



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF INFRASTRUCTURE SERVICES

MISSION STATEMENT: *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

Author's Name: Shane McVitty	Report Date: December 14, 2021
Author's Phone: 519 736-3664 ext. 2318	Date to Council: January 24, 2022
Author's E-mail: smcvitty@amherstburg.ca	Resolution #:

To: Mayor and Members of Town Council

Subject: Decision of the Drainage Tribunal – Charles Shepley Drain

1. **RECOMMENDATION:**

It is recommended that:

1. **By-law 2021-016** being a by-law to adopt the revised engineer's report for the Improvements to the Charles Shepley Drain be given a **THIRD AND FINAL** reading and the Mayor and Clerk **BE AUTHORIZED** to sign same; and,
2. Administration **BE DIRECTED** to prepare tenders for the improvements to the Charles Shepley Drain and Branch Drain.

2. **BACKGROUND:**

On October 20, 2021, administration held the Drainage Tribunal Hearing for the Charles Shepley Drain. On November 9, 2021, administration received the decision of the Drainage Tribunal for the Charles Shepley Drain.

3. **DISCUSSION:**

The following is the Order of the Drainage Tribunal:

"The Tribunal orders that:

1. *The appeal by Grondin Farms Ltd. under Section 54(1) of the Act is granted. All costs assessed upstream in the Report for the construction, engineering and future maintenance of Culvert 8 shall be eliminated. The costs for Culvert 8 shall be fully assessed to the lands identified as 5 and 8 in the Report under Section 24 of the Act.*

2. *The non-administrative costs of the Municipality incurred with respect of these appeals shall form part of the cost of the drainage works.*
3. *There shall be no other Order as to costs and all parties are responsible for their own costs.”*

As part of the engineering report submitted by R. Dobbin Engineering Inc., inspections were completed on all of the existing access bridges within the Charles Shepley Drain and Charles Shepley Branch Drain. Under his report, Michael Gerrits, P.Eng., has made recommendations for the replacement of two (2) existing access bridges, along with the complete removal of two (2) existing access bridges. Both access bridges being recommended for replacement were found to be in poor condition, with one of them deemed unsafe to cross. Access across this culvert has since been blocked by the Town with barriers, though the landowner has been able to access the farm using a separate bridge on the drain.

In addition to the replacement and removal of the above noted access bridges, landowners on the Charles Shepley Branch Drain have requested that the drain be cleaned. As part of this work, two (2) existing access culverts will be completely removed, and a third bridge will be removed and replaced on grade. It should be noted the bridge being removed and replaced was the subject of the appeal to the Tribunal, referenced as “Culvert 8” in the engineering report and Tribunal Decision. A new design profile for the Branch Drain has been provided under the engineering report, along with Assessment Schedules that will be used to recover the costs of the work from the affected landowners.

The decision of the Drainage Tribunal is final and the project will now proceed to tender and construction. The engineer’s report and by-law have been revised to reflect the Order of the Tribunal.

4. RISK ANALYSIS:

The bridges within the Charles Shepley Drain that have been identified as needing replacement and are in poor condition. These bridges provide access across the drain to adjacent farm properties. Replacement of these bridges has been requested by the owners of these farms. Failing to adopt the bylaw or proceed with the construction recommendations under the engineering report for the Charles Shepley Drain in an expedient manner could place bridge users in jeopardy should the condition of the bridges continue to deteriorate. Also, the deterioration of culvert piping and headwalls may permit gravel and earthen backfill to migrate into the drain. This can cause flow blockages, thereby decreasing the ability of the drain to efficiently convey water, resulting in an increased risk of water overtopping driveways and upstream flooding.

Under the Drainage Act, the municipality can be held responsible for damages due to flooding and bridge failures if the improvements are not completed or if the required maintenance and bridge replacement work does not proceed expediently.

5. FINANCIAL MATTERS:

The following is a breakdown (*Not Final*) of project funding based on the revised Composite Schedule of Assessments for the Charles Shepley Main Drain & Charles Shepley Branch Drain, as revised by the Tribunal Decision:

Town of Amherstburg (Taxation, Municipal Share)	\$	2,453
Town of Essex Roads	\$	3,120
Landowner Assessments (Town of Amherstburg)	\$	28,769
Landowner Assessments (Town of Essex)	\$	17,341
<u>OMAFRA Grant</u>	<u>\$</u>	<u>21,653</u>
TOTAL ESTIMATED PROJECT COST	\$	73,336

Notes:

1. The costs shown represent the breakdown of assessments according to the estimated cost provided in the engineering report for bridge replacements, removals, and resetting. The assessments have been revised according to the Tribunal Decision. The final breakdown of costs will be revised further once the project has been tendered and the actual cost of construction is known.
2. The costs shown do not include the additional engineering fees incurred as a result of the Tribunal Hearing or additional sittings of the Court of Revision. These costs, according to the order of the Tribunal, shall form part of the drainage works and shall be pro-rated to the affected lands and roads according to the Schedule of Assessment. Based on invoices received to date from the engineer, it is expected that the assessments shown will increase by approximately 15%.
3. The costs shown do not include an estimate for any maintenance work on the Charles Shepley Branch Drain. This is because a cost estimate of this work was not included as part of the engineering report since it was expected to be completed as a future work of maintenance. At the request of the landowners that use the Branch Drain, drain maintenance will be included as part of the construction tender for the Charles Shepley Drain. The resulting costs from this work will be assessed according to the assessment schedule provided under the engineering report titled "Schedule of Maintenance – Charles Shepley Branch Drain." It should be noted that the Town of Amherstburg (Municipal Lands) is not assessed for maintenance work on the Branch Drain.

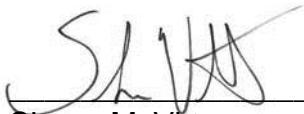
As part of the 2022 Budget, Administration has accounted for \$73,336 for the Charles Shepley Drain project. The Town's portion of this work is expected to be \$2,453.00, which will be funded from the Municipal Drain Expenses provided in the 2022 Public Works Operations Budget. The remainder of the costs will be recovered through landowner assessments and grant. It is expected that any increase to the Municipal Share (ie. Town Assessment) that may result from a tender price that is higher than the engineering estimate will be accommodated under the 2022 Municipal Drain Expense account.

6. CONSULTATIONS:

Michael Gerrits, P. Eng., R. Dobbin Engineering Ltd.

7. CONCLUSION:

The Drainage Tribunal decision is final and it is recommended that Charles Shepley Drain project should now proceed to tender and construction.

A handwritten signature in dark ink, appearing to read 'SMcVitty', is written over a horizontal line.

Shane McVitty

**Drainage Superintendent and
Engineering Coordinator**

Report Approval Details

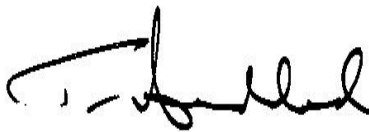
Document Title:	Decision of the Drainage Tribunal - Charles Shepley Drain.docx
Attachments:	- Final Decision Charles Shepley Drain 2021.pdf - 2019-1021 Charles Shepley Drain Report (Without ARN with Tribunal).pdf - 210223 - Bylaw 2021-016 -Charles Shepley Drain - Revised per Tribunal.doc
Final Approval Date:	Dec 20, 2021

This report and all of its attachments were approved and signed as outlined below:



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