SUBJECT: Municipal Disaster Relief Assistance Program - July 26, 2009
Flooding Event – Supplemental Relief Program and August 29, 2009
Flooding Event (FCS06007(d) (City Wide)

RECOMMENDATION:

a) That the amendment to the Municipal Disaster Relief Assistance Program, to provide
an additional compassionate grant of up to $5,000 bringing the total grant to $6,000
to assist flooding victims who were denied the ability to purchase and add “Sewer
Back-up” coverage to their policy by their insurer, as outlined in Appendix “A” of
Report FCS06007(d), be approved;

b) That up to an additional $5,000,000 required for this program be funded from
Waterworks, Sanitary Sewer and Storm Reserves;

c) That the flooding occurrence of August 29, 2009, be declared a disaster for the
purpose of the Municipal Disaster Relief Assistance Program; and

d) That the Province be petitioned to recognize any funds paid to owners / tenants who
sustained damage as a result of the Flooding of July 26, 2009, by the City, as part
of the local community fundraising, as defined by the ODRAP program.

Roberto Rossini
General Manager, Finance & Corporate Services

EXECUTIVE SUMMARY:

In response to the direction of Council (refer to report FCS06007(c)) with respect to
providing additional assistance to those flooding victims who have been denied “Sewer
Back-up” insurance, staff are recommending that up to an additional $5,000 be provided
to those tenants and owners of residential properties. The $5,000 in supplementary relief
would be over and above the basic compassionate grant of $1,000, bringing the total level of assistance up to $6,000.

Based on the information available to date, this Supplementary Relief Program compassionate grant may cost the City of Hamilton up to $5 million inclusive of administrative and Insurance Adjusting Fees.

To qualify for the Supplementary Relief Program funding, owners/tenants must provide evidence that they were either denied “Sewer Back-up” insurance altogether or whose terms for “Sewer Back-up” were restricted beyond standard restrictions.

On August 29, 2009, another significant storm will result in approximately 175-200 additional flood claims. To date, about 160 claims have been received into the grants hotline. In order to proceed with the compassionate grant for these incidents, Council is required to declare the event a disaster. To date, staff have assumed that this will be passed and are taking appropriate action on these claims.

The estimated cost of the original $1,000 grant for both events and, if approved, the cost of the Supplemental Relief Program of an additional $5,000 for those who qualify, will bring the total cost of the relief programs for these two events to approximately $11 million.

Waterworks, Sanitary Sewer and Storm Sewer reserves will be utilized for the funding of this program.

As well, the City will petition the Province to recognize funds, paid by the City to owners/tenants for the July 26, 2009, flood, as being part of the Local Community Fundraising as required by the ODRAP program.

**BACKGROUND:**

At the Special Committee of the Whole, Council meeting of August 4, 2009, Council approved (among other recommendations) the following from report FCS05007(c):

“That staff report back to Committee of the Whole within 30 days on an appropriate level of compassionate grant, including appropriate terms and conditions for eligibility and levels of assistance, for a revised Residential Municipal Disaster Relief Assistance Program covering basement flooding suffered by homeowners and tenants of residential properties who do not have “sewer back-up” insurance coverage because they have been unable to purchase such coverage, but whose losses otherwise have qualified for such coverage.”

This report (FCS06007(d)) is being provided in response to this direction.
ANALYSIS/RATIONALE:

The purpose of the amendment to the Municipal Disaster Relief Assistance Program is to assist those homeowners and tenants of residential properties who suffered basement flooding who purchased insurance but were denied “sewer back-up” insurance coverage by their insurer, but whose losses would otherwise have qualified for such coverage.

The eligible expenses for this additional grant will be similar to the current program except that, if the tenant/owner qualifies, they could receive up to $5,000 in additional funding. Further, the losses covered would only pertain to the sewer back-up flooding. The Supplemental Relief Program will not apply to overland flooding since no one is able to purchase this coverage. It should be noted that our basic $1,000 compassionate grant does cover losses due to overland flooding, as well as, sewer back-up.

Basically, the additional grant will be considered for residential property owners and tenants who meet the following criteria:

1) Those who can provide evidence that their current insurance policy does not insure “Sewer Back-up” and they were denied “Sewer Back-up” coverage by the insurer; or

2) Those who can provide adequate evidence that the deductible on the “Sewer Back-up” coverage was increased by the insurer over the standard deductible applicable to the policy and that the standard deductible was not available to them; or

3) Those who can provide adequate evidence that the limit of the “Sewer Back-up” coverage was restricted or limited to a minimal amount by the insurer.

On August 29, 2009, another significant storm will result in approximately 175-200 additional flood claims. In order to proceed with the compassionate grant for these incidents, Council is required to declare the event a disaster. To date, staff have assumed that this will be passed and are taking appropriate action on these claims.

ALTERNATIVES FOR CONSIDERATION:

Alternatives to the $5,000 Supplemental Relief Program grant would be to provide a maximum grant of $7,500 or $10,000 for each property. The cost to the City for these would be approximately between $5.4 million and $8.1 million if $7,500 is chosen and between $7.0 million and $10.5 million if $10,000 is selected.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Historical data for flooding events from 2005-2008 demonstrates that approximately 20% of compassionate grant applicants indicated that they were uninsured for sewer back-up or had no insurance whatsoever. Information available, to date, for the subject flooding event indicates a potential increase to 30% in this category. While there are a number of reasons why sewer back-up insurance would not be involved with a particular individual flood situation, it is predicted that between 10%-15% of compassionate grant applicants
will have been unable to purchase sewer back-up insurance due to their sewer back-up history. Other reasons for not having insurance involved are:

- Homeowner/Tenant chose not to purchase insurance;
- Homeowner/Tenant chose not to file a claim;
- The damages were less than the deductible on their policy.

Currently, the compassionate grant program has 6,300 applicants. It is projected that the program will ultimately experience approximately 6,500 applicants. The following Table illustrates projected program costs by applying variable percentages for those claimants truly unable to purchase sewer back-up insurance under three individual claim limit options for consideration. A flat limit administrative/adjusting fee component has also been applied.

Based on the assumption that between 10% and 15% of the applicants could produce evidence that “sewer back-up” insurance coverage was denied, and assuming a $5,000 maximum compassionate grant, the cost to the City would range between $3.8 million and $5.7 million.

The total number of claims for the July 26th and August 29th event is estimated to be approximately 6,700. Based on previous estimates, 80% of these claims will qualify for the $1,000 compassionate grant. If this estimate holds true, we can expect the cost for the original grant to be approximately $6 million. If the $5,000 Supplementary Relief Program Grant is approved, the total cost of these 2 flooding events could reach over $11 million.

Through report FCS06007(c), Council already approved a $3 million transfer from the Waterworks, Storm and Sanitary Sewer reserves to fund the program. At this time, an additional $5 million transfer is being recommended to fund the enhanced program. Should the $8 million allocation not be sufficient, staff will bring forward a recommendation for further reserve funding. The balance of these reserves is projected to be approximately $37.5 million at December of 2009, prior to the allocation of the $8 million.

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POLICIES AFFECTING PROPOSAL:

If approved, the Policy entitled “Municipal Disaster Assistance Relief Program” will be amended as per Appendix “A” to report FCS06007(d).

RELEVANT CONSULTATION:

General Manager, Finance & Corporate Services
City Treasurer
Manager, Risk Management Services
Cunningham Lindsay Adjusters

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
Support for areas of need in disaster related damage.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Financial Assistance for repeat flood victims.

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

N/A
Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

N/A
SUPPLEMENTAL RELIEF TO THE RESIDENTIAL MUNICIPAL DISASTER RELIEF ASSISTANCE PROGRAM FOR BASEMENT FLOODING

PURPOSE

The purpose of the Supplemental Relief (SR) Appendix to the Residential Municipal Disaster Relief Assistance Program For Basement Flooding (MDRAP) is to assist those homeowners and tenants of residential properties who suffered basement flooding who do not have “Sewer Back-up” insurance coverage because they have been unable to purchase such coverage but whose losses would otherwise have qualified for such coverage.

All applicants for the SR would have been eligible to claim up to the maximum relief provided under the MDRAP of $1,000.00.

The SR will make further relief of $5,000 per household or family unit available to those residents who might have had insurance coverage for Sewer Back-up damage for items and sums not covered by the initial MDRAP grant but for the fact:

- they had been denied Sewer Back-up coverage by their insurer or,
- their coverage limit for Sewer Back-up had been limited by their insurer or,
- their deductible for Sewer Back-up coverage had been increased at their insurer’s demand and,
- that damages exceeded any insurance coverages available to them.

Applicants will be required to provide evidence satisfactory to the City that meet eligibility requirements for the SR program.

Applicants will be required to agree to Eligibility Criteria and the Terms and Conditions of the SR program.

ELIGIBILITY CRITERIA

In order to be eligible for further relief under the SR program a resident must meet all the Eligibility Criteria of the MDRAP and the eligibility requirements of the SR program. An application for the additional relief must be submitted with supporting documents as required.
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 due to a sewer backup directly related to the severe rainstorm event
- Losses not covered by insurance (exclusive of overland surface flooding)
- Private residential owners and/or tenants
- Damages fall into the categories of eligible losses & costs

and meet the following additional eligibility criteria;

- Provide evidence satisfactory to the City that they were denied Sewer Back-up coverage by their insurer; and/or
- Provide evidence satisfactory to the City that the limit of coverage under their Sewer Back-up coverage was a limited or reduced amount imposed by their insurer; and/or
- Provide evidence satisfactory to the City that the deductible for Sewer Back-up coverage was higher than the standard deductible on their policy and that this higher deductible was imposed by their insurer

**ELIGIBLE LOSSES and COSTS**

Eligible Losses and Costs must meet all the Eligibility Criteria of the MDRAP program.

To be eligible, the following criteria must be met:

- 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, television, 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**

The following losses are not covered under the MDRAP program:

- 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

Additional losses and costs not covered under the SR program are;

• Any motorized equipment of parts thereof
• Liquor or spirits
• Jewellery, money or securities of any kind
• Losses and costs not adequately supported by required documentation

Eligible losses and costs will be applied to Property Owners and Tenants on the same basis as the MDRAP program.

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 furnishings 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).

General Terms and Conditions

In applying for a grant under the SR, the applicant agrees to accept all the General Terms and Conditions and other requirements of the SR throughout this document and as follows;

That by signing and submitting a SR application the applicant agrees to all the terms and conditions as laid out within this document.
The eligibility and payment of any funds under the program is based on compassionate grounds only and is not to be construed or deemed to be an admission of liability on the part of the City of Hamilton.

That any payments received shall in the event of litigation be acknowledged as being a contribution to the amount of any further claim put forward by the individual or his/her insurer.

That by submitting an application for the SR grant, you are agreeing to permit the City and your insurer to communicate and exchange information with each other for the purpose of confirming the information provided in the SR application.

That the submission of an application for an SR grant containing false information will result in the entire application being rejected.

That only fully completed and signed applications will be considered as an application for the SR grant.

Applicants agree that only one claim for the SR grant per Family Unit will be submitted, (A Family Unit is defined as one or more persons living together in the same house or legal apartment unit regardless of age or relationship to each other).

Applicants acknowledge and agree that any consideration provided under the SR grant for the building structure or contents will be valuated on an Actual Cash Value basis only and not on a Replacement Cost basis.

That the person or persons submitting the SR application assume the responsibility for ensuring that all persons in the house or apartment unit have been fairly included in the application and submission of damages.

That, should a dispute arise between residents in a Family Unit as to the fairness of a submission or payment of a claim for the SR or the distribution of funds, the applicant will assume all responsibility and costs for settling such dispute and the applicant also agrees to hold the City of Hamilton harmless for all such related damages, expenses and costs incurred by the City.

That refusal of any application or the amount of any payment under the SR by the City or their representatives is not an Actionable Item in law.

That before receiving any grant funds the applicant agrees to sign a Release form provided by the City of Hamilton, which will further acknowledge your responsibilities and that you meet the requirements of the SR.

The applicant agrees not to subrogate his/her rights to any other party for damages which have been claimed and paid for as part of the SR or by the
Residential Municipal Disaster Relief Assistance Program For Basement Flooding.

Should it be determined that the applicant has been compensated by another source for damages claimed and paid for under the SR or the Residential Municipal Disaster Relief Assistance Program For Basement Flooding, the applicant agrees to reimburse forthwith the City of Hamilton for any duplication of payment.

LIMITATIONS

Applications for a compassionate grant under the Residential Municipal Disaster Relief Assistance Program or the Supplemental Relief 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.