

## MOTION

### 3. **Establishing an Independent Auditor General Office for the City of Vancouver**

At the Standing Committee on City Finance and Services meeting on October 2, 2019, Council referred the following motion to the Standing Committee on Policy and Strategic Priorities meeting on October 23, 2019, in order to hear from speakers.

Submitted by: Councillor Hardwick

#### WHEREAS

1. Good governance in the municipal sector, and ensuring that a municipal government achieves its intended results while always acting in the public interest, is essential to satisfying the public's expectation that a municipality is providing effective stewardship over public assets, value-for-money in operations, transparent administration, and accountability for results;
2. Ensuring that the City of Vancouver is financially healthy and administratively effective, including a commitment to service excellence, are chief among the governance goals of the City – as articulated prominently in the City's 2019 Corporate Plan;
3. The City of Vancouver's organizational structure serves to support the community through various departments, services, and groups, including departments, services, and groups responsible for Finance, Risk, and Business Planning functions;
4. Each year, the City of Vancouver prepares a combined annual budget and five-year financial plan, made up of operating and capital budgets and department service plans, with approximately three quarters of the annual funds required to run the City coming directly from property taxes and utility fees;
5. Section 230 (1) of the *Vancouver Charter* requires that Council shall, "not later than the first Council meeting in each year, appoint a firm of chartered professional accountants to audit the accounts and transactions of the city and of every other administrative body." <sup>i</sup>
6. There are three types of municipal audit functions: Auditors General, external City Auditors, and Internal Auditors, each of which plays a different but interdependent role, and all of which can add significant value to a municipality despite the fact that the differences between them are not always well understood by members of a City Council or Audit Committee;
7. The City of Vancouver is the only major Canadian city that does not have an Auditor General's office (or a comparable "City Auditor" office) that is independent of the City's management – one that is capable of providing

an essential layer of independent financial and performance oversight of the City's financial and operational affairs;

8. The City of Vancouver currently has an internal audit process and internal audit division that "reports to the internal audit management team consisting of the city manager, deputy city manager, director of finance, and director of legal services,"
9. The City's Internal Audit (IA) Division consists of "a team of five certified internal audit professionals" dedicated to completing a variety of audits focused on "effectiveness, efficiency, and economy" to provide "an independent and objective assurance function which helps promote the City's efficiency, effectiveness, and accountability."; <sup>ii</sup>
10. In contrast to the City of Vancouver's existing internal audit processes, Auditors General at the municipal level report directly to a City Council, or a Committee of Council, and have a mandate to set their own audit plan, publicly report the results of audits, serve independently from City management, and greatly assist Councils in holding themselves and City administrators accountable for the stewardship of public funds and the achievement of value-for-money within municipal operations;
11. The establishment of an Auditor General Office in the City of Vancouver, consistent with Auditor General offices in other major Canadian cities, and operating independent of the City's internal audit processes, would offer an enhanced standard of audit independence and objectivity and help to ensure that the City is providing effective stewardship over public assets, value-for-money in operations, transparent administration, and accountability for results, consistent with the public's reasonable expectations; <sup>iii</sup>
12. In July 2011, prior to the Province of British Columbia establishing the Auditor General for Local Government (AGLG) office (NOTE: BC's AGLG currently has an annual budget of \$2.6 million and serves 190 local governments ranging in size from 250 to over 500,000 people), the Union of British Columbia Municipalities (UBCM) issued a Context Paper entitled, "Municipal Auditor General Context Paper: Background and context to the proposed Office of the Municipal Auditor General under consideration by the Province of British Columbia," with the intention to: <sup>iv</sup>
  - Inform discussions of local government Councils and Boards as they considered responses to a survey on the proposed BC Municipal Auditor General from the Minister of Community, Sport and Cultural Development.
  - Present UBCM's initial research relating to a) Auditors General and Municipal Auditors General across Canada, b) the local government financial accountability framework in British Columbia, and c) considerations relating to further policy development work.

- Assist UBCM members as they prepared for a broader public discussion of the initiative within their communities;
13. UBCM's 2011 Context Paper variously notes the existence of Municipal Auditors General in Nova Scotia, Quebec (for municipalities over 100,000 population), in Ontario (with a specific requirement for the City of Toronto), and Manitoba, as well as “generalized statutory powers in Alberta and BC” that allow a local government to establish a Municipal Auditor General and “assign duties to the Office.”; <sup>v</sup>
14. Examples of Canadian municipalities that have Municipal Auditors General independent of a city’s management and administrators (or alternatively a “City Auditor” with much the same function, mandate, and reporting structure as an Auditor General) include the following: <sup>vi</sup>
- Sudbury, Ontario: “The Auditor General reports directly to Greater Sudbury Council and is responsible for assisting Council in holding itself and its administrators accountable for the quality of stewardship over public funds and for achievement of value for money in municipal operations. By performing duties in an independent manner, and making reports available to the public, the Auditor General’s Office plays an important role in promoting transparency, accountability and trust in municipal operations.”;
  - Edmonton, Alberta: “The City Auditor is appointed by City Council to provide internal audit services. The delegated powers, duties, and functions of this position are established under the City Auditor Bylaw. In providing services to the corporation, the Office of the City Auditor performs the key roles of guardian and agent of change.” (City of Edmonton City Auditor By-law 12424);
  - Montréal, Québec: (Bureau du vérificateur general) “The Auditor General assists City Council in the execution of its governance duties by keeping it updated on the diligent and optimal use of public funds by Municipal Administration. By means of fully independent audits and the publication of reports which are available to the public, the Auditor General plays a critical role in promoting the transparency and accountability of municipal operations.”;
    - NOTE: Report of The Auditor General of The Ville De Montréal for the year ended December 31, 2018 – Our mission is to “provide city council and citizens with an objective and independent view of the quality of public funds management, including the economic, efficient and effective use of resources, legal and regulatory compliance, and the reliability of financial statements.”
  - Halifax, Nova Scotia: “The Auditor General is responsible for assisting Council in holding itself and the Municipality’s administrators accountable for the quality of stewardship over the

public funds and for achievement of value for money in the Municipality's operations.”;

- Winnipeg, Manitoba: “The City Auditor is a statutory officer appointed by City Council under *The City of Winnipeg Charter* and is independent of the Public Service. Powers and authorities granted through the *City of Winnipeg Charter*, By-laws and Council motions support the position and mandate of the City Auditor.... The City Auditor conducts examinations of the operations of the City and its affiliated bodies to assist Council in its governance role of ensuring the accountability of the Public Service for the quality of stewardship over public funds and for the achievement of value for money in City operations. The City Auditor is directly accountable to City Council through the Audit Committee which is comprised of Executive Policy Committee members.”;
    - NOTE: Mission – “To support City Council and the Public Service by providing objective and independent advice and assurance with respect to governance, risk management, performance and accountability.”;
  - Calgary, Alberta: “The City Auditor’s Office is responsible for assisting Council in its oversight of the City Manager’s Administration, accountability for stewardship over public funds, and accountability for the achievement of value for money in City operations. The City Auditor is a designated officer appointed by Council and is independent of The City’s Administration. The City Auditor reports to Council through the Audit Committee. The City Auditor’s duties, responsibilities and authority are established by Bylaw 30M2004.”;
  - Toronto, Ontario: “The Auditor General is responsible for assisting City Council in holding itself and City administrators accountable for the quality of stewardship over public funds and for achievement of value for money in City operations. The Auditor General’s Office is independent of management and has the authority to conduct financial, operational, compliance, information systems, forensic and other special reviews” of most City departments, City agencies and corporations, local boards provided for under the *City of Toronto Act*, and other entities the City is related to or has an interest in;
15. UBCM’s 2011 Context Paper states that “While there is no specific authority for a BC local government to appoint a MAG [Municipal Auditor General], the audit provisions relating to both municipalities and regional districts allow Councils and Boards to require reports (in addition to the required financial statement reports) from their auditors. This would allow Councils/Boards to require such things as performance audits. In addition, the natural persons powers’ of municipalities and broad corporate powers of regional districts should be sufficient for

Councils/Boards to establish an Office of the MAG and assign duties to that Office, if they so choose.”; <sup>vii</sup>

16. Section 162 of the *Vancouver Charter* states that “The Council (a) may establish and equip such departments and offices as it may from time to time deem expedient in the exercise of its powers, and may assign such functions and duties to the persons employed in such departments and offices as the Council may from time to time decide.”; <sup>viii</sup>
17. Growth in the size, scope, and nature of the City of Vancouver’s operating and capital budgets, which have a combined total that now approaches \$2 billion annually, along with many competing budget priorities, necessitates that Vancouver City Council explore and seriously consider governance best practices observed in other major Canadian cities, such as an Independent Auditor General, that can serve to strengthen the City of Vancouver’s audit functions and inspire public confidence that the City of Vancouver and Vancouver City Council are providing the best possible stewardship over public funds while actively and continuously seeking to better identify and mitigate risks the City faces, improve accountability, strengthen management controls, and enhance the efficiency and effectiveness of City operations;
18. The City of Vancouver (see: Internal audit reports: <https://vancouver.ca/your-government/internal-audit-reports.aspx>) subscribes to the notion that “An independent audit function is essential to government accountability.” <sup>ix</sup>

THEREFORE BE IT RESOLVED

- A. THAT Vancouver City Council establish an Independent Auditor General Office for the City of Vancouver, one that would report directly to Council independent of the City’s management and internal audit functions, to assist City Council in holding itself and City administrators accountable, and for this office to be based on the best practices, insights, and experience observed in other major Canadian cities that have municipal Auditors General, the intention of which will be to further strengthen the City’s audit and financial functions and inspire public confidence and faith among taxpayers that the City of Vancouver and Vancouver City Council are providing the best possible stewardship over public funds while actively and continuously seeking to:
  - better identify and mitigate risks the City faces,
  - improve accountability,
  - strengthen management controls, and
  - enhance the efficiency and effectiveness of City operations

FURTHER THAT a target date of March 1, 2020, be set for the appointment of an Independent Auditor General, with an initial office budget of \$1 million annually, and with the funds to be integral to the City’s 2020 Operating Budget and recouped from savings and efficiencies

identified by the Auditor General in subsequent City of Vancouver Budget years.

- B. THAT a committee of Council be formed, comprised of all eleven elected members of Council, and consistent with Section 161 of the *Vancouver Charter*,<sup>x</sup> to direct the establishment and implementation of an Independent Auditor General Office for the City of Vancouver, including directing the search for and appointment of an Auditor General, in consultation with, and based upon recommendations from such bodies as the Canadian Audit and Accountability Foundation (CAAF) as well as other relevant authorities that Council may deem appropriate (e.g., consultation with BC's Auditor General for Local Government, offices of Auditors General across Canada), with a target date of no later than January 1, 2020, for the committee of Council to have met to review initial recommendations for the implementation of an Auditor General office and appointment of an Auditor General.
- C. THAT Vancouver City Council direct staff to obtain three independent outside legal opinions, as well as advice from appropriate provincial ministries and advisory bodies such as the Union of British Columbia Municipalities etc., regarding the existing legislative provisions (such as those in the *Vancouver Charter* and any specified provisions of the *Community Charter* and the *Local Government Act* that apply to Vancouver), under which an Independent Auditor General office could operate without further enabling legislation, and for staff to report back to Council on this specific question by December 1, 2019.
- D. THAT Vancouver City Council request that the City's Internal Audit (IA) Division, which reports to the internal audit management team consisting of the city manager, deputy city manager, director of finance, and director of legal services, make a presentation to Council before the end of October 2019 with an overview of the findings and recommendations of the City's Internal Audit (IA) Division over the past six years, with specific reference to performance / operational, financial and compliance audits of various programs and business processes, and related recommendations to City departments, including those specific to the effectiveness of internal controls and efficiency of business processes.
- E. THAT Vancouver City Council direct and/or otherwise empower the Mayor, on behalf of Vancouver City Council and the City of Vancouver, to write to the Premier of British Columbia with a formal request to the Provincial government, should that prove to be necessary upon due consideration and evaluation of any and all independent legal and advisory recommendations regarding existing legislative frameworks surrounding the establishment of an Independent Auditor General Office in the City of Vancouver, to initiate any legislative process or processes provincially that may be required to provide for, but not be limited to, any specific legal protections or powers that a City of Vancouver Auditor General may require for the effective operation of an Independent Auditor

General office that may not otherwise be provided for in the *Vancouver Charter* or other existing legislation, such as questions relating to:

- protection from legal liability related to the contents of an audit report (when acting in good faith) ;
- the power to compel documents or examine a person under oath;
- provisions to ensure that privileged solicitor-client information disclosed to an Auditor-General is not a waiver of privilege appropriate protection from disclosure under freedom of information legislation.

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**Endnotes:**

<sup>i</sup> The external Auditors appointed by Vancouver City Council are responsible for auditing the City's Financial Statements, the purpose of which is "to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report." (2018 Annual Financial Report).

The City's Management is "responsible for the preparation and fair presentation of the [City's] financial statements in accordance with Canadian public sector accounting standards organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error." (2018 Annual Financial Report).

As noted by the City's external Auditors in the City's most recent Annual Financial Report (2018): "Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists" and further that "Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements."

<sup>ii</sup> The City of Vancouver Internal Audit (IA) Division is a member of the Canadian Audit and Accountability Foundation (CAAF) as well as the Association of Local Government Auditors (ALGA), the Municipal Internal Auditors Association (MIAA), and the Institute of Internal Auditors (IIA).

<sup>iii</sup> As part of the UBCM process in 2011, the Executive (2011) respectfully asked the Minister for clarity and "to identify the problem [a provincial] MAG was intended to resolve, how [a provincial] MAG fits into the overall local government accountability system, what gaps there were in that system, if any, and whether any consideration had been given to strengthening existing mechanisms as an alternative to developing a new Office of the MAG if there were gaps."

The UBCM Executive (2011) suggested to the Minister that MAG "policy development could benefit from a broader perspective, and consideration of additional principles," such as:

- Respect for local government policy choices
- Respect for jurisdiction
- Build on existing systems, and
- Maximize public accountability benefits while respecting local autonomy and recognizing local capacity.

<sup>iv</sup> Specifically, UBCM’s 2011 Context Paper notes the following:

- “Nova Scotia legislation requires a MAG for all municipalities, although only the legislation specific to Halifax has been implemented. Discussions are ongoing between the Union of Nova Scotia Municipalities and the Province about how best to implement the 2008 legislation for all other municipalities.”
- “The only other MAG requirements in Canada are for municipalities with populations greater than 100,000 in Quebec, and for the City of Toronto.”
- “... Ontario municipalities and the City of Winnipeg are specifically empowered to appoint a MAG, but are not required to do so (examples of those that have are Ottawa and Oshawa).”
- “More generalized legislative authority allows Alberta and BC local governments to appoint a MAG, and this power has been used by Edmonton and Calgary.”

<sup>v</sup> UBCM’s 2011 scan did not indicate a specific requirement for a Municipal Auditor General, or specific municipal empowerment to appoint a MAG, for local governments in the provinces of Saskatchewan, Manitoba (except Winnipeg), Quebec (under 100,000), New Brunswick, Prince Edward Island, and Newfoundland, UBCM expressed the opinion that these jurisdictions “may have sufficient generalized powers to appoint a MAG, under the same types of authorities as are available in Alberta and BC.” (see table below):

MAG Required	Local government is empowered to appoint MAG	No provision for MAG (TBD) <sup>2</sup>
Nova Scotia (all)	BC (through general corporate powers)	Saskatchewan
Quebec (over 100,000)	Alberta (through general officer powers)	Manitoba (except Winnipeg)
Toronto	Ontario (specific provisions)	Quebec (under 100,000)
	Winnipeg (specific provisions)	New Brunswick
		Prince Edward Island
		Newfoundland

<sup>vi</sup> In 2012, the Government of British Columbia established an Auditor General for Local Government (AGLG) office by means of the *Auditor General for Local Government Act*.

The role of British Columbia’s Auditor General for Local Government is advisory, not supervisory, and as such the office does not comment on the policy decisions or objectives of locally elected officials, impose requirements, or duplicate existing financial accountability mechanisms;.

British Columbia’s *Auditor General for Local Government Act* states that the specific purpose of the Auditor General for Local Government is “to conduct performance audits of the operations of local governments in order to provide local governments with objective information and relevant advice that will assist them in their accountability to their communities for the stewardship of public assets and the achievement of value for money in their operations.”

Performance audits, as performed by the office of the Auditor General for Local Government, largely serve to identify “value-for-money” best practices that can be highlighted for the benefit of all local governments in the province and are not the same as traditional financial audits.

British Columbia’s Office of the Auditor General for Local Government has an annual budget of just \$2.6 million and serves 190 local governments ranging in size from 250 to over 500,000 people, with 10 municipalities having populations greater than 100,000 people.



The Annual Report of the Auditor General for Local Government, covering the period April 1, 2018 through March 31, 2019, indicates that there were five audit-related reports released during 2018/19 (i.e., two performance audits, three AGLG perspectives booklets, and the substantial completion of one other complex audit on drinking water).

British Columbia's Auditor General for Local Government, Gordon Ruth, has publicly stated that his office does not have the resources to conduct more than a few selected performance audits each year.

<sup>vii</sup> UBCM's research in 2011 noted that, as with provincial Auditors General who are appointed by the elected body representing the government entity being audited, "and report to that body," most Municipal Auditors General in Canada have this same appointment and reporting structure (i.e. they are appointed by, and report to, the municipal Council), with the one exception being Nova Scotia (in 2011) where implementation had not yet taken place and where Municipal Auditors General were to be appointed by the Minister and report to the Council(s) being audited, with a copy of all reports to the Minister.

<sup>viii</sup> Section 180 (4) of the *Vancouver Charter* (Indemnification of employees) states that "The council may by by-law provide that the city will, to the extent therein set out, indemnify its officers and employees, members of its council or any public service organization against a claim for damages against an officer or employee, members of its council or public service organizations or any of them arising out of the performance of his or its duties and, in addition, pay legal costs incurred in a court proceeding arising out of the claim."

<sup>ix</sup> The City of Vancouver is a member of the Canadian Audit and Accountability Foundation and thereby subscribes to the Foundation's inherent belief "that accountability is best served by auditors with the knowledge and skills to produce reports that make an impact, oversight bodies able to effectively discharge their responsibilities, and managers who can implement audit recommendations to improve their organization's performance."

The Canadian Audit and Accountability Foundation is a not-for-profit organization dedicated to promoting and strengthening public sector performance audit, oversight, and accountability in Canada and abroad through research, education, and knowledge sharing.

The Canadian Audit and Accountability Foundation has worked since 1980, with the support of its members and stakeholders, to assist all parties to the accountability relationship (i.e., oversight bodies, management, and the auditors who serve the accountability relationship) to improve the performance and accountability of public bodies, with resources, tools, and training to carry out their respective responsibilities, and by providing a national focal point for knowledge sharing and networking that fosters Canada-wide collaboration and discussion on issues of mutual interest;

<sup>x</sup> Section 161 of the *Vancouver Charter* requires a 2/3 vote of all members of Council in order to delegate any executive or administrative powers exercisable by Council to a committee comprised of members of Council.