Region of Peel
working with you

REPORT
Meeting Date: 2021-01-14
Regional Council

For Information

REPORT TITLE: **Municipal Insurance Landscape**

FROM: Stephen Van Ofwegen, Commissioner of Finance and Chief Financial Officer

OBJECTIVE

To inform Council of the increasing financial pressure municipalities are experiencing in their insurable risk financing costs and the effect upon the Region of Peel.

REPORT HIGHLIGHTS

- The worldwide insurance industry is under pressure to significantly increase premiums and the municipal insurance market is experiencing the effect.
- Municipalities have limited insurance markets from which to obtain insurance.
- A legal principle known as joint and several liability increases municipalities' exposure. This is particularly an issue in motor vehicle accidents whereby the municipality is drawn into a claim with allegations of negligent road design or maintenance.
- The most significant insurable risk for municipalities to finance historically and currently is the general liability risk; however cyber risk is an emerging exposure that warrants heightened and continued management.
- The Region of Peel's (Region) cost of financing insurable risk continues to increase due to some specific loss experience but also due to the general insurance environment.
- The Region's insurance rate increased 19.9 per cent in 2020.
- Relative to the broader municipal insurance experience, the Region's insurable risk costs continue to see steady but manageable increases, considering the Region's growth.
- Staff will moderate the cost of financing insurable risk through measures such as increasing deductibles.
- Staff will continue to work with internal and external stakeholders to mitigate loss potential and address factors that influence escalating insurance risk financing costs.
- Staff continue to participate in consultations with the Province with respect to the effect of the joint and several liability principle on municipalities.

DISCUSSION

1. Background

Municipalities face many financial risks, some of which are insurable. The main insurable risks managed by municipalities are:

Municipal Insurance Landscape

- General Liability: lawsuits by persons who have been injured or whose property has been damaged as an alleged or actual result of a municipality's operations, for which the municipality may be found legally liable;
- Automobile: damage to municipal vehicles or liability arising from the use thereof;
- Property: damage to or loss of municipal assets such as buildings, equipment or contents due to events such as fire or water; and,
- Cyber: loss due to data breaches, fines, penalties and costs involved in restoring a municipality's reputation.

The cost of financing insurable risk is typically achieved through balancing the cost to retain the risk (deductible or self-insurance) and the cost of buying insurance in excess of such retained risk (insurance premium). A third component is the municipality's administrative cost to manage insurable risk, principally being staff cost. Collectively, these components comprise a municipality's cost of financing insurable risk.

This report focuses on the second component, insurance premiums.

2. Findings

a) General Insurance Market

The worldwide insurance industry continues to experience challenges that have led to an acceleration of the pace at which insurance premiums are increasing:

- climate change has caused increased frequency of severe, widespread damage (hurricanes, intense rain events, wildfires) over the last decade and these loss costs reverberate through the insurance market;
- increasing claims costs (restoration in dense urban areas, especially high-rise multi-residential; court awards); and,
- difficult or declining economic conditions which affect the insurance industry's investment returns, which in turn prompts the insurance industry to increase premiums.

The combined effect of these challenges has prompted the insurance industry as whole to increase premiums and/or increase deductibles, limit coverage and/or even decline to write certain segments (condominium corporations are finding it particularly difficult to maintain insurance given that segment's loss experience). This is known as the hard market in the insurance cycle; a cycle that can last several years until insurance companies start to stabilize.

It is anticipated that the impact of COVID-19 on the economy generally and its potential to generate claims will exacerbate this hard market environment.

b) Municipal Insurance Market

Municipalities are facing increasing insurance costs, which have started to accelerate in recent years, principally due to:

- the breadth of their services and thus liability exposure;
- their financial strength (a so called perceived "deep pocket" with which to be able to claims); and,

- the legal principle of joint and several liability.

The legal principle of joint and several liability is known colloquially as the one per cent rule which helps to explain the principle. Where there are multiple defendants held liable for a claim, should defendant A be found 1% liable and defendant B 99 per cent liable for having caused the loss, A can be made to satisfy a significant or all of the judgment should B be unable to pay their share. Combined with the perception that municipalities have deep pockets, this principle can generate increased focus on municipalities by parties to litigation.

This is no more apparent than in the instance of car accidents. Where such a claim would often only involve the vehicles' owners and drivers. In the event of a significant injury there is heightened interest in suing the road authority to find some liability; especially, in the event the responsible driver has insufficient insurance.

Unlike when one buys home or automobile insurance, where there are many insurance companies available from which to obtain a quote, Ontario municipalities have about five sources from which to obtain insurance or finance their insurable risk.

Combined the forgoing factors have culminated in an acceleration of insurance costs for municipalities to varying degrees.

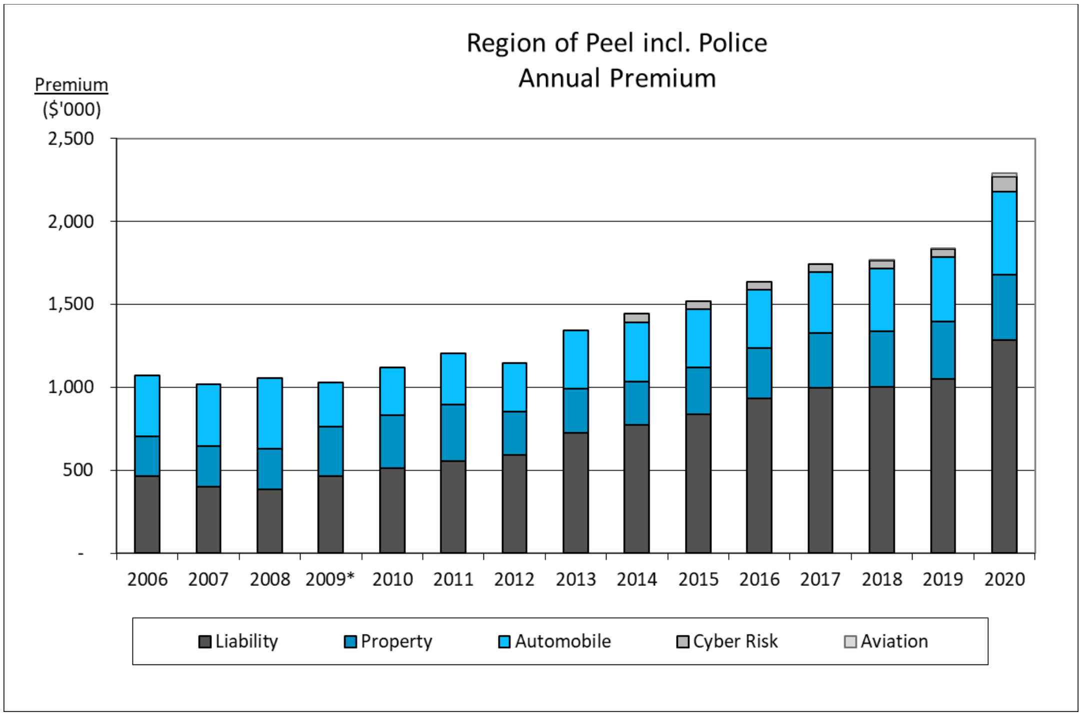
A recent high-level survey of several Ontario municipalities indicated the average increase experienced by the responding municipalities in 2020 is 8 per cent overall. There are extremes within this experience as highlighted below:

- Toronto – 61 per cent overall increase.
- Hamilton – 17 per cent overall increase and an increase in deductible from $250,000 to $1.5M.
- Ottawa – the incumbent insurer declined to quote in January 2020; insurance costs rose from $5.9M to $11.3M and the automobile deductible increased from $3M to $5M.

The information noted on Hamilton and Ottawa was obtained through recent reports to their Councils.

Municipal Insurance Landscape

The following chart illustrates the Region's historical annual insurance costs:



The Region's insurance costs increased 24.5 per cent ($451,025) in 2020, over the same period in 2019. The increase is attributable to two factors:

- Increase in coverage (limits or insured value): 4.6 per cent ($84,242)
- Increase in rate (real premium growth): 19.9 per cent ($366,783)

The most significant rate increase was in general liability (being 67 per cent or $246,895 of the overall rate increase), which is in keeping with the broader municipal market experience.

Insurance costs can be moderated by retaining more financial risk (higher deductibles). Such an example is observed in the 2012 premium where the property insurance premium decreased as the deductible was increased from $100,000 to $500,000.

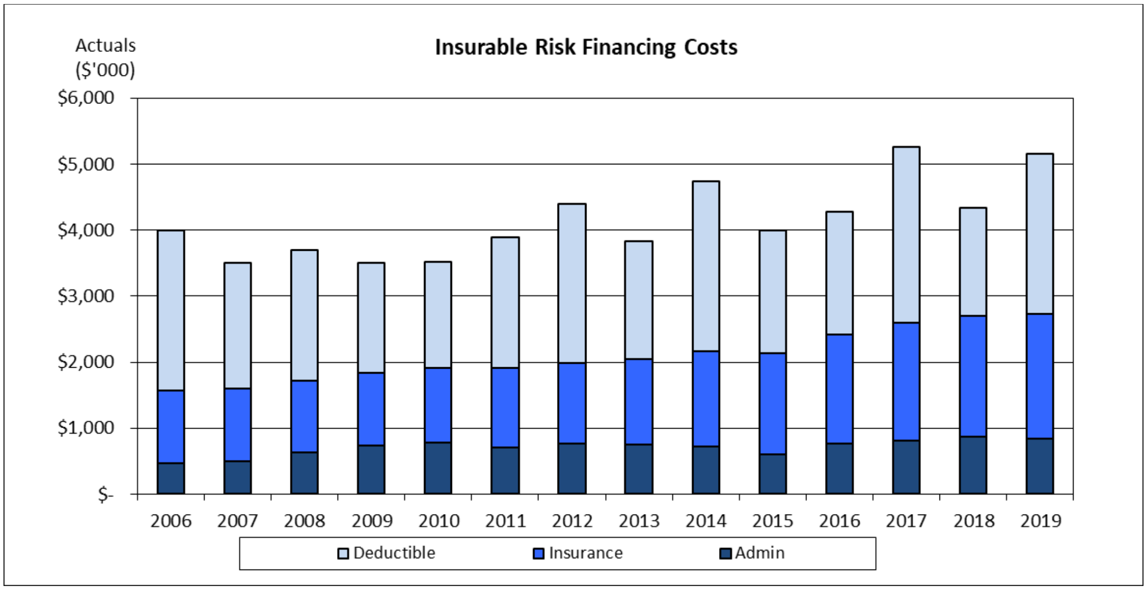
As with most municipalities, general liability constitutes the most significant proportion of insurance costs. That component has been steadily increasing since 2008: a 200 per cent increase as of 2020.

While the broader general and municipal insurance markets are factors, the Region's specific loss experience has also been a factor. Over the last ten years, the Region's insurer paid four claims that totalled $7M. Joint and several liability was a factor in three of these claims and accounts for $3M to $4M.

Insurance costs are one component of the cost of insurable risk. As indicated, the other components are retained (deductible) and administrative (staffing) costs.

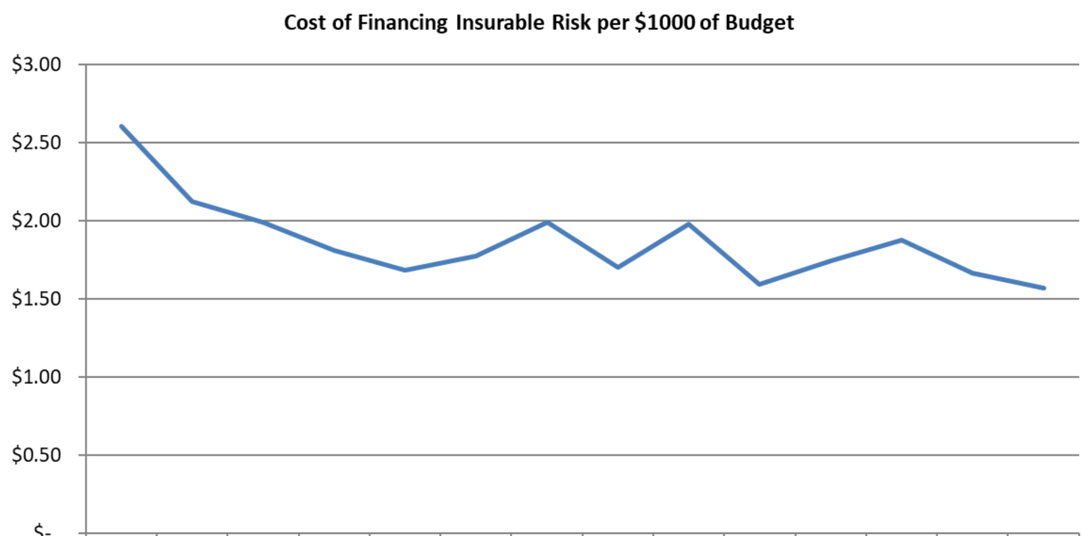
Municipal Insurance Landscape

The following chart illustrates the Region's overall cost of financing insurable risk:



Despite the increasing insurance costs in recent years, the overall insurable risk financing costs have remained relatively stable, especially given the forgoing amounts have not been adjusted for inflation.

Relative to the growth of the Region, the cost of insurable risk continues to moderate:



	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Region*	$2.61	$2.13	$1.99	$1.81	$1.68	$1.78	$1.99	$1.70	$1.98	$1.59	$1.74	$1.88	$1.67	$1.57

* based on the Region's operating and capital budget net of W&WW Treatment and Transmission operating and capital actuals as risk has been transferred to OCWA)

Municipal Insurance Landscape

3. Proposed Direction

Through the Region's Loss Management and Insurance Services' section the Region:

- works to obtain the most advantageous insurance coverage and service at the most efficient long-term cost;
- ensures service providers maintain sufficient insurance, thereby transferring risk and thus claims costs;
- collaborates with internal and external stakeholders to administer all insurable claims made by and against the Region; and,
- informs internal and external client groups of loss experience and issues.

The Region participated in AMO's 2019 taskforce to submit its response to the Ministry of the Attorney General with respect to a consultation regarding the effect of the joint and several liability principle on Municipalities' insurable costs. The Region also made its own submission to the Ministry. This consultation and collaboration continues and is important advocacy work.

Staff will continue to assess the appropriate retention of risk (deductible level) on an annual basis to moderate overall insurable risk costs.

RISK CONSIDERATIONS

Insurable claims frequency and costs continue to increase, and it is important for Council to be aware of such financial pressure and the reasons:

- climate change resulting in increased frequency and severity of property claims;
- the joint and several liability principle which can result in municipalities and their insurers paying a disproportionate amount of a claim;
- emerging risks such as cyber / data breach risks and now pandemic risks;
- limited insurance markets available for municipalities; and,
- insurance companies focusing more on underwriting revenue as they face prolonged challenges with their investment revenues.

Program areas continue their focus on opportunities to mitigate risk such as:

- cyber security, including the proactive and expedient implementation of MNP's audit recommendations from the 2019 IT systems and security audit, as brought forward to the Audit and Risk Committee on September 17, 2020;
- implementation of a disaster recovery and business continuity plan;
- Vision Zero, given the joint and several liability principle is most pronounced in Transportation risks;
- pandemic preparedness and response, for the Region's timely and detailed response to COVID-19 was well received by the Region's insurer; and,
- strengthening culture and inclusion not only to mitigate litigation potential but more importantly to build Community for Life for all.

Regional staff will continue to work with AMO and other municipalities to inform the Ministry of the Attorney General as to the financial pressure municipalities are experiencing due to the broad effect of the joint and several liability principle.

FINANCIAL IMPLICATIONS

The Region utilizes the Insurance Stability Fund reserve to moderate and stabilize the impact of increasing insurable risk financing costs in the near term and allocate the costs to Regional program areas over the longer term.

The 2021 Budget will include an additional $328,000 to fund increased insurance premiums and an allowance for deductibles.

CONCLUSION

Regional staff will continue to leverage strategies to moderate the effects of increasing upward pressure on municipal insurable risk financing costs, including advocating for change to the joint and several liability principle. Despite the increasing insurance costs in recent years, the overall insurable risk financing costs have remained relatively stable

---

For further information regarding this report, please contact John McDonald, Manager, Loss Management and Insurance Services, Ext. 4498, john.mcdonald@peelregion.ca.

Authored By: John McDonald, Manager, Loss Management and Insurance Services

Reviewed and/or approved in workflow by:

Department Commissioner and Division Director.

Final approval is by the Chief Administrative Officer.

J. Baker, Chief Administrative Officer