

Members Meeting

September 14th, 2019



PROPERTY OWNERS ASSOCIATION

Agenda

1. Welcome and Introductions
2. ESDPOA – General Updates
3. Treasure’s Report
4. Current State - Updates
5. Shoreline Protection – Long Term Strategy
6. Next Steps

ESDPOA – General Updates

- Incorporation
- Liability insurance
- Branding
- Website (www.erieshoredrivepoa.ca)
- Membership Drive



A special thank you to Brian Fallak for his work on the logo.

Treasurer's Report September

INCOME:

ACCOUNT BALANCE AS OF MAY 2019	\$6294.00
<u>57 MEMBERSHIP FEES</u>	<u>\$2850.00</u>
BALANCE	\$9144.00

EXPENDITURES:

AV RENTAL (MAY)	\$ 73.45
PRINTING/POSTAGE	\$ 197.31
LIABILITY INSURANCE	\$ 837.00
<u>AV RENTAL (SEPT)</u>	<u>\$ 73.45</u>
BALANCE	\$7962.79

Treasurer's Report September

BALANCE = \$7962.79

PENDING EXPENDITURES (to be invoiced):

- INCORPORATION FEES
- ENGINEER'S REPORT
- ENGINEER'S PRESENTATION
- WEBSITE LICENCE

Current State – Updates from CK

- Lifted the State of Emergency
- Adjusted paving to redirect water toward spillways
- Sealed cracks in the road (or will be done soon)
- Added Spillways
 - Spillways significantly increase dyke durability which extends the amount of time before the dyke begins to erode
- Surveyed the road to ensure spillways are in proper locations
- Continue to monitor dyke
- Repair as necessary

Shoreline Protection – Long Term Strategy

Due diligence and related activities since Fall 2018

- Reviewed all documentation available to ensure in-depth understanding of the issues presented Fall 2018
- Engaged 3rd party legal representation to review – determined valid case should we want to pursue that avenue
- Engaged drainage expert to review case, explain options under Drainage Act and make recommendations
- Met with CK for preliminary discussions
- Met with agricultural landowners who are major stakeholders
- Media relations – continuing to bring the uniqueness of Erie Shore Drive to the forefront

Shoreline Protection – Long Term Strategy

Background - Why the Drainage Act?

- 1914 – report submitted to construct the Burke Drain under the [Drainage Act](#), which involved the embanking and pumping of 1600 acres, lands in the third and fourth concession
- 1930-1968 wooden seawalls and groynes constructed along the shoreline of Lake Erie opposite the length of the Lakeshore Drain abutting the Dyke Road (now called Erie Shore Drive). This construction (also under the Drainage Act) was carried out primarily to protect the Burke Drainage Works

Shoreline Protection – Long Term Strategy

Background - Why the Drainage Act?

- 1998 Report stated the following (page 16):

We are satisfied that the report recommends sound technical alternatives which will produce long term wave impact and flood protection benefits to the lakefront lots along Erie Shore Drive and the lands in the Burk Drainage Works watershed. We are also satisfied that the application of the Drainage Act is an appropriate mechanism to proceed with any portion of the recommended works.

Shoreline Protection - Long Term Strategy

The Drainage Act – The Process

- A provincial statute that has been in place for over 150 years
- Provides a process for the construction of a drainage works on private property and public roads
- Process is administered by the municipality in which the drainage works required is located
- Landowners requiring a drainage works file a petition with the local municipality (*Section 4*)
- The municipality then appoints an engineer to prepare a report for the construction of the required drainage works

Shoreline Protection - Long Term Strategy

The Drainage Act – The Process

- The engineer's report provides a schedule that assesses the cost of the work to the affected lands and roads
- The municipality then adopts the engineer's report by bylaw and then proceeds to have the drainage works in the report constructed
- When construction is completed the municipality levies the final cost as per the schedule of assessment in the engineer's report


Shoreline Protection - Long Term Strategy

Maintenance under the Drainage Act

- Under *section 74* – the municipality is required to maintain the drainage work in accordance with the original engineer’s report
- If they are not able to – under *Section 78* they can have a new report prepared for the maintenance, repair or improvement of the drainage works
- The appointment of an engineer under *section 78* can be triggered by:
 - Written request by landowner(s)
 - By municipality without a written request
- Under *section 79* - if the municipality fails to complete maintenance within 45 days of the request – any landowner having damages can file a claim in the Court of the Drainage Referee
- The landowner would have to convince the court to award damages

Shoreline Protection - Long Term Strategy

Considerations

	Section 74	Section 79	Section 4 (New Petition)
Possible Action	Submit request for maintenance under the 1930 to 1951 reports	Landowner(s) submit a claim for damages due to lack of maintenance	Submit a petition for new drainage works under the Drainage Act
Consideration / Risk	<ul style="list-style-type: none"> It would not be possible/practical to maintain the drainage works under the 1930 to 1951 report No schedule of assessment for maintenance that would be possible or practical given the current use of the land Engineer would need to be appointed – CK will argue they already tried that in 1998 	<ul style="list-style-type: none"> Such a claim would have little chance of success as CK can argue that they attempted to do maintenance in 1998 with the appointment of an engineer and preliminary report Landowners at that time did not object to a final report not being prepared Litigation could be very costly with nothing in return if claim not successful 	<ul style="list-style-type: none"> Engineer will be appointed who will determine the area requiring drainage and determines if the petition is valid Petition can be deemed valid if it contains the signatures of a majority (51%) of the total owners within the area requiring drainage If it is valid and we get to a final report – will need a majority to approve moving forward with the work.
Likelihood of success	Low	Low	Medium* 

* There are several factors that will impact the success of this action however, it appears that this is the most viable solution given what we know today.

Shoreline Protection - Long Term Strategy

Why try? What's in it for us?

- It will take time but the longer we wait – the greater the risk
- Insurance won't cover losses from lake water – your current investment could be lost
- If we are successful – your property value will go up such that it will very likely exceed your portion of the cost of a collective solution
- Individual efforts are not sustainable – over time you could spend as much on individual protection efforts but it will be money wasted without an end to end proper solution
- Ongoing maintenance of the new shoreline protection system would included in the strategy

Shoreline Protection - Long Term Strategy

It didn't work before so why try again?

- Lessons learned from historical efforts
- Realities of climate change compounding the issues but also bringing greater attention to the issue
- Formalized POA with committed representation who have the right mix of skillsets and experience
- Appears to be a renewed willingness by all stakeholders to collaborate on a long term solution

Shoreline Protection - Long Term Strategy

What does action via Petition mean for you?

- Sign petition
- Attend stakeholder meeting #1
- Attend stakeholder meeting #2 – (once preliminary engineer's report completed)
- Attend stakeholder meeting #3 – once recommendation determined
- If the petition fails – those who sign would share the cost of the engineer's report
- Once a solution is determined by appointed engineer, the cost would be shared by all those who benefit as determined by the engineer
- Cost likely paid on taxes over time

Shoreline Protection - Long Term Strategy

We cannot do this alone. We need your help.

- Key messaging – we need to be aligned in our messaging
 - We continue to create a positive dialogue with CK and other stakeholders
- We need to encourage others to join (membership forms)
 - We will continue to work on your behalf
 - We will be stronger together – collectively, residential property owners make up 50% of beneficiaries of shoreline protection; individually we are less than 1%
 - There is strength in numbers and in a united front

Shoreline Protection - Long Term Strategy

Members Vote:

That the ESDPOA Board of Directors continue to explore “Petition” as an viable option for advancing our mutual interest in a consistent approach to long term shoreline protection.

Next Steps

- Continue to collaborate with CK on both short-term and long-term solutions
- Continue to advocate on behalf of our members
- Official launch of website as a communication tool
- Determine details of strategy and best timing to begin action under Section 4 (Petition)
- Report back to membership once final strategy is determined