

Subject: Simpson Municipal Drain construction of the Biltmore Branch and modification of Branch 3 – Court of revision

File Number: ACS2023-IWS-WL-0006

Report to Agriculture and Rural Affairs Committee on 2 November 2023

Submitted on September 13, 2023 by Marilyn Journeaux, Director, Water Linear and Customer Services, Infrastructure and Water Services

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Ward: Rideau-Jock (21)

Objet : drain municipal Simpson – construction du branchement Biltmore et modification du branchement 3 - Tribunal de révision

Numéro de dossier : ACS2023-IWS-WL-0006

Rapport présenté au Comité de l'agriculture et des affaires rurales

Rapport soumis le 2 novembre 2023

Soumis le 13 septembre 2023 par Marilyn Journeaux, directrice, Services linéaires d'eau et à la clientèle, Direction générale des services d'infrastructure et d'eau

Personne-ressource : Dave Ryan, directeur des installations de drainage, Services d'infrastructure et d'eau

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Quartier : Rideau-Jock (21)

REPORT RECOMMENDATION(S)

That the members of the Court of Revision:

- 1. Receive the report of the Engineer appointed under the Drainage Act entitled Amendment to the Engineer's report for the Engineer's report amendments to the Simpson Municipal Drain construction of the Biltmore Branch and modification of Branch 3 dated August 2023.**

- 2. Convene for the first sitting for the Court of Revision under subsection 46(3) of the Drainage Act for the purpose of hearing appeals under Section 52 of the Drainage Act from owners of lands that have been assessed for the drainage works in the Engineer's report amendments to the Simpson Municipal Drain construction of the Biltmore Branch and modification of Branch 3 dated August 2023.**

RECOMMANDATION(S) DU RAPPORT

Que les membres de la tribunal de révision :

- 1. prennent connaissance du rapport de l'ingénieur nommé aux termes de la Loi sur le drainage, intitulé « Modification du rapport de l'ingénieur sur le drain municipal Simpson – construction du branchement Biltmore et modification du branchement 3 » en date du mois d'août 2023;**
- 2. se réunissent pour la première séance du tribunal de révision aux termes du paragraphe 46(3) de la Loi sur le drainage, afin d'entendre les appels interjetés aux termes de l'article 52 de la Loi sur le drainage par les propriétaires de terrains évalués pour les travaux de drainage dans le rapport de l'ingénieur intitulé « Modification du rapport de l'ingénieur sur le drain municipal Simpson – construction du branchement Biltmore et modification du branchement 3 » en date du mois d'août 2023.**

BACKGROUND

The following provides a high level overview of the proposed amendments to the Simpson Municipal Drain. This brief overview does not describe the project or its purpose in its entirety; for further details, please refer to Document 3 entitled the Engineer's report amendments to the Simpson Municipal Drain construction of the Biltmore Branch and modification of Branch 3 dated August 2023 prepared by Robinson Consultants Inc.

The purpose of this report is to address the need for improved drainage for Biltmore Crescent, Munster Road and Fallowfield Road. The update to the Simpson Municipal Drain was initiated in response to a petition from the Director of Roads and Parking Services of the City of Ottawa. Mr. Robinson has submitted an updated engineer's report that includes information on the construction of the Biltmore Branch, modifications made to Branch 3, and the associated costs for the landowners within the watershed.

Funding is available in the 2023 approved Budget under the Municipal Drains Program for the total estimated construction costs of \$359,240.56 plus applicable taxes. Costs will be assessed for all the properties within the drainage area as shown on Dwg No. 19060-A3.1 and 19060-A3.2. The total amount mentioned consists of assessments and internal cost recovery associated with City of Ottawa lands and roads, totaling \$28,883.13. Additionally, there is a one-time charge of \$269,430.42 to the road authority for the preparation of the engineer's report.

As per the assessment schedule titled "Schedule A summary for construction and future maintenance - Simpson Municipal Drain, Branch 3 and Biltmore Branch," future maintenance costs for the Simpson Municipal Drain will be evaluated and assessed accordingly.

Each owner of lands assessed for the drainage works, as outlined in the Engineer's Report dated August 2023 prepared by Robinson Consultants Inc., received a mailed copy of the Notice of First Sitting of Court of Revision on October 11, 2023. Additionally, Document 2 in this report includes a copy of the provisional by-law that received 1st and 2nd reading by Council on the same date. Document 3 in this report is the engineer's report dated August 2023.

Function of Court of Revision: The Court of Revision is a statutorily mandated appeal body established under the provincial *Drainage Act* to hear appeals from owners of lands that have been assessed for the cost of construction and/or repair of drainage works under an engineer's report prepared under the *Drainage Act*.

The Court of Revision is one of three quasi-judicial bodies established by Council and although it is currently composed entirely of Councillors supported by the Clerk's staff, it does not operate as a Standing Committee of City Council and has an entirely different purpose and set of rules governing its operations (ACS2010-CMR-CCB-0106, Council Governance Review 2010-2014, City Council December 8, 2010).

Council is not legislated to consider any appeals concerning a drainage assessment schedule in an engineer's report or to hear any other types of *Drainage Act* appeals. As such, the members of the Agriculture and Rural Affairs Committee do not make any recommendations to Council on drainage assessment appeals to the Court of Revision and therefore a report to Council is not required in relation to Court of Revision hearings.

However, this report serves as a valuable mechanism for providing information to the public, to Councillors and staff on the status of existing and proposed drainage works

under the *Drainage Act* and facilitates the transparency, accountability and effectiveness of this quasi-judicial body established by the *Drainage Act*.

The sole purpose of this report is to serve as a guide on the role of the Members of the Court of Revision and Court of Revision procedures under the *Drainage Act*.

Role of the Members of the Court of Revision and Court of Revision Procedures

As Court of Revision members are required to consider assessment appeals on an impartial and unbiased basis, each member should strive to keep their Court of Revision role completely separate and distinct from their City Council and Standing Committee roles.

The *Drainage Act* provides some guidance as to how the Court of Revision is to proceed:

- In any appeal to the Court of Revision, if the engineer is called upon to provide evidence as to how an assessment was determined, the engineer must give evidence before the appellant's case is presented.
- The appeals to the Court of Revision are on the lands or roads are assessed too high or too low, land or road should have been assessed, or due consideration has not been given to the use being made of the land. If the members of the Court of Revision are satisfied, based on the evidence presented at the hearing, that an assessment should be reduced and added to lands owned by a person who is not present at the hearing, then they must adjourn the Court of Revision, send notice to the absent owners of assessed lands to allow them to appeal the change, and then reconvene in accordance with Section 53. At the adjourned date (i.e. the 2nd sitting of the Court of Revision), the Court must dispose of the matter of appeal and, where appropriate, redistribute the assessments in such manner as appears just.
- If the Court of Revision decides to change an assessment, Section 56 states that notice of the change must be sent to affected owners and the provisional by-law shall be amended to carry out any changes so made by the Court of Revision.
- A party to an appeal that is before the Court of Revision may appeal the decision of the Court of Revision to the Agriculture, Food and Rural Affairs Appeal Tribunal in accordance with the provisions of the *Drainage Act*.

Next Steps

Once the period for appeals to the Court of Revision has elapsed without any appeals, or after the appeals have been resolved, Council has the authority to proceed with granting third reading to the provisional by-law. This by-law authorizes the construction of the drainage works.

DISCUSSION

Not applicable to the Court of Revision

FINANCIAL IMPLICATIONS

Not applicable to the Court of Revision

LEGAL IMPLICATIONS

Not applicable to the Court of Revision

COMMENTS BY THE WARD COUNCILLOR(S)

Not applicable to the Court of Revision

CONSULTATION

Not applicable to the Court of Revision

ACCESSIBILITY IMPACTS

Not applicable to the Court of Revision

SUPPORTING DOCUMENTATION

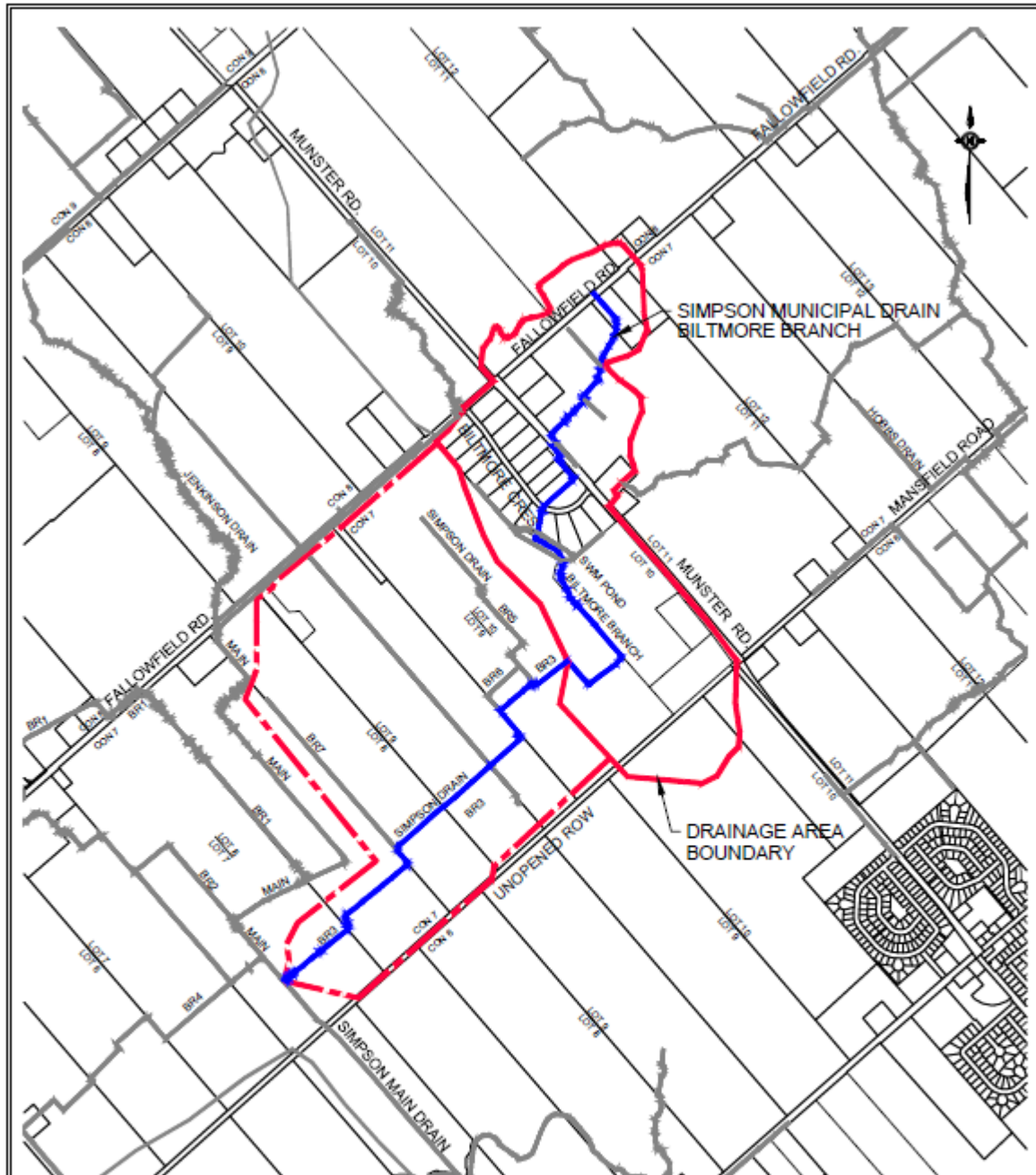
DOCUMENT 1 – Location Plan

DOCUMENT 2 – Provisional By-law

Document 3 – Engineer’s report amendments to the Simpson Municipal Drain construction of the Biltmore Branch and modification of Branch 3

DISPOSITION

Not applicable to the Court of Revision



ALL LOTS AND CONCESSIONS ARE WITHIN THE GEOGRAPHIC TOWNSHIP OF GOULBOURN

	Title LOCATION PLAN		Fig. No. 3.1
	Project SIMPSON MUNICIPAL DRAIN - BLTMORE BRANCH AND BRANCH 3		Job No. 19060
	Scale NTS	Date AUG 2023	