



Court of Revision Minutes

Location: Zoom Video Conferencing

Thursday, May 21, 2020 – 4:30 PM

The purpose of the meeting is to hold the Court of Revision for:

Bayliss Drain: Bridge Replacements & Maintenance Schedule

Geographic Township of Colchester South

Project REI2016D024, Town of Essex, County of Essex

This is pursuant to the report prepared by Gerard Rood, Professional Engineer, Rood Engineering Inc. dated February 18, 2020, which was considered and adopted at a Consideration Meeting held March 16, 2020 and pursuant to By-Law 1904 which received two readings by Council at its regular meeting held April 20, 2020.

This sitting of this Court of Revision was duly appointed by Council on April 20, 2020.

Section 54 (1) of The Drainage Act provides that the decision of the Court of Revision can be appealed to the Drainage Tribunal within twenty-one (21) days from the date of the Court of Revision. The final day for appeal is June 11, 2020. At the first Council meeting after this date the third reading to By-Law number 1904 will be given.

1. Roll Call

Present: Felix Weigt-Bienzle

Luke Martin

Percy Dufour

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: Thaddeus Gorski, 6110 County Rd 11

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

1. Nominations of the Chair for this Court of Revision meeting

Moved by Board Member Dufour

Seconded by Board Member Weigt-Bienzle

That Board Member Martin is elected as a Chair for this Court of Revision

2. Declarations of Conflict of Interest

None declared.

3. Adoption of Published Agenda

Court of Revision Agenda

Moved by Board Member Dufour

Seconded by Board Member Weigt-Bienzle

That the published agenda for the May 21, 2020 Court of Revision be adopted as presented.

4. Adoption of Minutes

i) Court of Revision for Shepley Drain: Defour & Quick Bridges

Moved by Board Member Weigt-Bienzle

Seconded By Board Member Dufour

That the minutes of the Court of Revision for Shepley Drain: Defour & Quick Bridges held on January 15, 2020 be adopted as circulated.

5. Appeals from Landowners

The Clerk advised that the purpose of the Court of Revision is to hear appeals regarding the Schedule of assessment only. The Schedule of Assessment may be altered but the total assessment must remain the same. If one assessment is reduced then another must be increased to balance.

6. List of Written Appeals of Assessment Received by the Clerk

The Chair asked if there were any appeals from landowners. The Clerk advised that there were no appeals.

7. Engineer to provide a Background on the Drain and the Proposed Project

Gerard Rood, Professional Engineer, Rood Engineering Inc.

Mr. Rood informed that report provides for bridge replacements and an updated maintenance schedule. Mr. Rood added that two owners had expressed concerns about the area affected by this drainage works and a topographic survey was arranged on Thaddeus Gorski parcel #710-01500 and Ron Renaud parcel #710-02100. Mr. Rood advised that he has reviewed previous reports, digital elevation data, and Chevalier Drainage drawings to review the acreage accessed to Gorski. Mr. Rood explained that he has reviewed Reid Drainage drawings to determine acreage accessed to Renaud parcel.

Mr. Rood advised that the watershed area of Gorski parcel should be moved slightly north to reflect lay out of the land and that the acreage assessed should be reduced from 14 to 11.6 acres.

Mr. Rood also explained that he has reviewed the topographic survey for the Renaud parcel and has determined that the southeastern part of the parcel drains into the Quick Drain therefore Mr. Rood recommended to reduce the area affected for the Renaud parcel from 11 acres to 0.99 acres.

Mr. Rood advised that both the construction and maintenance schedules were updated on March 30, 2020 and distributed before this Court of Revision. Mr. Rood recommended that the revised schedules to be accepted by the Court of Revision. Mr. Rood added that an error in the Construction schedule showed 4.45 ha for the Renaud Parcel should be updated to read 0.40 ha to match 0.99 acres which is shown correctly.

Mr. Rood added that a request was received from Thaddeus Gorski regarding the amount of land assessed to which explanations were provided regarding elevations from the topographic survey and Chevalier Drainage drawings.

8. Questions from Landowners

Mr. Gorski presented the elevation map and explained the location of high points on the north part of the field concluding that surface water drains into the Quick Drain.

Mr. Rood explained that a property has the ability to drain water into the Bayliss Drain and advised that the reduced area was calculated using a practical approach and is the most proper way to assess the benefit. Mr. Rood proposed options to direct water to the Bayliss Drain.

Mr. Gorski referred to the elevations map and stated that the water from the southeast part of the field is draining into the Quick Drain.

Mr. Rood referred to the elevation map and explained that he believes that there is an opportunity for the water to drain into Bayliss Drain from the north side of the field.

Mr. Gorski explained that it is not practical to him to cut through the banks to redirect the flow of water since it may cause erosion to the banks. He referred to the Chevalier Drainage map to note that several directions of the tiles are capturing water flow on the field concluding that water drains into the Quick Drain and it would be a poor practice to redirect it into the Bayliss Drain.

The Chair asked how many acres are assessed into Bayliss Drain and where is the watershed line.

Mr. Rood explained that he has adjusted the watershed area for the Gorski parcel by one third and explained where the assessed area was reduced based on his interpretation of the elevations map.

Board Member Weigt-Bienzle asked if the rest of Gorski parcel is assessed into Quick Drain.

Mr. Rood explained that he does not have this information readily available and that it could be necessary to prepare a subsequent connection or an updated maintenance schedule for the Quick Drain.

Board Member Weigt-Bienzle commented that according to his observation it looks like the assessment to Gorski property should be shifted to the Quick Drain.

Lindsay Dean, Drainage Superintendent, said that the Town can review the assessment of Gorski property into Quick Drain but at this time we need to make a decision about the Bayliss Drain.

The Chair commented that there could be a decision to postpone the meeting to review the assessed area, so it is reflected more accurately.

Board member Dufour asked Mr. Rood to provide his comments in regard to Board Member Weigt-Bienzle's statement.

Mr. Rood advised that he relies on his professional understanding of the flow and that the parcel has been historically assessed in this way, so it appears to be appropriate. Mr. Rood added that there is an opportunity for the Court of Revision to reduce the area and the value of assessment. In this case any reduction in the value of assessment to the Gorski's parcel needs to be allocated to either the Road Authority or to be distributed to the other assessed property

owners and in this case there should be another Court of Revision, so property owners could appeal their assessment.

The Chair commented that there should be some assessment to the Bayliss Drain for Gorski's property since there is a potential for water to drain into the Bayliss Drain.

Board Member Dufour asked about the dollar amount in question.

Mr. Rood replied that as per Court of Revision schedule, Gorski's property is assessed \$10,579.00 for 11.61 acres affected. Mr. Rood also said that if the value to Gorski's property is reduced as a result of the Court of Revision, than the values of Benefit and Outlet will need to be assessed to the Town Road Department at Fox Sideroad, so the Court of Revision will be finalized for today. If the Court of Revision goes to reassess the value to all the other parcels then a new Court of Revision should be called so those owners could appeal new assessments.

Board Member Dufour asked about the possible decision regarding the dollar amount.

Board Member Weigt-Bienzle moved a motion to access 7 acres of the initial 14 acres assessed to Gorski's property into the Bayliss Drain and the other 7 acres into the Quick Drain and to move on with the project.

Norm Nussio, Manager of Operations and Drainage asked how many acres the Gorski's farm has in total.

Mr. Gorski replied that the parcel has in total 118 acres, and explained that roughly 20-25 acres of it is draining into George White Drain and the balance is draining into the Quick Drain. Mr. Gorski also explained that the part if the assessment is for the culvert and the other part for the drainage. Mr. Gorski expressed a concern that in the future his property may be assessed into both drains and he would like to be assessed properly.

9. Court of Revision Decision

Moved by Board Member Weigt-Bienzle

Seconded by Board Member Dufour

That the assessments contained in the Court of Revision schedule dated March 30, 2020 for Bayliss Drain: Bridge Replacements & Maintenance Schedule, Geographic Township of Colchester South, Project REI2016D024, Town of Essex, County of Essex, as prepared by Gerard Rood, Professional Engineer, Rood Engineering Inc. dated March 30, 2020, be confirmed as revised.

Board Member Dufour asked about the dollar amount and if some of the assessment for the Bayliss Drain is moving to the Quick Drain.

Mr. Rood informed that the assessment to the Gorski’s parcel involves Bridge # 8, the value of benefit for the bridge is \$7,407.00 for the bridge benefit and the balance of \$8,940.00 dollars is assessed to upstream lands and roads for this access bridge. The Clerk will make amendments to prorate the assessment values for the Gorski property from 11.61 acres to 7 acres for both the Construction and Maintenance Schedule of Assessment values and the difference in assessment will be added to Fox Sideroad.

10. Adjournment

Moved by Board Member Weigt-Bienzle
Seconded by Board Member Dufour
That the meeting be adjourned at 5:05 PM. “Carried”

Chair

Recording Secretary

Date