

Investigation of Whistleblower Complaint for the City of Charlottetown

February 6, 2023

REDACTED FOR PRIVACY COMPLIANCE

Names, identifiable attributes and references to private parties in this report have been redacted.

PRIVATE AND CONFIDENTIAL

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Appendix - Scope of Review

February 6, 2023

PRIVATE AND CONFIDENTIAL

MAYOR PHILIP BROWN
City of Charlottetown
199 Queen Street
Charlottetown, PE C1A 4B7

Dear Mayor Brown:

Re: Investigation of Whistleblower Complaint for the City of Charlottetown

A. INTRODUCTION

1. We have been retained by the City of Charlottetown (the "City") to conduct an independent investigation of allegations raised in a whistleblower complaint, dated December 11, 2019 (the "Complaint").¹ We have also been asked to assess the risk of fraud and provide appropriate recommendations with respect to matters arising from the Complaint.
2. This report ("Report") sets out our observations and opinions arising from our investigation. This Report has been prepared in accordance with the Standard Practices for Investigative and Forensic Accounting ("IFA") of Chartered Accountants of Canada.² Our comments in this Report should be read and considered as a whole.
3. Unless otherwise specified, all values in this Report are expressed in Canadian dollars ("CAD").

B. OUR MANDATE

4. Our services comprised investigation of the Complaint, consideration of fraud risks related to matters raised in the Complaint and financial internal control recommendations.
5. Our procedures included:
 - a. Undertaking an analysis of the Complaint with respect to breaches of the Municipal Government

¹ A further letter, dated October 21, 2022, was submitted with updates to the allegations in the Complaint. Our investigation considered internal controls and financial matters raised in the October 21, 2022 letter. We do not address the allegations regarding workplace or employment issues, which are outside of our expertise as forensic accountants. An email detailing 11 additional complaints was received directly by us on January 31, 2023. We are not in a position to investigate these further complaints within our reporting timeline. We have provided the January 31, 2023 email to the City for its determination of an appropriate response to the further complaints.

² Now CPA Canada.

- Act ("MGA"), the City's bylaws, and operating policies or practices of the City;
- b. Conducting interviews with individuals having knowledge of matters raised in the Complaint;
 - c. Collecting and reviewing relevant information, including agreements, accounting records, minutes of meetings, written policies and correspondence;
 - d. Identifying, and quantifying where possible and appropriate, the potential losses suffered by the City as a result of apparent misappropriations or misuse of City assets; and,
 - e. Evaluating the risk of fraud in the transactions identified in the Complaint and providing recommendations for improvements to financial internal controls, as appropriate.

C. SUMMARY OF OUR INVESTIGATION

6. Based upon the procedures set out herein and the information collected in our investigation, we report that:
 - a. The transactions raised in the Complaint are generally confirmed to have occurred. Certain of the transactions appear to have breached stated procurement or expenditure policies.
 - b. Our investigation did not identify instances of potential fraud. However, the risk of fraud exists as a result of poor adherence with internal controls or, in some instances, inadequate internal controls.
 - c. In some instances, the City's policies are not clear or do not reflect best practice, thus resulting in differing expectations regarding conduct. Internal controls or stated policies have been by passed in favour of expedience or informality.
 - d. The level of understanding of statutory and policy requirements with respect to procurement and expenditure decision-making varies amongst elected officials and staff. We recommend that the City undertake a comprehensive review of its procurement and expense policies and practices to establish common expectations, including:
 - (i) Surveying best practices for internal controls appropriate to the governance and operations of the City;
 - (ii) Evaluating and clarifying thresholds for decision-making and authority; and,
 - (iii) Providing training and education to promote compliance with internal controls and adherence to promulgated policies.

D. OUR UNDERSTANDING OF THE SITUATION

7. The Complaint was submitted to the attention of Mayor Philip Brown, dated December 11, 2019, under the City's Whistleblower Policy detailing 18 allegations.
8. The complainant submitted a letter to Ms. Donna Waddell, interim Chief Administrator Officer ("CAO"), dated October 31, 2022, with updated allegations.

9. The complainant sent an email directly to us on January 27, 2023, providing additional references and information on the matters raised in the Complaint.
10. Generally, the Complaint (including the October 31, 2022 update and January 27, 2023 email) relates to the misuse of City resources and breaches of legislation, policies or practices.
11. We received an email from the complainant on January 31, 2023 setting out 11 further allegations.

E. SCOPE OF REVIEW

12. In arriving at our observations, opinions and recommendations, we have reviewed and relied upon the records and interviews listed in the Appendix.
13. The Complaint includes references to [REDACTED] role and responsibilities. We understand that complaints have been made to Chartered Professional Accountants Prince Edward Island ("CPAPEI") with respect to [REDACTED]. We have not investigated the allegations regarding the professional conduct of [REDACTED] and do not make any comments in respect thereof.
14. We have not examined the workplace and employment matters raised in the submissions of the complainant as these matters are outside of our professional expertise as forensic accountants.

F. ASSUMPTIONS

15. In conducting our analysis, we have made the following significant assumptions:
 - a. The City and its representatives have made available to us all information requested and all information that is relevant to the preparation of this Report (the "Information");
 - b. The Information provided by or on behalf of the City is complete, accurate and fairly presented as of the date the Information was provided to us and, since that date, there has been no material change, financial or otherwise, and there has been no change of any material fact that would render the Information to be untrue or misleading in any material respect; and,
 - c. There are no facts known to the City not disclosed to us that might materially affect the observations and opinions noted in this Report.
16. Other assumptions arising in our analysis are stated herein.

G. INVESTIGATION OF COMPLAINT

G.1 COMPLAINT #1 - NON-COMPLIANCE WITH CITY POLICY FOR CAPITAL PROJECT APPROVALS

G.1.1 Issue

17. According to the Complaint:

“Non-Compliance with City policy related to capital project approvals. I brought to your attention several capital projects that had change orders amounting to millions of dollars which resulted in the approved tender amount being exceeded. The change orders were implemented without Council approval [REDACTED]. I believe this is also a compliance issue under the MGA and an example of authority being exceeded.”

G.1.2 Observations

18. We understand that the Council approves an overall budget for a capital project, which establishes the limit for the project tender amount. We further understand that Council approves the awarded tender for capital projects.
19. Should the expected cost of a capital project exceed the tendered amount, but remain within the overall approved budget amount, the operational manager may incur additional costs to complete the project with the approval of the CAO (as the relevant Council motion permits).
20. We note that for the CPCP project, an example listed by the Complainant (specifically, the cleaning of the digester), the actual costs incurred by the City exceeded the approved tender amount. We did not find a motion by Council to approve the cost in excess of the initial approved tender amount. However, the motion by Council on [REDACTED] for the approval of the tender amount notes:
- “And further that [REDACTED] are hereby authorized to execute standard contracts/agreements to implement this resolution”.*
21. For the Wellfields projects, another example cited by the Complainant, we reviewed four projects and found that three of the projects exceeded the approved tender amounts. The additional costs for one the projects exceeding its original tender was approved by Council. We did not find a motion by Council to approve the costs in excess of the initial tendered amount for the other two projects exceeding their approved tenders.
22. Again, the motion by Council for each of the Wellfield projects reviewed contained the provision:
- “And further that [REDACTED] are hereby authorized to execute standard contracts/agreements to implement this resolution”.*
23. Insofar as the project costs in excess of tender remained within Council’s approved budget, it is not clear that further approvals were required.

24. Our analysis included comparing actual and budgeted project costs. The financial records that we reviewed in respect of capital projects were often incomplete. Records for actual and budgeted costs are not consistently maintained, thereby making comparisons difficult. More particularly, it was often difficult to determine whether actual project costs exceeded approved tenders or approved budgets.

G.1.3 Recommendations

25. Our recommendations in respect of capital project approvals follow:
 - a. Consistent and complete records of capital project finances, including actual costs, approved tender amounts and approved project budgets, should be maintained to facilitate timely oversight of project status.
 - b. Establish policies and processes for required approvals of costs in excess of tendered and/or budgeted amounts. Requirements for Council approval with respect to change orders or cost overruns should be clarified.

G.2 COMPLAINT #2 - MOBILE DEVICE REIMBURSEMENT AND RECOVERY OF DEVICES

G.2.1 Issue

26. According to the Complaint:

“I brought to your attention the additional costs of the cell phone reimbursement for [REDACTED] and the hundreds of dollars paid by the City each month for [REDACTED] 120 gigabytes of shared family data and long distance. Why the City was paying for a family plan to share data is questionable. I also raised the issue of recovering the three Apple MAC tablets from [REDACTED]. The City does not use or support MAC products. These three tablets had not been recovered nor has any data been erased. These items were also identified as a risk should such information become public now that these tablets were out of the control of the City.”

G.2.2 Observations

- 27. We understand that [REDACTED] used [REDACTED] personal mobile device for City-business purposes.
- 28. [REDACTED] was reimbursed for [REDACTED] personal mobile device costs, which included a shareable data plan and long-distance costs, from [REDACTED] to [REDACTED]. We note that the invoices submitted in support of reimbursements detailed charges for multiple cellphone numbers, with charges itemized by each phone number. The reimbursements made by the City to [REDACTED] were only for [REDACTED] charges attributed to [REDACTED] cellphone number.
- 29. We note that the reimbursed amounts to [REDACTED] were higher than the cost of mobile device plans that were available to the City at the time.
- 30. The following table summarizes the total costs incurred by the City for [REDACTED] mobile device, based on the information provided to us for the period from [REDACTED] to [REDACTED].

	Reference	Total Costs	Monthly Average Cost (a)	Monthly Average City Data Plan Cost (b)	Difference (a) - (b)
Total Expense per Cellphone Invoices	Notes 1,2	8,403	183	106	77
Total Amount Reimbursed by the City as per the General Ledger		8,647	188	106	82

Notes:

[1] BDO did not receive the invoice for [REDACTED]

[2] Surcharges include fees for additional data usage, long-distance and out of country service fees.

- 31. [REDACTED] reimbursed the City for \$1,104 in respect of cell phone costs.
- 32. Deducting the reimbursement to the City by [REDACTED], the net costs to the City still exceed the costs that would have been incurred on the City’s data plan for an individual elected official, as shown below.

	Reference	Amounts	Monthly Average
Total Amount Reimbursed by the City as per the General Ledger		8,647	183
Reimbursement to City		(1,104)	(23)
Net cost incurred by the City			
Monthly Average City Data Plan Cost (Including Surcharges)	Note 1	A 7,543	B 159
Difference		A - B	54
Monthly Average City Data Plan Cost (Excluding Surcharges)		C	79
Difference		A - C	81

Notes:

[1] Surcharges include fees for additional data usage, long-distance and out of country service fees.

33. We understand that the practice of the City is to reimburse elected officials and staff members \$50/month for a cellphone plan if they choose to forego the use of a City-owned mobile device. However, this practice is not documented in a policy. We also understand that this practice is not consistently applied in terms of the amount being reimbursed for cell phone usage.
34. With respect to the “MAC tablets” outlined within the Complaint, we obtained oral confirmation from City staff that two of these tablets have been returned to the City and that an Apple computer was purchased by [REDACTED] from the City. No documentation is available to corroborate the return of the devices.
35. We reviewed documentation that [REDACTED] purchased an Apple computer³ for \$950 from the City on or about [REDACTED]. However, no supporting documentation is available with respect to the determination of the fair market value of the computer.
36. We were advised that a policy is in place to delete City data from electronic devices that are retained by elected officials or staff upon separation. However, records of such deletions were not maintained.
37. Our investigation also determined that:
 - a. The current practice at the City is to allow former elected officials to purchase equipment utilized while in service of the City, such as their laptop and mobile device.
 - b. The City now utilizes a third-party program to assist in determining the sales price of City-owned personal property that will be sold to former elected officials.
 - c. The City has implemented an asset inventory tracking system for City-owned IT equipment.

³ It is assumed that this Apple computer is one (1) of the three (3) tablets mentioned in the Complaint.

G.2.3 Recommendations

38. Our recommendations with respect to the use and sale of electronic devices to staff and officials follow:
- a. Develop a policy with respect to the use of personal devices and permitted reimbursements of costs (including the treatment of shared plans);
 - b. Ensure that City-data is deleted from electronic devices retained by staff or officials upon their departure from the City or removing the device from official City use, and documentation of the same;
 - c. Maintain documentation to support the fair market value of equipment sold to staff or officials.

G.3 COMPLAINT #3 - ELECTED OFFICIALS AND CONTRACT STAFF RETURNING CITY PROPERTY

G.3.1 Issue

39. According to the Complaint:

"I also noted that former elected officials and contract staff should return City property in accordance with the requirements of the City's approved policy for redistribution. These items were sold to the former elected officials and contract staff."

G.3.2 Observations

40. We understand that certain electronic devices or computers are believed to remain in the possession of former employees or elected officials. However, the City has historically not maintained asset inventory records to track IT equipment. Some of the equipment has been sold by the City to former employees or officials.

41. In accordance with the Redistribution and Disposal of Assets Policy (Policy Number: P-Fin-7):

"City Council maintains the authority and responsibility to ensure assets are disposed of in the best interests of the City and may, to that end, have assets disposed of in ways not outlined in this policy."

Except as otherwise determined by Council, when an asset is identified as surplus to the requirements of a particular department within the City, the department manager responsible for the asset will complete a "Redistribution/Disposal Request Form" and forward it to the CAO or her/his designate, who will forward the information to other department managers to determine if the item can be used elsewhere within the City."

When an asset is deemed to be unsuitable for use in another capacity within the City organization, a recommendation for disposal of the item shall be forwarded to the CAO or her/his designate."

Only the CAO or her/his designate shall declare an asset to be surplus and shall complete a "Disposal Authorization Form" indicating the means of disposal (e.g.: by tender, by auction, at public sale, buy donation, or as trash)."

Unless decided otherwise by Council, an asset with an estimated value of \$5,000 or greater shall be sold by public tender or at public auction. If sold by public tender, then usual tendering practices must be followed. An asset valued at less than \$5,000 may be disposed at public sale. Where a surplus asset is deemed to have little or no recoverable value through the public sale process it may be disposed of by getting three quotes and selling it for scrap."

42. The foregoing policy authorizes the CAO to declare as surplus City assets under certain circumstances. However, the determination of surplus status and the valuation of assets referenced in the Complaint are not documented in the City's records.

43. We understand that an asset tracking system has recently been implemented by the City to monitor its IT equipment inventory.

G.3.3 Recommendations

44. Our recommendations in respect of City-owned property follow:
 - a. Appropriate documentation by the CAO or her/his designate for the determination of surplus status of City property, as well as the determination of fair market value of equipment that is to be disposed of.
 - b. Disposal procedures, including the deletion of City data (if applicable), should be performed prior to releasing or disposing of City-owned property and duly documented.

G.4 COMPLAINT #4 - MEAL EXPENSE AT [REDACTED]

G.4.1 Issue

45. According to the Complaint:

"Recent meal expenses for former and current elected officials and their spouses at [REDACTED] and the amount of the tip (\$160.00) and overall costs to the taxpayers certainly raises questions of spending and taxpayer value for money. While funds related to alcohol and certain meals were recovered not all costs for spousal meals and excessive tips were recovered. Again a reputational risk for the City."

G.4.2 Observations

46. Based upon the records available, we understand that a meal expense was charged to the City on [REDACTED] in the amount of \$800. The itemized meal bill included eight entrees, in addition to appetizers, drinks and desserts. Of the \$800 charged to the City, \$175.55 was for alcohol and \$160.25 (25%) was for gratuity.
47. The meal was a farewell dinner for former elected officials. The supporting documentation does not indicate the number of attendees nor the identity of the participants at the dinner.
48. According to the Council Code of Conduct Bylaw, Bylaw #2018-15, members of Council may claim reimbursement for "honouring persons from the City in recognition of exceptional public service and staff appreciation events". However, no costs for alcoholic beverages are permitted. There is no guidance for reasonable or permitted rates for gratuities.
49. The City was reimbursed \$200 from a guest at the dinner⁴ on [REDACTED] and \$179.90 from "Misc. Councillors" according to the receipt on [REDACTED] for a total recovery of \$379.90. The net expense incurred by the City was \$420.10, including HST.
50. While the reimbursements have not been reconciled to the itemized charges on the restaurant receipt, the City has recovered a significant portion of the costs in respect of this meal expense. A breach of the Council Code of Conduct for the remaining balance is not now determinable based upon the available information.

⁴ The guest is the spouse of a Councillor. The composition of the \$200 reimbursement is not documented.

G.4.3 Recommendations

51. Our recommendations in respect of meals expense claims follow:
- a. Meals and entertainment expense claims should include the identity of persons attending the event.
 - b. The expense policy should specify permitted or reasonable rates for gratuities if restrictions on the same are deemed to be appropriate by Council.
 - c. Reimbursements of expenses should be accompanied by explanations or reconciliations of amounts to which the reimbursements relate.

G.5 COMPLAINT #5 - CITY PENSION PLAN

G.5.1 Issue

52. According to the Complaint:

"Compliance with the City Pension bylaw requiring all employees to be part of the pension plan. Per the audited FS, ██████████ is not. I am unaware of any Council resolution to amend the pension bylaw to allow such exceptions."

G.5.2 Observations

53. ██████████ was appointed on or about ██████████. According to the City of Charlottetown Superannuation Pension Bylaw ("Pension Bylaw"), consolidated and restated effective January 1, 2016, all permanent full-time employees are required to be part of the pension plan.
54. ██████████ was not registered as a member of the City pension plan from ██████████. ██████████ was enrolled in the pension plan from ██████████.
55. ██████████ negotiated ██████████ employment contract with ██████████ and had requested an exemption for ██████████ from the pension plan. ██████████ was provided with RRSP contributions at a rate equivalent to the pension contribution rate that ██████████ would have received under the City's staff pension plan.
56. The contract was signed by ██████████. The appointment of ██████████ was a unanimous decision of the Council of the day.

G.5.3 Recommendation

57. Our recommendations in respect of pension plan exceptions follow:
- The City Pension bylaw should be followed, and the City should ensure that all employees who are eligible for the pension plan are part of the plan.
 - If exceptions are to be permitted, the conditions for exception should be specified in the bylaw.
 - Appropriate approvals should be obtained for exceptions if not otherwise specifically permitted.

G.6 COMPLAINT #6 - ITAP SOFTWARE

G.6.1 Issue

58. According to the Complaint:

"The ITAPs software for police ticketing was put to tender and done outside of the Department of Finance tendering process. No record of the tender could be found in the Department of Finance. The tender evaluation was conducted by [REDACTED] and [REDACTED] was the lowest cost, scored #1 in the evaluation, and could be implemented in 6-8 weeks. The tender award presented to Council was recommended to be [REDACTED] on the basis of lowest cost. The documents provided to Council for approval was incomplete and inaccurate. It failed to identify the lowest bid and the recommended product [REDACTED]. In fact, what was provided to Council failed to provide the information that is normally provided (evaluation results and all bids). The award to [REDACTED] was approved by resolution and then development of the software by [REDACTED] began without an agreement in place. There is currently no agreement in place which has exposed the City to additional costs and a contract that is now much higher than the original lowest bid in the tender process. The information provided to Council did not identify the annual amount of the license agreement with [REDACTED]."

G.6.2 Observations

59. According to information provided and discussions with staff, we understand that the tendering process for the ticketing system was not managed by the City's Department of Finance. The mandate for tendering was contracted to [REDACTED], which was responsible for preparing the request for proposal based on the specified needs of the City and Charlottetown Police Service ("CPS").
60. According to the evaluation of responses prepared by [REDACTED], [REDACTED] was the lowest cost vendor for a manual ticketing system. [REDACTED] evaluation included an analysis of implementation timelines and product functionality for each proponent. It noted that the [REDACTED] platform would require development of a number of functions that were already available on the other products.
61. During the tendering process, the Province of Prince Edward Island announced that it would be introducing requirements for electronic ticketing for provincial offences. We understand that the City and CPS determined that a consolidated system for the various types of tickets issued by their staff, capable of electronic ticketing, would be preferred.
62. The City and CPS reconsidered the [REDACTED] recommendation, including the functionality and pricing of the respondents' products with respect to electronic ticketing. All three responding vendors offered electronic ticketing. The [REDACTED] proposal was assessed to be the lowest cost option.
63. We identified invoices from [REDACTED] to the City for ticketing system software development services in [REDACTED] and [REDACTED]. However, we did not find a contractual agreement in respect of this work. We examined two agreements between the City and [REDACTED]: a Software License Agreement and a Software Maintenance and Support Agreement, both dated [REDACTED]. The agreements were approved by motion on [REDACTED].

64. The [REDACTED] proposal has been implemented within the budgeted cost, based on the invoices provided by the City.

G.6.3 Recommendation

65. Our recommendations in respect of procurement follow:
- a. The City should consider issuing a new tender if its project requirements materially change in the course of the procurement process.
 - b. The City's procurement policy should be updated to outline how to manage material changes in project requirements.

G.7 COMPLAINT #7 - HST ON TIPPAGE FEES

G.7.1 Issue

66. According to the Complaint:

“For many years, the Water and Sewer Corporation overcharged residents of Charlottetown for services provided and failed to charge HST on tippage fees at the CPCP. The result is a significant tax liability for HST on tippage fees and the question of refunds to residents. Ultimately, Council is responsible for compliance with federal legislation and a decision on refunds.”

G.7.2 Observations

67. On or about August 30, 2017, the City requested the assistance of [REDACTED] to review the accounting records including the payment, collection and remittances of commodity taxes by the City and Charlottetown Water and Sewer Corporation.

68. According to the analysis conducted by [REDACTED]:

- a. The Water and Sewer Corporation charged HST on exempt services, such as installing, repairing, maintaining, and interrupting the operation of water distribution, sewage or drainage systems.
- b. The City did not charge HST on tippage fees at the CPCP although not an exempt service.
- c. The wastewater treatment services provided to Stratford is a taxable service, as confirmed in a CRA ruling.

69. We understand that HST was implemented in PEI in 2013.

70. We note that the misapplication or non-application of HST was discussed at the Water and Sewer committee meeting on October 3, 2018. There was a committee consensus to revise the City's HST practices to reflect the appropriate requirements. There does not appear to have been discussions with regards to refunding overcharged HST.

71. According to staff, amounts that may be refundable to residents are estimated to be nominal. However, we have not been provided with calculations or estimates in this regard, nor have we been provided with a motion of Council in support of this position.

G.7.3 Recommendation

72. The City's position on non-payment of liabilities or obligations, such as incorrectly collected HST amounts, should be presented to Council for a policy decision.

G.8 COMPLAINT #8 - PARKING LOT UTILIZED BY [REDACTED]

G.8.1 Issue

73. According to the Complaint:

"Open and transparency related to the parking lot used by [REDACTED]. I brought this item to [REDACTED] attention ([REDACTED]) in that the arrangement to provide [REDACTED] with the use of City property for a significantly low rate (they pay the property tax) is not compliant with the MGA which prevents the City from providing such benefits to specific individuals. I advised you that this represents a significant risk to the city in terms of insurance liability as well as foregone revenue. The provision of 70 parking spaces to a private business and also providing snow removal and repairs and maintenance is in my opinion, not compliant with the MGA and represents a significant risk to the reputation of Council and the City should this become public information. The City removing snow and repairing the parking lot is visible to the public and property tax information is public information and exposes Council to unnecessary risk. I have advised on several occasions that this risk must be addressed and to date it has not. There is no agreement in place or Council resolution to provide this benefit to [REDACTED]."

G.8.2 Observations

74. There is an agreement between the City and [REDACTED], dated [REDACTED], to provide parking spaces to [REDACTED]. The agreement does not appear to have been subsequently updated.
75. According to the agreement, [REDACTED] is to improve and maintain the parking lot. The use of the lot is for [REDACTED]. [REDACTED] is to protect and indemnify the City against all damage or expense due to accidents and maintain a general liability insurance of \$1 million. [REDACTED] is also required to pay all property taxes.
76. We understand that the City has assumed responsibility for snow removal as parking spaces in the lot is also utilized by City staff. We have not been provided with information regarding repairs or maintenance on the lot performed by the City.
77. The parking lot was sold to [REDACTED] on or about [REDACTED].

G.8.3 Recommendation

78. Agreements for the use of City property or rights of way should be documented appropriately and the terms thereof updated regularly to reflect current conditions.

G.9 COMPLAINT #9 - SNOW REMOVAL AT PRIVATE BUSINESS LOT

G.9.1 Issue

79. According to the Complaint:

"Also noted was City staff removing snow and salting the parking lot of a private business [REDACTED]. There is no agreement for providing services free of charge to a private business. I believe this raises concern with compliance with the MGA."

G.9.2 Observations

80. It is confirmed that the City removes snow from the parking lot of a private business [REDACTED]. The arrangement is to remove the snow in exchange for the use of the business' parking spots for volunteer firefighters during off-hours. We further understand that access to the private business' property is also required to place snow removed from the City's parking spaces.
81. A formal, written agreement for this arrangement has not been made.

G.9.3 Recommendation

82. A written agreement should be put in place to document the exchange of value for City resources (or access to resources).

G.10 COMPLAINT #10 - REBATE ON MUNICIPAL TAX FOR AN INELIGIBLE PROPERTY

G.10.1 Issue

83. According to the Complaint:

“Under the property tax reimbursement program, an ineligible property is continuing to receive a rebate on the municipal portion of the property tax. No action on this matter has been taken after months since [REDACTED] was advised.”

G.10.2 Observations

84. The property in question was granted property tax relief under an economic development program as approved by Council on [REDACTED]. The property was deemed to be used for commercial and residential purposes at that time. The economic development program is intended for commercial property. A subsequent assessment in 2015 characterized the property as “non-commercial” use.
85. We understand that the reporting obligations for this property under the economic development program have not been met since 2016. Hence, no tax relief has been provided in respect of this property since 2016.

G.10.3 Recommendation

86. Exceptions to stated tax relief policy or program requirements should be identified for approval by the appropriate level of authority, including Council, as necessary. Reasons for the exceptions should be documented.

G.11 COMPLAINT #11 - UNPAID INTERESTS AND UNTRACKED DEPOSITS

G.11.1 Issue

87. According to the Complaint:

"Within planning, various deposits are not tracked and unpaid interests amounts were not accrued (██████████ noted in #10)."

G.11.2 Observations

88. Deposits from developers are required by the City for the permitting of development projects. These deposits are held as security against property damage or for performance and are released once the developers' obligations are met.
89. City staff tracks these deposits in a working document. However, the deposits, typically in the form of cheques, are not deposited into a City bank account. Rather, the security deposits are kept in separate files for each development project and stored in a safe at City Hall.
90. We did not identify an obligation of the City to pay interest on the security deposits. We also did not identify a provision requiring interest to be paid to the City.

G.11.3 Recommendation

91. Our recommendations in respect of development permit deposits follow:
- a. Security deposits received by the City should be deposited into its bank accounts upon receipt.
 - b. The City should ensure that permits are not issued until required security deposits are received and processed.

G.12 COMPLAINT #12 - PER DIEMS

G.12.1 Issue

92. According to the Complaint:

"Per diem meal allowances claimed for the entire day regardless of the time of travel."

G.12.2 Observations

93. Analysis of this issue requires a distinction between staff and elected officials as different policies apply to each (as well as different policies being in force during different periods of time).
94. We identified three different bylaws or policies in place at the City regarding per diem allowances during the period of review:
- Travel policy (C-Admin-3), last amended April 17, 2014, and effective until September 8, 2019, for staff and effective until January 2020 for Council members (the "Travel Policy");
 - Remuneration Bylaw (Bylaw #2020-RMN-01/A), effective January 13, 2020 (last amended May 10, 2021) (applicable to Council members) (the "Remuneration Bylaw"); and,
 - Travel and Meal Reimbursement Policy (C-HR-11), effective September 9, 2019 (applicable to staff/employees) (the "Travel and Meal Policy").

Council Members

95. Under the Travel Policy in effect until January 2020, Council members were provided with per diem allowances for travel. The Travel Policy did not specify the types of costs that the allowance was intended to cover, nor did it require the pro-ration of the allowance for a partial day of travel.
96. Under the Remuneration Bylaw, which came into effect on January 13, 2020 for Council members, mileage reimbursements would be provided for travel outside of the City and/or Province. Per diem allowances are available for travel out of the province, and do not require the pro-ration of the allowance for a partial day of travel. Other expenses, pertaining to municipal duties may be reimbursed as approved by Council and as supported by receipts. Meal allowances and per diems are not permitted for meetings held within the City or for attending Council meetings.
97. We examined expense reports for Council members on a sample basis. Our testing identified instances of per diem allowances being claimed for partial travel days. However, we note that neither the Travel Policy nor Remuneration Bylaw require pro-ration of the allowance for a partial day of travel.

Staff

98. The Travel and Meal Reimbursement Policy for staff, which came into effect in September 2019, provides an allowance for meals. However, the policy specifies maximum meal costs permitted by type of meal (i.e., breakfast, lunch or dinner). Meal maximums were not prescribed under the Travel Policy (applicable to staff from 2014 to 2019).

99. We examined expense reports submitted by staff on a sample basis. Our testing did not identify instances of per diem allowances being claimed for partial travel days as the reimbursement forms do not provide details necessary for such analysis.
100. Our analysis identified an instance where the per diem allowance was claimed for seven days of travel out of province while the conference attended by the employee was conducted over three days. An explanation for the additional days' per diem allowance was not provided in the claim record.
101. We also note that there were instances in which the prescribed approval process was not followed, such as having two signatories on the reimbursement forms.

G.12.3 Recommendation

102. Our recommendations in respect of expense reimbursements and per diem allowances follow:
 - a. Conduct a review of expense and allowance policies to ensure consistency with the expectations of Council and best practices for municipalities.
 - b. Enforce compliance with current policies and bylaws in place for Council and staff, including requirements to provide adequate details regarding travel dates and periodic compliance testing to reconcile planned and actual travel days/time.
 - c. The expense claim forms should also be updated to include all details necessary to ensure compliance with stated policies.

G.13 COMPLAINT #13 - INAPPROPRIATELY CLAIMED PER DIEMS

G.13.1 Issue

103. According to the Complaint:

"Daily per diem claimed even in instances where meals were provided at conferences and events."

G.13.2 Observations

104. The Travel and Meal Policy refers to meal expenses and travel. The Travel and Meal Policy also provides guidance on meal allowance claims for events that include meals:

"A meal allowance will not be paid to an Employee with respect to a meal that is included in the transportation fare, or in the cost of the conference fees."

Where an Employee has incurred out-of-pocket expenses to supplement meals provided due to dietary restrictions, the actual incurred costs, will be reimbursed with receipt."

105. According to the Travel and Meal Policy, a per diem should not be claimed for days where meals are provided at a conference. Should an employee incur meal costs due to dietary restrictions, a reimbursement may be made based on submission of receipts.

106. We conducted sample testing of meal expense claims to determine whether there were instances where meal allowances were claimed for conferences or events that provided meals. We identified one instance where a per diem meal allowance was claimed while meals were apparently provided.

G.13.3 Recommendation

107. See recommendations for Complaint #12.

G.14 COMPLAINT #14 - CARRYING FORWARD OF CAPITAL BUDGETS

G.14.1 Issue

108. According to the Complaint:

"Each year Council approves a budget for that year (capital and operating). Carrying forward budgets without the express approval of Council is not a good practice. It is common understanding that Council budgets are for a specific period (annual). Council approves a capital spend each year and if not spent the spending authority expires. The practice of carrying forward unspent capital budgets without Council approval, in my opinion, is not consistent with the MGA. Since Council priorities change, needs change, and the capital budget explicitly states for a specific year, spending unspent amounts of prior periods raises concern and could amount to unauthorized spending and in effect an increase in budgets for a particular period. This may be inconsistent with the MGA. This has become common practice as Departments are spending capital budget amounts from prior periods in the current period."

G.14.2 Observations

109. Based on Council minutes and motions, we understand that annual budgets are approved by Council each year for the following fiscal period.
110. Approved project budget funding may only be used for the intended project. Restricted funds cannot be used for any other purpose except when the project has been completed and a surplus balance from the approved funds remain (subject to appropriate approval).
111. Within the year, if there are unspent budgeted amounts and the funds are not restricted, new initiatives may be proposed, or surplus funds may be transferred to other projects that are expected to exceed their budgets (again, subject to appropriate approval).
112. Budgeted but unspent restricted funds for unfinished or in-progress projects are added to the proposed capital budgets of the following year. Each year's capital budget is therefore comprised of continuing projects of the prior year(s) plus the current year proposed projects.
113. This budgeting process allows for the monitoring of in-progress projects as well as proposed new initiatives.
114. We understand that Council reviews capital budgets in detail for the upcoming year and carry forward amounts are part of the budget each year.
115. We observed that the tracking of capital project spending against budgets may not be complete and accurate. We identified instances where the internal documents provided for capital budgets and associated expenditures did not agree to the amounts reported in the annual budget for the year. This can result in errors in the reporting of capital expenditures by project in a given year.

G.14.3 Recommendation

116. Review the capital expenditure accounting process to ensure there is complete and timely recording of actual spending against the approved budget.

G.15 COMPLAINT #15 - [REDACTED] PAVING

G.15.1 Issue

117. According to the Complaint:

“With regards to recent awards for paving, information was presented to Council which requested approval of additional spending authority for contracts for paving. This additional paving was not subject to tender and the requested approval was for amounts that were already spent. Such approval after the fact is not consistent with the requirements of the MGA.”

G.15.2 Observations

118. Council approved the overall budget for paving at \$3 million on [REDACTED] in a public meeting.

119. The City issued requests for proposals for the [REDACTED] paving work, intending to award the work under three contracts. The first two tenders were awarded to the same vendor, being the lowest cost proponent in each public tender.

120. Based on information provided by the complainant, the awarded amount on the closing tender date of [REDACTED] for Package “A” was \$1,865,624.30 and on [REDACTED] for Package “B” was \$965,528.27 for a total of \$2,831,153. The City’s records for the awarded tenders, as of [REDACTED], were \$965,528 for both Package A and B. In contrast, the tendered amounts approved by Council on [REDACTED] for Package “A” was \$965,528.27 and for Package “B” was \$969,018.29. The three sets of contract values are summarized below:

	Complainant - Awarded Amount on [REDACTED] respectively (Closing Tender Date)	City - Awarded Amount on [REDACTED] respectively (Closing Tender Date)	Council Approved Tendered Amount on [REDACTED]
Package A (Including HST)	1,865,624	965,528	965,528
Package B (Including HST)	965,528	965,528	969,018
Total	2,831,153	1,931,057	1,934,547

121. The discrepancies in tender amounts have not been explained.

122. Based upon the tender values in the City’s records, a balance of approximately \$850,000 remained from the Council approved paving budget of \$3 million. It was recommended by the Public Works and Urban Beautification committee on [REDACTED], to spend the remaining \$850,000 of the approved capital budget for paving. We did not find a Council motion approving the \$850,000 expenditure. We note that the motion by Council to approve the paving budget did not include an authorization for [REDACTED] to execute agreements to implement the motion within the approved budget.

123. The actual costs incurred under each contract exceeded the Council approved tendered amount for Package A and Package B, by \$960,976 and \$178,364, respectively, for a total of \$1,139,340. However, the overall costs incurred were within the overall budget approved by council of \$3 million, as detailed in the table below:

	Council Approved Tendered Amounts	Actual Costs	Difference between Approved Tendered Amounts and Actual Costs
	(A)	(B)	(A) - (B)
Package A (Excluding HST)	839,590	1,800,566	(960,976)
Package B (Excluding HST)	842,625	1,020,988	(178,364)
Testing (Excluding HST)	40,625	40,625	-
Contingency	-	-	-
Total Costs	1,722,839	2,862,179	(1,139,340)
Total Budget Approved by Council	3,000,000	3,000,000	-
Remaining Balance	1,277,161	137,821	N/A

124. However, a concern is that the paving costs in excess of tenders approved by Council, totaling \$1,139,340, was not subject to public tender nor was it approved by Council.

125. As indicated herein, inconsistencies exist in the tendering documents and project contracts considered by Council. The contract amounts awarded were higher than the individual tenders approved by Council. While the total amount spent on paving was within the overall budget approved by Council, a concern is that the approvals for individual contract awards were not appropriately obtained.

126. According to the City’s procurement policies:

“For purchases where the total cost is in excess of \$25,000.00, Public Tenders shall be called unless it is deemed to be in the best interest of the City to do otherwise.”

127. We understand that awarded tenders are to be approved by Council. Hence, the expanded scope of the tender awarded for paving in ██████ should have been subject to a separate tender and/or subject to approval by Council. Neither appears to have occurred.

128. The process for identifying and prioritizing paving projects for the City is managed by staff. Streets are assessed and rated according to specified criteria. Paving projects are selected according to the assessed conditions of the road, prioritizing those in the worst condition or projects that should be synchronized with other public works projects (e.g., underground repairs or installations).

129. While Council provides financial and governance oversight, the selection and prioritization of roads to be paved is the responsibility of staff.

G.15.3 Recommendation

130. Stated capital expenditure and procurement policies should be followed, including requirements to tender or seek re-approval of contracts by Council in the event of material changes in circumstances or errors in the procurement process.

G.16 COMPLAINT #16 - ADDITIONAL PROCUREMENT ISSUES

G.16.1 Issue

131. According to the Complaint:

"There are also some procurement issues in Water and Sewer related to engineering services which I believe should have gone to tender but did not. In the City, the inspection of the various parkades was sole sourced and did not go to Council. I am also concerned that capital costs related the upgrading of Council chambers may be sole sourced by ██████ using a Halifax based firm which is not consistent with City policy. Communications staff expressed concern over this item. It is my opinion that such actions ██████ and raises concern over compliance with the MGA."

G.16.2 Observations

132. The following services fall within this complaint:

- a. Engineering services referred to in this complaint relate to an engineering consulting firm providing project oversight for four Clean Water and Wastewater Fund ("CWWF") capital projects that occurred in ██████.
- b. Parkades inspection services referred to in this complaint relate to ██████ for the inspection of three parkades.
- c. Upgrades to Council Chambers referred to in this allegation relate to ██████ providing Council Chamber Technology Upgrades, which occurred in ██████.⁵

133. According to the City's procurement policy:

"Whenever possible and practical, goods and services with a total cost in excess of \$4,000.00 and less than \$25,000.00 shall be acquired by way of a minimum of three competitive bids. Public Tenders may be called for purchases under \$25,000.00 if it is deemed in the best interest of the City.

For purchases where the total cost is in excess of \$25,000.00, Public Tenders shall be called unless it is deemed to be in the best interest of the City to do otherwise."

Engineering Services

134. We confirm that the engineering services contract for CWWF projects was not tendered but rather was sole sourced. The vendor for the work was ██████.

135. A memorandum was written from ██████ requesting approval for ██████ to continue providing project oversight services. The requested continuation related to four CWWF capital projects at an estimated cost of \$15,000 per project, totaling

⁵ We understand that there were discussions prior to ██████ regarding Council Chamber Upgrades. However, the work was not completed until ██████. We did not find references in meeting minutes regarding Council Chamber Upgrades prior to ██████. We have assumed that the technology upgrades are the subject of the Complaint.

\$60,000. [REDACTED] approved the request, directing that a purchase order be created in the amount of \$60,000.

136. The memorandum outlines [REDACTED] experience and qualifications, and states that *"it would be a challenge for any other firm to meet all of these criteria."*
137. We did not find a motion by Council approving the contract(s) with [REDACTED].
138. Although each project cost for management oversight falls below the tender requirement threshold, a minimum of three quotes were required as per the procurement policy and the aggregate of the projects was above \$25k. As such, public tenders would be required unless the "best interest" exception is met. We did not identify an explicit assessment of such exception in the records.
139. There is an apparent breach in the Procurement Policy for the approval of the engineering service for the CWWF capital projects.

Parkade Inspection

140. We understand that the parkades inspection contract was presented to the Committee of the Whole on [REDACTED]. The committee was advised that the vendor responsible for maintaining the parkades at that time had, at the request of the City, identified professionals possessing the requisite expertise to provide inspection services. The vendor obtained a proposal from [REDACTED], based in [REDACTED], to provide consulting engineering services. The vendor also determined that there were no Atlantic-based companies with the required expertise to conduct the work.
141. We confirm that Council approved a contract for parkades inspection by [REDACTED] on [REDACTED].

Council Chamber Technology Upgrades

142. We confirm that the upgrades to the Council Chambers was not sole sourced and that a public tender was issued, which closed on [REDACTED].
143. According to the meeting minutes on this matter, there was no interest from local vendors to provide the required services to the City.
144. The City received three bids in response to the tender, none of which were local to the City. Council awarded the contract to [REDACTED], the highest scorer, who also presented the lowest cost, on [REDACTED].

G.16.3 BDO Recommendation

145. Our recommendations in respect of the procurement process follow:

- a. Enforce bylaws and policies for required tendering and approvals.
- b. If exceptions are required, document the reasons and approvals accordingly.
- c. Make clear the distinction between exceptions in requirements for tendering and requirements for expenditure approvals.

G.17 COMPLAINT #17 -**G.17.1 Issue**

146. According to the Complaint:

" - there is a potential risk posed by the various arrangements related to the and . I've been advised that the naming rights to and related revenue have been given to as well as various revenue streams related to . The naming rights alone represent a significant revenue stream to the City. While the management agreement with allows this jointly controlled corporation authority over operations, is owned by the City. I would suggest that the revenue related to the naming rights be recorded by the City and any additional amounts provided to be recorded as grants. This would allow for transparency and residents would be aware of the amount of taxpayer money provided to . It was noted that operating agreements with do not discuss revenues related to naming rights or ."

G.17.2 Observations

147. We understand that the is owned by the City. Since October 1998, the facility has been jointly managed by the City and the government of PEI through . The arrangement is detailed in a Joint Management Agreement, dated ("Joint Management Agreement").

148. The Joint Management Agreement does not address the ownership of or accounting for revenues from naming rights or . However, according to the minutes of a Council meeting held on questions were raised regarding the value of , naming and . Council was advised that these items were part of an agreement between and . The agreement was not provided to the City.

149. It was later confirmed during a Council meeting on , that the agreement gave to .

150. In addition, during a Council meeting on :

"Mayor Brown noted that during the last meeting it was noted that receive the sales from , and questioned what payment is to the . The EDO explained that have a contract with and it is not impacted by the City and that the City does not have access to those details other than own the and the receives 10% of sales, own the naming rights of the venue and receives 10% of those revenues."

151. No assets or revenues in respect of naming rights or from are recorded in the City's accounts.

G.17.3 Recommendation

152. Our recommendations in respect of the procurement process follow:

- a. Economic resources of the City should be appropriately identified and managed, including decisions to assign rights to those resources to other parties.
- b. The ownership of the naming rights and [REDACTED], among other economic assets, relating to the [REDACTED] should be confirmed by the City.

G.18 COMPLAINT #18 - USE OF LIMITED PURCHASE ORDERS

153. According to the Complaint:

"There is a weakness in internal controls for the City. A review is needed to fully identify the primary internal control weaknesses and education is also needed. Several internal controls issues have been brought to the attention of [REDACTED] and no action has taken place in fact things are getting worse. For example, [REDACTED] were the driving force behind the increase in the LPO limit from \$1,500 to \$4,000. This change was approved by the Finance Audit and Tendering Committee against the advice and recommendation of Finance Staff and [REDACTED] as it represented a significant weakening in internal controls. As a result, each LPO book has spending authority of \$100,000. Finance staff also objected to the number of books that are in the control of departmental staff at any given time. In particular, Public works has had over a dozen books in their possession and in use. Thereby making it difficult to monitor and control spending in that department."

G.18.1 Observations

154. Limited purchase orders ("LPO") are intended to be used for small dollar value, expedited purchases.
155. The LPO spending limit was increased from \$1,500 to \$4,000 with the approval of Council during a meeting held on August 13, 2018.
156. We understand that "LPO books" contain 25 LPO forms with a limit of \$4,000 per LPO. As such each LPO book contains a total spending authority of \$100,000 (increased from a total spending limit of \$37,500 under the previous LPO limit of \$1,500).
157. Based upon discussions with staff, internal controls were in place to manage the use of LPO. Such controls included a limit on the number of LPO books in circulation, sign-off with the finance department to access LPO books and subsequent review of LPO expenditures.
158. As of April 2020, the City has changed its PO system to Fraxion. As such, the LPO books are no longer in use.

G.18.2 Recommendation

159. Although the LPO books are no longer in used, the underlying control risks remains with respect to expedited low dollar expenditures. The City should consider conducting periodic reviews of low dollar expenditures made via Fraxion to ensure compliance with procurement policies.

H. RISK OF POTENTIAL FRAUD ARISING FROM MATTERS IDENTIFIED IN THE COMPLAINT

160. We have not identified instances of apparent fraud upon the City. However, we have observed deficiencies in the application and enforcement of internal controls, including in regard to the management of electronic devices, travel allowances and expense reimbursements, agreements in respect to access to City resources, capital expenditures and so forth.
161. In our opinion, a risk of fraud exists as a result of the failure to comply with internal controls, or efforts to bypass internal controls.
162. We recommend that the City undertake a comprehensive review of its internal controls. Such review should identify and prioritize internal controls over its operations, ensure that its policies and procedures are appropriate and monitor compliance on an ongoing basis.
163. An important element of an effective internal control system is the education and training of staff. An understanding of internal control objectives can facilitate compliance.
164. In addition, the City should review the current procurement, expense, capital policies, as recommended in the relevant sections of this Report.

I. INDEPENDENCE

165. This Report has been prepared by BDO Canada LLP who have maintained independence and objectivity.
166. The professionals assigned to the preparation and completion of this Report confirm that they do not have any present or contemplated relationship with the City and/or any person related to the City.
167. The professionals assigned to the preparation and completion of this Report confirm that, to the best of their knowledge, they are not subject to any situation where a conflict of interest could arise and lead them to doubt their independence and objectivity.
168. Our fees were not contingent upon our conclusion, our findings or any other event.

J. LIMITATIONS

169. This Report is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose other than that outlined above without our written permission in each specific instance. We do not assume any responsibility or liability for losses occasioned to the City or to other third parties as a result of the circulation, publication, reproduction or use of this Report contrary to the provisions set out herein.
170. We believe that our Report must be considered as a whole and that selecting portions of our analysis and of the factors considered by us, without considering all factors and analyses together, could create a misleading view of the process underlying this Report. The preparation of this Report is a complex process and is not necessarily susceptible to partial analysis or summary description. Any attempt to do so could lead to undue emphasis on any particular factor or analysis.
171. We reserve the right, but will be under no obligation, to review and/or revise any and all assumptions and/or calculations included or referred to in this Report and, if we consider it necessary, to revise our calculations in light of any information that becomes known to us subsequent to the date of this Report.

Respectfully submitted,

BDO Canada LLP

BDO Canada LLP

Alan Mak, FCPA, FCA, CBV, FCPA (Hong Kong), CGMA, CFE, CFF, ICD.D
Partner, National Practice Leader - Forensic Disputes & Investigations
Financial Advisory Services

Appendix - Scope of Review

Documents:

- a) MGA, CAMA, Policies, bylaws, other Acts;
- b) Committee and Council meeting minutes and resolutions;
- c) Complaint and follow-up letters and correspondences;
- d) Financial records (general ledger, capital budget workbooks, financial statements, budget reports, etc.);
- e) Documents for capital projects in relation to the Complaint, including but not limited to invoices, request for proposal, progress claims, etc.;
- f) Various agreements in relation to the Complaint;
- g) Management letters prepared by the external auditors;
- h) Documents in relation to HST issue including but not limited to [REDACTED] correspondences, CRA rulings, etc.;
- i) Documents in relation to expense reimbursement including but not limited to, copy of invoices, reimbursement forms, etc.

Interviews:

- a) [REDACTED]
- b) [REDACTED]
- c) [REDACTED]
- d) [REDACTED]
- e) [REDACTED]
- f) [REDACTED]
- g) [REDACTED]
- h) [REDACTED]
- i) [REDACTED]
- j) [REDACTED]
- k) [REDACTED]
- l) [REDACTED]

- m) [REDACTED]
- n) [REDACTED]
- o) [REDACTED]
- p) [REDACTED]
- q) [REDACTED]
- r) [REDACTED]
- s) [REDACTED]
- t) [REDACTED]
- u) [REDACTED]
- v) [REDACTED] and
- w) [REDACTED]