

# INFORMATION REPORT

<b>TO:</b> Mayor and Members General Issues Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> June 20, 2012	
<b>SUBJECT/REPORT NO:</b> Residential Protective Plumbing Subsidy Program (PW11056a) - (City Wide) <i>(Outstanding Business List Item)</i>	
<b>SUBMITTED BY:</b> Gerry Davis, CMA General Manager Public Works Department	<b>PREPARED BY:</b> Dan McKinnon (905) 546-2424, Extension 5941
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## Council Direction:

City Council, at its meeting of July 7, 2011, approved of Item 15 of General Issues Committee Report 11-023, which stated in part, the following:

*“That the General Manager of Public Works and City Solicitor investigate and report back to the appropriate standing committee on the options available for extending the Residential Protective Plumbing Subsidy Program to registered owners of residential rental properties.”*

In addition, at its meeting of July 4, 2011, the General Issues Committee provided the following direction;

*“That staff be directed to investigate and report back to the General Issues Committee on the feasibility of making it mandatory for backflow sewer valves to be installed on all future new residential homes.”*

## Information:

The purpose of this Information Report is to provide results of the staff review respecting the extension of the Residential Protective Plumbing Subsidy Program (3P) to registered owners of residential rental properties, and the feasibility of making it mandatory for backflow sewer valves (backwater valves) to be installed on all future new residential homes.

Should Council chose to expand eligibility of this Program there will likely be an increase in the financial expenditure associated with it due to the provision of grants to a larger number of property owners and as a result staff have provided additional information in this Report PW11056a respecting the financial status of the program.

*Residential Protective Plumbing Subsidy Program (3P)*

The purpose of the 3P is to provide guidance and financial assistance to existing residential property owners seeking to undertake improvements to their homes that will reduce the potential for basement flooding due to sewer surcharge. The Program provides grants and loans with a maximum value of \$2,000 each per residential property, to assist property owners with the costs associated with making such improvements. The program currently includes the costs of assessments, downspout disconnections, installation of devices and related works (as outlined in APPENDIX A of Report PW11056) to prevent sewer surcharge related basement flooding in future.

The 3P is a key element of the City's climate change adaptation strategy. In terms of capital/program dollars and number of residents assisted, this is possibly the largest and furthest reaching program that addresses adaptation to climate change in the short term within Hamilton.

The intent of the Program is to assist residential property owners to reduce the recurrence of basement flooding as well as to reduce the number of repeat recipients of the City's Residential Municipal Disaster Relief Assistance Program (Compassionate Grant). It is accepted that while a program such as the 3P assists property owners to protect against basement flooding due to sewer surcharge, it may not be effective 100% of the time as there may be circumstances relating to existing plumbing and property issues that may prevent the works from performing effectively in all circumstances. A maintenance regime prescribed by the manufacturer must also be followed by the homeowner to ensure proper functioning of the backwater valve.

Since its implementation, the 3P has provided grants for the installation of approximately 3,000 backwater valves and other plumbing improvements in homes throughout the City. Expenditures for the program to date are in excess of \$6.9 million.

It is expected that future participation levels will vary dramatically depending on the occurrence of severe storms, but at the current pace of activity it is expected that administration, mostly clerical and financial staff, costs will be approximately \$150,000 per year.

The 3P relates to basement flooding caused by sewer surcharge only and does not provide relief or assistance for flooding due to any other condition such as overland flooding. It is also noteworthy that this is essentially a grant program and that neither City staff nor contractors working on behalf of the City perform any of the works identified in the program.

*Grant Eligibility & Bonusing*

Section 107 of the Municipal Act, 2001 enables a municipality to make grants, on such terms as the Council considers appropriate, to any person, group or body, including a fund, within or outside the boundaries of the municipality for any purpose that the Council considers to be in the interests of the municipality. This includes a loan and is subject to the bonusing provisions of Section 106 of the Act.

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A grant or loan to an individual residential property owner in an owner-occupied situation would not trigger the bonusing provisions. However, where a residential property is not owner-occupied and is a rental property, it is the opinion of Legal Services, that such a situation would trigger the bonusing provisions as the City would be assisting a commercial enterprise. The current eligibility requirements for the 3P are consistent with this opinion in that the Program is restricted to individual owner-occupied residential properties.

An exception to the bonusing provisions contained in Section 106 of the Municipal Act, 2001, is for a municipality to prepare and adopt a community improvement plan pursuant to Section 28 of the Planning Act. In doing so, a municipality is entitled to make grants or loans, in conformity with the community improvement plan, to registered owners, assessed owners and tenants of lands and buildings within the community improvement project area, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, to pay for the whole or any part of the eligible costs of the community improvement plan.

Should Council wish to expand the eligibility of the 3P to include registered owners of residential rental properties, establishing a community improvement plan is the only option available for these types of circumstances.

*Community Improvement Plan (CIP) Development & Adoption Process*

A CIP is a Planning Act tool that gives municipalities a means of planning and financing development activities that effectively use, reuse and restore lands, buildings and infrastructure. The development and adoption of a CIP is a rigorous Planning Act public process.

**DEVELOPMENT OF A CIP:**

Under the Region of Hamilton-Wentworth Official Plan, Section 6A – Community Improvement (below), and the Urban Hamilton Official Plan which is not in force as it is under appeal, the entire Urban Area of the City may be designated a Community Improvement Project Area.

*6A.1 Community improvement will be carried out through the designation, by Council, of Community Improvement Project Areas and through the preparation and implementation of Community Improvement Plans pursuant to the Planning Act.*

*It is the intent of Council that the entire Urban Area or any part of the Urban Area as defined in this Plan, and as subsequently amended, may by by-law be designated as a Community Improvement Project Area.*

The 3P meets multiple criteria for an initiative for which Community Improvement Project Areas may be designated:

*6A.2 When designating Community Improvement Project Areas, one or more of the following characteristics may be present:*

- a) *building stock or property in need of rehabilitation; ...*

- d) *deteriorated or insufficient physical infrastructure such as, but not limited to, sanitary and storm sewers and water mains, public transit, roads/streets, curbs, sidewalks, street lighting and utilities;  
...*
- n) *any other environmental or community economic development reasons for designation.*

6A.3 *Community Improvement Plans will provide direction regarding the application of one or more of the following:*

- a) *allocation of public funds such as grants, loans or other financial instruments for the physical rehabilitation, redevelopment or improvement of land and/buildings.*

**ADOPTION PROCESS:**

CIPs are adopted under Section 28 of the Planning Act. Due to the existing Official Plan policies, an Official Plan amendment would not be required to adopt a CIP for the 3P. In addition, the 3P, including detailed program guidelines, is already in place and only minor revisions would be required in order to expand it to residential rental properties. Thus, the development of a 3P CIP should be a relatively scoped process although staff would have to put appropriate mechanisms in place to ensure any necessary coordination with other existing CIPs.

A CIP development and adoption process must follow the prescribed public process including:

- 1) Consulting prescribed public bodies;
- 2) Making all materials available for public review;
- 3) Holding a public meeting;
- 4) Adopting a by-law to designate the 3P Community Improvement Project Area; and,
- 5) Adopting the 3P CIP.

Since the development and adoption of CIPs is a Planning Act process, it is typically completed by the Planning and Economic Development Department (PED) Urban Renewal Section. A CIP for the 3P would require the resources of the PED Urban Renewal Section, Legal Services, and the Public Works Department (PW), Water & Wastewater Operations Section. PED Urban Renewal staff would carry-out the development and adoption process.

PED staff indicate that the estimated timeframe to complete the adoption process for a 3P CIP is 4 to 5 months. The process would require approximately 150 staff hours at a total estimated cost of \$10,000. It is important to note that this estimate assumes that a Public Information Centre (PIC) would not be required for the CIP due to the public consultation that occurred during the initial implementation of the 3P. In the event that

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one or more PICs were required, the time and cost estimates would significantly increase.

In the event that staff were directed to implement a CIP for the 3P it would be worthwhile to consider whether the CIP could also include all of the City's current water and wastewater grant and loan programs. In this way future CIP amendments to incorporate these programs and the consequent costs would be diminished.

*New Residential Construction*

Public Works and Planning and Economic Development's Building Services staff met in November of 2011 to discuss the feasibility of making it mandatory for backwater valves to be installed on all future new residential homes.

It was determined that there was existing language in the Ontario Building Code to support the mandatory installation of these valves in new residential homes. The only required action for Building Services staff to undertake in order to be able to enforce this language was relevant communication with affected stakeholders. This communication was undertaken in late 2011 and Building Services now requires the installation of backwater valves in every new house (single detached, semi-detached and townhouses). This requirement applies to dwellings where the permit for construction was applied for after December 31, 2011.

*Financial*

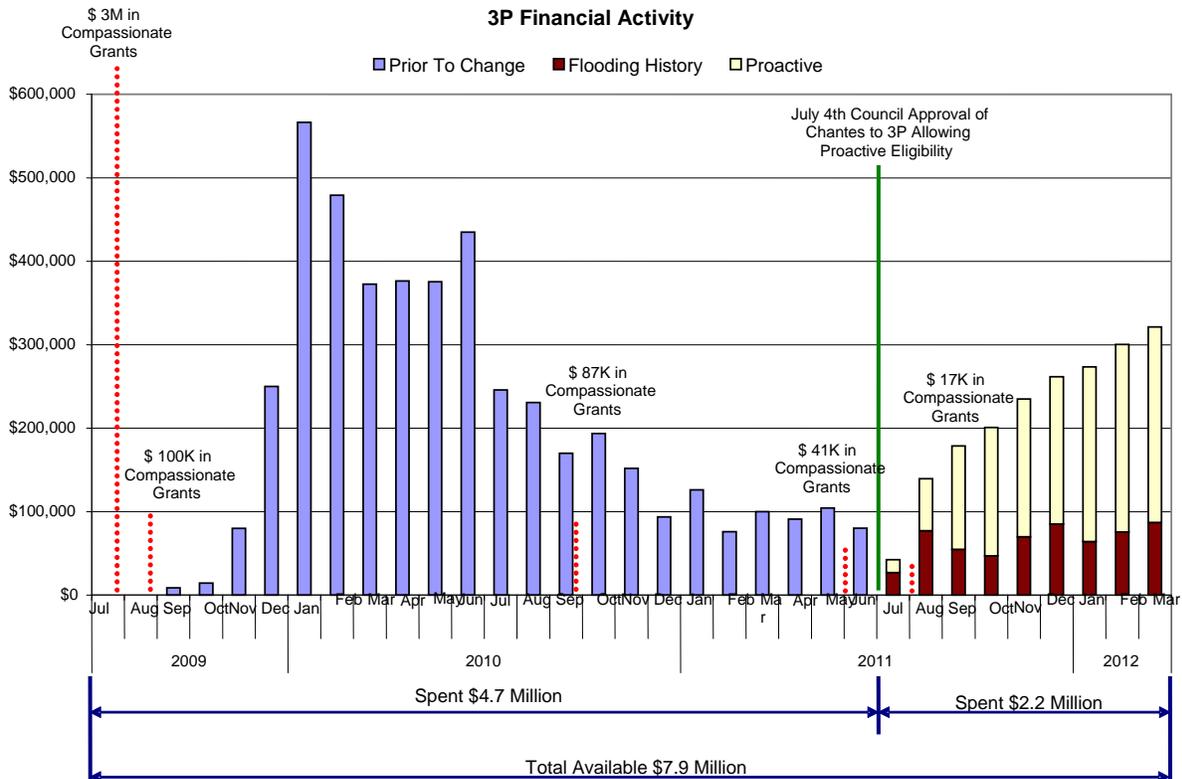
Expanding eligibility of the 3P is possible through the completion of a community improvement plan as described above. Completing a CIP would expand eligibility of the Program and likely increase Program expenditures as a result of more properties receiving grants. The Program is currently experiencing increased activity and higher than anticipated expenditures.

Council has made available \$7.9 million for the Program, initially \$1.9 million related to the original Report FCS09100/PW09082(a) and \$6 million through the budget process. Current total expenditures for the Program to date are \$6.9 million.

The chart below shows the 3P financial activity from the beginning of the program until the end of March 2012. It also shows a decline in the number of grant recipients prior to the changes in the Program that took affect in July 2011 based on Report PW11056 (Residential Protective Plumbing Program) and a sharp increase after this same date. The changes approved as per Report (PW11056) allow property owners who had never previously flooded to be eligible for the grant however, the Program now contained stricter criteria for eligibility. The purpose of this was to assist residential property owners who wished to be proactive in undertaking works to protect their properties from basement flooding due to a sewer surcharge; and to do so in an equitable manner. It was difficult to predict what the uptake would be as a result of these Program changes. In recommending these changes it was considered that of the over 7,000 properties that had been affected by flooding in July of 2009 only approximately 2,100 participated in the Program. This represented less than 1/3 of those properties that actually experienced basement flooding. Response to the program changes that took affect in July of 2011 has been robust and appears to be sustained. Should program activity

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remain at this high level it will likely be necessary to determine the impact on sustainability of the program.



It is difficult to determine if the current trend will continue or will drop off again; however, it important to note that a number of contractors are advertising aggressively claiming they will perform the work at “No Cost” to the property owner. A review of locations where backwater valves have been installed since July of 2011 demonstrates that many of them have been installed in areas that have been identified as being flood prone.

While it is difficult to confirm with certainty, it appears that the installation of backwater valves has been successful in helping prevent repeated basement flooding due to sewer surcharge and as such remains a key element of the City’s strategy to deal with flooding issues. With an ever increasing number of homeowners installing backwater valves this should reduce the number of compassionate grants issued due to future storm events.

It is estimated that if the current trend continues that the Program budget will be expended by July of 2012. The current program guidelines states that “Program availability continues to be subject to funding as determined by Hamilton City Council and may be discontinued at any *time without notice*.” As such, once the funds have been exhausted, the Program will need to be suspended until such time that Council approves additional funding. Based on the current trends the 3P does not appear to be sustainable and further adjustments may be needed to achieve a sustainable program.

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Relevant Consultation

Corporate Service – Financial Planning and Policy has been consulted respecting the budget implications of expanding eligibility of this Program.

Program expenditures for 2012 will likely reach budgeted values by the end of July at which time the Program will be suspended until additional budget is approved. It is difficult to determine if the increased program activity occurring since July of 2011 will continue or if this is a one time, short term increase. Should program activity remain at these high levels it will be necessary for staff to analyze the long term sustainability of this Program. At 2012 rates a single grant represents the revenue from a single residential customer for approximately three years.

Legal Services has been consulted respecting the bonusing provisions discussed in this Report and the CIP process generally.

Planning and Economic Development Department - Urban Renewal Section has been consulted regarding the process, approximate costs, and estimated timeframe required to implement a CIP for water and wastewater grant and loan programs.

Planning and Economic Development Department - Building Services Section has been consulted regarding the requirement for mandatory installation of backwater valves in all new residential construction.

Summary

The purpose of the Residential Protective Plumbing Subsidy Program (3P) is to provide guidance and financial assistance to existing residential property owners seeking to undertake improvements to their homes that will reduce the potential for basement flooding due to sewer surcharge. The program provides grants and loans with a maximum value of \$2,000 each per residential property, to assist property owners with the costs associated with making such improvements. The program currently includes the costs of assessments, downspout disconnections, installation of devices and related works (as outlined in APPENDIX A of Report PW11056) to prevent sewer surcharge related basement flooding in future.

Staff has conducted an analysis to determine options available for extending the 3P to registered owners of residential rental properties. This investigation has revealed that the only option available is to adopt a 3P Community Improvement Plan (CIP). This process would take approximately five months to complete at a cost of approximately \$10,000, exclusive of public consultation. Resources of the Planning and Economic Development Department (PED) Urban Renewal section, Legal Services, and the Public Works Department (PW), Water & Wastewater Operations section. PED Urban Renewal staff would be required to carry-out the development and adoption process.

In the event that staff were directed to implement a CIP for the 3P it would be worthwhile to consider a CIP that includes all of the current water and wastewater grant and loan programs. In this way future CIP amendments to incorporate these programs and the consequent costs would be diminished.

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Staff has additionally investigated the feasibility of making it mandatory for backflow sewer valves to be installed on all future new residential homes. It was determined that there was existing language in the Ontario Building Code to support the mandatory installation of these valves in new residential homes. PED Building Services staff undertook a stakeholder consultation process which is required to enforce this language. Building Services now requires the installation of backwater valves in every new house (single detached, semi-detached and townhouses). This requirement applies to dwellings where the permit for construction was applied for after December 31, 2011.

Finally, an update has been provided regarding the financial status of the 3P. Based on the current program trends the remaining budget will likely be expended by July of this year. The current program guidelines states that "Program availability continues to be subject to funding as determined by Hamilton City Council and may be discontinued at any time without notice". As such, once the funds have been exhausted, the program will be suspended until such time that Council approves additional funding.