HALDIMAND COUNTY

Report LSS-09-2021 Insurance Program Review and Update

For Consideration by Council in Committee on June 22, 2021

OBJECTIVE:

To provide an update to the 2021 Municipal Insurance Program with final premium amounts and increases, and to provide considerations for future insurance program renewals.

RECOMMENDATIONS:

1. THAT Report LSS-09-2021 Insurance Program Review and Update be received.

Prepared by: Michelle Brandt, Supervisor, Risk Management & Legal Services

Reviewed by: Lori Friesen, Manager of Legal & Support Services

Respectfully submitted: Cathy Case, General Manager of Corporate & Social Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

As was the case for many Ontario municipalities, the global hardening of the insurance market affected the County's ability to maintain favourable rates for the 2021 insurance renewal program; and resulted in a lengthy renewal process extending into May, with a retroactive date of January 1, 2021. All final costs for 2021 premiums are now confirmed, resulting in an additional $34,508 increase from the proposed premiums provided in the December 8th CIC report, but still remaining within the Council approved budget. Due to the current market conditions, maintaining status quo with the current insurance provider is recommended. Staff will continue to analyze and monitor the County's insurance portfolio to determine the appropriate time to go back to the marketplace and how to present the portfolio to obtain the most favourable coverage and premiums.

BACKGROUND:

Council received report LSS-18-2020 in December of 2020, and approved the 2021 proposed Municipal Insurance Program, as it was presented to Haldimand County by A.J. Gallagher and Marsh Canada. As noted in the report, a number of the final premiums for certain lines of coverage were not confirmed by the underwriters at that time. Staff committed to providing Council with an update on the premium allocations once they were finalized by the insurer. Staff also committed to advising on the outlook with respect to future renewals, the insurance market in general, as well as key considerations that should be made moving forward, which are outlined within this report.

ANALYSIS:

As previously reported, the annual renewal was significantly impacted by hard market conditions. The last identified hard market was at the end of 2001 as a result of September 11th events with many of the reinsurance companies going bankrupt. The markets began softening in 2002 and continued into 2018. In 2019, the insurance industry identified this as a ‘corrective year’, which resulted in policy coverage wording adjustments; as well as premium increases due to such things as catastrophic environmental events and increasing fiscal awards by the courts. The hard market conditions initiated again in 2020 which continue into 2021, for the same reasons outlined above and the unknown repercussions of COVID. A hard market is defined by:

- Insurance companies having a greater focus on profitability and bottom line results. Over the last year, payouts on insurance claims have surpassed the incoming premiums which has resulted in many insurers leaving the marketplace or significantly reducing their exposure. Example: The Ontario Auto insurance sector reported that for every $1 in auto premiums collected, $1.03 was paid in claims. As Joint and Several Liability continues to be a concern with municipalities being targeted as having ‘deep pockets’, this results in the ongoing negative impact on municipal insurance premium costs, coverage exclusions, increased deductibles, and the marketplace unwilling to provide insurance for municipalities.
- There is a reduction in fiscal capacity, whereas insurers that were willing to insure 100% of a risk are reducing their capacity to less than 50% of the risk for a policy holder. Haldimand experienced this with its Umbrella Coverage. This coverage is purchased to provide an additional layer of insurance so if the main policy is exceeded, the Umbrella Coverage is triggered. The 2021 policy resulted in obtaining this coverage through a layered approach with one insurer providing the first layer of $20 million in coverage, a second insurer providing $20 million in coverage and the third insurer providing $5 million in coverage.
- Insurers are returning to disciplined underwriting. Whereas previous municipal insurance policies were applied carte blanche, insurers are scrutinizing each policy line description to reduce ambiguity and further define a growing number of exclusions.

In preparation of the January 1, 2021 renewal, staff initiated the process in August 2020 and provided data as part of the renewal package to the insurers. The renewal process was significantly more complex than in previous years as insurers were collecting more specific data to develop analytics and to better understand specific risks. Additionally, these subsequent requests came over an extensive amount of time – all which impacted the County renewal timeline. Staff, on a number of occasions sought follow up and updates on the renewal process in order to have confirmed coverage for January 1, 2021. In communication with other municipalities, all were experiencing similar delays regardless of their insurance provider.

There were several items within Report LSS-18-2020 which staff committed to providing follow up to and are itemized below.

1. General Liability Insurance - Staff were awaiting clarification if there would be any new exclusion clauses removing Directors & Officers Liability as it was unknown at the time of the December 2020 report. Our insurers have now advised and confirmed that there is no exclusion to this coverage.

2. Medical Malpractice Liability – Staff were notified that a new exclusion of communicable diseases to a sublimit of $1 million was included in the 2021 policy, which is subject to a $250,000 deductible. As previously reported, this coverage does not apply to any COVID or communicable disease claim originating from health care or long-term care facilities, including any staff that are working in these areas that may transmit to patients, residents, or clients. Exclusions of this nature are discussed further below in Section 6.

3. Property Insurance – The Property policy final premium cost is $301,890 which is an increase of $25,896 from the proposed premium. At the time of presenting the December insurance renewal report, staff were provided with the renewal terms however the underwriting discussions on the Property policy were not confirmed and were stated as having a new limit of loss of $100 million dollars. Staff worked with its broker and insurer in an attempt to bring the limit back to a blanket

limit, as it existed in the previous years' policies. Given that the County has a total insurable value of just over $448,500,000 and have seen no losses that have required coverage by the insurer in 2020, this was a considerable proposed change by the insurer and a significant gap in insurance coverage to the detriment of the County. This premium increase does factor in the removal of the proposed limit of loss and the entire total insurable value of $448,500,000 is now fully covered, with the caveat being a limit of loss imposed at the Nanticoke Treatment Plant (NTP) of $100 Million.

Property Insurance is a blanket policy coverage for all County property where the risk of loss is spread across the County. In the instance of the NTP, there is greater risk of loss due to the $107 Million facility being located in a dense space, which leaves the County exposed to an uninsurable value of $7 Million if 100% of the NTP was lost – which was not the case in previous Property Policies. If full loss was to occur, any expense exceeding the $100 Million would need to come from other funding sources such as County reserves or other available funding mechanisms. For future renewals, staff will continue to be proactive to determine if there are any additional cost saving measures such as splitting its assets into multiple policies or tracking additional property data that insurers are using to valuate risks associated with property losses.

4. Cyber Insurance - The Cyber policy premium of $31,940 has been finalized at a higher rate than the originally quoted amount of $23,328 for a difference of $8,612. As a relatively newer product in the municipal program, underwriters are now relying on the recent awards and costs associated with cyber coverage, including ransomware, malware, and cyber-hacking, and the public sector is a particular threat to such events, given the value that data has to the public institutions and their operations. Now that these costs have been realized, the insurance sector is quantifying the risks more appropriately. With the ever increasing trends of growing threats in this field, increased premiums are largely out of our control, with the exception of adhering to risk mitigation practices that are recommended by the professionals.

5. Future Considerations - Of note, the County's insurance reserve, loss experience trends and its current level of deductibles were to be reviewed; as well as the existing contracts with Marsh as the municipal insurer, and A. J. Gallagher as the broker for Haldimand County. The 2021 policy renewal with the Broker and the Insurer are the fifth and final year of the initial five-year term, however the agreement does permit for five additional one-year renewals. In considering the County's next steps, staff are taking into account a number of factors. There are various discussions currently taking place in the insurance sector, as well as throughout the municipal sector with respect to insurance renewals and the markets in general. The market trends in particular are the most prevalent topic of conversation and staff have heard from numerous sources that there is an industry expectation that the hard market should be easing off, and perhaps becoming less volatile sometime towards the end of 2022. While there is currently nothing concrete to document this as fact or any guarantees, staff have seen evidence from other municipalities that ongoing renewals have been subject to similar situations as Haldimand County experienced with its 2021 renewal. Given the length of time that is required to facilitate a renewal, and the ongoing market trends, staff will be investigating the potential for premium savings at its 2022 renewal period. Various considerations and analysis will be completed during the next renewal in order to seek favourable premiums which may include, determining best approach for going back to the marketplace, higher deductible levels for lower premiums, adjusting lines of coverage to balance the transfer of risk, etc. At this time, due to these conditions, staff are continuing to monitor the markets, and retain open communications with other municipalities to determine our next steps for future renewal years.

6. Communicable disease exclusions – The rationale behind pandemic exclusion is that pandemic risk is generally uninsurable. The fundamental premise of insurance is that it is a pool collected to spread across a subset of risk in a specific location for a specific loss. Where the risk is global across all locations and the losses are common, the premise of compiling funds for a pool becomes redundant. The Insurance Bureau of Canada has now included the pandemic exclusion as standard to

insurance language in Canada, which confirms that losses arising from communicable diseases are likely to be excluded from most lines of coverage for an indefinite period into the future. This certainty puts the responsibility of managing these risks with mitigating the potential for future losses at the forefront of any risk management processes, and that will continue to be the focus for County staff.

FINANCIAL/LEGAL IMPLICATIONS:

Due to increases in premium costs for Property and Cyber policies (Table 1), the final premium reflects an increase of approximately $34,508 from the December 2020 report. Staff were able to allocate the appropriate funds within the 2021 Council approved budget, therefore a budget amendment is not required.

Table 1

POLICY	Proposed 2021 Premium Costs (including tax)	Final 2021 Premium Costs (including tax)	Difference
Municipal General Liability (includes Public Officials Liability, Environmental Impairment Liability, Employee Benefits Liability, Legal Expense Insurance, Non-Owned Automobile)	$82,381	$82,381	$0
Umbrella Liability ($45 Million Excess of $5 Million Primary)	$21,911	$21,911	$0
Medical Malpractice Liability – Paramedic Services	$33,549	$33,549	$0
Crime	$2,160	$2,160	$0
Owned Automobile (tax exempt & incl. additional vehicles)	$134,550	$134,550	$0
Property (includes Boiler & Machinery)	**$275,994**	**$301,890**	**$25,896**
Cyber Insurance	**$23,328**	**31,940**	**$8,612**
Volunteers' Accident	$1,080	$1,080	$0
Community Hall Boards Liability	$12,960	$12,960	$0
Recreation Affiliates	$2,592	$2,592	$0
Landfill Policy (gross amount; to be cost shared with Norfolk County whose share is 56.52%)	$21,208	$21,208	$0
TOTAL	**$611,713**	**$646,221**	**$34,508**

STAKEHOLDER IMPACTS:

N/A

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

None.