



Subject: Drainage Maintenance Billing

To: Council

From: Public Works Department

Report Number: 2024-72

Meeting Date: April 23, 2024

Recommendation:

That Public Works Department Report 2024-72 be received; and

That Council direct staff to bill the outstanding drainage maintenance work and future maintenance annually by adding the calculated charges to the final tax bill of impacted property owners; and

That the By-law attached as Appendix A, being a By-law to Amend the Assessment Schedules and to Levy the Actual Costs Incurred for the maintenance of the following drains: John Pietz, Indian Creek Point Abino, Biederman, Wignell, Bearss West Branch West, Fred Pietz, Marsh, Zavitz, Beaver Dam, Haun, Ramey, Howie, Henry, Oil Mill Creek, Wm. Micheal, and Bearss Municipal Drains, be approved; and

That the By-law attached as Appendix B, being a By-law to Amend By-law 7155/97/23, be approved.

Purpose:

This report has been prepared to update Council on municipal drain maintenance and construction billing, timing of drainage billing, and to introduce a new add-on fee for tax certificates for properties impacted by a municipal drain. Staff have also prepared a levy by-law for Council to adopt, which will allow staff to bill outstanding maintenance balances on the 2024 final tax bill.

Background:

Once a Municipal Drainage Report has been adopted by Council, it is then the Municipality's responsibility to perform maintenance on said drain. The maintenance of

the drains outlined in this report were performed under Section 74 of the *Drainage Act, R.S.O., 1990* (the Act). Section 74 of the Act provides that drainage maintenance performed by a municipality shall be at the expense of all the upstream lands and roads assessed for the construction or improvement of the drainage works.

Maintenance expenses are distributed in the proportion determined by by-law, until varied or otherwise determined by an engineer in a report, or via a successful appeal. Each municipal drain must be adopted through by-law. The respective by-law information can be found on each assessment schedule included in Appendix A to this report.

As municipal drain maintenance is not required regularly, billing for the maintenance works does not occur according to a specific schedule. The irregular billing means that multiple years of maintenance expenses accumulate, which negatively impacts City funds and causes confusion among property owners who receive bills long after the work has been completed.

Recent discussions with the City's Financial Services Department have resulted in a proposed solution to the problems caused by irregular municipal drain billing: incorporating municipal drain maintenance costs into the final tax bills of the affected property owners to streamline the billing process and reduce confusion among impacted property owners.

Discussion:

Unbilled municipal drain maintenance costs negatively impact municipal funds, as municipalities must perform the works long before costs are recouped. Municipal drains require regular maintenance such as beaver trapping, removal of dams, brushing and clearing, excavation, soil levelling, and gate control structure maintenance. Works can be performed by both third-party contractors and Public Works staff. The following is a summary of the unbilled maintenance costs by drain as of December 31, 2023:

Drain	Outstanding Balance (\$)
Bearss Drain	576.99
Bearss Drain West Branch West Silverbay	10,552.58
Beaver Dam Drain	65,632.65
Beaverdams Drain Floodgate & Pump Station	20,601.77
Biederman Drain	41,796.97
Fred Pietz Drain	1,704.15
Henry Drain	21,951.65
Howie Drain	23,056.57
Indian Creek Drain	1,698.63
John Pietz Drain	4,573.50
Marsh Drain	33,346.97
Oil Mill Creek - Outlet Structure	2,731.36
Point Abino Drain	2,885.78
Ramey Drain	17,005.69
Wignell Drain Floodgate Structure	14,433.88
Wignell Michener Drain South of Railroad	37,494.46
Wm Michael Drain	94.72
Zavitz Drain	2,347.64
Total	302,485.96

The costs for construction projects can only be invoiced after the adoption of the engineer's report, which includes formulas for assessing charges. Allowing maintenance costs to accumulate over multiple years, or billing maintenance costs annually, both pose challenges for property owners when ownership changes. When property ownership changes, new owners often lack awareness of municipal drains and the associated fees related to both maintenance and construction projects. Annual billing minimizes these issues because the only fees involved are the current year's costs.

When properties change ownership, lawyers involved in the property transaction often request tax certificates to incorporate water and property tax balances in the property sale statement of adjustments. Outstanding balances related to drainage are not typically requested, which can lead to new property owners having to pay additional unexpected fees. Including outstanding drain balances as an add-on option to the existing tax certificate offering would serve to reduce confusion among new property owners.

An add-on option is advisable because while costs associated with drainage maintenance and construction projects are not monitored at the property level, they can be calculated at any time by the Drainage Superintendent using the assessment schedule. Staff recommend introducing an additional fee of \$26 to cover the expenses involved in determining the outstanding drainage costs for a property.

Unlike maintenance cost billing, construction cost billing cannot be billed annually. Billing for construction projects can only take place after several specific conditions are met: the final engineer's report must be received, the work must be completed, and Council must have passed the related levy bylaw.

The following table summarizes anticipated capital project costs and billing year, as of December 31, 2023:

Construction Drain	Balance (\$)	Anticipated Billing Year
Skelton	163,341	2024*
Beiderman	111,580	2025
Port Colborne	1,662	2025
Wignell Michener	1,009,327	2026
Wignell N. of R.R.	133,860	2026
Oil Mill Creek	234,006	2026
Michener	471,255	2026
Michener M2	78,161	2026
Point Abino	149,390	2027
Beaver Dam	86,179	2027
Eagle Marsh	105,553	2027
E. Branch of Beaver Dam	79,399	2027
Beaver Dam	21,089	2027
Peter Storm	157,492	2027
Total	2,802,295	

* The Skelton drain was billed in January 2024.

Internal Consultations:

The City's Drainage staff collaborated with Financial Services staff to discuss drainage billing practices, challenges, and best practices in developing the recommendations presented in this report.

Financial Implications:

When the municipality carries out work on a municipal drain, the costs are initially covered by the City. These expenses are then recovered from the property owners within the watershed at the time of billing. The following is a summary of costs to be billed this year:

\$ 210,878.83	Amount to be billed to property owners
54,317.01	Amount to be billed to City (Municipal roads and municipal owned parcels)
341.48	Amount to be paid by storm sewer fees collected
36,948.64	Amount to be paid by OMAFRA Grant
<u>\$ 302,485.96</u>	

OMAFRA grants have been applied for and received for works prior to 2022. The 2023 grant has been applied for but not yet received. Should the 2023 grant be less than the anticipated standard of 1/3, another bill will be sent to affected parcels for the difference in the cost. The cost breakdown for each drain can be found in the Levy Bylaw.

This billing exercise will resolve all maintenance accounts, except for accounts included in the Eagle Marsh Drain. An engineer was appointed in 2019 to update the report for this drain. Once the report is completed, the accrued amounts will be billed to the affected property owners of the watershed. Currently, there is no assessment schedule for this report. However, the engineer of record has agreed to incorporate the accumulated maintenance costs into the new report, allowing the municipality to collect maintenance costs incurred.

Public Engagement:

When maintenance works on drains are completed, the owners of the parcels through which the drains pass are notified before the work is completed.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community

- Economic Prosperity
 - Sustainable and Resilient Infrastructure
-

Conclusion:

That Council approve the recommendations as presented above.

Appendices:

- A. By-law to Amend the Assessment Schedule and to Levy the Actual Costs Incurred for the Maintenance of Drainage Works from 2010-2023 as described in the following appendices.
- B. By-law to Amend By-law 7155/97/23

Respectfully submitted,

Alana Vander Veen
Drainage Superintendent
905-228-8127
Alana.VanderVeen@portcolborne.ca

Adam Pigeau, CPA, CA
Manager, Financial Services/Deputy Treasurer
(905) 835-2900 Ext. 101
adam.pigeau@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.