

Court of Revision Meeting

Minutes

Date: Tuesday, March 28, 2023

Time: 5:00 pm

Location: Tecumseh Town Hall - Council Chambers
917 Lesperance Road
Tecumseh, Ontario N8N 1W9

Present: Mayor, Gary McNamara - Chair
Councillor, James Dorner
Councillor, Tania Jobin
Councillor, Rick Tonial

Absent: Councillor, Alicia Higgison

Also Present: Chief Administrative Officer, Margaret Misek-Evans
Director Legislative Services & Clerk, Robert Auger
Director Community Safety & Fire Chief, Wade Bondy
Director Technology & Client Services, Shaun Fuerth
Director Financial Services & Chief Financial Officer, Tom Kitsos
Deputy Clerk & Manager Legislative Services, Jennifer Alexander
Deputy Clerk - Clerks Services & Policy Advisor, Christina Hebert
Manager Engineering Services, John Henderson
Drainage Superintendent, Alessia Mussio

Others: Joe Lappalainen, Assistant Drainage Superintendent

A. Roll Call

B. Call to Order

The Mayor calls the meeting to order at 5:00 pm.

C. Land Acknowledgement

We acknowledge that we are on land and surrounded by water, originally inhabited by Indigenous Peoples who have travelled this area since time immemorial. This territory is within the lands honoured by the Wampum Treaties; agreements between the Anishinaabe, Haudenosaunee, Lenni Lenape and allied Nations to peacefully share and care for the resources around the Great Lakes. Specifically, we would like to acknowledge the presence of the Three Fires Confederacy Ojibwe, Odawa, Potawatomi and Huron/Wendat Peoples. We are

dedicated to honouring Indigenous history and culture while remaining committed to moving forward respectfully with all First Nations, Inuit and Métis.

D. Disclosure of Pecuniary Interest

Councillor Jobin declares a pecuniary interest on the Sullivan Creek Drain as she is an affected property owner.

E. Introduction and Purpose of Meeting

The purpose of the meeting is to hear from any affected owner who wishes to appeal his/her assessment for:

1. **Shuttleworth Drain** or any part thereof as set out in the Drainage Report, prepared by Rood Engineering Inc, dated December 14, 2022, or
2. **Sullivan Creek Drain** or any part thereof as set out in the Drainage Report, prepared by Rood Engineering Inc, dated January 9, 2023. .

Shuttleworth Drain

The Drainage Superintendent provides a background on the Shuttleworth Drain and advises that one landowner contacted the Town and was a delegation at the meeting to consider. Since this meeting, no affected landowners have contacted the Town with questions or concerns. There is one delegation for the Shuttleworth Drain, Ms. Fortier, who would like to appeal their assessment as outlined in the Drainage Report as appended on the agenda. Mr. Gerard Rood is present virtually to answer any questions.

Mr. Gerrard Rood, Drainage Engineer, advised that he has received some inquiries by the Town on the assessments proposed, some of the drainage works provided, and changes in costs between the 2022 report and the current report appended on the agenda. He believes that these inquiries have been properly addressed and does not see any reason to make any adjustment to the assessment schedule by the Court for this Drainage Report.

Sullivan Creek Drain

The Chair advises that there are no delegations or concerns received on the Sullivan Creek Drain assessments as appended on the Agenda.

F. Delegations

1. Gerard Rood, P.Eng., Drainage Engineer, Rood Engineering Inc for Shuttleworth and Sullivan Creek Drains

He advises that there are no cost adjustments required for the assessments in the report.

2. Vittoria Fortier, Affected Property Owner on Shuttleworth Drain

Vittoria Fortier, is joined by her husband Adam, and advises that they are not in support for the proposed drainage works as appended on the

agenda. She states that the cost assessment for the proposed drainage work is overpriced. She raised concern with the assessment regarding the breakdown of costs compared to her neighbor for the identical work in the work description outlined in the Drainage Report.

She advises that there are some errors in the Drainage Report and provides details with the assessments.

The Drainage Engineer responds to the cost escalation stating that it is due to inflation rates and the recent Ontario regulation on excess soil sampling which has increased the overall costs to the project. He explains that the differences in costs between the Fortier property and their neighbours is because they are upstream of the neighbours in question. The cost sharing for upstream owners is assessed at a higher rate than downstream owners since downstream landowners have no contribution to the Fortier parcel. Plus, the enclosure costs add significant costs to their final assessment. He did not notice any errors in the assessment values. The tender price will be the actual costs that will be pro-rated and billed to the affected property owners. The cost estimate is much closer to what inflationary prices are showing in tenders within the last year.

Councillor Higgison joins the meeting at 5:09 pm.

3. Emile Nabbout, Affected Property Owner for Shuttleworth Drain

Mr. Nabbout disputes the assessment and the inconsistency of pricing of the proposed works. There are descriptions of work varies from property owners and are not consistent. He requests that his assessment be reassessed. He challenges the engineering and assessment and would like to see the lowest prices based on the description of work in the Drainage Report.

Secondly, he advises that he will launch an appeal for the complete works as he does not see a drainage issue on the property.

Ms. Fortier comments on the pipe costs per meter and not the prices of the assessment going upstream/downstream. She does not see the cost decrease on the assessments for those properties downstream in the report. She would like the report to be transparent on cost calculations.

The Chair asks the Drainage Engineer to explain the assessment and flow rate calculations since there are additional costs associated with enclosures which are typically borne by the landowner. Any enclosure costs are 100 percent assessed to the affected owners that have requested these works to be completed on their behalf.

The Drainage Engineer explains the cost sharing factors that are calculated for the proposed works. He explains that the cost sharing for the bridges is based on the location of the bridge or enclosure along the length of the drain. For the enclosures at the upper end of the drain, the

owner bears a higher cost because there is less upstream area contributing to flows. For the open drain portion, upstream landowners pay a higher cost since they have to take their flows through the entire length of the drain to a sufficient outlet. Any enclosure costs are assessed 100 percent to the requesting owners for anything beyond the standard 6.1 meter top width.

The Drainage Superintendent highlights that these costs were discussed at the Public Information Centre (PIC) in March 2022 and the culvert at their driveway. After the PIC, Ms. Fortier emailed the Drainage Engineer for an estimate for the enclosure, which is the costs outlined in the Drainage Report. She advised that Ms. Fortier approved for the Drainage Engineer to include the enclosure as part of the drainage works. She explains that the costs assessed is not far off from the tendered results.

Ms. Fortier explains that the assessments do not make sense given the downstream explanation and the description of works provided. The Drainage Engineer explains downstream water flows downstream the amount of water may increase which results in larger pipe sizes, which increases costs.

Mr. Nabbout comments on the downstream and that his costs should be lower. It is not specified in the report and description of work. We will request for the reassessment as we should be paying less money. He states that there are some inconsistencies' within the Drainage Report and the description of work; and the reassessment costs should be to the engineer. The property owners should not be burden with the recalculation costs.

The Chair comments on the professionalism of the Drainage Engineer. He adds that if Mr. Nabbout has concerns, there is a Tribunal process that can be pursued. The Chair further notes that when there is an extra request on the Drain, it can be put back 100 percent on the landowner. The Chair supports the Engineer's assessment schedule as being assessed as equitably as possible.

The Drainage Superintendent explains the appeal processes if the delegates would like to pursue this option. It is recommended that if the delegation would like to pursue these options of appeal to contact the Drainage Superintendent for further information.

Mrs. Fortier confirms that she understands that she is responsible for the enclosure costs. It was not transparent in the Drainage Report. She understands the appeal options available but she wonders if the Court is asking not to go to tribunal.

The Drainage Superintendent advises that its Ms. Fortier's right to go to the Tribunal under the Drainage Act and explains the tribunal process.

She adds that in the description of work lists enclosure in the Drainage Report.

A Member asks Ms. Fortier to clarify if she wants the enclosure. Ms. Fortier confirms she wants the enclosure but the assessment rates does not make sense. She is requesting more transparency in the Drainage Report description of work.

The Chair responds that there is an opportunity to get clarity on the Drainage Report and the Drainage Act. The Drainage Engineer can clarify some of your concerns with the information.

Mr. Nabbout states he is not in agreement that the drainage works are required at this time with high inflation rates. He states that mistakes have been made in the report. He inquires on the process of appeal if it begins at the Town.

The Chair explains the appeal process and the potential costs associated with a reassessment at this time. He states that reassessment costs would be incurred by affected property owners on the drain. The Chair explains that as time goes on, inflation will play a roll and that needs to be considered.

A Member inquires if the Drainage Engineer could provide some literature on how properties are assessed without having to go through the appeal process. The Drainage Superintendent explains that the construction estimates were provided to the delegates when they requested the enclosure estimates back in March of 2022.

A Member expresses that she would not like to see the delegates go through an appeal process since it delays the project and inflation will play a roll with the delays. She requests that the Drainage Engineer provide some literature on how assessments are created to try to resolve the concerns.

The Chair explains that changing individual assessments may affect everyone's assessment. He suggests that more conversations be held with the delegates within the 21 day appeal period to help explain their assessment.

Motion: CR - 07/23

Moved By Councillor Rick Tonial
Seconded By Councillor James Dorner

That the Court of Revision confirm the assessment as presented the Shuttleworth Drain Drainage Report;

And that By-Law 2023-027, being a by-law to provide for the repair and improvements to the Shuttleworth Drain be considered for third and final reading at the April 25 Regular Council meeting **be approved.**

Carried

Motion: CR - 08/23

Moved By Councillor Alicia Higgison
Seconded By Councillor Rick Tonial

That the Court of Revision confirm the assessment as presented the Sullivan Creek Drain Drainage Report;

And that By-Law 2023-028, being a by-law to provide for the repair and improvements to the Sullivan Creek Drain be considered for third and final reading at the April 25 Regular Council meeting **be approved.**

G. Communications

1. Shuttleworth Drain:
 - a. Public Notice dated March 14, 2023
 - b. By-Law 2023-027 Shuttleworth Drain - First and Second Readings
Being a by-law to provide for the repair and improvements to the Shuttleworth Drain
 - c. PWES-2023-12 Request to Consider Engineer's Report for Shuttleworth Drain
2. Sullivan Creek Drain:
 - a. Public Notice dated March 14, 2023
 - b. By-Law 2023-028 Sullivan Creek Drain - First and Second Readings
Being a by-law to provide for the repair and improvements to the Sullivan Creek Drain
Councillor Jobin having declared an interest on the Sullivan Creek Drain.
 - c. PWES-2023-15 Request to Reconsider Engineers Report - Sullivan Creek Drain

Motion: CR - 09/23

Moved By Councillor Rick Toniai
Seconded By Councillor Alicia Higgison

That Communications - For Information items as listed on the Tuesday, March 28, 2023 Court of Revision Agenda, **be received**.

Carried

H. Adjournment

Motion: CR - 10/23

Moved By Councillor Tania Jobin
Seconded By Councillor James Dorner

That there being no further business, the Tuesday, March 28, 2023 meeting of the Court of Revision **be adjourned** at 5:55 pm.

Carried

Chair Gary McNamara, Mayor

Robert Auger, Clerk