



**SPECIAL MEETING OF COUNCIL
AGENDA**

Monday, December 2, 2019, 6:00 PM

103 Park Street

Kingsville, ON N9Y 0E7

Pages

A. CALL TO ORDER

B. DISCLOSURE OF PECUNIARY INTEREST

When a member of Council has any pecuniary interest, direct or indirect, in any matter which is the subject of consideration at this Meeting of Council (or that was the subject of consideration at the previous Meeting of Council at which the member was not in attendance), the member shall disclose the pecuniary interest and its general nature, prior to any consideration of the matter.

C. MATTERS SUBJECT TO NOTICE

**1. PUBLIC MEETING--Repair and Improvement of the Esseltine Drain --
Meeting to Consider Contract Price and Award Tender**

1

Shane Lafontaine, M. Eng., P. Eng., Project Engineer (RC Spencer Associates Inc., Consulting Engineers) and Ken Vegh, Town of Kingsville Drainage Superintendent will be in attendance.

i) Notice of Meeting to Consider Contract Price pursuant to Section 59 of the *Drainage Act*, dated November 4, 2019 with attached Tables 1 and 2;

ii) Report of K. Vegh, Drainage Superintendent, dated November 25, 2019 RE Esseltine Drain Extension - Meeting to consider contract price

iii) Correspondence from Richard C. Spencer, P. Eng. dated November 25, 2019 RE: Tender Results and Recommendation.

Recommended Action

That Council receive the Esseltine Drain Extension Report- Meeting to consider contract price.

That, Council approve South Shore Contracting of Essex County Inc. to complete the Esseltine Drain Extension project in the amount of \$4,708,655.00 plus H.S.T. and to authorize the Mayor and the Clerk to execute the agreement and draft the appropriate by-law

D. CONFIRMATORY BY-LAW

1. By-law 104-2019

10

Being a By-law to confirm the proceedings of the Council of The Corporation of the Town of Kingsville at its December 2, 2019 Special Meeting.

To be read a first, second and third and final time.

E. ADJOURNMENT



2021 Division Road North
Kingsville, Ontario N9Y 2Y9
Phone: (519) 733-2305
www.kingsville.ca
kingsvilleworks@kingsville.ca

November 4, 2019

To: All Affected Owners

Re: **Esseltine Drain Extension Tender Results**
Municipality of Kingsville, County of Essex

The Municipality of Kingsville tendered the above noted project and is notifying you as an affected owner pursuant to Section 59 of The Drainage Act, R.S.O. 1990, as amended.

Meeting to consider contract price

59 (1) Where the contract price exceeds 133 per cent of the engineer's estimate of the contract price, the council of the initiating municipality shall call a meeting in the manner prescribed by section 41, and sections 42 and 43 apply with necessary modifications. R.S.O. 1990, c. D.17, s. 59 (1).

On the reverse, Tables 1 and 2 illustrate the assessment comparison between the lowest submitted tendered price and the estimate in the Esseltine Drain Extension Report (the "Report"), which is dated June 2016.

Due to the size of the Report, a copy will not be mailed to you. You will be able to view and/or download a copy of the Report from the Town of Kingsville website:

<https://www.kingsville.ca/en/our-community/utilities-water-and-wastewater.aspx>

The Report was adopted by Council September 2017 and subsequently amended by the decision of the Ontario Drainage Tribunal, dated April 15, 2019.

A meeting has been scheduled as required under Section 59 of the Drainage Act. The meeting details are as follows:

Date: Monday, December 2, 2019
Time: 6:00 p.m.
Location: Grovedale House
103 Park Street, Kingsville, Ontario

Should you have any questions, please contact Ken Vegh, CRS Drainage Superintendent at ext 267.

Yours truly,

Jennifer Astrologo

Jennifer Astrologo, B.H.K. (Hons), LL.B.
Director of Corporate Services / Clerk

Table 1

*Engineer's Estimate of Contract Price
(June 2016)*

Esseltine Drain	\$3,416,175.00
Richard Hicks Branch Drain	\$8,300.00
Mucci-Hicks Branch Drain	\$36,550.00
Total Engineers Estimate	\$3,461,025.00

Table 2

*Contract Price for Construction
(Lowest of 3 Tender Bids received Oct 2019)*

Esseltine Drain	\$4,643,420.00
Richard Hicks Branch Drain	\$12,650.00
Mucci-Hicks Branch Drain	\$52,585.00
Total Contract Price	\$4,708,655.00



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Date: November 25, 2019
To: Mayor and Council
Author: Ken Vegh, CRS
RE: Esseltine Drain Extension- Meeting to consider contract price
Report No.: MS 2019 - 50

AIM

To review the construction pricing for the Esseltine Drain Extension pursuant to Section 59 (1) of the Drainage Act in order to award the project to the lowest bidder.

BACKGROUND

In December 2014, the Town of Kingsville initiated the repair and improvement of the Esseltine Drain under Section 78 of the Drainage Act and appointed R.C. Spencer Associates to prepare a report under provisions of the Act. The Esseltine Drain Extension Report (The Report) created by R.C. Spencer Associates is intended to provide for the repair and improvement of the existing municipal drain and to extend the municipal drain to a sufficient outlet.

The Drainage Act requires transparency throughout the entire process. The Act allows for public input through mandatory meetings that must be held in front of Council. The Meeting to Consider is held to allow landowners to question the engineer's design. Council must approve the report before move to the next step of the process.

The Court of Revision which allows landowners to question their assessments as determined by the engineer is the next step in the Drainage Act process. The Court is historically made up of members of Council, however, the Court of Revision is a mandatory meeting separate than a Council meeting. Once adopted by Council a mandatory waiting period is required. If no appeals are submitted than a Third and Final reading is held and a corresponding by-law is passed and the project is allowed to move forward.

The Report was completed and submitted to the Town in December of 2016, and went through the mandatory Meeting to Consider the report, four (4) Court of Revision sittings, three (3) Drainage Tribunal hearing dates and one (1) request to have a Review of the Tribunal decision. Once the final decision of the Tribunal was received the Third and Final Reading to adopt the report occurred. Preparation of the contract documents and specifications to initiate the tendering process began soon thereafter.

DISCUSSION

The tender closing date for the Esseltine Drain Extension project was October 11, 2019 where the tender results were received and analyzed. Three (3) contractors submitted bids of which the lowest bidder had a construction price of \$4,708,655.00. The bids were as follows:

South Shore Contracting of Essex County.	\$4,708,655.00
D' Amore Construction (2000) Inc.	\$5,210,000.00
Sterling Ridge Infrastructures Inc.	\$6,285,690.00

On the attached, Tables 1 and 2 illustrate the assessment comparison between the lowest submitted tendered price (October 2019) and the Engineer's estimate provided in the Report dated June 2016.

A direct cost comparison shows that the lowest tendered price is 136% higher than the original Engineer's estimate. Section 59 (1) of the Drainage Act states that Council shall hold a meeting to consider the contract price if it exceeds 133% of the engineer's estimate.

Section 59 of the Drainage Act states:

59 (1) Where the contract price exceeds 133 per cent of the engineer's estimate of the contract price, the council of the initiating municipality shall call a meeting in the manner prescribed by section 41, and sections 42 and 43 apply with necessary modifications. R.S.O. 1990, c. D.17, s. 59 (1).

It is important to note that it has taken more than three (3) years to reach the tendering process after the engineer prepared the estimate and submitted the report in June 2016. This delay is a result of the public process required for the four (4) sittings of the Court of Revision, the three (3) hearings of the Tribunal and the request to review the Tribunal's decision.

During preparation of the Engineer's estimate prepared in 2016, it is important to note R.C. Spencer Associates reached out to multiple local contractors to confirm the unit prices that were used in the estimate for the Report. The estimate provided for construction within the Report were representative of the market conditions at that time.

Tendering projects at different times of the year may have an impact on contractor's pricing. This project was tendered in the fall to begin construction in the winter of 2020. Considering that most infrastructure projects historically do not usually take place in the wintertime, contractors will generally provide aggressive tender bids at this time of year.

Therefore, it is unlikely that tendering this project at a different time of year would have resulted in lower contract prices.

It is also important to note that as a result of the timing window restrictions imposed by the Department of Fisheries and Oceans for fish species, no in water works are permitted between March 15th and June 30th. As part of the tendering process contractors were required to submit a work schedule. All bidders planned on starting preliminary works in the winter and scheduled in water works to commence in July of 2020 with an estimated completion date of winter 2020.

Throughout the entire design and approval process, multiple design alternatives were considered and evaluated for potential cost savings. The final approved design for this project has been developed to provide the most economical solution that will also provide long term sustainable protection for the Esseltine Drain and adjacent properties.

The estimates provided in the Report for contract administration and inspection services will not be affected as a result of inflation.

LINK TO STRATEGIC PLAN

To become a leader in sustainable infrastructure renewal and development.

FINANCIAL CONSIDERATIONS

Inflation to infrastructure costs must be considered when comparing the original estimate to current pricing. Stats Canada shows that since 2016, the infrastructure price index has shown an average increase of 6% per year. When considering inflation the estimate shall be compared as follows:

Inflation from 2016-2019= 6%/year compounded for three (3) years= $1.06 \times 3 = 19\%$
Original Estimate plus inflation= $\$3,461,025 \times 1.19 = \$4,118,619.75$
Contract Price comparison= $\$4,708,655.00 / \$4,118,619.75 = 114.3\%$

Therefore, after considering the inflation that has occurred since the filing of the Report in 2016, the lowest bid is 114% higher than the original estimate.

CONSULTATIONS

Municipal Services- Internal Review
R.C. Spencer Associates

RECOMMENDATION

That Council receive the Esseltine Drain Extension Report- Meeting to consider contract price.

That, Council approve South Shore Contracting of Essex County Inc. to complete the Esseltine Drain Extension project in the amount of \$4,708,655.00 plus H.S.T. and to authorize the Mayor and the Clerk to execute the agreement and draft the appropriate by-law

Ken Vegh

Ken Vegh, CRS
Drainage Superintendent

Shaun Martinho

Shaun Martinho, H.B.Sc., C.E.T.
Public Works Manager

G.A. Plancke

G.A. Plancke, Civil Eng. Tech (Env)
Director of Municipal Services

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer

Table 1

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Esseltine Drain Project Timeline

1 December 2014	RFP CLOSING DATE
22 December 2014	APPOINTMENT OF ENGINEER AT COUNCIL MEETING
23 January 2015	PROJECT INITIATION MEETING
15 May 2015	ESSELTINE DRAIN – HYDROLOGIC ANALYSIS
21 May 2015	PUBLIC MEETING #1
27 August 2015	ESSELTINE DRAIN – BASE FLOW MODELLING
17 June 2016	BOOK 1 & 2 – Esseltine Drain Report & Drawings
25 January 2017	2 nd ON-SITE MEETING (At Town Hall)
15 May 2017	BOOK 3 (2 nd On-Site Landowner Questions and Comments)
26 September 2017	COUNCIL CONSIDERATION MEETING (Provisionally Adopted Report)
6 November 2017	COURT OF REVISION – 1 st SITTING
22 December 2017	BOOK 4 – Engineer's Recommendations
27 February 2018	COURT OF REVISION – 2 nd SITTING
2 March 2018	DECISION of the COURT OF REVISION
3 April 2018	COURT OF REVISION – 3 rd SITTING
9 April 2018	DECISION of the COURT OF REVISION
14 May 2018	COURT OF REVISION – 4 th SITTING
14 May 2018	DECISION of the COURT OF REVISION
11-12 Oct. 2018	ORIGINAL TRIBUNAL HEARING DATE (Adjourned)
20-21 Nov. 2018	TRIBUNAL HEARING DATES
7 December 2018	ADDITIONAL TRIBUNAL HEARING DATE
15 April 2019	DECISION OF THE TRIBUNAL
21 May 2019	DECISION OF THE REQUEST TO REVIEW TRIBUNAL
27 May 2019	THIRD AND FINAL READING (Adopted Report)
11 October 2019	CONSTRUCTION TENDER – BID CLOSING DATE
2 December 2019	MEETING TO CONSIDER CONTRACT PRICE & AWARD TENDER



25 November 2019
File No. 19-900

The Corporation of the Town of Kingsville
2021 Division Road North
Kingsville, Ontario
N9Y 2Y9

Attention: Mr. Andrew Plancke, Director of Municipal Services

Re: Repair and Improvement of the Esseltine Drain
Tender Results

Dear Andrew:

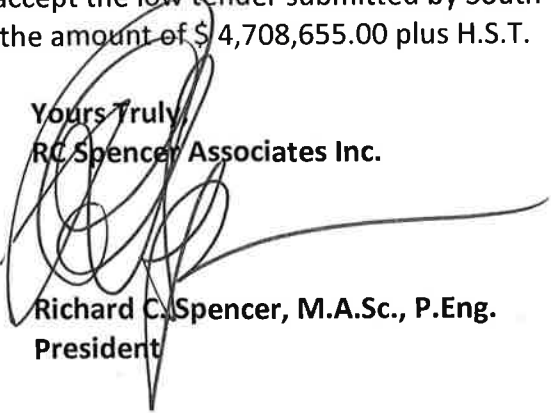
Tenders for the Repair and Improvement of the Esseltine Drain were received on 11 October 2019. The results are listed below in ascending order:

<u>Contractor</u>	<u>Bid</u> (excluding H.S.T.)
1. South Shore Contracting of Essex County Inc.	\$ 4,708,655.00
2. D'Amore Construction (2000) Ltd.	\$ 5,210,000.00
3. Sterling Ridge Infrastructure Inc.	\$ 6,285,690.00

We have checked the Tender submissions and determined that there were no mathematical errors made.

We therefore recommend that the Town accept the low tender submitted by South Shore Contracting of Essex County Inc., in the amount of \$ 4,708,655.00 plus H.S.T.

Yours Truly,
RC Spencer Associates Inc.



Richard C. Spencer, M.A.Sc., P.Eng.
President

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 104-2019

Being a By-law to confirm the proceedings of the Council of The Corporation of the Town of Kingsville at its December 2, 2019 Special Meeting

WHEREAS sections 8 and 9 of the *Municipal Act, 2001* S.O. 2001 c. 25, as amended, (the "Act") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority conferred upon a municipality to govern its affairs as it considers appropriate.

AND WHEREAS section 5(3) of the Act provides that such power shall be exercised by by-law, unless the municipality is specifically authorized to do so otherwise.

AND WHEREAS it is deemed expedient that the proceedings of the Council of The Corporation of the Town of Kingsville (the "Town") be confirmed and adopted by by-law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

1. The actions of the Council at its December 2, 2019 Special Meeting in respect of each report, motion, resolution or other action taken or direction given by the Council at its meeting, is hereby adopted, ratified and confirmed, as if each resolution or other action was adopted, ratified and confirmed by its separate by-law.
2. The Chief Administrative Officer and/or the appropriate officers of the Town are hereby authorized and directed to do all things necessary to give effect to the actions set out in paragraph 1, or obtain approvals, where required, and, except where otherwise provided, the Mayor and the Clerk are hereby directed to execute all documents necessary and to affix the corporate seal to all such documents.
3. This By-Law comes into force and takes effect on the day of the final passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
2nd DAY OF DECEMBER, 2019.**

MAYOR, Nelson Santos

**DEPUTY CLERK-COUNCIL
SERVICES, Sandra Kitchen**