



Corporation of the Municipality of South Huron
Minutes - Court of Revision – Khiva Municipal Drain 2018

Monday, April 16, 2018, 5:00 p.m.
Council Chambers - Olde Town Hall

Members Present: Maureen Cole - Member
 Dave Frayne - Chair
 Ted Oke - Member
Staff Present: Rebekah Msuya-Collison, Clerk

1. Meeting Call to Order

Chair Frayne welcomed everyone to the meeting and advised that the purpose of the Court of Revision under the Drainage Act for the Khiva Municipal Drain 2018 was to hear and make decisions on the appeals to the Engineer's Report, dated February 20, 2018. Chair Frayne called the meeting to order at 5:16 p.m.

Motion: CR10-2018

Moved: T. Oke

Seconded: M. Cole

That the Court of Revision for the Khiva Municipal Drain 2018 hereby convenes at 5:16 p.m.

Disposition: Carried

2. Disclosure of pecuniary Interest and the General Nature Thereof

None.

3. Khiva Municipal Drain 2018

3.1 Revised Schedule of Assessment for Maintenance dated March 28, 2018

W. J. Dietrich, P. Eng reviewed the revised schedule of assessment for maintenance with the members.

Motion: CR11-2018

Moved: M. Cole

Seconded: T. Oke

That the Court of Revision for the Khiva Municipal Drain 2018 adopt the revised Schedule of Assessment (Branch 'B' dated March 28, 2018) to replace the Branch B Maintenance Schedule in the drainage report dated February 20, 2018.

Disposition: Carried

3.2 Comments

3.2.1 ABCA - David Heinbuck, Lands and Water Technologist

Correspondence from Ausable Bayfield Conservation Authority dated March 21, 2018 was received and attached to the agenda and noted no concerns with the scope of the work as presented.

3.3 Appeals

Chair Frayne reviewed the procedures for the Court of Revision and advised that the purpose of the Court of Revision is to hear written appeals regarding the schedule of assessment only. The Court of Revision has no authority to change the Engineer's Report in any way. The Schedule of Assessment may be altered, but the total must remain the same. If one assessment is reduced than the other assessments must be increased to balance. He advised that if the property owners are not satisfied with assessments they can appeal to the drainage tribunal.

Chair Frayne asked Clerk R. Msuya-Collison to read out any written appeals received from assessed landowners who wish to appeal their assessment.

3.3.1 Adrian Kester - North Part Lot 9 Con 12 Stephen

The Clerk advised that the appeals would be heard in the following order:

1. Adrian Kester – N Part Lot 9 Con 12 Stephen – lands assessed too high

The Chair also advised that the late appeals would be dealt with in order as received by the Clerk. There were no late appeals received.

The Chair invited Adrian Kester to speak to his appeal. Mr. Kester advised that he agreed with the assessment on the main drain but did not agree with the construction assessment split on Branch 'A'

and Branch 'B' as he felt that the other landowner has a higher benefit from the proposed drain than shown on the assessment.

Mr. Kester is appealing his assessment on Branch 'A' and Branch 'B' on the grounds that his land was assessed too high.

Mr. Kester's Branch 'A' assessment is \$9,240 of the total \$13,200 assessment on lands and Branch 'B' is \$6,000 of the total of \$8,500 assessment on lands. Mr. Kester addressed the Court of Revision and advised that he did discuss the branch drains with the engineer at the information meeting and that he believes his assessment should be reduced from the current 70/30 split to a 60/40 assessment split as the upstream neighbour needs these branches as well.

Chair Frayne asked if the Engineer had any comments. William Dietrich presented on the addition of Branch 'A' and Branch 'B' to the project. Mr. Dietrich responded that he was originally appointed to improve the main drain in 2016 and after the initial information meeting in 2017, the appellant petitioned for the additional construction of Branches 'A' and 'B'. Mr. Dietrich advised that Mr. Kester was given a cost estimate for the additional construction work before the inclusion of Branches 'A' and 'B' in the report.

Mr. Dietrich advised that there was another meeting in February 2018 and Mr. Kester did not give any instruction to remove branches 'A' and 'B' to the report. Mr. Dietrich noted that the project start was delayed at Mr. Kester's request until after the wheat harvest.

Mr. Dietrich explained that the benefit assessment is always subjective and in his opinion it is fair and equitable.

3.4 Questions Raised by Members

Chair Frayne opened the floor to the members of the Court of Revision.

Member Oke requested details on the lowered maintenance assessment as the Appellant has a higher assessment for Branch 'A' in the original assessment for maintenance of February 20, 2018. He asked about benefit crop allowance as there may not be crop damage probably due to the delay in construction.

Member Cole asked for information on construction and maintenance assessment and their differences.

3.5 Questions Raised by Landowners

Chair Frayne opened the floor to Landowners of the Court of Revision. There were no other landowner questions.

4. Decision

The Chair advised those in attendance that having heard all of the evidence for the appeal, the Court of Revision would now recess to consider the information provided and render their decisions on the appeal.

The Court of Revision removed the public from Council Chambers at 5:32 pm. The Court called Mr. Dietrich in at 5:38 p.m. to request further clarification on the determination of the assessment split. Mr. Dietrich advised that this determination is very subjective and maintenance assessment may differ from construction assessment as it may be based more on outlet liability and may not factor in as many benefits. Mr. Dietrich removed himself from the Court at 5:41 p.m.

Having completed their deliberations on the appeals, the Court of Revision reconvened at 5:44 p.m.

The Court explained that they upheld the engineer's decision in the report of February 20, 2018 as amended. Their decision is based on the additional Branches 'A' and 'B' included in the report at the request of Mr. Kester and based on the Engineer's opinion that the assessment is fair and equitable.

Motion: CR12-2018

Moved: M. Cole

Seconded: T. Oke

That the Court of Revision for the Khiva Municipal Drain 2018 adopt the Schedule of Assessments as presented by the engineer in the report dated February 20, 2018.

Disposition: Carried

5. Adjourn

Motion: CR13-2018

Moved: T. Oke

Seconded: M. Cole

That the Court of Revision for the Khiva Municipal Drain 2018 now closes at 5:47 p.m.

Disposition: Carried

Dave Frayne, Chair

Rebekah Msuya-Collison, Clerk