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# HALDIMAND COUNTY

## Report LSS-10-2022 1st Quarter Insurance Activity 2022

For Consideration by Council in Committee on May 10, 2022

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### OBJECTIVE:

To advise Council of insurance activity including claims made against the County and costs incurred for the period of January 1, 2022 to March 31, 2022.

### RECOMMENDATIONS:

1. THAT Report LSS-10-2022 1st Quarter Insurance Activity Report - 2022 be received.

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

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

### EXECUTIVE SUMMARY:

In the first quarter of 2022, claims against the County are slightly higher than those reported for the same timeline in previous years and claims made by the County year to date, are slightly higher in comparison to previous years. Legal and Support Services staff are continuing to be proactive on all fronts of risk exposure and loss mitigation through data collection and examination, providing staff training and knowledge sharing. These activities assist with the County continuing to be identified as a model municipality in terms of its loss experience. Staff have also been proactive in claims subrogation in order to recover costs from third parties where possible, as this has a positive impact on the Self Insurance Reserve as described within this report.

### BACKGROUND:

The County pays premiums to the external insurance carriers for general insurance coverage. In addition, funds are allocated annually within the County's budget for the Self Insurance Reserve (SIR) program. The SIR program is designed to cover the costs of investigation, defence and settlement of all claims falling below the deductible levels, as well as payment of the respective deductibles to the insurer on claims exceeding these levels.

As with previous years, deductible levels are varied and based on the type of insurance coverage applicable to a loss or claim. For example, municipal liability coverage carries a deductible of \$250,000, the property deductible is \$50,000 and auto deductible is \$25,000.

This report does not quantify the total cost of a claim if a deductible is exceeded. The dollar value of insurance claims over and above the deductible levels are reported in the annual litigation report and are also reflected in annual premium changes, which are based on the County's historical claims experience and more recently the hard market conditions.

The following information outlines the statistical data for the 1st quarter of 2022 and compares the information to historical data in order to recognize the County's risk profile and trends that can be addressed and mitigated.

## **ANALYSIS:**

Claims can vary in value and scope, are managed according to the specifics of each claim and fall within one of the three categories.

**Litigation** - is dealt with by legal counsel assigned by the County and/or the insurer, with staff working in close consultation on these matters.

**Informal Claims** - are claims for compensation managed by staff or with the assistance of a third party adjuster for more complex matters.

**Incidents** - are those events where staff receive notification of something happening that may result in an informal claim, but at the time of notification, there is no claim for compensation.

Claims which fall within the litigation category are provided annually to Council in a separate report.

Informal Claims will include both claims that are issued *against* the County, which are claims or demands for compensation by third parties to Haldimand County, as well as claims made *by* the County. Claims made *by* the County can include internal claims, such as fleet claims due to damaged vehicles, lost or stolen equipment, as well as damage to County infrastructure by third parties (for example, motor vehicle collisions damaging a street light). Where the County can identify a responsible party for such damage, further administrative duties are completed, including subrogating for cost recovery. In the absence of a responsible party, claims are made by the applicable division to the Legal & Support Services staff and processed internally for the originating division's cost recovery. Claims exceeding or nearing the deductible threshold are processed through the County's insurer in accordance with the contractual provisions of the respective insurance policies. Within the parameters set out above, the County is also responsible to report certain types of incidents, including liability claims regarding bodily injury matters to the insurer, even where the deductible threshold has not (yet) been met.

Tracking incidents is a proactive method to identify any type of situation that has the potential of turning into an informal or a litigation claim. It is possible that incidents could remain with an incident status throughout the limitation period, due to no further action coming from the event. However, if a claim for compensation, notice of intent, statement of claim or an internal invoice for repair is received, at that time, the incident will become an informal or litigation claim.

It is important to continually review all reported incidents alongside the claims and litigation matters in order to obtain a holistic view of risk exposure. Staff continually review this data and engage in risk mitigation strategies, such as those described under the Risk Management section of this report.

## **Data:**

Attachment #1 provides information on claims against the County and incidents received in the first quarter and by what means they are managed. In the first quarter of 2022, Haldimand County received 11 claims against the County. Over the past 3 years the average annual claims against the County is 41. Claims reported in quarter 1 represent 26.8% of the average, indicating that claims may be slightly higher in 2022. Claims being reported as "Not County Jurisdiction/Other" are informal claims that were received but through an investigation, were determined to be made incorrectly against the County or where the legal responsibility lies with a contractor or third party.

Attachment #1 also breaks down the claims against the County by the applicable division. As is common with municipal operations, the Roads Operations Division experiences the bulk of the annual claims made against the County as it has the highest risk exposure.

In terms of claims made by the County, 16 claims were processed in the first quarter of 2022. A breakdown of this information is provided in Attachment #2. Over the past 3 years the average annual claims by the County is 74. Claims reported in quarter 1 represent 21.6% of the average of reported claims. This would indicate a downward trend in claims, however it should be noted that the volume of claims in 2019 is an anomaly that may be increasing the three year average. The more recent years of 2021 and 2022 show a much lower total claims volume which demonstrates that claims by the County may actually be increasing in 2022.

Attachment #2 also outlines the recovery/subrogation data in further detail, which represents costs that Haldimand County was able to recover for damage by a responsible third party. It is important to note that the subrogation figures do not necessarily reflect the actual quarter that the damage/claim may have occurred, rather they reflect the recovered amounts received in the 1st quarter. The recovery process and timeline can vary depending on the type and nature of the claim.

Finally, Attachment #3 outlines costs associated with resolving claims, both by and for the County, as described above. The resolution of a claim is either in the form of settlement or denial of a claim, or in the case of litigation, a judgement. In previous reporting years, subrogation claims that were recorded under the settled category, are now separated and recorded as recovered, giving a clearer picture of the closure of these types of claims. Costs associated with denial of claims are usually limited to the expenses incurred to investigate a claim and efforts are made to keep these costs to a minimum. Costs for settled claims during the stated period are not necessarily relative to the actual claims received during the same period, as the timeline and process of claims investigation varies according to the specific nature of each claim. Costs pertaining to claims from previous quarters and prior years include expenses to resolve claims involved in the litigation process. Settlement amounts vary from claim to claim, never exceeding the County's deductible threshold, and in fact, settlement internally is most often somewhat lower in value.

As represented by the solid line on the YTD Comparable – Resolution of Claims Costs table (Attachment #3), there was an increase in the first quarter of 2022 costs. It is anticipated that each quarter in 2022 will see higher costs than the previous year due to slower timelines of resolutions that were seen throughout 2021.

### **Risk Management:**

Efforts are made to reduce the frequency and severity of claims and costs incurred, using both proactive and reactive risk management measures. For example, incidents involving County vehicles and equipment are reviewed by the Vehicle Accident Review Committee (VARC) on a monthly basis. The VARC is comprised of stakeholders from Human Resources, Fleet, Roads Operations and Legal & Support Services. Recommendations are made by the Committee to the applicable Manager and Supervisor in an effort to mitigate future losses by use of training, reassessment of business processes, as well as any other measures that may be applicable to the loss. Senior staff are also kept aware of liability claims that are received, as well as the outcomes of those claims. Legal & Support Services staff has initiated a formal process whereby Notices of Settlement are issued to the applicable division manager. When settlements have taken place and in consultation with senior staff, recommendations are made to assist divisions with mitigating or preventing future losses.

The practices of risk management are not limited to the division responsible for the insurance and risk program. For example, the Fleet division is responsible for administering the Commercial Vehicle Operators Registration (CVOR) program as mandated through the Highway Traffic Act. Through their continued efforts at mitigating and reducing risk, the Fleet division confirms it is within compliance of the CVOR program.

Risk management techniques and the culture of risk management is prevalent in the day-to-day operations throughout Haldimand County and staff work collaboratively to reduce risks associated with municipal operations.

## **FINANCIAL/LEGAL IMPLICATIONS:**

The 2022 budget for insurance claims costs and deductibles (both internal and external) was established at \$400,000. The costs of the SIR program reflect that, at the end of the first quarter, \$54,646.44 or 13.66% of this budget has been expended. This does not include any allowance for outstanding and/or unresolved claims or reserves that have been established by the insurer for larger claims. It also excludes costs related to claims for which reimbursement through subrogation is being sought. Staff will be better prepared to provide this amount, once a more thorough review of the 2021 financial information has been complete.

The SIR is used to fund the costs incurred in settling claims administered internally, as well as payment of deductibles. This source of funding avoids significant negative variances affecting the annual operating budget, due to unusual and costly events, which are typically not expected as part of the day-to-day business. Without such a source of funding, there would be major fluctuations in the annual expenditures incurred within the various operating divisions, as well as challenges in defining, monitoring and managing “normal” operations. The SIR has a projected balance of approximately \$1,146,500 at the start of 2022. This balance includes an accrual for outstanding claims currently in litigation or under investigation totalling just in excess of \$1,607,400. Staff are aware that as of December 31, 2021, the total of the accrual is greater than the total of the reserve; however, this represents a worst case scenario. It is not anticipated that these amounts will be fully realized and staff continue to diligently monitor these claims and reduce the accrual amounts once pleadings identify which allocations are being pursued (retain accrued value) or dismissed (reduce accrued values). Staff will initiate a strategy to address this if at any point it becomes an undesired financial risk.

## **STAKEHOLDER IMPACTS:**

All Managers are provided with the details of the insurance claims filed against the County, as well as the internal claims made, on a regular basis throughout the year.

## **REPORT IMPACTS:**

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Total Claims against the County
2. Total Claims by the County
3. Resolution of Claims