



**OFFICE OF THE OMBUDSMAN
Final Report**

**Municipality of the County of Richmond
Department of Municipal Affairs**

File Number: 61467

November 2016

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Contents

- I - Consultative Process 1
- II - Overview 3
- III – Complaint Summary..... 3
- IV – Own-Motion Investigation..... 4
- V – Analysis 6
 - Travel Approval Process 6
 - Budget..... 9
 - Expense Claims..... 10
 - Mileage Reimbursement 12
 - Monthly Travel Allowances 13
 - Policy and Code of Conduct 13
 - Monitoring..... 15
 - Cheque Approval..... 16
 - Per Diems 16
 - Corporate Credit Card 18
 - Political Contributions 23
 - Audit Process..... 23
 - Municipal Affairs 27
- VI - Conclusion 30
- VII – Recommendations 33
 - Municipality of the County of Richmond 34
 - Department of Municipal Affairs..... 34

I - Consultative Process

The consultative process provides an opportunity for responding parties to address potential factual errors, relevant omissions, and provide any new and substantive information prior to the issuing of a final report.

On September 29, 2016 the Office of the Ombudsman issued a Consultative Report to the Municipality of the County of Richmond and the Department of Municipal Affairs, requesting feedback and response by October 28, 2016. This Office received a number of responses, all of which have been thoroughly reviewed and considered in the final disposition and reporting of this matter.

A factual error was identified in the Consultative Report and it has been corrected. It was stated at page 19 (now page 21) that “the CAO was accompanied by the Director of Recreation (by name).” The correction now reflects that the CAO was accompanied by the “former Director of Tourism and Economic Development (by name).”

Contrary to section 4(2)(e) of the Freedom of Information and Protection of Privacy Act, a copy of the Consultative Report was disclosed without the permission of the Ombudsman. This resulted in extensive media coverage and public interest in the matter before and after the October 15, 2016 Municipal Elections.

One of the preliminary recommendations in the Consultative Report was the Department of Municipal Affairs “engage an independent forensic examination of the financial records of the Municipality of the County of Richmond covering the period January 1, 2010 to December 31, 2015.”

Shortly following the issuing of the Consultative Report, the accounting firm of Grant Thornton released the results of a forensic audit it had conducted at the request of Richmond Council. The Grant Thornton review, which was publicly reported on, covered a longer time-frame than the investigation by this Office. However, the findings of both were similar in their general thrust and details, and identified similar areas of concern. Further, the RCMP subsequently commenced an investigation under the Criminal Code, and Elections Nova Scotia an investigation into specific spending decisions under the Elections Act.

In light of the extensive and ongoing scrutiny of the Municipality’s expense related activities, the Office of the Ombudsman is satisfied that the purpose of its preliminary recommendation for a forensic audit has been met. That recommendation is not included in the final report. The Department of Municipal Affairs encouraged this decision, and its response on the matter is acknowledged.

The remaining seven preliminary recommendations contained in the Consultative Report are the Ombudsman’s final recommendations in this investigation.

The newly-elected Warden of the Municipality of the County of Richmond has informed this Office that Council accepts all the recommendations related to the Municipality, and

has assured co-operation in the monitoring of their implementation. The Warden further expressed a personal determination to ensure that reforms will meet the recommendations.

The Department of Municipal Affairs has expressed general acceptance of the recommendations pertaining to the Department, and this Office will monitor progress and implementation of those recommendations. In addition, the Department in its response wanted to clarify that it does not support the practice of “double dipping” and noted that officials had communicated its position to the Richmond Council during a meeting on November 10, 2015.

The Office of the Ombudsman will request quarterly updates from both the Municipality and the Department of Municipal Affairs outlining their efforts to implement the recommendations pertaining to each entity.

Most of the responses and feedback received to the Consultative Report acknowledged the need for improvements in policies and practices within the Municipality regarding the expenditure of public money.

Two responses observed that the Consultative Report failed to appreciate and acknowledge either the political context in which the Richmond Municipal Government operated, or the Municipality’s development, achievements and successes. Those responses highlighted what can be described as an intense division and a political rift among Councillors that resulted in part from a past boundary review. It was also noted that Council was engaged in a related internal dispute about reduction of its size. Those dynamics were said to have impacted the environment in which the Ombudsman review took place and impeded Council efforts to address problems brought to its attention.

Throughout the investigation, Ombudsman Representatives were cognizant of the internal divisions outlined above within the Municipal Government. However, all Councillors and key administrators were interviewed at length, and the expectation for interviewees was to be truthful and circumspect in their comments.

With respect to the Municipality’s achievements, particularly in economic development, the Office of the Ombudsman can neither endorse nor deny them. They are not matters the Office is mandated to review. As with all investigations under the Ombudsman Act, the focus of this investigation was the administration and the appropriate and fair application of provincial and municipal laws, regulations and policies.

With the adjustments and acknowledgements noted, this section is added to the Consultative Report, and together the documents constitute the final disposition and Final Report of the Office of the Ombudsman’s investigation.

II - Overview

The following Final Report addresses the practices of elected officials and staff of the Municipality of the County of Richmond (the Municipality) involving the expenditure of public funds in relation to travel and related activities. It also speaks to the existence, complexity, and effectiveness of provincial and municipal laws regulations, and policies that apply to spending at the municipal level.

The own-motion investigation led to several overarching conclusions.

Many discretionary spending practices and decisions during the period under review collided with existing law, policies, or codes of conduct. There were instances of existing policies being followed, but in ways that invited questions about the value of the policies themselves. Certain spending practices reflected ambiguous or inconsistent policies. Others reflected random rules seemingly fashioned on the spot, handed down as customary, and justified as traditional or “the way it has always been done.”

Municipalities in Nova Scotia operate under a comprehensive provincial statute, the Municipal Government Act (MGA). The role and responsibility of the Department of Municipal Affairs in the matters under review was also examined.

III – Complaint Summary

In January of 2016 the Office of the Ombudsman was contacted by residents of the Municipality of the County of Richmond who expressed concerns about travel expenses and other financial activities of current and former municipal Councillors, and of the current Chief Administrative Officer (CAO).

The concerns were based largely on a report produced in 2015 by the accounting and business advisory firm, Grant Thornton. The Grant Thornton audit specifically examined travel expenses and corporate credit card usage by municipal staff and Councillors. The audit report, commonly referred to as a Management Letter, contained 20 findings and related recommendations that were presented to municipal Council for their review and attention.

Specific concerns reflected in the Management Letter included:

- Lack of detailed receipts in financial files;
- Names of persons in attendance and/or the business purposes of meals not appearing on restaurant receipts;
- Monthly interest charges on corporate credit cards;
- No business purpose noted on hotel room charges;
- Miscellaneous charges with no explanation or business purpose noted;

- Valet parking charges;
- Hotel stay on one corporate credit card and “cash bar” on another for same stay;
- A flight change charge for the spouse of a staff member;
- Airline seat fees for “economy plus” upgrades or “preferred advanced” selections on flights;
- Nova Scotia Liquor Corporation (NSLC) charges without detailed receipts or purpose;
- Expense reports missing critical details such as dates and locations;
- Per diem meals claimed where meals provided;
- Per diem meals claimed in addition to meals being paid for on a corporate credit card;
- Expenses not submitted in a timely manner;
- Expenses claimed for attendance or travel to a partisan political event.

Based on the list of concerns identified in the Management Letter, interviews with complainants, and a review of documents, Ombudsman Representatives identified a number of similar activities and categories of expenditures that warranted a more comprehensive examination. Those included:

- Travel and conference allowances and budgets;
- Travel and conference expenses and claims;
- Councillors and municipal staff remuneration and benefits;
- The use of corporate credit cards.

Complainants who contacted the Office initially characterized their concerns as a “wrongdoing” under the Public Interest Disclosure of Wrongdoing Act (PIDWA). The Office of the Ombudsman is responsible for investigations under the PIDWA. However, the PIDWA applies to Provincial Government departments, agencies, commissions, and boards. It does not apply to municipalities. As a result, this investigation was conducted under the Ombudsman Act, as a discretionary or “own motion” investigation, pursuant to Section 11(1) of the Act.

In keeping with Section 15 of the Ombudsman Act, the Chief Administrative Officer of the Municipality of the County of Richmond, as well as all Richmond Councillors, were notified of the investigation. The Department of Municipal Affairs was also notified.

IV – Own-Motion Investigation

The own-motion investigation was initially informed by information provided by residents of the Municipality and the Management Letter from Grant Thornton. Guided by the categories of expenditures and related activities listed above, the following documents were examined in detail by Ombudsman Representatives:

- Financial records pertaining to each former and current Councillor, and the CAO for a three year period from January 1, 2012 to December 31, 2014. Specifically:
 - Municipality of the County of Richmond corporate credit card statements, including receipts and any relevant documentation related to charges and payments;
 - Travel and expense reimbursement claims, available receipts and approvals for all types of travel, including meetings, conferences, and training events;
 - Compensation costs, including salary and/or cash advances, or pre-payments; and,
 - Budgetary information related to travel and conferences.
- The Municipal Government Act;
- The Municipality's Code of Conduct for Elected Municipal Officials;
- Grant Thornton Internal Control Document (Management Letter);
- Municipality of the County of Richmond Employee Policy Manual;
- Municipality of the County of Richmond Travel Expense Policy;
- Personnel Policy Manual for the Municipality of the County of Richmond;
- The Financial Reporting and Accounting Manual of the Department of Municipal Affairs.

Minutes of Council meetings and media reports were reviewed. In addition, written correspondence, emails, and other records and information provided by members of the community and the Municipality were considered.

Ombudsman Representatives conducted interviews with 27 individuals. Those included officials from the Municipality, members of the public directly and indirectly involved in bringing the matter to the attention of the Office, and officials with the Department of Municipal Affairs. The information provided by those interviewed offered perspective on the issues being examined.

Throughout the course of the investigation matters regarding workplace safety were raised. They included allegations of substance use, harassment, bullying, and aggressive behaviour by senior staff towards direct reports. While the Municipality has an Occupational Health and Safety Committee, it was alleged to be inactive.

All workplace safety information was referred to the Department of Labour and Advanced Education and was not part of this investigation, or Final Report.

Various elements of the investigation overlap in ways that will appear obvious or clearly identified in this report. For organizational convenience they are described and reported under separate headings.

V – Analysis

Travel Approval Process

The Municipal Government Act specifically authorizes municipal councils to spend money, including for travel and conferences. However, there is a requirement under the MGA that expenses be reasonable and permission to spend be obtained in advance. Section 65, The Power to Expend Money, reads as follows:

The council may expend money required by the municipality for:

- (r) salaries, remuneration and expenses of the mayor or warden, Councillors, officers and employees of the municipality;
- (s) the reasonable expenses incurred by the mayor or warden or a Councillor for attendance at meetings and conferences, if the permission of the council is obtained prior to the meeting or conference or the attendance is in accordance with a policy of the council.

Richmond Councillors interviewed indicated approval for their travel is provided by the Warden, which is consistent with the Municipality of the County of Richmond’s “Travel Expense Policy,” effective September 10, 2012, which states:

E. Out of County Travel:

- (7) The Warden is authorized to make decisions on who will represent Municipal Council on in province and out of province business.

Although the policy is clear as to authority, it is silent on process. When interviewed, Councillors described the travel approval process inconsistently, some reporting that they use email, and others indicating they ask for and receive verbal approval. One Councillor believed the Chief Administrative Officer (CAO) made decisions regarding Council travel, but believed such decisions should be made by the Warden.

There is no official record of travel approvals.

The majority of Councillors interviewed indicated the Warden and CAO approve their (Warden and CAO’s) own travel and a number of Councillors claimed, “they do whatever they want.” Such practice is not in accordance with the MGA. Travel approval must come from Council and be in keeping with policy. The current Director of Finance (DOF), the former Warden, and the CAO all indicated the CAO has authority to approve the CAO’s travel.

Two Councillors stated that travel by the CAO should be approved by Council. Another Councillor indicated this was particularly important for out of county travel. Two others said procedures exist already by which the Warden approves travel for the CAO. The current Warden, however, tried unsuccessfully to exert control over the CAO's travel, and that the Warden's travel is approved by the CAO.

Examination of corporate credit card receipts and travel claims for the CAO revealed significant spending on food and alcohol for others. The "others" were not always identified, and often when they were identified, tended to be other Richmond Councillors, municipal staff, or individuals with whom the Municipality does business or wishes to do business, including provincial public servants.

During the interview process, there was disagreement among Councillors about the value of the CAO and former Warden's travel and the costs. Some stated that the travel, as well as "treating other officials to meals and drinks," is a part of doing business and has had "fruitful results" in terms of funding for the Municipality. Others suggested the travel has been "excessive" and "driven by self-interest." However, those Councillors who regard the expenditures as the "cost of doing business," acknowledged a need for tighter controls.

Several Councillors suggested there should be greater scrutiny of the number of people who attend conferences on behalf of the Municipality.

The CAO contended "I can't do my job in Arichat" without the amount of travel undertaken. The CAO explained having being hired with the understanding that (the CAO) is "very well connected bureaucratically," and with the expectation of nurturing and fostering relationships.

Some Councillors stated they were unaware of the level of travel expenses incurred by the former Warden and current CAO until it was revealed on social media. Another Councillor mentioned "learning where (the) Warden is" from people at the local coffee shop. This Councillor also did not understand the rationale for some expenditures, such as participation in trade shows, when there are no active projects in the area.

Ombudsman Representatives received scores of documents from an individual who in turn received them as part of a Freedom of Information and Protection of Privacy (FOIPOP) request. Many additional documents were supplied by the Municipality at the request of this Office. Overall, the documents tended to provide bottom line costs for travel and other expenses, but little information as to why the travel was taken, how and why certain individuals were selected to travel, or about reports or briefings to Council when travelers returned. Although when interviewed, some Councillors described a previous practice where conference attendees would report back to the Council on what was accomplished.

In a letter dated January 15, 2016, in response to a FOIPOP request by a citizen, the CAO indicated it is not the practice of the Municipality to record or retain records (dates, reasons, purpose, reports, and outcomes) of meetings, conferences, summits, or events attended by the CAO in the course of their duties. The letter also notes it is not the practice of the Municipality to record overtime incurred by the CAO or time taken in lieu of overtime payment.

While some Councillors believe the Warden should approve travel for the CAO, there is no evidence this happened during the period under review. Other Councillors reported a previous process in which the CAO obtained permission from Council for travel, especially when it was outside the county.

A desire was expressed by some Councillors for a return to an approval process for travel and expenses, and for a requirement to report back to Council on activities.

The policy is unclear as to whether the requirement applies to out of county, or out of province travel, or both. The fact that such reporting no longer occurs appears to be a violation of the Municipality's existing Travel Expense Policy, at least for out of province travel. The policy reads:

E. Out of County Travel:

8(ii) The municipal representatives shall report to Council or Committee of the Whole regarding the results of the out of province travel.

There was a suggestion by the CAO that the Municipality's travel policies do not apply to the CAO. The CAO claimed the CAO's position is not an employee position, and the CAO is not a Councillor.

The CAO described the position as a statutory employee, stating that the CAO is intended to be the overseer of employee adherence to the Municipality's policies. But in the CAO's view those same policies were not meant to apply to the CAO position.

Section 8 of the Municipality's Employee Policy Manual, however, states "this policy applies to all County of Richmond employees."

Interviews with Councillors reflected their understanding that the CAO was indeed an "employee of Richmond County" and therefore governed by the provisions of the Employee Policy Manual.

The role of CAO is described as the head of the administrative branch of municipal government. The scope of the CAO position, its powers, duties, and responsibilities, are set out in the MGA.

Chief administrative officer:

28(1) Subject to subsection (2), the council may employ a person to be the chief administrative officer for the municipality.

(2) The council of a regional municipality shall employ a person to be the chief administrative officer for the regional municipality

Council and chief administrative officer relationship:

30(1) The chief administrative officer is the head of the administrative branch of the government of the municipality and is responsible to the council for the proper administration of the affairs of the municipality in accordance with the by-laws of the municipality and the policies adopted by the council.

The CAO has the power to spend money on behalf of the municipality, subject to the policies of council:

Responsibilities of the chief administrative officer:

(2) The chief administrative officer may

(d) subject to policies adopted by the council

(i) make or authorize expenditures, and enter into contracts on behalf of the municipality, for anything required for the municipality where the amount of the expenditure is budgeted or within the amount determined by the council by policy, and may delegate this authority to employees of the municipality.

Budget

When interviewed, the former Chief Financial Officer (CFO) for the Municipality raised concerns regarding the way the budget is determined, suggesting the budget was based on what was done the previous year, rather than an evaluation of priorities or of what might be appropriate. The former CFO stated if amounts budgeted were surpassed, the amounts would be increased, and noted there was little sign of fiscal restraint or efforts to reduce annual spending.

According to the former CFO, concerns referenced by Councillors regarding the budget centered on whether the “tax rate within the Municipality was going to increase or not.” The former CFO indicated Council was generally insistent that any surplus financial needs be met from the Municipality’s reserve fund. The former CFO believed this approach would not bode well for the long-term fiscal stability of the Municipality to continue to take from a gradually depleting emergency reserve fund. Such differences demonstrate conflicting interests between elected officials and administrative staff.

The former CFO stated travel amounts for the former Warden and the current CAO were increased from approximately \$15,000 and \$10,000 respectively in 2012, to the range of \$50,000 each by the end of 2014.

The current DOF (the Chief Financial Officer title was changed to Director of Finance) reported the projected amounts for the former Warden were budgeted as \$15,000 per year for 2013 and 2014, with the actual spending for the former Warden at \$12,128 in 2013, and \$45,744 in 2014.

As for the CAO, the budgeted amounts reported were \$27,000 for 2013, and \$30,000 for 2014. The estimated amounts provided by the DOF for the CAO travel were \$34,100 in 2013 and \$43,300 in 2014. The actual spending totals for the CAO could not be determined. The explanation provided to Ombudsman Representatives was travel expenses were “lumped into full time salaries account with a lot of other stuff.” The budgeted amounts for travel in 2015 were \$35,000 for the Warden and \$45,000 for the CAO.

The former CFO indicated that during the period under investigation, the former Warden considered the position of Warden to be the head of governance in Richmond County, and the CAO was the head of administration. And the two roles, working together, possessed all the authority required to do what they wanted. The former CFO described the current CAO’s and former Warden’s travel expenditures as the “perfect storm” where both authorities combined their positions to create a “blatant spirit of collusion” when it came to the “degree and scope of their excessive expenditures and travel.”

Two interviewees suggested Councillors may be making budget decisions they do not necessarily understand. The current DOF believes it is the responsibility of the CAO and the DOF to educate Council regarding budgeting, and the DOF would welcome an invitation by the CAO to educate Council in this regard.

Expense Claims

The current Director of Finance (DOF) acknowledged responsibility for approving travel claims, but was not in a position to verify information provided in travel claims, noting expense claims are signed by superiors and the DOF pays them.

The DOF lacked control of the spending of senior staff and Councillors when they entertained others, stating receipts for the CAO are self-approved. The DOF approaches expenses from a “calculation” standpoint rather than evaluating the legitimacy of expenses, and stated there is no policy dictating levels of spending. The DOF acknowledged being aware of allegations of questionable meal claims and alcohol charges. The DOF also believes detailed receipts should be provided when submitting expense claims. Of concern, however, may be the potentially delicate role of municipal staff questioning the legitimacy of expenses for superiors.

The DOF explained that the Warden and CAO sign and approve travel claims for Councillors, and the CAO signs claims submitted by the Warden. The DOF stated that apart from the DOF initialing the expense claims submitted by the CAO, there is no approval or other signature. The DOF stated it is the Warden's responsibility to approve the CAO's travel and expenses, but this is not occurring. The DFO also suggested that the Warden ought to review, approve, and sign the CAO's expense claims prior to being submitted to Finance.

The CAO reported that the CAO and the Warden sign their own expense claims, and the claims are then forwarded to Finance for processing. The CAO stated detailed receipts are not required as part of the expense claim process and it is "the way it's always been."

The CAO stated no financial claim issues were brought to the CAO's personal attention.

The former Warden similarly suggested detailed receipts were never required as part of the expense claim process and "no one told me it was necessary." The corporate credit card amount, date of the expenditure, and location, were all that was required and it was "always like that."

In contrast, the former CFO indicated the lack of receipts and administrative "slippage" started when the current CAO began their duties in 2010. The former CFO indicated the relationship with the CAO became strained from 2012 to 2014 when the CFO sought clarification and asked for receipts related to corporate credit card statements and travel claims involving the CAO and former Warden. The former CFO described being in a difficult position, given the powers of the CAO under the MGA, and not having the authority to control the spending.

The Accounts Payable Clerk described reviewing and paying all expense claims and corporate credit card statements within the Municipality. The clerk acknowledged concerns regarding the financial invoices submitted by the CAO, and recalled questioning invoices pertaining to the CAO on numerous occasions. This created conflict that ended in a directive from the CAO to "just pay it," and the clerk was told that the CAO's name and signature on the bottom of the expense claim were all that should concern the clerk. The clerk also stated that expense claims submitted by the CAO would often have the top slip of the corporate credit card invoice, indicating the amount paid, but not the detailed portion of the bill. The clerk indicated the former Warden's financial record paralleled that of the current CAO.

The former CFO stated that the former Warden would review and initial all invoices and "was very much aware" of the lack of detailed receipts for travel and corporate credit card claims, particularly those regarding the CAO's expenses. According to the former CFO, expense materials became so voluminous that at the end of each month the financial

department became a “three ring circus” trying to catch up with and match receipts, which were not always available, with the actual travel expenditures. As the volume of transactions increased, the provision of detailed receipts by claimants (the former Warden and the current CAO) diminished. This, the former CFO added, served to “mask or hide the number of drinks at restaurants as well as the number of persons being served.”

Mileage Reimbursement

Those interviewed generally indicated expense claims for kilometers are checked by Finance personnel to verify accuracy of distances travelled.

Allegations were made that some Councillors claimed kilometers for reimbursement when they travelled as passengers in a vehicle whose operator also claimed for the same kilometers. The DOF stated they were not in a position to verify whether information in travel claims was accurately provided.

The Municipality has policy for mileage reimbursement:

A. Travel Expenses:

(4) Councillors and members at large, appointed to a Committee of Council will be eligible to be paid mileage expenses.

E. Out of County Travel:

Councillors travelling out of the county on municipal business will be compensated as follows:

(1) Councillors travelling out of county on municipal business will be paid for actual miles travelled from their residence to the place of accommodation, at the average of the federal and provincial mileage rates, for in-province travel, and if not travelling by car, then compensation will be for the actual cost of return ticket by most appropriate means.

The policy does not require that a claimant be the driver of the vehicle for which mileage is claimed. The policy also does not authorize, or contemplate, more than one individual claiming the kilometers for the same vehicle for the same trip.

It should be emphasized that while this practice was indicated by several people interviewed, it was not confirmed by documentary evidence, or by discussions with individuals who process travel claims.

The MGA enables municipalities to set their own mileage policies. Mileage reimbursement rates in the Municipality exceed provincial government rates. Under its policy, the Municipality applies an average of provincial and federal rates.

Monthly Travel Allowances

There are currently two employees in the Municipality who receive tax-free travel allowances monthly.

One is the Accounts Payable Clerk in the amount of \$200 per month. This was approved by the CAO in lieu of this employee claiming actual mileage repeatedly each month due to frequent trips to financial banking institutions in Port Hawkesbury and St. Peter's.

The second is received by the CAO in the amount of \$500 monthly, \$6,000 tax-free per annum, and this was approved by Council after the CAO's first year of employment. The explanation for this allowance was that the previous CAO had received it, and it was deemed fair to extend it to the current CAO.

There is no written policy governing the management of the CAO's travel allowance, but Councillors reported it is meant to be in lieu of kilometer claims for travel within the Municipality. There is no accountability or measurement of the value of this arrangement.

A review of the CAO's travel claims reveals that travel to any destination beyond the Municipality includes a claim from the CAO's residence, as opposed to "from the County boundary" as many Councillors understood to be the case. For example, each claim for travel to and from Port Hawkesbury includes a claim of 90 kilometers. Port Hawkesbury is approximately three or four kilometers from the Richmond County boundary. The claim is from the CAO's residence, most of which distance ought to fall under the monthly allowance if that allowance is meant to be in lieu of in-County travel claims. Trips to Halifax and Sydney are claimed in a similar way, with the in-County portions of the trips, in effect, reimbursed twice.

Many Councillors proposed that the Municipality should consider reverting to actual kilometer claims by all, and do away with monthly travel allowances.

Policy and Code of Conduct

The majority of Councillors interviewed indicated their expense claims consist only of per diem and kilometer reimbursements. However, many cited areas for improvement, including policy requirements for detailed receipts, clear dates, times of travel, and no reimbursement for personal expenses. Some Councillors highlighted the purchasing of alcohol and limitations on meal expenditures as areas in need of increased restriction.

Reimbursement of alcohol expenses by Municipality staff and Councillors violates the Municipality's own policy, under which alcohol is not permitted as an authorized expense

for reimbursement. However, there has been disagreement regarding the alcohol policy among some municipal staff and Councillors, and the policy restriction does not appear to have been enforced.

The former CFO indicated the current employee policy review and revision was commissioned by the CAO in 2012 and came into effect March 2013. The former CFO also said Council did not rescind the old policy, suggesting both policies were in use for a period of time and there was some resistance to the new one. The section of the revised policy prohibiting reimbursement for alcohol, valet parking, and laundry allegedly was added to the final policy document by a consultant without the CAO or Council realizing it. The former CFO added there was concern with the final product, indicating that municipal staff who were initially involved in the revision process were not consulted on the final draft.

The Employee Policy Manual for The Municipality of the County of Richmond, as provided for this review, shows November 2012 as the date on its cover page. However, all other pages in the document are dated April 2013. The introductory page of the Manual, dated April 2013, is signed by the current CAO. That page also states the policy applies to all employees.

While the Manual includes a range of topics, there are certain contradictions and ambiguities within it, some of which may have had a bearing on the practices under review.

Following a section in which per diems are authorized as “the maximum per day as set by Council,” there is a reference to Expenses for Meals for Others. The Manual states that “Employees sometimes pay for meals for others. These expenses are only reimbursable when the name(s) of the meal attendees are listed, and the business purpose of the meal is justified. The expenses must be pre-approved by the Director.”

In documentation reviewed by Ombudsman Representatives, there were no records of such expense pre-approvals.

While alcohol is specifically excluded under the revised policy as a reimbursable expense, another section of the policy refers to “Meeting Expenses.” After listing certain recoverable costs such as rental of meeting rooms, it adds the provision that “other actual expenses in connection with professional meetings” may be recovered as well.

Policy ambiguity notwithstanding, the Municipality also maintains its own “Code of Conduct for Elected Municipal Officials.” Like most such codes, the language is general, but is not confusing.

In its statement of purpose, the Municipality's Code is said to have been built on the "core values" of Municipal Council, namely, "honesty, respect, accountability, leadership, integrity, and objectivity."

The Code contains two distinct "General Conduct Standards" that are relevant to this review. Section (a) requires that "Council members will act in good faith at all times, putting public interest above personal interest." Section (c) asserts that "Council members will recognize that the expenditure of municipal funds is a public trust and will endeavor to ensure such funds are expended efficiently, economically, and in the best interest of the Municipality of the County of Richmond."

Monitoring

The Executive Assistant (EA) to the CAO acknowledged that there often were no receipts to accompany the CAO's expense claims, and that the EA's attempts to contact establishments to obtain receipts met with varying degrees of success. The EA explained that corporate credit card statements and expenses were not being forwarded to Finance at the same time. As a result, expenses would be processed for payment, and two weeks later the credit card statement would arrive. This practice made it difficult to identify possible double expenditures of per diems claimed and meals paid for on corporate credit cards.

On a more technical level, municipalities can access advice and guidance in maintaining internal accounting controls from a general application document called The Financial Reporting and Accounting Manual - Department of Municipal Affairs. The Manual is a regulation prescribed under Section 451(1) of the MGA, and is characterized under the MGA as "the system for accounting to be used by municipalities and villages in the Province of Nova Scotia."

Section 3 of the Manual is both prescriptive and specific regarding requirements for staff who monitor municipal expenses:

3.3 Accounting and Reporting Capabilities

(a) The municipal accounting system must make it possible to:

(ii) maintain an adequate system of internal control;

(b) (ii) Internal control is defined as a plan of organization under which employees' duties are so arranged and records and procedures so designed as to make it possible to exercise effective accounting control over assets, liabilities, revenues and expenditures. Under such a system, the work of employees is subdivided so that no single employee performs a complete cycle of operations. Thus, for example, an employee handling

cash would not post the accounts receivable records. Moreover, under such a system, the procedures to be followed are definitively laid down and require proper authorizations by designated officials for all actions to be taken.

Cheque Approval

During the period under review the cheque approval process required that the senior Finance official for the Municipality, the CFO initially and then the DOF when the position title changed, review and code cheques. The signatures of the CAO and CFO/DOF are applied via ink stamps by those individuals. Council would then “approve cheques” monthly after the payments had been issued.

Councillors reported being given a list of cheque numbers and amounts, with no other explanation or information. This was described as a “rubber stamping” process whereby expenditure amounts and cheque numbers were signed off after payment had already been made. Councillors were permitted to ask questions regarding the cheques. However, due to the retroactive approval system, this could happen only after the amounts had already been paid. The former Warden similarly initialed cheques after they were issued. When interviewed, the DOF acknowledged there could have been cheques processed that the CAO did not see.

Ombudsman Representatives were advised this process has since been discontinued at the encouragement of the Department of Municipal Affairs.

Per Diems

All Councillors interviewed indicated that claiming a per diem of \$85 a day (\$75 for meals plus \$10 for miscellaneous expenses) while traveling on municipal business was, and continues to be, a generally accepted practice.

The practice of claiming per diems is the customary process of reimbursement. Of concern is another generally accepted practice in the Municipality, of per diems being claimed even when meals are provided by an event attended, or when meals are charged, and reimbursed for, on the corporate credit card.

In the realm of spending accountability, this practice is commonly known as “double-dipping.” No policies authorize double-dipping. It is commonly understood as forbidden.

The prevalence of the practice in the Municipality was rationalized by those interviewed in various ways. A majority of Councillors indicated that “double-dipping” is the “way it has always been done.” Some interviewees literally described it as a way to compensate for “the inconvenience of being on the road” or a means of replacing income for time taken from one’s primary employment.

The CAO acknowledged it is a long-accepted practice and is the practice of the vast majority of Councillors and employees. The former CFO, however, stated this practice became the “accepted standard” with the arrival of the current CAO, and became considered an “in travel-status” fee as opposed to travel reimbursement broken down by meals. According to the former CFO, the former Warden, Council, and CAO all were in favor of full per-diem claims regardless of whether meals were provided or charged on a corporate credit card, and Finance personnel had no option but to pay as directed.

The current DOF indicated per diems have been a controversial issue since the DOF started with the Municipality in June of 2014, with some people saying it is wrong, and some arguing it is a “perk” of the position.

The prevalent view among those interviewed, that the practice is both common and acceptable, conflicts with the Municipality’s policy which describes the per diem as compensation for meals while in travel status.

The Municipality of the County of Richmond Travel Expense Policy, effective September 10, 2012 reads as follows:

E. Out of County Travel:

Councillors travelling out of the county on municipal business will be compensated as follows:

(3) Meals will be compensated for at the rate of \$75 per day for a full day out of county travel.

(4) For travel of less than a full day, meals will be compensated for at the rate of \$20 for breakfast, \$25 for lunch, and \$30 for dinner.

(6) Incidental expenses will be reimbursed at the rate of \$10 per day. A \$10.00 miscellaneous expense can be claimed when a full day is spent on/or travelling to/from county business (i.e. drive to and from Halifax the same day).

The Municipality of the County of Richmond Employee Policy Manual refers to the per diem as compensation for daily meals and indicates it is eligible when employees are authorized to travel, when they would be compensated by the amount set by Council.

The only other provision is the “Expenses for Meals for Others” language, under which reimbursement requires names of attendees, justification for the business purpose of the meals, and pre-approval by “the Director,” although which director is not specified.

The current Warden expressed disagreement with the practice, stating not to have personally “double dipped” by claiming per diems when meals are otherwise provided. The Warden also stated it was their understanding that staff and employees are expected to follow provincial travel guidelines. The Warden was the only person interviewed who referred to provincial standards and there is no mention of adherence to provincial standards within existing policy.

Despite widespread acceptance of “double-dipping,” there was discomfort about the practice expressed by some Councillors, and it was noted by the current DOF. In the absence of clear policies, some Councillors have attempted to implement personal practices they believe to be fair.

One example is a Councillor who does not claim a per diem if there is a meal paid for through the registration fee for a conference. The reasoning in such a case is the meal already has been paid for by the Municipality. However, if the meal was sponsored by a company, some Councillors would claim the full per diem because the Municipality did not incur the expense. The ethics of such practice appear to be situational, with the decision resolved by the pocket rather than the principle.

Some Councillors acknowledged the current per diem practice invites abuse. The DOF stated that in the past “everyone claimed per diems even if a meal was provided.” That practice is different from claiming full per diems when meals have been charged on the corporate credit card. The latter appears to have been a more recent issue. The DOF stated corporate credit cards were being used increasingly as travel by the CAO and the former Warden became more frequent, and, in the DOF’s view, excessive.

A few Councillors acknowledged the public has been right to question the practice, which they also noted should be changed and clarified in policy. One Councillor mentioned a previous practice of Councillors being paid a standard \$100 a day for travel in addition to the cost of meals. This Councillor suggested the current “automatic” per diem claim for so-called “in travel-status,” regardless of whether meals are otherwise provided, has served to offset the \$100 “loss.” The same Councillor suggested the extra \$100 was ended at the request of the Department of Municipal Affairs.

Corporate Credit Card

The Municipality has three corporate credit cards, one each for the Warden and the CAO with spending limits of \$10,000, and one office card with a credit limit of \$20,000. There is no internal policy specific to the use of the corporate credit cards but there are references to their use in the Municipality’s Employee Policy Manual. There are also no internal agreements for card holders to sign, and the only limits on spending are the limits set by the card issuing agency.

The majority of Councillors reported they were unaware of corporate credit card expenditures, and had no involvement in viewing or approving such expenses. Some Councillors interviewed believed that corporate credit card costs are “the cost of doing business.” Others asserted that some purchases were for personal benefit.

The DOF described difficulty reviewing corporate credit card statements before they are paid, noting it is challenging for the Municipality’s Finance Department to tell if personal expenses are incurred on the credit cards, and it is necessary to rely on users to reveal it. The DOF stated they were advised that “the person who submits the expenses is accountable for the expenses.”

The review of documentation provided by the Municipality revealed examples of expenses that could be interpreted as more personal than business-related. Some were beyond the scope of legitimacy provided by the Employee Policy Manual.

In the Manual, non-reimbursable expenses include:

- Credit card delinquency fees;
- Frequent Flyer and other similar awards for hotel and car rentals;
- Laundry or valet service for travel of fewer than five days;
- Upgrades, including air, hotel, car rentals;
- Alcohol.

The review by Ombudsman Representatives observed the following types of charges:

- From 2012 to 2014 credit card delinquency fees assessed against the cards used by both the current CAO and the former Warden were recurring and significant in scope. The cause invariably was said to have been “finance awaiting receipts” from card holders. Delays in payments were explained as attempts by the Finance Department to ensure payment corresponded with legitimate expenses incurred.
- Points such as airline reward points were accumulated under all three corporate credit cards (Warden, CAO, DOF) and rolled into one overall accumulation controlled by Finance and the CAO. Accumulated points were used to purchase \$50 gift cards to be handed out by the CAO at employee appreciation dinners held annually. They were not used for travel-related reductions for the Municipality.
- Laundry, dry cleaning, and valet services were evident on credit cards held by the former Warden and current CAO, between 2012 and 2014. The CAO, however, explained a 2013 laundry claim as a mischarge and, in February of 2016, asked the hotel to retract the charge. The CAO did this by sending an e-mail requesting a credit, with the reminder, “...if you check the records I stay there a lot!!” A credit was applied by the hotel to the corporate credit card.

- Valet parking frequently was reflected on the corporate credit cards as a “surcharge to accommodation” that ranged from a \$6.00 fee to \$30.00 per night. Those charges occurred throughout the entire period under review.
- Preferred seating and seat pre-selection fees were also evident on the corporate credit cards of the former Warden and current CAO. On occasions, this expenditure was explained as “requiring larger seats.” On other occasions, the fees were paid with no explanation or documentation on file. While car rentals were not frequent, one example of an upgrade to a luxury vehicle (BMW) by the CAO was found in the files reviewed.
- Alcohol purchases at the Nova Scotia Liquor Corporation were found to be cumulatively significant on both the former Warden and current CAO’s corporate credit cards from 2012 - 2014. There was a general acceptance among Councillors and the CAO of this practice as “the price of doing business.” The degree to which alcohol formed part of the frequent and significantly large restaurant expenditures was difficult to establish due to a lack of detailed receipts. As well, hospitality suites were common place during conferences and it was established that alcohol was retained alcohol in the CAO’s office. Many interviewed stated “drinks” were offered and consumed by some Councillors after Council meetings.
- One notable example of an alcohol expenditure is the purchase for a Volunteer Banquet in April 2012 on the CAO’s corporate credit card for \$1,281.84 at the Nova Scotia Liquor Corporation. Another example is a corporate credit card charge at the Nova Scotia Liquor Corporation in the amount of \$3,659.56 for the “Business Expo at arena” in Port Hawkesbury.

Some Councillors and municipal staff interviewed supported greater restraint on the purchase of alcohol, while indicating that some purchases, such as wine or a drink with meals or receptions, may be within reason.

Generally, and particularly during the 2012 to 2014 fiscal years, the former Warden and current CAO, when in travel status, incurred large restaurant and entertainment expenditures. Often the same people were in attendance, including other municipal and provincial public servants.

Several examples relate to the CAO’s travel to Houston, Texas in May of 2013. While the travel took place in 2013, the summaries were part of a general explanation of corporate credit card charges prepared by the CAO in December of 2015 and January of 2016.

On the CAO’s corporate credit card summary for May 9, 2013 a \$546.18 (\$530.00 U.S.) charge was identified as an expenditure for an evening reception and meal at an

establishment called Entertain. According to the documents the CAO was accompanied by the former Director of Tourism and Economic Development (by name) and “NS delegates.” The receipt also reveals the date and time as May 8, 2013, 11:06 p.m.. The bottom of the receipt appears to have been torn off.

A separate meal claim for \$242.05 U.S. dated May 9, 2013 is explained as an “OTC [Offshore Technology Conference] reception/meal.” However, a review of the corporate credit card receipt shows a claim on May 8, 2013 at 9:14 p.m. for the same amount, \$242.05. Yet another CAO expenditure (with receipt) is noted on the corporate credit card on May 9, 2013 at 7:52 p.m., for \$115.15 U.S. covering a meal at P.F. Chang’s Bistro in Houston.

The records provided also list a claim for a taxi fare of \$35.63 paid May 8, 2013 to D. Houston Inc.. However, the address on the associated receipt is 5647 Westheimer Rd., Houston. The time of day is not legible, and the address is that of Treasures, Houston’s Premier Gentleman’s Club. D. Houston Inc. is the corporate name for Treasures Houston.

As noted, corporate credit card receipt details were generally limited to the place, amount, date, and time. The purposes of such events and the names of people attending were almost always absent.

The CFO reported that as the volume of corporate credit card transactions increased there were fewer detailed receipts.

During the period under review, 2012, 2013 and 2014, the Warden and CAO corporate credit cards were used regularly for meals with staff, Councillors, or both, at restaurants within the Municipality. Frequent lunch claims were incurred in communities such as Arichat, Louisdale, and St. Peter’s. Typical explanations were imprecise, and included “lunch with staff,” “lunch with council member,” “committee meeting,” “working meeting,” and “tourism discussions.”

Gifts for municipal staff also appeared on corporate credit cards, including spa certificates for administrative assistants in April 2012 totaling \$641.70, and flowers on Valentine’s Day in 2013 at \$286.87.

Often, corporate credit card receipts between 2012 and 2014 showed two separate restaurant expenditures on the same evening and on the same credit card, for either the former Warden or current CAO.

Examples include:

- Dec. 12, 2012 - Trapeze Grille, Casino Nova Scotia, 7:20 p.m., \$83.95 (itemized food)

- Dec. 12, 2012 - Casino Nova Scotia, 7:50 p.m., \$96.54 (no details on receipt)
- Oct. 22, 2013 - Old Triangle Irish Ale House, Halifax 8:10 p.m., \$122.87 (no details on receipt)
- Oct. 22, 2013 - Baton Rouge, Halifax, 10:12 p.m., \$188.30 (no details on receipt)
- Apr. 15, 2013 - Ryan Duffy's, Halifax, 7:28 p.m., \$152.09 (no details on receipt)
- Apr. 15, 2013 - Midtown Tavern, Halifax, 11:01 p.m., \$108.50 (no details on receipt)
- Aug. 20, 2014 - Casino Nova Scotia Lounge, 5:___ p.m., (minutes not legible). \$84.89 (no details)
- Aug. 20, 2014 - The Keg, Halifax, 8:44 p.m., \$141.51 (no details on receipt)

As part of the Grant Thornton audit of April 1, 2014 to March 31, 2015, Auditors flagged payment for a rental car in Niagara Falls on June 1, 2014 for the CAO. The CAO and the CAO's spouse allegedly drove to the United States to shop. There was also a charge for a flight change for the CAO's spouse, as they returned to Nova Scotia early. At a Council meeting on January 11, 2016, this was on the agenda and the CAO reported at that meeting that they had "paid back these expenses on January 8, 2016 because they were personal." The CAO has been challenged by some Council members who allege that the payment was not in fact processed until January 13, 2016, after the public assertion by the CAO.

In reviewing the corporate credit card of the CFO, Ombudsman Representatives determined that airline tickets were purchased for the spouses of several Council members and the CAO in March 2014. Those were outside the range of the Grant Thornton 2015 audit which started April 1, 2014. CFO corporate credit card statements reveal that each spouse was purchased an airline ticket in the amount of \$468.99. There was also a \$140 pre-payment on March 13, 2014 to attend a gala dinner at the Niagara Falls conference in April. Ombudsman Representatives were unable to determine whether these expenditures were reimbursed.

On most occasions, airfare, as well as hotels for municipal business and sometimes other costs, were booked by staff and paid for under the CFO's corporate credit card. A review of credit card statements for October and November 2014 revealed considerable expenditures incurred during those months. Specifically:

- Dundee Resort - October 23 and 24, 2014, total of \$6,476.42, of which \$4,154.35 was spent at the adjoining MacRae's Dining Room Food & Beverage;
- Inverary Inn, Baddeck - November 10, 2014, total of \$5,099.14 (one transaction of that total was for \$4,105.04).

There are no explanations of those costs included within the files pertaining to them. On the October 23 and 24, 2014 receipts, there is a series of room payments of \$116.00 each, correlated to names and addresses. The \$4,154.35 cost at the same event is not addressed.

Political Contributions

During the course of this investigation, Ombudsman Representatives were informed that the Municipality reimbursed some Councillors for the cost of participating in a partisan political event.

A municipal re-imbusement to any person for costs associated with a political party fundraising event may be a violation of the Elections Nova Scotia Act.

Section 236, sub-sections 5, 5A, and 9 of the Act read as follows:

(5) No organization shall make a contribution to a registered party, electoral district association, candidate or registered third party.

(5A) No organization shall purchase tickets to, or otherwise pay any amount to participate in, a fundraising event for a registered party, electoral district association, candidate or registered third party

(9) No individual or organization shall reimburse, directly or indirectly, any other individual, including an employee, for a contribution made by the individual or employee.

Ombudsman Representatives were informed that the former Warden sought input from Councillors via e-mail as to their support for participation in a fundraising event, which was a recognition dinner for provincial politicians. While the Warden stated there was unanimous consent, several Councillors indicated during interviews that they did not in fact agree. Those Councillors stated that tickets were provided by the former Warden and they were informed that they could claim the cost of the \$50 ticket price from the Municipality.

A review of all Councillors' financial files found only two Councillors made a claim of \$50 for the ticket. In both these cases, kilometers to and from the event were claimed as well.

Audit Process

All municipalities across the province are audited independently once a year. Each municipality also has an internal audit committee. In Richmond County that committee is comprised of all Council members and meets annually to discuss the results of the independent audit.

The independent audit is not a forensic audit. It focuses on the entity's financial health, the general state of its books, its revenues and its expenses. It does not focus on either the nature or the propriety of its spending.

In 2015, however, the current Warden specifically asked the auditing company, Grant Thornton, to look at a reasonable sampling of travel claims and credit card use within the Municipality, particularly the travel expenditures. This was done in reaction to concerns the Warden had personally noted.

The so-called Management Letter was Grant Thornton's report of its findings, and it raised the issues noted earlier in this report, many of which have been investigated from an administrative fairness perspective by this Office.

In the interim, Council initiated a subsequent audit of its spending and reconciliation process, and the findings of that report are pending.

There are similarities between the findings contained in the Grant Thornton Management Letter and our own. Many of the issues were raised as questions by the auditing firm have been confirmed as findings by this Office.

An emerging concern relates to the level of ongoing scrutiny and oversight required at the municipal level, and the extent to which municipalities can be their own fiscal "watch-dogs."

Several Councillors interviewed articulated the need, based at that time on the Grant Thornton Management Letter, for a more defined internal audit policy in keeping with sound fiscal control. Others, including complainants to this Office, have suggested that annual samples such as those carried out by Grant Thornton in 2015 be part of the audit process annually.

The requirements currently in place are not insignificant. A legitimate debate could focus on the extent to which the requirements already are adequate but simply not adhered to, and the extent to which such requirements may need strengthening.

The current audit requirements flow from Section 44 of the MGA which states:

- (1) The council shall annually appoint an audit committee.
- (2) The responsibilities of the audit committee include:
 - (a) a detailed review of the financial statements of the Municipality with the auditor;

(b) an evaluation of internal control systems and any management letter with the auditor;

(c) a review of the conduct and adequacy of the audit;

(d) such matters arising out of the audit as may appear to the audit committee to require investigation;

(e) such other matters as may be determined by the council to be the duties of an audit committee;

(f) any other matters as may be determined by the council.

Section 42 of the MGA places an onus on the auditor to raise any issues of concern:

(5) the auditor shall report, to the Council and to the Minister, any management letters and any communication from the auditor detailing weaknesses in internal control, deficiencies in management information systems or other areas requiring improvement.

There was no indication of any management letters presented to Council for reviews conducted of fiscal years 2012-13 and 2013-14.

The Financial Reporting and Accounting Manual Department of Municipal Affairs, a regulation under the MGA, contains detailed standards for auditors of municipalities. Section 5(4) of the Manual contains the following prescriptive language.

5.4 Generally Accepted Auditing Standards

The auditor should adhere to examination standards as outlined in the CICA (Canadian Institute of Chartered Accountants) Handbook.

In addition, the auditor must ensure that the municipality has performed its duties in accordance with the particular Act(s) and special legislation under which it is governed, including, but not limited to, the following:

(e) the verification that all expenditures incurred (capital and operating) were spent on items for which the municipality had authority;

(f) the approval of municipal council for commitments and expenditures incurred by the administration on behalf of the municipality.

The Manual also details the responsibilities and objectives of the internal Municipal audit committees. These too are specific.

5.5 Municipal Audit Committees

(a) General

(ii) An audit committee acts as an advisory body carrying out critical review functions on behalf of council.

(b) Purpose

The objectives of an audit committee are to:

(i) help council meet its fundamental responsibilities of protecting the municipal assets and managing operations as efficiently as possible;

(ii) provide better communication between the auditor and council, and promote better understanding of the audit process;

(iii) enhance the external auditor's independent position;

(iv) increase the credibility and objectivity of the municipality's financial report; and

(v) strengthen the role of council and committee members.

(e) The functions of a municipal audit committee can be categorized as follows:

(iii) Related to General Administrative Oversight

a. enquire fully into any activities or transactions that may be illegal, questionable or unethical, and into the municipality's control procedures to ensure that such activities are being guarded against;

c. review the overall reasonableness of expenses of the Clerk/Chief Administrator and of council members (the CAO can review the reasonableness of other appointed officials' expenses).

Municipal Affairs

As indicated in the Overview section of this report, the role of the Department of Municipal Affairs warrants consideration.

Throughout the investigation, there were questions about the role of Municipal Affairs in assisting or addressing the concerns highlighted in the Management Letter. Information about the department's role has been drawn mainly from three sources:

- Questions and comments by citizens, municipal staff, and Councillors in the Municipality.
- The governing legislation (MGA) and ancillary regulatory, policy, and code of conduct materials relevant to the issues under review.
- Interviews conducted with officials in the Department of Municipal Affairs, specifically a Municipal Adviser, whose geographical area of responsibility includes Richmond County, and the Executive Director, Policy, Planning and Advisory Services, who at the time also was the Acting Deputy Minister of Municipal Affairs.

The current Warden expressed frustration that Municipal Affairs appeared to be unwilling, or unable, to do much about the situation. Several Councillors also indicated their concerns about the issues, while acknowledging they too have not been able to effectively address the problems.

Some Councillors stated that they sought assistance from Municipal Affairs and reported receiving minimal guidance or were told the Municipality needs to govern its own issues. There were allegations by several Council members that the CAO had a personal relationship with staff at Municipal Affairs and this may have prevented Municipal Affairs from taking action to support change in the Municipality. This allegation was adamantly denied by officials of Municipal Affairs.

The MGA contains language that would appear to enable extensive provincial intervention in municipal matters should the situation warrant. Examples of significant provincial powers abound in the MGA itself. Among those powers:

Prescription of accounting methods

451(1) The Minister may prescribe the:

(a) system of accounting to be used by municipalities and the form in which records shall be kept and funds accounted for;

(b) information to be provided by municipalities to the Minister and when it shall be provided;

(c) manner in which municipal accounts are to be audited and the reports to be provided by municipal auditors.

Ministerial powers

452(1) The Minister may

- (a) collect and analyze information relating to municipalities;
- (b) prepare and publish information and advice relating to municipal affairs;
- (c) study and advise upon the system of municipal institutions and the administration of municipal affairs;
- (d) effect improvement in the conduct and administration of municipal affairs;
- (e) consult with, assist and advise municipalities in the conduct and administration of municipal affairs;
- (f) do anything necessary or incidental to the foregoing or directed to the improvement of municipal government in the Province.

Ministerial power to direct audit or review

454(1) The Minister may, at any time, direct an audit or review of a municipality by a person appointed by the Minister.

(2) The person appointed by the Minister to make an audit or review shall, for that purpose, have free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the municipality.

Public Inquiries Act

455 The Minister, or any person to whom the Minister may, in writing, delegate the authority may, for any of the purposes of this Act, examine any municipality, person, company, property or thing whatsoever, at any time, and for the purpose has the same power, privileges and immunities as a commissioner appointed under the Public Inquiries Act. 1998, c. 18, s. 455.

Order by Minister

456(1) The Minister may order a municipality to do anything required by law or by agreement with the Minister or Her Majesty in right of the Province, or necessary or desirable in the interests of the municipality, or necessary or desirable for the

due accounting for, collection or payment of any of a municipality's assets, liabilities, revenues, funds or money.

The MGA provides the Minister of Municipal Affairs, and the Department, with significant powers. However, as with many provincial statutes, those powers are largely discretionary. The MGA provides few compulsory duties, and little guidance regarding when or how to intervene. The Minister "may" is common in the MGA; the Minister "shall" is much less so.

The discretionary nature of the MGA appears to reflect a core philosophy or guiding principle of deference towards municipal government.

Officials of Municipal Affairs indicated the current, and traditional, disposition of the Department is that municipal governments should not only be respected as legitimate levels of elected government, they should be deferred to. One official stated "we are not the police, Council is accountable to the electorate," adding that Municipal Affairs does not get involved in implementation or monitoring of policy.

One official stated that if municipalities "don't want to abide by a best practice, it is not something we would enforce in any way. If they wanted to charge per diems and claim with receipts and if the per diem was more of a fee or an amount recuperated because they are away for the day that is really their choice."

Municipal Affairs officials say the MGA "is prescriptive. It tells municipalities what they can do, not what they can't do."

The language of the approach taken by Municipal Affairs relied primarily on positive words such as education, advice, counselling, encouraging, enabling and assistance. It avoided interventionist terms such as direction, control, and requirement.

Following a request for help from the current Warden in November of 2015, three senior officials of the Department travelled to the Municipality to meet with the Warden, the CAO and others, and offer their assistance. According to the officials from Municipal Affairs, they also offered to provide the services of an independent third party to assist the Council. The offer was rejected.

Department of Municipal Affairs staff also met separately with the CAO, whose response was described as "dismissive."

In the course of this investigation, Ombudsman Representatives received a copy of an email dated February 4, 2015 from the CAO to the Warden referring to certain policy suggestions provided by Municipal Affairs officials. "In my opinion, our policies are as good and some instance better than most," the CAO wrote. "Personally, I do not see any required changes."

The Executive Director, Policy, Planning and Advisory Services of Municipal Affairs addressed the matter more generally. “Council has one employee, who is the CAO. It is the role of the CAO to look after the administrative branch of government and to provide advice. Council and the CAO need to be clear that the CAO reports to Council and (their) performance and future is in the hands of Council, not Municipal Affairs.” Department officials indicated it would be the role of Municipal Affairs to ask Council if they had done a performance evaluation of their CAO. Municipal Affairs would provide assistance and direction for such an evaluation.

Frustration expressed by Municipal Affairs staff did not reflect any misgivings regarding their own power or inclination to intervene. Nor did they reveal misgivings or doubts about the prevailing “hands-off” approach. The Executive Director used the example of a Council which decided to pave a road before replacing deteriorating water pipes beneath it. “The recommendation of Municipal Affairs would be to replace the water pipes first before you pave. At the end of the day, we can provide advice but there is no way to intervene and call time out.”

The frustration instead is reflected in a view that in this instance the challenges being experienced are results of personality dynamics and individual accountability within the local government. Those challenges were said to include a division in Council on a boundary issue, and a suggestion that “Council did not want to work together.” One official observed that a functional Council works together to come to a consensus to move forward, while a dysfunctional Council reaches outward trying to poke holes in other camps’ strategy for moving forward. The other official commented that Municipal Affairs is “not in the business of blending personalities to have a Council congruent in thoughts and procedures. It is not our role.”

The Executive Director described the situation with expense accountability record-keeping in the Municipality as “inexcusable,” adding it would be the equivalent of approving one’s own expenses. It was also noted the Association of Municipal Administrators has a training program in records management and a records management manual.

VI - Conclusion

The MGA is clear in terms of the CAO being accountable to Council. In the Municipality this did not seem to be well understood or implemented by either the CAO or Council.

Travel expenditures for the two senior municipal leaders during the period under review were sufficient to warrant a review by the Council audit committee or the Department of Municipal Affairs. The fact that no review was triggered is an indictment of the current system, which exhibits a lack of oversight and accountability.

An administrative disconnect occurs when the most basic public service accountability is absent in the approval and expenditures of public funds. It demonstrates a lack of

willingness or obligation to supply explanatory or justification information for the expenses. A signing power on expense claims is not effective unless it is accompanied by a right and a responsibility to question expenses that are not supported by sufficient information or explanation.

The current DOF and the former CFO, as well as the Accounts Payable Clerk, essentially provide similar accounts regarding the lack of detail in travel expense claims and a “just sign it” response from the CAO when questions were raised. The CAO indicated no financial claim issues were brought to the CAO’s personal attention. The former Warden suggested detailed receipts were never required as part of the claim process, and “no one told me it was necessary.” The corporate credit card amount, date of the expenditure, and location were all that were required and it was “always like that.”

Regardless of legislative or policy requirements, the responses from the CAO and the former Warden reflect either indifference to, or disregard for, basic accountability requirements by supervisory personnel in the expenditure of public money. However, existing policy and legislative provisions require more than that. The seemingly cavalier approach of the CAO and former Warden fall short of those requirements and of the financial prudence that residents of the municipality might reasonably expect from their senior municipal leaders.

The practice of setting rates in municipal policy at levels higher than the provincial rate, coupled with the discretion in the MGA which enables the practice, invites review. Does the lack of uniformity of those rates among municipalities reflect good public policy?

Both the documentary and testimonial evidence gathered in this investigation demonstrate inadequate internal controls for processing expense claims by staff of the Municipality of the County of Richmond. The evidence also demonstrates that the accounting and reconciliation standards set out in by the Department of Municipal Affairs were not met.

A retroactive approval system for cheques creates a perception of oversight without actual accountability. As an oversight and accountability process it is ineffective. In this case the Municipality was well advised by the Department of Municipal Affairs to change the process.

So-called “double-dipping” is neither defined nor specifically forbidden in legislation and policies that apply within the Municipality. However, it is a matter that can be resolved by reference to a more generic provision of the MGA. Section 65 of the MGA, referenced earlier in this report, provides the relevant principle:

The council may expend money required by the municipality for

(s) the reasonable expenses incurred by the mayor or warden or a Councillors for attendance at meetings and conferences, if the permission of the council is obtained prior to the meeting or conference or the attendance is in accordance with a policy of the council...

The spirit of the MGA appears to contemplate a blend of reasonable judgment, adherence to specific policies that exist at both the provincial and municipal levels, political savvy, and common sense. The widespread acceptance and utilization of “double-dipping” opportunities exhibit few if any of those values. Rather it appears opportunistic and self-serving, indifferent to existing policy and possibly to law, and justified by an athletic form of reasoning that ignores the public interest and tenets of good government.

There also appears to be no rationalization for many unorthodox uses of corporate credit cards by individuals in senior management and leadership positions during the period under review. The Grant Thornton audit flagged a number of items, and our own review of documents, coupled with information provided from individuals with first-hand knowledge, revealed many more.

Unauthorized or unexplained payments comprise a list that includes small charges related to laundry or valet parking, to significant charges for expensive meals and alcohol, to very large expenditures for what would appear to be social events. The absence of any supporting or explanatory information is concerning.

The transformation of reward points earned at public expense into gifts for individual employees of the Municipality may have a gloss of generosity or fair-play about it. The practice might even be defensible if specifically authorized by Council, but there is no evidence of either. A salient fact is the reward points are earned through publicly funded travel and it would be reasonable to apply them to reduce the cost of future municipal travel.

An overriding issue for this Office is the ongoing existence of seemingly erratic and unorthodox activities that occur unbeknownst to many Councillors and taxpayers. There is no evidence that the activities have benefited any but a few participants. Corporate credit card expenditures in particular are unaccounted for either by proper documentation, or by proven positive outcomes. Ultimately, and absent profound evidence to the contrary, the practices fall below normally understood standards of cost accounting and good governance. They appear to have thrived in a culture of entitlement, with indifference to propriety, costs, or consequences.

Those activities in particular undermine the accountability process and raise questions of credibility and integrity. They may go beyond the careless spending of public funds. Only a forensic audit could assess their legality.

This Office accepts the statements of Councillors that the intent of the travel allowance is to cover the CAO's in-County travel in a convenient way. However, this activity fits a common pattern of spending and reconciliation of expenses that exhibits ad hoc approaches to accountability and insufficient attention to the public interest. The reported justification for the allowance itself, that a previous CAO received it so the current CAO should as well, is unsatisfactory. Compensation for a CAO ideally ought to be based on an incumbent's credentials and the legitimate demands of the job. With rare exceptions, they should adhere to travel policies of general application.

While expenditure from municipal budgets on partisan political activities may be deemed a breach of the Elections Act, it is worth noting that there is a context surrounding many municipal governments in which such activity becomes attractive. Several Municipality staff members and Councillors are active supporters or members of political parties, and municipal government generally can be an informal but well recognized training and recruitment system for provincial and federal political aspirants. There is nothing untoward about that. Indeed a case can be made that it is a process that may actually serve larger democratic interests. The caveat in this instance is that the rules regarding funding cross-over are not ambiguous. It appears they were either unknown or disregarded.

Significant responsibilities and powers are assigned to the municipal audit committees to investigate and report on the types of issues raised in both the Grant Thornton Management Letter and this investigation. The larger concern is whether such committees are by their nature conflicted in such duties as both the overseers of, and the potential beneficiaries of, practices that have been questioned in this report and elsewhere.

It is an understatement to observe that the Department of Municipal Affairs is clear as to its role with the municipalities. The response of Municipal Affairs staff was focused and upfront, and their candor appreciated. However, there is a disquieting sense that the deference may not be as readily acceptable to citizens in the Municipality.

VII – Recommendations

It is beyond the scope of this investigation and this Final Report to address all of the macro issues surrounding municipal governance, although some are identified in this Report. It is also acknowledged that the Municipal Government Act is currently under review, and this Office encourages focus on the types of issues raised during this investigation.

The following recommendations are not intended to encroach on the important democratic principle that elected local governments require a measure of autonomy. Rather they are intended to influence a level of checks and balances in the interests of consistency, transparency, and accountability. It is submitted that greater universality of quality standards and practices is in the broader public interest, and within the purview of the Department of Municipal Affairs.

The following is recommended:

Municipality of the County of Richmond

1. Travel and expense claim policies currently in use by the Municipality be reviewed, and where appropriate revised, to ensure the operational and administrative needs of the Municipality are being met, and to preclude activities such as unauthorized travel and inadequate accountability for travel and other expenses.
2. Ensure all Councillors and municipal staff, including the CAO, are appropriately trained and have a thorough comprehension of policy and procedures, including their responsibility for compliance.
3. Establish quality assurance mechanisms with respect to the application of travel and expense claim policies to ensure appropriate and ongoing compliance and accountability.
4. Undertake a review of the current budgeting process to ensure the actual and forecasted operational and administrative needs of the Municipality are being met; including whether travel and related discretionary expenses should primarily be based on forecasting actual and predictable travel requirements, rather than on previous annual costs.

Department of Municipal Affairs

1. As part of the review of the Municipal Government Act, and in consultation with the Union of Nova Scotia Municipalities, examine the feasibility of establishing standardized travel and expense authorization and accountability policies and practices at the municipal level, taking into account current best practices, the Grant Thornton Management Letter, and the findings of this report.
2. As part of the review of the Municipal Government Act, and in consultation with the Union of Nova Scotia Municipalities, re-examine the feasibility of establishing a Municipal Auditor General.
3. Undertake a review of the Department of Municipal Affairs role to ensure municipal compliance with the Municipal Government Act, and where appropriate develop and implement policy in this regard.