CALL TO ORDER

Mayor Burkett called the meeting to order.

PRAYER

Mayor Burkett opened the meeting with a prayer.

DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

Councillor Westcott with respect to Agenda Item No. E-1 as his son has a property on the drain.

ADOPTION OF COUNCIL MINUTES

• “NIL”

PUBLIC MEETINGS/HEARINGS

Public Meeting to consider the Engineer’s Report for Maintenance of the Purbrook Creek Municipal Drain.
MOTION C040317-01: Moved by Deputy Mayor Cox and seconded by Councillor Stevens that a presentation of R. Dobbin Engineering Inc. with respect to maintenance of the Purbrook Creek Drain and comments received from the property owners be received; AND FURTHER THAT the Engineer’s Report, dated March 7, 2017, be adopted.

CARRIED

PRESENTATIONS/DEPUTATIONS
• “NIL”

ACCOUNTS
• “NIL”

REPORTS FROM OFFICIALS (for information)
• “NIL”

REPORTS FROM OFFICIALS (for direction)
Planning and Development
• “NIL”

Recreation and Facilities
• “NIL”

Public Works
• “NIL”

Fire and Emergency Services
• “NIL”

Corporate Services
• “NIL”

Administration
• “NIL”

CORRESPONDENCE (for information)
• “NIL”
CORRESPONDENCE (for direction)

Appointment of Court of Revision – Township of Severn & Township of Oro Medonte.

MOTION C040317-02: Moved by Deputy Mayor Cox and seconded by Councillor Betsworth that Councillor Dunlop and Councillor Stevens from the Township of Severn and Councillor Macpherson from the Township of Oro Medonte be appointed as members of the Court of Revision for maintenance of the Purbrook Creek Municipal Drain to be confirmed under the By-law section of the agenda.

CARRIED

Date and Time for the Court of Revision.

MOTION C040317-03: Moved by Councillor Stevens and seconded by Deputy Mayor Cox that the date for the Court of Revision with respect to maintenance of the Purbrook Creek Municipal Drain be scheduled for May 1, 2017 at 7:00 pm.

CARRIED

ADOPTION OF COMMITTEE REPORTS

• “NIL”

MOTIONS

• “NIL”

INQUIRES FOR STAFF REPORTS

• “NIL”

GENERAL BY-LAWS

Motion with respect to first and second reading of By-law Nos. 2017-31 to 2017-32, inclusive.

MOTION C040317-04: Moved by Councillor Betsworth and seconded by Councillor Taylor that By-law Nos. 2017-31 and 2017-32 be and they are hereby read a first and second time.
By-law No. 2017-31, Being a By-law to Provide for the Maintenance of Drainage Works in the Township of Severn (Purbrook Creek Municipal Drain) - 1st & 2nd Reading Only.

By-law No. 2017-32, Being a By-law to Appoint a Court of Revision for Maintenance of the Purbrook Creek Municipal Drain.

Motion with respect to third and final reading of By-law No. 2017-32.

MOTION C040317-05: Moved by Councillor Stevens and seconded by Deputy Mayor Cox that By-law No. 2017-32 be and is hereby read a third time and finally passed.

CARRIED

CONFIDENTIAL AGENDA

Reports from Officials
• “NIL”

Correspondence
• “NIL”

CONFIRMING BY-LAW

Motion with respect to first and second reading of By-law No. 2017-33.

MOTION C040317-06: Moved by Councillor Betsworth and seconded by Councillor Taylor that By-law No. 2017-33 be and is hereby read a first and second time.

CARRIED

Motion with respect to third and final reading of By-law No. 2017-33.

MOTION C040317-07: Moved by Councillor Betsworth and seconded by Councillor Dunlop that By-law No. 2017-33 be and is hereby read a third time and finally passed.

CARRIED
ADJOURNMENT 8:40 p.m.

Motion to adjourn.

MOTION C022217-08: Moved by Deputy Mayor Cox and seconded by Councillor Stevens that this meeting be and it is hereby now adjourned.

CARRIED

CORPORATION OF THE TOWNSHIP OF SEVERN

__________________________________________
MAYOR

__________________________________________
CLERK
NOTES OF A SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS AT THE ADMINISTRATION OFFICE, 1024 HURLWOOD LANE, ON MONDAY, APRIL 3, 2017 AT 7:00 P.M.

PRESENT:  
Mayor Mike Burkett  
Deputy Mayor Judith Cox  
Councillors John Betsworth  
Jane Dunlop  
Ron Stevens  
Mark Taylor  
Don Westcott (part of meeting)

STAFF:  
Director of Public Works & Utilities Derek Burke  
Clerk Sharon Goerke  
Director of Corporate Services Andrew Plunkett  
Chief Administrative Officer Henry Sander

PUBLIC MEETING

The Mayor welcomed everyone to the meeting and advised that purpose of this evening’s meeting is to hold a public meeting under the Drainage Act to consider the Engineer’s Report for maintenance of the Purbrook Creek Municipal Drain.

Mayor Burkett advised that the format of the meeting would proceed as follows:  
1. The Township Engineer will present the maintenance report to the public and Council.  
2. The public will be invited to make comments to Council or ask questions of the Engineer.  
3. Once the public comments have been completed, the public meeting portion will be closed.  
4. Members of Council will be provided an opportunity to ask questions or provide comments on the proposed maintenance.
Mayor Burkett requested Michael Gerrits of R. Dobbin Engineering Inc. to present the particulars of the Engineer’s Report.

Mr. Gerrits addressed Council and provided the following comments:

I understand you have had a chance to review the report and as such I will make a brief presentation on the report with some additional comments/clarification. At the end of the presentation I can answer any general questions from both Council and from the public. If members of Council would like an immediate answer to a question please feel free to stop me at any point.

Background – How Did we Get Here

- The Purbrook Drain was constructed in 1906 under a report prepared by Mr. W.E. Yarnold, OLS dated 1905.
- Maintenance on the drain was last completed in 1981 under a report prepared by Noront Engineering Ltd., dated January 14, 1981.
- In 2015 a landowner in the southern portion of the drain contacted the Township and notified the Township that the drain was not functioning. The Township retained Tulloch Engineering to complete an inspection of the Main Drain and the Hill Branch Drain. A meeting to review maintenance with the landowner was held.
- Section 74 of the Drainage Act specifies that the drain shall be maintained and repaired by the Township through which it passes. That the costs for maintenance shall be at the expense of all upstream landowners and the Township is not required to notify landowners.
- Section 79. (2) states that the Township has a liability in the event maintenance was not completed providing the request for maintenance is valid.
- After an inspection was completed it was determined that maintenance was required on sections of the drain.
- The Drainage Superintendent then noticed that the 1981 report was out of date and could not be used to assess out maintenance costs. The Drainage Superintendent contacted the Tribunal and it was determined a Section 76 Report should be prepared for the drain.
- During the investigation it was determined the Hill Branch Drain was abandoned under a By-law and as such cannot be reinstated without a new petition.
- A very important point to note is that there has been a drain here since 1905. Just because maintenance was not completed regularly does not relieve the Township of their liability for damages due to an unmaintained drain.
Section 76 Report

- The Engineers Report has been prepared under Section 76 of the Drainage Act.
- The Purbrook Drain outlets to the North River in the E½ of Lot 19, Concession 5 in the Township of Severn.
- The drain is 9,789 m in length.
- The drain is an open drain.
- The channel width varies and is larger at the outlet.

Drainage Act

- Assume all landowners are NOT familiar with their rites under the Drainage Act and as such I have made copies of an OMAFRA Fact Sheet. The copy includes a copy of my business card and I am available at this meeting or by telephone to answer any questions from landowners within the watershed.
- Landowners who wish to get more information on the Drainage Act or did not get a copy of the OMAFRA Fact Sheet can download OMAFRA factsheets from the OMAFRA web site. If you would like one emailed to you please contact my office and ask for Michael Gerrits (519-882-0032).
- To simplify the Drainage Act it can be compared to a user pay system with landowners within a watershed being responsible for the water generated on their lands. Landowners are assessed for either a benefit or an outlet, in some cases landowners may be assessed for both benefit and outlet. Under common law landowners may be held liable for damages caused from water that is collected and does not have a sufficient outlet.
- Benefit assessments can come in many forms including the benefit of being able to utilize a drain for the drainage.
- Outlet assessment deals with the conveyance of water through a section of drain and as such if your water travels through a drain you will likely receive an outlet assessment.
- In summary, although you may not like the Drainage Act or agree with the Drainage Act, landowners are responsible for water generated on their lands and landowners also have the right to drainage.
- In the last weeks I have received many calls from landowners who do not agree with the Drainage Act. The Act is a very powerful and ensures landowners who require drainage have the ability to get it. Please remember this drain was constructed in 1905 and at the time landowners requested drainage. This drainage request is part of the property and stays with the property unless the drain is abandoned. Abandonment of a drain is a different process which is described in Section 84 of the Act.
**Estimate of Cost**

- The estimated costs to prepare this report are $20,924.00 for the engineering of this report.
- The report includes estimated costs for future maintenance. This value was derived from discussions with the Township of Severn’s Drainage Superintendent. The estimates in the report will be used to assess properties. It is important to know that actual assessments will be based on tendered/constructed values. The schedules of maintenance are broken up into sections and depending if runoff on a property use is multiple sections of the drain the property may be listed on numerous schedules of maintenance. Please note some sections of the drain may not have significant maintenance and as such the costs would be less than those listed in the report.

**Assessment**

- As per Section 76 (2) of the Drainage Act, the updated assessment schedules are “as nearly as may be, as upon the report for the construction of the drainage works.” Lands within the watershed were originally assessed for maintenance and will continue to be assessed for maintenance in the same general manner for water generated on the property. The maintenance assessment was based on the 1981 report. The report costs have been assessed based on equivalent hectares which represent the portion of flow within the drain.
- Block Assessments are typically used for subdivisions, developments or when numerous smaller properties are located in a concentrated area. Block Assessments for Small Holdings within the Township of Severn have been removed and reallocated to the affected properties. Block Assessments for Small Holdings within the Township of Oro-Medonte have been updated to include lands within Concession 12 and 13. Lands not previously assessed as a block have been include with the assessment being based on the original property. Block assessments can be assessed based on the report values or in accordance with section 25. (1) which states the block will be distributed in accordance with property values. Some municipalities choose to pay block assessments out of the general funds.
- Most of the questions I have received from landowners within the block assessments deal with costs. The block assessment was intended to make it easier for the Municipality to assess out the works. Landowners assessed under $100 for the report were not sent a report. The basis for this was to keep the costs down. There are 135 properties in the block assessment with an average report cost of $5 and an average maintenance costs of less than $20. These values represent an urban property in an overall drainage area of 3850 hectares.
- Benefit assessments can come in many forms including the benefit of being able to utilize a drain for the drainage. Properties may be assessed a benefit regardless of weather they use it, the benefit is there for the property and may be used in the future.
• Outlet assessment deals with the conveyance of water through a section of drain and as such if your water travels through a drain you will likely receive an outlet assessment. This is relevant for all lands within the watershed since surface water does flow downstream.

Example of assessment

<table>
<thead>
<tr>
<th>Conc.</th>
<th>Lot and Part</th>
<th>Approx.</th>
<th>Roll No.</th>
<th>Township</th>
<th>Owner</th>
<th>Equivalent Hectares</th>
<th>Equivalent Hectares Assessment Report</th>
<th>Schedule of Maintenance</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>S1/2 E1/2 11</td>
<td>4.0</td>
<td>434602000068000</td>
<td>Oro Medonte</td>
<td>A. &amp; T. Nogy</td>
<td>4</td>
<td>$20</td>
<td>$11</td>
</tr>
<tr>
<td>4</td>
<td>W1/2 14 &amp; W1/2 15</td>
<td>80.0</td>
<td>435101000202002</td>
<td>Severn</td>
<td>O. &amp; J. Kim/K. Park</td>
<td>80</td>
<td>$408</td>
<td>$993</td>
</tr>
<tr>
<td>5</td>
<td>W1/2 19</td>
<td>12.0</td>
<td>435101000203800</td>
<td>Severn</td>
<td>C. Jarvis</td>
<td>12</td>
<td>$61</td>
<td>$195</td>
</tr>
</tbody>
</table>

Allowances
• Allowances were part of the previous report and as such have not been addressed in this report.

Access and Working Area
• Work on the drain will need to follow the specifications listed in the previous report.

Agricultural Grant
• Section 76 reports are not eligible for grant. However, when maintenance is completed it is recommended that application for subsidy be made for eligible agricultural properties. Any assessments against non-agricultural properties are shown separately in the Schedule of Assessment.
• One landowner called me to inform me that he was eligible for the subsidy but was listed as a non-ag property. Prior to this meeting I reviewed the OMAFRA website and confirmed the property is still not eligible for the subsidy. The landowner was made aware that the property must be registered with OMAFRA.

Maintenance
• Maintenance shall be completed in accordance with the previous report and assessed in accordance with the new report.

Meeting to Consider the Report
• A meeting to consider the Report will be held and the landowners can ask questions at this meeting with respect to the design and assessments. We encourage all Landowners to ask questions at this meeting to consider the report rather than the future meetings. If you have questions about your assessment after this meeting please contact me or send a written (or email) question to your Municipality. If we can answer questions before an appeal it is more cost effective means to complete the project.
Court of Revision

- A Court of Revision will be held where landowners can appeal based on the following (Section 52):
  (a) Land or road has been assessed too high or low;
  (b) Land or road should have been assessed but has not;
  (c) Due consideration has not been given to the land’s use.

- It is every landowners right to appeal their assessment at the Court of Revision. However, we caution people who appeal their assessment because they disagree with the project as it incurs extra costs on the drain. These extra costs may get assessed back to the landowners. As previously stated, we have tried to follow the assessments in the original report as closely as possible. We encourage any landowners with assessment related questions to contact me prior to the Court of Revision. This meeting to consider the Report hopefully answers landowners’ questions, however, it may cause some Landowners to question their assessment. A discussion with the Engineer may help resolve these questions and make the Court of Revision run more smoothly.

Tribunal

- Landowners can appeal the design at the Tribunal. Tribunal costs are expensive and may be charged back to the drain. Landowners can also appeal their assessment at the Tribunal providing they appealed the assessment at the Court of Revision and were not satisfied with the decision.
- Appeal to the Tribunal over the design is every landowner’s right, however, please be advised that we are not changing any technical components of the drain.
- Landowners affected by the abandonment of the Hill Branch Drain should be made aware that the drain was abandoned under a By-law and it is my understanding that if landowners want the drain to be reinstated a petition would need to be filed with the Township.

What’s Next

- Hold the Court of Revision where appeals can be made.
- Tender the project.
- Construct the project.
Councillor Dunlop inquired if a drain could be abandoned.
- The Drainage Act provides for the abandonment of a municipal drain but it is rarely enacted.
- Once a drain is in place it is generally permanent.
- It is a long and expensive process to abandon a drain and under Section 84.(1) of the Act, ¾ of the owners on the drain must agree in order to proceed.

Mayor Burkett inquired if there were any persons present who had comments or questions on the Engineer’s Report. If anyone wished to speak, they were requested to rise and state their name and address for the minutes which would become part of the public record.

Terry Kirk of 2778 Wainman Line addressed Council and inquired if the maintenance of the drain would affect his lands and alleviate his drainage concerns with the tiles on his land which are now silted.
- Regardless of the tiles on individual lands, the Report only deals with the actual drain and ensuring that it is flowing properly.
- Private tiles on farmer’s lands are the responsibility of the landowner.

Gord Clark of 16 Whistler Place addressed Council and advised that the Engineer’s Report was not as detailed as it could have been he was not certain as to the amount he would be assessed, where the maintenance was to occur or how this would alleviate drainage on his land.
- Each property in the drainage area benefits from the municipal drain and from his location his property would be assessed for outlet only.
- Due to recent development and severances, a block assessment was calculated and included in the report which are minimal costs.
- The Block Assessments could have been more clearer in the report.
- The assessments are estimates only and the final amounts will not be known until the project has been tendered and the actual maintenance areas have been identified.

Joe Naughton of 2344 Warminster Sideroad addressed Council and indicated an area where ditches have been filled in or are full of silt. He inquired why the farmers could not complete the work to save the landowners costs.
- The landowners are never encouraged to work on the drain as the maintenance requires a drainage engineer to ensure proper grades are followed in order to ensure the drain is flowing adequately.
- Blocking or altering of the drain could adversely affect landowners up stream.
- Maintenance of the drain has now been identified and the municipality is responding to the improvements required.
Doug Brandon of 2085 Balkwill Line addressed Council and advised that he is in favour of the maintenance of the drain and inquired if the D.M. Hill Drain was contributing to the Purbrook Creek Drain. He advised that before the drain was operating Foxmead Road and Uhthoff Line were always flooded in the spring which was a serious problem. He requested clarification on the benefit assessment formula, requested how the grants for agricultural lands would be processed and how the landowners could protect the drain for the future.

- The former Hill Drain contributes into the watershed even though it was abandoned.
- A buffer strip along the drain by each landowner would further protect the flow and potential of blockage from silt and sediment.
- Some municipalities take wider right-of-ways along the distance of the drain to protect them.
- Benefit assessments are for lands that abut directly onto the drain.
- The municipality will be applying for the grants on behalf of the landowners, if applicable.

Jackie Payne of 3164 Burnside Line addressed Council and inquired what the cost of the original drain would have been. She also inquired as to how the environment and protected species would be protected during this project.

- The Department of Fisheries & Oceans and the Ministry of Natural Resources have been contacted and they have provided their comments on maintenance of the drain. Their approval was needed in order to proceed.

Doug Brandon readdressed Council and inquired when the final assessments would be available.

- Once the tendering is completed, the final assessments will be provided by the Township.

Tom Jarvis of 1645 Burnside Line addressed Council and advised that he has four properties on the drain and the Township should be proactive rather than reactive from now on to ensure proper maintenance of the drain.

- The area of the drainage works was determined in 1981 and his property would be benefitting from the drain at the far east location.
- His property was in the original report and the maintenance schedules are based on that report.
- With a small assessment of 27 on this property it may not be advantageous to review this matter on site and add costs to the drain.
Shirley Johnston of 2475 Town Line addressed Council and advised that the benefit assessment on her property may not be correct as she does not benefit from the drain.

- The maintenance is based on the original report which included benefits for this property.
- The original report also states how the maintenance is to be completed on this drain.
- The benefit assessment is due to the drain abutting her land.

Sandra Dustin of 2307 Town Line addressed Council and inquired as to the grants available.

- The applicable grants are not part of the Engineer’s Report. Agricultural lands will be eligible and currently it is a 1/3 grant.

Mike Vandergeest of Dunns Line addressed Council and advised that he purchased his farm in 1979 and asked for the drain to be opened in 1981. He has $140,000 of tile drains on his land and he asked for an extension to accommodate his land. He advised that the abandoned D.M. Hill Drain should be reopened.

- A new petition would be required to reopen the D.M. Hill Drain and the new drain would end at the requestor’s land.

Doug Brandon readdressed Council and inquired as to what the next steps were.

- The next step is the Court of Revision where the landowners have the opportunity to appeal their assessments followed by tendering of the project, maintenance of the drain and notice of the final assessments from the Township.

As there were no further comments from the public, Mayor Burkett declared the public portion of the meeting to be closed at 8:30 p.m.

Mayor Burkett inquired if any members of Council had questions or comments on the Engineer’s Report.

Councillor Taylor inquired if maintenance of the drain would increase the flow of the North River.

- There should be no significant increase in the flow.

(see Resolution No. C040317-01)