

August 11/2011

Mayor Bruce Evans, town council and the town of White City,

Let me start off by highlighting once again the repetitive reoccurring theme in interaction with the town of White City representatives. This goes to further the explanation, in my opinion of why no one admits to knowing about our situation or acting upon it. This situation, we as a family have had to deal with for the past 4 years. The reoccurring theme is no communication, no action and no response. My wife had requested and was assured at the council meeting that we would get a written response by July 29<sup>th</sup>, 2011. It had been over 2 weeks with no communication or response. Upon completion of this letter, we have finally received a response later on August 11, 2011 from Shauna with your intentions. I therefore have trouble believing that the salaried, elected or appointed by default paid representatives of the people of White City have the interests of all of the town individuals served equally, fair, unbiased and just.

In speaking with my wife and in review of the proceedings, I will provide a rebuttal and commentary by addressing the town personnel and council's comments from the meeting on July 25<sup>th</sup>, 2011 in time relation to the meeting proceedings.

In not knowing what the actual percentages are, I will make a guess that most of the town/council did not fully read all the documentation, pictures and communication provided. I base my opinion solely by the questions that were asked, to which were answerable in the information that the council and town had asked us to provide in advance to them. As representative members of the town of White City paid in part to be fair, impartial and make informative decisions, we would have appreciated and expected a full review of the packets sent out. The packets, in our opinion, provided a clear factual accounting of events and interaction or lack of interaction coupled with pictures. This information may have seemed inconsequential to the council and a lot of information to review, but truthful/factual information is very important and our family, home and property passionate to us. We believed the information necessary for the town council to perform its' job appropriately.

Moving forward with a response to the Mayor's repetitive questioning of, "if we are going to build up the property and why don't we build up the property". I would simply like to respond by saying, "I don't not believe we should have to", as far as we are concerned the requirements of the agreed to and signed documents of the lot grading criteria where required has been met. Let me again provide the statement as it has been stated in many communiqué and recently by my wife at the council meeting; as property owners, we are legally responsible for water that "lands" on our property and not for the water where land(s) have been altered or water has been diverted/directed from another location(s) onto our property. This is in reference to the rain/storm water drainage system currently being used by the town of White City in our area.

In listening to the town's comments of what they have accomplished, I would like to remind them that the majority of this work was done a few days prior to having to appear at the town council meeting. This is convenient timing as there had been many prior days of dry weather and dry conditions in that area to accommodate the work that needs to be done. This is after letters had been sent on 3 separate occasions to the town/town manager explaining the situation, asking for resolution and stating no resolution was being accomplished. The last letter dated June 26/11 approximately 3 months after my conversation with the town manager and town foreman. No communication, or effort other then noted in this letter or others, had been extended from the town since the initial face to face meeting.

The town's implication of major problem resolution progress has yet to be proven. We await the progress report promised by Darryle of the work required till completion, more material and

renewed manpower issues. Darryle had stated that this work would transpire the week following the meeting. To date, we see no changes that had been expressed by him.

In regards to the Darryle's statement of culvert installation and effectiveness, this culvert's location was depicted on our schematic/map of water flow (provided in the documentation package to the council members). The culvert does not stop the water flowing/moving North onto our property, it only provides minimal relief. Why? The culvert, in my assessment, is positioned at a higher level than the majority of the immediate surrounding area, therefore the bulk of the water still flows North rather than through the culvert. The only time larger amounts of water flow through the culvert is when the area surrounding is so saturated and the water level exceeds that of the surrounding area, typically early spring melt. Our property at this time has already been subjected to previous water runoff from the town's water drainage that a minimization of the flow does little to minimize that damage that has already occurred. Pictures and elevation measurements could be referenced. Suggestions made of trenching to the culvert and/or increasing berm size seem plausible solutions if correctly done.

Cecil provided an interjection on Darryle's explanation of the berm/ditch which would be located near the culvert and would not allow water Northward but push it towards the accommodating culvert. Cecil's statement of concern was the "ditch responsibility and access rights to them" as being a constraint to a solution. As Cecil stated the Dept of Highways should be consulted/informed/involved; this being said I could endeavor on the town behalf to provide the honorable Jim Reiter all of the background information of this situation to serve as a basis for inquiry and resolution.

I believe at this time in the meeting, it was Cecil's first question/comment on why we (the town) was spending this money. I will address his comments later, when it comes up a few more times in later council conversation.

It was also stated in a comment from council that the developer needs to "jump" through a bunch of hoops through the government in order to develop. My wife and I could only presume that the council member meant this then would naturally and/or automatically ensure drainage and other aspects of development are correct by proper or numerous hoop jumping. I agree with the member's comment in regards to ensuring the proper following of provincial/federal government regulations and requirements in all aspects of a town's development and building. In light of council's comment, I would suggest conducting a review on the conduct, criteria, design implementation and development practices being applied in this situation and others in White City. This review in my opinion may then ensure that all the hoop jumpers are treated equally and subsequently if all rules and regulations are effectively in place, adhered to and enforced, the White City individual, home or business owner would also benefit.

Moving forward through the meeting notes, it was brought up why no one was aware of our situation/struggle for 4 years. My response is, of course certain key individuals were. Shauna made the comment of only hearing of this via my letter dated March 31/11, yes her statement is accurate. However subsequent communiqué (copies of all letters to the town in 2011 were sent in "package" to council to review) to Shauna in regards to town promises and progress status received no response. It was clearly stated to the town and Shauna some of the key individuals, interactions and resolution promise communications that taken place prior in my letter to her on March 31/11. In our opinion, these letters would make for an easy confirmation for the town to communicate with the noted individuals to verify past communication and promises of resolutions forthcoming. I typically am old fashioned and do things on a handshake or my word, however not everyone seems to have these same old fashioned traits instilled in them as I have

found out. Just because the town has not kept records of correspondence, promises/guarantees of resolution does not mean it did not occur. As stated by me repetitively, I do have verbal, taped and written recorded interaction with town representatives/individuals in regards to this problem stemming back to 2007.

Shauna refers to the visual aspects of property by driving by and making an assessment. Darryle had also made a verbal "visual" assessment at our initial meeting that the ditch area ran naturally from the North to the South towards the culvert. This as I had stated at the time is not the case, I have since proved it and backed up my comments/assessment with elevation keys and pictures showing water running. If needed, I could provide the professional accreditation to justify this. Would it be accurate to say Shauna's review of the topographical is based on her professional topographer designation and that the map reflects 100% recent, say within the past year, accuracy? Could an accreditation please be produced to justify the topography statements along with a certification that the topography map provided to us by the town at the meeting clearly reflects current date accuracy?

I listened to Shauna and a few councilors' comments on then lowness of our property and the problems that we will have. As a reply I would like to say that we are fully aware of the natural nature of our property. Stop the water from being diverted from all the properties highlighted on the property overview for our area (this was once again included in our packets to the councilors) into/onto our property. We will address needed furtherance to our property to provide the acceptable level of water inconvenience that we will accept from naturally falling or pooling water. Water that the town drainage system deposits down the ditch still has a leaching effect and therefore will still saturate our property if not properly resolved to flow 100% to the culvert that was installed recently or some other form of resolution.

I believe Cecil commented again on "why are we (the town) doing something on highways property" and if the ditch floods we (the Shivaks) will flood. My assessment why the ditch floods and subsequently displaces water into our property is what I have been saying all along; it is due to the town of White City incorrect drainage system diverting the bulk of the water from the subdivision homes, highlighted on our sheets, onto the ditch that's end point is our property. Why, because it has not been properly routed elsewhere.

The second part of Cecil's comment was again "why are we spending money" I just want to take a minute to address this as the councilor seems fixated on the expenditure of funds to our cause/resolution effort by the town. The work equivalent that the town has put forth in money terms is insignificant in my opinion. Could the town please provide a formal record of the manpower labor hours it has put forth in its effort to solely resolve this problem on our behalf? I can then review, compare and justify these noted hours in comparison to my records of the town's manpower effort for future reference. As stated in many communiqué we have incurred SIGNIFICANT costs in all aspects of this problem over 4 years. I have offered my assistance, equipment and time to resolve this problem even though I believe it is solely a town problem. It had been politely refused by the town managers, town foreman etc stating this is their concern and it will be taken care of. For the information of the council, I have also spent considerable time and effort cleaning culverts, clearing pathways for drainage, selective town lawn/ditch maintenance on behalf of the town, so it gets done. I was even commented on April 15<sup>th</sup>, 2011 by Darryle at the town shop by the comment "oh, you're the one that has been rooting around that area residents had seen" He followed it up by stating that it is nice to have someone participate in the community. Despite the swine inference of rooting around, at least I can take solace that I helped out individuals/town even when the effort is not returned. When I recognize a problem or concern I take steps to resolve it properly.

Mayor Bruce, I believe you stated what if the neighbor does or does not build his property up or expand it out and the effect that will have on us as far as more or continued water. The law address's many aspects of this type of situation. You would most likely find that the issues deal with naturally occurring (natural conditions) vs the offset landscaped or developed property conditions where water has been altered or displaced. As far as what neighbor Jason's intentions are I am not sure, other than transporting another I guess 50-70 fully loaded tandems/semis of dirt down residential streets to his property. You could inquire with the town foreman as he may have insight to Jason's intentions.

Mayor Bruce, in regards to your twice repeated last minute commentary of your home residing near the creek where you placed dirt instead of the town, I congratulate you for your effort in adding dirt to your property. If you felt this was necessary, then this is your prerogative. However, I believe the creek is a naturally occurring body of water, a "natural watercourse" and therefore I believe it does not fall under any "legal resolution" by anyone other than yourself, the homeowner, so putting dirt there was in my opinion solely your effort and no one else's responsibility. It is water that has not been displaced or altered, therefore natural. If at sometime you personally choose to alter the flow, divert, redirect or otherwise modify your nearby water you may find you will have complaints/problems to resolve. In my opinion, the story factual or not, provided by you showing work on your behalf and the effort you made for the town in the placement of dirt just does not impress me in light of the context of why it needed to be done. In your effort though, I would have hoped that you would have taken the diligence to make sure that the dumping of the soil/dirt was not on protected land. Also I would anticipate that you used only proper environmental/non-contaminated soil as fill in order to preserve the sanctity of the creek you spoke about.

My wife and family especially chose to enjoy, live, reside and support White City. We are not asking for special treatment, just fair treatment as tax payers. We have waited 4 years, coupled with property damages, labour, time, equipment purchases/rental and other associated costs, while waiting for a resolution from the town. We have been told repeatedly that a solution/resolution will be found and implemented. In our view this is unacceptable, would you accept this if in the same position?

In closing, I will ask the question again. The same question I have been asking for 4 years now. When will a permanent (and now immediate) resolution be implemented to prevent our property from flooding caused by the White City storm/rain water drainage system?

If a quick permanent resolution addressing the flooding from all aspects (back and side of property) of our property cannot be obtained, we will be forced to pursue other remedies which will increase costs to all parties.

We are still prepared to meet in order to resolve this issue quickly and can be contacted to arrange for a meeting.

Sincerely,  
Darren Shivak  
31 Fernwood Street  
White City