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1. Amalgamation

1. The new City of Toronto began with the inaugural meeting of Council on January 2, 1998.¹ The province had amalgamated seven municipalities – the regional government of the Metropolitan Toronto and the local municipalities of Toronto, North York, Scarborough, Etobicoke, East York, and York. At the time, the new City had a population of 2.4 million, making it the fifth largest city in North America. The new City government became the fifth largest government in Canada.²

2. The 1999 gross operating budget of the new City was \$5.5 billion, larger than the majority of provincial government budgets. At the time of amalgamation, the City employed 46,000 staff, including those working for agencies, boards, and commissions.³

a) Description

3. The provincial government announced its intent to amalgamate Toronto in the fall of 1996. The *City of Toronto Act, 1997* was passed in the spring of 1997, with amalgamation scheduled for January 1, 1998. The provincial government established a Toronto Transition Team to develop the essential operating tools for the new Council to use. The expectation was that the Toronto Transition Team would develop the structures, processes, and systems to enable the new City to be operational on January 2, 1998.⁴

4. The Transition Team hired only five senior staff members: the CAO, the CFO, the Clerk, the Director of Human Resources, and the Fire Chief.⁵ The Transition Team

¹ The *City of Toronto Act, 1997*, S.O. 1997, c. 2.

² COT038966 at COT038969, 3:1:25.

³ COT038754 at COT038760, 3:1:23.

⁴ COT038966 at COT038969, 3:1:25.

⁵ Lastman 12/02/2002 at 82; Garnett 12/05/2002 at 41.

recommended the hiring of several other senior City employees, which were later ratified by Council.⁶

5. The Transition Team recommended a governing structure for Council, which allowed Council to function immediately. The Transition Team did not provide an administrative system or information management system for the new City. The new City began with seven different administrative structures. The new City had to undertake much of the preparatory work required to facilitate amalgamation during the actual amalgamation process.⁷

6. There was no legislative framework or road map for the amalgamation process.⁸ Garrett testified that the Transition Team had focused on the wrong things:

What the Transition Team should have been doing, what they did in Ottawa and other place that amalgamated, is that they focussed on getting the right management information systems in place, early, so that that was ready and operating.

Managers can't manage without good information systems And we didn't have that up and running when we took over, we had to -- we -- there was a heck of a lot of work that had to be done by those people building systems...

All of that fundamental information that managers need to manage with wasn't there in the early days. In fact, it was a small miracle we did as well as we did with the -- with the information we had.⁹

7. The amalgamation process was a huge undertaking. Garrett described it as “a staggering amount of work that had to be accomplished administratively,”¹⁰ “an unbelievably busy time”¹¹ and “an enormous undertaking.”¹² Liczyk described the

⁶ Garrett 12/05/2002 at 43.

⁷ COT038966 at COT038970, 3:1:25.

⁸ Garret 12/05/2002 at 80.

⁹ Garrett 12/05/2002 at 81-82.

¹⁰ Garrett 12/05/2002 at 78-79.

¹¹ Garrett 12/05/2002 at 154.

¹² Garrett 12/09/2002 at 8.

amalgamation process as “an extremely complex and difficult project not only for my own department but City wide.”¹³

b) Staffing reductions

8. The new administration set a target of a 10% reduction in the number of staff positions over the first three years following amalgamation. The reduction amounted to approximately 1,960 full-time equivalent staff in property tax supported operations. In 1998/1999, the administration eliminated approximately 1,780 positions. The City eliminated 14% of all positions in the administration and support programs of Finance, Clerks, Facilities, Fleet, Human Resources, I&T, Legal, Communications, Audit, and the CAO's office.¹⁴

9. The City reduced staff levels by eliminating vacant positions, through attrition, retirements, and voluntary and targeted exit plans. Management positions, at the supervisor level and above, were reduced by 34%. Executive management positions, being director level and above, were reduced by 60%, from 381 in the former seven municipalities, to 154 in the new City.¹⁵

10. As discussed above, the Transition Team filled only five senior positions by the time of amalgamation. All other staff were hired following amalgamation. The hiring of all new commissioners was completed by April 1998. Staffing divisional management was conducted over the next 18 months, resulting in lengthy vacancies in some staff positions.¹⁶

¹³ Liczyk Affidavit, para. 21, 11/03/2003 at 12.

¹⁴ COT038855 at COT038894, 3:1:24.

¹⁵ COT038855 at COT038894, 3:1:24.

¹⁶ COT038966 at COT038973, 3:1:25.

c) Integration challenges

11. Prior to amalgamation, there were 52 departments with 206 divisions in the seven municipalities. This number was reduced to six departments with 37 divisions in the City.¹⁷

12. Amalgamating seven municipalities required the integration of more than just staff. The City inherited seven different corporate cultures and approaches to service elements, service levels, and service delivery. The City had to review and harmonize many services including solid waste collection and recycling, winter maintenance activities, public health services, library services, parks and recreation user fees, and parking fees.¹⁸ Each new division and each new department of the City had a large integration and consolidation process to go through following amalgamation.

13. There were also major corporate integration initiatives that had to be undertaken. There were, for example, 160,000 bylaws from the former seven municipalities. The new city faced the daunting task of harmonizing bylaws, consolidating office space, and consolidating the City's operational yards.¹⁹ Some specific challenges are discussed below.

i) Integrating cultures

14. In addition to the consolidation of departments, divisions, service levels, and programs, the City tried to integrate seven different municipal cultures. The City had to establish its own culture, and staff had to adapt from the practices and programs of their former municipality. The City was forced to establish its own culture without the assistance of many of the management staff, who were not in place at the time of amalgamation.²⁰

¹⁷ COT038754 at COT038789-38790, 3:1:23.

¹⁸ COT038855 at COT038916, 3:1:24.

¹⁹ COT038855 at COT038934, 3:1:24.

²⁰ Garrett 12/05/2002 at 61.

ii) Integrating IT systems

15. The integration of the IT systems of the seven former municipalities was vital to the amalgamation process. The integration included linking of 430 networked computer sites; introduction of five-digit dialing capability for 1,200 telephone locations; merging of three e-mail systems, and setting up intranet and internet web sites.²¹

iii) Integrating financial accounting systems

16. In addition, the City had to integrate financial accounting systems of the former municipalities. There were 21 different systems for financial, human resources, and payroll information in the former municipalities. These were all integrated into a single, unified system for the City, the SAP system.²²

iv) Upgrading to common IT platforms

17. In addition to the IT systems and financial accounting systems discussed above, the City had to integrate the IT platforms used by the former municipalities. The former municipalities operated their own portfolios of IT applications on different platforms and technologies, their own networks, and their own data centres. The City had to establish common platforms and applications to be used throughout the City. This included consolidating data centres, standardizing network platforms, and telecommunication technologies.²³

²¹ COT038855 at COT038940, 3:1:24.

²² COT038855 at COT038940, 3:1:24

²³ COT038855 at COT038943, 3:1:24.

2. Downloading of services

18. In addition to the amalgamation process, the City also had to deal with the effects of the provincial government's realignment of services. In early 1997, the Province of Ontario announced its plans to download many services onto municipalities. Major downloaded responsibilities included costs for social services, social housing, GO Transit, and the Toronto Transit Commission. The province took responsibility for funding other services such as education, and pooled costs for some municipal service responsibilities across the GTA municipalities. The downloading of services continues to cause financial problems for the City of Toronto.²⁴

19. As of February 2001, the City estimated that downloading costs would total \$276 million in 2001 alone. The annual tax savings of \$136.2 million from amalgamated tax-supported programs were directed to cover the net costs of provincial downloading, as well as other budget pressures the City faced in the three years following amalgamation.²⁵

20. Part of Mayor Lastman's election platform included a promise to taxpayers to have a zero tax increase for the first three years of the City.²⁶ The zero tax increase pledge was supported by Council, and was achieved for each of the three years following amalgamation.²⁷ The zero tax increase placed additional pressure on the City's budget and financial planning.

²⁴ COT038855 at COT038905-38907, 3:1:24.

²⁵ COT038855 at COT038905, 3:1:24.

²⁶ Lastman 12/02/2002 at 61.

²⁷ Jakobek 05/21/2003 at 132-133.

3. Year 2000 Challenges

a) Description of problem as perceived by the City

21. A further issue facing the new City of Toronto was the Year 2000 problem. From the City's perspective, it was imperative that essential City systems and computers be ready for January 1, 2000. Potentially affected systems included public services such as water treatment and pollution control, traffic control, license and permit issuance, and internal City services such as payroll and building maintenance.²⁸ Year 2000 failures in the City's computerized systems could have caused:

- a. loss of life or personal injury to City residents and/or staff due to accident or disease;
- b. loss of revenue due to an inability to collect money and/or undercharging of taxpayers;
- c. impaired ability to deliver municipal services;
- d. increased costs due to reinstatement of manual processes and/or increased re-work;
- e. lawsuits against the City by residents and/or staff who suffered negative impacts; and
- f. loss of confidence in the City on the part of residents, staff and/or other partners.²⁹

22. Year 2000 failures in non-City-owned systems could have caused:

²⁸ COT039149 at COT039160-39162; COT039184; 59:1:1.

²⁹ COT039149 at COT039152, 59:1:1.

- a. loss of life or personal injury to clients and/or staff due to power failures or toxic spills;
- b. loss of revenue due to business failures and/or decreased use of chargeable services;
- c. impaired ability to deliver services to clients;
- d. increased costs due to greater demand for emergency, health and social services; and
- e. loss of confidence in the City if it was not adequately prepared for above emergencies.³⁰

23. As of May 1998, the City had identified 31 computer systems that could harm health and safety, 51 systems with legal implications, and 28 systems with financial impacts greater than \$1 million. In addition, there were a total of 227 computer systems with some chance of failing due to a Year 2000 defect. The City estimated that the possible financial exposure from Year 2000 failures exceeded \$750 million.³¹

b) Delayed response by the City due to amalgamation

24. The amalgamation process resulted in the former municipalities not preparing for the Year 2000 problem.³² Advance work done by the former municipalities was minimal. None of the former municipalities had forecast the cost of a Year 2000 program.³³ The new City was therefore faced with dealing with the Year 2000 issue in the midst of the amalgamation process, less than two years before December 31, 1999.

³⁰ COT039149 at COT039152, 59:1:1.

³¹ COT039149 at COT039152, 59:1:1.

³² COT039149 at COT039160; 59:1:1.

³³ COT039149 at COT039162, 59:1:1.

25. The City was behind in its Year 2000 preparations. For example, in 1997, the Canadian Institute of Chartered Accountants published a bulletin on the Year 2000 issue. The bulletin stated that organizations should fix all critical programs by the end of fiscal year 1998 in order to have a full fiscal year to test and run the programs.³⁴ The City lagged well behind other major institutions in terms of Year 2000 preparedness.³⁵ Other corporations such as banks and insurance companies had started their Year 2000 projects as early as 1994.³⁶

i) Vizzachero e-mail

26. On March 23, 1998, Vizzachero, the Chair of the Year 2000 Committee, sent a Year 2000 survey to the Year 2000 Departmental Representatives. The survey was intended to help the Committee collect an inventory of systems, agreements, and partner organizations with Year 2000 exposure. The target date for the completion of the survey process was April 15, 1998, and the target date for the completion of the Committee's report and action plan was May 31, 1998.³⁷

27. On May 27, 1998, Vizzachero sent a further memorandum to several of the Year 2000 Departmental Representatives, who had apparently not returned the Year 2000 survey. Vizzachero wrote:

The Department for which you are responsible has not yet returned all the Year 2000 Survey which asks for a return of all the computer chip controlled processes which may be affected by the "Millennium Bug".

This delay has cut the already short time we have to identify the many points at which control systems and computers will fail us at one second past midnight on January 1st, 2000 if not earlier. These failures may result in minor irritations, they may escalate into major disasters.

Payroll systems will collapse, elevators, stop traffic systems turn into chaos, even the very drinking water we so take for granted may well become corrupted and foul.

³⁴ Griffiths Affidavit, para. 15, 09/09/2003 at 10.

³⁵ O'Brien 09/08/2003 at 48.

³⁶ Andrew Affidavit, para. 33, 09/23/2003 at 21-22.

³⁷ COT002243, 3:2:62.

Make no mistake, unless corrected, these events will happen.³⁸

28. Vizzachero went on to state that there was “an extremely high probability of major lawsuits being directed at those” that had been derelict in their duties regarding the Year 2000 issue.

c) Year 2000 Committee

i) Mandate

29. Rodrigues, Commissioner of Corporate Services, established the Year 2000 Committee to produce:

- a. a consolidated inventory of all potentially affected systems;
- b. a summary of the efforts to date and an assessment of the City’s overall degree of compliance and state of readiness to deal with the Year 2000 issue; and
- c. an integrated action plan for any outstanding tasks identified by the assessment including a budget submission if required.³⁹

30. The mandate of the Year 2000 Committee covered all aspects of the Year 2000 issue. There were five distinct problems within the Committee’s mandate:

- a. input, output, storage and processing of dates beyond December 31, 1999;
- b. assignment of days of the week beyond December 31, 1999;

³⁸ COT002081, 3:2:60.

³⁹ COT039149 at COT039154, 59:1:1.

- c. recognition of the Year 2000 as a leap year;
 - d. use of specific dates such as September 9, 1999 (9/9/99) as non-date markers; and
 - e. use of binary date representations with domains that end in the near future such as the Global Positioning System date rollover on August 22, 1999.
31. The Committee's mandate further covered all systems which might be affected by any of the above problems. There were five categories of affected systems:
- a. operational (non-IT or embedded) systems such as elevators, time clocks, traffic lights, telephone exchanges, personal organizers, etc.;
 - b. business systems such as financial information systems, permit systems, tracking systems, pre-printed forms, etc.;
 - c. information technology systems such as computers, software, telecommunications, etc.;
 - d. agreements such as insurance policies, purchase contracts, licenses, maintenance contracts, data provisioning arrangements, etc.; and
 - e. external organizations whose Year 2000 failures would affect the operations of the City such as suppliers, businesses, property owners, etc.
32. The Committee's mandate further included all departments of the City of Toronto, all extra-departmental units of the City, and the City's agencies, boards and commissions.⁴⁰

⁴⁰ COT039149 at COT039154-39155, 59:1:1; COT002253, 3:2:65.

ii) Membership

33. The Year 2000 Committee was comprised of a team of staff from I&T that had been selected by Rodrigues, along with a departmental representative who was to work with I&T staff. There were ten I&T staff members on the Committee. The members and their affiliations were:

- a. Frank Vizzachero, Chair (IT North York);
- b. Jeffrey Abrams (Legal);
- c. Paul Babier (IT East York);
- d. Margaret Evered (IT City Hall);
- e. Peter Gruetter (IT North York);
- f. Michael Ho (IT Scarborough);
- g. Brendan Power (IT Metro Hall);
- h. Ivan Sing (IT Etobicoke);
- i. Ben Smid (Audit);
- j. Tom Williams (IT Etobicoke); and
- k. Raymond Guilbault, Secretary (IT City Hall).

34. There were eleven Year 2000 Departmental Representatives. The representatives and their affiliations were listed in the Action Plan:

- a. Susie Louie (CAO's Office);

- b. Jennifer Bellis (Community and Neighbourhood Services);
- c. Mike Brown (CPS);
- d. Stan Walton (ECT – Economic Development);
- e. John Elvidge (ECT – A., C., and H.);
- f. Perry Beatty (ECT – Parks);
- g. Maurice Dow (ECT – Zoo);
- h. Dianne Young (ECT – Exhibition Place);
- i. Al Shultz (Finance);
- j. Steve Dynes (Urban Planning and Development); and
- k. Jim Coe (Works and Emergency Services).⁴¹

iii) Role of Ben Smid and the Audit department

35. Ben Smid (“Smid”) was a Senior Audit Manager in the Audit department. He was assigned by the City Auditor, Griffiths, to represent the Audit department on the Year 2000 Committee.⁴² Smid was to ensure that the Audit department’s interests were addressed in terms of identifying Year 2000 issues in the department. Smid was also to provide advice to ensure that all Year 2000 issues were being appropriately addressed, and that areas that could have caused a Year 2000 compliance problem were identified.⁴³

⁴¹ COT039149 at COT039184, 59:1:1.

⁴² Griffiths Affidavit, para. 19, 09/09/2003 at 12.

⁴³ Griffiths 09/09/2003 at 45-46.

36. Smid developed Auditing Guidelines for the Year 2000 Project. The guidelines were established to ensure that the City met industry standards for due diligence. The guidelines covered nine different areas:

- a. Steering Committee;
- b. Project Office;
- c. Departmental Program;
- d. Problem Identification;
- e. Resources and Funding;
- f. Project Plans and Schedules;
- g. Project Execution
- h. Testing; and
- i. Contingency Plans.⁴⁴

iv) Report of the Year 2000 Committee

37. The Year 2000 Committee issued an Assessment Report and Action Plan on May 31, 1998 ("May 31, 1998 Report").⁴⁵ In the May 31, 1998 Report, the Committee made the following recommendations:

- a. declare the Year 2000 issue the top priority of the City after delivery of existing services;

⁴⁴ COT015967, 59:1:2.

⁴⁵ COT039149, 59:1:1.

- b. authorize the City Clerk to undertake an external communication program aimed at raising the level of awareness of the Year 2000 issue and what can be done to address it. This communication program was to be aimed at the business community and the general public;
- c. establish a task force with representatives from all involved parties with the mandate to ensure that all essential services would be available during and after this crisis;
- d. approve the triage criteria and general strategy described earlier in the May 31, 1998 Report;
- e. set a policy that all grants, loans and other financial assistance provided by the City to businesses and other organizations be contingent on the recipient demonstrating that it had an adequate Year 2000 program in place;
- f. direct the City Treasurer to provide options for funding the Year 2000 program including establishing a contingency reserve;
- g. direct the City Treasurer to implement the necessary controls for to ensure that Year 2000 funds are only used to address the Year 2000 issue and are properly accounted for;
- h. establish the goal of City-wide compliance with the International Standards Organization standard ISO 8601 for the formatting of dates and times in all electronic and printed material by the end of the year 2003;
- i. define the specific accountabilities of the Commissioners; the heads of agencies, boards and commissions; the Executive Director of Facilities Management and Real Estate; the Executive Director of I&T; the Director

of Purchasing; the City Solicitor; the City Clerk and the City Auditor with respect to the Year 2000 issue; and

- j. direct the Chief of Police to develop and test an emergency preparedness plan specifically for Year 2000 failures.⁴⁶

38. The May 31, 1998 Report described the risk factors that contributed to the magnitude of the Year 2000 issue as it related to the City. The May 31, 1998 Report further set out the requirements for Year 2000 conformity, and recommended a set of compliance standards for agreements with third parties.

39. The May 31, 1998 Report set out the structure for the Year 2000 Program, which was to have five phases: Plan, Assess, Remedy, Test, and Re-implement.⁴⁷ As well, it stated that the Year 2000 Project was being established to:

- a. document the process in greater detail;
- b. train program participants;
- c. monitor progress;
- d. act as the focal point for communication with external organizations and citizens; and
- e. identify and mitigate all Year 2000 liabilities.

40. Staffing of the senior positions in the Year 2000 Project Office was underway as of the date of the May 31, 1998 Report.⁴⁸

⁴⁶ COT039149 at COT039153-39154, 59:1:1.

⁴⁷ COT039149 at COT039163, 59:1:1.

⁴⁸ COT039149 at COT039166, 59:1:1.

41. The Committee had also distributed surveys to each of the departments, in order to collect information to assess the City's Year 2000 readiness, estimate the cost of remedial work, and prepare an action plan for the remainder of the millennium.⁴⁹ The surveys were circulated in March of 1998, and most results were summarized in the May 31, 1998 Report.⁵⁰

42. The mandate of the Year 2000 Committee ended with the submission of the May 31, 1998.⁵¹

d) Lana Viinamae, Director of the Year 2000 Project

43. Viinamae was the Director of the Year 2000 Project from June 1998 until June 2000.⁵² Viinamae held the position of Director, Computer Operations and Telecommunications at the time of her appointment as Director of the Year 2000 Project.

44. There is some conflicting evidence as to whom Viinamae reported. Viinamae's job profile stated that the Year 2000 Project Director was to report directly to the Commissioner of Corporate Services.⁵³ However, an announcement signed by Rodrigues and Andrew, announcing Viinamae's appointment as Year 2000 Director, stated that Viinamae was to have joint reporting responsibilities through I&T and the Commissioner of Corporate Services.⁵⁴

45. Rodrigues testified that Viinamae had a dual reporting responsibility to Andrew and to Rodrigues. Viinamae, as a senior employee in I&T, reported in the ordinary course to her Executive Director, Andrew. However, in her capacity as Director of the

⁴⁹ COT039149 at COT039166, 59:1:1.

⁵⁰ COT002243, 3:2:65.

⁵¹ COT039149 at COT039172, 59:1:1.

⁵² Viinamae Affidavit, para. 4, 10/15/2003 at 7.

⁵³ COT031541, 63:5:22.

⁵⁴ COT001900, 63:1:6.

Year 2000 Project, Viinamae reported to the Commissioner responsible for the Year 2000 Project, Rodrigues.⁵⁵

46. Viinamae's evidence is that she reported directly to Rodrigues and Andrew.⁵⁶

47. Andrew's evidence is that Viinamae reported to the Commissioner of Corporate Services, Rodrigues, and to the Year 2000 Steering Committee.⁵⁷

48. Following Rodrigues' departure from the City in May of 1999, Liczyk acted as Commissioner of Corporate Services for I&T purposes.

49. The City submits that the evidence of Viinamae and Rodrigues, and the contemporaneous announcement signed by Andrew and Rodrigues, should be preferred to the oral testimony of Andrew. Viinamae reported to Rodrigues (subsequently Liczyk) and Andrew.

e) Year 2000 Action Plan

50. The Commissioner of Corporate Services, Rodrigues, sent a report to the Corporate Services Committee dated June 8, 1998 ("June 8, 1998 Report"). The subject of the June 8, 1998 Report was "Year 2000 Action Plan".⁵⁸ Rodrigues and Andrew signed the June 8, 1998 Report, and the staff contact name was Viinamae.⁵⁹

51. The purpose of the June 8, 1998 Report was to advise Council on Year 2000 issues and how they could affect the City. The June 8, 1998 Report recommended a strategy for addressing the Year 2000 issues facing the City and sought initial funding for the strategy.⁶⁰ It recommended that:

⁵⁵ Rodrigues Affidavit, paras. 6-7, 11/20/2003 at 11.

⁵⁶ Viinamae Affidavit, para. 10, 10/15/2003 at 9.

⁵⁷ Andrew 09/24/2003 at 187.

⁵⁸ COT001854, 63:13:9.

⁵⁹ COT001854 at COT001872, 63:13:9

⁶⁰ COT001854, 63:13:9.

- a. the general strategy outlined in the June 8, 1998 Report be approved;
- b. the CAO be requested to declare the Year 2000 issue a top priority of the City after delivery of existing services, including the suspension of activities deemed non-critical, in order to free up resources for the deployment on Year 2000 initiatives, if and when necessary;
- c. the creation of the Year 2000 Office be approved to co-ordinate the inventory, assessment, remedy, testing, and compliance of critical business, operational and IT systems, agreements, and partnerships for the City of Toronto departments, agencies, boards, and commissions;
- d. the Year 2000 Office be directed to implement the necessary financial controls for managing this project;
- e. the Year 2000 Office be authorized to establish a communications strategy aimed at raising the level of awareness of the Year 2000 issue and what the City can do to address it;
- f. the goal of City-wide compliance with the International Standards Organization standard ISO 8601 for the formatting of dates and times in all electronic and printed material by the end of the year 2003 be approved;
- g. the City Solicitor, with the assistance of the City Treasurer, bring forward a report in camera on the possible liabilities of the City, Council, and the executive management resulting from the Year 2000 issue and the insurance protection available to cover these liabilities;
- h. City Treasurer establish a policy that the purchase and acquisition of all goods and services by the City of Toronto and its agencies, boards, and commissions be contingent on the supplier demonstrating that both the supplier and its products are Year 2000 compliant;

- i. the City Treasurer bring forward to the Budget Committee a report on financial options for funding the Year 2000 program including initial funding for the establishment and ongoing operation of the Year 2000 office over the next two years in the amount of \$5.5 million, and for establishing an initial reserve of \$80 million to be administered jointly by Finance and the Year 2000 Office. This would begin addressing the critical Year 2000 issues as identified jointly by the business areas and the Year 2000 Office, recognizing that significant additional funds will be required once detailed plans are created at the departmental level;
- j. the CAO be granted one-time extraordinary authority to act on behalf of Council to acquire the necessary goods and services to remedy the Year 2000 problem, given the critical timeframe, with reporting back to the Corporate Services Committee at the earliest possible opportunity;
- k. accountability for Year 2000 compliance rest with the CAO, Commissioners, and heads of agencies, boards, and commissions for their respective program mandate; and
- l. the Year 2000 Office be directed to work with the Commissioner of Works and Emergency Services to develop and test an emergency preparedness plan specifically for Year 2000 failures.⁶¹

52. The June 8, 1998 Report discussed the potential damage of the Year 2000 problem, and the factors that put the City at a high risk of suffering significant losses as a result of the Year 2000 issue.⁶²

53. The June 8, 1998 Report also set out a strategy for responding to the Year 2000 Program. The strategy was to create an inventory of all vulnerable systems and to

⁶¹ COT001854 at COT01855-01856, 63:13:9.

⁶² COT001856 at COT01862-01865, 63:13:9.

assign each system a priority level based on the probability and impact of a Year 2000 failure. The priorities were:

- a. critical systems which must be fixed in time regardless of the cost;
- b. important systems which will be fixed as time and resources permit;
- c. systems which will be fixed only as resources become available; and
- d. systems which require no action due to a nil probability and/or nil impact.

54. Critical, or Priority 1, systems included those that involved health and safety or a large probability of failure resulting in legal and/or large financial impacts.⁶³

55. The inventory, as well as an assessment of the City's Year 2000 readiness, was to be completed by means of a survey. The survey was conducted by the Year 2000 Committee, and was still partially underway at the time of the June 8, 1998 Report. The June 8, 1998 Report went on to discuss issues facing the City with respect to the Year 2000 problem, including communication, corporate management, external organizations, finance, human resources, and legal issues.

i) Adoption of June 8, 1998 Report

56. The June 8, 1998 Report of the Commissioner of Corporate Services went to the Corporate Services Committee and the Budget Committee. At the Committee level, the adoption of the report was recommended subject to certain changes to the recommendations. The Corporate Services Committee and Budget Committee recommended the adoption of the recommendations of the June 8, 1998 Report, with the following amendments (amendments in *Italics*):

2. The CAO and Mayor be requested to declare the Year 2000 issue a top priority of the City, including the suspension of activities deemed non-critical, in order to

⁶³ COT001854 at COT001866, 63:13:9.

free up resources for deployment on Year 2000 initiatives, if and when necessary;

3. The creation of the Year 2000 Office be approved to co-ordinate the inventory, assessment, remedy, testing and compliance of critical business, operational and IT systems, agreements and partnerships for the City of Toronto Departments, Agencies, Boards and Commissions; *and that the CAO and CFO & Treasurer be requested to:*

- (i) *develop an inventory list of priority projects and a formal workplan with a timetable of action and funding needed to implement this plan, as amended by the foregoing recommendation, and provide a status report thereon to the Strategic Policies and Priorities Committee on a monthly basis until such time as the problem has been resolved; and that the approved inventory list be made available and updated on a regular basis and expanded to include:*
 - (a) *ballpark cost;*
 - (b) *whether it has been researched; and*
 - (c) *what the estimated completion date is;*
- (ii) *include in the workplan, projects submitted by Agencies, Boards and Commissions (including the co-ordination of the Police and the Toronto Transit Commission year 2000 action plan); and*
- (iii) *report, through the Strategic Policies and Priorities Committee on a source of funds for the Year 2000 Project;*

...

7. The City Solicitor with the assistance of the City Treasurer bring forward a report, in camera, on the possible liabilities of the City, Council and the executive management resulting from the Year 2000 issue and the insurance protection available to cover these liabilities, such report to be submitted to the Strategic Policies and Priorities in September, 1998.⁶⁴

57. The Corporate Services Committee and Budget Committee further added the following recommendations:

- a. that a Member of Council, recommended by the Striking Committee, be appointed as a Lead for the Year 2000 Project; and

⁶⁴ COT001586 at COT001587-01589, 64:1:17.

- b. that all matters pertaining to the Year 2000 Project be reported to Council through the Strategic Policies and Priorities Committee ("SPPC").⁶⁵

58. The June 8, 1998 Report went to Council as Clause 1 of Joint Report No. 1 of the Corporate Services Committee and the Budget Committee. It was considered by Council at its meeting held on July 29, 30 and 31, 1998.⁶⁶ Council adopted the recommendations in the June 8, 1998 Report, as amended by the Committees.

59. Council also adopted the following recommendations contained in a July 22, 1998 Report co-authored by the CAO and the CFO and Treasurer ("July 22, 1998 Report"):

- a. that the CAO be authorized to spend up to \$1,500,000 in 1998 to set-up, staff, and acquire tools for the Year 2000 Project Office;
- b. that the CAO be authorized to spend up to \$3,596,000 to complete the inventory of the City's critical systems and begin their assessment and remedy;
- c. that the total initial funding of \$5,096,000 in recommendations Nos. (1) and (2) above be provided from the Corporate Contingency Account;
- d. that the CAO be authorized to enter into the necessary agreements in support of the above;
- e. that the CAO report on the expenditures to date of the \$5,096,000 to the SPPC at its first meeting in November; and

⁶⁵ COT001586 at COT01589, 64:1:17.

⁶⁶ COT001586 at COT01586, 64:1:17.

- f. that the CAO report to the SPPC at its first meeting in November on the work plan, including cost estimates, to achieve the following milestones which will ensure business continuity through the Year 2000:

Project Team Operational	July 31, 1998
Inventory and Prioritization	September 30, 1998
Assessment	October 31, 1998
Remedy	April 30, 1999
Test and Re-implement	October 31, 1999
Millennium operational Schedule	November 30, 1999
Contingency Planning	April 30, 1999
Contingency Plan Implementation	October 31, 1999 ⁶⁷

60. Council considered the July 22, 1998 Report co-authored by the CAO and the CFO and Treasurer at its meeting on July 29, 30 and 31, 1998. The July 22, 1998 Report was attached, in its entirety, to Clause 1 of Joint Report 1 of the Corporate Services Committee and the Budget Committee. Viinamae was the staff contact name on the July 22, 1998 Report.⁶⁸

ii) First mention of leasing

61. The July 22, 1998 Report went on to discuss the June 8, 1998 Report as it related to Finance. The total cost of fixing the Year 2000 problem was unknown. The Year 2000 Office requested \$80 million over two years to begin to remedy critical Year 2000 issues. The funding request was to cover the following areas: Technology Infrastructure, Facilities Management, Fleet and Business Applications, and Operation Systems.⁶⁹

62. In dealing with Technology Infrastructure, the June 8, 1998 Report stated:

Year 2000 compliant equipment has only been available on the market within the last 18 months. As a result, the majority of the equipment owned by the City is non-compliant. The \$52 million dollars for infrastructure is broken down into \$2 million for networks, \$10 million for mainframe, \$10 million for other server

⁶⁷ COT001586 at COT001586-01587, 64:1:17.

⁶⁸ COT001586 at COT001633, 64:1:17.

⁶⁹ COT001854 at COT001867-01868, 55:1:1.

platforms and \$30 million for desktops. Leasing will be utilised as a method of reducing the cash flow impact on the City.⁷⁰

63. This was the first mention of leasing in a Year 2000 related report that went to City Council. There was no mention of leasing in the recommendations of the June 8, 1998 Report.

f) November 3, 1998 joint report to Council

64. The CAO, CFO and Treasurer, and Commissioner of Corporate Services signed a report dated November 3, 1998 that went to the SPPC ("November 3, 1998 Report"). The November 3, 1998 Report was entitled "Year 2000 Business Continuity Plan", and the staff contact name was Viinamae, Director of the Year 2000 Project.⁷¹ The November 3, 1998 Report was sent by the SPPC to Council for the Council meeting held on November 25-27, 1998.

65. Council adopted the November 3, 1998 Report at its meeting on November 25, 26 and 27, 1998, with the exception of recommendation number two in the confidential report from the City Solicitor that was attached to the November 3, 1998 Report. Council referred that recommendation back to the SPPC.⁷²

66. Council adopted the following recommendations in the November 3, 1998 Report:

- a. that project approval in the amount of \$149.6 million be approved for the ongoing management of the year 2000 Program and for ensuring that the Year 2000 solutions for priority 1 business functions and City wide initiatives are implemented;

⁷⁰ COT001854 at COT001867, 55:1:1.

⁷¹ COT015898, 3:2:51.

⁷² COT030963 63:06:05a

- b. that the CFO and Treasurer incorporate a financing strategy in the 1999-2003 Capital Budget capital financing plan scheduled to be before the Budget Committee in November 1998;
- c. that the Program Office report to the SPPC by February 1999 on the funding requirements for business functions identified as priority 2 (important) and 3 (when time permits), and the implementation and testing of contingency plans and emergency preparedness plans;
- d. that the Solicitor's Year 2000 liability report go forward, in camera, with this report;
- e. that the CFO and Treasurer investigate acquiring the necessary insurance for all City employees with potential Year 2000 liability as addressed in the Solicitor's report;
- f. that the Executive Director of Human Resources recommend a strategy for streamlining the administrative process relating to recruitment, compensation, and retention of staff working on the Year 2000 project;
- g. that the strategies for the City-wide initiatives for Year 2000 readiness as outlined in this report be approved;
- h. that a contingency plan, approved by both the Operating Departments and the Year 2000 Program Office, be required for each business function identified as priority 1, even if it is Year 2000 ready;
- i. that the Year 2000 office be directed to work with the Commissioner of Works and Emergency Services Department to develop and test an emergency preparedness plan specifically for Year 2000 failures;

- j. that the transfer of funds from the City to organizations through means such as grants, be subject to such organizations having Year 2000 programs in place;
- k. that the Program Office be given the authority to recommend to the Year 2000 Steering Committee the extension, re-negotiation, or termination of contracts, or entering into new contracts, that affect priority 1 business functions. This would ensure that the re-tendering of goods and services and the possible change of suppliers not create a major disruption for business units doing remedial work on these priority 1 business functions and put business continuity at risk; and
- l. that the CAO be given approval to enter into agreements in support of the above for the full amount of expenditures, until June year 2000, reporting on a regular basis to the SPPC.⁷³

g) Year 2000 Budget \$149.6M

67. The November 3, 1998 Report recommended the approval of a budget of \$149.6 million for the Year 2000 Program. That budget included \$43 million for ensuring business continuity for the 74 Departmental business functions, \$79.7 million for implementing eight City-wide business functions, \$7.5 million for implementing two Project Management Office business functions and a project contingency of \$19.4 million.⁷⁴

68. The Year 2000 Committee's survey had identified these key business functions.

⁷³ COT015898 at COT015900-15901, 3:2:51.

⁷⁴ COT015898 at COT015902, 3:2:51.

h) CAO delegated spending authority

69. Recommendation 11 in the November 3, 1998 Report was that the CAO be given approval to enter into agreements “for the full amount of expenditures” until June 2000.⁷⁵ The November 3, 1998 Report went on to state that:

The Year 2000 Program will be required to enter into agreements to implement solutions to ensure year 2000 readiness on a timely basis to enable the City to meet the immovable deadline. These requests will be forwarded to the Year 2000 Steering Committee for review. Based on its recommendation, the CAO will enter into the necessary agreements. This information will be reported to Council on a regular basis.⁷⁶

70. The CAO was given delegated authority, on the recommendation of the Year 2000 Steering Committee, to enter into agreements. This eliminated the requirement for the approval of Council, as the CAO could give final approval for an agreement. The CAO’s delegated authority was limited to matters relating to priority 1 business functions. The prioritization of business functions will be discussed below.

i) Year 2000 Steering Committee

71. One of the issues facing the City was demonstrating due diligence in addressing the Year 2000 issue. The Auditing Guidelines developed by Smid set out a requirement for a Steering Committee, which would:

- a. be appropriately comprised of senior staff, and technology leaders as participants;
- b. have authority and influence over the entire corporation for the Year 2000 issue;

⁷⁵ COT015898 at COT015900, 3:2:51.

⁷⁶ COT015898 at COT015906, 3:2:51.

- c. regularly review corporate-wide status, escalate issues with the plans and progress and reprioritize actions; and
- d. report periodically/regularly to Council.⁷⁷

72. Councillor O'Brien was appointed to represent Council on the Year 2000 Steering Committee. The other members of the Year 2000 Steering Committee were Rodrigues and Andrew. The Year 2000 Steering Committee was to report to the SPPC on a regular basis.⁷⁸ Rodrigues was replaced by Liczyk on the Steering Committee in June of 1999, following Rodrigues' departure from the City.⁷⁹

73. The November 3, 1998 Report envisioned that the Steering Committee would review requests to enter into agreements for Year 2000 matters. The Steering Committee would then recommend the requests to the CAO, for the CAO to exercise his special delegated purchasing authority.⁸⁰

i) Strategy for meeting deadline – priority 1, 2, 3 projects

74. The June 8, 1998 Report set out the strategy of creating an inventory of Year 2000 vulnerable systems, whereby systems were to be given a priority level from 1 through 4. Priority 1 systems were deemed to be critical. At the time of the November 3, 1998 Report, each department had identified its Priority 1 business functions, including all system elements and interfaces. The Priority 1 functions were then further prioritized on a scale of 1 to 8 based on:

- a. corporate-wide initiative;
- b. public impact;
- c. financial/legal impact;

⁷⁷ COT015967 at COT016969, 59:1:2.

⁷⁸ COT015898 at COT015903, 3:2:51.

- d. corporate support/staffing;
- e. financial management;
- f. maintenance/support services;
- g. information management systems; and
- h. administrative governance systems.⁸¹

75. There were 84 identified priority 1 business functions: 74 departmental business functions, eight City-wide business functions and two Project Management business functions.⁸² In order to deal with each of the priority 1 business functions, the Year 2000 Project Office and the operating department developed a business case document. The business case contained the results of the survey conducted by the initial Year 2000 Committee, and showed the results of the investigation and analysis of the current Year 2000 readiness of the systems, and a recommendation of the most cost-effective remedy to ensure Year 2000 readiness.⁸³

j) Acquisition of computer hardware and software to meet Year 2000 deadline

76. The November 3, 1998 Report identified six City-wide initiatives that were to be managed through the Year 2000 Project Office. City-wide initiatives were functions that were common to all operating departments, agencies, boards, and commissions. The Year 2000 problem was to be dealt with centrally, with consistent solutions, for the City-wide initiatives. The six corporate City-wide initiatives were identified as: networks, server platforms, desktops, facilities, fleet, and external partnerships and agreements.⁸⁴

⁷⁹ Liczyk Affidavit, para. 92, 11/03/2003 at 42.

⁸⁰ COT015898 at COT015906, 3:2:51

⁸¹ COT015898 at COT015915-15916, 3:2:51.

⁸² COT015898 at COT015902, 3:2:51.

⁸³ COT015898 at COT015901, 3:2:51.

⁸⁴ COT015898 at COT015906, 3:2:51.

77. The desktop initiative included all personal computing devices, including desktop computing hardware, operating system software and productivity tools used to access corporate, departmental or personal applications, and data stored locally on desktop computers or local server platforms.⁸⁵

78. The strategy for meeting the Year 2000 deadline with respect to desktops was to reuse existing desktops where possible, and to replace those desktops that were deemed obsolete or too costly to repair. Any device that would cost more than \$1,000 to remedy would be replaced.⁸⁶

79. Since issues related to the acquisition of the Dell computers will be addressed in the Toronto External Contracts Inquiry (“TECI”), the City will make its submissions on these points after the conclusion of the TECI.

⁸⁵ COT015898 at COT015910, 3:2:51.

⁸⁶ COT015898 at COT015910, 3:2:51.