



## Report to Council

Department: Office of the CAO  
Division: Legal and Legislative Services  
Date: July 20, 2020  
Prepared by: Robert W Auger, Town Solicitor/Clerk  
Report Number: Legal and Legislative Services-2020-08  
Subject: Court of Revision for Crystal Beach Drain  
Number of Pages: 4

### Recommendation(s)

**That** Legal and Legislative Services Report 2020-08 be received, and

**That** the following three (3) members of the Drainage Board: Kirk Carter, Dan Boudreau and Percy Dufour be appointed to sit as members of the Court of Revision to be convened for the Crystal Beach Drain: Repair and Improvement of Covered Drains, Geographic Township of Colchester South, Town of Essex, County of Essex, Project REI2018D012 pursuant to the Report prepared by Gerard Rood, Professional Engineer, Rood Engineering Limited, and dated April 15<sup>th</sup>, 2020 (hereinafter the "Report"), such Court of Revision to be scheduled and convened for 5:00 pm on August 12, 2020, via electronic meeting, and

**That** By-Law 1920 being a by-law to provide for the Crystal Beach Drain: Repair and Improvement of Covered Drains, Geographic Township of Colchester South, Town of Essex, County of Essex, Project REI2018D012 be read a first and second time and be provisionally adopted on July 20, 2020.

## **Purpose**

A Court of Revision is required in accordance with Section 46 of the Drainage Act, R.S.O. 1990, Chapter D. 17, as amended 2010 (hereinafter the "Drainage Act").

## **Background and Discussion**

Rood Engineering was instructed by the Town of Essex on or about March 26<sup>th</sup>, 2018 to prepare a report for the above Crystal Beach Drain, pursuant to Section 78 of the Drainage Act.

On April 15, 2020 the Report was prepared by Rood Engineering Inc. to provide the details, estimates and assessments therein.

A Consideration Meeting for this Report was held on May 21, 2020. At this meeting the Drainage Board received public correspondence/delegations (if applicable) and heard the various concerns or comments made by those who attended. At this meeting the Drainage Board resolved and recommended that the said Report be adopted and that a provisional By-Law be prepared for Council's consideration (see Drainage Board minutes from the May 21, 2020 consideration meeting), which were adopted by Council at the June 15, 2020 Regular Council Meeting Agenda).

On or about June 15, 2020 Town Administration received a petition from a large number of residents on the drain asking the Town to limit the project scope to replacing the outlet only. Various owners expressed their opinion that the entire system did not need to be replaced and the problem is only at the outlet. While the Drainage Board (at its May 21 consideration meeting) has already decided to adopt the Report in full, which called for the upsizing and replacement of the entire system the Drainage Board decided to re-convened on July 9, 2020 in order to further review and consider the subject petition. At this July 9, 2020 meeting Council reviewed the petition which called for replacement of only the Crystal Beach South System and heard the various comments or concerns of the residents who electronically

attended the meeting. The Drainage Board further heard a presentation from Administration which maintained its original recommendation that for a variety of reasons (including potential legal exposure) that the entire system (both South and North systems) should be replaced. The minutes from the July 9, 2020 meeting are included under item 12 of the July 20, 2020 Regular Council Meeting Agenda.

At this July 9, 2020 meeting the Drainage Board resolved and confirmed their original recommendation to adopt the Report meaning that the recommendation is to proceed with replacement of both the South and North Systems. As a result provisional By-Law (By-law 1920) has been prepared for Council's consideration as part of this report together with a request to proceed to a Court of Revision. Please note that, due to the feedback and concerns expressed by many of the affected residents, Town administration is requesting as part of proposed By-law 1920, a 10 year debenture re-payment period in the case of assessments of \$1,500.00 and \$9,999.99.

#### **Appointment of Court of Revision Members:**

The Court of Revision is to be comprised of three (3) members of the Drainage Board and so accordingly it is recommended that Court of Revision members when required to be convened shall be appointed on a rotating, alphabetical order basis. If an appointed member is not available then that appointed member shall be replaced by the next available member of the Drainage Board (based on the aforementioned rotating, alphabetical order basis).

It is therefore recommended that Kirk Carter, Percy Dufour and Dan Boudreau be selected and appointed to sit as the Court of Revision for the Crystal Beach Drain.

It is further recommended that By-law 1920 adopting the recommendations in the Rood Engineering Report dated April 15, 2020 be provisionally adopted so that this project can proceed to the Court of Revision specified in this report.

The Court of Revision is the next step in the process in accordance with Section 46 of the Drainage Act, R.S.O. 1990, Chapter D. 17, as amended 2010.

## **Financial Impact**

There is no financial impact

## **Consultations**

Lindsay, Dean Drainage Superintendent

Kate Giurissevich, Manager, Finance and Business Services/Deputy Treasurer

Re: Debenture Term Amendment

## **Link to Strategic Priorities**

- ☒ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☐ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☐ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.