



**TOWNSHIP OF WILMOT  
COUNCIL MEETING MINUTES  
MONDAY, MAY 25, 2015**

**REGULAR COUNCIL MEETING  
COUNCIL CHAMBERS  
7:00 P.M.**

**Members Present: Mayor L. Armstrong, Councillors A. Junker, P. Roe, B. Fisher, J. Gerber,  
M. Murray**

**Staff Present: Chief Administration Officer G. Whittington, Director of Clerk's Services  
B. McLeod, Deputy Clerk D. Mittelholtz, Director of Public Works G. Charbonneau,  
Director of Facilities and Recreation Services S. Nancekivell, Director of  
Development Services H. O'Krafka, Fire Chief M. Raine, Director of Finance R. Tse,  
Planner/EDO A. Martin**

**1. MOTION TO CONVENE INTO CLOSED SESSION**

**2. MOTION TO RECONVENE IN OPEN SESSION**

**3. MOMENT OF SILENCE**

**4. ADDITIONS TO THE AGENDA**

**4.1 REPORT 9.2.1 – REPORT NO. Addendum to Report CL2015-14**

**Correspondence Relative to the Consideration of the Engineer's Report, Trussler Road  
Municipal Drain 2015**

**Resolution No. 2015-110**

**Moved by: M. Murray**

**Seconded by: B. Fisher**

**THAT the above document received in regards to REPORT 9.2.1 – REPORT NO. Addendum to  
Report CL2015-14 be added to the Agenda.**

**CARRIED.**

**5. DISCLOSURE OF PECUNIARY INTEREST UNDER THE MUNICIPAL CONFLICT OF INTEREST  
ACT**

## 6. MINUTES OF PREVIOUS MEETINGS

### 6.1 Council Meeting Minutes May 11, 2015

#### Resolution No. 2015-111

Moved by: P. Roe

Seconded by: M. Murray

THAT the minutes of the following meeting be adopted as presented:

Council Meeting May 11, 2015.

CARRIED.

## 7. PUBLIC MEETINGS

- 7.1 REPORT NO. DS 2015-20  
Zone Change Application 09/15  
Louise Guthrie  
Part of Lot 7, Concession North of Erb's Road  
97 Clarence Avenue, St. Agatha

#### Resolution No. 2015-112

Moved by: P. Roe

Seconded by: B. Fisher

THAT Zone Change Application 09/15 made by Louise Guthrie, affecting Part of Lot 7, Concession North of Erb's Road, to permit a second dwelling unit to be located within the existing single detached dwelling on the subject property, be approved.

CARRIED.

Mayor Armstrong declared the public meeting open and stated that Council would hear all interested parties who wished to speak. He indicated that if the decision of Council is appealed to the Ontario Municipal Board, the Board has the power to dismiss an appeal if individuals do not speak at the public meeting or make written submissions before the by-law is passed.

Mayor Armstrong stated that persons attending as delegations at this meeting are required to leave their names and addresses which will become part of the public record and advised that this information may be posted on the Township's official website.

The Planner/EDO highlighted the report.

Mayor L. Armstrong asked if there were questions of a technical nature from Council. There were none.

Mayor Armstrong asked if the applicant wished to address Council. The applicant did not address Council.

Mayor L. Armstrong asked twice if anyone else wished to address Council, and in the absence of any comments, declared the public meeting to be closed.

## 9. PRESENTATIONS/DELEGATIONS

**9. REPORTS****9.1 CAO – no reports****9.2 CLERKS****9.2.1 Addendum to Report CL2015-14  
Consideration of Engineer's Report  
For the Trussler Road Municipal Drain 2015  
Parts of Lots 1 and 2, German Block North of Bleams Road  
Township of Wilmot  
And Parts of Lots 46 and 129, German Company Tract  
City of Kitchener  
Region of Waterloo****Resolution No. 2015-113****Moved by: P. Roe****Seconded by: B. Fisher**

**THAT the Drainage Engineer's Report dated April 29, 2015 for the Trussler Road Municipal Drain, for improved drainage in Parts of Lots 1 and 2, German Block North of Bleams Road, Township of Wilmot, and Parts of Lots 46 and 129, German Company Tract, City of Kitchener, Region of Waterloo, be adopted;**

**THAT Provisional By-law 2015-30 is hereby given first and second reading in Open Council; and further,**

**THAT the date for the Court of Revision be scheduled for Monday, June 22, 2015 at 7:00 pm and that Mayor L. Armstrong, Councillor A. Junker, Councillor B. Fisher (as an alternate) and a representative from the Council of the City of Kitchener be appointed to the Court of Revision.**

**CARRIED.**

Greg Nancekivell addressed Council on behalf of Dietrich Engineering. He explained the process and purpose of the Drainage Act and provided a brief history of this petition with reference to the applicable provisions of the Act and the specific meetings held with affected property owners. Mr. G. Nancekivell highlighted the maps included with the Engineer's Report with details of the works being proposed. He concluded his presentation with a summary of the allowances on page five of the Engineer's Report.

Mayor L. Armstrong asked Council if they had any questions of a technical nature. There were none.

Patrick Kraemer from Duncan Linton, LLP addressed Council as a representative of an assessed land owner, Mr. Choi. He advised Council that Mr. Choi has attended six different meetings relative to this drainage petition to avail himself of every opportunity to understand this project. He clarified that he has contacted Dietrich Engineering on behalf of Mr. Choi since the May 11, 2015 Council Meeting. Mr. Kraemer reiterated that he is requesting that the petition and the Engineer's Report be set aside since he feels it is in contravention of the Planning Act. He asserted that the storm water management must be addressed through the subdivision agreement and that there is no provision within the Planning Act for storm water to be managed through the Drainage Act. He noted that the details in the Engineer's Report regarding the municipal drain accommodating the future plans to expand Trussler Road are contradictory to the Drainage Act which is concerned only with current water drainage, not future needs. His concerns also were with the question of how the assessment of future drain maintenance will be handled with the possible thousand land owners in the Activa development. Mr. Kraemer stated that the drain should not go across Mr. Choi's property, he does not want it across his property. He further stated that Mr. Choi received no benefit for the drain, that the location was simply the cheapest option, that the allowances

were miscalculated and that the land value is not the fair market value. He concluded his presentation by reiterating that the concerns presented are not just technical issues and that they should be addressed given that the Engineer's Report is not correct. He requested that the Engineer's Report be rejected or, at least, sent back for reconsideration.

Mayor L. Armstrong stated for those in attendance that the petitions do now have the right to withdraw their names from the petition and any other land owners has the right to add their name to the petition. No petitioners or land owners came forward.

Mayor L. Armstrong asked if any other land owners wished to address Council.

Jennifer Voss from Activa Holdings Inc. confirmed that Council had received correspondence from their solicitor, Goodmans LLP. She reiterated the solicitor's comments that the Drainage Act has the authority to deal with this legal drainage outlet and requested that the Engineer's Report be approved.

Councillor B. Fisher asked the Director of Development Services or the Planner/EDO to provide their opinion on the comments raised concerning the Planning Act in this matter.

The Director of Development Services advised that the application under the Planning Act from Activa for their development in the City of Kitchener has been approved by the Ontario Municipal Board. He stated his opinion that the Planning Act is not a factor in this matter given that approval has been granted but noted that he is not an expert on municipal drainage and the Drainage Act.

Mr. G. Nancekivell noted that a small calculation error was made in the Report relative to the Choi assessment/allowance in the amount of \$150.00 which he stated is not significant enough to warrant reconsideration of the Report but could be addressed during the Court of Revision with \$150.00 being added to their allowance. He confirmed that the Planning Act is not applicable in this matter and he cited a case file from 2012 which approved a similar Engineer's Report that was being appealed on the same grounds. He reiterated that the allowances are not for 100% of the fair market value since the lands are returned back to previous use. He advised Council that the missing column noted in the solicitor's letter was addressed in the body of the report. With regards to assessment he confirmed that this is not the venue for the discussion but that appeals may be made at the Court of Revision. With respect to rerouting the drain off of Mr. Choi's property, Mr. Nancekivell stated that the cost of such a project would likely be over one million dollars. He concluded by requesting Council provide direction as to what sections of the Report are to be reconsidered if the motion is to reconsider the report.

Councillor J. Gerber inquired if any representatives from the City of Kitchener or Region of Waterloo were present.

Steve van De Keere, Director of Transportation for the Region of Waterloo stated that the Region is in support of the Engineer's Report.

Steve Brickman from Dietrich Engineering confirmed for Councillor J. Gerber that he had spoken with Mr. Kraemer on May 19, 2015 regarding the Report.

Mayor L. Armstrong provided Council with their options concerning the Engineer's Report which included the recommendation in the staff report presented tonight directing the Report be reconsidered or the recommendation from the staff from May 11, 2015 approving the Report.

Councillor J. Gerber's inquired as to which recommendation staff is supporting following the solicitors' correspondence and preceding discussion. The Director of Clerk's Services advised that at the time of writing Report CL2015-14 no confirmation had been given that communications took place between Dietrich Engineering and Mr. Choi or his representative. She noted that all parties have had the opportunity to present to Council. She iterated that if there are concerns for which ever recommendation is approved, that there is an appeal process available.

Mayor L. Armstrong advised that Council may make a motion for either recommendation and it will be voted on but that if the motion is to reconsider the Report that direction would be needed as to what needs to be reconsidered.

Councillor P. Roe noted that Council has heard from both sides but stated the difficulty in making a decision based on the opposing viewpoint of two equally reputable firms. Councillor P. Roe then made a motion to approve the Engineer's Report, give the Provisional By-law first and second reading and set the date for the Court of Revision.

Councillor A. Junker noted his approval of the motion and stated that the appeal process is in place if required.

Councillor B. Fisher also indicated his support for the motion and suggested that appeals may be made if deemed appropriate by the land owners.

It was noted that the date for the Court of Revision has been rescheduled to June 22<sup>nd</sup> within the recommendation.

**9.3 FINANCE – no reports**

**9.4 PUBLIC WORKS**

**9.4.1 REPORT NO. PW-2015-12  
Zehr Municipal Drain Construction**

**Resolution No. 2015-113**

**Moved by: J. Gerber**

**Seconded by: M. Murray**

**THAT the tender submitted by Sebben AG Drainage Systems Ltd. for the construction of the Zehr Municipal Drain in the amount of \$76,061.00, plus HST, be accepted.**

**CARRIED.**

**9.5 DEVELOPMENT SERVICES – no additional reports**

**9.6 FACILITIES AND RECREATION SERVICES – no reports**

**9.7 FIRE – no reports**

**9.8 CASTLE KILBRIDE – no reports**

**10. CORRESPONDENCE – no correspondence**

**11. BY-LAWS**

- 11.1 **By-law No. 2015-33 – Zone Change Application 09/15, Louise Guthrie, Part of Lot 11, Concession North of Erb's Road, 97 Clarence Avenue, St. Agatha**

**Resolution No. 2015-114****Moved by: J. Gerber****Seconded by: P. Roe**

**THAT By-law No. 2015-33 be read a first, second and third time and finally passed in Open Council.**

**CARRIED.**

- 11.2 **By-law No. 2015-15 – Zehr Municipal Drain 2015**

**Resolution No. 2015-115****Moved by: M. Murray****Seconded by: B. Fisher**

**THAT By-law No. 2015-15 be read a third and final time in Open Council.**

**CARRIED.****12. NOTICE OF MOTIONS****13. QUESTIONS/NEW BUSINESS/ANNOUNCEMENTS**

- 13.1 Councillor J. Gerber noted the success of the Civitan Sports Waterloo Region Athlete of the Year Awards Banquet that occurred on May 20 at the Wilmot Recreation Complex. The recognition of the Wilmot Aquatic Aces and the Firebirds, the honour of hosting and the positive feedback on the facility were highlights of the banquet.

Mayor L. Armstrong advised Council that the event will be held throughout the Region on a rotating basis and will likely be back in Wilmot within a few years.

**14. BUSINESS ARISING FROM CLOSED SESSION****15. CONFIRMATORY BY-LAW**

- 15.1 **By-law No. 2015-34**

**Resolution No. 2015-116****Moved by: A. Junker****Seconded by: M. Murray**

**THAT By-law No. 2015-34 to Confirm the Proceedings of Council at its Meeting held on May 25, 2015 be introduced, read a first, second, and third time and finally passed in Open Council.**

**CARRIED.**

**16. ADJOURNMENT (7:55 P.M.)**

**Resolution No. 2015-117**

**Moved by: P. Roe**

**Seconded by: B. Fisher**

**THAT we do now adjourn to meet again at the call of the Mayor.**

**CARRIED.**

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**Mayor**

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**Clerk**