



**MINUTES**  
**SPECIAL COMMITTEE OF THE WHOLE**  
**Monday, April 8, 2019**  
**5:00 p.m.**  
**City Hall Council Chambers**

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| <b>Present:</b> | Mayor D. Reynard<br>Councillor M. Goss<br>Councillor R. McMillan<br>Councillor A. Poirier<br>Councillor K. Ralko<br>Councillor S. Smith |
| <b>Regrets:</b> | Councillor C. Van Walleghem   |
| <b>Staff:</b>   | Karen Brown, CAO, Heather Kasprick, City Clerk, Bruce Graham, HR Strategist, Hilary Smith, Risk Management & Loss Prevention Officer    |

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**Call Meeting to Order**

Mayor Reynard called the meeting to order at 5:00 p.m.

**Public Notices**

Take Notice that as required under Notice By-law #144-2007, Council intends to adopt the following items at this Special Meeting of Council:

N/A

**Declaration of Pecuniary Interest & General Nature thereof**

- i) On Today's Agenda
- ii) From a Meeting at which a Member was not in Attendance

There were none declared.

**Deputations**

None.

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**1. Risk Management Presentation – Frank Cowan**

Jessica Jaremchuk, Director of Risk Management with Frank Cowan Company. Ms Jaremchuk reviewed risk management for the municipality. Shelley McCool, from Gillons Insurance is also present as our local broker and support.

Municipalities are seeing increased damage awards. Frank Cowan Company has experienced double & triple the number of brain injury cases in the last 2 decades. Brain injury claims mean significant future care awards. Medical professionals better identify and understand serious brain and spinal cord injuries. People are living longer and therefore the costs awarded are higher due to the cost of caring for an injured party longer.

Class Action Lawsuits are when a large group of people are collectively harmed they can collectively bring an action before the Court. Class actions are an economical way of bringing suit because the expenses are shared among many parties. Where the group can't afford the expenses to bring a class action forward, a government fund has been created to assist them. Ontario Courts are more willing to certify class actions.

The apportionment of liability against municipalities is climbing. We've gone from commonly seeing liability apportioned at 10% - 25% to 50% - 67%. Alarming, more recent trends are seeing 0% contribution (Bruce County decision). There has been an alarming rate of increase in the responsibility on municipalities.

Litigation & the Long Tail Effect. With liability lawsuits it is generally 7-8 years before you are going to see a trial. Notice period is two years, however, there are various ways where this amount of time can change. Documentation is key and so important which shows the due diligence on policies and procedures. Many municipalities are small and don't have a risk manager on staff. Tight budgets is a big factor and deep pockets are not the case. Many municipalities do not have Risk Manager on staff and the municipality has multiple exposures. Things such as roads, sidewalks, trip and falls, trails, recreation and many more.

Cowan is here to help municipalities to manage risk and minimize the risk for municipalities. Frank Cowan partners with a broker of Gillons Insurance to make sure they offer the municipality all sorts of risk management services. It makes a difference to use their expertise and their services. Cowan has staff that are experts at identifying risks and working with the municipality specifically to address specifics to that municipality. Reducing the risk and education is the key. Educating staff and Council on the risk and how they can manage those risks. They will review policies and procedures and offer suggestions for templates for various risks. They have an online resource at Frank Cowan website which is helpful for staff to access the library.

They have partnered with AMO and are offering two courses online for Council and staff and is a great opportunity for on-line education. This is a great opportunity for staff to become more familiar with risk management.

Champion a multi-department total cost of risk method. Municipalities are being asked to provide more and more services and we need to assess how we are keeping pace with the change. Every department needs to be involved from the top, Management, IT, roads, public works, recreation, volunteer services, library, museum, engineering and Council.

A claims management system will help to monitor and measure your best practices. View the status of claims in addition to data mining capabilities for risk management purposes so as to better identify risk trends and address them with mitigation techniques.

They employ custom Risk Management services that mitigate incidents before they occur. Cowan will deploy our Risk Manager to review your key risk management functions and

processes. Using their risk assessment tool a focused and targeted Risk Management Plan will be developed. These plans will focus on the areas where they see claims issues or potential claims issues. Their Risk Manager may call in a specialist to assist with the review: such as the in-house road specialist or the in-house driver trainer or fleet specialist. An external specialist who has industry knowledge (building inspection, long-term care) may also work on the case.

There will be a tailored implementation plan developed. The plan will be developed in coordination with the municipality. Findings from claims review, risk management review and resources available at the municipal level will determine the length and focus areas of implementation plan. Plan will be tracked to ensure success with risk management services, custom consultation, fleet, roads, hills, trails, contracts, etc.

Frank Cowan Company offers more than just an insurance policy. As an MGA, they provide Canadian municipalities with a complete insurance program. What is the difference? A vested interest in helping you reduce your cost of claims. Every one of our best in class value added services helps to mitigate risk, which can translate into fewer claims.

The provided contract reviews with valuable feedback and insight on the suitability and effectiveness of liability provisions and insurance clauses in contracts and agreements.

Road liability greatly impact your municipality's cost of risk. Access a qualified professional to analyze your roads and improve areas with a high frequency of claims. Minimum maintenance standards compliance can help when defending a claim. A review of your operations, policies and procedures can assess your current state of compliance and uncover areas for improvement.

Asset inspections review properties and operations for potential liabilities and provide extensive detail and documentation. They also offer educational seminars and training that focus on methods to reduce risk and recurring incidents. An onsite risk evaluation of our municipal fleet will evaluate compliance, safety and risk management practices and provide tools to address risk issues. Audit systems and processes to reduce potential losses by focusing on documentation, reporting and consistency with accepted standards and practices.

Municipalities with readily accessible information are better able to make smart decisions that help reduce redundancies and promote efficiency. Trusted information tied to GPS and weather can also help with assessing and defending a road related claim.

Cyber is a new and developing risk that many municipalities aren't prepared for. Cyber education and the implementation of specific policies and procedures can assist greatly with preparedness and mitigation. Network security assessment tools and Cyber Risk Insurance are also available.

Cowan prides itself on their Risk Management Centre of Excellence. They have an online resource library dedicated to sharing information and tools to help manage risk. They can help identify the cause of claims and focus on trends and patterns to help eliminate risk sources.

The Frank Cowan Company Municipal Program incorporates a comprehensive and broadly worded liability policy. Liability coverage provided for Bodily Injury, Property Damage, and Personal Injury. Coverage is provided on an Occurrence basis. Insured includes Councillors, Employees, Statutory Officers, Firefighters', Volunteers, Boards, Commissions and Committees. Protects the insured from liability imposed upon it by a court of civil law for compensatory damages because of a wrongful act causing financial loss to a third party.

Claims for Wrongful Acts causing financial loss to a third party can range from, but are not limited to, negligence in building inspection, zoning, planning, passing by-laws, failing to enforce by-laws, misrepresentation, abuse of power and acting in bad faith.

Insures against liability imposed upon it by a court of Civil Law for compensatory damages because of an error, omission or negligent act arising from professional services.

This is a policy that protects the Insured from environmental liability for claims because of bodily injury, property damage and the prevention, control, repair, clean-up or restoration of environmental impairment.

Coverage is included for sudden and accidental events and for liability resulting from events that occur gradually and over a period of time. Coverage is included for liability arising out of the escape of contaminants from properties previously owned, leased or operated by the Insured. Coverage is included for impairment caused by owned watercraft, landfill sites and fuel tanks.

This policy provides for the reimbursement of legal fees and expenses incurred by the elected or appointed members of Council who are charged under the Municipal Conflict of Interest Act (or other similar provisions of other Provincial legislation) provided that a court finds: there has been no contravention; or contravention has occurred by reason of inadvertence, remoteness, or insignificance; or contravention has occurred by reason of a bona fide error in judgment.

This policy provides for reimbursement of costs incurred, (up to Limit of Insurance and Aggregate Limit) for legal defence by the Insured for charges under: Provincial statute or regulation; Criminal code coverage when being investigated or prosecuted. Coverage is applicable whether pleading guilty or a verdict of guilt is declared; civil action for failure to comply under privacy legislation.

Coverage is provided for Third Party Liability for Bodily Injury and Property Damage arising from the use or operation of all licensed vehicles owned and/or leased by the Insured. Direct Compensation – Property Damage (to the extent not at-fault) for damage to owned vehicles. Standard Statutory Accident Benefits provided as per Statute.

Insures all licensed vehicles owned and/or leased by the Insured for physical damage. Replacement Cost coverage provided on specified vehicles. On a total loss the Insured will be able to purchase a new vehicle – same make and model. On a partial loss, repair estimates are calculated by using all new parts to repair damage.

Environmental liability is insurance for something pertaining to environmental causes. We have a policy that will be there to address these concerns to property.

Crime can be from employee dishonesty or someone coming into a facility and stealing. Councillor accident the staff would have benefits through Great West Life but Council members do not have those benefits. Council members have accidental death and injury depending on the injury.

Conflict of Interest this is the only policy that they have that they don't pay out until the decision is made. It follows the Conflict of Interest Act. You would get a lawyer and defend yourself against that conflict of interest claim.

Legal expense is when a municipality has something come up that doesn't trigger another policy.

Our property policy is blanket with the municipality to replace a building. If you decide that it is better to rebuild the building in a different location, that is permitted under our policy. The equipment breakdown coverage also covers environmental friendly choices and these aspects of the policy just came out a few years ago.

Cyber-attacks really picked up with non-profit organizations with incidents happening in smaller areas. They had a lot of very sensitive information and their data was now being compromised. It was suggested that our IT department review the app that they offer and use it as an audit tool to make sure we have all the risk management practices in place.

UAV is drone coverage as many departments in municipalities are getting drones. Drones require aerospace coverage. The person using the drone has to have the training. We currently have the coverage.

Gillons Insurance has indicated that staff are doing a great job identifying risks and will be working with front line staff to mitigate as much risk as possible.

Meeting adjourned at 6:05 p.m.