



INFORMATION REPORT

TO: Chair and Members Audit and Administration Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: April 20, 2011	
SUBJECT/REPORT NO: 2010 Insurance Claims Review (FCS11036) (City Wide)	
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Council Direction: N/A.

Information:

This report is intended to update Council on the status of 2010 Insurance Claims. It is staff's intention to update Council on the status of claims on a semi-annual basis.

Claims handled by the Risk Management Services Section (RMS), Treasury Services Division, Corporate Services Department, are generally analyzed in four separate categories:

- **Liability:** Claims presented against the City by a third party for property damage, personal injury or monetary loss. The more common types of claims in this category are sewer back-up, sidewalk falls, fallen tree limbs and potholes. This category does not include Fleet or Transit claims.
- **Property:** Accidental damage to City property (buildings, equipment, machinery, etc.). The more common types of claims in this category are vandalism, graffiti and theft.

- **Motor Vehicle Accident:** Comprehensive and collision damages to City fleet vehicles. Also included are bodily injury claims made against the City by third parties involved in accidents with City fleet vehicles.
- **Transit:** Accident Benefit and Bodily Injury claims made against the Hamilton Street Railway Company (HSR) by third parties involved in accidents on or with HSR vehicles.

It is important to note that the City self-insures loss risks to certain levels on all claim categories. Similar to a deductible, self-insuring means that the City reserves for, and assumes losses, as follows:

Type of Loss	Self-Insured Retention Level
Liability	\$250,000
Property	\$500,000
Fleet Liability	\$500,000
Fleet Property Damage	\$25,000
HSR Liability	\$100,000

The following Chart illustrates basic claims statistics for the above categories for 2007, 2008, 2009 and 2010:

City of Hamilton Claims Experience (By Type) 2007-2010								
Type	2010		2009		2008		2007	
	# of Claims	Total Expense	# of Claims	Total Expense	# of Claims	Total Expense	# of Claims	Total Expense
Liability	1271	\$2,169,062	1716	\$2,585,645	822	\$2,579,388	857	\$2,282,163
Property	701	\$760,443	713	\$1,066,947	625	\$641,250	564	\$727,254
Motor Vehicle Accident	656	\$1,531,026	676	\$1,688,572	780	\$1,723,241	613	\$1,295,625
Transit	90	\$1,185,248	97	\$1,237,703	73	\$438,918	107	\$834,838
Total	2706	\$5,645,779	3202	\$6,578,867	2300	\$5,382,797	2141	\$5,139,880

2010 Claims Statistics

Total Claims

2010 saw a decrease in total number of claims, as well as, total claims payments in all four categories. Consequently, the total claims experience, both in terms of volume and payments, saw a considerable drop from 2009. A 26% decline in Liability Claims volume is the primary reason for the overall improvement. Property and Motor Vehicle

Accidents (MVA) lines saw slight volume decreases of 2% and 3% respectively. Transit claims volume, which can be a significant driver of insurance premiums, was down 9%. In total, the decline in claims volume was 15%.

Liability Claims

Within the Liability category, a drop in sewer back-up and flood claims is the primary factor for the total decline in volume and expense. In 2009, the City received 1,069 claims for sewer back-up/flood. In 2010, that number decreased to 648. It is believed that property owners are now beginning to realize some benefit from the efforts of the Public Works Department to lessen the impact of heavy rain events. Along with accelerated infrastructure improvements, Public Works, in conjunction with the Storm Emergency Response Group (SERG), has developed and implemented programs such as the 3P which provided flood victims and property owners with pro-active financial and technical support for the installation of protective plumbing devices in homes.

The average cost to the City per liability claim in 2010 was \$1,706.

The following Chart represents the most abundant type of liability claim in 2010:

Highest Total Liability Claims By Type - 2010			
Type of Liability Claim	# of Claims	Current Expense to City	Avg. Cost Per Claim
Sewer back-up/flooding	648	\$326,248	\$503
Pedestrian Fall - Sidewalk	70	\$324,322	\$4,633
Pothole	64	\$42,595	\$665
Construction Related	64	\$38,916	\$608
Fallen Tree Limb	63	\$99,436	\$1,578
Injuries/PD on City Property	29	\$27,613	\$9,331
Wet Paint on Road	26	11,998	\$461
General Road Condition	24	\$133,149	\$1,381
Fall – Sidewalk Snow/Ice	20	\$91,805	\$4,590
Maintenance Lid	19	\$20,672	\$1,088
All Other	244	\$1,052,308	\$4,312
Total	1271	\$2,169,062	\$1,706

The City self-insures up to a level of \$250,000 for liability claims.

Property Claims

Property claims volume lowered slightly by 13 claims in 2010 to 701.

The following Chart represents the most abundant type of property claim in 2010:

Highest Total Property Claims By Type - 2010			
Type of Property Claim	# of Claims	Current Expense to City	Avg. Cost Per Claim
Graffiti	439	\$115,008	\$261
Vandalism	123	\$115,984	\$942
Off Road Vehicles	23	\$69,759	\$3,033
Theft	30	\$62,513	\$2,083
Property Damage - Other	18	\$27,992	\$1,555
Computer/Phone Loss	12	\$9,465	\$788
Fire	11	\$93,067	\$8,460
Flooding	6	\$44,008	\$7,334
Sewer Back-up	6	\$12,600	\$2,100
Water Escaping	5	\$99,171	\$19,834
Other	28	\$110,876	\$3,959
Total	701	\$760,443	\$1,084

The City self-insures to a level of \$500,000 for property claims.

Motor Vehicle Accident Claims (Fleet)

Motor vehicle accidents, in the Province of Ontario, are governed by provincial insurance legislation, commonly known as “No Fault” insurance. Simply stated, the legislation requires that vehicle owners go to their own insurer for vehicle damage related to an accident with another vehicle, regardless of fault. Vehicle damage repair expenses are not recovered from the at-fault party and, except in rare circumstances, there is no legal recourse for this purpose.

There are three significant categories of claims within this category:

- **Comprehensive:** Damages other than those from a moving accident with another vehicle or stationary object.
- **Vandalism:** Normally considered to be part of the Comprehensive category; however, Risk Management Services (RMS) has separated it out for ease of tracking.
- **Accident:** Collision damages from moving vehicle accidents with other vehicles or stationary objects. Also included are payments to third parties for bodily injury

when the City is at fault for an accident. Insurance legislation allows individuals who surpass a certain injury threshold to sue an at-fault party for their injuries.

The following Chart illustrates the 2010 experience for the above three categories:

MVA (Fleet) Claims 2010			
Type of MVA (Fleet) Claim	# of Claims	Current Expense to City	Avg. Cost Per Claim
Auto Accident	568	\$1,699,728	\$2,992
Comprehensive	101	\$119,451	\$1,182
Vandalism	13	\$16,494	\$1,268

The City self-insures to a limit of \$25,000 for accidental damage to a Fleet vehicle, with the exception of the Ambulance fleet, which is self-insured at a \$1,000 level.

Third party injury claims related to fleet vehicles are self-insured to a level of \$500,000.

Transit (HSR)

Transit claims consist primarily of claims from passengers who are injured while riding an HSR bus or if involved in an accident with an HSR bus. These claims are divided into the following two categories:

- **Accident Benefits:** A series of statutory benefits (e.g., medical expenses, housekeeping expenses) available to anyone injured in a motor vehicle accident in the Province of Ontario. Injured parties must first apply to their own vehicle insurance policy for Accident Benefits; however, if they do not have a vehicle insurance policy, the policy attached to the vehicle in which they were riding becomes primary. Many Transit passengers do not, of course, possess vehicle insurance policies and essentially become first party insured with the HSR.
- **Bodily Injury:** As with Fleet claims, anyone injured in a vehicle accident in Ontario is able to sue an at-fault party for their injuries provided the injuries meet a certain medical threshold. The bodily injury exposure is much greater for the HSR given the annual ridership of approximately 20 million.

Both Accident Benefits and Bodily Injury payments can result from a single injury claim. An injured party would first go through the Accident Benefits process before commencing a Bodily Injury claim against an at-fault party.

The following Chart represents the most abundant types of HSR injury claims in 2009:

Highest Total Transit Claims By Type - 2009			
Type of Transit Claim	# of Claims	Current Expense to City	Avg. Cost Per Claim
Injury Due To Stop – No Collision	19	\$279,050	\$14,686
Injury Due to Bus Motion – No Collision	10	\$122,500	\$12,250
Injury - Rear Door	7	\$41,167	\$5,881
Collision - Intersection	7	\$188,602	\$26,943
Injury While Alighting	4	\$36,500	\$9,125
Collision – Pedestrian/Cyclist	4	\$109,535	\$27,383
Injury – Front Door	3	\$104,500	\$34,833
Injury - Boarding	3	\$11,045	\$3,681
Other	33	\$320,265	\$8,896
Total	90	\$1,185,248	\$13,169

Of the 90 claims 75 were for personal injury. These comprise the bulk of the \$1,185,248 expense payments. The remaining 15 claims were payments made for third party property (fences, railings, clothing, etc.) damaged by a bus.

The HSR has carried a \$100,000 deductible for injury claims since 2009. The deductible was raised from \$50,000 in 2008 at the direction of the insurer. The higher deductible is largely responsible for the increase in HSR claims expenses as compared to 2008 and previous years.

Chart Clarification

Please note that all claim and monetary figures within the charts in this report represent a snap shot of the claims exposure at the end of the given year. While many claims are open and closed, within the same claim year, there are also those which carry over and develop into the following years.

As with most large municipalities, the majority of claims exposure is found in the Public Works operations. In recognition of this, the Public Works Claims Management Steering Committee (PWCMSC) is actively in the process of analyzing departmental claims statistics and developing potential programs of mitigation for the consideration of the Senior Management Team (SMT). The PWCMSC identified 14 “strategy items” for exploration and development of proposals for when each item is nearly complete. The 5 highest priority strategy items are as follows:

- 1. Public & Staff Hazard Reporting** - Development of an efficient program for easy public and staff reporting of trip hazards.

2. **Tiered Information Reporting Model** – Development of tiered, hierarchical protocol for compilation of information for claims investigation.
3. **Infrastructure Design Standards** – Increased Risk Management/Legal role for optimum attention to risk control in design standards.
4. **Internal Vehicle Accidents** – Enhanced staff training and driver/operator performance management.
5. **Public Works Formal Claims Management Strategy** – Development of a comprehensive and consistent departmental management strategy which provides appropriate information, tools and processes to meet prescribed targets and objectives.

Compassionate Grant & Supplemental Relief Grant Experience

In 2006, the City commenced the Residential Municipal Disaster Relief Assistance Program (refer to report FCS06007(a) “Residential Municipal Relief Assistance Program for Basement Flooding for the event of December 1, 2006”) for victims of basement flooding for specified flooding dates. The program was enacted, once in 2010, for a heavy rain event and related residential flooding on September 28, 2010. The following Chart represents the historical experience for the RMDRAP:

Compassionate Grant Payments for Heavy Rain Events							
Event Date	Event Type	Location	Status	Total Liability Claims	Grant Apps Requested	Approved Grants	Total Grant Payments \$
26-Jul-05	Heavy Rain	City Wide	Closed	117	756	601	403,854
19-Aug-05	Heavy Rain	City Wide	Closed	561	958	794	512,334
10-Jul-06	Heavy Rain	City Wide	Closed	144	785	672	434,005
27-Jul-06	Heavy Rain	Waterdown	Closed	8	56	28	17,700
01-Dec-06	Heavy Rain	Greenhill	Closed	34	163	75	47,858
25-May-07	Heavy Rain	City Wide	Closed	90	118	45	30,199
Jun 13-30, 2008	Heavy Rain	City Wide	Closed	28	188	89	38,153
Jul 1-31, 2008	Heavy Rain	City Wide	Closed	60	442	198	70,858
Aug 1-14, 2008	Heavy Rain	City Wide	Closed	84	688	309	110,784
26-Jul-09	Heavy Rain	City Wide	Closed	1,453	7,694	4,125	3,079,128
29-Aug-09	Heavy Rain	City Wide	Closed	43	379	154	101,481
28-Sep-10	Heavy Rain	City Wide	Open	71	280	111	87,191
Total				2,693	12,507	7,201	4,933,546

With respect to the 2,693 liability claims in the above Chart, approximately 75% were submitted by insurance companies. All of these have been denied and to date, no insurer has pursued a recovery by way of a legal action; or even presented a credible,

supported case against the City. The remaining 25% of claims have been presented by individual property owners who were either uninsured for their loss or chose not to make an insurance claim for their loss. Final disposition on these claims has been in abeyance, out of an abundance of caution, pending any findings of negligence within the Lower East End Drainage Study (LEEDS). Wastewater staff have recently confirmed for Risk Management that the LEEDS study did not identify any issues of negligence which would dictate an acceptance of liability for these claims. Formal denials will be forwarded shortly to all claimants who have yet to receive a final disposition from the City.

In addition to the RMDRAP, the Supplemental Relief Grant (SRG) was developed (refer to report FCS06007(d) "Municipal Disaster Relief Assistance Program – July 26, 2009 Flooding Event – Supplemental Relief Program and August 29, 2009, Flooding Event"). The Supplemental Relief Program (SRP) was designed specifically for residential property owners who experienced basement flooding on designated RMDRAP dates whose sewer back-up coverage has been limited or cancelled because of previous flood claims. The following Chart represents the historical experience for the SRG:

Supplemental Relief Grant Experience				
SRG Applications Requested	SRG Applications Completed	SRG Applications Approved	SRG Applications Pending	Total SRG Payments
193	191	23	8	\$93,074

The application submission deadlines for the September 28, 2010, RMDRAP and SRP have now passed. As such, the above numbers will see no significant change.