

# **MUNICIPALITY OF LEAMINGTON**

## **AGENDA**



### **COUNCIL MEETING**

**MONDAY, JULY 19, 2010  
COMMENCING AT 7:00 P.M.  
IN THE COUNCIL CHAMBERS**

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(A) **CALL TO ORDER:**

(B) **PRAYER:**

(C) **DISCLOSURES OF PECUNIARY INTEREST:**

(D) **ADOPTION OF COUNCIL MINUTES:**

1. Minutes of the Council Meeting (including Minutes of the Court of Revision re: Repairs and Improvements to the Sturgeon Creek Drain) held July 12, 2010.  
Pages 3-16

(E) **BUSINESS ARISING OUT OF THE MINUTES:**

(F) **PUBLIC MEETINGS/COURT OF REVISION:**

1. Public Meeting - Proposed Zoning By-law Amendment # 22 - S/S Mersea Road 8

(G) **REPORTS OF STAFF & DELEGATIONS:**

1. Report ENG 18/10 dated July 12, 2010 re: 2010 Asphalt Program Tender Award  
Pages 17-19
2. Report ENG 19/10 dated July 7, 2010 re: Meadowbrook Subdivision Phase 2 - Assumption of Services  
Pages 20-21
3. Report ENG 20/10 dated July 8, 2010 re: 2010 Gravel Road Elimination Program Phase 1 Tender Award  
Pages 22-24
4. Report REC 12/10 dated July 5, 2010 re: Facility Use Agreement; Pinnacle Rehabilitation Physiotherapy Services (Leamington Kinsmen Recreation Complex)  
Pages 25-27
5. Report REC 13/10 dated July 9, 2010 re: Tree Sculpture Legacy Project  
Pages 28-30

(H) **MATTERS FOR APPROVAL:**

(I) **OTHER MATTERS FOR CONSIDERATION:**

(J) **CONSIDERATION OF BY-LAWS:**

By-law 52-10, being a by-law to amend Schedule A of By-law 910-09, being a by-law to regulate heavy traffic on Highways;

By-law 53-10, being a By-law to amend the Comprehensive Zoning By-law No. 890-09 for the Municipality of Leamington (ZBA # 22 - S/S Mersea Road 8 - Agricultural Zoning);

By-law 54-10, being a by-law to confirm the proceedings of the Council of the Municipality of Leamington at its meeting held July 19, 2010.

(K) **NOTICES OF MOTION:**

(L) **OPEN SESSION - Council - Administration**

(M) **NEW BUSINESS:**

(N) **ANNOUNCEMENT OF UPCOMING MEETINGS/EVENTS:**

**WEDNESDAY, JULY 21, 2010**

Union Water Joint Board of Management Meeting - 9:00 a.m. - Kingsville Council Chambers  
County Council Meeting - 7:00 p.m. - Civic Centre

**SATURDAY, JULY 24, 2010**

Leamington Marina 25<sup>th</sup> Anniversary Celebration - 12:00 p.m. to 11:00 p.m. - Leamington Marina

**MONDAY, JULY 26, 2010**

Southeast Leamington Stakeholders' Committee Meeting - 5:00 p.m. - Council Chambers  
Special Council Meeting - 7:00 p.m. - Council Chambers (To be confirmed)

**TUESDAY, JULY 27, 2010**

Leamington Committee of Adjustment Meeting - 7:00 p.m. - Council Chambers

**WEDNESDAY, JULY 28, 2010**

Leamington Police Services Board Meeting - 8:30 a.m. - Police Board Room

**MONDAY, AUGUST 9, 2010**

Council Meeting - 7:00 p.m. - Council Chambers

(O) **STATEMENT OF MEMBERS:** non-debatable

(P) **ADJOURNMENT:**

JB

# *THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON*

## MINUTES - COUNCIL MEETING

HELD MONDAY, JULY 12, 2010 - COMMENCING AT 7:00 P.M.  
IN LEAMINGTON COUNCIL CHAMBERS

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MEMBERS PRESENT: Mayor Adams  
Deputy Mayor Schmidt  
Councillors: Atkin, Enns, MacDonald, Paterson

MEMBERS ABSENT: Councillor Derbyshire

STAFF PRESENT: Bill Marck, Chief Administrative Officer  
Brian Sweet, Director of Corporate Services,  
Cheryl Horrobin, Director of Finance and Business Services  
Doug Morrish, Director of Development Services  
John Tofflemire, Director of Community Services  
Allan Botham, Manager of Engineering Services  
Jennifer Bavetta, Corporate Assistant

**DISCLOSURES OF PECUNIARY INTEREST:** None.

### **ADOPTION OF COUNCIL MINUTES:**

#### **No. C-253-10**

**Moved by:** Councillor Atkin                      **Seconded by:** Councillor Paterson

That the Minutes of the Council Meeting held July 5, 2010 be approved.

**“CARRIED”**

**BUSINESS ARISING OUT OF THE MINUTES:** None.

### **PUBLIC MEETINGS/COURT OF REVISION:**

#### **Court of Revision - Sturgeon Creek Drain Repairs and Improvements**

A Court of Revision was held with respect to Repairs and Improvements to the Sturgeon Creek Drain. A copy of the minutes is attached.

#### **No. C-254-10**

**Moved by:** Deputy Mayor Schmidt                      **Seconded by:** Councillor MacDonald

That the Amended Schedule of Assessments for Repairs and Improvements to the Surgeon Creek Drain, dated July 12, 2010, in accordance with By-law 44-10, in the Municipality of Leamington, in the County of Essex, be adopted;

And that the amended Assessment Schedule be sent to all affected landowners;

And further, that the reconvened Court of Revision for Repairs and Improvements to the Sturgeon Creek Drain be scheduled for Monday, August 9, 2010.

**“CARRIED”**

**REPORTS OF STAFF & DELEGATIONS:****Presentation of Governor General of Canada Commendation to Dwayne Tuffin in recognition of his actions following an incident on Lake Erie, near Leamington, on July 1, 2008**

Mayor Adams explained in 1993 the Governor General approved the creation of a Certificate of Commendation to be issued to those who have made a significant contribution by providing assistance to another person in a selfless manner. He further explained the Certificate of Commendation is signed by the Governor General and is intended for eligible candidates whose actions are deemed notable by the Canadian Decorations Advisory Committee, who select recipients through a voting process.

Mr. Adams presented Dwayne Tuffin with the Certificate of Commendation on behalf of the Governor General, Michelle Jean, in recognition of his actions on Lake Erie on July 1, 2008. Mayor Adams asked Mr. Tuffin to explain to those in attendance what happened on that date.

Dwayne Tuffin explained he and his sons were fishing on Lake Erie that day and were waiting for a friend and his son to join them. He further explained his friend, Keith Tyhurst, suffered a brain aneurysm and his son, Kyle Tyhurst, took quick action and located his father's cell phone to call Mr. Tuffin for assistance. Kyle then provided direction to Mr. Tuffin on how to locate their boat, and when found, Mr. Tuffin got onto the boat and assisted in getting Mr. Tyhurst to shore. Paramedics were waiting on shore to assist Mr. Tyhurst.

**Concerns of Antonio Court Residents Regarding Property Lines and the East Side Arterial Road**

Wendy Moscuza, 174 Antonio Court, stated she was in attendance to express her concern over the location of the new East Side Arterial Road (ESAR), currently under construction. Ms. Moscuza noted she was aware the road would be constructed at the time she purchased her home, however, she had been informed it would be located on the opposite side of the evergreens, some distance from the homes, and therefore would not be an issue.

Ms. Moscuza stated when construction began on the road, she could not believe it was going to be that close to her home. She further stated the distance from the middle of the road to her home is only fifty-four feet (54'). Ms. Moscuza stated her concern over the safety of the proximity of the roadway to her, and surrounding, homes, as it is possible for a car or large truck to veer off the road and hit her home.

Ms. Moscuza stated another concern over the noise created by traffic on the roadway, noting the Environmental Assessment called for the construction of a noise barrier. She noted any noise level above five decibels will require investigation, however, it could take up to ten years for the noise level to be studied. Ms. Moscuza informed council the rumbling from the construction of the roadway is horrible.

Ms. Moscuza stated the longer council waits to address her safety and noise concerns, the more difficult it will be for property owners, as the roadway will be taken over by the County of Essex.

Ms. Moscuza noted some council members visited her property, and thanked them for doing so.

With respect to the idea of selling her home, Ms. Moscuza stated if she were to do so, she would lose twenty thousand dollars (\$20,000.00), noting two other homes in the neighborhood sold for prices eighteen thousand dollars (\$18,000.00) and fourteen thousand dollars (\$14,000.00) below purchase price. She further stated she likes the location and layout of her home. Ms. Moscuza noted she can retire in eighteen years and cannot risk losing that much equity in a home by selling it.

## July 12, 2010 - Council Meeting

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Ms. Moscuzza informed council the gas line to her home runs along the side of her home and along the back, noting there could be a large explosion if a vehicle hit her home.

Ms. Moscuzza suggested besides constructing a sound barrier, the speed limit on the road could be lowered adjacent to the residential area. She noted the speed limit will be sixty kilometers an hour (60 km/h), however, most drivers will exceed the limit. She further noted the police may monitor the roadway, but cannot do so at all times.

Ms. Moscuzza asked her concerns be addressed as there are a number of children in the neighbourhood that wish to play in their backyards, however, parents are not comfortable with how close they will be playing to the highway.

Ms. Moscuzza stated there was a study completed during the 1990's which concluded if a person stood on the by-pass highway to Windsor for one week, they will be exposed to as much pollution as a person who smokes cigarettes for twenty (20) years.

Cathy Campbell, 176 Antonio Court, confirmed she did not have anything further to add.

Peter Fraser, P.Eng., McCormick Rankin, explained the current location of the roadway is the same as that first proposed in 1966 when the ESAR was first considered. He further explained an Environmental Assessment was completed in 2005 and the proposed roadway was in its current location.

Mr. Fraser stated safety concerns are always a main issue when designing a roadway, and there is always the potential for a vehicle to veer off of the road and standards must be met. He explained engineers would like to see seven metres (7 m) between pavement and property lines.

Mr. Fraser suggested a guardrail could be installed at the South end of Antonio Court where the high end of the profile is located.

With respect to noise attenuation, Mr. Fraser explained when the plans were last presented it was identified a noise barrier would be required as the traffic levels justified the need. He further explained as traffic increases, the municipality will monitor the level and construct a noise wall as warranted. Mr. Fraser noted the ten year traffic volume monitoring plan was proposed as a benefit to residents in order to ensure their interests are met.

In response to a statement from council, Ms. Moscuzza stated her understanding thomes along Highway 77 are as close as fifteen feet (15') away from the highway, however, she stated the homes are not as concentrated at those on Antonio Court, which includes four unit townhomes. Ms. Moscuzza stated there are twenty-four (24) homes affected by the highway, versus maybe eight (8) homes on Highway 77.

Mr. Botham confirmed there are two locations where the roadway is closer to the homes.

In response to an inquiry from council, Bill Marck, Chief Administrative Officer, confirmed the report to council will include the cost per metre to construct the noise barrier. He explained the sound barrier will be subject to need, and the report will include costs for guardrails and when the barriers could be constructed. He noted administration will aim to have the report to council prior to the road being constructed.

With respect to the gradation of the road at the South end of Antonio Court being significantly higher than the nearby homes, Mr. Fraser explained it could not be lowered much more due to the required minimum grade for the road profile.

## July 12, 2010 - Council Meeting

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Mr. Fraser explained it will take approximately six months to determine who will be using the road and at that time a counter could be used to determine traffic counts and those amounts converted to noise levels. He noted the noise could be measured, however, the traffic counts usually correlate very well.

Mr. Botham estimated a report would be provided to council in four to six weeks.

### No. C-255-10

**Moved by:** Deputy Mayor Schmidt      **Seconded by:** Councillor Enns

That administration prepare a report for council outlining the various types of noise barriers and safety barriers that may be installed for properties on Antonio Court abutting the East Side Arterial Road;

And that the report include the cost per metre to install a noise barrier and guardrails.

**“CARRIED”**

### Concerns of Elliott Street Residents Regarding Truck Traffic on Elliott Street

Rob Sieler, 97 Elliott Street, explained he was in attendance on behalf of the residents of Elliott Street. He further explained that as a truck driver himself, he used to drive his truck on Elliott Street until he realized the damage such vehicles can cause.

Mr. Sieler stated when the Leamington Police were contacted regarding truck traffic, they did not respond. He further stated a petition has been submitted requesting the prohibition of truck traffic on Elliott Street. Mr. and Mrs. Sieler displayed pictures of Elliott Street on the projector for council to view the damage caused to curbs and sidewalks due to large trucks.

Mr. Sieler explained Elliott Street is hilly and that in front of his home there is a big dip where a municipal sewer is located. He further explained the sewer runs underneath his home, as well as his neighbours. He noted the vibrations caused by the truck traffic has resulted in the need to replace his ceilings and upstairs walls. He further noted his basement floor now requires replacement and there is water sitting in the corner where the sewer is located and the floor is cracked. Mr. Sieler stated this is the first time during the eight years he owned his home that he has had problems with water and that the sewage outlet to his home has been crushed.

Mr. Sieler informed council that trucks travel down Elliott Street at 3:00 a.m., and the vibrations result in all of his furniture moving and the walls being wrecked.

Mr. Sieler noted double gas tank trucks are now travelling down Elliott Street, which would result in great destruction should there be an explosion.

Mr. Seiler stated there is no way two forty-seven foot (47') trailers can travel down the street without hitting something and noted the telephone and hydro lines have been taken out by truck traffic.

Allan Botham, Manager of Engineering Services, explained the municipality is undergoing changes such as increased industry which result in increased traffic. He further explained staff are currently working on a consolidated traffic by-law, which is expected to be presented to council shortly.

Mr. Botham confirmed there is no designated truck route though town, however “No Heavy Truck” signs have been posted on some roads. He further confirmed trucks can currently travel legally down Elliott Street. Mr. Botham explained staff would like the opportunity to review and suggest designated truck routes within town.

## July 12, 2010 - Council Meeting

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With respect to the sewer Mr. Sieler referred to, Mr. Botham explained staff have visited Mr. Sieler's home and are determining what steps can be taken to improve the section of sewer. Mr. Botham requested the opportunity to get back to Mr. Sieler with staff's findings.

Mr. Botham confirmed council have the authority to prohibit truck traffic on Elliott Street.

Brian Sweet, Director of Corporate Services, explained the municipality has a heavy traffic by-law, which includes streets and highways where heavy traffic is prohibited. He noted council may amend the by-law to include Elliott Street.

Brian Sweet confirmed according to the heavy traffic by-law a truck making a delivery or picking something up from a commercial premises are permitted to do so provided they go directly to and from the premises.

In response to a suggestion from council, Mr. Sweet suggested posting signs prohibiting heavy traffic on Elliott Street in other locations than on Elliott Street may cause confusion for some drivers.

John Tofflemire, Director of Community Services, suggested by prohibiting heavy traffic on Elliott Street, trucks that need to access other operations along Wilkinson Drive will then take Erie Street or County Road 31.

Mr. Tofflemire noted the Long Range Transportation Study includes the construction of the West Side Arterial Road (WSAR) which will extend from Talbot Street to Wilkinson Drive. He suggested the problem of trucks travelling on residential streets is one of the reasons the WSAR is needed.

Brigitte Sieler, 97 Elliott Street, noted they are unaware where the gas trucks are coming from or going to.

In response to an inquiry from council, it was clarified that the issue of truck traffic on Elliott Street has not been considered at a previous council meeting.

Mr. Sieler noted heavy trucks are not the only issue. He explained cars pass other cars on Elliott Street, and suggested the lack of a yellow line in the middle of the road is misinterpreted.

### No. C-256-10

**Moved by:** Councillor Enns                      **Seconded by:** Councillor MacDonald

That Schedule A to By-law 910-09, being a by-law to regulate heavy traffic on highways, be amended to include Elliott Street;

And that signs prohibiting heavy traffic be erected at the North and South ends of Elliott Street.

**"CARRIED"**

### CORPORATE SERVICES - Report CL/10/10 dated July 2, 2010 re: Increase in Taxicab Rates as Established in By-law 603-05 as a Result of the Implementation of the Harmonized Sales Tax (HST)

Brian Sweet, Director of Corporate Services, provided a summary of the report, noting it is in response to the enactment of HST on July 1, 2010. Mr. Sweet explained discussions have been held with the taxicab company owners and the general feedback was they did not want to see rates increased. He noted there has been no increase to taxicab fares since 2005.

## July 12, 2010 - Council Meeting

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In response to an inquiry from council, Mr. Sweet confirmed the rate must be amended in the by-law, and taxicab companies cannot charge more or less than the prescribed amount. Mr. Sweet noted most municipalities establish exact rates for taxicab companies to charge. He further confirmed one rate applies regardless of how many riders are in the taxicab and that there can only be as many riders as available seatbelts.

Mr. Sweet clarified there have been many conversations with the local taxicab owners over the past five years and the general feedback is that they did not want to see the rates increased. He explained the municipality received a number of calls from the owners following the implementation of HST inquiring whether they had to begin to charge the tax or absorb it in the existing price. He further explained administration recommend the rates be increased and the tax be included in the fare. Mr. Sweet noted there would not be a unanimous response from taxicab companies regarding the increase if they were surveyed.

Mr. Sweet explained there are a number of reasons why taxicab fares should be dictated rather than a maximum fare established, including the potential for the better taxicab companies to go out of business due to charging higher fares, and only the lesser quality companies and vehicles remaining.

In response to an inquiry from council, Mr. Sweet noted many taxicab companies have contracts with local greenhouses and other businesses and those rates are not monitored by the municipality as they are not considered to be fares.

Alfred Birch, taxicab driver in Leamington for nineteen (19) years, stated that many riders cannot afford the current taxicab rates and suggested the rate be established at five dollars (\$5.00) for seniors and six dollars (\$6.00) for all other riders. He stated there are a lot of things going on in the cab industry which must be stopped, such as people using their personal vehicles as taxicabs.

Mr. Birch stated that some taxicab companies are in favour of increasing the fares, however, he believes the higher the fare, the fewer options riders have.

Mr. Sweet explained it is impossible to completely monitor the taxi's, however, efforts are made to do so, including calls to inquire about taxi rates, to which the dispatchers quote the correct fare. Mr. Sweet further explained the municipality makes an effort to monitor the taxi companies as best as possible, however, there are a number of problems associated with the industry, including some which are being addressed by the Leamington Police Service.

### No. C-257-10

**Moved by:** Councillor Enns                      **Seconded by:** Councillor Paterson

That Council approve an increase of fifty cents (\$0.50) to the regular and senior rates charged by taxicab companies, as established in Schedule B of By-law 603-05;

And that the one dollar (\$1.00) additional charge applied to taxicab fares for each kilometer travelled outside of Zone 1, as established in Schedule B of By-law 603-05, remain at one dollar (\$1.00);

And that By-law 50-10, being a by-law to amend Schedule B of By-law 603-05, be forwarded to Council for consideration. (Report CL/10/10)

**“CARRIED”**



July 12, 2010 - Council Meeting

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No. C-259-10

**Moved by:** Councillor MacDonald      **Seconded by:** Deputy Mayor Schmidt

That the Minutes of the Leamington Economic Development Committee Meeting held June 17, 2010 be approved.

**“CARRIED”**

OTHER MATTERS FOR CONSIDERATION:Correspondence from the Town of New Tecumseth dated May 13, 2010 re: Harmonized Goods and Sales Tax

Brian Sweet, Director of Corporate Services, explained the resolution speaks to the fact that minor sports and children’s activities are very important and are now subject to HST. He noted the resolution requests that children’s programs be exempt from HST.

Councillor Atkin explained the increased cost due to HST will have a direct impact on families and children in our community and municipalities should do everything possible to convince senior government to take a second look at HST. Councillor Atkin further explained childhood obesity is a severe issue and children must be more active, however, the increase costs will make it more difficult for families to register children in sports.

Councillor Atkin noted during a recent visit to the Leamington Kinsmen Recreation Complex two residents refused to pay the additional cost to use the facility and left.

Councillor Paterson noted he would have like to have seen the resolution apply to all athletic programs.

No. C-260-10

**Moved by:** Councillor Atkin      **Seconded by:** Councillor Paterson

That the Council support the resolution of the Town of Tecumseth dated May 10, 2010 regarding the Harmonized Goods and Services Tax, that reads as follows:

Whereas the Harmonized Goods and Services Tax will come into effect on July1, 2010 resulting in an 8 % increase on many products and services for taxpayers;

And whereas the Council of the Town of New Tecumseth passed a resolution in July, 2009 requesting the Provincial Government to minimize the impact on tax payers and businesses that was widely endorsed by Ontario municipalities;

And whereas minor sports organizations have expressed concerns that the HST will result in children’s and youth sports activities being too expensive for working families and that enrolment in minor sports will diminish;

And whereas Ontario municipalities are being requested by minor sports organizations to freeze or reduce facility rental fees in order to lessen the impact of the HST;

And whereas all taxpayers will have to bear the cost of any further subsidy provided by municipalities;

Continued...

July 12, 2010 - Council Meeting

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And whereas the Province has publicly stated that the health system is committed to reversing the trend to overweight and obesity but it cannot solve the problem on its own and that physical, social, cultural and environmental factors have strong influence on weight and that Ontario needs a broad multi-sectoral, community-wide response to the obesity epidemic;

And whereas the increased cost of recreation and athletic programs resulting from the HST will further prevent individuals, youth and children from registering in these programs;

And whereas the rising cost of policing is further exacerbated by the increasing number of crimes perpetrated by youth and that keeping our young people active and involved in recreation and sports assists in reducing such criminal involvement;

Therefore be it resolved that the Province of Ontario be requested to consider exempting children recreation programs from the HST in order that Ontario families can afford to participate in athletic and recreation programs in their communities.

**“CARRIED”**

CONSIDERATION OF BY-LAWS:No. C-261-10

**Moved by:** Councillor MacDonald      **Seconded by:** Councillor Enns

That the following by-laws be read a first, second and third time and finally enacted:

By-law 50-10, being a by-law to amend Schedule B of By-law 603-05, being a by-law to provide for licensing, regulating and governing taxicab owners and drivers;

By-law 51-10, being a by-law to confirm the proceedings of the Council of the Municipality of Leamington at its meeting held July 12, 2010.

**“CARRIED”**

NOTICES OF MOTION: None.

OPEN SESSION: - Council - Administration

Councillor Enns inquired whether council will have the opportunity to tour the new municipal building prior to completion. He further inquired whether the plaque commemorating the municipality's 150<sup>th</sup> anniversary located on front lawn of the current municipal building will be moved to the new facility.

Bill Marck, Chief Administrative Officer, explained plans for the commemorative plaque and “Leamington” and “Mersea” lettering are not in place yet, and he will be in contact with the Province to inquire about the commemorative plaque. He noted the bronze plaque commemorating Leamington's 100<sup>th</sup> Anniversary was erected by the municipality. Mr. Marck explained the sign advertising the building for sale will be removed in the near future.

Doug Morrish inquired whether council members wish to tour the new municipal building during the following week. He explained a date must be determined in order to coordinate with the contractor and that it is best the tour take place after 3:00 p.m. as many of the sub-contractors will be off-site by that time. Mr. Morrish noted the municipality will provide hard hats, however, council members must provide safety shoes. Mr. Morrish informed those in attendance the structure is complete and stairs will be completed at the end of the week.

**July 12, 2010 - Council Meeting**

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Following a discussion, it was determined the tour will take place on Thursday, July 22, 2010 at 3:00 p.m. Council members are to contact Mr. Morrish if they wish to participate in the tour.

Mr. Morrish informed council the Dragon Boats for the Cure races were held in Tecumseh the previous weekend and that the municipality entered a team. Mr. Morrish explained 104 teams participated on Sunday, and there was an estimated total attendance of 6,000 racers and spectators. Mr. Morrish further explained the municipality's team raised more than six thousand five hundred dollars (\$6,500.00) and thanked staff, their family members and all that donated for their support. Mr. Morrish noted more than one million dollars (\$1,000,000.00) has been raised by the event in seven years.

In response to an inquiry from Mayor Adams, Bill Marck, Chief Administrative Officer, informed those in attendance Bruce Maycock commenced overseeing tornado damage claims on Tuesday, July 6, 2010. He explained a meeting will be held on Tuesday, July 13, 2010 to review the applications received to date and that cheques will be processed and mailed later in the week. Mr. Marck noted sixty (60) applications have been submitted, and that the majority of them are to assist with the cost to remove tree debris.

**NEW BUSINESS:**

Councillor MacDonald noted she received a call from residents reporting that vandalism is occurring on the walkway near McGaw Street. The residents also reported the use of an ATV and a motorcycle on the walkway.

**STATEMENT OF MEMBERS:** non-debatable

**ADJOURNMENT:****No. C-262-10**

**Moved by:** Councillor Paterson                      **Seconded by:** Councillor MacDonald

That the meeting adjourn at 9:07 p.m.

**"CARRIED"**

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John Adams, Mayor

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Brian Sweet, Clerk

# ***MUNICIPALITY OF LEAMINGTON***

## **MINUTES - COURT OF REVISION**

### **STURGEON CREEK DRAIN REPAIRS AND IMPROVEMENTS**

**HELD MONDAY, JULY 12, 2010 COMMENCING AT 7:03 P.M.  
IN THE COUNCIL CHAMBERS**

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**MEMBERS PRESENT:** Councillor Enns, Chair  
Deputy Mayor Schmidt  
Councillors: MacDonald  
Councillor Gord Queen, Town of Kingsville

**MEMBERS ABSENT:** Councillor Derbyshire

**ALSO PRESENT:** Mayor Adams, Councillor Atkin, Councillor Paterson

**STAFF PRESENT:** Bill Marck, Chief Administrative Officer  
Brian Sweet, Director of Corporate Services,  
Cheryl Horrobin, Director of Finance and Business Services  
Doug Morrish, Director of Development Services  
John Tofflemire, Director of Community Services  
Allan Botham, Manager of Engineering Services  
Jennifer Bavetta, Corporate Assistant

**ALSO PRESENT:** Ed Dries, P.Eng., Dillon Consulting

#### **DISCLOSURES OF PECUNIARY INTEREST:**

**Moved by:** Deputy Mayor Schmidt      **Seconded by:** Councillor MacDonald

That the Court of Revision with respect to the Sturgeon Creek Drain in accordance with By-law 44-10 be opened.

**“CARRIED”**

Ed Dries, P.Eng., Dillon Consulting, reviewed the purpose of the Court of Revision and highlighted the revisions made to the assessment schedules. He explained the lands were identified after consideration of the engineers report, and the amendments include a number of name changes and recent severances.

Mr. Dries explained they were in attendance to consider an assessment appeal that was submitted, and provided an overview of how the assessments were determined.

Mr. Dries explained the costs are divided into three categories, namely, outlet liability, benefit and special benefit. He further explained there was a minor special benefit charge to one property related to additional engineering costs due to a development that did not proceed.

Mr. Dries informed council the primary issue related to costs is the provision of improved drainage to upstream lands, and that approximately twenty-seven percent (27%) of the costs were assessed as benefit costs and the remaining amount charged to upstream lands as outlet liability. He confirmed costs are more heavily weighted to upstream lands, which receive the most benefit.

With respect to the benefit assessment charge, Mr. Dries noted they are based on a per metre basis based on the number of metres the drain directly affects on the property. Outlet assessments are levied on upstream lands based on a per acre basis, regardless of how close to the drain.

Mr. Dries explained one formal appeal was filed, by Mr. Beato Mastronardi. He further explained Mr. Cervini raised a verbal appeal that his assessment was too high during the Public Meeting. Mr. Dries confirmed both appeals fall into the same category as both properties were assessed on the length of drain that affects each property. He further noted Mr. Mastronardi owns lands on both sides of the drain and that 545 metres of land were assessed at a rate of \$25.60 per metre. Mr. Dries confirmed all other properties that abut the drain were assessed the same rate depending on how much land abuts the drain.

Mr. Dries explained if the Court takes the view that the assessment against Mr. Mastronardi's property should be reduced, there will be an inherent unfairness to all other properties assessed in the same manner. Mr. Dries recommended the appeal not be approved and no changes be made to the assessment schedule.

Mr. Dries noted it will be necessary to re-circulate the revised assessment schedules, and asked the Court to accept the revised schedules, instruct the Clerk to re-circulate the schedules and to adjourn the court and reconvene at a later to date to adopt the schedules.

In response to an inquiry from council, Mr. Dries explained the Loblaws property was only charged nine dollars (\$9.00) per acre as the property is located near the outlet of the drain, and was therefore only subject to the outlet liability charge. He further explained a property located near an outlet of a drain will have a smaller outlet charge than a property located far upstream from the outlet.

Mr. Dries explained only two properties were assessed the special benefit charge as at the time the project commenced there was a proposal for a residential development on those properties, and the municipality instructed the engineer to include whatever would be required under the Drainage Act to make the drain able to accept the development. They were also instructed to track all engineering charges related to that specific work separately. It has now become clear that the development will not be moving ahead at this time and the charges related to the specific engineering are charged to those properties.

In response to an inquiry from council, Mr. Dries explained every drain must be considered differently when determining assessments as each drain is different in shape and service, as well as the work being completed. He further explained proportional benefit changes from drain to drain, and if one is changed, others may be put at a disadvantage. Mr. Dries confirmed the court has the authority to change any assessment to any value for any reason.

Councillor Enns confirmed there were two people in attendance regarding the Court of Revision.

Gino Mastronardi stated he was speaking on behalf of his father, Beato Mastronardi. He stated his father was assessed in a matter that his property abuts both sides of the drain however, that is not the case, as someone else owns the property to the south of the drain. Mr. Dries confirmed he would look into the ownership issue.

Mr. Mastronardi stated the properties to the south are owned by Mr. Bento and Mr. Cervini. Mr. Dries confirmed if the properties are in different ownership, the assessment schedule may be changed.

Mr. Mastronardi stated the benefit assessment was calculated based on the amount of frontage on the drain, and argued that just because a property lies on an area to be repaired, it is not necessarily gaining more benefit, and may actually be a burden rather than a benefit.

Mr. Dries explained that argument is not supported by the Province or the Drainage Act, as any works that have an impact on adjacent properties that provide improvement is considered a benefit. He further explained any work being done to provide an outlet to upstream lands is considered an improvement. He noted it then becomes a question of how much benefit a property is to be assessed.

Mr. Mastronardi stated his father's farm is one of the smaller and lesser productive farms on the drain, however, it is being assessed the highest amount. He stated it does not seem appropriate that a lesser productive property should be assessed in such a disproportionate manner, as they have the least use for drainage.

Mr. Dries explained the level of productivity on a property does not factor into an assessment, nor does the use of the property. He further explained the Drainage Act does not provide for a statutory need to evaluate the value of a property, and that an assumption is made that the drainage works provide a service to that land regardless of use.

In response to an inquiry from Mr. Mastronardi, Mr. Dries confirmed the Drainage Act does not state that a benefit charge is to be based on the amount of frontage on a drain, but rather is at the discretion of the Engineer.

Mr. Mastronardi stated that a property that is not productive and therefore not draining as much should not be assessed the same amount.

Mr. Dries explained the Drainage Act does not state a benefit must be assessed based on frontage, however, it is difficult to argue that a property that directly abuts a drain does not use that drain. He further explained if a drain provides service to that property by containing and conveying the flows, thereby protecting the property, it is assessable under the Drainage Act. Mr. Dries noted the approach he takes is on a per metre basis for benefit assessment, and that is a generally accepted approach throughout the Province.

Mr. Mastronardi stated that it is not easy to determine what the actual benefit is to a property, and argued that a farmer with sixty acres of greenhouse has more benefit than a farmer with one acre of greenhouse.

Councillor Enns confirmed there were no other residents in attendance regarding the Sturgeon Creek Drain.

Councillor Gord Queen noted there were a number of changes to the assessment schedule for lands located in the Town of Kingsville and requested clarification that the revised assessment schedule must be circulated. Mr. Dries confirmed that was the case.

Deputy Mayor Schmidt reminded those in attendance that a final decision was not being made that evening and that there is an appeal process that may be pursued.

Mr. Dries confirmed he would investigate the possible mistake in property ownership and speak to any changes at the next Court of Revision.

**Moved by:** Deputy Mayor Schmidt      **Seconded by:** Councillor MacDonald

That the Amended Schedule of Assessments for Repairs and Improvements to the Surgeon Creek Drain, dated July 12, 2010, in accordance with By-law 44-10, in the Municipality of Leamington, in the County of Essex, be adopted;

And that the amended Assessment Schedule be sent to all affected landowners;

And further, that the reconvened Court of Revision for Repairs and Improvements to the Sturgeon Creek Drain be scheduled for Monday, August 9, 2010.

**“CARRIED”**

**Moved by:** Councillor Queen      **Seconded by:** Deputy Mayor Schmidt

That the Court of Revision, with respect to the Sturgeon Drain Repairs and Improvements, in accordance with By-law 44-10, be adjourned.

**“CARRIED”**

Meeting adjourned at 7:33 p.m.

/jb

## REPORT

TO: MAYOR & MEMBERS OF COUNCIL

FROM: ALEXANDER N. DEL BROCCO C.E.T, ENGINEERING PROJECT SUPERVISOR

DATE: JULY 12, 2010

SUBJECT: 2010 ASPHALT PROGRAM TENDER AWARD

---

**AIM:**

To obtain Council approval to award the 2010 Asphalt Program contract to Coco Paving Inc.

**BACKGROUND:**

On Tuesday June 22nd, 2010, three (3) tenders were received for the 2010 Asphalt Program.

Contractor	Amount (Not incl. Taxes)
Coco Paving Inc. 6275 South Service Road Windsor, ON N8N 2M1	\$ 194,259.10
M. R. Dunn Contractors Ltd. 485 Little Baseline Road, RR # 1 Tecumseh ON N8N 2L9	\$ 214,731.10
Mill-Am Corporation 2199 Blackacre Drive Oldcastle ON N0R 1L0	\$ 225,894.00

**COMMENTS:**

The 2010 resurfacing program comprises surface treatment, slurry seal, asphalt resurfacing, and crack sealing. The subject tender is for the 2010 Asphalt Resurfacing component of the program, and includes the milling, tack coating, and paving of approximately 11,000 m<sup>2</sup> of asphalt roadways in various locations within the Municipality (Schedule A). The low Tenderer, Coco Paving Inc., has worked in the Municipality of Leamington in the past and has performed well.

**ENG 18-10 - Tender for 2010 Asphalt Program****FINANCIAL IMPACT:**

The budget for the 2010 resurfacing program is \$820,000 (1-320-8324-7630). From this budget, the Engineering Department had allocated approximately \$200,000.00 to the Asphalt Program. The entire resurfacing program was budgeted as follows:

<b>2010 Resurfacing Program Components</b>	<b>Budget Estimate (Not Incl. GST)</b>	<b>Tenders (Excluding all Taxes)</b>	<b>Estimate to Complete (Incl. Net Taxes)</b>
Crack Sealing	\$ 20,000.00	\$ 11,920.00	\$ 11,920.00
Surface Treatment / Modified Slurry Seal	\$ 580,000.00	\$ 563,559.75	\$ 573,600.00
Asphalt (Mill & Pave)	\$ 200,000.00	\$ 194,259.10	\$ 198,000.00
Shouldering (by Public Works Department forces)	\$ 20,000.00	TBD *	\$ 20,000.00
<b>TOTAL</b>	<b>\$ 820,000.00</b>	<b>TBD</b>	<b>\$ 803,520.00</b>

\* To be determined - this work is done by our Public Works Department after the individual Crack Sealing; Surface Treatment and Asphalt programs are complete.

Since this work will be constructed after June 30, 2010 HST will apply. The Municipality will obtain a rebate of 100% of the Goods and Services portion, and 78% of the Retail Sales Tax portion. The writer estimates that the remaining 22% of Sales Tax will be approximately \$3,500.00

**RECOMMENDATION:**

That Council award the 2010 Asphalt Program contract to Coco Paving Inc. 6725 South Service Road Windsor ON N8N 2M1 For the amount of \$194,259.10 (plus all applicable taxes) and be charged to account # 1-320-8324-7630

All as described in ENG 18-10

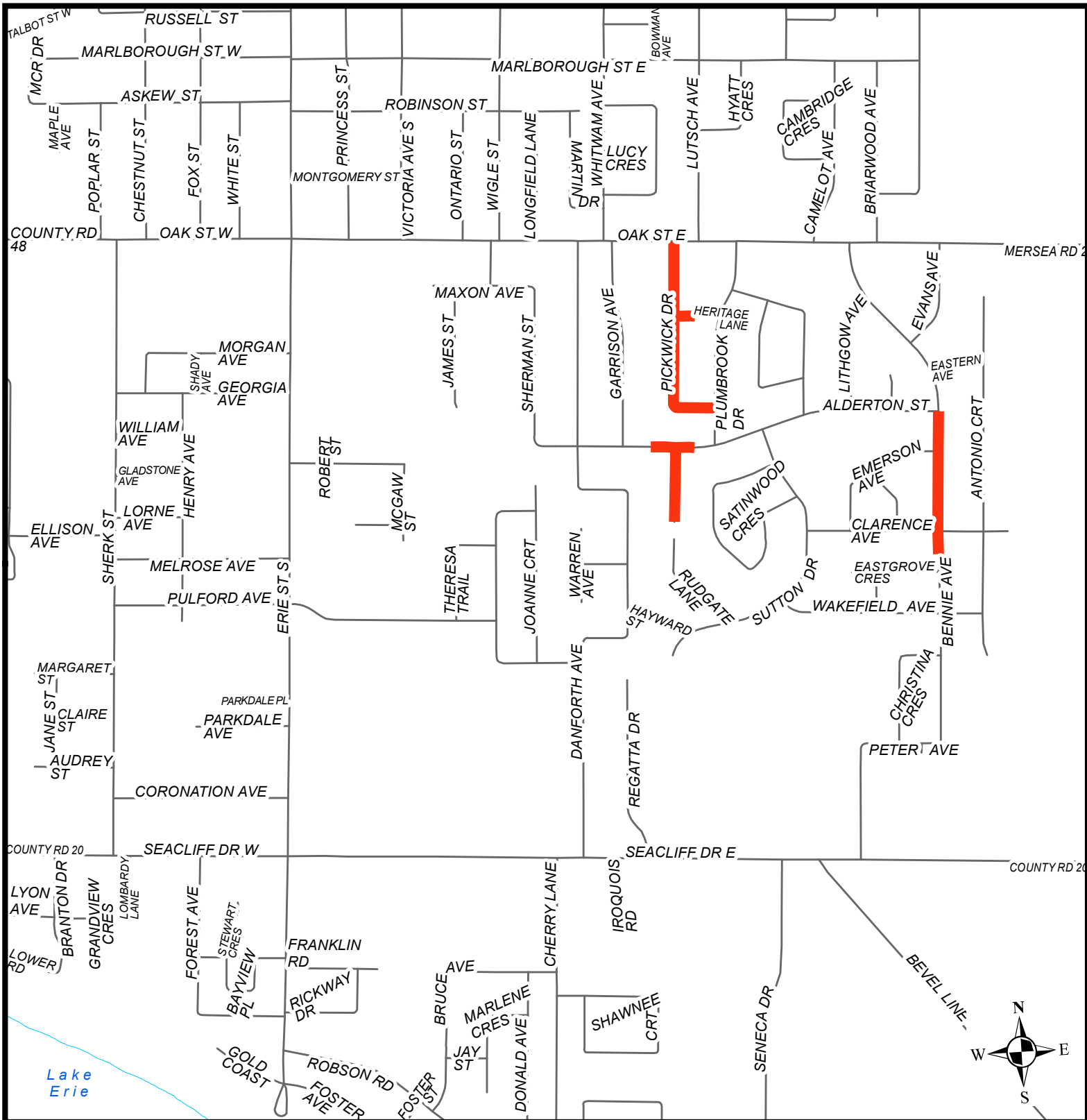
Respectfully submitted;

\_\_\_\_\_  
Alexander N. Del Brocco, C.E.T.  
Engineering Project Supervisor.

\_\_\_\_\_  
Allan Botham, P.Eng.  
Manager of Engineering Services


\_\_\_\_\_  
John Tofflemire, P.Eng.  
Director of Community Services

Encl.    ENG 18-10 Schedule A -2010 Asphalt Program Key Map.



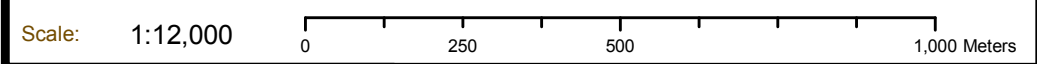
**Legend**

**RESURFACE TYPE**

 ASPHALT

**Title:**

# MUNICIPALITY OF LEAMINGTON 2010 ASPHALT PROGRAM



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Provided by the: Municipality of Leamington Engineering Department - GIS Services  
38 Erie Street North, Leamington, Ontario N8H 2Z3  
TEL: (519) 326-5761 FAX: (519) 326-2481

## REPORT

**TO: MAYOR & MEMBERS OF COUNCIL**  
**FROM: JOHN PILMER, ENGINEERING TECHNOLOGIST**  
**DATE: JULY 7, 2010**  
**SUBJECT: MEADOWBROOK SUBDIVISION PHASE 2 - ASSUMPTION OF SERVICES**

---

**AIM:**

To receive Council's authorization to assume the municipal services at Meadowbrook Subdivision Phase 2.

**BACKGROUND:**

Meadowbrook Subdivision Phase 2 consists of Lots 51-104 (incl.), and Blocks 105 & 106, 12M-424.

Municipal services for Meadowbrook Subdivision Phase 2, up to and including the surface course of asphalt, have been installed and all conditions outlined in the Development Agreement dated May 22, 1999 have been fulfilled to the satisfaction of the Municipality.

**FINANCIAL IMPACT:**

The cost of maintenance of the works in the Meadowbrook Subdivision Phase 2 will become the responsibility of the Municipality upon assumption.

The works will be added to the municipality's tangible capital asset inventory as donated assets in 2010 financial reporting based on a historical cost of approximately \$600,000 less amortization to the date of assumption.

**RECOMMENDATION:**

That the Corporation of the Municipality of Leamington hereby assumes the municipal services installed within the Meadowbrook Subdivision Phase 2 in accordance with section 33 of the Development Agreement dated May 22, 1999 with B.G Farms Ltd. for public purpose and use (ENG 19/10).

Respectively Submitted,

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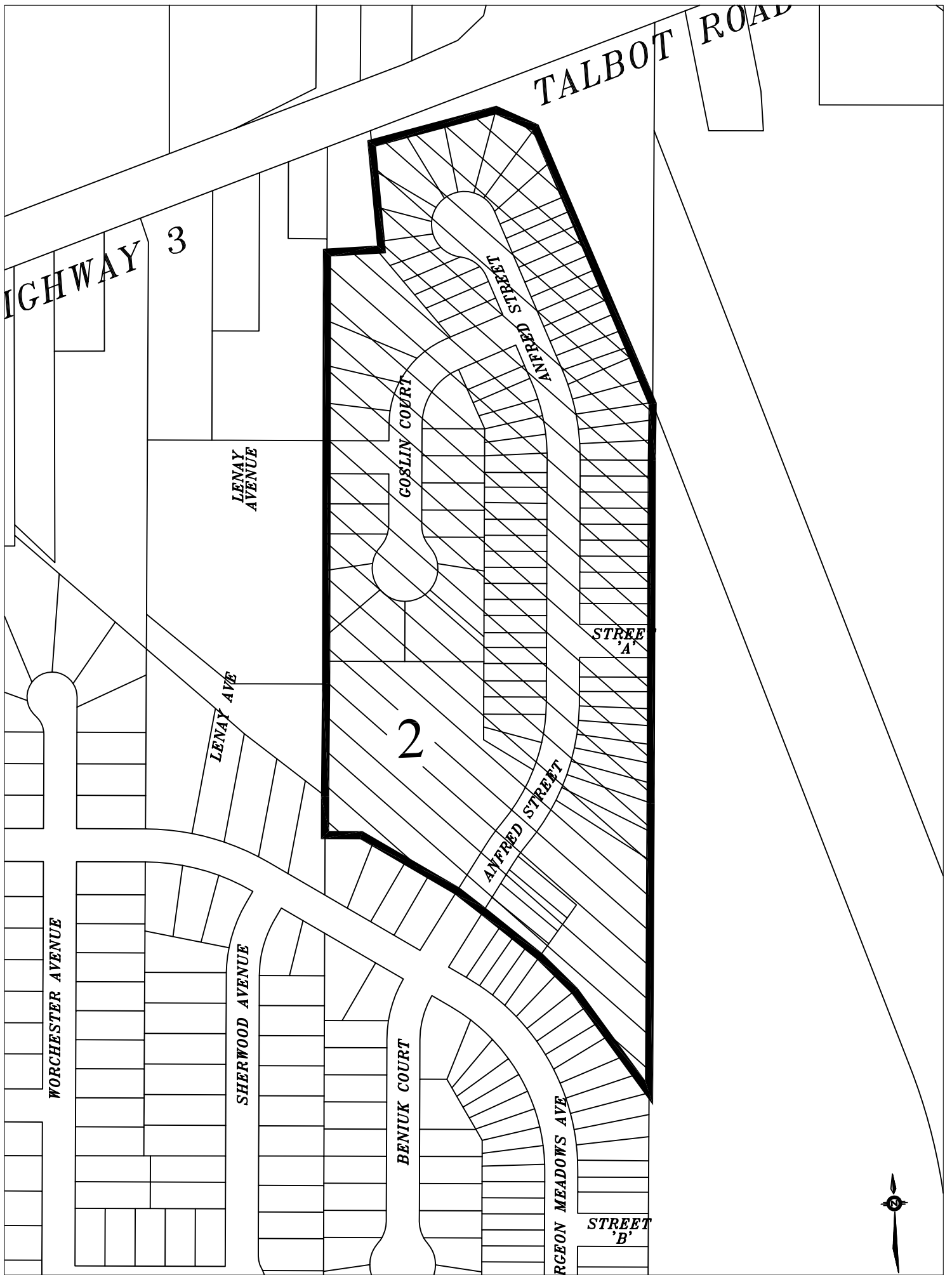
John Pilmer, A.Sc.T.  
Engineering Technologist

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Allan Botham, P. Eng  
Manager of Engineering Services

---

John Tofflemire, P. Eng.  
Director of Community Services



Meadowbrook Subdivision Phase 2

## REPORT

TO: MAYOR & MEMBERS OF COUNCIL

FROM: ALEXANDER N. DEL BROCCO C.E.T, ENGINEERING PROJECT SUPERVISOR

DATE: JULY 8, 2010

SUBJECT: 2010 GRAVEL ROAD ELIMINATION PROGRAM PHASE 1 TENDER AWARD

---

**AIM:**

To obtain Council approval to award the 2010 Gravel Road Elimination Program Phase 1 contract to Shepley Road Maintenance Ltd.

**BACKGROUND:**

During the 2010 Budget Deliberations Council approved a budget of \$ 160,000 towards the elimination of our gravel road system. The total cost of the elimination or conversion of our gravel road system was estimated at over 1.4 million dollars in 2009.

On Thursday June 8, 2010, two (2) tenders were received for the 2010 Gravel Road Elimination Program Phase 1.

Contractor	Amount (Not incl. Taxes)
Shepley Road Maintenance Ltd 2964 County Road 12 Essex ON N8M 2X6	\$ 127,887.80
M. R. Dunn Contractors Ltd. 485 Little Baseline Road, RR # 1 Tecumseh ON N8N 2L9	\$ 152,402.00

**COMMENTS:**

The 2010 Gravel Road Elimination Program consists of Supplying, Grading and Compaction of approximately 2600 tonnes of Granular 'A' and The Surface Treatment of approximately 1.2 km of Mersea Road 12 (See attached map). The low Tenderer, Shepley Road Maintenance Ltd, has worked in the Municipality of Leamington in the past and has performed well.

Shepley Road Maintenance has agreed to hold their unit prices and continue south along Mersea Road 12, to a maximum expenditure of \$160,000, if Council approves.

**ENG 20-10 - Tender 2010 GRAVEL ROAD ELIMINATION PROGRAM PHASE 1**

**FINANCIAL IMPACT:**

The budget for the 2010 Gravel Road Elimination Program is \$160,000 (2-320-8945-7630), which will include Construction, Engineering and Material Testing.

Since this work will be constructed after June 30, 2010 HST will apply. The Municipality will obtain a rebate of 100% of the Goods and Services portion, and 78% of the Retail Sales Tax portion. The writer estimates that the remaining 22% of Sales Tax will be approximately \$2,200 - \$2,800.

**RECOMMENDATION:**

That Council award the 2010 Gravel Road Elimination Program Phase 1 contract to Shepley Road Maintenance Ltd. 2964 County Road 12 Essex ON N8M 2X6 for the amount of \$127,887.80 (plus all applicable taxes)

And That Council authorize Engineering Services to extend the program (Construction and Testing) up to but not to exceed, \$160,000 (net taxes). This will include approximately \$3,000 for Material Testing.

And that all works be charged to account # 2-320-8945-7630

All as described in ENG 20-10

Respectfully submitted;

\_\_\_\_\_  
Alexander N. Del Brocco, C.E.T.  
Engineering Project Supervisor.

\_\_\_\_\_  
Allan Botham, P.Eng.  
Manager of Engineering Services

\_\_\_\_\_  
John Tofflemire, P.Eng.  
Director of Community Services

Encl. 2010 Gravel Road Elimination Program Phase 1 Key Map.



## REPORT

**TO:** MAYOR AND MEMBERS OF COUNCIL

**FROM:** AMANDA SMITH,  
MANAGER OF CULTURE & RECREATION SERVICES

**DATE:** July 5, 2010

**RE:** FACILITY USE AGREEMENT - PINNACLE REHABILITATION  
(PHYSIOTHERAPY SERVICES - LEAMINGTON KINSMEN  
RECREATION COMPLEX)

---

**AIM:**

To report to council on discussions which have been held with representatives of Pinnacle Rehabilitation and to recommend a lease of facility space at the Leamington Kinsmen Recreation Complex (LKRC) to accommodate community rehabilitation services.

**BACKGROUND:**

1. The current lease with Leamington District Memorial Hospital is due to expire on July 31, 2010; the lease requires ninety (90) days written notification on their intent to renew or cancel the said agreement.
2. Administration would confirm to council that in a letter from the Leamington District Memorial Hospital dated April 26, 2010 that "the tenants hereby provide ninety (90) days written notice that they are terminating the Lease effective July 31, 2010".
3. LDMH and their partner CBI had leased treatment rooms on the second floor as well as the office space near the entrance.

**COMMENTS:**

1. Administration would confirm that several meetings have been held with a new client, Pinnacle Rehabilitation, who has reviewed the existing space with the intent of negotiating a three-year agreement commencing Aug 1, 2010.
2. The proposed location for Pinnacle Rehabilitation will be on the second floor only of the Leamington Kinsmen Recreation Complex, occupying 880 sq. ft. The office formerly occupied by CBI will not be used; other rental options are being explored.

The client has requested some capital upgrades to the second floor rooms of the Sherk Aquatic and Fitness Centre, as follows:

- Paint offices, hallway and treatment room

- Paint ceilings in treatment room, hallway and offices
  - Replace office carpets with laminate
  - Exterior lock on front door to permit access from our parking lot
  - Replace broken light fixture in treatment room
  - Replace stained and chipped countertop in treatment room
  - Replace broken stay on treatment room door
  - Paint entrance ceiling outside of the doors, repair tiles on ground on the outside of the doors
  - Paint bathrooms on the second floor adjacent to the client space
  - Provision of plumbing for washer and dryer in agreed upon space within the facility
3. The capital improvements are to be completed satisfactory to the new client by August 31, 2010; the estimated cost of capital improvements for the Pinnacle Rehabilitation space will be \$15,000.00.
  4. A keypad entry system for the rear-door is proposed by the client and will be at the cost of the client.
  5. The rental fee for the current six-year agreement with the Leamington District Memorial Hospital (which expires July 31, 2010) was ten dollars (\$10.00) per square foot + property taxes and GST, and an additional seven percent (7%) of gross income, to a maximum of \$18,500.00. For the last three years of the lease rent totalled \$54,487.74.
  6. For information purposes, the rental fees (before HST) proposed for Pinnacle Rehabilitation for council consideration is as follows:

<b>Year One</b>	<b>Monthly</b>	<b>Total/year</b>
6 months	\$ 885.00	\$5,310.00
6 months	\$1,106.00	\$6,636.00
<i>Year One Total</i>		<u><i>\$11,946.00</i></u>
<b>Year Two</b>	<b>Monthly</b>	<b>Total/year</b>
	\$1,571.00	\$18,852.00
<b>Year Three</b>	<b>Monthly</b>	<b>Total/year</b>
	\$1,571.00	\$18,852.00
<b>Total (Year 1 to Year 3)</b>		<b>\$49,650.00</b>

7. The proposed rental fee includes recovery of capital improvements made during year one over the three year term of the lease.

### FINANCIAL IMPACT

The 2010 budget anticipated rental revenue of \$17,800 from the CBI. If approved, the rental agreement with Pinnacle will substantially mitigate the impact to the 2010 Complex operating budget, with an expected net revenue rental shortfall of approximately \$3,000. If we are successful in renting out the office space during 2010 the budget shortfall may be fully mitigated.

The capital improvements to the second floor are approximately \$15,000.00, inclusive of taxes, based on quotes from local contractors. It is proposed that the capital improvement costs be funded from Facility Equipment (2-830-8940-8940).

Based on the full three year lease with Pinnacle, the rental revenue will total \$49,650. The net benefit of the three year lease after considering the \$15,000 investment in 2010 for facility improvements will be \$34,650.

### **CONCLUSION:**

Administration would advise council that this type of partnership has been beneficial in the past to the Leamington Kinsmen Recreation Complex as well as residents of the Municipality of Leamington and surrounding area.

Through the former CBI partnership, we have been able to develop partnerships for our residents such as the Cardiac Wellness Centre program, a Cardiac Rehab graduate program as well as many membership referrals from insurance providers for their clients. This has allowed local residents the opportunity to rehab from cardiac problems in Leamington, and not have to travel to Windsor for this service, which is a benefit for all. It is expected that this type of synergy for the facilities and programs at the LKRC will continue with the clients of Pinnacle Rehabilitation.

When planning the Leamington Kinsmen Recreation Complex the facility goal was to offer local residents enhanced program opportunities such as physiotherapy. Administration further acknowledges that a physical therapy service may also attract additional members to the Complex in their quest to continue with life-long health and fitness.

### **RECOMMENDATION:**

That council authorize administration to enter into a three-year lease agreement with Pinnacle Rehabilitation commencing August 1, 2010 and ending on July 31, 2013 and as per the terms of understanding outlined in REC Report 12/10;

AND FURTHER, that municipal legal services be directed to prepare the appropriate Lease agreement between said parties;

AND FURTHER, that the Mayor and the Director of Corporate Services be authorized to sign said agreement on behalf of the Municipality;

AND FURTHER, that council authorizes expenditures up to \$15,000 for facility improvements to be funded by an under-expenditure in capital account 2-830-8940-8940.

Signed: \_\_\_\_\_

Amanda Smith  
Manager, Culture & Recreation

Signed: \_\_\_\_\_

John Tofflemire  
Director of Community Services

## REPORT

**TO:** MAYOR AND MEMBERS OF COUNCIL

**FROM:** AMANDA SMITH,  
MANAGER OF CULTURE & RECREATION SERVICES

**DATE:** JULY 9, 2010

**RE:** TREE SCULPTURE LEGACY PROJECT

---

### AIM:

To request that Council approve the Leamington Tree Sculpture Legacy Project.

### BACKGROUND:

1. As Council is aware, as result of the Tornado on June 6<sup>th</sup>, 2010, hundreds of trees were damaged and many have been permanently removed from municipal parks, green spaces and private properties.
2. In other communities that have experienced a natural disaster, woodcarvers and artists have donated their time and expertise or have been hired to transform tree stumps and trunks into beautiful public art pieces as a lasting legacy. Galveston Island, TX was devastated by Hurricane Ike in September 2008 and lost over 14000 trees; however, 20 oak tree stumps were carved into whimsical art pieces and are now part of a tourism initiative.
3. The City of London has 15 trees that are part of a city-wide Tree Trunk tour that is promoted by the Tourism London. This initiative is jointly paid for by Tourism London and through a sponsorship with Stihl Canada (chainsaw manufacturer).
4. The Pepsi Refresh Project is a Canada-wide, online voting competition to award up to \$200,000 every other month to projects that “refresh” communities, neighbourhoods and Canadians.
5. The South Essex Arts Association is “dedicated to creating and sustaining a celebration of the human spirit through the nurturing of arts in our community” and would support a community public art initiative such as the Tree Sculpture Legacy Program.
6. The Windsor Woodcarving Museum has an extensive database of local woodcarvers and contacts specifically with chainsaw artists and wood sculptures. They would support a community public art initiative such as the Tree Sculpture Legacy Program.
7. Administration would confirm for Council that preliminary meetings have been held with both organizations to review the tree location and proposed program.

**COMMENTS:**

1. Upon a review of information gathered from Tourism London and the Town of Orangeville the following suggestions should be considered:
  - Tree trunk diameter should be between 2 ft and 3 ft
  - Tree trunk height should be a minimum of 12ft to 13ft for a sculpture of 10ft. Shorter heights can be considered, but would need to work with sculpture to determine if appropriate for their work.
  - Utilize a local woodcarving guild or artist guild to find qualified chainsaw artists
  - The finished sculptures must have a protective coating/varnish/paint
  - The tree trunks do not have to be in the ground. They could be carved and then placed on a concrete pad.
  - A maintenance budget will need to be considered in the future to recoat the sculptures.
  - Signage, such as a plaque, should identify the sculpture and name of piece, if applicable, and sponsors.
2. There are three tree trunks in Seacliff Park that would meet the suggested standards. Goodreau Tree Care have agreed to perform an x-ray analysis to determine the integrity and stability of these tree trunks.
3. Administration would also confirm that there are many logs available that could be carved into decorative park benches that could be placed in Seacliff Park and other locations.
4. The Windsor Woodcarvers Museum and the South Essex Arts Association are willing to enter into a partnership with the Municipality of Leamington to coordinate and promote the Leamington Tree Sculpture Legacy project.
5. Administration advises that there is an online voting challenge sponsored by Pepsi Canada, called "Pepsi Refresh Project", which could generate up to \$10,000.00 in revenue to support the legacy project. The tree sculpture project meets the criteria of "Refresh Arts & Culture". A total of 10 grants per cycle will be awarded and specifically, 3 grants in the \$10,000.00 project request will be awarded per cycle. The online application is due on August 1, 2010. The voting period will be from September 1, 2010 to October 31, 2010. Through a public campaign and with media attention, the voting would be promoted to encourage residents to support the tree sculpture legacy project. Normally the grant cheque would arrive within four weeks of approval.

**FINANCIAL IMPACT**

1. The potential grant application for \$10,000.00 from Pepsi Refresh Projects for a Leamington Tree Sculpture Legacy', to assist with paying for the tree sculptures, coordinating a community event, promoting the project and purchasing the signage to recognize the sculpture and sponsors.
2. If the application is successful administration will seek additional sponsors as needed to ensure that there is no budget impact to coordinate the Leamington Tree Sculpture Legacy project.
3. The project will not proceed unless the application is successful.

**CONCLUSION:**

Administration would advise council that the Leamington Tree Sculpture Legacy project would be beneficial to the residents of the Municipality of Leamington, enhance public art experiences and provide a lasting legacy in the rebuilding of Seacliff Park.

Subject to council approval, a partnership with the Municipality, Windsor Woodcarving Museum and the South Essex Arts Association will be established and an online application will be submitted to the website 'refresheverything.ca' as part of the Pepsi Refresh Project requesting \$10,000.00. A campaign to encourage online voting will be promoted between September 1 and October 31, 2010.

**RECOMMENDATION:**

That Council supports the Leamington Tree Sculpture Legacy project as outlined within Report REC 13/10, subject to funding by Pepsi Refresh Projects;

AND FURTHER, that Council supports the online application to Pepsi Refresh Projects due on August 1, 2010.

Signed: \_\_\_\_\_

Amanda Smith  
Manager, Culture & Recreation

Signed: \_\_\_\_\_

John Tofflemire  
Director of Community Services