



## **Drainage Board**

### **Consideration of Report**

#### **Minutes**

Thursday, May 21, 2020 5:00 p.m.

**Location: Zoom Video Conferencing**

#### **Crystal Beach Drain: Repair and Improvement of Covered Drains**

**Geographic Township of Colchester South, Town of Essex,**

**County of Essex, Project REI2018D012**

#### **1. Roll Call**

Present: Dan Boudreau  
Kirk Carter  
Percy Dufour  
Luke Martin  
Felix Weigt-Bienzele

Regrets: None

Also Present: Robert Auger, Town Solicitor/Clerk  
Norm Nussio, Manager, Operations and Drainage  
Lindsay Dean, Drainage Superintendent  
Tanya Tuzlova, Operations/Drainage Clerk  
Gerard Rood, Professional Engineer, Rood Engineering Inc.

General Public:

Gloria and John Stewart, 161 Crystal Beach Rd.  
Barbara and Willie Ross, 104 Crystal Beach Rd.  
Jill Jimmerfield and Ron Kennedy, 709 County Rd 50 W.  
Allison Van Geest and Eric Campbell, 120 Crystal Beach Rd.  
Ian Wright, 134 Crystal Beach Rd.  
Frankie Ouimette & Bart Scott, 108 Crystal Beach Rd.  
Stephanie and Brian Aspinall, 112 Crystal Beach Rd.  
Elizabeth and Dominic Palomba, 100 Crystal Beach Rd.  
Laura & Steve Hasulo, 145 Crystal Beach Rd.

Tamara Deneau and John Kay, 155 Crystal Beach Rd.

Kenneth Chapman, 139 Crystal Beach Rd. (joined during the meeting)

Kenneth William and John O'Neil, 117 Crystal Beach Rd.

Mark Hernandez, 111 Crystal Beach Rd (joined during the meeting)

Robin and William Young, 136 Crystal Beach Rd.

The meeting was called to order by Chair at 5:16 pm.

The Clerk confirmed that all notices have been sent in accordance with The Drainage Act.

## **2. Declarations of Conflict of Interest**

None declared.

## **3. Adoption of Published Agenda**

i) Drainage Board Meeting Agenda

Moved by Board Member Dufour

Seconded by Board Member Weight-Bienzle

That the published agenda for the May 21, 2020 Drainage Board Meeting be adopted as presented.

## **4. Adoption of Minutes**

i) White Drain EWSWA Disconnect Section 65 and Contract Price for Shepley Drain Defour & Quick Bridges held on May 6, 2020.

Moved by Board Member Carter

Seconded by Board Member Weight-Bienzle

**That** the minutes of the Drainage Board Meeting held on May 6, 2020, be adopted as circulated.

## **5. List of Written Appeals**

The Clerk informed that no written appeals were received by the Clerk's Office.

## **6. Public Presentations**

i) Gerard Rood, Professional Engineer

Re: Report from Rood Engineering Incorporated dated April 15<sup>th</sup>, 2020 regarding Crystal Beach Drain: Repair and Improvement of Covered Drains, Geographic Township of Colchester South, Project REI2018D012

Mr. Rood presented the summary of the report. The report is prepared in accordance with Section 78 of the Drainage Act. The report provides for the construction of replacement covered drains with a sufficient outlet for the drain

located on the east and west sides of Crystal Beach Road and will address drainage issues caused by the deteriorated outlet to Lake Erie.

Mr. Rood explained that he has reviewed the 1968 report by C.G.R. Armstrong that established the creation of the drain. The report was utilized to establish the size parameters for the drain and watershed area. Mr. Rood informed about the on-site meeting where it was discussed the what measures could be taken to eliminate flooding to houses and roads.

Mr. Rood detailed the Essex Region Conservation Authority (ERCA) and Department of Fisheries and Oceans Canada (DFO) requirements and advised how those requirements will be satisfied.

Mr. Rood explained the technical characteristics of the proposed piping system and how it will provide for more durability of the drainage system and the outlet.

Mr. Rood recommended that a new drainage system with outlets be installed for both the north and south portions of the drain on both the east and west sides of Crystal Beach Road. The pipe sizing is based on a minimum conveyance of a 1:2 year storm event using the updated storm intensity parameters. Mr. Rood further detailed the design of each part of the proposed drainage system as per report.

Mr. Rood explained how the allowances and damages were calculated. Mr. Rood also explained how the cost of \$374,000.00 was calculated. Mr. Rood explained that the construction and maintenance schedules were prepared to assess the construction and future maintenance costs against the affected lands and roads.

Mr. Rood added that he has received a correspondence from several taxpayers & ERCA:

- Mr. & Mrs. Ross asked about the size of the property and Mr. Rood has provided the response confirmed by the Drainage department. Mr. Rood added that Barbara Ross has sent several pictures showing flooded areas by her property. Mr. Rood added that the Town has frequently attended to this problem.
- Mr. & Mrs. Stewart asked about the lay out of the drain at the back of the properties and there were no further questions.
- Allison Van Geest asked about the catch basin and lake levels and Mr. Rood provided the explanations.
- Mrs. Hasulo also provided the picture of the flooding by her property. Mr. Rood added that the proposed works will take care of this problem.

- Mr. Rood informed that an e-mail from ERCA was received with questions regarding the project and Mr. Rood has provided a detailed response to ERCA and the Town. Mr. Rood informed that there may be required modifications to the report depending on ERCA's recommendations.

Board Member Weight-Bienzle asked Mr. Rood if he is confident regarding the cost of the project.

Mr. Rood advised that he did a lot of research to review the cost of material and installation. Mr. Rood said that he is confident that the cost is accurate to go to tender.

Board Member Dufour asked if the name of the drain should be first approved by Council.

The Chair advised that the name of a drain is established by the Engineer and then that name and report is adopted by the Council and stays for the drain lifetime. The Chair explained that the name has changed from Maple Avenue Drain to Crystal Beach Drain to properly identify geographic position of the drain.

Mr. Rood confirmed that when the report is adopted by by-law the name of the drain is adopted as well. Mr. Rood added that sometimes names are updated to reflect any changes happened in drain location.

Board Member Weight-Bienzle asked about a coffer dam referring to page 8 of the Specifications part of the report.

Mr. Rood replied that a temporary coffer dam is necessary to carry work out in the dry to ensure safe, secure and stable foundation.

ii) Other public presentations.

The Clerk announced delegations as per the registration list.

Gloria Stewart, 161 Crystal Beach Road, asked how the situation will be handled if the price of works will be higher.

Mr. Rood advised that the project will be tendered out and if the Town receives a tender that exceeds 133% over the estimate in the engineer's report we will hold the other meeting to discuss this price in order to retender or to make modifications to the works to reflect the owners' concerns.

Mrs. Stewart also asked how the payment will be handled.

Mr. Rood advised that during the on-site meeting it was discussed that projects like this will always have a five year debenture option available. Mr. Rood advised

that if the cost is very high, the owners may ask the Council to extend the debenture to 10 years.

Barbara and Willie Ross, 104 Crystal Beach Road, asked if taxpayers will have to pay more for this project later.

Mr. Rood advised that drainage is a user pay system and if any maintenance works are required or in case of damages, the cost of works will be assessed to the affected owners.

Mr. Ross also asked how long it will take to complete the project.

Mr. Rood informed that after the tender is done he anticipates that construction works may take about four weeks.

Mr. Ross asked that if there is a revision of the proposed report and it is reconsidered if that will take more time to process.

Mr. Rood replied that if ERCA requests significant changes the Council may instruct the engineer to reconsider the report and the process will start over. In case ERCA instructs to introduce minor changes then the special provisions will be incorporated into tender documentation and the report will continue as per the Drainage Act process.

Mrs. Ross asked when the works will start.

Mr. Rood advised that a Court of Revision may be scheduled in July and after the appeal period the project can go to tender. Mr. Rood added that he expects construction to start in late September to October.

Jill Jimmerfield and Ron Kennedy, 709 County Road 50 West, informed that there is a tree that is located in the area of the drainage works and if it's removed that will be added cost.

Mr. Rood advised that the report provides for the cost estimates for removal of brush and any trees that are on the road in allowance. Mr. Rood added that trees that are on the road allowance are not compensated for. Mr. Rood added that he will make a note for the contractor to protect that tree and work around it if possible.

Allison Van Geest and Eric Campbell, 120 Crystal Beach Road did not provide any response.

Ian Wright, 134 Crystal Beach Road, said that he has a question about the special assessment and he will ask this question at the Court of Revision meeting.

Frankie Ouimette & Bart Scott, 108 Crystal Beach Road, asked if there are fish timelines when the works should not be done on the drain.

Mr. Rood replied that this drain is type F drain that allows for works during any time. There is a period from March 15 to June 30<sup>th</sup> where there is a fish window, but Mr. Rood advised that he hopes that works will be completed in fall so there should be no concerns with DFO requirements.

Mr. Scott asked if a stronger pipe material such as AML steel would last longer.

Mr. Rood replied that AML steel is more costly and more corrosive. Mr. Rood added that the proposed aluminized steel provides longer duration and is easier to install and maintain.

Stephanie and Brian Aspinall, 112 Crystal Beach Road, said they have no questions.

Elizabeth and Dominic Palomba, 100 Crystal Beach Road, had no questions.

Laura & Steve Hasulo, 145 Crystal Beach Road, informed that there is no drainage on her property and her property is flooded every time it rains or snows. Mrs. Hasulo said that as per the blueprints there is a catch basin 25 feet north of her driveway and asked if there will be a catch basin on her driveway.

Mr. Rood replied that Mrs. Hasulo's property is permitted to connect to the drainage works and that it was discussed that some properties may not have a connection and that it will be possible for her to connect and to provide her own catch basin.

Mrs. Hasulo commented that her cost is about seven thousand dollars and asked at which point she will know that she will get a catch basin.

Mr. Rood replied that it will be monitored along each property if there is an existing connection or not and if there is no established connection, the properties will be provided a lateral stub connection for owners to physically connect to the drain when they are ready. Mr. Rood added that sometimes the property owners can arrange the connection with a contractor.

Mrs. Hasulo asked if the cost to connect will be in addition to the \$7,238.00 she is expected to pay.

Mr. Rood replied that the cost to connect and the cost of the catch basin will be extra for the property owner since it is the property owner's choice to make that connection.

Tamara Deneau and John Kay, 155 Crystal Beach Road, asked Mr. Boudreau why the pipe at the end of the road couldn't have been fixed two years ago and that would have solved the problem instead of paying a large cost now to fix the drain.

The Chair replied that the condition of the pipe was in a state of disrepair and undersized, therefore, he had to proceed with a new report.

John Kay commented that he does not agree.

Norm Nussio, Manager of Operations and Drainage, commented that the Town is going to the area almost weekly, and flooding in the area is an ongoing issue and the Town addresses it upon request. Mr. Nussio added that the pipe was completely buried and it is not simple to install a replacement pipe. Mr. Nussio added that the report provides for a coffer dam to properly install the pipe and this will hopefully alleviate the problem. Mr. Nussio added that the works to clear the plugged outlet pipe were undertaken at no cost to the residents.

John Kay commented that he has received a bill a year ago.

Norm Nussio, Manager of Operations and Drainage, replied that cost was for pipe flushing, but this year's repair costs were not assessed back to the owners.

John Kay questioned why the owners were not given an opportunity to install a pipe which could cost about one thousand dollars.

Norm Nussio, Manager of Operations and Drainage, replied that the replacement of the pipe may not solve the problem and the Municipality has an obligation to ensure that the upstream owners are not affected by the maintenance works. Mr. Nussio added that the problem is not just in the outlet, but the whole system should be maintained. He reiterated that replacing just the outlet pipe would not solve the problem since the issue is more than the outlet and the whole system is in failure.

The Chair commented that there is a liability issue with private owners who may cause damage to the upstream lands that is why a municipality has to do drainage works under the report. The Chair added that the municipality has to go through the Drainage Act, permit procedures, and regulatory government agencies to do the works.

John Kay asked why the Town cannot replace 60-100 feet of the pipe.

The Chair replied that the responsibility of the municipality is going beyond the extent of the existing report. The Chair added that the system is old clay tile and needs to be replaced.

John Kay commented that he does not have drainage problems.

The Chair replied that it is because the low laying lands take the water.

Kenneth Chapman, 139 Crystal Beach Road, said that he is charged the most for no benefit to him and asked what benefit he is getting.

Mr. Rood read the definition of "benefit" as per Drainage Act.

Kenneth Chapman commented that his drainage is very good and asked why he needs to pay \$11,504 when only the outlet pipe could have been replaced.

The Chair answered that the drain is not repairable and it becomes not cost effective to continue fixing it.

Kenneth Chapman reiterated that he does not understand why he has to pay the highest amount of over eleven thousand dollars.

The Chair informed that at the Court of Revision the monetary issues will be discussed.

Kenneth Chapman asked to put on record that he is 100% opposed to the project.

Kenneth William and John O'Neil, 117 Crystal Beach Road, explained that for him the drain works well, and he has no issues and proposed to dig out the pipe and see where it goes before we dig out a whole street.

Mr. Rood said the drain requires replacement at this time and that the pipe should be larger than it was in the past and we need to ensure that everybody is properly serviced with an adequate outlet. Mr. Rood also added that storm intensity has increased and that the owners are responsible to drain the water to a sufficient outlet and therefore are assessed outlet liability and benefit and that relieves them from the liability if the water causes damages to the neighbouring properties.

Kenneth William replied that he still does not understand why there is a need to replace the whole drain when only 100 feet of the outlet pipe could be replaced.

Mr. Rood replied that the pipes are undersized and not up to the current standards and therefore should be replaced to meet the requirements at this time. Also the drainage system should meet the requirements of DFO and ERCA.

Kenneth William commented that residents are already paying taxes and there are many retirees on the street and people who lost jobs to COVID-19 and asked why the cost is put back on the residents.

The Chair replied that the municipal drainage system in the rural areas is a user pay system while in the towns like Essex and Harrow residents are paying a levy on their taxes to compensate for the use of storm sewers/municipal drains.

Kenneth William commented that the new drain will not improve the drainage due to high levels at the lake and noted that wind brings the water and it gets into the catch basins and onto the road.

The Chair replied that that new project will improve the drainage system.

Mr. Nussio, Manager of Operations and Drainage, added that the pipe was non-existent during the last year and he had to flush the pipe. Mr. Nussio added that if the new system is not completed, the taxpayers will have to pay for repairs and noted that there is a major benefit to install a new system then to make constant repairs for 40-50 years.



Kenneth William commented that 20 years ago an extension was put on the pipe and it lasted 20 years.

Mr. Nussio, Manager of Operations and Drainage, commented that the lake levels are higher now and this will not work.

Robin and William Young, 136 Crystal Beach Road, said they have no questions.

The Chair asked if anybody from public has any questions.

William Young commented that the cost of the proposed works is very high and he has proposed to implement only replacement up to the first catch basin at this time.

Mr. Rood advised that the Drainage Act does not have defined timelines and there is a possibility to phase works and to do the most important works first.

Lindsay Dean, the Drainage Superintendent, commented that the project can proceed with completing just that portion of the drainage works, but at some point the remaining failing infrastructure will have to be dealt with. It can be decided whether to proceed with the part of works or carry out the project as a whole.

William Young commented that he agrees that the pipe is corroded, but if the first catch basin is cleaned it may relieve the high water.

Lindsay Dean, Drainage Superintendent, advised that the Drainage Board can discuss and redefine the scope of the works to just deal with the outlet issues.

Mr. Rood advised that if the project will be done in multiple stages then most probably the project cost will increase due to the added cost to mobilize the equipment. Mr. Rood added that future works may be more expensive because of the cost of fuel, material and labor looks to be on the rise and the project may be more expensive if we do not proceed at the earliest opportunity.

The Chair advised that he believes that this is not up to the Drainage Board to redefine the scope of the project since the community of drain users have to make this decision and if the scope is redefined, then the new report should be prepared.

Lindsay Dean, Drainage Superintendent, agreed and noted that if residents would like to redefine the scope of the project, it could be addressed but that decision should be voiced by the landowners.

Norm Nussio, the Manager of Operations and Drainage, added that taking into consideration that the works will be done in the fall, and that the Town usually bills about six months later, the residents will not see a bill for this drain until the early spring of 2021. Mr. Nussio also reminded that the debenture options are

available. Mr. Nussio asked residents to take into consideration that there was a recent increase in prices for fuel, stone, and pipes. Mr. Nussio added that during the last five years there was a constant increase in prices.

Mr. Hernandez, 111 Crystal Beach Road, informed that Carol's (MacPerson) catch basin is right in front of her property and it could be a starting point of the repairs.

Board Member Dufour asked if there is a possibility to find out before the Court of Revision if a 10 year debenture will be available and the second question is if people with assessment issues be contacted before the Court of Revision.

Mr. Rood advised taxpayers to contact him or Drainage Department in case any concerns exist, so he addresses them before the Court of Revision.

Norm Nussio, the Manager of Operations and Drainage, advised that the debenture option is not available for maintenance. Mr. Nussio added that he believes that for construction projects the threshold are 5 years debenture for over \$5,000.00 and 10 years debenture for over \$10,000.00. Mr. Nussio added that there may be a relief of those thresholds for taxpayers at this time through Council or the Finance Committee.

Board Member Dufour asked if the debenture question may be answered by Finance before the Court of Revision.

Norm Nussio, Manager of Operations and Drainage, confirmed that he will inquire.

Mr. O'Neil, 117 Crystal Beach Road, asked if residents need to vote on this project since the majority of people do not have issues, or do not want to pay for this project or cannot afford the costs for this project.

Mr. Rood advised that he was appointed by Council to prepare the drainage report and his investigations have revealed that the drain is in poor condition and the Town becomes liable if we do not proceed. Mr. Rood added that at this point the owners should approach Council and convince them that the landowners want to take the liability risks and responsibilities for any damages which may occur if they do not proceed with this drainage report.

Norm Nussio, Manager of Operations and Drainage, commented that some owners who are assessed into the drain cannot access it and it is difficult to differentiate who wants and who does not want this project and there will be some people in between who are still requiring drainage.

Barbara Ross, 104 Crystal Beach Road, said that hers and Carol's property are the most affected by flooding, and that they are retirees, and this will be a financial strain for them. She mentioned that they have spent about ten thousand dollars doing repairs and they had to repair fences and backyards. Mr. Ross asked that if

the decision to partially complete the job was made and it does not work, how long would it take to fix the system. Mrs. Ross added that it costing her more not do this project and that she understands that some people may not have a problem because they are on a higher grade and their water comes down to her property. She concluded that there is a responsibility for all people to look after the drainage.

The Chair informed that there are avenues in the Drainage Act process for appeals and advised residents to contact the Drainage Department to assist with an appeal. The Chair added the monetary issues could be appealed at the Court of Revision.

Moved by Board Member Carter

Seconded by Board Member Dufour

That the presentation by Gerard Rood be received and that the Report for the **Crystal Beach Drain: Repair and Improvement of Covered Drains, Geographic Township of Colchester South, Town of Essex, County of Essex, Project REI2018D012** as prepared by Gerard Rood, Professional Engineer dated April 15<sup>th</sup>, 2020 be received and recommended for adoption, and that it be recommended that a provisional by-law be prepared for Council’s consideration and that the Report proceed to a Court of Revision to be scheduled.

**7. Adjournment**

Moved by Board Member Carter

Seconded by Board Member Weigt-Bienzle

That the meeting be adjourned at 6:38 pm. “Carried”

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Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date