

**Municipality of Chatham-Kent**  
**Infrastructure and Engineering Services**  
**Drainage, Asset and Waste Management**

**To:** Mayor and Members of Council

**From:** Tim Dick, C.E.T.  
Director of Drainage, Asset and Waste Management

**Date:** January 14, 2021

**Subject:** Erie Shore Drive – Next Steps

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**Recommendations**

It is recommended that:

1. A Request for Proposal (RFP) be released to appoint a qualified engineering consultant under Section 78 of the Drainage Act to consider better use, maintenance and repair of any drainage works within the Burk Drainage Scheme.
2. The appointed consultant be instructed to prepare a preliminary report under Section 10 of the Drainage Act.

**Background**

In March 2020, Public Works completed “Phase 1” of efforts to stabilize the existing roadway and dike along Erie Shore Drive (ESD) to mitigate the risk of dike failure noted in a Golder Associates engineering study. This included the raising and relocation of the continuous row of concrete blocks to a location at the centerline of the travelled portion of the road. The row of concrete blocks were reinforced in the rear with compacted clay over the north lane of the road. Spillways were created to control flows over the Lakeshore Drain south bank in order to minimize the effects of erosion and degradation of the dike. To date, this action has served the Municipality well as a short-term measure to minimize the risk and damages to the dike and road infrastructure.

Administration has brought a number of reports to Council (RTC) regarding ESD over the past three years. The most recent report entitled “Chatham-Kent Lake Erie Shoreline Study” was prepared and presented by Zuzek Inc. at the May 4, 2020 Council meeting.

Council endorsed six recommendations in the report, namely:

Consistent with the “Chatham-Kent Lake Erie Shoreline Study” (Zuzek report) dated April 23, 2020, it is recommended that:

1. Chatham-Kent prioritize the most vulnerable areas along Lake Erie and proceed with the following:
  - a. Region 2B: develop a long-term plan for ESD following the Drainage Act process recommended in Appendices A and B of the Zuzek report.
  - b. Region 3A: continue on-going maintenance efforts to protect and maintain the dike along Erieau Road opposite St. Anne’s Church.
  - c. Region 1B: incorporate the findings of the subject study and complete the Environmental Assessment for the Talbot Trail realignment and report back to Council.
  - d. Region 1D: incorporate the findings of the subject study and complete the Environmental Assessment for Rose Beach Line and report back to Council.
2. Administration continue to seek funding from both the Provincial and Federal governments to assist with significant flooding and erosion challenges facing Chatham-Kent as described in the subject report.
3. Administration initiate discussions with the Provincial Government to obtain a commitment and Provincial funding to restore the Rondeau barrier beach.
4. Long term, Administration work toward a strategy on the approaches for the remaining regions and sub-regions identified in Table 1 of the Zuzek report.
5. Upon completion of Lower Thames Valley Conservation Authority policy and hazard mapping updates identified in the subject report, Administration initiate a formal review of the Official Plan land use policies and Zoning By-law regulations related to the Lake Erie shoreline areas.
6. That Administration return to Council with a report to identify opportunities and programs (human, information, or financial resource based) that can be made available to home owners living in the most vulnerable areas along Lake Erie to protect and maintain their properties, given the long term nature of the solutions outlined in the Zuzek report. These opportunities should be complementary (and in addition to) the recommendations listed above.

The following next steps were also described in detail in the May 4, 2020 RTC:

“It is recommended that residents of ESD initiate and sign a petition under Section 4 of the Drainage Act. This is consistent with the recommendation provided at the November 29, 2017 public meeting and to Council on December 11, 2017.

Upon receipt of the petition, administration will recommend the appointment of a qualified Drainage Engineer to initiate a preliminary report under Section 10 of the Drainage Act. Considering the large scope and complexity of this endeavor, a preliminary report is the most logical approach because it will include high-level design concepts and cost estimates for the proposed work. Most importantly, it will provide a proposal on the distribution of costs to each benefitting landowner. Regulatory and environmental concerns will also be addressed early in the process. Section 10 directs the engineer to consider the “cost benefit” in his/her analysis of the work being contemplated.

Per the Drainage Act, Section 4, a petition is valid for area to be drained if signed by:

- a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area, or
- b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectareage in the area;

The validity of a petition is determined exclusively by the appointed Drainage Engineer

Due to the current conditions and short term nature of the diking repairs recently completed along ESD, it is recommended that the ESD residents and inland owners submit a petition to the Municipal Clerk within 60 to 90 days (July/2020).”

A petition under section 4 of the Drainage Act by the property owners would provide an appropriate method to proceed with various works as well as comprehensive mechanism for public involvement and consultation. Due to the short-term nature of the existing technical solution, the RTC suggested that the shoreline home and cottage owners follow this approach and be provided at least three months to do so. Almost eight months have passed and no petition has been received. In light of this fact, this report provides new recommendations specific to item 1a. of the May 4, 2020 RTC.

In October, 2020, a law firm representing numerous residents along ESD submitted a “Notice” to Chatham-Kent under Section 79 of the Drainage Act alleging that existing drainage works in the Burk Drainage Scheme constructed under the Drainage Act are

out of repair.

### Comments

The Drainage Act process provides a well-established, legislated process for constituent consultation and decision making. Administration has identified two possible directions under the Drainage Act related to ESD. The first is a process under Section 4 of the Drainage Act for a new comprehensive shoreline project. The second is to utilize Section 78 of the Drainage Act to appoint an engineer to review existing drainage works within the Burk Drainage Scheme and determine potential areas for better use, maintenance and repair by means of a new engineer's report.

Pertaining to the Section 4 option, Council has the ability to initiate a new comprehensive shoreline protection project by means of a petition without signatures from residents. Administration does not recommend this direction for several reasons including:

- The high cost of the project, with estimates ranging from \$22.5 to \$84.4 million dependent upon the scope of the project
- Lack of senior government funding
- To date, there is no clear financial commitment from the majority of the shoreline residents to proceed with a comprehensive shoreline project

Administration does recommend that a report be prepared under Section 78 of the Drainage Act for consideration of the better use, repair and improvement of drainage works within the Burk Drainage Scheme. As a first step, a preliminary report will be prepared under Section 10 of the Drainage Act. This report will also serve to provide Council and Administration with relevant information to assess the Section 79 "Notice" received from ESD legal representation, including whether repair and/or maintenance of the Burk Drainage Scheme is necessary. Although there are previous engineer's reports considering options for the better use, repair and improvement of the Lakeshore Drain and Burk Drainage scheme, those reports are not updated with respect to the current conditions on ESD.

The preliminary report will provide:

- A third party, independent engineering assessment
- High level design options, cost estimates and stakeholder assessment proportions for any proposed works
- Environmental appraisals and cost benefit analysis
- A well defined public consultation and legal process for consideration of any engineering recommendations

### **Areas of Strategic Focus and Critical Success Factors**

The recommendations in this report support the following areas of strategic focus:

- Economic Prosperity:  
Chatham-Kent is an innovative and thriving community with a diversified economy
- A Healthy and Safe Community:  
Chatham-Kent is a healthy and safe community with sustainable population growth
- People and Culture:  
Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community
- Environmental Sustainability:  
Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendations in this report support the following critical success factors:

- Financial Sustainability:  
The Corporation of the Municipality of Chatham-Kent is financially sustainable
- Open, Transparent and Effective Governance:  
The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership
- Has the potential to support all areas of strategic focus & critical success factors
- Neutral issues (does not support negatively or positively)

### **Consultation**

Legal Services and the Chief Financial Officer/Treasurer were consulted on the content of this report.

### **Financial Implications**

The cost of all engineering, construction and reports will be accumulated to a recoverable capital drainage account. When a final report is completed, all costs will be assessed to benefitting landowners in accordance with the assessment proportions provided in the final engineer's report. If Council decides not to proceed with the project after receiving the preliminary report, all costs expended to-date will be borne by the Municipality.

Administration will return to Council with the results of the RFP for final approval prior to

proceeding with the preliminary report.

Prepared by:

Reviewed by:

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Consulted and confirmed the content of the consultation section of the report by:

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Director, Legal Services

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Gord Quinton, MBA, CPA, CGA  
Chief Financial Officer/Treasurer

Attachments: None

C: Director, Legal Services  
Chief Financial Officer/Treasurer

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