

CITY OF MONTPELIER, VERMONT
INDEPENDENT ACCOUNTANTS' FINAL REPORT
ON APPLYING AGREED-UPON PROCEDURES

REGARDING THE SCOTT CONSTRUCTION, INC. CONTRACT
(BAILEY/MEMORIAL 16" WATER TRANSMISSION MAIN)
DATED JULY 15, 2004



Cota CPA, PC

Certified Public Accountant & Consultant

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Montpelier Citizen's Financial Review Committee
C/O Thomas M. Salmon, CPA
Project Facilitator
State of Vermont
132 State Street
Montpelier, VT 05633-5101

We thank you for the opportunity of providing independent accounting consulting services to the City of Montpelier, Vermont. Our report has been divided into four (4) sections:

SECTION 1 – Findings, Recommendations and Questioned Procedures

SECTION 2 – Management Discussion Memo – Scott Construction, Inc. contract (Bailey/Memorial 16" Water Transmission Main) December 8, 2004 to January 7, 2010

SECTION 3 – Management Discussion Memo – Vendor Disbursement Procedures June 30, 2004 to January 7, 2010

SECTION 4 – Accountants' Discussion – Accounts Receivable, Promissory Note and Bad Debts

In summary, based on our procedures performed; we believe the Internal Controls in place, at the time, failed. There appeared to be a disconnection between the procurement of goods and services for the purpose of providing the best services to the citizens of Montpelier, Vermont and the accountability/payment function for these goods and services. It is essential to connect the functions of procurement and accountability/payment through good Internal Control documentation from inception to final disposition.

This report is intended solely for the information and use of the Management and citizens of the City of Montpelier, Vermont and the Montpelier Citizen's Financial Review Committee and is not intended to be and should not be used by anyone other than these specified parties.

We wish to thank the City of Montpelier, Vermont City Manager and Finance Director for their support and assistance in providing the necessary documentation as we performed the agreed-upon procedures requested by the Montpelier Citizen's Financial Review Committee.

Cota CPA, PC

January 7, 2010

SECTION 1

CITY OF MONTPELIER, VERMONT

FINDINGS, RECOMMENDATIONS AND QUESTIONED
PROCEDURES



Cota CPA, PC

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During the course of completing the agreed-upon procedures programs (Project A -- analysis of Scott Construction, Inc. contract overpayment and Project B -- analysis of vendor disbursement procedures) the following findings, recommendations and questioned procedures outlined in the underlying attachments came to our attention. We believe that several of these recommendations and suggestions can help strengthen the City of Montpelier's current internal control structure, especially those related to vendor disbursements. The recommendations also highlight key internal controls and review processes, which we found to be contributing factors in allowing the Scott Construction, Inc. contract overpayment to both occur and subsequently go undiscovered for nearly two years. Although we recognize that many of these contributing factors have been addressed by Management, we believe our recommendations can help mitigate the risk that an overpayment such as the one made on the Scott Construction, Inc. contract can occur once again in the future. Many of the findings and recommendations presented in Attachment #1, which specifically addresses the erroneous overpayment to Scott Construction, Inc., are included to help us communicate why we believe the error occurred and we don't want anyone to misinterpret these issues as being present currently. The City has implemented many new policies subsequent to the discovery of the Scott Construction, Inc. contract overpayment. Attachment #2, which specifically addresses the City's vendor disbursement procedures, is presented to communicate specific recommendations that we believe address current issues related to the City's vendor disbursement procedures.

This report is intended solely for the information and use of the Management and Citizens of the City of Montpelier, Vermont and the Montpelier Citizen's Financial Review Committee and is not intended to be and should not be used by anyone other than these specified parties.

Cota CPA, PC

January 7, 2010

CITY OF MONTPELIER, VERMONT
Findings, Recommendations and Questioned Procedures
Project A – Scott Construction, Inc. Contract Overpayment

We noted a lack of emphasis and diligence regarding internal controls related to vendor disbursements. We believe that these shortcomings in internal controls both allowed the overpayment to be made to Scott Construction, Inc. and subsequently failed to detect the fact that the overpayment had occurred in what would be considered a timely manner. We believe the internal control procedures in place at the time the requisition was processed failed. We did identify key control processes, which we believe should have discovered the error much sooner, but failed to do so. There also appears to be a lack of written instructions detailing each step in the internal control process and a certain lack of documentation as to who performed what and when. We also noted that several changes have been made to the City of Montpelier, Vermont's internal control processes, especially those related to vendor disbursements, which we believe were appropriate and strengthened the overall internal control framework. However, we still believe there are certain areas of internal control that can be improved to help mitigate the risk that an error such as the one made on the Scott Construction, Inc. contract will recur again in the future.

We recommend that the City of Montpelier, Vermont place added emphasis and diligence to certain control areas and activities, which we believe contributed to allowing the overpayment to occur in December of 2004. Although we recognize the fact that many of these issues have been addressed by Management subsequent to discovery of the error, we felt it necessary to present our findings and recommendations in a way that describes key reasons we believe the error occurred, as described in the following findings, recommendations and questioned procedures:

- We recommend that the City place additional emphasis on the importance of a detailed review of requisitions/invoices and check warrant reports, including:
 - > Individuals who sign off on a requisition/invoice and/or check warrant report approving payment have to be aware of as much detail as possible before making their final approval. By signing off, the individual is, in effect, confirming that they have thoroughly reviewed all back-up documentation available regarding each payment approval in as much detail as possible. We would like to recognize the value of the City Manager's memo dated November 3, 2009, which emphasized to Department Heads their responsibilities in the payment approval process.
 - > Requisition details such as "Previous Payment Totals" are extremely important to recalculate and tie out to your own records. The overpayment would have been discovered much sooner had someone taken the time to recalculate the previous payments made on the contract and tie it in to the amount submitted by the contractor on subsequent requisitions received after the original overpayment had occurred.

> Large requisitions, currently defined at \$25,000.00 or more, require added emphasis on a detailed review by Department Head, City Manager, Finance Director and any others with added knowledge of the applicable project for which the requisition was made. We recognize and approve of the fact that the City of Montpelier has added an additional control to have the Finance Director perform a detailed review of large requisitions. The auditor's calculation of materiality is currently estimated at approximately \$20,000.00 and the average check issued (factoring out payments to school and recreational department) is currently estimated at approximately \$5,000.00. According to Management, the Finance Director actually reviews any payment of \$15,000.00 or more. We recommend that the City reflect this fact in their current policy write-ups, which currently clearly define the threshold as being \$25,000.00.

> Those that are charged with the responsibility of reviewing the details of large payments cannot rely on the prior review and approval of other reviewers. For example, just because the Department Head signed off their approval does not mean that the Finance Director should not perform a subsequent secondary detailed review of such documents. We recommend that the City re-emphasize Management's duties and responsibilities, especially as they relate to vendor disbursements in particular.

- We recommend that the City place additional emphasis on the importance of a Department Head's (and others with added knowledge and experience related to a particular project/contract) oversight, especially on large projects/contracts such as the Scott Construction, Inc. contract.

> It should go without saying that such individuals providing oversight should have the most knowledge about the project/contract both physically and financially (at the City Management level). There is also something to be said about the benefit of having one individual focused on the physical segment and another on the financial portion as long as there are proper levels of communication between such individuals. Management cannot rely solely on individuals such as project engineers to track the financial status of projects as they are completed, nor should Management rely solely on the Finance Director to track the progress of the physical segment. We recognize the fact that the City no longer relies on the Project Manager to be the most knowledgeable regarding project finances. The Finance Director now monitors project costs and compares to funding, approved contracts and project budgets. In addition, the City has retained Staff Engineers to review projects rather than solely relying on outside consultants.

> Had a review of the previous payments to the accounting records and the contract budget been made at each requisition there would have been reason to question a check, which when combined with the previous payments already expended exceeded the original contract total. We recommend this procedure be performed at each level of review. Had this

simple procedure been performed it is likely the overpayment check would have never been issued.

- We recommend that the City place additional emphasis on the importance of going through the proper approval process, and documenting such approvals, for the formation of original contracts and any subsequent change orders processed on an original contract. Fortunately, the City of Montpelier, Vermont was eventually able to produce documentation regarding a final change order, which we received January 6, 2010, reconciling the amount paid to Scott Construction, Inc. to the original contract amount. The City of Montpelier actually ended up paying \$38,797.38 less in requisitions than was originally approved on the original contract. However, we were unable to determine if this amount represented an actual savings to the City or whether the additional work was simply performed by another contractor or even City employees.

- > Emphasize the importance of a thorough financial review of an Organization submitting a proposal to the City of Montpelier. Unfortunately, we were unable to find any documentation to support the financial review process the City went through in approving Scott Construction, Inc. Before accepting a bid, the City should perform their due diligence in ensuring that the Organization is capable of performing the work for which the proposal applies, a review of the financial status of the Organization, which may identify possible financial issues, which would preclude the City from wanting to accept the bid.

- > We did note that the Scott Construction, Inc. proposal received on the Bailey/Memorial 16" water transmission main contract was significantly less than the other proposals that were submitted to the City. Low bids in themselves are not bad; however they should be questioned when there is a significant difference between the low and high bids. We recommend that added efforts to review the financial status of Organizations submitting proposals be made before simply selecting the lowest bid amount. The City should ensure itself that the Organization is both physically and financially able to perform the contract.

- > We also noted that the Change Order form that was utilized on the Bailey/Memorial 16" water transmission main contract was not dated. We recommend that a line for the date be added to the Change Order form next to the approval sign-offs to document exactly when and by whom the Change Order was processed and approved. At a minimum, the signer should date their signature(s).

- > We also recommend that all Change Orders be approved at the City Council level and/or the City Manager level. If the City Manager is authorized to approve change orders, then such authorization should be granted by City Council and reflected in the Council's minutes. Change orders should be reported to the City Council in a timely manner and should be reflected in the Council's minutes.

CITY OF MONTPELIER, VERMONT
Findings, Recommendations and Questioned Procedures
Project B – Vendor Disbursement Procedures

We believe that if the City of Montpelier, Vermont places added emphasis and diligence to certain control areas and activities, as described in the following recommendations, the City's internal controls over vendor disbursements will be improved.

In the process of preparing the Vendor Disbursement Flowchart we noted the write-ups created by Management lack a specific amount of detail that limits the policy's effectiveness.

We recommend that City Management exert as much effort as possible in adding as much detail to current procedures write-ups used by members as they are a great way to communicate and document exactly what is expected of each individual. These write-ups should follow a transaction from its very beginning to final disposition and filing procedures for all related documentation. It is always good for everyone involved in the internal control process to know exactly what role they play in the process and what is expected of them. Also, these write-ups can be utilized as great training tools in the event of turnover in Management and Staff positions.

We further recommend that a cover voucher be designed to include each of the key control steps with a sign-off and date. This document, along with the above mentioned procedures write-ups, should be approved at the City Council level and subsequently reviewed by the Council on an annual basis. See the attached vendor purchase form example.

We noted the City does not have formal procedures in place for processing and approving change orders received relating to contracts for goods and services.

We recommend a policy for processing and approving change orders be developed to ensure proper approval and tracking of change orders. Change orders that affect the budget need to be properly recorded to the budget totals to prevent future over or under payment on a contract.

We noted the review of requisitions does not include a documented comparison of the requisition, amount paid to date and project contract budget.

We recommend that the Department Head consult with the Finance Department regarding total payments on contracts to date and compare payments to the project contract budget plus and/or minus change orders. This tracking and comparison should be documented for each contract. Tracking total payments and comparing

to the project contract budget total will help to identify errors on a much timelier basis, possibly even prevent an overpayment error from occurring. We also recommend that all individuals involved in decision making in the City have read-only access to the City's accounting records, so that they can perform their own tracking/review.

We noted that there is no formal review of the internal controls of the purchasing policy or the vendor disbursement procedures.

We further recommend that a committee made up of three (3) Council members or alternatively by one (1) Council member and two (2) interested and qualified citizens be established as an Internal Audit Committee with authority to review the City's internal controls, policies and procedures and report to the City Council. The committee should be aware of any changes and recommend changes to internal controls, policies, and procedures to strengthen the city's overall internal controls. The committee's responsibilities might be extended into compiling and/or reviewing a full accounting manual for the City's financial processes. The internal controls and accounting manual should be reviewed and updated from time to time, at least annually.

We noted that the City does not currently utilize a vendor purchase order system for all purchases. We further noted that the City is in the process of acquiring new software to help implement a Purchase Order system.

We recommend that the City continue in the process of acquiring the new software and that once it is in place, they utilize the vendor purchase order system, including posting the purchase orders to an encumbrance system to better track budgetary and contract expenditures as goods and services are received and/or requisitioned.

We further recommend that the formal processing of goods and services, including contracts have certain steps at which certain key control tasks are defined to be performed, including documentation (date & by whom) that the tasks were performed.

We noted that the change orders to contracts are usually approved by the City Manager, even though the contracts were initially approved by the City Council. We noted that in the past City Council may have authorized the City Manager to approve change orders, however we noted no documentation.

We recommend that all such authorizations made by the City Council be documented into the Purchase and/or Vendor Disbursement Policies and be entered into their minutes.

We further recommend that City Council is provided with informational copies of all change orders and/or a memorandum from the City Manager regarding changes in contracts, if he has full authorization to finalize change orders.

We noted the Treasurer signs the checks without documenting his/her review of the supporting documentation.

We recommend the Treasurer review all supporting documentation to verify that all approvals have been completed and documented prior to signing the check.

We noted the capital asset sub-ledger is not reconciled to the general ledger on a monthly basis.

We recommend that the capital asset sub-ledger be reconciled to the general ledger monthly to identify errors more quickly as per accounting best practices.

We further recommend that a file/notebook be maintained to include approved invoice copies of all purchases for capital assets and the asset/depreciation schedule be updated at least quarterly.

VENDOR PURCHASE FORM

Vendor Name (Purchased From): _____

Vendor # _____

Credit Card Bank: _____ # : _____

Direct Expense to client: _____ # _____
Date

(lavender)
Cota
CPA, PC

(blue)
RSC/
CPA

(green)
R.S.Cota
Inc.,(C&T)

Purchase Item Description

Purchase Item Description	(lavender) Cota CPA, PC	(blue) RSC/ CPA	(green) R.S.Cota Inc.,(C&T)	Estimated Cost \$
Purchase Requested By: _____	_____	_____	_____	_____
Purchase Approved By: _____	_____	_____	_____	_____
Date Goods/Services Received: _____	_____	_____	_____	_____
Goods/Services Received By: _____	_____	_____	_____	_____
Shipping _____	_____	_____	_____	_____
Invoice # _____	_____	_____	_____	_____
Invoice Accuracy Checked By: _____	_____	_____	_____	_____
Account Code By: _____	_____	_____	_____	_____
DUE DATE: _____	_____	_____	_____	_____
Office Approved By: _____	_____	_____	_____	_____
Paid with Credit Card _____ By: _____	_____	_____	_____	_____

Posted to Accounts Payable By: _____	_____	_____	_____	_____
Payment Approved By: _____	_____	_____	_____	_____
Check # _____	_____	_____	_____	_____

Account Name (Description)	Account Code #	Amount
_____	_____	\$ _____
_____	_____	_____
_____	_____	_____
Total Invoice		\$ _____

E-16-1 2/6/07

SECTION 2

CITY OF MONTPELIER, VERMONT

MANAGEMENT DISCUSSION MEMO
SCOTT CONSTRUCTION, INC. CONTRACT
(BAILEY/MEMORIAL 16" WATER TRANSMISSION MAIN)
DECEMBER 8, 2004 TO JANUARY 7, 2010



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INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

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We have performed the procedures for Project A (regarding Scott Construction, Inc. contract – Bailey/Memorial 16" water transmission main) enumerated in Appendix I of our engagement letter dated December 7, 2009, which were agreed to by the City of Montpelier, Vermont and Thomas M. Salmon, CPA, acting as Project Facilitator on behalf of the Montpelier Citizen's Financial Review Committee, solely to assist in the analysis and evaluation of the Management Discussion Memorandum regarding the Scott Construction, Inc. contract (Bailey/Memorial 16" water transmission main) overpayment to help better understand why the overpayment occurred and why it was not discovered in a more timely manner. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA). The sufficiency of the procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representations regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

- Obtain and review Management Discussion Memorandum regarding the Scott Construction, Inc. Contract (Bailey/Memorial 16" water transmission main) overpayment.
- Obtain and review City of Montpelier, Vermont Annual Report to Citizens for the years ended June 30, 2004 through June 30, 2008.
- Obtain and review annual City of Montpelier, Vermont Audit Reports for the years ended June 30, 2004 through June 30, 2008.
- Obtain and review Internal Control and Management Letters submitted by audit firms for the years ended June 30, 2003 through June 30, 2008.
- Obtain and review copy of original contract and change orders.
- Obtain, review and recalculate all requisitions for payments made to Scott Construction, Inc. and other sub-contractors related to the Scott Construction, Inc. contract – (Bailey/Memorial 16" water transmission main).

- Prepare list of payments made on contract on excel spreadsheet by number/date summarizing all payments made on contract.
- Calculate auditor's audit materiality based on audit guidance for the years ended June 30, 2004 through June 30, 2008.
- Review documentation of approval process, particularly approvals documenting key controls in the internal control structure for vendor disbursements only. Key controls were identified while compiling the flow charts for Project B (Vendor Disbursement Procedures).
- Obtain and review copies of warrants and review to requisitions for payment.
- Obtain and review copies of cancelled checks and review to warrants.
- Obtain and review any other pertinent documentation related to the Scott Construction, Inc. Contract (Bailey/Memorial 16" water transmission main) overpayment.
- Review overpayment of transaction to General Ledger Accounts and Financial Statement presentation.

In addition, we performed the following procedures:

- Calculate average check balance in Check Warrant Reports approving payments to Scott Construction, Inc.
- Obtain and review documentation related to the City's two (2) known insurance applications regarding the Scott Construction, Inc. overpayment.
- Obtain and review Management Discussion Memorandum update regarding most recent insurance application.

Findings, recommendations and questioned procedures regarding the Scott Construction, Inc. Contract overpayment are included in the Findings, Recommendations and Questioned Procedures letter.

We were not engaged to, and did not; perform an examination, the objective of which would be the expression of an opinion of the aforementioned agreed-upon procedures. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Cota CPA, PC has no responsibility to re-issue this report.

This report is intended solely for the information and use of the Management and Citizens' of the City of Montpelier, Vermont and the Montpelier Citizen's Financial Review Committee and is not intended to be and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of such procedures for their purpose.

Cota CPA, PC

January 7, 2010



CITY OF MONTPELIER, VERMONT
Management Discussion Memo – Scott Construction, Inc. Contract
(Bailey/Memorial 16” Water Transmission Main)
December 8, 2004 – January 7, 2010

In the fall of 2006, Finance Director Sandra Gallup and I were working with our auditors on all of our accounts as usual for that time of year. As this work progressed, the Water Fund was showing a much a larger than expected deficit which made no sense to anyone and had no immediate or logical explanation.

On the evening of the City Council meeting on October 11, 2006 Finance Director Gallup asked to speak to me as soon as possible. We met in her office immediately after the meeting. She informed me that she had narrowed down the excess water fund deficit to an over expenditure on a single project - a water line improvement completed in 2006. Upon closer inspection, the problem was traced to a single erroneous payment made by the city to the contractor – Scott Construction, Inc. of Newport, Vermont. She also told me that she had immediately disclosed this to the city’s auditors that day.

A bill from Scott Construction for \$85,774.70 on a water line project was approved for payment in December of 2004. Signatories on that correct bill were a representative of Scott Construction, the city’s contracted project engineer from Dufresne-Henry and me. The bill was sent through the accounts payable process.

The city typically pays its bills every two weeks. In a bill paying week the account clerk in each department prepares all the bills and, at that time, typed all the warrant jackets. The amounts due from bills were transferred manually to “warrant jackets”, a sheet of paper which included the vendor name, ID number, the account number that funds were being charged to, etc. This warrant jacket was folded lengthwise with the actual bill inside and the typed information on the outside. The group of bills/warrants – which were approvals to pay – were then reviewed and signed by the Department Head. The signed warrants were forwarded to the Finance Department who took all the bills from all the departments and prepared master check payment manifests. At the time, all budget verification was done at the department level.

The completed manifest, containing a print out of all checks to be issued with vendor names (but not including the physical warrants/bills) is signed by the Council and Manager in what is somewhat of a pro forma exercise. The signed manifest goes to the Treasurer who actually issues the check and assures that enough money is in the city’s bank accounts to cover the checks. The Treasurer does not see each bill for each check; she takes her payment authority from the approved warrants and manifest.

The project payment request submitted by the contractor and approved by both our consulting engineers and me was for \$85,774.70. The payment request form also listed the “paid to date” amount as \$548,110.83. A correction to the bill had been made so that the “paid to date” amount was hand written and very prominent to the eye, the amount due was small, type written and partially obscured directly below some scratched out lines.

CITY OF MONTPELIER, VERMONT
Management Discussion Memo – Scott Construction, Inc. Contract
(Bailey/Memorial 16” Water Transmission Main)
December 8, 2004 – January 7, 2010

In this case, the account clerk read the incorrect number on the bill from Scott Construction and typed the “paid to date” amount (\$548,110.83) on the warrant. This was an innocent mistake, albeit a very large one, made by an otherwise conscientious and reliable employee with no history of errors or problems.

The incorrect warrant jacket, with the correct bill inside of it, was forwarded to the Department Head who, in this case was Public Works Director Steve Gray. Mr. Gray signed the incorrect warrant, thereby signaling payment approval, and the department’s bills were forwarded to the Finance Department. At that time, the Finance Director was Jana Bagwell. The Finance Department performed its normal tasks and moved the payment forward.

The \$548,110.83 amount was entered on the check manifest and the rest of the process was completed. On December 22, 2004 the check was issued to Scott Construction in the erroneous amount and, according to the canceled check, deposited into Scott’s account the next day. Scott Construction was issued a check for \$548,110.83 instead of \$85,774.70 – an overpayment of \$462,336.13.

There were several complicating factors that contributed to the overpayment occurring. One was that Scott was performing two different projects for the city at the same time. Second, the city did not get another payment request from Scott for either project until September of 2005 and for this particular project until May of 2006. There was no activity on this account and no immediate or obvious reason to look more closely. Additionally the activity had crossed into a new fiscal year. At that time, expenses for capital projects were credited directly to the balance sheet as assets and in this case both water projects had been combined into one. By the time concerns with this project surfaced, there was a new Public Works Director and new Finance Director so continuity and familiarity was lost.

The city has since eliminated use of the warrant jackets, brought more of the payable work into the finance department, required that all bills over \$25,000 are personally reviewed, calculated and signed by the Finance Director and that all payments over \$5,000 have the city manager’s signature on them. Additional minor process, review and recording improvements have also been made.

The audit work for the fiscal year ending June 30, 2005 was done in October of 2005 – 10 months after the check had been issued. The city was told that this specific bill was pulled as a result of its amount and that auditor confirmed that it had gone through the proper financial controls, contained the proper signatures and had been duly authorized. I can’t answer for them but Sullivan & Powers is a highly regarded municipal auditing firm. They perform audits for as many or more Vermont municipal governments than any other accounting firm. They have provided the city with good advice and suggestions for improvements to financial systems over the years.

CITY OF MONTPELIER, VERMONT
Management Discussion Memo – Scott Construction, Inc. Contract
(Bailey/Memorial 16” Water Transmission Main)
December 8, 2004 – January 7, 2010

Upon receipt of the check, Scott Construction did not notify the city of this error nor did they inquire about what the funds should be credited toward. In addition, they did not show this amount as received or paid in future invoices – failing to properly credit the city for what was, in essence, an advance payment. Because this project was not completed and closed out financially until July 17, 2006 it was not immediately apparent in 2004 that the project was over budget.

All remaining pay requests for the project were processed correctly without any adjustment from Scott Construction for this overpayment or any acknowledgement that it occurred. They did, however, accept the money and deposit the check –confirmed by the city’s copy of the canceled check.

On October 12, 2006 , the next morning after the council meeting, Finance Director Gallup and I contacted Attorney Steven Stitzel. He advised that we send a registered letter to Scott Construction informing them of what happened and requesting immediate re-payment of the money. Mr. Stitzel asked for copies of all the information and to review any correspondence before it was sent. He advised us that the money was legally collectible and that Scott Construction has possible criminal liability for failing to properly credit the payment.

On Friday morning, October 13, 2006, I sent a registered letter to Mr. Daniel Scott, President of Scott Construction. That same morning, I informed Mayor Hooper of the matter and the steps that had been taken at that point. Details of the matter were shared with the full city council on October 27, 2006.

On October 16, 2006 we confirmed that this transaction had been properly contained within the city’s financial records and had been subject to audit in fall of 2005 for the fiscal year ending June 30, 2005. The specific bill and payment had been reviewed as part of the audit with no irregularities noted. By the time the overpayment was tracked in 2006, city staff changes had occurred in key positions involved with this project.

By December of 2006, after reviewing the city’s documentation and his own records, Mr. Scott acknowledged that the overpayment occurred, claimed that he had not been aware of it at the time and entered negotiations for re-payment.

On January 10, 2007 the city filed a claim with our Property/Casualty and Liability insurance carrier seeking to collect reimbursement for this loss under our errors and omissions policy. We received notice from our insurer on January 19, 2007 that the claim was not covered.

On January 25, 2007 Scott and the City signed a Promissory Note for full re-payment over six years at 5% interest with monthly payments of \$7,445.89. The matter was considered resolved and the funds were booked on the city’s financial statements as a receivable.

CITY OF MONTPELIER, VERMONT
Management Discussion Memo – Scott Construction, Inc. Contract
(Bailey/Memorial 16” Water Transmission Main)
December 8, 2004 – January 7, 2010

Scott made regular timely payments on the note until April of 2008. Citing seasonal cash flow problems, he requested an extension until June 1st. The city did not formally grant an extension but told him that they expected the April, May and June payments and to all be current by June with all late fees paid. Scott said that this should not be a problem.

From this point forward the situation began to deteriorate. Scott eventually made a single payment in June but the check bounced. The city informed him that we were considering prosecution for the bad check. A replacement bank check was finally provided the city on July 25, 2008. Regular communications between the city, the city’s attorney, Scott and Scott’s attorney ensued. Promises were made by Scott that a new repayment plan would be presented but none materialized. To the best that the city could ascertain, Scott Construction did not have any significant work which would generate sufficient revenues to cover the existing note.

On September 2, 2008 the city officially notified Scott that the note was in default and demanded full payment as per terms of the note. Scott was concerned that this default would cause his other creditors to call their loans and push him into bankruptcy. The city needed Scott to stay solvent to maintain the opportunity for collection of this money.

In fall and winter of 2008 and 2009, more negotiations took place about re-structuring the debt and providing additional security to back any new note. In February of 2009, a new note was signed which extended the re-payment period and allowed Scott to make interest only payments for a period of time until his cash situation improved.

City officials believed we had protected the public’s interests by being granted a mortgage security in the amount of \$393,534.06 (outstanding principal, interest, late fees and attorney’s fees) on a piece of commercial property in Pembroke, New Hampshire with an appraised value of \$1.2 million. The first mortgage was held by a New Hampshire bank in the amount of approximately \$550,000. Chittenden Bank also held a security interest for their overall line of credit. With a real estate security in place, the city was willing to extend payment terms to Scott.

Trouble began almost immediately. Scott was late with the very first (March 2009) payment under the revised note but did eventually send the money. On March 23, 2009 we received a copy (as a security mortgage holder) of a delinquent tax notice from the Town of Pembroke, NH indicating that Mr. Scott had failed to pay a property tax bill of \$372.25.

The April payment did not arrive. On April 13, 2009 the city sent a formal default notice to Mr. Scott giving him until April 29, 2009 to make the note current (under the terms of the note). On April 14, 2009 we received what appeared to be a form letter from Scott to creditors seeking a one month extension on payments.

CITY OF MONTPELIER, VERMONT
Management Discussion Memo – Scott Construction, Inc. Contract
(Bailey/Memorial 16” Water Transmission Main)
December 8, 2004 – January 7, 2010

On April 30, 2009 the city brought suit against Scott in Washington County Superior Court seeking default judgment. On June 3, 2009 the city filed a motion in court for a writ of attachment on Scott’s assets and a motion for trustee process to gain access to Scott’s bank accounts. The city also filed subpoenas to review all of Scott’s bank records to determine was done with the city’s money. At an uncontested hearing on June 16, 2009, the Court awarded judgment in favor of the city in the amount of \$393,534.05 (outstanding principal, interest, late fees and attorney fees).

On June 2, 2009 the city got some more bad news. The New Hampshire bank holding first mortgage on the Pembroke, NH property (which was the city’s real estate security) foreclosed on the property and scheduled an auction on June 23, 2009. With the depressed economy the commercial property sold at auction for \$600,000 – enough to pay off the bank’s mortgage and collection fees and a small amount to Chittenden Bank but with nothing left for the city. The real estate security was gone.

The next few months were spent issuing subpoenas and reviewing Scott’s financial records in great detail. The city was looking for any evidence of fraud or criminal misuse of the city’s money. As best as we could determine, the funds received on December 22, 2004 were used on December 28, 2004 to pay down a line of credit issued by Chittenden Bank.

Going into this fall, the city had a court ordered judgment against Scott, attachments on property which were second only behind Chittenden Bank’s overarching mortgage for a general line of credit and had all of Scott’s financial information. But Scott didn’t have any money left so the prospect of an immediate payoff was looking dim. Although frustrating, the plan was to get some long term attachments on property and collect the money over time.

Scott’s financial problems were not limited to the city though. This week we received notice that Chittenden Bank has brought suit and foreclosed on its line of credit against Scott. According to court filings, the Chittenden numbers are staggering – an outstanding debt of \$4.8 million against total estimated Scott assets of \$1.8 million. An auction of Scott’s construction equipment is being held on October 14, 2009. Scott’s personal assets are included in the foreclosure.

With this scenario, Chittenden Bank will likely seize and liquidate all of Scott’s assets and still take a \$3 million loss. No other creditor, including the city, would collect anything. With no equipment or real estate, Scott Construction will be in no position to generate revenue to pay off anything.

The city is left with very few options. We will resubmit an insurance claim for the loss and pursue some long shot approaches. Despite all of our efforts at securing payment, however, it seems very likely that the money is lost.

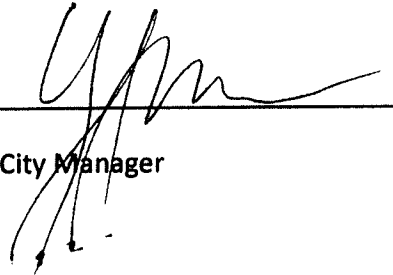
CITY OF MONTPELIER, VERMONT
Management Discussion Memo – Scott Construction, Inc. Contract
(Bailey/Memorial 16" Water Transmission Main)
December 8, 2004 – January 7, 2010

What is the loss? The original overpayment was \$462,338.13. Scott re-paid the city a total of \$114,688.34. That nets out to \$347,647.79 on a simple basis. When principal, interest and fees are figured the real loss is probably the \$397,079.90 that was awarded in the court judgment plus any legal costs incurred since then. When looking at strictly principal, the loss is at \$377,085.86. No matter how you count it, it's a lot of money from an already strapped water fund.

The City of Montpelier, Vermont has applied to be paid in full for the loss it incurred from an overpayment to the Scott Construction, Inc. of Newport, Vermont. Officials from the Vermont League of Cities and Towns Property & Casualty Insurance Fund (VLCT-PACIF) informed the City Manager and Finance Director that the City's insurance claim in the Scott Construction, Inc. matter would be honored and that the City would be covered in full. While full details of this decision have not been received from the insurer, the amount of reimbursement is expected to be the \$397,079 awarded to the city in a court judgment against Scott Construction, Inc. on June 16, 2009. This claim was originally denied in January of 2007.

The collection of this insurance claim (\$347,648) coupled with the \$114,688 already received in re-payments from Scott Construction, Inc. means that the City has fully recouped the loss, along with its attorney's fees and interest of \$49,431. It also means that no water rate or general fund money was used or will be used to pay for any portion of this error. From the moment that this overpayment was discovered, City officials have diligently pursued every possible avenue for collection to assure that Montpelier water rate payers were made whole financially. This update represents the successful completion of that goal.

APPROVAL:



William Fraser, City Manager

January 7, 2010

Date

City of Montpelier, Vermont
Reconciliation of Scott Construction, Inc. Contract (Bailey/Memorial 16" Water Transmission Main) Dated July 15, 2004 -
Including Change Orders to Requisition for Payment and Results of Testing Key Controls

	Date	Amount	Montpelier Voters approve project at City Meeting	After 31 days, Requests for Proposals (RFPs) are distributed	City Council approves selected Proposal/Contract and Change Orders	Contract is reviewed by an Attorney	Change Order is signed by City Manager	Contract / Change Order is properly documented and filed
Original Contract	7/15/2004	\$ 826,636.02	X	X	X	X	X	X
Change Order #1	① Unknown	\$ -	N/A	N/A	O	N/A	X	X
Change Order #2	② Unknown	\$ 5,200.00	N/A	N/A	O	N/A	X	X1
Total		\$ (38,797.38) <i>Final Reconciliation</i>	N/A	N/A	O	N/A	X	X1
		<u>\$ 793,038.64</u>						

Requisition #	Check Date	Check #	Requisition Amount	Amount Paid	Accumulated Amount Paid	Project Engineer certifies requisition	City Manager certifies requisition	Warrant Jackets are certified by DPW Director	"Check Warrant Report" is reviewed and approved by the Mayor, City Manager & City Council	Checks are Pre-Numbered	Check is Properly Signed
1	9/1/2004	085646	\$ 85,505.28	\$ 85,505.28	\$ 85,505.28	X	X	X	X	X	X
2	9/29/2004	086079	\$ 121,480.71	\$ 121,480.71	\$ 206,985.99	X	X	X	X	X	X
3	10/13/2004	086311	\$ 141,589.12	\$ 141,589.12	\$ 348,575.11	X	X	X	X	X	X
4	11/24/2004	086948	\$ 199,535.72	\$ 199,535.72	\$ 548,110.83	X	X	X	X	X	X
5	12/22/2004	087373	\$ 85,774.70	\$ 548,110.83	\$ 1,096,221.66	X	X	X	X	X	X
6	10/12/2005	091815	\$ 88,982.43	\$ 88,982.43	\$ 1,185,204.09	X	X	X	X	X	X
Gray's Paving RE Tucker	10/12/2005	091722	\$ 19,008.75	\$ 19,008.75	\$ 1,204,212.84	X	X	X	X	X	X
Total Req. #6	10/12/2005	091797	\$ 6,570.00	\$ 6,570.00	\$ 1,210,782.84	X	X	X	X	X	X
			\$ 114,561.18	\$ 114,561.18							
7	6/7/2006	095064	\$ 30,000.00	\$ 30,000.00	\$ 1,240,782.84	X	X	X	X	X	X
8	8/2/2006	096099	\$ 2,484.93	\$ 2,484.93	\$ 1,243,267.77	X	X	X	X	X	X
Signals Memorial Ave. Paving	8/2/2006	096104	\$ 4,620.00	\$ 4,620.00	\$ 1,247,887.77	X	X	X	X	X	X
Liquidated Damages	A	A	\$ 4,275.00	\$ 4,275.00	\$ 1,252,162.77	X	X	N/A	N/A	N/A	N/A
Total Req. #8	A	A	\$ 3,212.00	\$ 3,212.00	\$ 1,255,374.77	X	X	N/A	N/A	N/A	N/A
			\$ 14,591.93	\$ 14,591.93							

Total \$ 793,038.64 \$ 1,255,374.77

Requisitions Difference (Overpayment) \$ (462,336.13)

Net Total \$ 793,038.64 \$ 793,038.64

X - Key Control verified without exceptions
X1 - Documentation was produced, but only after obtaining from project engineer
O - No documentation to support the fact that the control was performed
A - No check issued (chargeback)
① - Change Order #1 adjusted the contract completion date due to winter shutdown from 200 days to 352 days.
② - Change Order #2 added \$5,200 to contract for a 24" drain, adjusted contract completion date from 352 days to 579 days and reconciled the amount paid to the original contract.

SECTION 3

CITY OF MONTPELIER, VERMONT

MANAGEMENT DISCUSSION MEMO
VENDOR DISBURSEMENT PROCEDURES
JUNE 30, 2004 TO JANUARY 7, 2010



Cota CPA, PC

Certified Public Accountant & Consultant
64 Knight Lane • P.O. Box 1405 • Williston, VT 05495-1405

802-878-1158 • 800-244-0451 • FAX 802-878-1449
E-Mail: cota@cotacpa.com • Website: www.cotacpa.com

INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

City of Montpelier, Vermont
Office of the City Manager
39 Main Street, City Hall
Montpelier, VT 05602

Montpelier Citizen's Financial Review Committee
C/O Thomas M. Salmon, CPA
Project Facilitator
State of Vermont
132 State Street
Montpelier, VT 05633-5101

We have performed the procedures for Project B (Vendor Disbursements Procedures) enumerated in Appendix II of our engagement letter dated December 7, 2009, which were agreed to by the City of Montpelier, Vermont and Thomas M. Salmon, CPA, acting as Project Facilitator on behalf of the Montpelier Citizen's Financial Review Committee, solely to assist in the analysis and evaluation of the Management Discussion Memorandum regarding the City's vendor disbursement procedures. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of these parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

- Obtain/Prepare vendor disbursements only flow chart
 - Past (time the Scott Construction, Inc. Contract was signed)
 - Time line of changes
 - Present
- Obtain/Prepare an organization chart
 - Past (time the Scott Construction, Inc. Contract was signed)
 - Time line of changes
 - Present
- Obtain/Prepare a list of Staff and Staff titles, job descriptions (duties/responsibilities)
 - Past (time the Scott Construction, Inc. Contract was signed)
 - Time line of Changes
 - Present
- Review Internal Control Deficiency and Management Letters submitted by audit firms June 30, 2003 through June 30, 2008.

Findings, recommendations and questioned procedures regarding the internal controls of the vendor disbursement process are included in the Findings, Recommendations and Questioned Procedures Letter.

We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on the accompanying agreed-upon procedures. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Cota CPA, PC has no responsibility to reissue this report.

This report is intended solely for the information and use of the Management and Citizens' of the City of Montpelier, Vermont and the Montpelier Citizen's Financial Review Committee and is not intended to be and should not be used by who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purpose.

Cota CPA, PC

January 7, 2010



City of Montpelier, Vermont
Management Discussion Memorandum
Vendor Disbursement Procedures
June 30, 2004 - January 7, 2010

The Capital Projects Committee identifies the need for projects in the City and provides the appropriate Department Head with the basic project information. The Department Head and a contracted firm develop estimated project specifications and costs.

After the project's specifications and costs are developed the Capital Projects Committee presents the project to City Council. City Council then denies the project or approves it to go to the Voters. If the project is approved it is put to vote at city meeting. 31 days after the project specifications and costs are made available to the public a 'Request for Proposals' is distributed by the City Manager and the Department Head.

The proposals are accumulated and reviewed by the contracted Engineer and the Department Head. The Engineer presents an analysis of the proposals to City Council. City Council votes to approve one proposal. Once a proposal has been selected the contract is developed by the Engineer and the Contractor. The contract is then reviewed by the City's attorney. The contract is then signed by the City Manager.

At this time work on the project should begin according to the contract. Change orders on the contract can occur during the project. Usually change orders originate from the Contractor, but they can also originate from the Engineer. Once a change order is submitted by the Contractor it is reviewed by the Engineer and the contracted Project Supervisor. In September 2007 the City hired an Engineer who is now responsible for overseeing projects and has taken over the responsibility of the contracted Project Supervisor.

After the change order is reviewed either the Project Supervisor or the Director/Assistant Director of Public Works adjusts the project budget and files the change order.

Requisitions are sent from the Contractor to the Project Engineer for review before they are sent to City. According to City Policy, once the requisition arrives at City Hall it is forwarded to the appropriate department. The Department Head recalculates the requisition and reviews the requisition for accuracy. Since February, 2007 all requisitions/invoices over \$5,000 are reviewed by the City Manager as well. These reviews include recalculating the requisitions/invoices and reviewing for accuracy. If anything "odd" is noticed on the requisitions/invoices it is researched by either the Department Head or the City Manager, whomever noticed the oddity. The requisition is then passed on to the department Administrative Assistant, whom used to type a warrant jacket for the requisition. Warrant jackets were taken out of use in February, 2007 and were replaced with a stamp used directly on the requisition that identifies the vendor number, invoice number, amount to pay, general ledger coding and approval.

After the warrant jacket is typed or the requisition is stamped the Administrative Assistant enters the requisition into accounts payable and then brings the warrant jacket/requisition to the finance department.

The Accounting Clerk used to generate the "Invoice Edit List for all Unpaid Invoices" report, which has been replaced by the "Voucher Detail Listing" report that lists invoices by Vendor, by invoice number as of November 11, 2009. The Accounting Clerk then ties the warrant jackets or the requisitions to the report.

City of Montpelier, Vermont
Management Discussion Memorandum
Vendor Disbursement Procedures
June 30, 2004 – January 7, 2010

As of February, 2007 the Finance Director reviews the "Voucher Detail Listing" and specifically reviews any payments that are in excess of \$5,000 for the City Manager's signature and ties out all invoices/requisitions over \$25,000. Once the warrant jackets or requisitions are tied to the report and all payments needing to be reviewed are reviewed, the Accounting Clerk prints the checks on pre-numbered check stock and forwards the checks to the Treasurer's office.

As of November, 2009 a "Check Listing" report is generated and a copy is e-mailed to City Council members and the Mayor and one is routed to the City Manager. Since February, 2007 the City Manager reviews the report and signs the "City of Montpelier Voucher" approving the "Check Listing" report. The checks would then be forwarded to the Treasurer's office. From June, 2004 to November, 2009 the Council and the Mayor would not see the Report or sign the Voucher until the next meeting.

The Treasurer then signs the checks, prior to February, 2007 using a rubber stamp of the Mayor's signature and as of February, 2007 using a check signing machine with the Treasurer's signature on the plate. The signature plate and the key are kept locked in a secure location when not in use.

Prior to November, 2009 the next step was that the Accounting Clerk transferred the accounts payable to the general ledger and it was reviewed by the Contracted Accountant before it was posted. These steps are no longer completed.

The checks are prepared for mailing by the Accounting Clerk and then they are returned to the Treasurer's office for safe keeping.

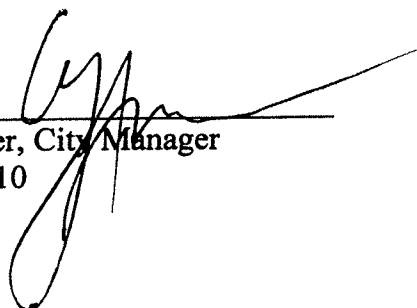
Prior to February, 2007 the "Check Warrant" report was printed at this time for review by City Council, the City Manager and the Mayor at the next Council Meeting. After review the "City of Montpelier Voucher" was signed to document the review. The checks were then put in the mail, although sometimes if there was no meeting scheduled before the due date of some of the invoices, the checks were mailed prior to the review of the "Check Warrant" report and without anyone's signature on the "City of Montpelier Voucher."

As of November, 2009 the checks are mailed out the following Monday to allow the City Council members to review the "Check Listing" report. Then the Accounting Clerk completes the Budgetsense invoice processing and prints the required reports.

Warrant jackets (past), requisitions and supporting documentation is filed in the finance department by the Accounting Clerk.

As of November, 2009 the "City of Montpelier Voucher" is signed by the Mayor and the City Council members at the next Council Meeting. The voucher is then filed in the finance office as well.

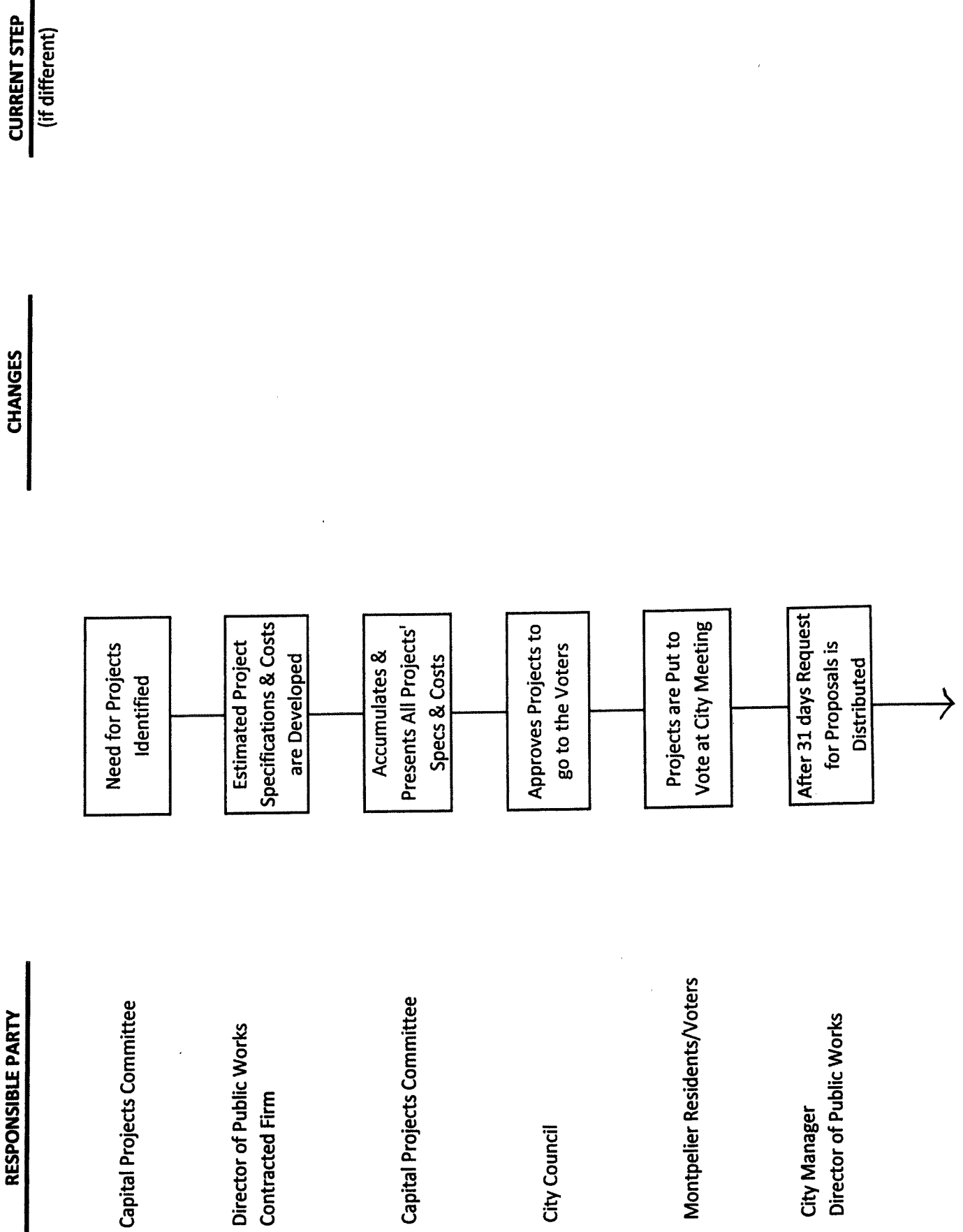
APPROVAL:



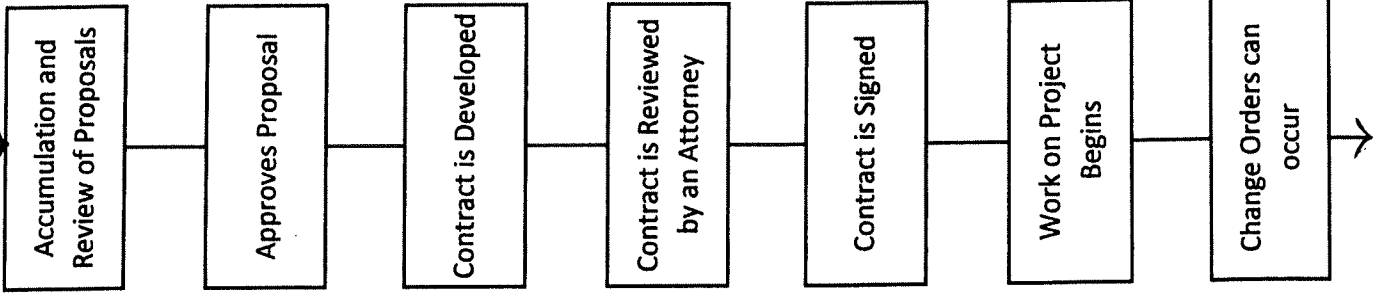
William Fraser, City Manager

January 7, 2010

City of Montpelier
Vendor Disbursement Flowchart



City of Montpelier
Vendor Disbursement Flowchart



Contracted Engineer
Director of Public Works

City Council

Contracted Engineer
Contractor

Attorney

City Manager

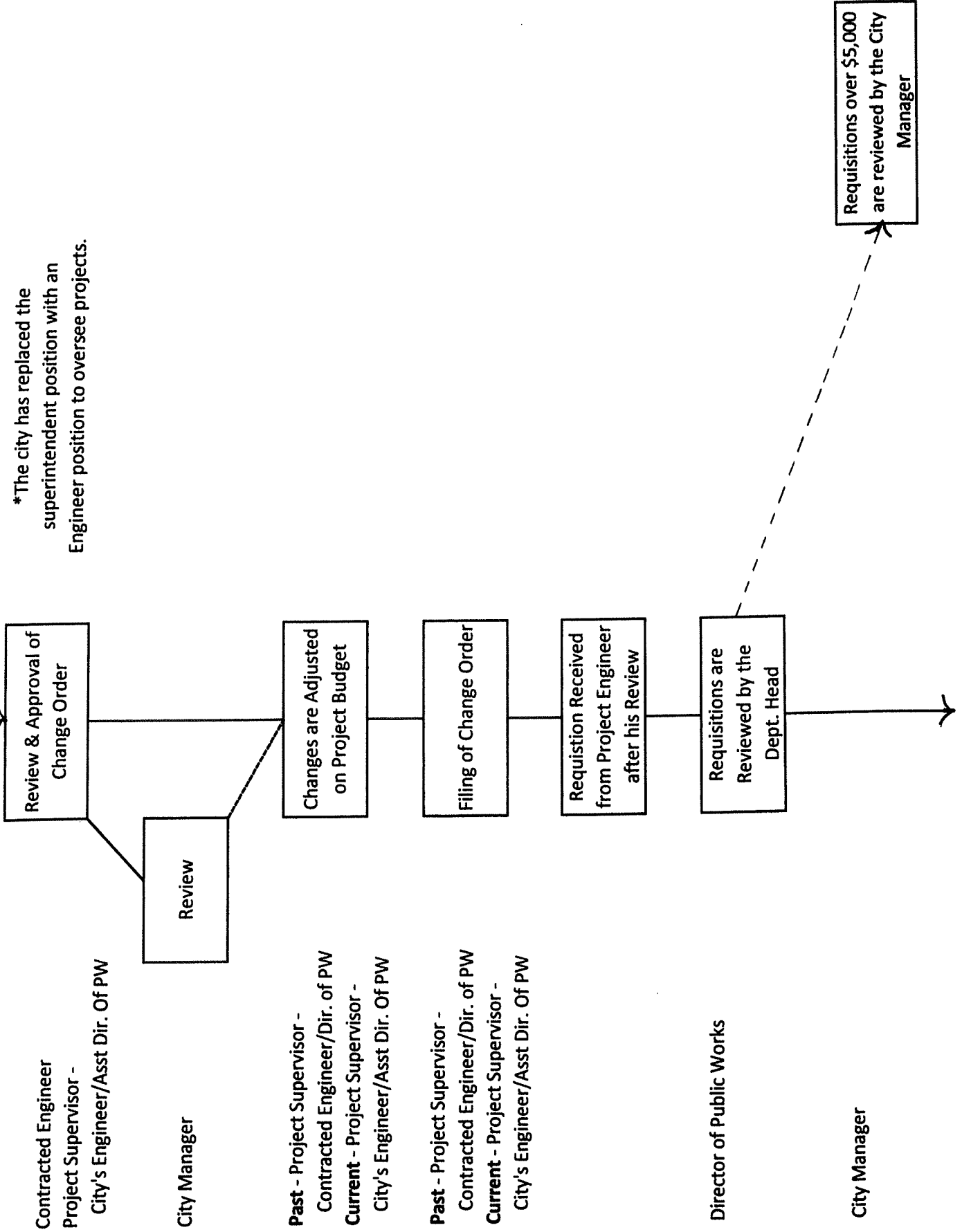
Contractor

Contractor
Contracted Engineer

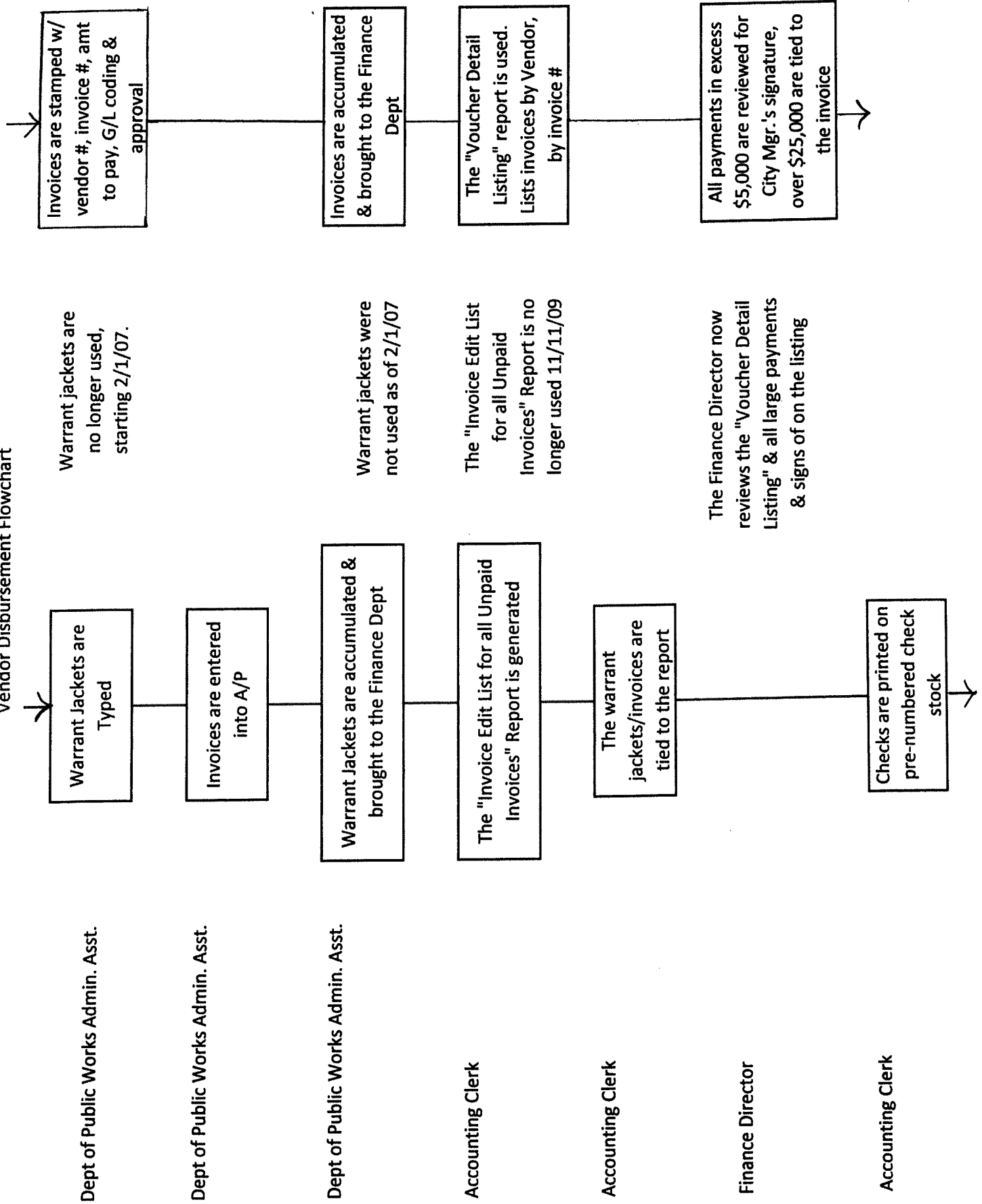
City of Montpelier

Vendor Disbursement Flowchart

*The city has replaced the superintendent position with an Engineer position to oversee projects.

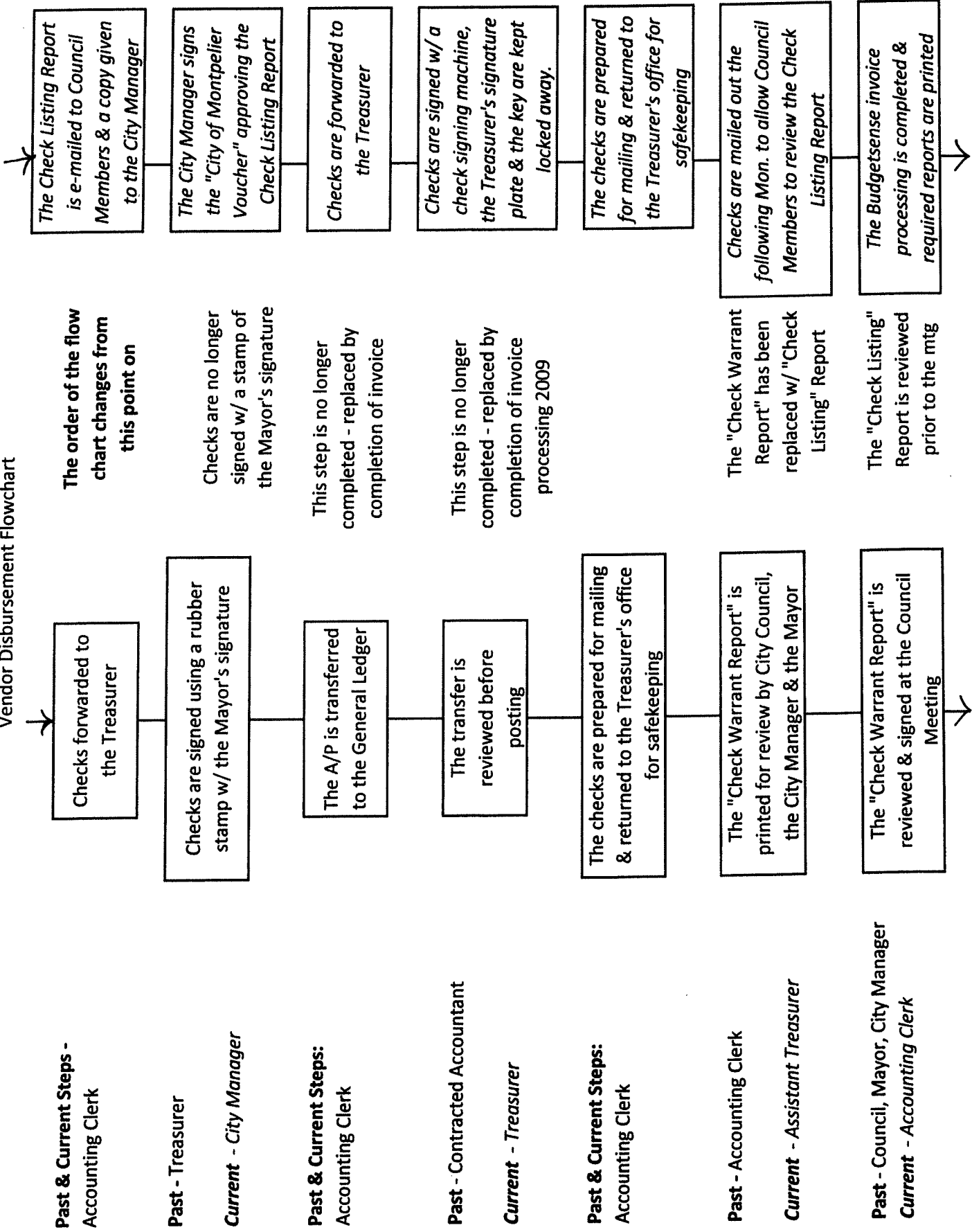


City of Montpelier
Vendor Disbursement Flowchart



City of Montpelier

Vendor Disbursement Flowchart



City of Montpelier
Vendor Disbursement Flowchart

Past & Current Steps:
Accounting Clerk

Past - Accounting Clerk

Current - City Council, Mayor

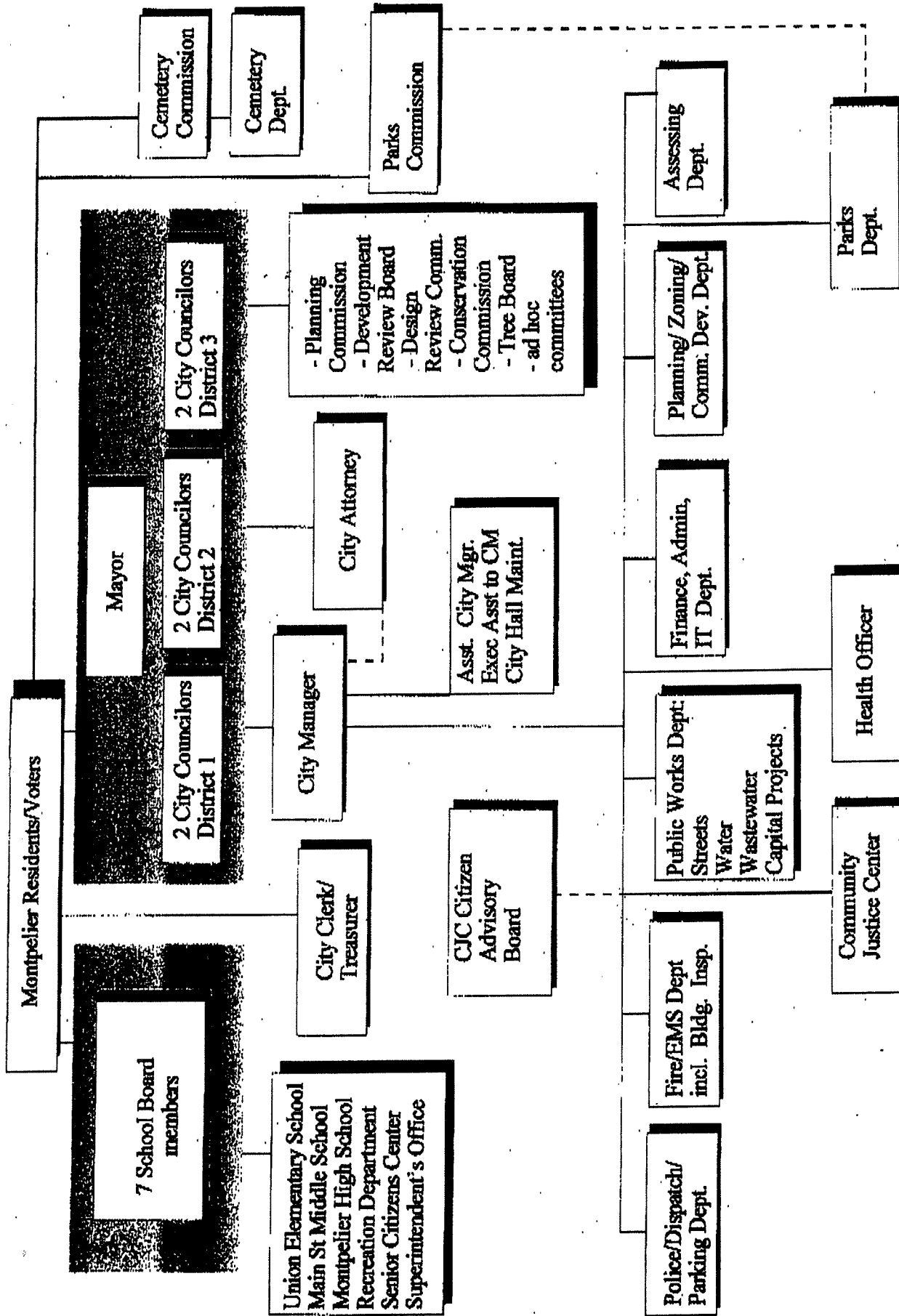
Checks are put in mail

Warrant jackets and documentation
are filed in the Finance Office

Invoices & supporting
documentation are filed
in the Finance office

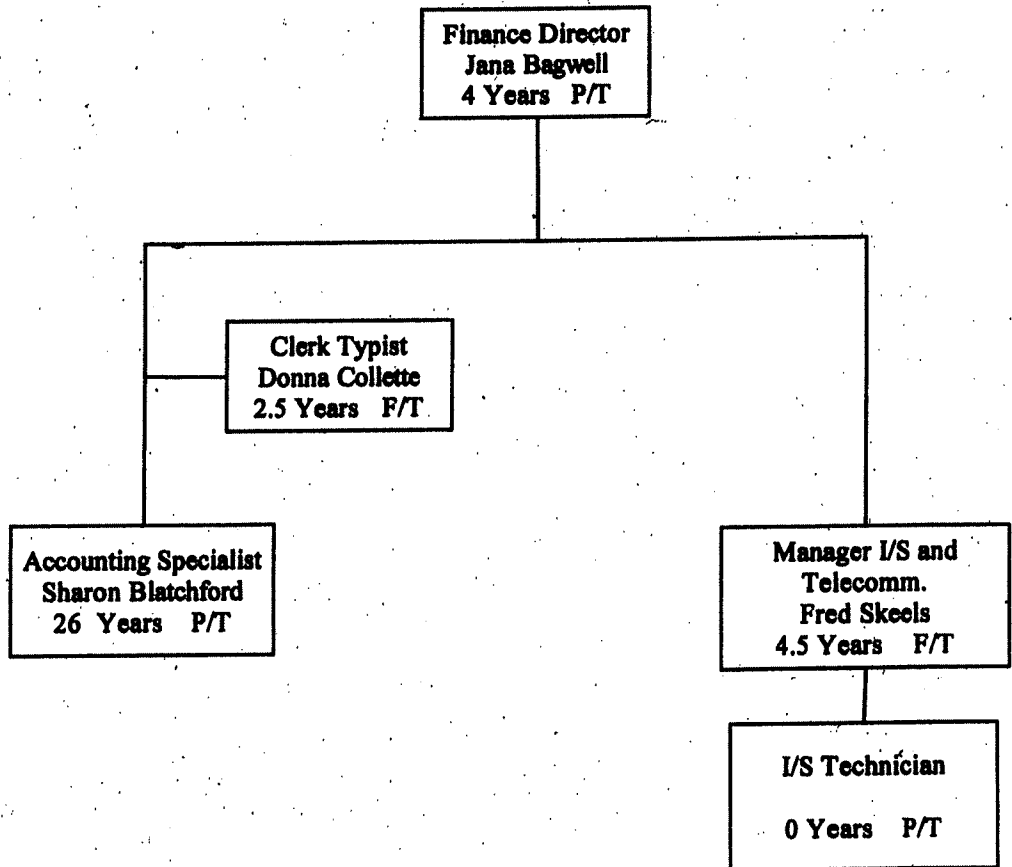
Council & Mayor sign the "City of
Montpelier" Voucher at the next
Council Meeting, approving the
"Check Listing" Report

CITY OF MONTPELIER, VERMONT
 ORGANIZATIONAL CHART
 2003 - 2009



FINANCE ADMINISTRATION AND TECHNOLOGY DEPARTMENT

2004



CITY OF MONTPELIER, VERMONT
 ORGANIZATIONAL CHART
 DEPARTMENT OF PUBLIC WORKS

2004

Thomas McArdle
 Assistant Director
 (22 yrs)

Stephen Gray
 Director of Public Works
 (34 yrs)

Durward Lamb
 Superintendent
 (33 yrs)

Virginia Mackey
 DPW Secretary
 (10 yrs)

Charles Pelletier
 Street Supervisor (35 yrs)

- W. Russell, Equipment Operator-II (37 yrs)
- M. Utton, Equipment Operator-II (26 yrs)
- S. Durgin, Equipment Operator-I (5 yrs)
- S. Powers, Equipment Operator-I (20 yrs)
- F. White, Equipment Operator-I (26 yrs)
- S. Baker, Truck Driver (4 yrs)
- J. Lee, Truck Driver (19 yrs)
- M. Mercadante, Truck Driver (2 yrs)
- I. Smith, Truck Driver (3 yrs)
- K. Willey, Truck Driver (20 yrs)
- R. Lee, Truck Driver (part-time) (3 yrs)

Eric Ladd
 Equipment Supervisor
 (9 yrs)

- J. Billbrey, Clerk (21 yrs)
- G. French, Mechanic II (28 yrs)
- M. Potter, Mechanic II (4 yrs)

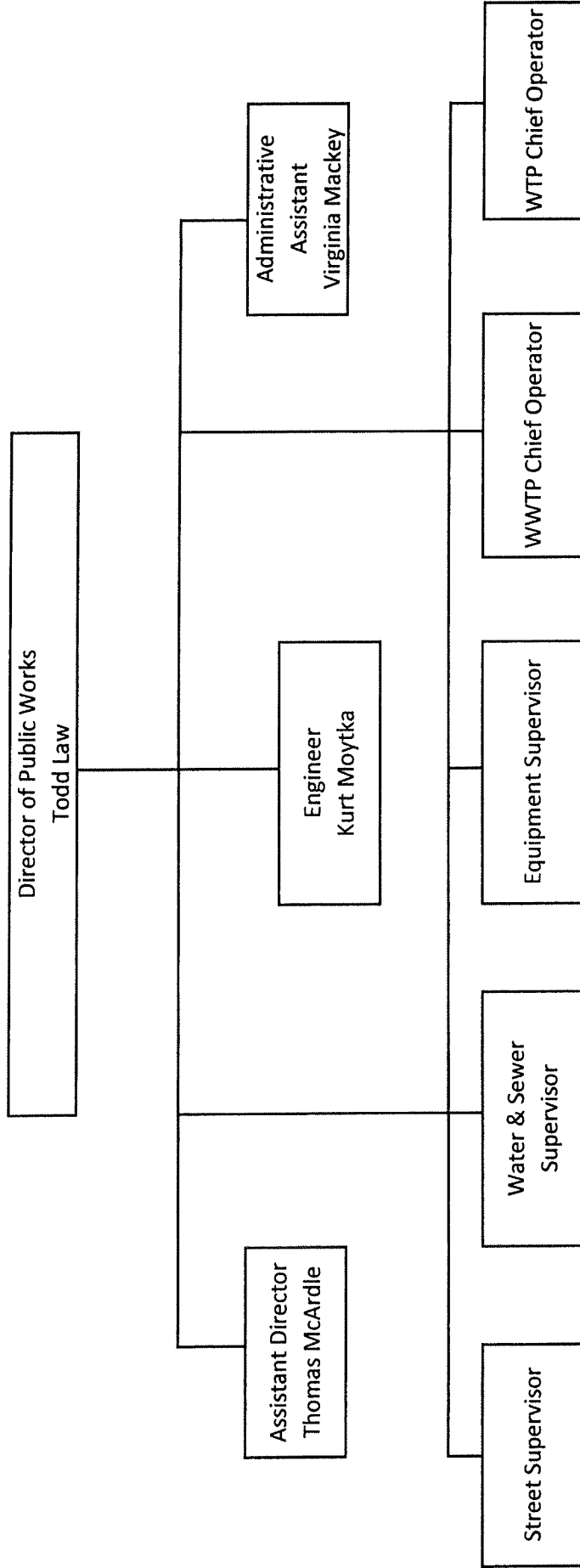
James Hutchinson
 Water & Sewer Supervisor
 (28 yrs)

- N. Cowens, W&S Mechanic (18 yrs)
- R. Jewett, W&S Mechanic (31 yrs)
- M. Papineau, W&S Mechanic (25 yrs)
- R. Cilche, Equipment Operator-II (36 yrs)
- F. Ellis, Equipment Operator-II (13 yrs)
- M. Bilodeau, Truck Driver (19 yrs)
- G. Richardson, Truck Driver (25 yrs)

Ronald Mercier, Chief Operator, WWTP (23 yrs)
Geoff Wilson, Acting Chief Operator, WTP (8 yrs)

- R. Fischer, Lab Chemist/Asst Chief Operator (3 yrs)
- H. Blake, Plant Operator (8 yrs)
- T. Coffin, Plant Operator (4 yrs)
- D. Hull, Plant Operator (28 yrs)
- G. Smith, Plant Operator (25 yrs)
- R. Duffin, Operator in Training (5 yrs)

City of Montpelier, Vermont
Organizational Chart
Public Works Department
2009



City of Montpelier, Vermont
Staff Involved in the Public Works Vendor Disbursement Process
July 2004 – December 2009

City Manager

William J. Fraser 03/13/1995 – present

Assistant City Manager

Beverlee Pembroke-Hill 01/22/1987 – present

Treasurer

Charlotte Hoyt March 1991 – present

Assistant Treasurer

Penny Bolduc 01/02/1997 – present

Finance Office

Finance Director

Jana Bagwell 10/19/2000 – 10/18/2005

Sandra Gallup 12/12/2005 – present

Assistant Finance Director

Fothergill Segale & Valley Consulting Services:

Penny Bullard 2004 – present

Accounting Clerk

Donna Collette 06/01/2004 – present

Department of Public Works

Director of Public Works

Stephen Gray 07/14/1969 – 12/31/2005

Todd Law 02/13/2006 – present

Assistant Director of Public Works

Thomas McArdle 12/29/1983 – present

Administrative Assistant

Virginia Mackey 09/28/1998 – present

Superintendent (replaced by Engineer)

Durward Lamb 02/08/1971 – 6/29/07

Engineer

Kurt Moytka 09/02/2007 – present

City of Montpelier, Vermont
Accountants' Discussion
Accounts Receivable, Promissory Note and Bad Debts

As part of the completion of our agreed-upon procedures programs, we evaluated and analyzed the City of Montpelier, Vermont's accounting for the Scott Construction, Inc. contract (Bailey/Memorial 16" water transmission main) overpayment. We found that Management's description of the events leading up to and following the discovery of the overpayment was thorough and accurate. (See Management Discussion Memorandum in Section 2)

When the overpayment was originally discovered by City Management in October, 2006 a receivable was booked to move the overpayment total of \$462,336.13 from Improvements into Accounts Receivable via a General Journal Entry. At this time, it was reasonable for Management to post this General Journal Entry and they did so with the guidance and assistance of Fothergill, Segale & Valley Consulting Services. The City was also already beginning negotiations with Scott Construction, Inc. to develop a plan for repayment at the time the General Journal Entry was drafted. Therefore, there was no reason to expect that the City would have moved the overpayment from the asset section of the balance sheet (Improvements or Accounts Receivable accounts) into the Income Statement as a Bad Debt Expense. Normally, the booking of Bad Debt Expense is not done, or often even considered in any detail, until the Organization's fiscal reporting year-end. Also, a Bad Debt Expense is never booked until there is ample evidence to support the fact that a receivable amount will never be received. One may argue that City Management should have estimated an uncollectible amount and booked this amount as an allowance on the receivable, but once again, receivable allowances normally aren't considered until year-end reporting procedures are being performed.

On January 29, 2007 Dan Scott of Scott Construction, Inc. signed a promissory note with the City of Montpelier, Vermont to repay the overpayment balance of \$462,336.13 over a period of six (6) years. At this time, another General Journal Entry was correctly made to move the balance from Accounts Receivable to a Promissory Note recorded as a Note Receivable. Once the City had a written agreement with Scott Construction, Inc. there was no longer any reason to suspect that the amount would not be collected eventually. Even when Mr. Scott failed to make payments on the Promissory Note and later ended up filing bankruptcy, there were still avenues that the City had available to collect the remaining amount due plus accrued interest. Therefore, at no point in the process – from the time the overpayment was initially discovered until the City's most recent insurance application – was there ever any reason to conclude that the amount would never be collected.

We understand that many individuals do not have the extent of knowledge regarding Generally Accepted Accounting Principles (GAAP) that we who practice in the industry possess. Therefore, we have included the following elementary definitions of Accounts Receivable, Promissory Notes/Notes Receivable and Bad Debt Expense, taken directly from an Intermediate Accounting textbook, to further clarify accounting and reporting protocol:

Accounts Receivable

Accounts Receivable are oral promises of the purchaser to pay for goods and services sold and/or refunds of expenditures. They represent “open accounts” resulting from short-term extensions of credit.

Promissory Notes/Notes Receivable

Promissory Notes/Notes Receivable are written promises to pay a certain sum of money on a specified future date.

Bad Debt Expense

Bad Debt Expense is defined when an outstanding receivable will never be received. However, under GAAP, management is required to estimate the value of uncollectible receivables periodically and recognize an expense on the income statement as well as establishing an allowance for bad debts on the balance sheet, effectively reducing the value of the receivable. Recording of a bad debt does not occur until it is determined that the debt is in fact not collectible under any circumstances.

