



**Subject: Billing of the Young and Hopf-Wagner Municipal Drains**  
**To: Council**  
**From: Public Works Department**

Report Number: 2023-102

Meeting Date: June 27, 2023

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**Recommendation:**

That Public Works Department Report 2023-102 be received;

That the billing for the Young and Hopf-Wagner Municipal Drains be invoiced in accordance with the *Drainage Act*, as outlined in Appendix A of Public Works Department Report 2023-102; and

That the Young and Hopf-Wagner Drain Levy By-law be approved.

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**Purpose:**

This report has been prepared to inform Council that construction on the Young and Hopf-Wagner Municipal Drain has been completed as well as the application to the Ontario Ministry of Agriculture, Food, and Rural Affairs (OMAFRA) grant for farm parcels. Additionally, this report seeks Council's permission to complete the billing for said works of the Young and Hopf-Wagner Municipal Drain prior to the receipt of the OMAFRA grant.

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**Background:**

Spriet Associates Engineers & Architects was appointed on February 12, 1990 to complete a new report. There were many delays on this report including an insufficient outlet requiring the completion of the Tea Creek report along with construction.

Once the report was issued to the municipality, the required steps of the *Drainage Act* were followed. Multiple appeals were filed at both the Court of Revision and the Tribunal. After receipt of the final decision from the Tribunal, a tender was issued and CRL Campbell Construction Ltd. was the successful bidder.

Construction began on September 3, 2019. A number of obstacles were encountered through construction including significant delays from the rail authority, Canadian National Railway. A significant cost increase was recognized against the railway due to permitting, track protection requirements and required method of excavation around the rail lines.

Construction was deemed complete on October 31, 2022.

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## Discussion:

The original estimate of this project as outlined in the Engineer's Report was \$790,600.

Through the tendering process it was recognized that the cost would exceed the allowable 133% cost of the project and an additional public meeting was held with the owners in the watershed to determine if the construction was still wanted.

The total cost of the completed project was \$1,173,095.92. The average increase towards the residential properties was 128% of the estimated amount. Most of the increase in costs were assessed to CN Rail for their special assessment at an increase of 218%. The reason for the increase was due to flagging and increased requests required through construction that were over and above the original estimate.

The net cost is inclusive of two components. The first is an OMAFRA (Ontario Ministry of Agriculture, Food and Rural Affairs) grant for farm parcels, a total of \$112,510.33 which has yet to be received. The second are allowances provided by the Engineer for payment to the parcel owners for affected land for right of way and damages, a total of \$51,260. The amount of \$51,260 is raised as a part of the overall project and is apportioned to all the property assessed through the project.

The net cost of the project is as follows:

	Residential/Other	Tax Base	Total
City of Port Colborne	\$678,641.64	\$ 96,292.71	\$ 774,934.35
City of Niagara Falls	\$ 70,669.72	\$ 161,142.69	\$ 231,812.41
Town of Fort Erie	\$ 1,204.96	\$ 1,373.87	\$ 2,578.83
Total to be collected			\$ 1,009,325.59
OMAFRA Grant			\$112,510.33
Allowances			\$51,260.00
			\$1,173,095.92

Details of the above are included in Appendix A.

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## Internal Consultations:

Consultation was held with the City's Finance Division to relay the duties required to complete the invoicing of this work.

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## Financial Implications:

When the municipality completes work on a municipal drain, the costs are held at the City's expense until the time of billing, at which point those funds can be collected from the owners of property within the watershed.

Appendix C is included as a reminder of the ongoing concerns with CN Rail and their unwillingness to pay the portion assessed to their parcels province-wide. Within the City of Port Colborne, the assessment for those lands is \$411,354.29. CN Rail is currently holding the position that they do not have to pay any assessments through the *Drainage Act*. It is their position that they are Federally run, and the Provincial legislation of the *Drainage Act* does not apply to them.

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## Public Engagement:

The *Drainage Act* has many points of public consultation. The following is a list of events identifying when mailings occur to inform the property owners defined within the engineer's report of the public meetings and public appeal processes set out by the *Drainage Act*.

- Notice of Public consultation prior to the completion of the report
  - Notice of Meeting to consider the report
  - Notice of Court of Revision
  - Notice of Tribunal
  - Notice of Meeting to Consider Contract Price
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## Strategic Plan Alignment:

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

- City-Wide Investments in Infrastructure and Recreational/Cultural Spaces
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**Conclusion:**

It is recommended the City 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 ratepayers, the City would need to absorb these costs. The total assessment for the Young and Hopf-Wagner Drain is \$1,009,325.59. Approval of this report will allow staff to proceed with the billing of these works and collect the amount of \$816,592.64 from the affected property owners. The remaining balance of \$96,292.71 is the City's portion of the assessment and will be paid through the City's drainage budget.

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**Appendices:**

- a. Assessment Schedule
- b. Young and Hopf-Wagner Drain Levy By-law
- c. Supported Resolution by Warwick Township

Respectfully submitted,

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**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.