

COMMITTEE OF THE WHOLE MEETING
November 5th, 2024

Report #CAO-2024-29
Amanda Mabo, Chief Administrative Officer/Clerk

MABERLY PINES SUBDIVISION – CAPITAL CHARGE

STAFF RECOMMENDATION(S)

It is recommended:

“THAT, staff be authorized to proceed with the hydro design for the Maberly Pines Subdivision for an estimated cost of \$5,000 and obtain an installation date from Hydro One.”

It is recommended:

“THAT, a tender to complete the brushing and road base work in 2025 and the surface treatment in 2026 for the Maberly Pines Subdivision be issued in the first quarter of 2025 so that more accurate pricing can be obtained;

THAT, the Fire Department provide a recommendation and costing with regards to the fire suppression required for the Maberly Pines Subdivision;

AND THAT, this information be provided to Council no later than the April 2025 Committee of the Whole meeting.”

BACKGROUND

The Maberly Pines Subdivision is an older subdivision that dates back to the late 1970's/early 1980's that was never completed by the developer. A number of capital works are still outstanding, including bringing the roads up to a municipal standard so that they can be assumed and maintained by the Township, hydro design and servicing, and fire suppression.

As new subdivisions develop, typically the developer constructs internal local roads and associated hydro for the benefitting properties. In addition, depending on the location of the subdivision, fire suppression supply is required by way of hydrants or water tanks. The works completed and paid for by the developer are eventually assumed by the Township to operate, maintain and eventually replace.

In the Maberly Pines subdivision, there is no longer one developer to undertake the works required. As such, in order to complete the subdivision works, the Township is proposing to undertake the works and recover the capital costs through charges imposed under the authority of the *Municipal Act, 2001* for the Maberly Pines subdivision benefitting properties.

By completing the works, the roads would then be assumed and maintained by the Township. The roads would no longer be private unassumed roads, and road access agreements and the associated insurance, would no longer be required. Individual property owners would no longer have liability with regards to the maintenance of the roads. In addition, because the Municipality is dealing directly with Hydro One rather than individual property owners dealing with Hydro One, hydro would be available in the subdivision for the design cost of \$5,000. However, if individual properties were to install hydro this would cost on average \$11,000/pole plus hookup.

The subdivision contains a total of fifty-six (56) lots, of which nine (9) are already developed and the balance are vacant. At least one (1) of those lots will not benefit from the capital works as its only access is from the County Road. There may be one other property, but it has not been confirmed at the time of this report.

The estimated cost to complete the works is \$608,123 split between fifty-five (55) benefiting properties or \$11,057 per property. It is proposed that there will be an option to pay the amount in one lump sum once the capital works are complete or an option to make payments over a number of years, up to ten (10) years. The works have been proposed to be undertaken in 2027.

Milestones to Date

Project Approval to Investigate Options	December 2023
- as part of the 2024 Budget Process	
Project Initiation	July 2024
- consultant and staff review options	
Project Findings Overview to Council	August 27, 2024
Council Direction	August 27, 2024
- to proceed with obtaining feedback on the capital charge option and hold a public information session for Maberly Pines property owners	
Letter to Affected Property Owners	September 5, 2024
Public Information Session	October 2, 2024
Report to Council	November 5, 2024

DISCUSSION

A letter to affected property owners in the Maberly Pines Subdivision (letter attached), along with the capital charge report completed by Watson and Associates (report attached) was mailed on September 5th outlining the proposal and inviting them to a Public Information Session on October 2nd.

A number of property owners contacted staff prior to the Public Information Session and approximately thirty-five (35) were in attendance. At the session a Frequently Asked Questions sheet was provided and reviewed (attached).

Overall, property owners seemed to be on-board with the concept of the proposal but had the following three requests:

- want more of a guarantee of the costs before a final decision is made by Council on whether to proceed or not;
- would like the project to occur now as opposed to in 2027 not only to keep costs down but so that the capital works can be completed and assumed by the Township sooner; and
- property owners want to be kept informed at every step of the process.

OPTIONS FOR CONSIDERATION

Option #1 – Recommended: Approve a Revised Project Plan

Originally, it was proposed that the necessary by-law to enact the capital charge would come forward at the November Council meeting pending feedback from the Public Information Session. Taking into consideration the feedback, staff are recommending that the next steps be as follows:

- whether the project eventually moves forward or not, Hydro One will be contacted to complete the design work and obtain an installation date as soon as possible as this step may take six months to a year, in addition, only the Township can obtain the \$5,000 design cost pricing, individual property owners would have to pay approximately \$11,000/pole
- draft and let the tender for the road work in the first quarter of 2025 so that more accurate pricing can be obtained and if approved, the project can begin in 2025
- obtain recommendation from the Fire Department as to the fire suppression component and more accurate costing
- tender results and recommendation brought forward to Council at the Committee of the Whole, no later than April 2025, along with fire suppression costing, and discussion on whether to proceed with the project and the capital charge
- decision of Council to proceed to occur no later than the April 2025 Council meeting
- if project approved, in 2025 the brushing and road base work would be completed and the road assumed by the Township, this would allow the Township to inspect the road base performance over the course of a Spring thaw and correct any deficiencies prior to surface treatment, as would occur in current subdivision developments
- in 2025, maintenance options for the roads to be assumed would be investigated and could involve the purchase of an additional truck and additional on-call staff to drive the truck, or the construction of a sand dome in the Maberly area so that existing equipment and staff resources could be utilized. The purchase of a truck or the building of a new sand dome has been captured in the updated Development Charges By-Law.
- in 2026 the road would be surface treated
- in 2026 once all capital works are complete, letters would be mailed to property owners outlining final costs and payment options
- by-law to approve capital charge to Council, late 2026/early 2027
- by-law to approve borrowing to Council, late 2026/early 2027
- the Township will continue to update Maberly Pines Subdivision property owners at every milestone of the process

Option #2 – Council Suggest an Alternative

Option #3 – Do Nothing

This option is not recommended. By following the revised project plan, all stakeholders will have additional information before a final decision is made.

FINANCIAL CONSIDERATIONS

The hydro design will cost approximately \$5,000. If the project goes ahead, this will become part of the capital charge. If the project does not go ahead, Council will need to determine how to fund the \$5,000.

STRATEGIC PLAN LINK

Values

Respectful - Accountable - Future-Focused

Future-Focused - Striving for solutions and a vision for the community that is forward-thinking and innovative.

Economic Development

CLIMATE CONSIDERATIONS

Clustered development reduces Greenhouse gas emissions.

CONCLUSION

Without the Township completing the capital works, the subdivision will remain unfinished. This is not ideal as the lots will remain mostly undeveloped and those that do develop will be required to enter into road access agreements, obtain and pay annual insurance, be responsible for maintenance and liability of the road, be responsible to obtain hydro, etc.

ATTACHMENTS

1. Capital Charge Proposal – Letter to Property Owners
2. Capital Charges, Under Part XII of the Municipal Act, 2001 Report
3. Frequently Asked Questions

Respectfully Submitted By:



**Amanda Mabo,
Chief Administrative Officer/Clerk**

September 5th, 2024

PUBLIC INFORMATION SESSION INVITATION TO PROPERTY OWNERS

MABERLY PINES SUBDIVISION

Dear Property Owner:

This letter is being issued to notify you that the Township has scheduled a Public Information Session on **Wednesday, October 2nd at 5:00 p.m.** in the Council Chambers at the Municipal Office located at 217 Harper Road, Perth, Ontario. Please note there will be a presentation at the start of the session, followed by an opportunity for property owners to ask questions and provide feedback.

As new subdivisions develop, typically the developer constructs internal local roads and associated hydro for the benefitting properties. In addition, depending on the location of the subdivision, fire suppression supply is required by way of hydrants or water tanks. The works completed and paid for by the developer are eventually assumed by the Township to operate, maintain and eventually replace.

In the Maberly Pines subdivision, there is no longer one developer to undertake the works required to provide the local roads, associated hydro, or fire suppression supply. As such, in order to complete the subdivision works, the Township is proposing to undertake the works and recover the capital costs through charges imposed under the authority of the *Municipal Act, 2001* for the Maberly Pines subdivision benefitting properties.

By completing the works, the roads would then be assumed and maintained by the Township. The roads would no longer be private unassumed roads, and road access agreements and the associated insurance, would no longer be required. Individual property owners would no longer have liability with regards to the maintenance of the roads. In addition, because the Municipality is dealing directly with Hydro One rather than individual property owners dealing with Hydro One, hydro would be available in the subdivision for the design cost of \$5,000. However, if individual properties were to install hydro this would cost on average \$11,000/pole plus hookup.

The estimated cost to complete the works is \$608,123 split between fifty-five (55) benefitting properties or \$11,057 per property. It is proposed that there will be an option to pay the amount in one lump sum once the capital works are complete or an option to make payments over a number of years, up to ten (10) years. The works are being proposed to be undertaken in 2027.

A full copy of the Report is enclosed.

After the Public Information Session, Council will consider any feedback at the November 5th Committee of the Whole meeting and ultimately pass a by-law at the November 19th Council meeting.

If you have any questions, please do not hesitate to contact the undersigned at (613) 267-5353 ext. 126 or treasurer@tayvalleytwp.ca

Sincerely,

Ashley Liznick, Treasurer

/Enclosure Maberly Pines Subdivision – Capital Charges, Under Part XII of the
Municipal Act, 2001 Report



Maberly Pines Subdivision Capital Charges, Under Part XII of the *Municipal Act*, 2001

Tay Valley Township

September 10, 2024

Watson & Associates Economists Ltd.
905-272-3600
info@watsonecon.ca



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List of Acronyms and Abbreviations

Acronym	Full Description of Acronym
D.C.	Development Charges
D.C.A.	Development Charges Act
L.C.B.	Low Class Bituminous
OLT	Ontario Land Tribunal
O. Reg.	Ontario Regulation



Report



Chapter 1

Introduction



1. Introduction

1.1 Background

Tay Valley Township (Township) provides roads and fire suppression services throughout the Township. As new subdivisions develop, typically the developing landowner constructs internal local roads and associated hydro for the benefitting properties. In addition, depending on the location of the subdivision, fire suppression supply is required by way of hydrants or water tanks. The works completed by the developing landowner are eventually assumed by the Township to operate, maintain and eventually replace. As these works are considered local services, they would not qualify to be recovered through the Township-wide Development Charges (D.C.s).

In the Maberly Pines subdivision, there is no longer one developer to undertake the works required to provide the local roads, associated hydro, or fire suppression supply. As such, in order to complete the subdivision works, the Township will need to undertake the works. The Township has been in discussions with Hydro Utilities, and if the Township is the one that that will be constructing the local roads, the emplacement of the hydro lines will not be charged to the Township, as they would have been if the original developer or the current landowners were requiring the lines. This saves each property owner a minimum of \$11,000. However, Hydro has indicated that the Township would be responsible for the design costs for the services.

The Maberly Pines subdivision contains a total of 56 lots of which one fronts onto the Highway and will not benefit from the local roads and associated works, nine are already developed, and the remaining are vacant lots. The subdivision includes six internal local roads that are to be developed, including:

- Maple Lane;
- Oak Road;
- Pond Lane;
- Pond Road;
- Red Pine Lane; and
- Red Pine Road.



The Township plans to undertake capital works required for this subdivision in order for further development to occur. The Township has considered funding options such as an area-specific Development Charges (D.C.) under the *Development Charges Act, 1997* (D.C.A.), a *Municipal Act Part XII By-Law Capital Charge*, property taxes, and/or other Township reserve. Through discussion with Council, it is proposed the Township recover these capital costs via a *Municipal Act, Part XII By-Law Capital Charge*.

The purpose of this report is to provide details on capital costs to be recovered through charges imposed under the authority of the *Municipal Act, 2001* for the Maberly Pines subdivision benefitting properties.

1.2 Municipal Act, 2001 (Part XII)

The *Municipal Act, 2001*, came into force January 1, 2003. Part XII Fees and Charges, gives municipalities the statutory authority to recover the costs of services, including capital costs, through a by-law. Municipalities have used these types of charges to recover infrastructure costs associated with the extension of municipal services to private service users, to recover capital improvement costs from existing developments, and to recover growth-related costs for localized works required for specific areas from both existing and new benefitting properties. These by-laws are typically used where development charges would not be applicable (e.g. recovery from existing developments and/or new developments) or where existing and growth-related cost recovery would be simplified under the administration of one by-law.

The following subsections provide reference to the relevant statutory provisions of the *Municipal Act* and associated regulation.

1.2.1 *Municipal Act – Part XII*

“By-laws re: fees and charges

391. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to impose fees or charges on persons,
- (a) for services or activities provided or done by or on behalf of it;
 - (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and



- (c) for the use of its property including property under its control.

Local board

- (1.1) A local board may impose fees or charges on persons,
 - (a) for services or activities provided or done by or on behalf of it;
 - (b) for costs payable by it for services or activities provided or done by or on behalf of any municipality or other local board; and
 - (c) for the use of its property including property under its control.

Deferred benefit

- (2) A fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or activities but who will receive a benefit at some later point in time.

Costs related to administration, etc.

- (3) The costs included in a fee or charge may include costs incurred by the municipality or local board related to administration, enforcement and the establishment, acquisition and replacement of capital assets.”

The above referenced sections of the *Municipal Act* indicate that it is permissible for municipalities to impose charges for the recovery of capital costs associated with services that are provided either directly or on its behalf. These capital costs can include costs associated with the initial establishment or acquisition of capital or for the replacement of existing capital assets. Moreover, the Act permits the imposition of capital charges on persons who receive an immediate benefit or a benefit at some later point (i.e. deferred benefit).

The *Municipal Act* does not define a methodology for calculating the fee or charge quantum, nor for determining its distribution among the benefiting landowners. As such, fees and charges may be determined at the reasonable discretion of Council following some general restrictions.



“Restriction, poll tax

393. No fee or charge by-law shall impose a poll tax or similar fee or charge, including a fee or charge which is imposed on an individual by reason only of his or her presence or residence in the municipality or part of it.

Restriction, fees and charges

394. (1) No fee or charge by-law shall impose a fee or charge that is based on, is in respect of or is computed by reference to,
- (a) the income of a person, however it is earned or received, except that a municipality or local board may exempt, in whole or in part, any class of persons from all or part of a fee or charge on the basis of inability to pay;
 - (b) the use, purchase or consumption by a person of property other than property belonging to or under the control of the municipality or local board that passes the by-law;
 - (c) the use, consumption or purchase by a person of a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law;
 - (d) the benefit received by a person from a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law; or
 - (e) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.”

There are no public process requirements under Part XII for adopting a charge by-law (although it is a prudent process recommendation). Part XII charges cannot be appealed to the Ontario Land Tribunal (OLT) on the grounds that the fees or charges are unfair or unjust. However, they may be challenged in court on the basis that the municipality is not operating within its statutory authority.



1.2.2 Ontario Regulation 584/06

Ontario Regulation (O. Reg.) 584/06 governs the fees and charges provision of the *Municipal Act*. The fees and charges regulation were revised in 2006 by the *Municipal Statute Law Amendment Act*. The regulation in its present form is less prescriptive than its predecessor. The previous regulation (i.e. O. Reg. 244/02) limited by-laws for water and waste services to a 1-year period, required public process notification and meetings to substantiate any charges and expressly limited any charges to the costs of service. Furthermore, the previous restrictions whereby a municipality did not have the power to impose fees or charges under Part XII of the Act relating to the allocation of sewage and water capacity have been removed. These changes to the fees and charges regulation provide municipalities with greater flexibility in determining its use.

It should be noted that in applying Section 391 of the *Municipal Act* for the recovery of capital costs a municipality must have regard for the associated regulation. Section 2(1) of the regulation indicates that a fee under the Act cannot be imposed to recover capital costs that are also included in a development charge or front-ending agreement which is in effect before the imposition of the fee. This clause is provided to avoid a duplication of fees and charges for the same works. As these costs are not included in the Township's D.C. By-Law and, based on our review, payments have not been made towards these costs under prior D.C. By-Laws, no duplication in cost recovery exists.

“Capital costs

2. (1) A municipality and a local board do not have power under the Act to impose fees or charges to obtain revenue to pay capital costs, if as a result of development charges by-laws or front-ending agreements under the *Development Charges Act, 1997* or a predecessor of that Act that was passed or entered into before the imposition of the fees or charges, payments have been, will be or could be made to the municipality or local board to pay those costs.”

1.3 Study Purpose

As noted in Section 1.1., the Township wishes to undertake a study to recover the capital costs associated with the local road capital works, fire suppression supply services, and undertake the required hydro design needed to accommodate 55



properties in the Maberly Pines subdivision. The capital costs considered in this study relate to local road works, hydro design costs, and water supply for fire suppression. Should the Township wish to recovery these capital costs, they can do so under a *Municipal Act Part XII* capital charge by-law.



Chapter 2

Benefiting Area and Capital Infrastructure Needs



2. Benefiting Area and Capital Infrastructure Needs

2.1 Description of Benefiting Area

The benefiting area considered within this review includes the Maberly Pines subdivision. The development includes 56 lots of which nine have been developed, 47 remain vacant, and one fronts onto the highway and will not benefit from the capital works required to be recovered. It is anticipated that growth within the subdivision will occur on the vacant lots over time, but only if the outstanding works are completed. As a result, the Township would like to undertake the capital works required for this subdivision in order to complete the works required, allowing for additional development to occur.

The Township's 2024 D.C. Background Study provided the anticipated amount, type and location of growth from new residential and non-residential development for purposes of calculating the D.C.s. This forecast provides details on the anticipated new residential housing mix, and growth in employees and building area by non-residential sector. For services related to a highway, the D.C. growth forecast identifies development for a 10-year period, from 2024 to 2033, based on anticipated service demands, available land supply, and associated servicing capacity. The vacant lots within the Maberly Pines subdivision are included in the growth forecast for the 2024 Township-wide D.C. calculations. However, the capital works included in the D.C. calculations do not include the capital costs associated with local roads, hydro, or fire suppression supply, required internal to developments. These costs are identified as a local service requirement of the developing landowners and as such, are not recoverable through the Township-wide D.C. By-Law. As the original developer of the Maberly Pines subdivision is no longer involved in the development, the Township is acting as the developer to complete the localized capital works required and is planning to recover the capital costs from the benefiting landowners/properties.

2.2 Capital Infrastructure Needs

2.2.1 Local Roads

The capital works required within the development area consists of infrastructure required to service 55 out of 56 of the properties. All local roads within the subdivision



require surface treatment to improve the roads standard from gravel to Low Class Bituminous (L.C.B.). Additionally, costs related to hydro design and water supply for fire suppression have also been included in the calculation of the charge. The capital works required to service future growth were estimated by Township staff.

The total gross capital cost estimates for these works totals \$608,123 (2024\$). The total cost for the surface treatments of all 6 roads is estimated at \$478,800, in addition, the cost related to the hydro design and water supply for fire suppression are \$5,000 and \$25,000, respectively. Additionally, \$99,323 has been included as the estimated financing costs for the works, as the Township anticipates having to finance the works through a loan or debenture. The financing costs have been calculated based on a ten-year term at an interest rate of 5.15%, with discounting to recognize the net present value of the future payments. Table 2-1 summarizes the capital costs included in the calculation of the charge.

Table 2-1
Summary of Estimated Costs for Municipal Act Part XII Capital Charge Calculation
Maberly Pines Subdivision
2024\$

Road Name	From	To	Length (km)	Cost
Maple Lane	Bolingbroke Road (CR #36)	Dean End	0.2	\$32,300
Oak Road	Red Pine Road	Cul de sac	0.2	\$36,100
Pond Lane	Pond Road	Cul de sac	0.3	\$47,500
Pond Road	Red Pine Road	Cul de sac	0.7	\$123,500
Red Pine Lane	Red Pine Road	Cul de sac	0.9	\$178,600
Red Pine Road	Bolingbroke Road (CR #36)	Dead End	0.3	\$60,800
Sub-Total Local Road Road Estimated Costs for L.C.B. Surface			2.5	\$478,800
Hydro Design Costs				\$5,000
Water supply for fire suppression				\$25,000
Total Estimated Costs				\$508,800
Estimated Financing Costs				\$99,323
Grand Total Estimated Costs				\$608,123



It is noted that the above costs are estimates, and upon completion of all works, the capital charge will be confirmed and communicate to all property owners, as actual costs plus or minus, are to be fully recovered through the *Municipal Act* capital charges.



Chapter 3

Calculation of the Charges



3. Calculation of the Municipal Act Charges

The methodology utilized in calculating a capital charge to recover costs associated with the capital roads, fire supply for suppression, and hydro design infrastructure takes into account all properties that will benefit from the works, both existing developed properties and vacant properties available to develop. To equitably recover the capital costs from all properties benefitting from the works, the cost has been calculated on a per property basis for the fifty-five (55) benefiting properties, to calculate the capital charge under the proposed *Municipal Act Part XII By-Law*.

As noted in earlier sections of this report, charges under the *Municipal Act* allow for the recovery of costs from existing developments as well as new developments that derive a benefit from the costs of services they are benefitting from.

3.1 Calculation of Charges

Based on the methodology discussed above, Table 3-1 provides for the capital charges, to be imposed through a *Municipal Act* Par XII capital charge by-law for capital works required within the Maberly Pines subdivision. The charges are provided by service for each residential dwelling unit type and are calculated by dividing the total gross capital costs of \$608,123 by the total number of lots (developed and vacant) of 55, to achieve a charge per lot of \$11,057. The *Municipal Act* capital charge schedule is provided by service to allow the Township to impose the charge for only the service(s) incurred by the benefiting landowner.

Table 3-1
Municipal Act Capital Charges
Maberly Pines Subdivision
2024\$

Capital Cost per Lot Calculation	
Grand Total Estimated Costs	\$608,123
Total Number of Lots	55
Rate Per Lot	\$11,057



Chapter 4

Municipal Act Capital Charge By-Law Policy Recommendations



4. Municipal Act Capital Charge By-Law Policy Recommendations

4.1 Introduction

It is recommended that the capital cost share of works associated with providing local road improvements, fire suppression supply and hydro design costs to the Maberly Pines development area be recovered through a by-law passed under the authority of Section 391 of the *Municipal Act*. The capital charges to be implemented through the by-law are proposed to be levied on each benefiting landowner, based on the number of existing properties and vacant properties that will derive a benefit from the capital works as of the date of the *Municipal Act* by-law.

In administering the *Municipal Act* capital charge, the following consideration related to the timing of imposing the charge and the collection timing are presented below:

Imposition of the Charge

- Impose the charge at the time, not to precede one year after the substantial completion of the capital works, when the benefit of service is conferred regardless of development status.

Collection of the Charge

- Collect the total charge at the time the charge is imposed; or
- Collect the total charge in annual instalments over a defined period (e.g. 5 or 10 years), including interest.

The following sections summarize the *Municipal Act* capital charge structure and potential payment options for Council's consideration.

4.2 Approach to Municipal Act Charge

As noted in Chapters 2 and 3 herein, the approach to the *Municipal Act* capital charge, is based on recovering an equal share of the costs from the benefiting properties. Adopting this approach, provides for equity to ensure all properties share equally in the capital costs required to provide the infrastructure required.



4.3 Payment Options

Two payment options are provided for consideration when imposing the charges on the benefiting landowners. They include:

1. Commuted Charge – Within a specified period from project completion, the landowner would pay the total charge.
2. Instalment Charge – Where the commuted charge option is not elected, an annual charge will be imposed on the benefiting landowners, over a defined period. Landowners have the option to pay a component of the charge over years and the payment plans include payment of the charge over 5, 7, or 10 years, with interest to be set at the Township's borrowing rate.

4.4 Indexing of the Charges

It is noted that, as per the Township's D.C. By-Law (By-Law 2019-045, as amended), the D.C.s are indexed annually on January 1st, to account for capital cost inflation. The Township is currently undertaking a new D.C. Background Study and By-Law that contemplates that annual indexing will continue. D.C. indexing is in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics." As the *Municipal Act* capital charge by-law is anticipated to recover an equal share of capital costs associated with capital infrastructure arising from both past and future development in the Maberly Pines subdivision, it is proposed that the *Municipal Act* capital charge by-law also include the same indexing provisions.

4.5 Municipal Act Charge By-Law Structure

The September 10, 2024 study recommends that:

Tay Valley Township impose a *Municipal Act* capital charge by-law for the recovery of the capital costs related to local roads, fire suppression supply services, and undertake the hydro design study required for the Maberly Pine subdivision;

The *Municipal Act* capital charge calculated for each residential dwelling unit be imposed on each benefitting landowner on the basis of an equal amount spread



across the fifty-five benefitting properties as of the date of substantial completion of the capital works;

The benefitting landowner may elect to pay the commuted *Municipal Act* capital charge at the date the charge is imposed, or in annual installments, with interest set at the Township's borrowing rate, over a period of time to be agreed upon with the Township and in accordance with Township policy;

The *Municipal Act* capital charge will be indexed annually on January 1st of each year commencing on January 1, 2025, in accordance with the most recent twelve month change in the Statistics Canada Quarterly, "Construction Price Statistics";

The Capital Charges, Under Part XII of the *Municipal Act, 2001* report dated September 10, 2024, be received and approved; and

The *Municipal Act, 2001*, Part XII By-Law as set out in Appendix A be approved.



Appendices



Appendix A

Draft *Municipal Act, 2001*, Part XII Draft By-Law



THE CORPORATION OF TAY VALLEY TOWNSHIP

BY-LAW NO. ___-2024

Being a by-law to impose a capital charge to recover the capital cost of installing local roads, fire suppression supply services, and undertake the hydro design study required in the Maberly Pines Subdivision, which are necessary to service the properties within the Maberly Pines Subdivision.

WHEREAS the Corporation of Tay Valley Township (“the Township”) has determined to construct certain infrastructure related to local roads, fire suppression supply, and pay for the required hydro design costs to service the Maberly Pines subdivision pursuant to its powers under Part XII of the *Municipal Act, 2001*, as amended (the “*Municipal Act*”);

AND WHEREAS the lands to benefit and be charged with the services related to the capital charge are existing developed lots and vacant lots in the Maberly Pines Subdivision; and

AND WHEREAS the Township has determined that the capital costs of such capital infrastructure works shall be rated against fifty-five (55) lots in the Maberly Pines subdivision, that benefit from the works, and shall be borne equally by all property owners.

NOW THEREFORE, THE COUNCIL OF TAY VALLEY TOWNSHIP ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-Law:

- (1) “Act” means the *Municipal Act*, S.O. 2001, c. 25, as amended;
- (2) “Benefiting property” means the properties defined by a map, plan or legal description in the Maberly Pines subdivision that will receive a benefit from the local roads, fire suppression supply, and hydro design services;
- (3) “Council” means the Council of the Corporation of Tay Valley Township;
- (4) “Discount Rate” means the rate to be based on the difference in the interest rate of the debt incurred by the Township and the Township’s investment rate;



- (5) "Interest" shall mean the interest rate equivalent to the Township's borrowing rate;
 - (6) "Services" means services set out in Schedule "A" to this by-law;
 - (7) "Township" means The Corporation of Tay Valley Township.
2. The capital charge provided in this by-law shall provide for the capital costs related to the surface treatment of local roads, hydro design costs, and water supply for fire suppression.
 3. The capital charge shall be imposed as per Schedule A to this by-law, in the Maberly Pines Subdivision (the benefiting properties) within the Township, as per Schedule B to this by-law, as amended from time to time. These areas are deemed as the benefiting properties as provided by Part XII of the *Municipal Act*.
 4. Benefiting landowners may elect to pay the commuted capital charges at the time not to precede one year from the time of substantial project completion, regardless of development status in accordance with Schedule A, or pay the charge in equal annual installments over a term of up to ten years, as agreed to with the Township, as may be refined from time to time, including interest, set at an interest rate not higher than 2% more than the municipal borrowing rate.
 5. The debt incurred refers to the debt the Township would be required to incur recognizing that the collection period would be delayed from existing property owners.
 6. Capital charges in Schedule A, imposed pursuant to this by-law, shall be adjusted annually, without amendment to this by-law, commencing on January 1, 2025, in accordance with the Statistics Canada Quarterly, Non-Residential Building Construction Price Index, for the most recent year-over-year period.
 7. The following schedule to this by-law forms an integral part thereof:

Schedule A - Local Road, Fire Suppression Supply, and Hydro Design Capital Charges

Schedule B – Map of Maberly Pines Subdivision Benefitting Properties



8. This by-law shall come into force and effect on the 19th day November, 2024.

READ a **FIRST** and **SECOND** time this 22nd day of October, 2024

READ a **THIRD** time and **FINALLY PASSED** this 22nd day of October, 2024.

Reeve

Clerk

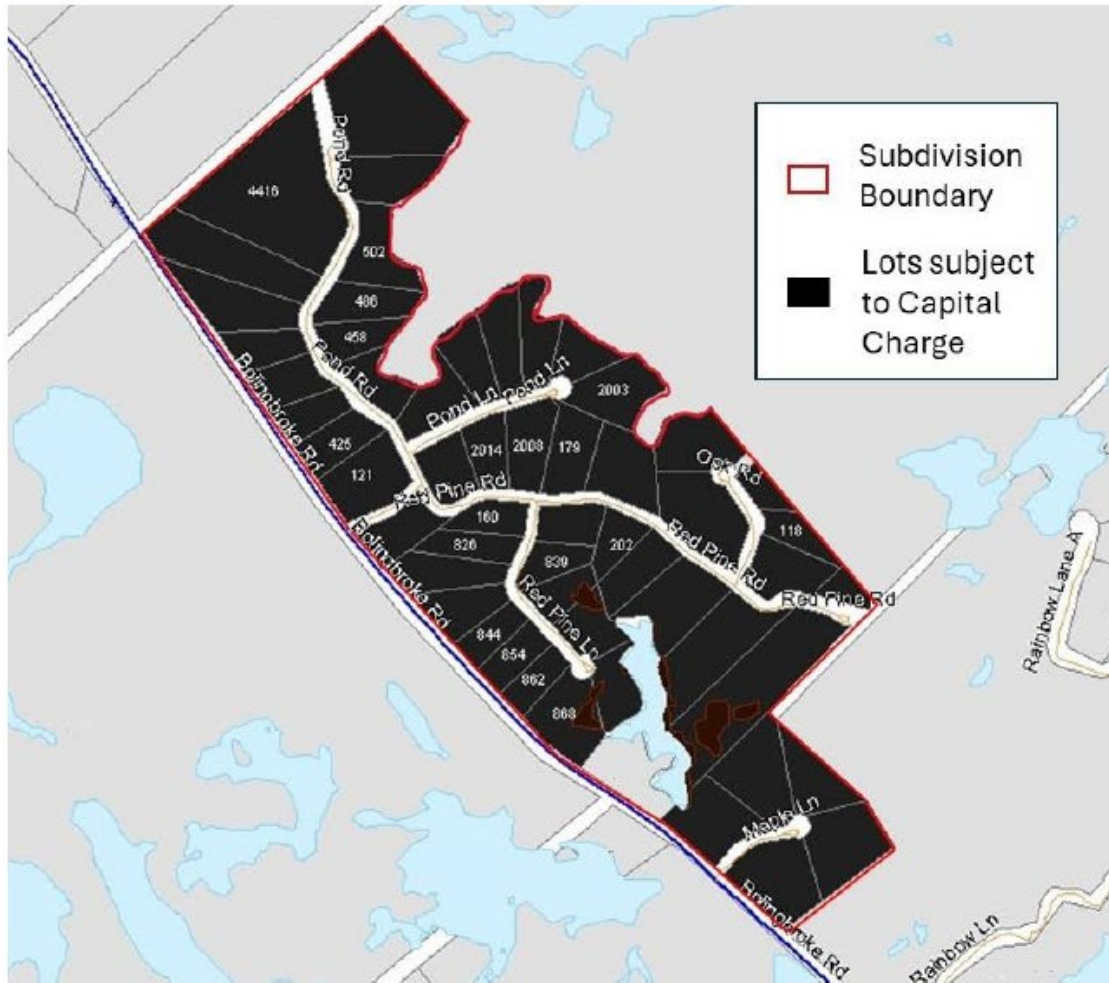


Schedule A
Schedule of *Municipal Act* Capital Charge
Maberly Pines Subdivision
2024\$

Capital Cost per Lot Calculation	
Grand Total Estimated Costs	\$608,123
Total Number of Lots	55
Rate Per Lot	\$11,057



Schedule B
Map of Maberly Pines Subdivision



PUBLIC INFORMATION SESSION
Maberly Pines Subdivision
October 2, 2024

Frequently Asked Questions from Property Owners in Maberly Pines

Finance

1) Will my property assessment change after the proposed work is done?

No. Your property assessment will not change once the proposed work is completed. Your property assessment will only change if you decide to develop (i.e. take out a building permit) on the property.

2) When will the Township bill property owners?

The Township is fronting the costs of the project and will only recoup the costs once the project is complete and all costs are known.

3) How will the payment plan work?

Property owners will have the choice of either paying the full amount upfront or choosing a payment plan of up to 10 years. The payment plan will be collected through the same method as taxes i.e. two bills a year with two instalments each. An option to switch to a monthly preauthorized payment plan (PAP) is available at no charge.

4) What if I decide to sell my property?

There are two options if a property owner decides to sell their property and there is still money owing to the Township.

One, the current property owner could come in and pay off the balance before the sale of their property, so the next owner is not liable for the balance (and could include the payment in the sale price).

Or two, the current property owner discloses that there is a balance owing at time of sale and the new property owner then has the option to come in and pay it off in full or to continue with the payment plan.

NOTE: The money outstanding from this project, should the owner have chosen the payment plan, is associated with the property itself, not the owner, i.e. the payment agreement is registered on title to the property until such time as the final payment is received, at which time it would be discharged.

5) What if someone doesn't pay their portion, are the other property owners responsible for their portion?

No. The Township will act as the collector of monies. Property owners do not have to worry about the collection of payments from other property owners. Should property owners not pay their portion it will be added to their taxes and recouped through the Township arrears policy.

6) How are the prices calculated, I believe the estimated quote is way off.

The estimated quote is based on unit prices from recently tendered road construction projects in Tay Valley Township.

7) In the new proposals a figure of \$11,057 is estimated. How reliable is that estimate? Is it the minimum? Do Maberly Pines (MP) residents bear all cost escalation risk? Why so?

The estimated quote is based on unit prices from recently tendered road construction projects. Estimates are based on 2024 dollars and inflation costs have been stabilizing. MP residents would bear all costs related to price escalation.

8) What is the scale of that risk escalation? Is there a limit? Will anything be done to accurately assess the costs before committing the property owners to them? Can they be coerced in that way? What happens if some decline? Who pays for the costs of legal challenges?

The price of the project will be confirmed once the project is tendered and bids from contractors are received. Costs of inflation are stabilizing.

A capital charge is a mandatory charge applied to all properties. No property owner can decline the charge. Should a property owner not pay, it will be added to their taxes.

Any cost of legal challenges will be awarded by the court.

9) In the Watson report, it recommends that if owners pay over 10 years, they are charged interest at 2% over TVT's borrowing rate. Is this appropriate or might it be considered usury imposed on a captive group of property owners?

In section 4.3 of the report mailed to property owners, it indicates that the installment charges (interest) will be "with interest to be set at the Township's borrowing rate". The Township will only be charging back the cost of borrowing.

10)What happens if lots are not developed as a result?

It is the property owners decision if they choose to develop the lot or not.

11)Does the agreement need to be unanimous?

No. The capital charge is a decision of Council and technically a public meeting or information session is not required. Council though wanted to give the property owners the opportunity to ask questions and provide feedback.

12)Was the consideration of recovery from increased tax base considered?

No. The increased tax base will cover the services provided by the Township such as road maintenance, waste management, community services, etc.

13)A dedicated new snowplow truck was budgeted in 2024 just for Maberly Pines. Will the cost of this be added to the imposed charges?

The plow truck purchased in 2024 was not for Maberly Pines and was to replace one of the existing plow trucks in the Township's Fleet. The purchase of a future truck for the MP subdivision, if required, would be funded by development charges and reserves.

14)What happened to the funds realized by the sale of the developer's properties held in lien to develop the roads? Will those funds be applied to offset the costs outlined in this proposal? Will interest be added for the intervening years to give Net Present Value?

Lots 14, 37 and 44 were provided to the Township as securities. These lots were sold in 2015, 2018 and 2020. The total amount received for all three lots was \$28,026.

In 2021/2022 the Township retained a consultant to conduct a hydrogeological study for the subdivision at a cost of \$31,600.

There are no remaining funds.

15) Will property owners in Maberly Pines that have entered RAA and paid for insurance have the costs of that reimbursed? With interest and compensation for legal fees?

No. Those were the requirements in place at the time.

16) Will an explanation be given to show how HydroOne service will be provided to all 56 lots for a total cost of the \$5K 'design study'? What are the terms of reference for that "design study"? Who will bear the real cost of supplying Hydro to each lot (estimated at ~\$11K/lot)? How will Hydro One recover their investment of over \$500K? Do they realize that only 7 lots are currently developed and the rest may not require power for many years?

A municipality is able to negotiate terms different to those offered to individuals. Total costs for Hydro will be \$5,000, which is for the design study. The contract is called a zero cost contract and costs \$0.

Planning

- 17) Provincial policy for new development suggests building communities where amenities, shops, schools, libraries, fire protection systems, and utilities are all available with easy access. Is Maberly Pines considered such a site? Was a comparative analysis of alternates made?**

Maberly Pines is an existing subdivision, not a proposed new Settlement Area. It is located a kilometre south of the Hamlet of Maberly which is a designated Settlement Area. Maberly contains amenities such as a restaurant, community hall, community parks, fire hall, a library outreach program in the Community Hall and a Foodfit program from the Table Community Food Centre in the Community Hall as well as Yoga, Tai Chi and other community programs provided by the Township.

Yes, a comparative analysis was undertaken. No other private unassumed road is located near a Settlement Area.

- 18) Maberly Pines was recognized as an area of poor hydrogeology. In 2022 requirements were imposed for strict wastewater treatment to reduce phosphate pollution. Is the proposed encouragement of development in this subdivision appropriate stewardship of the environment and sound ecological planning? How will it affect the ecology of over 100 long-standing properties in the adjacent subdivision downstream?**

The point of undertaking the new hydrogeological study was to determine if the existing subdivision could be built out without affecting the drinking water quality within the subdivision and without ecological impact on the adjacent subdivision downstream.

The wastewater systems restrictions were put in place to protect the environment.

- 19) Maberly Pines was accepted by the Ministry of Natural Resources and Forestry (MNR) as part of the watershed of Rainbow and LSL, and those lakes were deemed by MNR as at or beyond Lakeshore Capacity. Does this suggest that further development should be encouraged by the investment of over \$608,000, or \$11,057 per property (plus interest and surcharge)?**

If the residents of Little Silver and Rainbow Lakes would like the Township to designate their lakes at risk of phosphorus contamination through an Official Plan Amendment (as was undertaken for Farren and Adam Lakes), the Lake Association representing a majority of landowners can make that request.

Roads

20) To date, property owners have had to pay for their own driveway entrances /culverts etc. When the road is widened, will property owners be charged for the driveways, or will the Township do the work?

Property owners are responsible for the construction and maintenance of their entrances/culverts whether or not the road is assumed by the Township or if it remains a private unassumed road. The existing road does not need to be widened to meet applicable standards for a low-volume road.

21) I know the hill in front of my lot would need to have roughly 14 feet added to both sides of it, and roughly 10' down (deep or thick) of gravel to support a 16- or 18-foot-wide road as currently it's only about 10 feet wide. But they can't add that much on both sides due to there being a cabin too close to the road, they would bury the cabin (neighbors) so what would their plan be there?

The road base is 8m wide throughout the entire subdivision and although trees and vegetation would need to be removed, widening of the road base is not required. The anticipated upgraded road would be 3m lanes with 1m shoulders, which requires an 8m road base.

22) There is hardly any proper ditching due to it being all bed rock, most would need to be hammered or blasted to create proper drainage.

The ditches have already been established throughout the subdivision and it's not anticipated that rock removal will be required.

23) If this area is accepted as having a fragile ecology and needing every drop of water returned to the aquifer, is the proposal to use Low Cost Bitumen, with attendant disturbance of the road bed, use of a fossil fuel-based covering, and increased runoff, a wise decision? What treatment will be used on the roads after plowing has been done to prevent ice buildup? Will it be equally ecofriendly? What happens to the runoff? Does this align with the Township's recognition of a Climate Emergency?

Runoff will be absorbed in ditches, considered to be a form of green infrastructure.

Developing in a clustered subdivision within a kilometer of a Settlement Area (the Hamlet of Maberly) rather than sprawling on lots aligns with the Township's recognition of a Climate Emergency.

The roads will be treated with sand and sand mixture, which is the same as all other Township roads are treated. The mixture has a very low percentage of salt (5%). The runoff will enter the roadside ditches throughout the subdivision.

Other

24) Why is the timing of the project not scheduled until 2027?

The timing of the project is currently slotted for 2027 for a few reasons. With the assumption and maintenance of these new roads into the Township system a review of winter control routes, etc. will need to be completed. Depending on the review of the routes it is possible a new truck would be required. Both would require time to complete and then implement.

Council can however direct staff to move the project schedule up should there be the need/desire to do so.

25) Does the Township really propose installation of "fire suppression by use of hydrants or water tanks"? Where will the power (and the water) come from to supply this facility and keep it from freezing? Does the Blumetric Report (2022) suggest that waterflow from any well in MP is sufficient to provide adequate fire fighting ability? Is this regularly provided in such a remote subdivision where a lake is not available?. Has the full cost of this been included in the estimates?

Water tanks have been required in remote developments where multiple residents are located, e.g., the Coptic Monastery on Miner's Point Road. From an emergency management standpoint, fire suppression is required. The full cost has been included in the estimates.

Questions from the Little Silver and Rainbow Lakes Property Owners Association

26) Was this a decision by the Council, or by TVT Staff? Were our elected representatives consulted at all other than by presentation of the recent Watson reports?

Council authorized the Hydro G study to determine the possibility for development within the MP Subdivision. Council had a number of subsequent discussions about the development of MPs.

Council authorized the undertaking of the report as part of the development charges project. Council also authorized the holding of the Public Information Session.

27) What consultation took place with the broader community beforehand? Were any of the ten other subdivisions in similar position consulted?

The properties in Maberly Pines are in a unique situation compared to others on Private Unassumed Roads where the majority of the properties have not been developed.

This project will only affect the property owners in the Maberly Pines Subdivision, and they have been provided with an information letter and the consultant's report given on September 10th, 2024 to Council.

A capital charge is one of many options that are available to any of the other subdivisions with Private Unassumed Roads.

28) What happened to the specific agreement by Council in March 2023 to hold consultations with all owners on unassumed roads to decide on a way forwards?

This is still in place, the Township is waiting for the OLT Hearing on this matter to be finished. In the meantime, two other subdivisions have reached out to the Township to explore their options.

29) The schedule proposed at that time placed Little Silver Lake (LSL) Road top of the list for detailed discussion. LSL Road has had a cohort of tax-paying owners since 1985. What happened to this plan? Why was it changed?

This is still in place. Since the LSLPOA initiated an OLT Hearing, the Township is waiting for the OLT Hearing on this matter to be finished.

30) There are ten other subdivisions with Private Unassumed Roads, can they expect similar courtesy and funding?

The funding is being paid for by the lot owners in Maberly Pines. Other subdivisions will be treated the same way.