CITY OF HAMILTON

CORPORATE SERVICES DEPARTMENT
Budgets and Finance Division

Report to: Mayor and Members,
Committee of the Whole
Submitted by: Joseph L. Rinaldo,
General Manager

Date: December 8, 2006 Prepared by: Michael Hill ext. 5733

SUBJECT: Residential Municipal Relief Assistance Program for Basement Flooding for the event of December 1, 2006 (FCS06007(a)) (Ward Specific)

RECOMMENDATION:

a) That for the purpose of invoking the Residential Municipal Relief Assistance Program for Basement Flooding, City Council declare the rainstorm event of December 1, 2006, as a "Disaster" for all affected properties within the boundaries of the City of Hamilton;

b) That payment of claims be based on compassionate grounds only and not to be construed as an admission of liability on the part of the City of Hamilton;

c) That the Eligibility Criteria for the Residential Municipal Disaster Relief Assistance Program as previously approved in report FCS06007 be applied;

d) That the costs associated with these claims be funded from the Residential Municipal Disaster Relief Program Reserve; and

e) That staff be authorized to retain an independent adjuster for the administration of claims under the Residential Municipal Disaster Relief Assistance Program and that these administrative costs be funded from the reserve.

Joseph L. Rinaldo, General Manager
Finance and Corporate Services
EXECUTIVE SUMMARY:

On December 1, 2006, a storm associated with significant low pressure and accompanied with high winds released heavy amounts of rain in the City of Hamilton. The resultant run-off of water exceeded the capacity of the sewer system (combined and storm) and, as a result, severe flooding occurred causing damage to many homes.

Approximately 33 claims of flooding have been reported in various parts of the City.

Council approved a compassionate grant program known as the "Residential Relief Assistance Program for Basement Flooding" in August 2006 and a copy of the Eligibility Criteria is attached as Appendix A to this report FCS06007(a). The program can be invoked when other levels of government have not provided disaster relief. Given the extent of the disaster and the fact that damages would not, at this time, appear to be close to meeting the formula requirements which identify the level at which other levels of government begin to provide aid, it would be reasonable for Council to consider the declaration of this rainstorm event to be a "Disaster" for the purposes of providing relief assistance.

Upon such declaration, the program would be implemented in accordance with the Eligibility Criteria as identified in Appendix A attached to this report FCS06007(a).

BACKGROUND:

The Ontario Provincial Government has in place the Ontario Disaster Relief Assistance Plan (ODRAP) that is available to provide financial assistance to residents of municipalities in extraordinary situations where disasters are of such magnitude that they are beyond the local municipality's ability to manage and thus warrant Provincial assistance. In summary, when a municipality declares a disaster, they can then make an application to ODRAP, through the Minister of Municipal Affairs and Housing, asking for assistance. ODRAP has requirements and a formula to determine if a municipality is eligible for assistance under the program. If the Municipality is eligible, a very detailed program to determine eligibility and level of assistance is put into place for residents to apply for financial assistance. Funding is provided by the ODRAP on a $2 for $1 basis relative to local fundraising efforts.

As a result of widespread flooding during recent rainstorm events, the City of Hamilton made such an application to the Minister on two different occasions. However, based on ODRAP's funding criteria, the level of damage did not meet a magnitude that was beyond the Municipality's ability to manage and, therefore, did not warrant Provincial assistance through ODRAP. As a result, residents from our community who would have qualified for assistance under ODRAP were precluded from applying because the Municipality's request for disaster assistance was denied.

In an effort to provide assistance for those in need, it was proposed that the City adopt a policy and process for its own disaster relief assistance program where and when
ODRAP and other levels of Government do not respond for relief assistance for residential basement flooding only or where Council declares a rainstorm event with resultant residential basement flooding to be a Disaster. As ODRAP’s portion of the contribution would not be available, it is recommended that a City disaster relief assistance program for residential basement flooding be considered. The program would provide a compassionate grant not to exceed $750.00 to residents who would have qualified had ODRAP approved the City’s application for relief. It was further proposed that eligibility, policy and process for managing the funds and claims be similar to those used by ODRAP. This would permit the City to assist residents who may have been disadvantaged, through no fault of their own by ODRAP’s decision, simply because the City does not meet the requirements for provincial assistance.

In the earlier events, a relatively low percentage of property owners did not have access to insurance, however, for those who were insured, some portions of their claims may have been denied by their insurers due to the surface water flooding exclusion. In some cases, sewer back-up coverage is not available to some residents. Based on our statistical analysis of claims resulting from basement flooding from the above events, we have determined that 77% of the properties are insured. This is consistent with statistical claim information from the flooding of homes which occurred in Stratford and Peterborough in recent years.

Insurance is purchased to protect against losses arising from insured perils. For the most part, those property owners who have insurance have the opportunity for a quick response to their claims by their insurers. Liability or responsibility for damage is not an issue for insured property owners as those issues will be sorted out later by the insurers and the responsible party.

Greatest concern is for those who need assistance if they have no access to insurance to assist them with the repair or replacement of essential items or who may be pressed financially.

The program to assist those with flooded basements is in consideration for those who have no access to insurance, have been denied coverage by their insurance company, who may be pressed financially and are not eligible for ODRAP assistance due to the Municipality not qualifying for assistance at the municipal level.

Staff conducted a survey of the Cities of London, Ottawa, Toronto and Kitchener and also the Regional Municipalities of Waterloo, Peel, Niagara and other municipalities and none of these municipalities have a program that would respond, on a broad base, to assist residents when disaster relief is denied to the Municipality by ODRAP.

The Cities of Toronto and Ottawa have subsidy programs to assist with remedial action for the prevention of sewer back-ups, such as installation of back-flow preventers and downspout disconnects. Residents must apply for these grants and are subject to a variety of terms and conditions.
While no application has been made by the City at this time to ODRAP with regard to the events of December 6, 2006, based on our experience from previous applications, it is staff's opinion that the damages will not come anywhere near what would be required by ODRAP for the City to qualify for ODRAP funding as the "Disaster" was confined, relatively speaking, to a very small number of homes, namely, the Greenhill Neighbourhood. As a result, staff recommends that Council consider the declaration of a "Disaster" for the purposes of the City assistance program, at this time, in order to permit the offering of assistance under this program, without further delay, which would be caused by the processing of an application to the Province which would certainly be denied, as in the past, due to not meeting the requirements for funding.

While surface flooding or backup of sewers in one-off situations is not an unusual event in the City of Hamilton or other municipalities, these situations occur usually as a result of private drain or grading issues. Over the past few years, weather patterns and climatology appear to have been changing with rainstorms having cloud bursts over localized neighbourhoods and dropping significant amounts of rain which causes flooding to many homes in a localized area. Flooding generally occurs and is confined to specific areas that are impacted by the heavy rains and run-off effect. By mapping the reports of flooding, it is possible to identify the boundaries of areas which have been hard hit as opposed to those singular or one-off flooding occurrences which are likely to have other causes. In recognition that severe rainstorms cause unusual flooding in some defined locations or neighbourhoods in the City of Hamilton, Council approved a compassionate grant program designed to assist victims when flooding of residential basements within a defined area was caused by a severe rainstorm.

In August 2006, Council approved the establishing of a compassionate grant program know as "Residential Municipal Relief Assistance Program for Basement Flooding" for residential homeowners or tenants within the defined area who sustained damages as a result of basement flooding from a severe rainstorm event which Council declares to be a "Disaster" in accordance with the criteria. Council established eligibility criteria for implementation and for applicants, a maximum claim limit of $750.00, directed funding and administration costs to be funded by the Waterworks, Sanitary Sewer and Storm Sewers reserves and the retaining of an independent adjusting firm to administer the claims under the program.

Council subsequently declared the severe rainstorm events of July 26, 2005, August 19, 2005 and July 10, 2006, as "Disasters" enabling residents of the City of Hamilton to apply for grants based on the eligibility requirements for damages they suffered as a result of basement flooding. An independent adjusting firm was retained to process applications for each of these "Disasters" in a report to Council dated July 25, 2006. Due to the widespread flooding across the entire City as a result of these storms, Council declared the boundaries for relief to be anywhere in the City of Hamilton.
SUBJECT: Residential Municipal Relief Assistance Program for Basement Flooding for the event of December 1, 2006 (FCS06007(a)) (Ward Specific)

ANALYSIS OF ALTERNATIVES:

N/A

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Determining the financial implications is dependant on the size of the disaster and the number of claims which are received. Based on the current information available as to the number of residential homes that sustained basement flooding, it is anticipated that approximately 100 to 150 claims from across the City could be received. Costs could therefore range between $75,000 to $112,500.

POLICIES AFFECTING PROPOSAL:

Implementation of the proposed disaster relief program for basement flooding would not affect the claims policy and process for claims made against the City alleging negligence as the proposed program is considered a grant and the determination of fault would not be a requirement. There would be no impact on the current Council policy of paying claims only when the City is deemed negligent.

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

City Legal Services, ODRAP staff and staff of other municipalities.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

Environmental Well-Being is enhanced. ☐ Yes ☐ No

Economic Well-Being is enhanced. ☑ Yes ☐ No

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No
ELIGIBILITY CRITERIA
FOR
RESIDENTIAL MUNICIPAL DISASTER RELIEF ASSISTANCE PROGRAM FOR BASEMENT FLOODING

Introduction

The eligibility and payment of any funds under the program is based on compassionate grounds only and is not to be construed as an admission of liability on the part of the City of Hamilton. Any funds paid under this program will be deducted from any potential future claim settlement to avoid duplication of damage payments. This program would not be implemented where disaster relief is provided by another level of government (e.g., ODRAP). In addition, residents who are currently in litigation with the City would not be eligible for assistance under this program.

Disaster Declaration

To declare a Disaster resulting from a severe rainstorm event, Council shall, by resolution, clearly define the time frame and identify the boundaries within the City that are eligible for relief for basement flooding under this program.

Eligibility

To be eligible, the following criteria must be met:

- Residential property must be within the boundaries of the declared disaster area and suffered basement flooding directly related to the severe rainstorm event
- Losses not covered by insurance
- Private residential owners and/or tenants
- Damages fall into the categories of eligible losses & costs

Eligible Losses and Costs

- Clean-up, restoration, repairs or replacement to pre-disaster condition to the basement of a principal residence
- Essential furnishings including refrigerator, freezer, furnace, stove, clothes, washer and dryer
- Tools or other items essential to the claimant’s livelihood
- Emergency expenses (e.g., evacuation costs, food and shelter)
- Perishable food
- Insurance deductible
Ineligible Losses and Costs

- Losses covered by insurance
- Non-essential furniture (e.g., stereos)
- Landscaping, fencing, driveways and retaining walls
- Recreational vehicles (e.g., boats)
- Antiques and collections
- Loss of revenue or wages (e.g., rents)
- Losses recoverable at law
- Personal injury
- Private roads/bridges and erosion

Private Property Owners

Eligible losses include:

1. Costs of clean-up, restoration, repair or replacement to pre-disaster condition of a basement (e.g., floors and walls).
2. Costs for clean-up of property for safety reasons or to provide access (e.g., debris removal); and
3. Costs of clean-up, restoration, repair or replacement of basic furniture damaged as a result of the disaster (e.g., major appliances).

Tenants

Eligible losses include:

1. Costs of clean-up, restoration, repair or replacement of contents as identified in the Eligible Losses and Costs damaged as a result of the disaster (e.g., major appliances and beds but excluding structural repairs that are the responsibility of the owner).

Limitations

Applications for a compassionate grant under the Residential Municipal Disaster Relief Assistance Program must be received by the City and/or its agent no later than 4 months (120 days) from the date that the event was declared a disaster by City Council.

Only one application for each residential property is eligible except where the property is occupied by a tenant in which case the owner may also be eligible.