



Meeting Date: September 20, 2023

Submitted by: Rob Cascaden, P.Eng – Director, Public Works and Engineering

Prepared by: Dan Anderson – Drainage Superintendent

Report No: PWE 39-2023

Subject: Komoka Drainage Works Union Ave Branch Update

Recommendation:

THAT Report PWE 39-2023 Komoka Drainage Works Union Ave Branch Update be received;

AND THAT the portion of the Komoka Drainage Works Union Ave Branch located within the residential lots be abandoned as per Alternative 2 Report PWE-39-2023.

Purpose:

To provide Council with a status update on the Komoka Drainage Works Union Ave Branch as well as information on a request for abandonment of the drain Council has received.

Background:

The Komoka Drainage Work Union Ave Branch is a Municipal Drain created through the Ontario Drainage Act which begins just north of the rear yard fence of 109 Union Ave. The drain runs west through the rear yards of MN 109, 107, 105, 103, 101 and 99 Union Ave. and then turns south to run along the side yard of MN 99 Union Ave. where it crosses under Union Ave. and into a ditch located on the east side of Komoka Rd. The drain runs along the east side of Komoka Road for approximately 65m where a portion of the flows are collected by a catch basin and routed into the Komoka Drain No. 3 and a portion of the flows are conveyed under Komoka Road and into the Frank Drain.

The Municipal Drain is in place to receive surface water flows from rural lands located to the north of Komoka. The drain intercepts the flows as they enter the settlement area and conveys them around the residential lots to the Frank Municipal Drain located west of Komoka Road. The drainage area comprises of approximately 113.6 hectares(ha) with approximately 98 ha being agricultural, 6 ha being roads, 1.5 ha being railway, 8 ha being residential and 0.1 ha being bush lot.

In April of 2019, the Municipality received a Request for Drainage Improvement for the Komoka Drainage Works Union Ave. Branch. The project proceeded through the design stage and was tendered in January of 2023. The scope of the project was to improve the inlet into the tile portion of the system as well as maintain the existing open drain system to restore the design grades. The project construction is now substantially complete and is in the warranty phase.

On August 9th a resident emailed Council requesting they abandon the Municipal Drain. The request is made citing a recommendation made in the Stormwater Master Plan Section 8.5:

“We recommend that all municipal drains located within the settlement areas, which are subject to the new stormwater levy introduced by the Municipality, ultimately be abandoned once they are brought up to municipal standards. While improvements to municipal drains must be undertaken in accordance with the provisions of the Drainage Act, it is intended that improvements located within the settlement area boundaries will be funded through the stormwater levy.”

Analysis:

The Ontario Drainage Act section 84 states that:

***84 (1)** If three-quarters of the owners of land assessed for benefit in respect of a drainage works, who, according to the last revised assessment roll, own not less than three-quarters of the area assessed for benefit as shown in the by-law or by-laws under which the drainage works exist, send a request asking for the abandonment of the whole or any part of the drainage works, the council of the initiating municipality shall, as soon as reasonably possible, send a notice to all of the owners of the land assessed for the drainage works stating its intention to abandon the drainage works or the part of the drainage works specified in the notice, unless, within 10 days of the date the municipality’s notice was sent, any owner sends a notice to the clerk of the municipality requesting that the report of an engineer be made on the proposed abandonment. 2010, c. 16, Sched. 1, s. 2 (32).*

Same

(2) The council of the initiating municipality may send a notice in accordance with subsection (1) of its intention to abandon a drainage works or the part of the drainage works specified in the notice, even if a request described in subsection (1) has not been sent to the municipality. 2010, c. 16, Sched. 1, s. 2 (32).

The landowner making the request for abandonment is not assessed for benefit and therefore does not fulfill the requirements required for a valid request for abandonment. The request made by the landowner should instead be received as a request that Municipal Council use their Section 84(2) rights of abandonment and as a Council decide to abandon the Municipal Drain.

Should Council entertain the request and elect to abandon the Municipal Drain consideration needs to be given to the ability to maintain the stormwater system which would now be Municipally owned. A registered easement exists through the lots on Union Ave. which would allow Municipal staff the right to enter for maintenance, however the downstream portion of the drain is located within the County of Middlesex road allowance. The County would need to be approached and agree to assume the portion of the stormwater system within their road allowance (station 0+000 – station 0+118) or the Municipal Drain would need to remain in place within the road allowance. If the County agrees to assume the portion located within the road allowance an agreement would need to be secured with the County to ensure the portion within their road allowance is maintained to the design standards as the Municipal portion would rely on this downstream system to provide the sufficient outlet required to provide the intended level of service.

The 2006 Drainage Report for the drain details that:

“The Canadian Pacific Railway culverts upstream of the drain not be enlarged in the future”

And:

“That the elevation of Komoka Road and Union Road [sic] not be raised above their existing elevations.”

These measures were included in the report to ensure that the system does not receive higher flows than the existing drain can handle as well as providing an overland flow route that protects the houses built along the swale should the drain become blocked and backed up. These requirements disappear with the abandonment of the drainage report and will need to be addressed with the utilities (Canadian Pacific Railway and County of Middlesex).

Next Steps

Staff are proposing three alternatives on how to proceed with the landowner request:

Alternative 1: Council does not elect to abandon the Komoka Drainage Works Union Ave Branch. The existing drainage reports remain in place and future maintenance is handled as detailed in the reports.

Alternative 2: The portion of the Komoka Drainage Works Union Ave Branch located within the residential lots is abandoned (station 0+118 - station 0+280) and the portion located within the County and Municipal road allowances remains in place (station 0+000 - station 0+118).

Alternative 3: The entirety of the Komoka Drainage Works Union Ave. Branch is abandoned with the Municipality assuming the portion located within the easement through the residential properties as well as the Union Ave. road allowance and the County of Middlesex assuming the portion located within the road allowance of Komoka Road. Before the drain can be abandoned Municipal Staff would need to consult with the County of Middlesex on the feasibility of this alternative.

Financial Implications:

The Municipality collects a stormwater fee from all properties within settlement areas to fund the operation, maintenance and capital projects pertaining to stormwater management. Historically the Municipality has chosen to cover Municipal Drain assessments with the stormwater reserve fund.

Maintenance of the Komoka Drain Union Ave Branch is assessed as per the 2006 Drainage Report prepared by Spriet Associates. The report details that:

“A total of 90% of regular maintenance costs shall be pro-rated as benefit against those properties on which work is being completed on that property, and the remaining 10% pro-rated over the upstream outlet assessments. From Sta.0+118 to Sta.0+280 the benefit shall be distributed to the adjacent residential lots on a per meter basis for the length of the repair.”

With the Municipal Drain being located entirely within the settlement boundary of Komoka, maintenance undertaken on the Municipal Drain is to be 90% assessed to a property within the settlement boundary with the remaining 10% assessed to the rural agricultural properties upstream. The exception to this is any work undertaken from the outlet to the Frank Drain up to the north limit of Union Ave. road allowance is to have that 90% benefit assessment split 60% to Komoka Road (County of Middlesex) and 40% to Union Ave. (Middlesex Centre).

If Council proceeds with Alternative 1 there will be no financial change to maintenance of the system.

If Council proceeds with Alternative 2, any system maintenance undertaken upstream of station 0+118 will be funded entirely through the stormwater utility fund and any system maintenance undertaken between station 0+000 and station 0+118 will still be funded through the Drainage assessment detailed in the 2006 report, with 10% being assessed to all upstream properties within the watershed.

If Council proceeds with Alternative 3 any system maintenance within the easement or Union Ave. road allowance would be funded entirely through the stormwater utility fund and any system maintenance undertaken within the County road allowance would be funded by the County.

Strategic Plan:

This matter aligns with following strategic priorities:

- Sustainable Infrastructure and Services
- Engaged Community
- Responsive Municipal Government

Ensuring the infrastructure and systems in place are best set up to serve the needs of the Municipality and residents aligns with the above noted strategic priorities.

Based on the above set of options, staff are recommending that the portion of the Komoka Drainage Works Union Ave Branch located within the residential lots is abandoned as per Alternative #2 above. In the future if/when Komoka Road is urbanized the Municipality will look at the possibility of converting the remaining open ditch Municipal Drain into a Municipal storm system. Municipal staff will initiate the process to abandon this section of the Komoka Drain.

Attachments:

A1 – Location Map for the Komoka Drainage Works Union Ave Branch.