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## REPORT TO COUNCIL

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**MEETING DATE:** May 09,2023  
**FROM:** Ann Carr, Public Works Manager  
**SUBJECT:** Managing Beaver Dams and Beavers on Private Property

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### **RECOMMENDATION FROM PUBLIC WORKS COMMITTEE:**

WHEREAS; beaver dams located on private property have been causing damages to Township infrastructure and residential property;  
THEREFORE; the Public Works Committee recommends to Council THAT a by-law be reviewed regarding Beaver Dam Management on private property.

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### **BACKGROUND:**

The Township of Bonfield has had ongoing issues with dams on private property either upstream or downstream causing issues and damage to Township and private property. These dams have the potential to cause a health and safety issues to the general public.

It should be noted that, as per the Municipal Act, the following permissions currently exist:

#### Drainage and Flood Control

Power exercised outside of Municipality, Flood Control (Section 96)

Despite section 19, a municipality may, for the purpose of preventing damage to property in the municipality as a result of flooding, exercise its powers under subsection 10 (1) or 11 (1), paragraph 7 of subsection 10 (2), paragraph 7 of subsection 11 (2) or paragraph 6 of subsection 11 (3) in relation to flood control in the municipality, in another municipality or in unorganized territory. 2006, c.32

#### Entry On Land Section (97)

A municipality may enter on land, at reasonable times, to inspect the discharge of any matter into a land drainage system of any person and may conduct tests and remove samples for this purpose. 2001, c.25, s.97

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Should the By-law be approved, it would place the responsibility of the beaver dam on the property owner to monitor and maintain the dam in a safe state. It would also ensure that the property owner is proactive if they have a beaver dam on their property that could potentially cause damage or jeopardize the health and safety of the public and damage neighbouring properties. This is referenced in the Drainage Act.

### Drainage Act

Person responsible for obstruction to remove it on notice (80(1))

When a drainage works becomes obstructed by a dam, low bridge, fence, washing out of a private drain, or other obstruction, for which the owner or occupant of land adjoining the drainage works is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice sent by the Township of the local municipality whose duty it is to maintain and repair the drainage works or by a drainage superintendent appointed by the council, remove such obstruction and, if it is not so removed within the time specified in the notice, the council or the drainage superintendent shall forthwith cause it to be removed, and the cost thereof is payable to the municipality by the owner or occupant of the land. R.S.O. 1990, c D.17, s.80(1); 1998, c.18. Sched. A, s.1(4); 2010, c.16, Sched.1, s.2 (30)

Collection of Cost Removal (2)

If the cost of removing the obstruction is not paid to the local municipality by the owner or occupant of the land forthwith after the completion of the work, the Council may pay the cost, and the clerk of the municipality shall place the amount of the cost upon the collector's roll against such land and such amount shall be collected in the same manner as real property taxes. R.S.O. 1990, c. D.17, s.80(2).

Information would be provided to the property owner that would highlight courses of action they could follow to rectify the issue.

### Fish and Wildlife Conservation Act (FWCA)

Under the Fish and Wildlife Conservation Act (FWCA), there are provisions that enable a person to remove beaver dams in order to protect their property.

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The Fish and Wildlife Conservation Act allows landowners or their agents (licenced trappers) to destroy a beaver dam in protection of their property without authorization. This includes destroying a dam on another individual's property. The caution is however, that destruction does not exempt a person from:

1. The need for property owner permission to access another landowner property;
2. Potential civil liability through damages to others, caused by their actions;
3. Applicability of sections of the Fisheries Act which prohibits destruction or alteration of fish habitat.

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**ANALYSIS:**

In the past, the Township of Bonfield has had many occurrences of beaver dams failing and causing damage. The dam letting go on Southshore Road this spring and the dam letting go on Grand Desert Road has cost the Township material and Overtime to fix the roads as well as two alleged vehicle damage claims. (Both were told to go through the insurance and I have notified our adjuster to such).

The issue with dams is becoming more relevant as we are seeing an increase in the number of dams reported and located by Township staff. When a dam is located on township property we will address these and are presently doing weekly patrols as per the Maintenance Standards. Patrols for the known location of these dams is done to ensure that there are no blockages in our drainage systems and that the trapper is notified of locations where beavers are active. Staff have reviewed other municipal by-laws in relation to beaver dams and have prepared the attached by-law. This by-law will be reviewed by legal council and appended; and will be reviewed by the Township's by-law enforcement department.

If the landowner refuses access to the property or to a population control of the beaver, the landowner will be sent a registered letter from the Manager of Public Works, or designate, or the By-Law officer, informing them they shall be held liable for any damages caused to municipal property or harm caused to the public as a result of the beaver dam being suddenly breached or washed out.

Alternatives:

That Council approve of the attached by-law and the attached schedules. (recommended)



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That Council does not approve of this by-law and staff continue to operate as usual and that the Township continue to take the unknown liability of private property acting upon our road systems.

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**FINANCIAL IMPACT:**

Uncontrolled releases of beaver dams create uncontrollable budget overruns due to unforeseen costs resulting in large-scale damages that are caused to municipal infrastructure and to resident's property.

Impact on operational budget will include time and resources to investigate and enforce the by-law. In addition, research on properties and follow up inspection to determine compliance with the by-law and any remediation that will be required.

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**DISCUSSION FROM PUBLIC WORKS COMMITTEE:**

The Committee discussed at the Meeting of May 03, 2023, that we first approach the property owner to work with the Municipality before engaging the Municipality's right to enforce the By-Law.

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Appendix: By-Law to Adopt a Policy Respecting the Management of Beavers and Beaver Dams in the Township of Bonfield

Respectfully,

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Ann Carr  
Public Works Manager  
Township of Bonfield

I concur with this report,

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Nicky Kunkel  
CAO, Clerk Treasurer  
Township of Bonfield