two or more drainage works, the council of any municipality whose duty it is to maintain and repair the drainage works or any part thereof may, without the petition required in section 4 but on the report of an engineer appointed by it, undertake and complete the drainage works as set forth in such report. R.S.O. 1990, c. D.17, s. 78 (1).

Comments:

As per Section 74 of the Drainage Act the Drainage Superintendent is given the authority to replace existing legal structures in municipal drains without the hiring of an engineer. The Act states that the replacement must be "like for like". For example, replacement of a 20' CSP (corrugated steel pipe) access with gabion headwalls must be replaced with the same length and material.

This structure is concrete and with today's replacement cost it is not feasible to replace like for like. Therefore an engineer is required to determine what diameter CSP will be required to get the same flow capacity as the existing concrete structure.

The landowner has requested that when it is engineered for replacement that the new access be relocated downstream to the east, in a position most suitable to the landowner's needs. The landowner also requests that the new access have a top width of 35 feet (10m).

Staff note at this time that this existing bridge is a legal access and therefore cost sharing for the upstream landowners will apply. That being said cost sharing will only be allocated on the first 20 feet (6m) of the replacement access as per standard practice.



Financial Impact:

This project is not identified in the 2015 Drainage Budget since the Drainage Superintendent has just been notified of the need for the replacement.

All costs in 2015 will be funded through the Drainage Reserve Account, which will be recovered under the Drainage Act at the completion of the works. This project will be added to the 2016 budget.

Since this property is designated as farm, it may be eligible for a grant according to the Agricultural Drainage Infrastructure Program provided through the Ministry of Agriculture Food and Rural Affairs.

Task	2015 Budget estimates
Engineering Design	8,000
Estimate for Construction	32,000
Allowances	0
Total	40,000
Estimated Funding	40,000
Leamington Roads	2,400
Landowner/Other	24,267
Grant 1/3 ADIP	13,333

Recommendation:

That Rood Engineering Inc. be appointed for the preparation of a report together with the necessary plans and profile to provide for new access culverts for Tiessen Aces Ltd. over the 1st Concession Road Drain East pursuant to Section 78 of the Drainage Act;

And that all 2015 costs be funded from the Drainage Reserve Account until cost can be recovered through the Drainage Act;

And that the Essex Region Conservation Authority be advised of the proposed improvements. (DR 08-15)

Respectfully submitted,

Lu-Ann Barreto
Drainage Superintendent

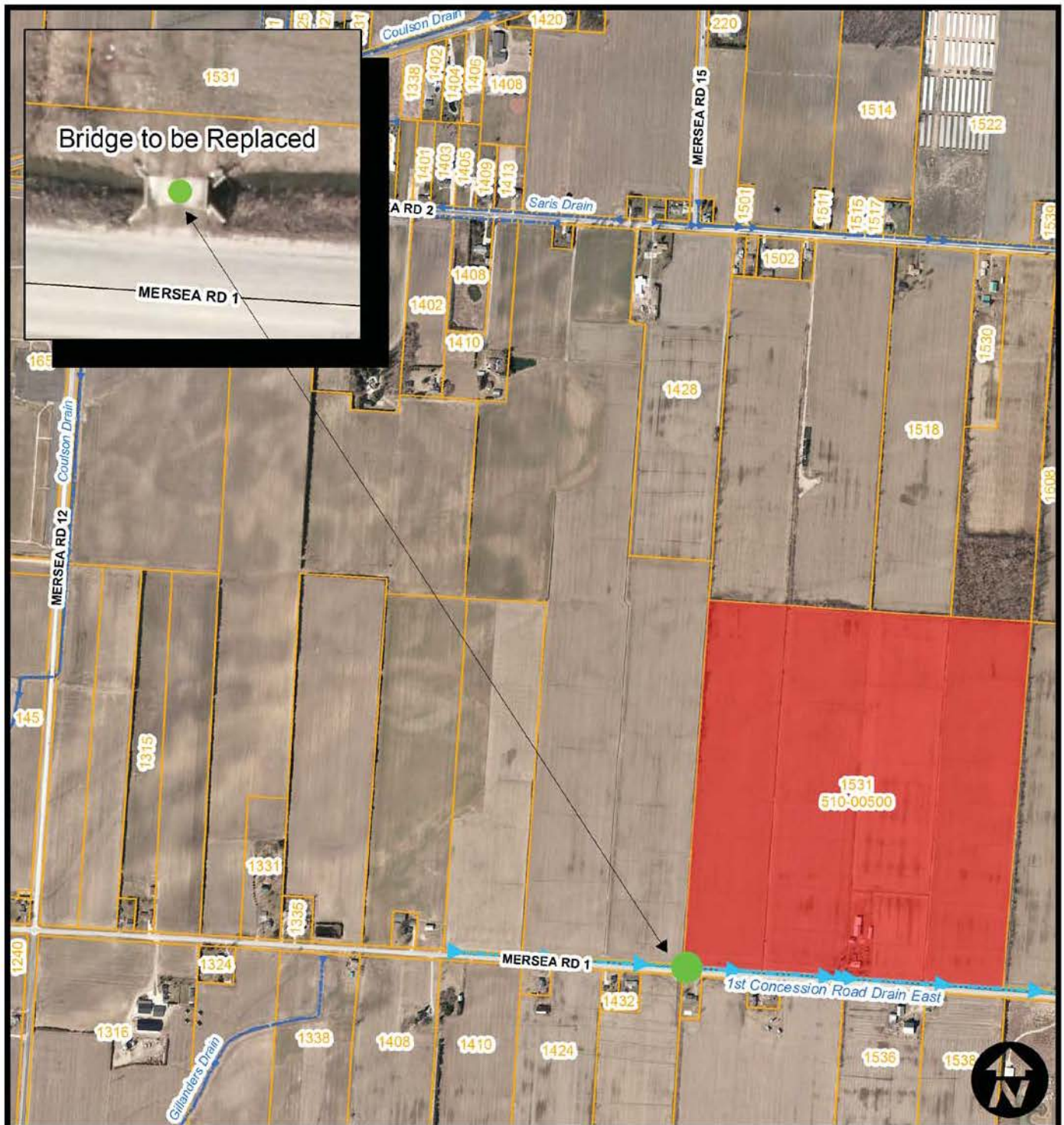
Allan Botham, P.Eng.
Manager of Engineering
Services

Robert Sharon
Director of Infrastructure
Services

File: T:\Community Services\Community Services\Community Services Council Reports\2015 Reports\Drainage\DR-08-15 1st Conc Rd Dr - Access\word\DR-08-15 - 1st Concession Road Drain East - Tiessen Acres Access.doc

Peter
Neufeld, CAO

Digitally signed by Peter Neufeld, CAO
DN: cn=Peter Neufeld, CAO, o, ou,
email=pneufeld@leamington.ca, c=CA
Date: 2015.09.17 13:55:05 -0400



Legend

- Bridge to be Replaced
- ▶ 1st Concession Road Drain East
- ▶ Municipal Drains
- Subject Parcel
- Parcel Lines

*2013 Aerial Photography

Title:

DR-15-15 1st Concession Road Drain East Bridge Replacement



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This document is not a Legal Plan of Survey and the user of this map assumes all risks associated with it. All efforts have been made to ensure completeness and accuracy, however no guarantees can be made.

Scale: 1:10,000 0 50 100 200 Meters

Prepared For: Drainage Dept. Date: Sept. 10, 2015

Prepared By: GIS Services File No: DR-15-15

Notes: This map is the property of the Municipality of Leamington and may not be reproduced without express written permission. 111 Erie Street North, Leamington, Ontario N6H 2Z9 TEL: (519) 326-5751 FAX: (519) 326-2481

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Report

To: Mayor and Members of Council

From: Lu-Ann Barreto, Drainage Superintendent

Date: July 28, 2015

Re: Petition for Drainage - Gillanders Drain - Mersea Road 1 Extensions (Tiessen/Lehn)

Aim:

To appoint Rood Engineering pursuant to Section 5 (1) of the Drainage Act R.S.O. 1990 for the preparation of an Engineer's Report and the necessary plans, profile & report for the area requiring drainage as identified in the Petition (under separate cover).

Background:

Pursuant to section 5 (1) of The Drainage Act, Council can choose whether or not to proceed with the petition.

The Drainage Act

Drainage works constructed on petition

5. (1) Where a petition in accordance with section 4 has been filed, the council shall forthwith consider the petition and shall, within thirty days after the filing of the petition,

- (a) if it decides not to proceed with the drainage works, give written notice of its decision to each petitioner; or
- (b) if it decides to proceed with the drainage works, give written notice of the petition and of its decision to each petitioner, the clerk of each local municipality that may be affected, and the conservation authority that has jurisdiction over any lands in the area or, if no such conservation authority exists, the Minister of Natural Resources. R.S.O. 1990, c. D.17, s. 5 (1).

Administration has reviewed a petition for new drainage works, along Mersea Road 1, received from landowners and the Road Authority, and are satisfied that the petition meets the basic requirements of Section 4 of the Act. Council must decide whether or not to proceed.

If Council decides not to proceed (s.5(1)(a)) then written notice of its decision must be sent to each petitioner. It must be noted that a petitioner may appeal to the Ontario Drainage

Tribunal if Council decides not to proceed, or if Council does not act on the petition within thirty days after filing s.5(2).

If the Municipality decides to proceed then a written notice of its decision must be given to:

- a) Each petitioner;
- b) Clerk of each local municipality that may be affected;
- c) Conservation Authority
- d) Ministry of Natural Resources and Forestry;

This allows the opportunity for input and/or request for an Environmental Appraisal from the Conservation Authority and Ministry of Natural Resources and Forestry. The agency that requests the appraisal must pay for the cost of the study.

Subject to comments received from the Ministries and other municipalities, the Council should then appoint a drainage Engineer (s.8). Upon appointment of the Engineer, Council must decide whether a final or preliminary report should be prepared. If an environmental appraisal has been requested then a preliminary report must be prepared. (s.10(1)).

The Engineer must hold an on-site meeting. At this meeting the engineer obtains information from all affected parties. The Engineer at this meeting must also determine the area requiring drainage and determine if the petition is sufficient based upon the new information. If the Engineer is of the opinion that the petition is not sufficient, then the Engineer must report to Council stating where the petition is deficient, the outstanding engineering fees and who should pay them. Council must send a copy of the opinion to the petitioners (s.9(4)). The petitioners have sixty days (s.9(5)) to comply with Section 4.

Council may want a preliminary report prepared for a number of reasons. The preliminary report is intended to be a less expensive way to provide information to the petitioners who may not be sure of the extent of work required, the possible alternatives for the construction of a drain, or the general cost of the alternatives to be considered. Also an Environmental Appraisal or a Cost/Benefit Study may be requested making the preliminary report a necessity.

In deciding whether or not a preliminary report should be prepared, Council may seek the advice of the appointed engineer and the drainage superintendent.

If a preliminary report is required, then after the Engineer files the preliminary report, the report and notice shall be sent to (s.10(2)):

- a) every owner in the area requiring drainage as determined by the engineer or described in the petition;
- b) any public utility or road authority affected;
- c) any local municipality and conservation authority and if no authority, the Ministry of Natural Resources and Forestry;
- d) the Ministry of Agriculture and Food.

At the "Meeting to Consider" the preliminary report, the Engineer presents the information contained in the report, including all the alternatives considered. The landowners and Council are given the opportunity to consider the report. Any person who signed the

petition is provided an opportunity to withdraw their name by putting the withdrawal in writing and filing it with the Clerk. Any person who is in the area requiring drainage and has not signed the petition, is to be given the opportunity to add their names to the petition (s.10(3)).

If at the end of the “Meeting to Consider” the petition does not comply with Section 4, then the original (those on the petition prior to the meeting) petitioners are responsible for the total cost to date in equal shares. The total cost to date excludes the costs for an environmental appraisal and cost benefit statement. These costs are to be paid by the party requesting the appraisal or statement. The petitioners’ share of the cost is eligible for grant (s.10(4)). No distinction is made between agricultural and non-agricultural assessments when a preliminary report is prepared.

If the petition contains sufficient signatures then Council may instruct the engineer to prepare the final report (s.10(5)). If Council fails to do so, any petitioner has the right to appeal to the Tribunal (s.10(6)).

If the application proceeds, then the next step is preparation of a final report. The procedures from this point forward are the same as the Repairs & Improvements requests.

Comments:

Mersea Road 1 was transferred to the Municipality from the County of Essex in 2011. The tile drain on the north side of Mersea Road 1 in Lot 13, as noted on the attached plan, is in disrepair and continuing repairs is not recommended. Since the subject drain is designated as a Roadside drain the cost of recent repairs has been borne by the Municipality.

In speaking with a few of the landowners whose lands currently outlet to the subject drain, they would like this drain to remain and be maintained in good condition. Therefore, the landowners have submitted a petition to make this Roadside drain a legal Municipal drain.

It is also being requested at this time to make the tile drain on the south side of Mersea Road 1 a Municipal drain as well.

1. Gillanders Drain - Mersea Road 1 Extension - Northside
2. Gillanders Drain - Mersea Road 1 Extension - Southside

Administration has accepted a signed petition, pursuant to Section 4 of the Drainage Act, from landowners requesting a legal outlet for drainage.

By name, a roadside ditch is typically constructed for the purpose of draining water from the roads and rights-of-way only. If landowners are draining to the roadside ditch, it should be converted to a Municipal drain, thereby, when maintenance is required the cost of such maintenance is shared fairly according to the assessment schedule.

Once the engineer’s report is created it will be forwarded to Council for consideration.

Financial Impact:

Task	Project Budget estimates
Engineering Design	\$7,000
Estimate for Construction	n/a
Allowances	n/a
Total	
Funding	
Leamington Share	TBD
Landowner/Other	TBD
Grant -on farmlands	TBD

Funding will be divided between the benefiting municipal roads and assessed landowners per the new engineer's report. This project is not included in the 2015 Municipal Budget.

All costs in 2015 will be funded through the Drainage Reserve Account, which will be recovered under the Drainage Act at the completion of the works. This project will be added to the 2016 budget.

Recommendation:

That Leamington Council proceed with the drainage works relating to Mersea Road 1, Lot 13, Concession 1, pursuant to Section 4, of the provisions of the Drainage Act R.S.O. 1990;

And that Council direct Administration to notify the petitioners, landowners affected, Essex Region Conservation Authority, and the Ministry of Natural Resources and Forestry, of their intention to proceed with the creation of a new drainage works;

And further that, if no response is received from the notification, Rood Engineering be appointed as Engineer to prepare a Report for the drainage works for the purpose of determining the extent of the work required, possible alternatives for construction of a drain and approximate cost;

And that this project be charged to Gillanders Drain - Extension - Petition Drain Account in the Drainage Capital Budget;

And that all 2015 costs be funded from the Drainage Reserve Account until cost can be recovered through the Drainage Act. (DR 21-15)

Respectfully submitted,

Lu-Ann Barreto
Drainage Superintendent

Allan Botham, P. Eng.,
Manager of Engineering
Services

Robert Sharon, CMO
Director of Infrastructure Services

File: T:\Community Services\Community Services\Community Services Council Reports\2015 Reports\Drainage\DR-21-15 - Mersea Rd
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Peter
Neufeld, CAO

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Schedule 'A'



<p>Legend</p> <ul style="list-style-type: none"> Gillanders Drain Municipal Drains Roadside Ditch Proposed Watershed Boundary Parcel Lines <p style="text-align: right; font-size: small;">*2013 Aerial Photography</p>	<p>DR 21-15 Gillanders Drain Extensions</p>		
		<p>Scale: 1:8,400 0 42 84 168 Meters</p> <p>Prepared For: Drainage Dept. Date: Sept 8, 2015</p>	
	<p>COPYRIGHT</p> <p style="font-size: x-small;">This document is not a Legal Plan of Survey and the user of this map assumes all risks associated with it. All efforts have been made to ensure completeness and accuracy, however no guarantees can be made.</p>	<p>Prepared By: GIS Services File No: DR-21-15</p> <p>Notes: This map is the property of the Corporation of the Municipality of Leamington and may not be reproduced without expressed permission and authorization. 111 Erie Street North, Leamington, Ontario N8H 2Z9 TEL: (519) 325-5761 FAX: (519) 325-2481</p>	

Scale is correct if original paper size of letter is still intact and has not changed in any way. The Municipality of Leamington will not be held responsible for any damages due to scale errors from paper size changes.

Report

To: Mayor and Members of Council

From: Tracey Pillon-Abbs, Dir. of Community and Development Services

Date: September 11, 2015

Re: Notice to Proceed Council Blanket Resolution for Rooftop Solar Installation under the Rules Governing the Feed in Tariff (FIT) Program

Aim:

To report upon a request for a council blanket resolution in support of rooftop solar power generation applications which have been received contracts, in order for projects to proceed under the rules set out in the Feed in Tariff (FIT) Program.

Background:

The Municipality has been approached by Feed in Tariff version 3.1 (FIT 3.1) program applicants with approved contracts for a 'Municipal Blanket Council Support Resolution', which will be used to obtain 'Notice to Proceed'.

Council passed a support resolution for version 3.0 (FIT 3.0) on December 10, 2012 (No. C-399-12) and for version 4.0 (FIT 4.0) on June 15, 2015 (No. C-164-15) supporting the construction and operation of rooftop solar generation projects.

Administration has been informed that the Municipality must pass a new resolution specifically to address a change in language set out by the Independent Electricity System Operator (IESO) for the required notice to proceed.

The format of the new resolution in order to proceed through the development stages for the contract is similar to the one which Council had previously approved through the applications window. However, the primary difference is that the new resolution specifically references the FIT 3.1 contract and Section 2.4 of the FIT contract related to the 'Notice to Proceed' provision.

The notice to proceed provision effectively is a contractual stage where the developer is obligated to submit certain requirements to the IESO, and upon acceptance of the requirements, the IESO waives its options to terminate the contact. One of these requirements is the council blanket resolution for the notice to proceed.

Comments:

The new resolution will have the same requirements as the original one and would only apply to rooftop solar power installations and only to projects with a generating capacity over 10 kilowatts but less than 500 kilowatts.

The roof top solar projects which have successfully received contracts to date during in the Municipality of Leamington during the last round for which a council blanket resolution must be obtained include the following properties:

- 24 Oak Street East
- 129 Erie Street South
- 24 Fraser Road
- 523 Wilkinson Drive
- 25 Ivan Street
- 197 Talbot West
- 1724 Essex County Road 20
- 55 Talbot Road

Financial Impact:

There is no direct municipal financial impact associated with the request for the council blanket resolution.

Recommendation:

That Council pass a new Municipal Council Blanket Support Resolution in order for application to be given a Notice to Proceed with the following wording provided and required by the IESO:

Whereas capitalized terms not defined herein have the meanings ascribed to them in the FIT Contract, Version 3.1;

And whereas the Province's FIT Program encourages the construction and operation of rooftop solar generation projects (the "Projects");

And whereas one or more Projects may be subject to FIT Contracts and may be constructed and operated in the Municipality of Leamington ("Local Municipality");

And whereas in accordance with the FIT Rules, Version 3.0, the Council of the Local Municipality ("Council") had previously indicated, by a resolution, its support for Projects in the Local Municipality (the "Prior Resolution");

And whereas Council now indicates, by a resolution dated no earlier than June 10, 2015, Council's continued support for the construction and operation of the Projects anywhere in the Local Municipality (the "New Resolution");

And whereas, pursuant to the FIT Contract, where a New Resolution is received in respect of the Projects in the Local Municipality, Suppliers will be recognized as fulfilling the requirements under Section 2.4(d)(vii) of the FIT Contract, which may result in Suppliers being offered Notice to Proceed in accordance with the terms of their respective FIT Contract(s);

Now therefore be it resolved:

Council of the Municipality of Leamington supports the construction and operation of the Projects anywhere in the Municipality of Leamington.

This resolution's sole purpose is to enable Suppliers to achieve a Notice to Proceed under their FIT Contracts and may not be used for the purpose of any other form of municipality approval in relation to a FIT Contract or Projects or for any other purpose.

This resolution shall expire twelve (12) months after its adoption by Council.

(Report BLD-04-15)

Respectfully submitted,

Tracey Pillon-Abbs,
Director of Community
& Development Services

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Tracey Pillon-Abbs
Director of Community and Development Services.

/tpa

Peter Neufeld,
CAO

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Report

To: Mayor and Members of Council

From: Allan Botham, P.Eng., Manager of Engineering Services
Robert Sharon, Director of Infrastructure Services

Date: September 16, 2015

Re: 2016 County Wide Active Transportation Project Application, County Road 20, Phase 11A

Aim:

To obtain Council support and funding commitment for the 2016 County Wide Active Transportation System (CWATS) project application.

Background:

With respect to active transportation infrastructure, the CWATS study sets out specific procedures for the approval and construction of infrastructure initiatives. Annually, municipalities in Essex County must submit complete applications to the Active Transportation Committee for funding consideration. The CWATS committee then recommends projects to County Council as part of the County budget process. CWATS applications are deemed “complete” for consideration if accompanied by;

- A declaration for the project and funding commitment by means of a resolution or a letter from Municipal Council.
- A functional design study that supports the total project and associated costs.
- Detailed project schedule to support full completion of the CWATS Segment or partial segments.
- Copies of all permits and approvals.
- A map identifying the segment and location of the project.

In 2013-14 the County of Essex undertook a Feasibility Design Study for the construction of a portion of the CWATS network along County Road 20 between County Road 31 and Sherk Street, known as a “context sensitive solution” (please refer to Attachment #1).

The cost of the County Road 20 Feasibility Design Study was to be shared between the Municipality of Leamington and the County of Essex, in accordance with the cost sharing formula outlined in the County Wide Active Transportation Study.

The proposed trail along County Road 20 is divided into four segments: 11A, 11B, 11C and Seacliff Drive between Branton Drive and Sherk Street (please refer to Attachment #1).

Per the approved CWATS plan, segments 11A and 11C are within recognized settlement/built up areas and therefore cost shared between the County (40%) and the local municipality (60%). Segment 11B is considered, within the approved framework of CWATS designation, to be rural, and therefore entirely funded by the County.

In 2014, Leamington Council supported and approved an application to construct segment 11C and the segment between Branton Drive and Sherk Street along County Road 20. That project was approved by the CWATS committee and subsequently County Council. Administration is now recommending that Council support and approve an application to construct the segment 11A. (11B is 100% County funded, therefore application from the lower tier is not required).

Comments:

The Active Transportation facility along County Road 20 from Sherk Street to County Road 31 is proposed to be a 1.2m to 1.5m wide shared pathway located behind curb (except in a few locations where there is less than 1.2m between poles or trees and the curb, in such cases the path would deflect around such obstacles or the obstacles relocated). Cyclists and pedestrians would be directed to travel the same direction as traffic by use of a painted bike and pedestrian stencil and arrow on the surface of the pathway. Cyclists would be required to yield to pedestrians on the pathway and signs to that effect would be posted. (See Attachment #2 and #3 for illustration).

Through the feasibility study and subsequent review, it was observed by the design team that the existing curbing along County Road 20 is beyond repair and would prove to be a hazard to users of the road and the trail if left in place. The project consultant has recommended that the curbing be completely removed and replaced.

The recommendation to replace 100% of the curbing significantly increased the cost of the project beyond the approved budget. There will be a forthcoming report to Council specifically addressing the increase in cost and cost sharing requirements associated with section 11C, and will seek direction from Council regarding the approach to funding.

While the subject report is seeking Council approval to submit an application for the 2016 CWATS program for segment 11A, the following is provided with regards to 11C:

1) When the context sensitive solution along County Road 20 was identified in the CWATS study in 2011, segment 11C had an estimated total project cost of \$561,000, with Leamington covering 60% (\$336,600) and the County 40% (\$224,400). It is recognized that these estimates were preliminary and based on the construction of a hard surface path on both sides of the road.

2) In 2014, further investigation during a feasibility study funded under the 60/40 cost sharing relationship, indicated that 40% of the curbing along this section of County Road 20 is in disrepair and should be reconstructed with the construction of the paths. Despite the fact that Leamington was of the opinion that the County should fund the obsolete curbing in its entirety, Leamington agreed to fund 60% of the 40% deteriorated curbing to keep the project moving forward. Cost estimates for segment 11C under this new plan increased to \$890,000, with Leamington funding \$535,000, and the County funding \$356,000.

3) In preparation for the 2015 construction of segment 11C, a more detailed review indicated that approximately 85% of the existing curbing along this section of County Rd 20 is in disrepair. Thus it would only be practical to replace all of the curbing if the active transportation paths were to be built. This increases the total estimated cost of segment 11C to \$1.49 million, of which approximately \$638,000 is curb replacement, and \$853,000 for building the paths. At a 60/40 split, this proposed scope would result in \$894,000 of cost to Leamington and \$596,000 of cost to the County of Essex.

The total project cost estimate of segments 11A, 11B, 11C and the section between Branton Drive and Sherk Street is now approximately \$2.36 million, of which approximately \$1 million is the cost of curb replacement. The original CWATS estimate for the total project was \$960,000 and did not include the cost to replace curbing.

Leamington Administration and County of Essex Administration fundamentally disagree with ownership of the obligation to fund the cost of curb replacement. The County of Essex has taken the position that the curbing replacement is being initiated by the CWATS project and thus 60% of the cost of curbing should be paid for by Leamington. Leamington has taken the position that the existing curb is in disrepair, that it was never the intent of the CWATS cost sharing model to have the lower tier fund obsolete infrastructure that exists primarily for road function, and that curbing costs should be funded by the County of Essex as part of their normal infrastructure renewal program.

Considering the importance of these trail segments to current and future users, Administration is recommending that the Municipality of Leamington submit an application to the Active Transportation Committee for the design and construction of segment 11A and encourage the approval of 11B. It is recognized that the cost sharing of curbing will need to be addressed through decisions of Leamington Council and Essex County Council prior to the project moving to the construction phase. However, as the 2016 CWATS applications are due to the committee, it is important to submit an application for this project given the inherent and extensive associated community safety aspects of this project.

Administration is presently preparing a more comprehensive report for Council regarding the recommended next steps to address the funding of curbs along County Road 20 given the deadlock at the administrative level.

Financial Impact:

CWATS Segments 11A and 11B are approximately equal length. Estimated costs (including HST) are provided below.

Table 1

Segment	Leamington	County of Essex	Total Cost Without Curb (3)	Cost of Curb Replacement (4)	Total
11A	\$144,000	\$96,000	\$240,000	\$192,000	\$432,000
11B	\$0	\$240,000	\$240,000	\$192,000	\$432,000
Total	\$144,000	\$336,000	\$480,000	\$384,000	\$864,000

Further to the above discussion, Segment 11C has not been fully designed, tendered or constructed in 2015. It is the opinion of Leamington Administration that the uncertainty related to the scope of the curb replacement and related road repairs adds financial risk to the project which may drive actual costs beyond the current estimate.

Recommendation:

That the request to submit an application for the construction of CWATS segment 11A in 2016 be approved;

That the Municipality of Leamington commit to share the construction costs of CWATS segment 11A up to \$144,000 and subject to further review;

That the project be committed as a first charge to the 2016 budget and funded from Federal Gas Tax Reserve account;


And further, that Administration be directed to prepare a report discussing the cost sharing of curbing for the CWATS County Road 20 initiative. (ENG-14-15)

Respectively Submitted,

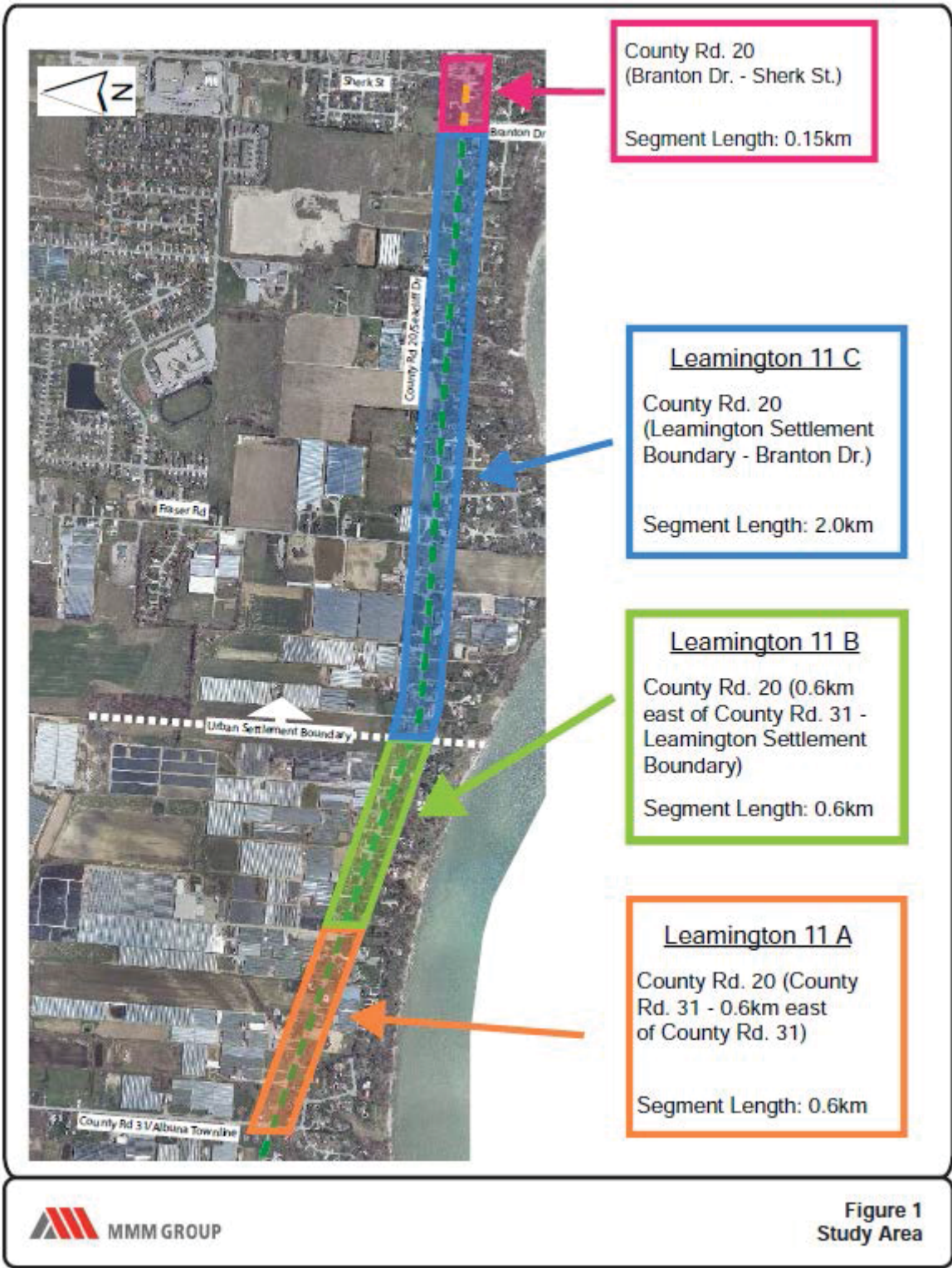
Allan Botham, P. Eng
Manager of Engineering Services

Robert Sharon, CMO
Director of Infrastructure Services

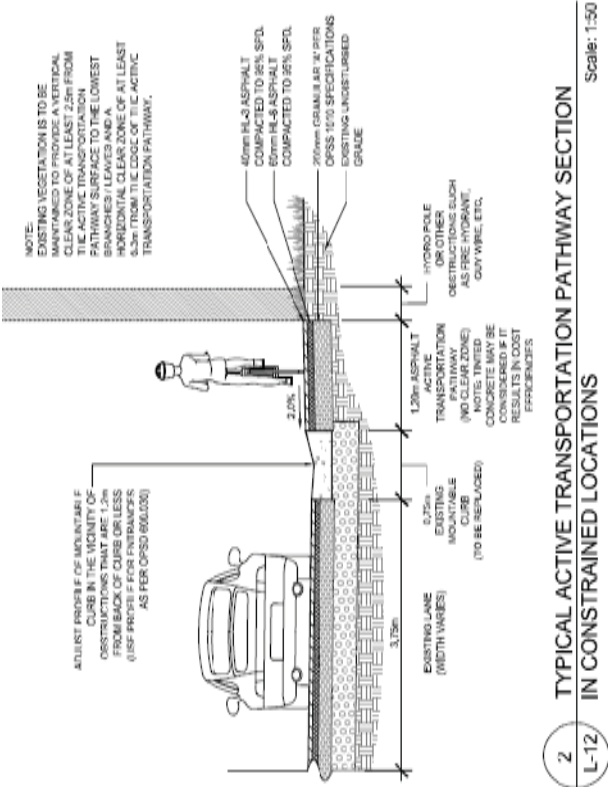
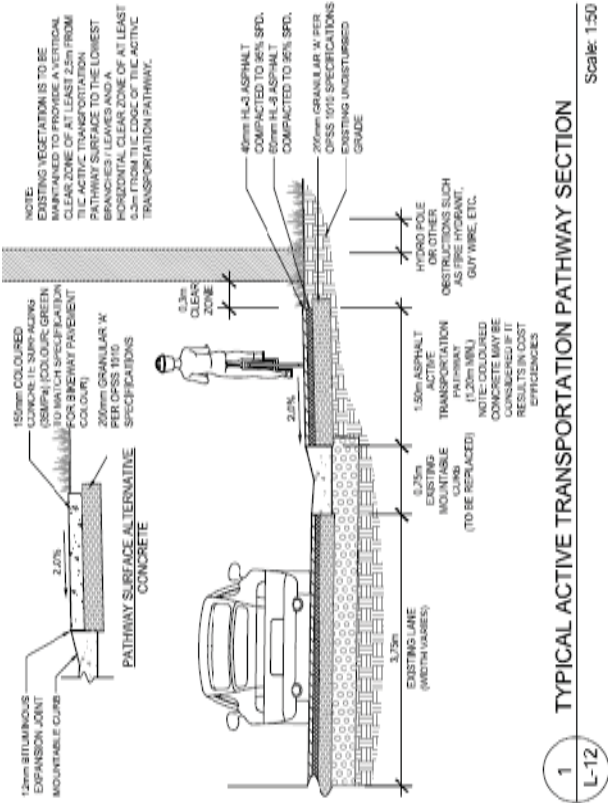
Peter Neufeld,
CAO

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Attachment #1



Attachment #2



Attachment #3

