



City of North Bay Report to Council

Report No: CORP 2021-44

Date: April 9, 2021

Originator: Peter E.G. Leckie & Margaret Karpenko

Business Unit:

Department:

Corporate Services

Legal Department

Subject: The Corporation of the City of North Bay Insurance Policy Renewal

Closed Session: yes no

Recommendation

That Council approve the renewal of the insurance program with Frank Cowan Company Limited, in partnership with Kennedy Insurance Brokers Inc., for comprehensive general insurance with a renewal premium of \$1,167,769 plus HST for the term May 1, 2021 to May 1, 2022.

Background

Pursuant to Report to Council CORP 2018-26 and by resolution No. 2018-112 passed by Council on April 24, 2018, the City approved the award of a contract to Frank Cowan Company Limited, in partnership with Kennedy Insurance Brokers Inc. ("Cowan/Kennedy"), for comprehensive general insurance coverage.

With the renewal date of May 1, 2020 approaching, Frank Cowan Company Limited has provided the City with a renewal report indicating a premium of \$1,167,769 plus HST for the term May 1, 2021 to May 1, 2022. The Cost Analysis provided by Frank Cowan Company Limited shows a difference in total annual premium (excluding taxes payable) of \$105,148 over last year.

From a high level review, the City's independent insurance advisor has provided the following observations, which are summarized as follows:

1. **Market Conditions**

The municipal insurance market in Ontario continues to be serviced by

only four (4) insurers namely Frank Cowan Company (which is now owned by Intact Canada), AON Canada (a global broker), Marsh Canada (another global broker that acquired JLT (previous insurers for the City until May 1, 2018 when Frank Cowan Company became the City's insurer) and BFL Canada.

Each program named above has faced the challenges of insurers globally including retreating or reduced appetites for risk. Most commercial insurers, having followed a period of strong competition 3-10 years ago (including the entry of AON into the Ontario municipal space) are underwriting risk more aggressively and require more premium to shoulder the risk they choose to insure. This is happening in almost all lines and around the world. It is generally recognized as a "hardening" market globally.

2. **Pricing**

After having absorbed significant premium increases last year, generally well in excess of the "rate stability" provisions in Frank Cowan Company's policies, the City is again facing steep premium increases, particularly when the City's excellent three (3) year claims history is taken into account (based on figures in the Cowan renewal report):

- Liability premiums (excluding auto primary liability) +8%
- Automobile & Transit (excluding excess liability) +25%
- Property and Machine Breakdown +10%

This has resulted in an overall account price increase (excluding cyber coverage) of +13%.

3. **Claims History**

In order to obtain favourable terms, it is necessary for the City to demonstrate that risk is being well managed which is reflected in a strong loss experience (ie., very little claims activity). This has been achieved; the City's claims history has been exemplary, particularly over the recent three (3) years that Frank Cowan Company has been on risk.

From the City's independent insurance advisor's knowledge of the City's account, the following are three (3) year approximates of Earned Loss Ratios:

- Liability – less than 10%
- Automobile fleet – less than 15%
- Transit fleet – less than 5%
- Property (buildings, contents, unlicensed vehicles) less than 35%

As a general "rule of thumb", anything less than 50% is considered strong.

4. **Cyber coverage**

Cyber Liability is a relatively new type of coverage in the marketplace, Specialty insurers in this space are grappling with measuring risk and recognizing new and evolving threats on the horizon. Combined with the hardening market, insurers are raising their minimum standards of what they will accept in terms of cyber defence protection defence standards.

City staff are working with the broker and insurers to address any concerns that they have in an effort to secure coverage. Staff will be reporting back to Council in this regard.

General Comments

The City is not alone when it comes to experiencing challenges with the insurance market, there is a good deal of unhappiness, but we continue to do better than many. Last year other municipalities effectively saw doubling of its insurance premiums (some of which was clearly the result of their claims history but also attributed to such things as the general hardening of the insurance market and the impact of joint and several liability). Insurers declined to renew municipal insurance programs leaving municipalities to find alternate markets. Others increased self-retention limits but nevertheless premiums doubled, coverages were lost and had difficulty securing excess insurance. Yet others were warned to anticipate 50% increases.

Rick Johal, Senior Advisor, AMO, in his article "Joint and Several Liability & Rising Municipal Insurance Costs", February 16, 2021, wrote:

"In early 2019, Premier Doug Ford announced to the delegates of the Rural Ontario Municipal (ROMA) Conference that his government was going to launch consultations into the long-standing municipal concern around joint and several liability....

Later that year, with the support of its Task Force, AMO staff prepared a submission titled "Toward a Reasonable Balance: Addressing growing municipal liability and insurance costs" to the Attorney General. In this submission, AMO outlined a series of recommendations that included, but was not limited too (*sic*), introducing a model for full proportionate liability to replace joint and several liability and implementing a cap for economic loss awards.

Unfortunately, AMO and the municipal sector have not formally heard back from the Attorney General with respect to the outcome of this consultation. Naturally, many in the sector understood the impact of the pandemic and that it placed a pause on many government consultations in early 2020. However, recent comments at the AMO and ROMA conference from the Attorney

General have caused some concern. Notably, Minister Downey indicated in a response to a Minister's Forum question that he may still be unconvinced about the data surrounding joint and several liability and its relation to higher insurance premiums for municipal governments. Suffice it to say, this may be a point of contention and AMO is keen to learn more about the Attorney General's thoughts moving forward.

2021 is representing a challenging year for municipalities in several ways. One of these challenges focuses on insurance premiums. It is a growing trend that municipal governments are reporting significant increase and, in some cases, even struggling to get quotes. This can be attributed to a series of factors including being a "hard" insurance market, managing challenges arising from COVID-19, and joint and several liability that continues to place a heavy burden on municipalities.

Recently, the Federation of Northern Ontario Municipalities (FONOM) and the Northwestern Ontario Municipal Association (NOMA) shared some initial data gathered from their members on insurance premiums. The data captures the percentage increase in premiums from 2020-2021 for nearly 65 municipalities. The average rate of increase is just over 20% and for many smaller communities, this is simply not sustainable. One municipal government noted that it must now increase taxes to ratepayers by 2.5% to simply make up for the increase on its insurance premiums. This scenario, left unaddressed, will continue to draw property tax dollars away from key public services for Ontario residents.

This issue will not go away.

Without action, the public and media will continue to circle matters related to joint and several liability. AMO has outlined options for the government to pursue that have worked in other jurisdictions. The provincial government can do more to support a risk management approach from municipal governments in the pursuit of a more fair, reasonable, and responsible system for liability.

The time to restart this dialogue is now as there remains too many outstanding concerns and the trend line is less favourable for municipal governments with each passing year."

Financial/Legal Implications

The 2021 Operating Budget has allocated sufficient funding throughout the various departmental budgets.

Corporate Strategic Plan

- Natural North and Near
- Affordable Balanced Growth
- Responsible and Responsive Government
- Economic Prosperity
- Spirited Safe Community

Specific Objectives

- . Ensure the efficient and effective operations of the City, with particular consideration to the impact of decisions on the property tax rate.
- . Ensure continuous improvement of governance and administration.

Options Analysis

Option 1: That Council not approve the renewal of the insurance program with Frank Cowan Company Limited, in partnership with Kennedy Insurance Brokers Inc., for comprehensive general insurance with a renewal premium of \$1,167,769 plus HST for the term May 1, 2021 to May 1, 2022.

This is not the recommended option as the City will be without insurance coverage.

Option 2: That Council approve the renewal of the insurance program with Frank Cowan Company Limited, in partnership with Kennedy Insurance Brokers Inc., for comprehensive general insurance with a renewal premium of \$1,167,769 plus HST for the term May 1, 2021 to May 1, 2022.

This is the recommended option.

Recommended Option

That Council approve the renewal of the insurance program with Frank Cowan Company Limited, in partnership with Kennedy Insurance Brokers Inc., for comprehensive general insurance with a renewal premium of \$1,167,769 plus HST for the term May 1, 2021 to May 1, 2022.

Respectfully submitted,

Name: Peter E.G. Leckie

Title: City Solicitor

Margaret Karpenko, CPA, CMA

Chief Financial Officer

I concur with this report and recommendation.

David Euler, CAO

Chief Administrative Officer

Personnel designated for continuance:

Name: Peter E. G. Leckie

Title: City Solicitor

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