



Subject: Billing of the St. John's Marsh Municipal Drain

To: Council

From: Public Works Department

Report Number: 2022-187

Meeting Date: August 23, 2022

Recommendation:

That Public Works Department – Water/Wastewater Division Report 2022-187 be received; and

That the billing for the St. John's Marsh Municipal Drain be invoiced in accordance with the Drainage Act, as outlined in Appendix C of Public Works Department Report 2022-187 be approved.

That the St. John's Marsh Drain Levy By-law and Schedule A found in Appendix B and C be approved.

Purpose:

This report has been prepared to inform Council that the Town of Fort Erie has fulfilled the requirements of the Drainage Act and subsequently completed and billed for the works of their project known as the St. John's Marsh Municipal Drain.

Staff are currently seeking permission for the passing of a City bylaw to enable the billing of the Port Colborne residents as per the assessment schedule to cover the invoice received from the Town of Fort Erie.

Background:

K. Smart Associates Limited was appointed by the Town of Fort Erie on June 14, 2002, to review and completed a new Engineer's Report for the St. John's Marsh Municipal Drain Report under Section 78 of *The Drainage Act R.S.O. 1990*.

The entirety of the project was completed by the Town of Fort Erie and the entirety of the work was within the Town of Fort Erie; however, one of the City of Port Colborne's

drainage systems, the St. John's Municipal Drain relies on said project for a sufficient outlet and therefore is assessed through this new Engineer's Report for their portion of work.

Fort Erie has completed all required steps of the Drainage Act including completion of the attached by-law typically known as a levy by-law.

Discussion:

The final cost summary provided by the Town of Fort Erie, as shown in Appendix B, for the completion of this project is \$278,570.

The portion assessed to the City of Port Colborne is \$6,980.

That amount can be broken down further as follows;

Municipal Road Allowances	\$ 1,229.00
Less: Region of Niagara assessment	\$ (679.00)
Landowner's portion	\$ 9,404.00
Less: Section 87 OMAFRA Grant	<u>\$(2,974.00)</u>
	\$ 6,980.00

The total assessment for the City's roads is \$550.00.

Prior to completion of this report, a review of the general ledger was completed to ensure all costs were included. Although this is not a City of Port Colborne Drain or project, the City of Port Colborne did incur some expenses. The City of Port Colborne was named along with the Town of Fort Erie and the City of Niagara Falls in a lawsuit filed by a resident from the City of Niagara Falls. The legal fees incurred by the City of Port Colborne to defend the City from the lawsuit totalled \$10,517.53. Since this amount was not a cost of the drain, merely an expense the City incurred, this amount cannot be assessed to the watershed.

Internal Consultations:

Consultation was held with the finance department to relay the duties required to complete the invoicing of this work.

Financial Implications:

The Town of Fort Erie has invoiced the City of Port Colborne for drainage work related to lands assessed within the City of Port Colborne. It is the City of Port Colborne's

responsibility to pay this invoice and in turn, invoice the property owners who have benefitted from the drainage work completed to recover the amount invoiced from the Town of Fort Erie.

The total incurred cost to the City of Port Colborne for the St. John's Marsh Municipal Drain is \$17,497.53. Property owners will be billed \$6,430 as per the assessment schedule. The remaining balance of \$11,067.53 will be paid through the City's approved drainage budget and consists of the City's portion of the assessment (\$549.50 for roads) and the legal fees associated with the aforementioned lawsuit (\$10,517.53).

Public Engagement:

The Drainage Act has many points of public consultation. All of these points were exercised through the completion of this report and construction of the drain.

Conclusion:

Staff would like to proceed with the passing of the by-law as defined in Section 61(1), a Levy by-law, of the Drainage Act R.S.O. 1990 to complete the billing of the drainage work. If these funds are not collected from property owners within the watershed, the City would need to absorb these costs. Approval of this report will allow staff to proceed with the billing of these works to the assessed property owners.

Appendices:

- a. Levy By-law No 93-2022 from the Town of Fort Erie for drainage works of the St. John's Marsh Municipal Drain
- b. By-law to Levy the Actual Cost Incurred in Constructing Drainage Works Known as the St' John's Marsh Municipal Drain
- c. Schedule A for By-law to Levy the Actual Cost Incurred in Constructing Drainage Works Known as the St' John's Marsh Municipal Drain

Respectfully submitted,

Alana Vander Veen
Drainage Superintendent
905-835-2900 ext. 291
Alana.VanderVeen@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.