

Caps should be looked at in how much Town's insurers can cover in a lawsuit

By Brock Weir

With insurance premiums involving ongoing lawsuits with current and former members of Council coming in just under \$1 million over the last seven years, it now might be time to look at capping just how much support individuals can get from Town insurers.

So argued members at last week's Council meeting following a presentation from BFL Canada on why Aurora's insurance premiums have been on a swift incline.

'We can conclude there were specific claims that are driving up your premium to a certain extent,' said BFL's Vice President Chris Sinardo in his presentation last week. 'It is a bit of an intangible, but if I do the math and think on it, and use my experience working with municipalities for the last 35 years, I came to the conclusion that about 35 per cent of your liability premium would have been saved had your losses been significantly less than they are. It just makes sense that if you're asking the insurance company to pay, or has paid, \$265,000, but you're only putting \$177,000 into it, they are losing money and they are going to keep raising.'

In the presentation, BFL crunched the numbers on many lawsuits still outstanding involving the Town which have garnered significant headlines over the past five years - totalling \$998,934.

The largest hit to the Town's insurance premiums comes from Councillor Evelyn Buck's lawsuit against former Aurora mayor Phyllis Morris, incumbent Councillors Wendy Gaertner and John Gallo, as well as former councillors Stephen Granger, Evelina MacEachern and Al Wilson. The defendants in this case are covered by Aurora's insurance premiums as it was launched against them while duly elected officials.

Councillor Buck's multimillion dollar lawsuit claims her reputation was damaged by the defendants stemming from a 2009 statement from Councillors published in local newspapers, relating to Councillor Buck and what was then Aurora's Code of Conduct.

So far, the lawsuit has racked up \$845,000 on the Town's insurance bill.

Two lawsuits involving Ms. Morris also racked up a heavy bill. Although the report doesn't break down the particulars of each case, both the lawsuit unsuccessfully launched by Aurora resident George Hervey alleging Ms. Morris violated the Municipal Conflict of Interest Act in participating in discussions that led to her 2010 defamation lawsuit against three local bloggers, as well as Ms. Morris' subsequent lawsuit against the Town of Aurora for her own costs related to the lawsuit, have continued to increase, currently standing at \$153,932.

Although they couldn't get into the specifics of the case in the open Council session, Councillors Buck and Gallo questioned broader details relating to the case they are embroiled in. Councillor Buck, for instance, suggested 'all the reasons' for the insurance premiums going 'sky high' were not being brought out, while Councillor Gallo questioned the impact on insurance premiums if the defendants being covered by the Town's insurance were ultimately successful in their defence.

'If any one of these that are before the courts [and] the Town were to be successful and recover funds, how would that affect insurance premiums?' he asked.

Mr. Sinardo said premiums could be reduced by up to 30 per cent.

For those not tangled up in lawsuits, they questioned what could be done to prevent matters in the future from accumulating some substantial numbers.

'Since these costs are ultimately being borne by the taxpayer, are there not limits?' asked Councillor Michael Thompson. 'We have some that are approaching a significant [sum] and theoretically could keep going.'

A similar view was put out by Mayor Geoffrey Dawe, who said he heard comments over the previous week characterising the numbers as 'an obscene amount of money' being paid out, questioning who is 'watching the piggy bank.'

'This has gone on for a number of years and if it was to go on for another four, five, or six years, would the claims just keep racking up?' he asked. 'This is all going to come back and hit our tax rate. I don't understand why, generally speaking, we can't have capping. In my opinion, if there was a capping mechanism there, people would be more prone to settle. There would be far more impetus to settle and move on, as opposed to letting this thing drag on. It might help focus people.'