

MINUTES OF THE TOWNSHIP OF NORTH HURON
REGULAR COUNCIL MEETING



Date: Thursday, July 21, 2016
Time: 5:03 p.m.
Location: HELD IN THE WINGHAM KNIGHTS OF COLUMBUS HALL

MEMBERS PRESENT: Reeve Neil Vincent
Deputy Reeve James Campbell
Councillor Yolanda Ritsema-Teeninga
Councillor Trevor Seip
Councillor Brock Vodden

MEMBERS ABSENT: Councillor Ray Hallahan
Councillor Bill Knott

STAFF PRESENT: Sharon Chambers, CAO
Kathy Adams, Director of Corporate Services / Clerk
Richard Al, Manager of Employee and Business Services
Kelly Church, Drainage Superintendent

OTHERS PRESENT: J.R. (Jeff) Dickson, P.Eng, R.J. Burnside & Associates Limited
Mac Anderson, Ron Cook, Duncan Anderson, Cam
Anderson, Marg Bruton, Bryan Coultres, Aaron Coultres, Cam
Cook, Ralph Crawford, Jo Crawford, Wayne Hopper, Paul
Gowing, John Smuck, Josh Bruton, Ashtyn Bruton, Yvonne
Coultres, Nancy Michie, Jim McGee, Murray Shiell, Caitlin
Martin

1. CALL TO ORDER

Reeve Vincent called the meeting to order at 5:03 pm.

2. CONFIRMATION OF THE AGENDA

M412/16

MOVED BY: T. Seip

SECONDED BY: J. Campbell

THAT the Council of the Township of North Huron; accept the Agenda for the July 21, 2016 Special Council Meeting; as printed.

CARRIED

3. **DECLARATION OF PECUNIARY INTEREST**

None noted.

4. **PUBLIC MEETINGS/HEARINGS AND DELEGATIONS**

Meeting to Consider the Preliminary Report under the Drainage Act R.S.O 1990 c.D. 17:

Report by J R (Jeff) Dickson, R.J. Burnside & Associates Limited
"Proposed Municipal Drain 2016" known as the Hopper Drain.

4.1 Presentation of the Report under Section 4 and 10 (1) of the Drainage Act R.S.O 1990 Chapter D 17

To be presented by Jeff Dickson P. Eng.

Jeff Dickson P. Eng, R.J. Burnside & Associates Limited presented the Proposed Municipal Drain 2016 Report.

- This is a mandatory meeting called by Council. Motions will be made.
- General concept is to consider the preliminary report.
- Two previous site meetings have been held.
- This is an intermediate step in the process. This meeting will provide some of the technical data regarding the proposed drain.
- Need to ensure sufficient outlet.
- Discussion will include the overall costs of the project.
- Disadvantage of the preliminary report is the lack of a breakdown of individual costs. If the project does not proceed the petitioners are required to cover the costs incurred to this point.
- Individual cost breakdowns will be provided in a final report if the project proceeds. No discussion will take place on the cost breakdown until the final report and Court of Revision.

3 Key Elements

- The project needs to be considered and realized as a community project.
 - Land owners can submit a petition to request a drain and consider recommendations contained in a preliminary report.
 - A drain that is adopted by By-law is a legal entity.
 - 4 properties in watershed have legal outlet.
 - Not sure if natural water course - for a judge to determine.
- The project is based on a user pay system. Engineer determines cost split based on percentage calculation.
- Once installed the drain becomes the responsibility of the Municipality to repair and maintain in accordance with the engineers report/recommendations adopted by by-law by the Municipality.
 - Council are held liable if they do not properly maintain a drain.

There will be opportunity for the public to speak later in the agenda or if the submission of a written question or comment after the meeting is preferred, forms are available and should be submitted to the Clerk.

It was noted that this report was provided well before the legal requirement according to the Drainage Act.

4.2 Comments from the Petitioners

1. Hopper Land Co. Ltd - Wayne Hopper

- Initiated the petition for drainage.
- Purchased his property approximately 18 years ago.
- Pointed out that his farm is located downstream and currently has no outlet available but noted that he would like to get rid of the water.
- Noted that four other individuals are tiled into a ditch.

2. Wayne Hopper for Great Land Farms Ltd - Henri Frischknecht

- Mr. Frischknecht was not in attendance but authorized Wayne Hopper to speak on his behalf if necessary.

3. Ralph Crawford

- Indicated that he recently invested \$11,000 into his bridge and is concerned that without the proposed drain the present volume of water may negatively impact his bridge and result in the requirement of additional funds for repairs.

4.3 Comments from the effected owners of property, within the watershed (property owners must stand and state their name and property so that it may be recorded in the minutes of the meeting)

Bryan Coultres

- Indicated that the proposed drain would not increase the volume of water but instead increase the flow rate of that water.
- Noted that a swamp area is located across the road and should be left alone.

Mac Anderson

- Indicated that he did not have issues with water downstream under the Hakkers drain was installed.
- Noted his drain is constructed from wooden tiles and may not be in existence much longer.
- Commented that the cost required to implement the proposed drain versus the potential benefit to the land being serviced is not justified.

- Commented that the potential negative effects outweigh the potential benefits associated with the proposed drain

Ron Cook

- Reported that his property is located on the bottom end of the proposed drain in Morris-Turnberry.
- Commented on the Engineer's Report indicating that there will not be any additional water but that the existing volume of water will flow into his land twice as fast.
- Noted that existing excess water flowing into his property is already forming a large pool.
- Commented that Wayne Hopper and Jeff Dickson are the only individuals advocating for the proposed drain.

4.4 Comments from Members of Council

- Deputy Reeve Campbell inquired as to the timeframe if the proposed drain were to proceed.
- Mr. Dickson reported that consultation would need to take place with Maitland Valley Conservation Authority as well as the Ministry of Fisheries and Oceans Canada.
- Mr. Dickson indicated that the next meeting to discuss the proposed drain would potentially be scheduled for sometime in 2017.
- Mr. Dickson also noted that the channel that this particular drain fails under has a specific window for work to take place, that being roughly between July 1 to September 15.
- Mr. Dickson noted that a number of steps must still take place including; preparation of the Final Report, sending of notices, a Court of Revision and a waiting period for any potential appeals. Due to heavy workload and the numerous steps involved in the process it would be challenging to have the proposed drain completed within the July 1 to September 15 window in 2017.

4.5 Opportunity to withdraw names from the petition

Section 10 (3) of the Drainage Act - The Council shall give to any person who signed the petition an opportunity to withdraw from the petition. By putting his/her withdrawal in writing, signing it and filing it with the Clerk (Kathy Adams has forms for this purpose).

None withdrawn.

4.6 Opportunity to add names to the petition

Section 10 (3) of the Drainage Act - The Council shall give to any person present who owns land in the area requiring drainage and has not signed

the petition, an opportunity to do so. (Kathy Adams has the petition if any person wishes to add their name to the petition).

None added.

4.7 Sufficient number of names to Comply

Section 10 (4) states:

1. If at the end of the meeting the petition does not contain a sufficient number of names to comply with Section 4, the original petitioners are chargeable in equal shares with and liable to the municipality for expenses incurred by the municipality in connection with the petition and preliminary report, excluding any grants and the costs of any environmental appraisal or benefit cost statement and the sum with which each of such petitioners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the person liable and shall be collected in the same manner as real property taxes.

The engineer, should advise the Council if the petition has sufficient number of names to comply and continue.

- Mr. Dickson deemed the petition to be valid as there were no names to be added or removed from the petition.
- Mr. Dickson explained the rationale behind the cost calculation and noted that the cost would be split between property owners between the boundaries of Lots 41 and 42, including all land in Concession 10 through to and including Concession 11 and a portion of the Sleightholm property.
- Mr. Dickson reported that he is not aware of any legal outlet on the Frischknecht property.
- Mr. Dickson informed those present that the percentage of land is sufficient to validate the proposed drain according to the Drainage Act.
- Duncan Anderson questioned what happens in the event of a property selling during this process if the new owner is not in support of the proposed drain.
- Mr. Dickson reported that the petition for drainage must be put forth by the owner of the property and cited a section from the Drainage Act.
- Mr. Dickson noted that names may only be added or removed from a petition at a meeting similar to this current meeting, and further noted that two more meetings will take place for the proposed drain in which names could be added or removed from the petition.

- Mr. Dickson described an example case in Exeter in which a property sold during the petition for drainage process and subsequently the rights, privileges and opportunities were transferred to the Town. When a new owner enters the process they would be given the opportunity to add or remove their name from the petition if they choose but only during prescribed meetings.
- Mr. Dickson described the Court of Revision, waiting period for appeals and then addressing any appeals, after which the drain would go out for tender to contractors.
- Mr. Dickson provided an explanation of the difference between the preliminary report and the final report. It was explained that the costing contained in the preliminary report is an even split between petitioners. In the Final report a calculation is completed to assess and adjust each percentage of the cost. If a petitioner is added or removed the results of the calculation change and the percentage allocated adjusts to incorporate the new petitioner.
- Duncan Anderson inquired as to the cost of the proposed drain to date, as well as what the expected total cost would be?
- Mr. Dickson noted that the costing is contained in the preliminary report under section 0 on page 9 of the report? Reading from the section the revised total cost is approximately \$375,000. Mr. Dickson further noted that the option to add additional land to the west was cost out at an estimated \$75,000.
- Duncan Anderson asked if the cost of a drain increases if more people use it.
- Mr. Dickson explained that the cost is based on the assessment of the outlet provided and equivalent hectares. Description was given that direct outlet with more hectares has a higher cost associated than indirect outlet with less hectares.
- Duncan Anderson requested to be noted on record as being opposed to the drain and commented that the cost of \$375,000 versus potential benefit is not justified.

4.8 Instructions to the Engineer

Section 10 (5) states:

If at the end of the meeting, the petition contains a sufficient number of names to comply with Section 4, the Council may instruct the Engineer to proceed with the preparation of his report

Section 10(6) states: Where the Council of the initiating municipality fails to instruct the Engineer to proceed with the preparation of a report, any petitioner may appeal to the Drainage Tribunal.

- Deputy Reeve Campbell asked if at the point of the final report a property sells and the new owner withdraws their name from petition are the remaining petitioners the only ones responsible for the accumulated cost.
- Mr. Dickson responded explaining that in the case of a property selling, the title owner whether it be the previous owner or the new owner, is responsible for their portion of the cost.
- Mr. Dickson further explained that at a meeting to receive the Final Report individuals are able to add or remove their name from a petition. It was noted that that if a petition fails the original petitioners must pay for the accumulated costs. This also applies to petitioners who withdraw their names. If additional names are added to a petition, the cost split is adjusted to incorporate the new petitioners as well.
- Councillor Ritsema-Teeinga requested clarification regarding the three potential resolutions and asked if essentially the first option is to proceed with the process, the second option is to not proceed with the process and the third option is to wait and request more information.
- Mr. Dickson indicated that those descriptions are accurate.
- Councillor Seip inquired as to whether the Engineer provides a cost benefit analysis to the landowners.
- Mr. Dickson explained that there is an option in the Drainage Act to prepare a cost benefit statement although he has never been requested to do so in the past. Furthermore the cost associated with preparing the report would be the responsibility of the person who requested it.
- Mr. Dickson explained that landowners would be provided with information regarding the betterment and advantages that the proposed drain could provide to their land. The assessments are provided using a fair calculation.
- Mr. Dickson noted that cost assessments will include right of ways, damage to crops that may occur while performing the work and are then deducted from the grant funding to reach the assessment calculation.
- Mr. Dickson recommended scheduling another meeting with landowners to provide dialog prior to the final report.
- Mr. Dickson addressed the resolution option that defers making a decision until more information is received. It was noted that deferring a decision is not recommended because as stated in Section 10.6 of the Drainage Act, Council may be held liable for delaying a report by the Tribunal if an appeal is made by a landowner.

- Councillor Vodden commented that the petition is fully qualified and asked if Council were to defer the decision, what could be done to move the process forward.
- Mr. Dickson responded that he does not have experience in that regard and that he is simply obligated to inform Council of their responsibilities and liabilities as prescribed by the Drainage Act.
- Deputy Reeve Campbell reported that one of the properties potentially impacted by the proposed drain may be sold and indicated that it would be ideal if the interested buyer could be contacted to ensure that they are in agreement with the cost associated with the proposed drain.
- Mr. Dickson reiterated the fact that no names have been added or removed from the petition and commented that the prospective buyer of the property must take into account the potential cost associated with the proposed drain when choosing whether to purchase the property.

M413/16**MOVED BY:** T. Seip**SECONDED BY:** B. Vodden

THAT the Council of the Township of North Huron hereby accept the preliminary report, dated June 23, 2016 and hereby give instruction to J.R. Dickson, of R.J. Burnside & Associates Limited, to prepare a report under Section 4 of the Drainage Act R.S.O. 1990 Chapter D 17, to provide drainage for Lot 42 North ½ Concession 10, East Wawanosh; Lot 42 North ½ Concession 11, East Wawanosh; and Lot 42 and Part of Lot 41 South ½ of Concession 10, East Wawanosh.

CARRIED**5. CONFIRMATORY BY-LAW**

- 5.1 By-law No. 70-2016, being a By-law of the Township of North Huron to confirm general previous actions of the Council of the Township of North Huron.

M414/16**MOVED BY:** T. Seip**SECONDED BY:**

THAT By-law 70-2016; being a by-law to confirm general previous actions of the Council of the Township of North Huron; be introduced, read a first and second time.

CARRIED

M415/16

MOVED BY: B. Vodden

SECONDED BY: J. Campbell

THAT By-law 70-2016; being a by-law to confirm general previous actions of the Council of the Township of North Huron; be read a third and final time, signed by the Reeve and the Clerk and be engrossed in the By-law book.

CARRIED

6. ADJOURNMENT

M416/16

MOVED BY: T. Seip

SECONDED BY: Y. Ritsema-Teeninga

THAT the Council of the Township of North Huron agree that there being no further business before Council; the meeting be hereby adjourned at 6:05 pm.

CARRIED

Neil Vincent, Reeve

Kathy Adams, Clerk