



## REPORT

---

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

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

**DATE:** November 4, 2024

**REPORT NO.:** TPW-2024-024

**SUBJECT:** 32 Side Road Drainage Petition – Request to Extend the One-year Time Period for the Final Engineering Report Filing

---

### RECOMMENDATION:

THAT Report No. TPW-2024-024, dated November 4, 2024, regarding the 32 Side Road Drainage Petition – Request to Extend the One-year Time Period for the Final Engineering Report Filing, be received;

AND FURTHER THAT the submission date for the final Drainage Engineers report for the 32 Side Road Drainage Petition, prepared in accordance with Drainage Act, be extended until February 28, 2027.

### KEY POINTS:

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

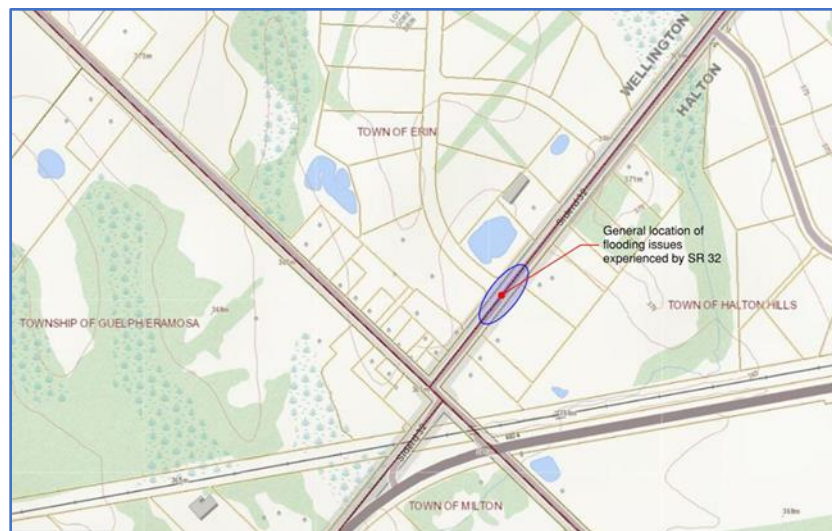
- Drainage Act Petitions was signed by both the Town of Erin and the Town of Halton Hills as the Road Authorities, to address surface drainage concerns on a section of 32 Side Road (32 Sdrd) immediately east of Crewsons Line in Crewsons Corners and was received by the Council on July 10, 2023, through Report No. TPW-2023-010.
- The engineering firm of R.J. Burnside & Associate Limited (RJB) was appointed as the Drainage Engineer for those petitions in accordance with Sec. 8(1) of the Drainage Act on August 28, 2024.
- The Town of Halton Hills is administering this process because any proposed work for improvement would be located in our jurisdiction.
- The drainage engineer is required by Sec. 39(1) of the Drainage Act to prepare and present a final report to the municipality within one (1) year after the appointment, which was to occur before September 29, 2024.

- Due to the complexity of the drainage concern, the Drainage Engineer was not able to complete the investigation, public engagement and provide recommendations within the allocated one-year timeframe.
- The purpose of this report is to authorize an extension to complete the Drainage Engineer's Report through a resolution of Council in accordance with Sec. 39(1) of the Drainage Act.

## BACKGROUND AND DISCUSSION:

The area of drainage concerns 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 Boundary Road Agreement between the municipalities, this section of road is maintained by the Town of Erin.

Figure 1: Area of Concern



To address the drainage concerns, the Road Authorities signed the petitions that was submitted to Council on July 10, 2023 (Report No.TPW-2023-010).

The recommendations of the report were supported by Council, and RJB acknowledged the appointment of the Drainage Engineer for this project (Ed DeLay, P.Eng.) on September 29, 2023.

The original report to Council presented on July 10, 2023, included a summary of the petition drainage process 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), Grand River Conservation Authority (GRCA), the Ministry of Environment, Conservation, Parks, and 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) Property owners located within the drainage area are notified of the initiation of the project and invited to attend a site meeting with the engineer.
- 5) Site meeting is held (Mandatory Public Meeting #1); engineer determines if the petition is valid.
- 6) Surveying takes place.
- 7) Engineer prepares a draft design.
- 8) Engineer holds an Information Meeting (Mandatory Public Meeting #2) with property owners, road authorities and others affected.
- 9) Engineer writes a report with design and recommended cost sharing; the report must comply with all applicable regulations.
- 10) Engineer submits the 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 are 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.

Report No.TPW-2023-01 addressed items # 1,2 and 3 above.

Items #4, 5, and 6 were addressed by the Drainage Engineer during the period from September 29, 2023 (date of the acceptance of the engineering appointment) to November 15, 2023, when the first mandatory public meeting(s) were held.

On November 15, 2023, residents of the affected drainage area identified by the RJB were invited to the first mandatory public meeting. A total of 26 households located in the Town of Halton Hills, the Town of Erin, and the Town of Milton were specifically invited to the public meeting by hand-delivered notices which was duplicated by ground mail letters. There were two public meetings held by the Drainage Engineer on November 15, 2023. The first meeting was held at 9 am on-site (in person only). It was attended by residents representing 11 households. The second meeting was held at 7 pm in Acton Arena (in person and online). It was attended by people representing 3 households, where one person attended both meetings.

Overall, the first meeting was attended by representatives of 13 households, which is 50% of the households located in the drainage area identified by the Drainage Engineer.

Items #7 and 8 of the process were satisfied on September 10, 2024, during the second mandatory public meeting. The Engineer presented four draft options for public consideration and comments but also sought input on other possible options from the attendees. Since the affected area was refined, a total of 23 households located in the Town of Halton Hills, the Town of Erin, and the Town of Milton were invited to the second public meeting by hand-delivered notices and was duplicated by ground mail letters. The second meeting was held at 7 pm in Acton Arena (in person and online). It was attended by people representing 10 households representing 43.5% of the households located in the drainage area identified by the Drainage Engineer.

A number of public agencies were invited to the public meetings which included The Ministry of the Environment, Conservation and Parks (MECP), The Ministry of Natural Resources (MNR) and Grand River Conservation Authority (GRCA), however, they declined to attend the meeting or did not respond to the invite.

During the meeting on September 10, 2024, there was extensive discussion and attendees provided input on the four options presented. The attendees also requested two to three additional options for the Drainage Engineer's consideration.

With regard to Items #9 and 10, following the September 10, 2024 meeting, the Drainage Engineer informed Town Staff that, based on the feedback from attendees and comments from the Staff, they would not be able to prepare the final report within the one-year timeline.

With regard to timing, Sec. 39(1) of the Drainage Act states: "the engineer shall file the report with the clerk of the initiating municipality as soon as it is completed or, in any event, within one year after the appointment of the engineer or within such further time as may be extended before or after the expiry of the one-year period by resolution of the council of the municipality". Given that the Drainage Engineer has not been able (despite best efforts) to complete the final report within the initial one-year timeline, through this report, Staff recommend that Council authorize an extension of the deadline to February 28, 2027, in accordance with Sec. 39(1) of the Drainage Act.

Once the final report is prepared by the Drainage Engineer and filed with the Municipality (on or before February 28, 2027), the process will move to Item #11, which will require Council to consider the Drainage Engineer's report and if approved, pass an associated By-law to authorize the works.

For clarity, it is important to note that the Drainage Act involves a legislative process with significant case law and established precedents. This process includes steps that allow affected parties to file appeals of the Drainage Engineer's report recommendation and that such appeals will be reviewed by a Municipal Court of Revision (consisting of 3

or 5 members appointed by Council) and/or a Provincial Tribunal (Agriculture, Food and Rural Affairs Tribunal).

If Council decides not to extend the one-year time period, then Council must give notice to the Drainage Engineer, who then has 30 days to complete and submit the report. If the Drainage Engineer does not complete the report within the 30-day period, then the Drainage Engineer forfeits all further compensation, and the Council can appoint another Drainage Engineer.

To ensure a thorough analysis, Staff recommend that the RJB be granted the extension until February 28, 2027 to fully analyze and consider all viable options and to prepare the final report and file it with the municipality.

### **STRATEGIC PLAN ALIGNMENT:**

This report identifies infrastructure and asset management as one of the Town's Strategic priorities.

### **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 has been conducted during the mandatory public meetings.

### **INTERNAL CONSULTATION:**

Town Treasurer and Director of Public Works.

### **FINANCIAL IMPLICATIONS:**

This report is administrative in nature and does not have any financial implications.

Through the 2023 Capital Budget, Council approved a total of \$100,000 to fund the 32 Side Road Drainage Petition project (6210-20-2301).

As outlined in the table below, the project currently has a remaining capital budget of \$82,964. It is anticipated that all forthcoming costs from R.J. Burnside & Associates will be fully accommodated within the approved funding. Any additional design or construction costs identified through the engineering report will be included in future

capital budgets and forecasts for Council's consideration during the annual budget process.

<b>Description</b>	<b>Amount</b>
Approved Budgets	
Council Approved Capital Project	100,000
<b>Total Approved Budget</b>	<b>100,000</b>
<b>Previous commitments</b>	
Contracted Services	17,036
<b>Remaining Balance</b>	<b>82,964</b>

It is important to note that, under the provisions of the Drainage Act, all costs associated with the construction of drainage systems are paid by the landowners within the watershed served by the system. This includes road authorities and properties within the Township of Erin, where a portion of the costs will likely be assessed to 32 Side Road (Boundary Road). The specific cost-sharing arrangements will be determined by the appointed engineer, based on the assessment principles outlined in the Drainage Act.

Reviewed and approved by,

Jeff Jelsma, Director of Development Engineering

Bill Andrews, Commissioner of Transportation & Public Works

Chris Mills, Chief Administrative Officer