AFFECTS
WARDS 11 & 14

To: Chair and Members
   Public Works Committee
   PW08076

From: Bryan Shynal
      Acting General Manager
      Public Works Department

Date: June 2, 2008

Re: Summary of Municipal Drains (PW08076) (Wards 11 and 14)

Council Direction:

In accordance with the requirements of the Drainage Act, Council appointed a Drainage Engineer to report back on four municipal drains that were either new, required maintenance or an extension of an existing drain. Wiebe Engineering Group was retained to prepare the required reports. In February of 2008 Wiebe Engineering Group Inc petitioned into bankruptcy. The City’s Drainage Superintendent has been able to retain some of the hard copy records for each project but no electronic information was able to be recovered from the Wiebe Engineering Office. Based upon the limited data recovered to date, staff has prepared a summary for each drain which provides current status and the most appropriate options.

Information:

Jones Drain:

The Jones Drain project was initiated in October 2005 and involves maintenance of an existing Municipal Drain within Ward 14. A draft final report was submitted in July 2007 for review and comment. A finalized Engineer’s report is still required to assess costs to benefiting land owners. There is a large amount of hard copy information available for this report. We will attempt to retain the services of a new Drainage Engineer to complete the draft final report stage reached by Wiebe Engineering. In this way, costs to date can be assessed to the property owners as they will benefit from the work done by Wiebe Engineering. If we are unable to obtain an Engineer who would be willing to continue using Wiebe’s information, we will need to start the Municipal Drain process over. Starting over would likely mean that the City would have to absorb costs related to the invoices paid to date of $19,634.05.

Hauser Drain

The Hauser Drain project was also started in October 2005 but involves the creation of a new Municipal Drain within Ward 14. The Engineer’s final report was appealed by the Developer’s of Van Every Gardens Phase II to the Agriculture, Food and Rural Affairs Appeals Tribunal in October 2007. A Tribunal hearing was held in November of 2007. In January of 2008 the Tribunal made a number of recommendations on how the
Engineer’s report was to be amended. The lack of support information and electronic drawings makes it very unlikely any new Drainage Engineer will be prepared to amend the existing report and would be willing to and put his/her professional stamp on this project. The original drainage problem relates to a lack of sufficient drainage outlet between two development properties, Van Every Gardens Phase II and the Hauser property. The Hauser property has recently been sold to another party. City staff will attempt to arrange a meeting between the Developers of Van Every Gardens Phase II and the new owners of the Hauser property. A resolution between these two Developers would allow the City to not proceed with this project under the Drainage Act. The Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has confirmed that the provisional by-law for this project could be quashed under the Act. However, the City under the Act would be responsible for $31,415.61 costs associated with the report’s preparation.

If a solution cannot be reached between the two Developers, then in all likelihood given the lack of background information available the Municipal Drain process would have revert back to the beginning. There is a possibility that costs to date of $31,415.61 could be partially recovered through the new drain report if an Engineer were willing to continue with the Wiebe report. However, if a new report was to be created and the Wiebe Engineering costs were included into that new report as assessed cost back to the land owners then according to OMAFRA those costs could be appealed by the assessed landowners to a Drainage Referee, and in all likelihood according to OMAFRA would be ruled as costs that cannot be assessed back to the land owners. Either way the City would likely have to absorb costs in whole or in part of the monies paid to Wiebe Engineering to date.

Collins Drain

The Collins Drain project was initiated in January 2006 and also involves the maintenance of an existing Municipal Drain within Ward 14. There is a final report in draft form only; however it has never been officially submitted to the City for comments. Plan and Profile drawings were reviewed by the Drainage Superintendent but never revised. A finalized Engineer’s report is still required to assess costs to benefiting land owners. Little information in hard copy form was recovered from the Wiebe Engineering office. We will attempt to retain the services of a new Drainage Engineer to pick up on the draft final report stage reached by Wiebe. In this way costs to date can be assessed to the property owners as they will benefit from the work done to this point. If we unable to obtain an Engineer to continue using Wiebe’s information, we will need to start the Municipal Drain process over. Starting over would likely mean that the City would have to absorb costs to date of $9,338.35.

White Church Road Drain

The White Church Road Drain is located in Ward 11. This project was started in October 2006 and involves the maintenance and the extension to an existing drain which means new additional property owners will be assessed costs. Only survey work has been completed to date. Little to no information was recovered. Without the back up survey data, it is not possible to guarantee the accuracy of work done. It would be best in this case to start again with a new Drainage Engineer. This would mean that the City would absorb costs to date of $4,020.50.
The purpose of this information report is to keep Committee informed of changes that will be required to meet our statutory obligations to complete the listed Drainage projects. It is very likely that there will be unrecoverable costs for the City because we are, at best, an unsecured creditor in terms of our ability to seek compensation from Wiebe Engineering. Recommendation reports will be brought forward on each municipal drain when selected options are ready for implementation.

Bryan Shynal  
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Public Works