

**Report to  
Rapport au:**

**Finance and Economic Development Committee  
Comité des finances et du développement économique  
7 May 2019 / 7 mai 2019**

**and Council  
et au Conseil  
22 May 2019 / 22 mai 2019**

**Submitted on April 26, 2019  
Soumis le 26 avril 2019**

**Submitted by  
Soumis par:  
M. Rick O'Connor, City Clerk and Solicitor/Greffier municipal et avocat général**

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**Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE      File Number: ACS2019-CCS-LEG-0002**

**SUBJECT: Delegation of Authority By-law – Section 5 – Reporting Requirement -  
Insurance Renewal**

**OBJET: Règlement municipal sur la délégation de pouvoirs – Article 5 –  
Déclaration obligatoire – Renouvellement d'assurance**

## **REPORT RECOMMENDATIONS**

**That the Finance and Economic Development Committee:**

- 1. Receive this report on the City Clerk and Solicitor's exercise of delegated authority under Section 5 of the *Delegation of Authority By-law*, for information; and,**

2. **Recommend that City Council approve that the unanticipated cost of the City's 2019-2020 annualized insurance renewal be funded through the City's tax stabilization reserve fund.**

## **RECOMMANDATIONS DU RAPPORT**

**Que le Comité des finances et du développement économique :**

1. **prenne connaissance du présent rapport sur l'exercice des pouvoirs délégués par le greffier municipal et avocat général en vertu de l'article 5 du *Règlement municipal sur la délégation de pouvoirs*;**
2. **recommande au Conseil municipal d'approuver le financement imprévu du renouvellement d'assurance annualisé de la Ville pour 2019-2020 par le Fonds de réserve de stabilisation des taxes de la Ville.**

## **BACKGROUND**

As part of its overall risk management strategy, the City maintains an Integrated Insurance Program (the "Program"). The Program protects the City against catastrophic damage to its primary assets, most notably the bus fleet garages and Robert O. Pickard Environmental Centre, as well as its liability for third party losses. Third party losses include such things as damage to private property and injuries suffered by members of the public. The main structure of the Program, which sees the City maintain a self-insured retention (i.e. "deductible") of \$3M per occurrence, was approved by City Council in 2005.

Prior to the most recent renewal, the Program consisted of a primary layer of insurance of \$25M per occurrence, with layers of excess liability insurance, which is additional insurance payable only once the primary coverage is exhausted, up to \$50M.

Significantly higher limits are in place for the City's highest-value assets, the bus fleet and sewage treatment plant noted above. Until recently, the excess liability insurance provided coverage to a maximum of \$40M per occurrence. This amount was increased to \$50M starting at the beginning of the 2017-2018 policy term, when an alternate market offered the additional \$10 coverage at the same cost as the expiring 2016-2017 term premium.

The City's 2018-2019 Integrated Insurance Program had a renewal/expiry date of April 12<sup>th</sup>, 2019.

## DISCUSSION

In August 2018, the City began working with its insurance broker, Aon Risk Solutions (“Aon”), to prepare for the anticipated renewal of the Integrated Insurance Program in April 2019. As the cost of the City’s insurance premiums had risen by approximately 25% between 2017 and 2018, this early work was intended to ensure that any further increase could be properly accounted for through the 2019 budget process. Early indications of a possible further 10% premium increase prompted the City and Aon in late 2019 to explore options for a revised Program, and to approach alternative markets for the supply of insurance.

On January 11, 2019, an OC Transpo bus collided with a section of the Westboro Station transit shelter, resulting in three fatalities and numerous serious injuries. This was the second major incident involving the City’s bus fleet, following approximately five years after the OC Transpo – VIA train collision in September 2013.

The January 2019 incident prompted insurance providers to re-evaluate their willingness to participate in the City Program. Despite Aon’s work over the next weeks to secure an alternative provider, only Frank Cowan Company (“Cowan”), the City’s existing insurer, was prepared to offer the City an Integrated Insurance Program. Cowan’s offer to renew the City’s Program was conditional on revised terms and limits and at a significant premium increase of approximately 84%, or nearly \$2.1M per year. According to Cowan, these changes and increases were attributable to seven principle factors:

1. Escalating Costs of Natural Global Disasters;
2. Joint and Several Liability;
3. Claims Trends (in the municipal sector);
4. Increasing Damage Awards;
5. Class Action Lawsuits;
6. New and/or Adverse Claims Development; and,
7. Transit Exposure

Cowan also indicated that the primary policy limits for the 2019-2020 renewal would be lowered from \$25M to \$10M per occurrence, thereby raising the likelihood of increased costs for the City’s excess liability policies.

In an effort to mitigate these changes and cost increases, Aon proposed in late March 2019 that it undertake a comprehensive review of the City’s insurance program, comprising both an Enterprise Risk Management, as well as an Actuarial and Analytics,

component. The focus of the review would be to assist the City in making strategic risk management decisions and to make any recommended changes to such things as insurance limits and coverages. The larger aim would be to present a revised insurance program to the market in approximately six months – coupled with a request to Cowan to maintain the City's existing premium structure in the interim - in the hopes of securing more competitive premium pricing.

In April 2019, Cowan advised that it would not grant the extension requested by the City. To maintain the City's Integrated Insurance Program and avoid a lapse in its insurance coverage on the April 12, 2019, expiry, the City Clerk and Solicitor was required to execute the renewal of the Program in accordance with the terms offered by Cowan, pursuant to Section 5 of the *Delegation of Authority By-law*. To insure against losses above the \$10M per occurrence limit of the primary coverage, the City Clerk and Solicitor was also required to secure a revised excess liability insurance program, to a combined limit of \$35M per occurrence.

This Report is in accordance with the reporting requirements set out in Section 5 and also Section 6 of Schedule "C", of the By-law No. 2018-397, being the *Delegation of Authority By-law*. For convenience, both provisions are set out below:

*5. In cases of emergency or special circumstances where it is necessary to act within the normal mandate of a department, but such action is not strictly within the terms of a delegated authority, a General Manager, in respect of his or her specific Department, may take such action as necessary to rectify the situation.*

*Schedule "C"*

*6. Where time constraints or other circumstances will not allow for the required authority-granting procedures to be followed with respect to any legal matter, the City Clerk and Solicitor shall have the authority to take the appropriate action and report such action to the Council or the appropriate Standing Committee of Council at the earliest opportunity.*

The annual cost of the City's Integrated Insurance Program has increased by approximately 220%, or nearly \$3.25M, as compared to the 2018-2019 renewal period, which amount was not foreseen as part of the 2019 Budget process. Finance staff have recommended that the additional insurance premium costs – approximately \$2.5M for 2019 – be funded through the City's Tax Stabilization Reserve Fund.

**RURAL IMPLICATIONS**

There are no rural implications associated with this report.

**CONSULTATION**

This is an administrative report issued to meet the requirements of the *Delegation of Authority By-law*. As such, no consultation was undertaken.

**LEGAL IMPLICATIONS**

There are no legal impediments to approving the recommendations contained in this report.

**RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with this report.

**ASSET MANAGEMENT IMPLICATIONS**

There are no asset management implications associated with this report.

**FINANCIAL IMPLICATIONS**

The additional insurance premium costs for the City’s Integrated Insurance Program for 2019 – approximately \$2.5M – will be funded through the Tax Stabilization Reserve.

**ACCESSIBILITY IMPACTS**

There are no accessibility impacts associated with this report.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**TECHNOLOGY IMPLICATIONS**

There are no technology implications associated with this report.

**TERM OF COUNCIL PRIORITIES**

Governance, Planning & Decision-Making

GP2 – Advance management oversight through tools and processes that support accountability and transparency.

## DISPOSITION

Legal Services will continue to coordinate with Aon the completion of the comprehensive actuarial study noted earlier in this Report, with the aim of securing more favourable pricing for the renewal of the Integrated Insurance Program in 2020. That study is to proceed in three phases, being:

**Phase 1** – Limit and Retention Analysis: The use of modelling simulation techniques to project future losses and technical insurance pricing.

**Phase 2** – Catastrophic Modelling Scenarios – The use of actuarial concepts/modelling to estimate Probable Maximum Loss for natural catastrophes (Earthquake and Flood)

**Phase 3** – Risk Control Assessment – To evaluate loss prevention and safeguarding measures and quantify risk/loss exposures, as well as developing solutions to mitigate risk exposures.

On completion and analysis of the actuarial study, staff will provide a further update to the Committee, along with any recommended changes to the City's Integrated Insurance Program, likely in Q4 2019. Furthermore, staff have previously undertaken to report back to the Committee and City Council once more is known about the Province's consultations on the issue of joint and several liability, one of the factors noted by Cowan as underlying the increased cost of insurance for the City. Whether changes in the law that might serve to reduce the City's insurance costs will be forthcoming remains, as yet, to be seen.