
HALDIMAND COUNTY

Report FIN-09-2023 Municipal Drain Billing

For Consideration by Council in Committee on May 23, 2023



OBJECTIVE:

To seek approval of the revised municipal drain construction and maintenance billing for the Little Marsh Drain and to write off McNichol Drain expenditures deemed "uncollectable".

RECOMMENDATIONS:

1. THAT Report FIN-09-2023 Municipal Drain Billing be received;
2. AND THAT Schedule 1 of By-law 2390/22 for maintenance charges for the McNichol Drain, be repealed;
3. AND THAT Schedule 30 of By-law 2390/22 for maintenance charges for the Little Marsh Drain, be deleted and replaced with the amended Schedule 30, attached to Report FIN-09-2023;
4. AND THAT Schedule 1 of By-law 2389/22 for the construction expenditures on the Little Marsh Drain, be deleted and replaced with the amended Schedule 1, attached to Report FIN-09-2023;
5. AND THAT the unbilled amounts related to the municipal drains identified in Report FIN-09-2023, totaling \$48,280.09, be written off as uncollectible, for the reasons outlined in the report, with this one-time expense funded by the Contingency Reserve effective for the 2022 fiscal year.

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Reviewed by: Teri Trewolla, Treasurer

Respectfully submitted: Mark Merritt, CPA, CA, General Manager of Financial & Data Services

Approved: Cathy Case, Acting Chief Administrative Officer

EXECUTIVE SUMMARY:

Memorandum FIN-M06-2022 was presented to Council November 1, 2022 providing information regarding the billing process for the construction and maintenance work completed on municipal drains. The associated by-laws were presented for enactment at the November 7, 2022 Council meeting. Based on information presented after the billing was completed, there were three billing schedules that were not based on complete and correct information.

With the information presented below it is recommended that \$48,280.09 of maintenance expenditures related to the McNichol drain be repealed and written off, with off-set funding from the contingency reserve. Additionally, the two by-law schedules related to the Little Marsh Drain be repealed and replaced with the updated by-laws and schedules.

BACKGROUND:

The Drainage Act (the Act) is provincial legislation that provides a mechanism for landowners with drainage problems, or lack of an outlet, to create a legal outlet for lands to be drained. The creation of a “municipal drain” is a statutory public process that includes: a petition from affected landowners to create a municipal drain, public meetings, a final engineering report, an appeal process and, finally, a municipal by-law to adopt the engineer’s final report. The Act further provides mechanisms for apportioning costs and recovery of costs from landowners for construction or periodic maintenance. (The Municipal Drain Frequently Asked Question (FAQ) Sheet, included in Attachment 1, provides more specific details related to municipal drains and is intended to be provided to affected residents during the construction/maintenance of municipal drains.)

The specific municipal drain billing details and proposed policy for future use by Haldimand County are the subject of this report for Council’s consideration.

ANALYSIS:

The billing of municipal drain construction and maintenance has been a struggle since the inception of the County. Some of these challenges related to works performed by previous lower tier municipalities prior to amalgamation, lack of supporting documents, lack of updated assessment schedules, time delays in receiving grants and delays in timely billings of recovery works. Significant improvements were enacted starting in 2015, and it was felt at the time, that all errors and past inconsistencies were dealt with at that time. A consistent and regular drain billing process was enacted and followed until it was decided to pause municipal drain billings during the pandemic. As a result, a fair number of drain billings were outstanding at the end of 2021; partly due to the pause on drain billing during the height of the COVID-19 pandemic as well as pending applicable grant receipts (the number of drains eligible to be billed can fluctuate year to year depending on the amount of construction/improvements that are required as well as the number of maintenance projects undertaken – typically the number would range from 10 to 15 drains in a given year). There were 31 drains billed for maintenance and 2 drains billed for construction, approved by by-law in 2022 and billed out to the applicable property owners with payments starting in 2023.

Since that time, several questions from affected land owners led to staff revisiting three of the approved billings affecting two different drains as noted below.

McNichol Drain – Maintenance (prior to 2015)

As part of the overall review of municipal drain billings in 2015, the County initially attempted to bill these expenditures back in 2015. At that time, it was noted there was an issue with the apportionment schedule. Despite passing a billing by-law at the time, the expenditures were not billed to any taxpayers pending additional investigation.

After attempting to bill the same costs again in 2022, it was determined a supporting apportionment schedule cannot be located, which has precipitated Engineering staff to hire an Engineer to produce a revised apportionment schedule. This process is currently underway.

Given the time that has expired (these works were likely completed on or before 2010) and in the absence of an approved apportionment schedule, staff are recommending to write-off these costs and repeal the approved billing by-law schedule.

Table 1: Proposed Write Off:

<u>Details of Balance Recommended to be Written off</u>		<u>Net Amount</u>
McNichol Drain	Timing of work unknown, prior to 2015. Insufficient backup	\$48,280.09

It is recommended that Schedule 1 of By-law 2390/22 be repealed, resulting in a reversal of the charges and any applicable interest on the accounts for the taxpayers who were billed based on the previous schedule; and that the amount be written off and funded from the Contingency Reserve as a one time expenditure in 2022. The impacts to the affected owners will be reflected after the May instalment related to the interim bill and prior to the final billing. This will minimize the annual impacts as only 50% of the required payments were potentially received to date and the final billing has not occurred (which would typically be 50% of the annualized property taxes).

Little Marsh – Maintenance (2015) and Construction (2019)

The apportionment schedule applied to the Little Marsh Drain for both the maintenance and construction costs, was found to be the previous schedule from 1975 and not the current schedule from 2016. As a result, the amounts billed for both the maintenance and construction costs, were not apportioned correctly to all the properties within the watershed of the drain. The overall costs for each of the activities remains unchanged. Table 2 contains the total expenditures incurred.

Table 2: Drain Maintenance and Construction

<u>Drain Name</u>	<u>Gross Costs \$</u>	<u>Grant Received \$</u>	<u>Net Assessment \$</u>
Little Marsh Maintenance	10,003.01	1,574.26	8,428.75
Little Marsh Reconstruction	161,524.95	35,209.04	126,315.91
<u>Total</u>	<u>171,527.96</u>	<u>36,783.30</u>	<u>134,744.66</u>

To correct this inaccuracy, it is proposed to delete both Schedule 1 (construction) and Schedule 30 (maintenance) of By-law 2390/22, resulting in a reversal of the charges and any applicable interest on the unpaid accounts for the taxpayers who were billed based on these schedules. The corrected schedules, included as Attachment 1 to this report, will be presented for replacement with a new by-law at the Council meeting of May 29, 2023.

Regular Drains Maintenance/Construction and Billing Process:

Through Report PW-ES-08-2016, Council approved process enhancements to the notification process related to municipal drains and the subsequent related billing. Notification letters are now sent to all property owners that have assessments being added to their property in advance of the work being initiated, including an estimate of their apportionment of the cost.

As per the Municipal Drains Construction & Maintenance Billing Policy, property owners assessed an amount of \$500 or greater may choose to have the amount owing paid over time, including interest at an annual rate set by OMAFRA (based on the rate set for the Province's tile drainage loan program, currently 6%), for a period of 5 years with annual payments being levied on the property owner's tax account. The property owner must notify the County, within 30 days of receiving notification of the initial billing, as to which option they prefer. If notification is not received by the County, the property will default to full billing of the amount owing to be paid over four equal installments due in the coming year.

FINANCIAL/LEGAL IMPLICATIONS:

It is recommended that Schedule 1 of By-law 2390/22, related to the McNichol Drain be repealed, resulting in a reversal of the charges and any applicable interest on the accounts for the taxpayers who were billed based on the previous schedule; and that the \$48,280.09 to be written off be funded from the Contingency Reserve as a one time expenditure in 2022. Of the amount to be written off, the County's applicable share was established as \$14,515.17. As this would have been funded from the County's reserve, the net financial impact of the recommended write-off is \$33,764.92. There are sufficient funds in the Contingency Reserve to accommodate the recommended write-off.

To correct the inaccuracies related to billings for the Little Marsh Drain, it is proposed to delete both Schedule 1 (construction) and Schedule 30 (maintenance) of By-law 2390/22, resulting in a reversal of the charges and any applicable interest on the accounts for the taxpayers who were billed based on these schedules. The new schedules will be presented for replacement with a new by-law at the Council meeting on May 29, 2023. The total net assessment to be recovered remains unchanged; only the apportionments/sharing of the costs have been accurately adjusted.

STAKEHOLDER IMPACTS:

Municipal drain maintenance is a responsibility of the Drainage Superintendent in the Engineering Services Division. The recommendations contained in this report were jointly reviewed with the Drainage Superintendent and Manager of Engineering Services.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

1. [Drainage Act, R.S.O. 1990, c. D. 17](#)

ATTACHMENTS:

1. Little Marsh Maintenance Drain Billing Schedule 30
2. Little Marsh Construction Drain Billing Schedule 1