TOWNSHIP OF WELLINGTON NORTH

COURT OF REVISION

MITCHELL DRAINAGE WORKS

Monday, February 11, 2013

7:30 p.m.

Members Present:	**Raymond Tout**	
	Sherry Burke	
	Mark Goetz	
	Andy Lennox	
	Dan Yake	
Also Present:	**Neal Morris**	**K. Smart Associates Ltd.**
	Lorraine Heinbuch	**C.A.O./Clerk, Secretary**
	Cathy Conrad	**Executive Assistant**

The meeting was held in the Municipal Office Council Chambers, Kenilworth.

Mayor Raymond Tout called the meeting to order.

Appoint Chairperson

> **Moved by:** Lennox
> **Seconded by:** Yake
>
> *THAT Raymond Tout be appointed Chair of the Court of Revision.*
>
> **Resolution Number: 1**   **Carried**

Declaration of Pecuniary Interest – none declared.

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Presentation by K. Smart Associates Limited

Mr. Morris, K. Smart Associates Ltd., informed the Court of Revision that the purpose of the meeting was to review the revised assessments. He briefly reviewed the assessment schedules and the work involved. Mr. Morris explained that after hearing appeals the Court of Revision can choose to change assessments. If the property owners are not satisfied with assessments they can appeal to the drainage tribunal.

Correspondence Received:
- Oscar & Marguerite Schill, appealing assessment
- Rosemary Chaulk, appealing assessment
- Wenzl Michl, appealing assessment

Mayor Tout read the submission from Oscar and Marguerite Schill.

Ross Chaulk, representing Rosemary Chaulk and Wenzl Michl, commented that the letter received from the Schill's confirmed that there was an agreement with Mr. Mitchell. When the original ditch was done the water was going to flow across their land. Mr. Schill agreed to put in the ditch and they paid for their portion. Steve Cronsberry of Marquardt Farm Drainage Ltd., on behalf of Mr. Mitchell, approached them about installing a drain outlet and draining into the ditch. Mr. Mitchell would save on engineering costs and the Township could be petitioned to take over the drain. There was a verbal agreement that they would sign the petition and allow the drain with the conditions that culverts were installed so there would be access to a small woodlot, and that there would be no cost to them. They are not against the drain but feel they had an agreement with Mr. Mitchell and should not have to pay.

Mr. Morris stated that the drain had been cleaned out and worked on previously for which an existing drain allowance can be given but the ditch needs work again. Marquardt has put in a new ditch that is substantial and the difference in cost of having the ditch there would not have been a major factor when the new ditch was put in. By law he has to assess the properties involved and cannot put in a zero assessment. Mitchell, Schill and Michl receive 60% benefit of the drain. Approximately half of that was to Mitchell's property. Schill's assessment of $100 per hectare is for the direct outlet to put tile across to the Mitchell property to drain his water. The downstream assessment is $200 per hectare for the tile.

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The cost to clean out the ditch was $3,500 and downstream land owners were assessed $2,500 of that. Upstream the Schill's were assessed approximately $2,700. Tile would have cost about $14,000. The remainder of the cost is based on the outlet. The Schill property has a large area, approximately the same as Mitchell, contributing to it. Before granting allowances the Mitchell farm pays approximately $40,000 (66%). The last one third is assessed to other land owners. Mitchell's negative net assessment reflects the work he had previously paid for. Mr. Morris explained that while there were agreements he can't enforce those agreements.

Mr. Chaulk stated that the reason for the agreements was that without the agreements Mr. Mitchell could not get drainage. He tried to reach Mr. Mitchell earlier in the day but his phone call has not been returned.

Mayor Tout asked about the next recourse. He stated that the Mr. Mitchell should have been here to speak to these issues. While it can be appreciated that Mr. Mitchell is paying 66% of the cost the issue of the verbal agreements needs to be clarified. There seems to be a gray area that is not clear with hearsay.

Mr. Morris explained that this Court has the power to change assessments they feel need to be changed. Mr. Morris referenced the Drainage Act in explaining that landowners want a benefit for putting in a tile but much of their water comes from an upstream land owner. Downstream land owners do not have to accept water from upstream that causes flooding. The Drainage Act was created to give land owners a way to provide for drainage for their land. The reasoning behind upstream land owners being assessed is why should a downstream land owner pay to deal with upstream water. The optimal route for this drain would have been an agreement drain but then a grant would not have been possible.

Councillor Lennox clarified with Mr. Morris that the Schill property will have benefit as by making this a municipal drain he will then have a registered outlet, and the Michl and Chaulk properties now have a substantial ditch which would provide adequate drainage for tile drainage in the future.

Councillor Yake stated that getting all parties together to talk about the issues would be the best approach. If that has to be in front of the Court then so be it. Maybe they can reach an understanding on their own.

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Mayor Tout agreed that they need to try and reach a common ground to reach an agreement.

Mr. Morris reminded the Court that the cost of another meeting would be added to the cost of the drain.

It was suggested by Mr. Chaulk that Mr. Mitchell pay the additional cost.

Adjournment 8:03 p.m.

> **Moved by:** Yake
> **Seconded by:** Lennox
>
> *That the February 11, 2013 Court of Revision Meeting for the Mitchell Drainage Works be adjourned until such time as all parties are present or have reached an agreement within 30 days.*
>
> **Resolution Number: 2**   **Carried**

_____   _____
CHAIRMAN   **SECRETARY**