



TOWN OF  
**HALTON HILLS**  
*Working Together Working for You!*

## REPORT

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**TO:** Mayor Lawlor and Members of Council

**FROM:** Kate Sapoznikova, Senior Water Resources Engineer

**DATE:** June 27, 2023

**REPORT NO.:** TPW-2023-010

**SUBJECT:** 32 Side Road Drainage Petition

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### RECOMMENDATION:

THAT Report No. TPW-2023-010, dated June 27, 2023, regarding the 32 Side Road Drainage Petition, be received;

AND FURTHER THAT the petitions for drainage signed by Town of Erin (Road Authority) and Town of Halton Hills (Road Authority), (Appendix B) submitted under the authority of Section 4(1)(c) of the Drainage Act be accepted;

AND FURTHER THAT the Clerk be directed to send notification of this decision to the petitioners, the Town of Erin, the Grand River Conservation Authority, and the Ministry of Northern Development, Mines, Natural Resources and Forestry and the Ministry of Environment, Conservation and Parks;

AND FURTHER THAT R.J. Burnside & Associates Limited be appointed as the engineer under Section 8 of the Drainage Act to prepare a report in response to this petition;

AND FURTHER THAT the 32 Side Road Drainage Petition capital project (6210-20-2301) be approved with a budget of \$100,000 to complete the scope of work identified in report TPW-2023-010;

AND FURTHER THAT the 32 Side Road Drainage Petition capital project (6210-20-2301) be funded by the New Capital Reserve;

AND FURTHER THAT Council authorize the Senior Manager of Purchasing & Risk Management to issue a single source purchase order to R.J. Burnside & Associate Limited (292 Speedvale Avenue West, Unit 20, Guelph, Ontario, N1H 1C4) in an upset amount of \$100,000 plus applicable taxes for the preparation of the Drainage Act report.

## KEY POINTS:

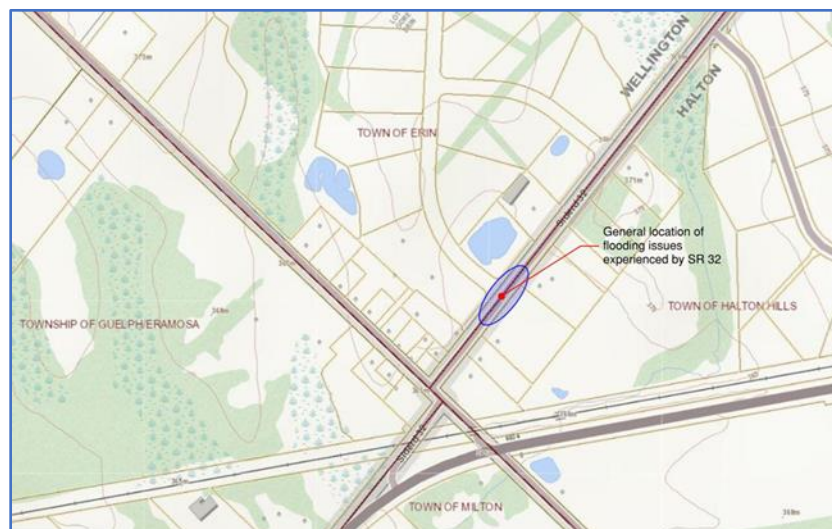
The following are key points for consideration with respect to this report:

- There is surface drainage concerns on a section of 32 Side Road (32 Sdrd) immediately east of Crewsons Line in Acton. There is a sag section (low point) of the road where the drainage, largely from lands in the Town of Erin, collects and surcharges the roadside ditches for an extended time during the spring melt.
- The lack of a sufficient drainage outlet for the roadside ditches presents a road safety and integrity issue that requires a long-term, sustainable, and equitable solution to improve the drainage in this area.
- Historically, water from lands north of 32 Sdrd would continue to flow through the road allowance, through the properties south of 32 Sdrd, including Town-owned lands, and ultimately discharging to Blue Springs Creek. Due to changes downstream of 32 Sdrd, the roadside ditches are lacking a sufficient drainage outlet.
- Complaints have been received from an abutting landowner with regard to the roadside ditches discharging to, and adversely affecting, their property. Attempts by the Town to resolve the matter with the landowner have not been successful.
- To establish an appropriate outlet for the road drainage in this area, the application of the Drainage Act is required.

## BACKGROUND AND DISCUSSION:

The area of concern is located on 32 Side Road (32 Sdrd) just east of Crewsons Line (shown in Figure 1. below). 32 Sdrd is the boundary between the Town and the Town of Erin. In accordance with the agreement between the municipalities, this section of road is maintained by the Town of Erin.

Figure 1: Area of Concern



There is a sag (a low point highlighted in blue) in this section of road where the drainage (runoff) accumulates. The roadside ditches accept surface flows from the upstream

lands (in part through a Town of Erin SWM facility) and directly from the roads. However, due to the obstruction of the historical flow path, there is no longer access to a sufficient outlet to Blue Springs Creek for these ditches. This results in the ditches becoming surcharged in the spring due to the snow melt and precipitation runoff.

Under historical conditions, the entire catchment area that includes a portion of lands in the Town of Erin, the subject section of 32 Sdrd, as well as abutting properties located south of the 32 Sdrd, would drain to the southwest to Blue Springs Creek. The historical drainage path south of 32 Sdrd traversed both private and Town-owned lands leading to Blue Springs Creek located along the north limit of the Metrolinx corridor (refer to Appendix A “Area Plan”). Due to various changes in the area over the years, the subject section of 32 Sdrd no longer has a sufficient outlet to Blue Springs Creek.

As these ditches experience prolonged seasonal surcharging and stagnant water conditions, this creates both a road safety and road integrity issue. In this particular instance, these conditions have also created a nuisance for the abutting landowners. To mitigate the nuisance impacts of the standing water, Town staff deployed a temporary pumping system in the spring of 2023. Complaints have been received from an abutting landowner with regard to the roadside ditches discharging to, and adversely affecting, their property. Attempts by the Town to resolve the matter with the landowner through a mutually agreeable solution have not been successful.

Based on the complexities of the drainage area and the need to provide a long-term sustainable solution for drainage in this area, staff have determined that the Drainage Act is the appropriate mechanism to resolve this issue.

The Drainage Act is a provincial statute that allows owners of lands and/or roads authorities with drainage issues to petition their municipality for a solution. While the Drainage Act is mostly used in rural, agricultural areas of the province, it can and has been used in non-agricultural settings in order to resolve drainage issues.

When a road requires drainage, a petition is signed by the road authority(s) and is submitted to the municipality to authorize (by-law or resolution) the drainage works identified in the petition. When a petition is initiated by the road authority(s), the support or authorization of other landowners is not required to satisfy the requirements of a valid petition under the Drainage Act.

The petition drain process, in summary, is as follows:

- 1) A petition for drainage of an “area requiring drainage” is presented to Council.
- 2) Council decides to accept or reject the petition.
  - If Council decides to accept the petition, notice of Council’s decision is sent to the petitioner(s), the Grand River Conservation Authority (GRCA) and the Ministry of Environment, Conservation, Parks, Ministry of Northern Development, Mines, Natural Resources and Forestry, and; an engineer must be appointed within 60 days of notification of the Council’s decision.
  - If Council decides to reject the petition, then the petitioner(s) for the drain must be notified, and the petitioner(s) have the right to appeal this decision to the provincial Agriculture, Food and Rural Affairs Appeal Tribunal.

- 3) Council appoints an engineering firm.
- 4) Area property owners are notified of the initiation of the project and invited to attend a site meeting with the engineer.
- 5) Site meeting is held; engineer determines if the petition is valid.
- 6) Surveying takes place.
- 7) Engineer prepares a draft design.
- 8) Engineer holds an Information Meeting with property owners, road authorities and others affected.
- 9) Engineer writes report with design and recommended cost sharing; the report must comply with all applicable regulations.
- 10) Engineer submits final report to Council.
- 11) Council holds a meeting to consider the engineer's report; if Council intends to proceed with the project, 2 readings given to by-law (provisional adoption).
- 12) Clerk notifies affected property owners of the provisional adoption of the report.
- 13) Appeals (if any).
- 14) Municipal by-law passed, after appeals have been heard and resolved.
- 15) Tendering of the construction work.
- 16) Drain work completed as described in the engineer's report.
- 17) The municipality assesses the net (after grants, if any) costs to the lands and roads in the watershed of the drain.

This report addresses items 1, 2 and 3 of the process identified above.

The recommended solution recommended by the engineer, known as a municipal drain, must comply with all applicable environmental laws. The costs associated with the design, construction, long-term maintenance and repairs of the municipal drain are paid by the landowners (e.g., road authority, etc.) in the watershed serviced by, and benefiting from the municipal drain as recommended by the engineer.

It should be noted that affected property owners (including road authorities, utilities, etc.) have a right to appeal aspects of the report. Following the resolution of any appeals, the municipality passes a by-law establishing the municipal drain. With the passing of the by-law, the municipality acquires a right to use any land required to construct the drainage system in accordance with the specifications in the report. As noted above, costs are levied to the benefiting properties in the watershed of the municipal drain in the proportions specified in the engineer's report as adopted. After the drain is constructed, the system becomes municipal infrastructure, and the municipality is responsible for the management of the system at the expense of the upstream properties.

To satisfy the requirement for the appointment of an engineer under the Drainage Act, it is recommended that the engineering firm of R.J. Burnside & Associates Limited be appointed as the engineer for this petition as they have the required expertise and experience with the application of the Drainage Act.

### **Legal Implications**

Section 5(1) of the Drainage Act requires the municipal council to "...forthwith consider the petition..." and send notice of their decision within 30 days.

## **Conclusion**

The acceptance of this petition is expected to commence a process that will result in the establishment of a long-term, sustainable and equitable drainage system to improve the road drainage in this area.

## **STRATEGIC PLAN ALIGNMENT:**

This report aligns to the Town's Strategic plan recognizing the value to provide responsive, effective municipal government and strong leadership in the effective and efficient delivery of municipal services.

## **RELATIONSHIP TO CLIMATE CHANGE:**

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

## **PUBLIC ENGAGEMENT:**

Engagement with affected landowners in accordance with the Drainage Act will be required; consultation with Communications staff to follow.

## **INTERNAL CONSULTATION:**

Staff have been in consultation with Purchasing staff to review the requirements to single source (appoint) the engineer.

Staff have also consulted with Finance staff regarding the funding requirements and sources.

Staff have also consulted with Town of Erin Engineering staff.

## **FINANCIAL IMPLICATIONS:**

This report has an immediate financial impact and requires a funding source.

In order to proceed with the petition, drain process, and engaging the consulting engineering firm of R.J. Burnside & Associates Limited, a new capital project will be required to track and fund costs related to the petition. It is recommended that a new capital project 32 Side Road Drainage Petition (6210-20-2301) be approved for this purpose with a budget of \$100,000 to be funded from the New Capital reserve. Future design and construction costs identified through the engineering report will be included in the capital budget and forecast for consideration as part of the annual budget process.

Ultimately, all costs associated with the drainage systems constructed under the

Drainage Act are paid for by the landowners (including road authorities) in the watershed serviced by the drainage system. This will likely include some lands in the Township of Erin, including a portion that would be assessed to the 32 Side Road (Boundary Road). The cost-sharing for this project will be recommended by the appointed engineer following the assessment principles in the Drainage Act.

Reviewed and approved by,

Simone Gourlay, Senior Manager of Purchasing and Risk Management

Moya Jane Leighton, Director of Finance & Town Treasurer

Jeff Jelsma, Director of Development Engineering

Bill Andrews, Commissioner of Transportation & Public Works

Chris Mills, Chief Administrative Officer