



Court of Revision Minutes

March 22, 2022, 5 PM

Location: Electronic Meeting

**Brooks Drain Maintenance Schedule,
Geographic Township of Colchester South,
Project REI2020D026, Town of Essex, County of Essex**

**10-11 Sideroad Drain Replacement Bridges for Rivest & Campbell,
Geographic Township of Colchester North,
Project REI2021D002, Town of Essex, County of Essex**

**Brush Drain Repair and Improvement,
Geographic Township of Colchester North,
Project REI2020D030, Town of Essex, County of Essex**

Accessible formats or communication supports are available upon request. Please contact the Clerk's Office at clerks@essex.ca or 519-776-7336 extension 1100 or 1101.

This is pursuant to the Brooks Drain report prepared by Gerard Rood, Professional Engineer, Rood Engineering Inc., dated December 21st, 2021, which was considered and adopted at a Consideration Meeting held February 3, 2022 and pursuant to By-Law No. 2130 which received two readings by Council at its regular meeting held February 22, 2022.

This is pursuant to the 10-11 Sideroad Drain report prepared by Gerard Rood, Professional Engineer, Rood Engineering Inc., dated November 24th, 2021, which was considered and adopted at a Consideration Meeting held December 16, 2021 and pursuant to By-Law No. 2110 which received two readings by Council at its regular meeting held January 17, 2022. The first sitting of the Court of Revision was on February 10, 2022. An addendum containing an amended assessment schedule dated February 22nd, 2022 has been circulated to the property owners.

This is pursuant to the Brush Drain report prepared by Gerard Rood, Professional Engineer, Rood Engineering Inc., dated December 23rd, 2021, which was considered and adopted at a Consideration Meeting held February 3, 2022 and pursuant to By-Law No. 2131 which received two readings by Council at its regular meeting held February 22, 2022. An addendum containing an amended assessment schedule dated February 23rd, 2022 has been circulated to the property owners.

This sitting of this Court of Revision was duly appointed by Council on February 22, 2022.

Section 54 (1) of The Drainage Act provides that the decision of the Court of Revision can be appealed to the Drainage Tribunal within twenty-one (21) days from the date of the Court of Revision. The final day for appeal is April 12, 2022. At the first Council meeting after this date the third reading to By-Laws No. 2130, No. 2110 and No. 2131 will be given.

The Deputy Clerk confirmed that all notices have been sent in accordance with The Drainage Act.

Present: Kirk Carter, Chair
 Percy Dufour
 Felix Weigt-Bienzle

Also Present: Shelley Brown, Deputy Clerk, Legal and Legislative Services
 Norm Nussio, Manager, Operations and Drainage
 Lindsay Dean, Drainage Superintendent
 Tanya Tuzlova, Drainage Clerk
 Mark Fishleigh, Professional Engineer, County of Essex
 Gerard Rood, Professional Engineer, Rood Engineering Incorporated

From General Public: for Brooks Drain: none
 for 10-11th Sideroad Drain: none
 for Brush Drain: Matthew Roy, 2314 County Road 12 and James Boyle,
 2316 County Road 12

Regrets: none

Absent: none

1. Call to Order

The Chair called the meeting to order at 5:00 PM.

2. Declarations of Conflict of Interest

There were no declarations of conflict of interest noted at this time.

3. Adoption of Published Agenda

3.1 Court of Revision Agenda for March 22, 2022

COR22-03-001

Moved by Felix Weigt-Bienzle

Seconded by Percy Dufour

That the published agenda for the March 22, 2022 Court of Revision be adopted as presented.

Carried

4. Adoption of Minutes

4.1 Court of Revision Minutes for 10-11th Sideroad Drain Replacement Bridges for Rivest & Campbell and Bassett Drain Bridge for 2430 County Road 20, held on February 10, 2022

COR22-03-002

Moved by Felix Weigt-Bienzle

Seconded by Percy Dufour

That the minutes of the Court of Revision held on February 10, 2022 be adopted as circulated.

Carried

5. List of Written Appeals

5.1 Written Appeals Received by the due date

The Chair advised that the purpose of the Court of Revision is to hear appeals regarding the schedule of assessment only. The schedule of assessment may be altered, but the total assessment must remain the same. If one assessment is reduced then another must be increased to balance.

The Deputy Clerk informed the Board that the Town of Essex received two appeals before the due date: from Matthew & Holly Michelle Roy, 2314 County Road 12 and from James & Hollis Boyle, 2316 County Road 12.

COR22-03-003

Moved by Felix Weigt-Bienzle

Seconded by Percy Dufour

That the appeals from Matthew & Holly Michelle Roy and James & Hollis Boyle be accepted.

Carried

6. Public Presentations

6.1 Gerard Rood, Professional Engineer

Re: Report from Rood Engineering Incorporated dated December 21st, 2021 regarding Brooks Drain Maintenance Schedule, Geographic Township of Colchester South, Project REI2020D026, Town of Essex, County of Essex

Mr. Rood has presented a short overview of the report. Mr. Rood added that he did not receive any questions or appeals regarding this project.

Mr. Rood asked if the Court of Revision members have any questions.

There were no questions or concerns from Court of Revision members.

There were no residents in attendance.

COR22-03-004

Moved by Felix Weigt-Bienzle

Seconded by Percy Dufour

That the assessments contained in the schedules of assessment report for the Brooks Drain Maintenance Schedule, Geographic Township of Colchester South, Project REI2020D026, Town of Essex, County of Essex as prepared by Gerard Rood, Professional Engineer, dated December 21st, 2021, be confirmed as presented.

Carried

6.2 Gerard Rood, Professional Engineer

Re: Report from Rood Engineering Incorporated dated November 24th, 2021 regarding 10-11 Sideroad Drain Replacement Bridges for Rivest & Campbell, Geographic Township of Colchester North, Project REI2021D002, Town of Essex, County of Essex and the addendum containing an amended assessment schedule, dated February 22nd, 2022.

Mr. Rood has presented a short overview of the report. Mr. Rood added that he did not receive any questions or appeals regarding this project. Mr. Rood informed that he has reviewed the correspondence from Mr. Siefker and Ms. George. Mr. Rood added that he has provided explanations to Ms. George and that he has prepared the Assessment Schedule Addendum to Report dated 2022-02-22 to reflect additional information presented by Mr. Siefker.

Mr. Rood asked if the Court of Revision members have any questions.

There were no questions or concerns from Court of Revision members.

There were no residents in attendance.

COR22-03-005

Moved by Felix Weigt-Bienzle

Seconded by Percy Dufour

That the assessments in the Addendum dated February 22nd, 2022 for the 10-11 Sideroad Drain Replacement Bridges for Rivest & Campbell, Geographic Township of Colchester North, Project REI2021D002, Town of Essex, County of Essex as prepared by Gerard Rood, Professional Engineer, be confirmed as presented.

Carried

6.3 Gerard Rood, Professional Engineer

Re: Report from Rood Engineering Incorporated dated December 23rd, 2021 regarding Brush Drain Repair and Improvements, Geographic Township of Colchester North, Project REI2020D030, Town of Essex, County of Essex and the addendum containing an amended assessment schedule, dated February 23rd, 2022.

Mr. Rood presented a short overview of the report. Mr. Rood added that he has received additional information from Mr. Siefker and that he has prepared the Assessment Schedule Addendum to Report dated 2022-02-23 to reflect that information. Mr. Rood added that he has reviewed two appeals submitted by Mr. & Ms. Roy and Mr. & Mrs. Boyle. Mr. Rood noted that Mr. Roy's appeal is related to the repairs done to the drain in 1960 by the County of Essex when the road was straightened, and the drain was enclosed by taking part of the frontage of Mr. Roy's property. Mr. Rood explained that he does not have documentation regarding the 1960 repairs and commented that the County should not be responsible for the repairs on the enclosed part of the drain on Mr. Roy's property. Mr. Rood also explained that the appeal from Mr. Boyle states that only a part of the culvert needs to be replaced. Mr. Rood noted that these concerns should have been brought to his attention at the Consideration of Report meeting since they are related to the scope of the project.

Matthew Roy, 2314 County Road 12, explained that some frontage of his property was taken by the County and enclosed. Mr. Roy added that he did not request the enclosure and therefore he should not be responsible for the repairs.

Mr. Rood reiterated that at the on-site meeting and Consideration of Report meeting he was not informed that Mr. Roy does not need enclosure to be repaired and therefore the scope of the project included enclosure repairs. Mr. Rood also explained that he does not have documentation that the County should be responsible for the cost of the repairs of these bridges. Mr. Rood added that Mr. Roy's property is benefitting from the enclosures and therefore should be assessed it's share of the cost.

Mr. Roy commented that he was told not to speak at the Meeting to Consider about his property's assessment

Ms. Dean, Drainage Superintendent, commented that she was reviewing the mapping and noted that the enclosure is located in the County of Essex road allowance and wondered why the enclosure exists. Ms. Dean added that it is up to the Court of Revision members to decide how to address the appeals.

Mr. Boyle proposed to repair only the part of his enclosure where the sink hole is located.

Mr. Rood explained that the pipe is over 20 years old and should be replaced.

Ms. Dean explained that it would be necessary to investigate the enclosure with camera to identify the exact section(s) to be replaced. Since the pipe is over 20 years old it is proposed to replace the entire pipe since is most cost effective.

Mr. Roy reiterated that the enclosure is located at the County of Essex property and therefore his property should not be assessed.

Mr. Rood explained that the properties benefit from the enclosure and therefore they were assessed their share and part of the assessment was distributed among the upstream lands. Mr. Rood added that the enclosure is longer than the standard 6.1m bridge and the longer enclosure provides wider access to the property. Mr. Rood reiterated that the pipe had deteriorated and aged and recommended to replace it.

Court of Revision member Weigt-Bienzle noted that since the enclosures are located in the County of Essex allowance then the cost should be shifted to the County of Essex.

Mr. Rood commented that the property needs access over the drain and benefits from the enclosed length and therefore the owner is responsible for the costs of the enclosure. Mr. Rood added that the County has no responsibility to repair the bridges, which serve as access to the properties.

Mr. Boyle repeated that if only a part of the pipe is replaced the enclosure may have 50 years more years of life expectancy.

Court of Revision Chair Carter explained that the engineer has done a cost benefit analysis and therefore it was recommended that the entire pipe should be replaced.

Ms. Dean reiterated that camera work work be required to locate the exact part of the older pipe that needs to be replaced. Ms. Dean added that she does not believe that the enclosure would have the life expectancy Mr. Boyle is expecting due to age and obvious condition issues and therefore full culvert replacement was recommended.

Mr. Roy commented that the County of Essex chose to enclose the drain and now he has to pay for the repairs, and he believes that this is not fair.

Mr. Dufour commented that there is still an opportunity to appeal and suggested to contact administration regarding the procedure.

COR22-03-006

Moved by Felix Weigt-Bienzle

Seconded by Percy Dufour

That the assessments in the Addendum dated February 23rd, 2022 for the Brush Drain Repair and Improvements, Geographic Township of Colchester North, Project REI2020D030, Town of Essex, County of Essex as prepared by Gerard Rood, Professional Engineer, dated be confirmed as presented.

Carried

7. Adjournment

COR22-03-007

Moved by Felix Weigt-Bienze

Seconded by Percy Dufour

That the meeting be adjourned at 5:40 PM

Carried

Chair

Recording Secretary