

Town of Whitby

Staff Report

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Report Title: Annual Insured Claims Report

Report to: Committee of the Whole

Date of meeting: June 12, 2023

Report Number: FS 13-23

Department(s) Responsible:

Financial Services Department

Submitted by:

Fuwing Wong, Commissioner Financial Services and Treasurer

Acknowledged by M. Gaskell, Chief Administrative Officer

For additional information, contact:

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1. Recommendation:

1. That Report FS 13-23 regarding Annual Insured Claims be received as information.

2. Highlights:

- In accordance with the Town's Claims Handling Policy and Insurance Reserve Fund policy the purpose of this report is to provide Council with a summary of the insured claims activity for 2022, the status of open claims and the year end balance of the Insurance Reserve Fund.
- This report provides Council with an update on the Durham Municipal Insurance Pool (DMIP) and the Town's insurance and risk management program.
- The Town continues to benefit from being a member of the DMIP by continuing to receive protection against significant rising insurance costs.

3. Background:

The Town is a member of the Durham Municipal Insurance Pool (DMIP) which consists of seven of the other Area Municipalities and the Region of Durham in an

integrated insurance program to achieve greater control over the insurance coverage and costs.

The DMIP administers the insured claims for all members. The Town is responsible for claims within its local deductible of \$10 thousand per claim and shares in the pool claims that are beyond the local deductible of pool members and within the pool's deductible of \$500 thousand. Claims beyond \$500 thousand are insured by Intact Public Entities (IPE), previously Frank Cowan Company. By agreeing to share the claims and expenses of the integrated insurance program, pool members achieve a more stable supply of insurance coverage to meet the unique requirements of the municipal marketplace.

4. Discussion:

Insured Claims

The Town of Whitby receives claims from individuals most generally as a result of damage to private property or bodily or personal injury. A claim is submitted when the individual who suffered the loss or the injury believes that the loss was a result of some negligence on behalf of the Town or its employees.

The Town carries insurance through the DMIP to protect its employees, volunteers, and officers from such claims in addition to insuring Town-owned property. The types of insured claims include:

- Motor Vehicle Accident – includes claims relating to winter road maintenance, pothole claims, road debris
- Operations Action/Inaction – includes claims relating to damage to property in the course of performing work e.g., utility cable/wires during construction, projectiles from work equipment, trees falling
- Falls – includes claims for trips and falls or slips and falls on municipal property e.g., sidewalks, parking lots, trails, inside facilities and at playgrounds
- Professional Error – claims for financial losses due to error, misstatement or omission e.g., negligence in building inspection, zoning, planning, passing by-laws, failing to enforce by-laws
- Automobile – includes claims from third parties relating to property/bodily injury and property coverage for Town-owned vehicle damage
- Property – claims for damage to Town-owned insured property e.g., facilities

The insurance coverage includes costs incurred in responding to a claim including investigation and defence and in instances where it is determined the Town is liable for damages, any third-party awards/settlements.

Claims with Costs Incurred within Deductible

The Town is responsible for the first \$10 thousand on each claim. In 2022, the Town has incurred costs totaling \$202 thousand in deductible expenses related to insurance claims. Deductible expenses include external legal and external adjuster fees, investigation charges and other expenses and third party settlement costs within the \$10 thousand. This is higher than the Town's five-year average of \$186 thousand and 2022 budget of \$170 thousand. This increase could be attributed to the timing of closing claims as claims go through the investigation/litigation process. Prior to the pandemic the Town had seen an increase in the number of claims received which could be a reflection of a growing population and increasing litigious society. In addition, in 2022 the number of claims increased due to the May 21st derecho storm.

Open Claims at Year End 2022

There were 42 open claims at the beginning of 2022 and 81 at the end of 2022. Claim activity during the year is as follows:

42	Insurance claims open at the beginning of the year
122	new claims were received as Whitby claims during the year*
(91)	claims were closed in 2022
<u>8</u>	claims previously closed were re-opened
<u>81</u>	Insurance claims open at the end of the year

*Of the 122 new claims the Town of Whitby received in 2022, 31 are related to the May 21, 2022 derecho storm. Adjusting for the derecho storm, the Town had 91 new claims in 2022, which is trending upwards (compared to an average of about 73 claims per year pre-2020/pre-COVID-19 pandemic).

The 81 open claims at the end of 2022 relate to policy years 2010 to 2022 and are categorized by type in Table 1.

Table 1

Total # of Open Claims	Motor Vehicle Accidents	Operations Action/Inaction	Falls	Professional Error	Property	Automobile Owned
81	10	28	32	3	4	4

Risk Management Strategies

The Town of Whitby is continuing to work with the DMIP on mitigating the Town's insurance related risks as follows:

- Ensuring procedures, training, documentation including the use of AVL/GPS technology complies with Minimum Maintenance Standards (MMS);
- The Town has an annual sidewalk inspection program;
- The DMIP conducts annual inspections of a number of Town facilities to identify building and property hazards. A written risk control inspection report including recommendations is provided and staff follow up on completing recommendations;
- Review agreements, certificates of insurance, programs, and procedures i.e., include insurance and indemnity clauses to transfer risk and potential future liability from the Town to the appropriate party;
- The DMIP and Intact Public Entities, provides proactive/preventative risk management seminars. In 2022, the following webinars were provided:
 - Building Code
 - CVOR Success : Driving a Healthy Fleet
 - Don't Fall into Winter, Be Prepared
 - Road Patrol: Complying with Minimum Maintenance Standards (MMS)
 - Staff regularly review claims to implement lessons learned moving forward to prevent similar events from occurring, primarily improving documentation of work performed i.e., improvements made to the Town's documentation relating to winter maintenance and daily grass cutting
- Procuring additional insurance coverages, as required, including volunteer accident benefit coverage;
- The Town has a facility user liability program. The facility user liability insurance program minimizes risk to the facility rental user and the municipality by providing insurance for those who do not have the required insurance;
- Obtaining insurance coverage for specific programs and events including the Town's Adult Hockey League Program and various amateur performers at Town events. Although in 2021 due to the pandemic and events being cancelled coverage was not obtained, with events and programs again taking place in 2022, we continue to explore these options to mitigate risk.

Renewal of Insurance Contract for 2023/2024

At the time of writing this report, the DMIP has not yet received renewal quotation information from IPE. However, IPE did meet with the DMIP Board earlier in the year and advised that the January renewals were challenging in terms of increasing premium costs due to the continuing hard market. In addition, because of both the hard market, as well IPE assuming previous Frank Cowan clients, underwriting practices are becoming more aligned to IPE's approach and much more underwriting application information will be required for this renewal and going forward adding administrative pressures to the Town. This is not a client issue but rather a reflection of the global market capacity and carriers being more selective to ensure profitable growth.

It is anticipated that renewal information will be provided beginning of June and the timing of the placement of insurance by the DMIP Board will be later in June. The Town's 2023 budget assumed an overall 10% increase for corporate insurance premium/levy and deductible costs. If the renewal exceeds the budget estimate the pressure will be reflected in the quarterly projection report scheduled for September. If there is no 2023 year-end surplus then the Insurance Reserve Fund will be used to offset any insurance related cost pressure.

Insurance Reserve Fund

The Town's insurance reserve fund, as per policy (F160), may be used to fund expenditures beyond the budgeted deductible and premium amounts, claims payments in excess of insurance coverage, payments required under the Town's indemnification by-law and additional insurance/risk management related expenditures/studies.

Industry experts anticipate that the trend is for municipal insurance premiums to continue to rise and experience upward pressures on rates through the remainder of 2023 due to the hard market. There is a cycle of hard and soft markets in the insurance industry. A soft market allows for more competition in the marketplace, lower rates, and more favourable terms whereas a hard market results in less competition, higher rates, and more restrictive terms. The DMIP met with the pool's insurer and was advised the hard market will continue and that the trend is for municipal insurance premiums to continue to rise. They advised the hard market is reflective of the following factors:

- increasing costs of claims due to increase in judicial awards and increasing litigious nature of society
- significant property loss claims related to weather events and climate change including wildfires, fires, flooding, ice storms

At the end of 2022, the balance of the Insurance Reserve Fund adjusted for budgetary commitments is \$1,491 thousand (unaudited).

5. Financial Considerations:

The corporate insurance program is funded from the annual operating budget (Corporate Revenue and Expense section of the budget) at \$1,454 thousand (2022 budget).

In addition, the 2022 budget for the estimated annual cost of claims within the local deductible was \$170 thousand. As noted above, the Town has incurred costs totaling \$202 thousand in deductible expenses related to insurance claims in 2022 for expenses including external legal and external adjuster fees, investigation charges, and third party settlement costs within the \$10 thousand deductible (per claim). The 2022 budget pressure related to budgeted deductible was offset by other 2022 operating budget surpluses and a draw from the Town's Insurance Reserve Fund will not be required for 2022.

6. Communication and Public Engagement:

An electronic claims intake form was launched March 1, 2022 on the Town's website, where residents/other claimants receive automatic notification of receipt of a claim. The DMIP and Town staff are immediately notified and can begin the claims investigation process.

7. Input from Departments/Sources:

Claims and in particular those going through the litigation process require considerable staff resources. Staff resources from across the organization are involved in the investigation of claims, preparing and participating in the claims litigation process and identifying and implementing lessons learned. Further, staff work together to mitigate the Town's risks by establishing/updating policies and procedures and keeping records that demonstrate such and ensuring appropriate transfer of risk when procuring goods and services and permitting Town facilities and special events.

8. Strategic Priorities:

The claims handling policy and processes support the corporate strategic plan to ensure all municipal affairs are conducted with professionalism and integrity by responding promptly to claim inquiries, maintaining assets and by having a systematic approach to identify, assess, mitigate, and manage risks. The Town will continue the tradition of financial management and respect for taxpayers to ensure the Town is adequately protected; and to understand the importance of affordability and sustainability to a healthy balanced community.

9. Attachments:

N/a