



City of Dillingham – Public Cover Memo Regarding the Cosgrove Report

Over the past several months, the City of Dillingham has conducted a formal review in response to administrative concerns that first came to light in early January 2024. These concerns were initially reported by the current City Manager to the Mayor, who promptly authorized a third-party investigation to ensure independence, legal clarity, and transparency. The investigation was led by Mila Cosgrove of Workplace Solutions and focused on potential irregularities in administrative operations, procurement procedures, and system access.

Background

The issues identified in the Cosgrove Report stem from a period of transition in late 2023 and early 2024, during which time an Acting City Manager was in place. Several key supervisory and administrative guardrails were either unclear or unenforced, and certain political dynamics contributed to an environment where staff confidence in ethical boundaries and protection mechanisms was diminished.

Key issues outlined in the report include:

- While the initial breach was confirmed to involve elected official credentials, the investigation also evaluated whether unauthorized access extended to former employees. No evidence was found to indicate broader exposure beyond those accounts.
- Division of contracts just below procurement oversight thresholds, in violation of proper procedures.
- Pressure placed on staff to process contracts under misleading justifications—often invoking emergency circumstances without substantiation.
- The investigation found credible evidence of conduct inconsistent with the City’s Code of Ethics—specifically, the use of public office to influence administrative action in a manner that appeared to benefit associates. This behavior represents a serious breach of public trust and reinforces the need for clearer boundaries between elected officials and operational decision-making.

Clarification Regarding System Access

As part of the City’s internal review, all staff permissions were audited, and former employee credentials were deactivated. The investigation confirmed that no access was gained through former employee accounts. The system breaches were isolated to improper use of sitting councilmember credentials and not connected to any terminated or retired staff.

While sensitive internal documents were accessed without authorization, **no personal identifying information (PII) of community members was exposed, misused, or exploited.** Data security monitoring indicates that the unauthorized access, though improper, did not result in breaches affecting private citizen records.



Corrective Measures Taken by the Current Administration

Following the emergence of these issues in early January, the current City Manager initiated a comprehensive series of reforms, as further detailed in the “Administrative Response Report.” These reforms include:

- **Procurement Policy Reform:** All supervisory and department heads were retrained on procurement thresholds, documentation, and contract justification. Contract splitting is now strictly monitored and explicitly prohibited.
- **System Access & Security Review:** All internal access pathways were reviewed. Role-based digital permissions have been enforced, and logs are now regularly monitored.
- **Staff Empowerment & Ethics Protections:** Employees have been clearly instructed that they are protected under whistleblower provisions and may refuse unethical directives from any source, including elected officials.
- **Training for Council & Staff:** Joint training sessions were conducted on DMC 2.21.060 (Council interference) and DMC 1.24.050 (whistleblower protections). A governance facilitation session was held to re-establish proper boundaries and expectations.
- **Transparency in Records Requests:** A standardized Council request form and tracking system are being developed to ensure equitable and timely access to records.

Next Steps

The City is reviewing updates to its internal controls and intends to codify many of these reforms into permanent administrative policy. These changes reflect a forward-facing commitment to institutional integrity, public trust, and professional accountability.

Closing

While the findings in the Cosgrove Report reflect serious concerns from a prior administrative period, they also demonstrate the City’s willingness to confront past failures and ensure they are not repeated. The current administration has taken clear, decisive action to address every issue raised, and continues to strengthen the systems that safeguard the public’s interest.

In the interest of full transparency, the City of Dillingham is releasing the full Cosgrove Report and Administrative Response Report concurrently. We remain committed to honest government, respectful leadership, and the highest standards of public service.

To: City Council members
From: Alice Ruby, Mayor
Date: April 17, 2025
Re: Results of Investigation & Next Steps

With this memo, I am delivering a copy of the results of the investigation that I initiated under the Mayor's authority in DMC 2.03.080 using Ms. Mila Cosgrove of Workplace Solutions. I am delivering copies to individual council members so that you have time to read the report prior to the meetings that we have scheduled for April 28. A copy of the report will also be provided to Dan Decker, our City Manager. Our attorneys have also received copies of the report (Sam Severin and Rob Palmer).

I'd like to provide some information about the circumstances that precipitated the initiation of the investigation. It was my intention to provide this explanation to the Council during the executive session scheduled for the meeting that didn't occur in February.

I received 3 separate complaints from employees. In each case the employees expressed concern about retribution and/or losing their jobs if their names were made public. I consulted with our attorneys who provided guidance regarding the Mayor's authority to initiate investigations. We discussed the value and importance of retaining a neutral party, and that was done by retaining Ms. Cosgrove.

The 3 complaints that were directed to me were as follows:

1. Employees pressured to violate the City's procurement code in the award of 3 contracts, one of which ended up far exceeding the original contract. With regard to this specific complaint, the 2024 Audit also revealed this violation.
2. Employees pressured to cancel a bid award by a council member and relative of the council member.
3. Breach of the City's database by unauthorized individuals, including council members. With regard to this specific complaint, 3 separate actions were taken that included a) technical investigation by the City's IT consultant and team, b) investigation initiated by the Mayor, c) report filed with law enforcement.

Our attorneys assisted in developing the contract and scope of work for Ms. Cosgrove. All the complaints were incorporated into her scope of work.

It will be important for the Council to develop and implement a plan of action (note that our auditors were made aware that an investigation was underway).

Please consider the report to be confidential at this point. However, we will need to discuss the future confidentiality with our attorneys. It's likely that it could be considered a public document that can be requested through a FOIA request. I have enclosed a copy of a written analysis that our attorneys provided.

City of Dillingham

Investigation of Alleged Purchasing Violations
And Unauthorized Access of the City's SharePoint Site

REPORT OF FINDINGS

Submitted by
Mila Cosgrove, Principal Consultant
Workplace Solutions
April 7, 2025



City of Dillingham
Investigation into Alleged Purchasing Violations
And Unauthorized Access of the City's SharePoint Site
Report of Findings

Project Scope

Workplace Solutions was engaged by the City of Dillingham (COD) under the provisions DMC 2.03.080, to investigate three separate allegations of misconduct involving seated council members. In addition to investigating if misconduct or code violation occurred, Workplace Solutions was asked to recommend suggestions for improvement to avoid future issues.

The allegations were identified as:

1. August of 2023 the City of Dillingham issued three separate Purchase Orders to Bennett Enterprises in the amount of \$29,999.00. The COD's FY24 audit identified procurement irregularities with three contracts which were awarded to Bennett Enterprises on the same day for work to be performed at the same contract location.
2. September 2024: The City of Dillingham initiated a competitive purchasing process for the Bingman Property cleanup project. A meeting occurred on or about September 27, 2024, to dispute the Notice of Intent to Award the contract for the project. Council member Michael Bennett allegedly attended and influenced the procurement process.
3. August 2024 - February 7, 2025: Council member access to City's digital records. The City discovered that Council members had broad access to the City's digital records. The City identified 1056 digital records accessed between August 14, 2024 and February 4, 2025. Access was made by three Council members (Michael Bennett, Kaleb Westfall, and Kevin McCambly).

During the investigation, witnesses were interviewed, relevant documents were reviewed, and COD Code, policy, procedure, and practices were considered.

For the purposes of this report, each issue will be treated separately.

In addition, during the investigation, staff and council members brought up issues and concerns not related to the scope of the investigation. Those issues are covered at the end of the report.

Finally, recommendations are summarized in the final two pages of the document for ease of reference.

Issue One

Three Purchase Orders Issued to Bennet Enterprises for \$29,999 each for work at the COD Landfill.

Background:

On August 23, 2023, former City Manager Kim Johnson issued three purchase orders to Bennett Enterprises for work at the COD landfill. Each PO was authorized for \$29,999, just under the threshold requiring a competitive sealed bid and council approval.

PO 4450 scope was defined as “Move temporary metal pile from current location to original.” The invoice indicates the work was performed from August 23 – 30, 2023. The final amount invoiced on October 13, 2023, was for \$70,325.00.

PO 4451 scope was defined as “Establish a fire break around the original metal pile.” The invoice indicates that the work was performed between August 23 – 25, 2023. The final amount invoiced on October 13, 2023, was \$22,212.50.

PO 4452 scope was defined as “Make room in the current metal pile for temporary metal pile.” The invoice indicates the work was performed September 8 – 13, 2023. The final amount invoiced on October 13, 2023, was for \$8,402.50.

All invoices have similar charges for the use of various equipment, labor, and mobes.

All three invoices were paid in a check issued to Bennett Enterprises on October 26, 2023. The total amount paid on the three invoices was \$100,940.00.

Altman, Rogers, & Co. – Certified Public Accountants, recently completed the COD’s FY2024 audit. The audit report had a finding of Material Weakness/Material Noncompliance related to the procurements in question.

Issue Scope:

Workplace Solutions was asked to investigate and address the following points:

- A. Investigate whether the contracted work was performed.
- B. Investigate if Council member Michael Bennett was paid for performing any of the contracted work
- C. Investigate if procurement requirements were violated.
- D. If during the investigation, it is determined that other laws (i.e., DMC 4.04.020, DMC 2.04) were likely violated, identify such laws.
- E. If procurement requirements or other laws appear to be violated, provide recommendations of best practices to help the City recognize and prevent a similar violations in the future.

Investigation Methodology

The investigation into this issue included review of the following documents:

- Bennett Enterprises LLC 2023 1026 CK0072798: Purchase and payment records for the POs in question
- Memo dated January 24, 2025 from Anita Foran to Dan Decker RE: Bennett Enterprises Summer 2023
- July 17, 2023 Report to Council from City Manager Kim Johnson included in the September 7, 2023, Council Meeting packet
- August 31, 2023 Report to Council from City Manager Kim Johnson included in the September 7, 2023, Council Meeting packet
- September 7, 2023 Council Meeting Minutes
- January 25, 2025 Official Report from Acting City Manager Decker to Mayor Ruby and Relevant Oversight Authorities, RE: Investigation of Misconduct Involving Council Member Michael Bennett, Former Acting City Manager Kim Johnson, and Bennett Enterprises
- Pertinent portions of the audit document for FY2024 completed by Altman, Rogers, & Co. – Certified Public Accountants
- DMC 2.04
- DMC 4.04.020
- DMC 4.30.080-090
- COD FIN-01 Procurement Policy dated March 27, 2023

In addition, the following witnesses were interviewed

- Dan Decker, Current COD City Manager (City Clerk in Aug of 2023)
- Anita Foran (then Fuller), COD Finance Director
- Chris Maines, COD City Planner (Public Works employee in Aug of 2023)
- Mike Bennett, COD Council Member, son of Neil Bennett
- Kim Johnson (now Williams), former COD City Manager
- Neal Bennett, owner Bennet Enterprises, father of Neil Bennett

Summary of Findings

A. Investigate whether the contracted work was performed.

Invoices indicate, and witnesses (Decker, Johnson, M Bennett, N Bennett) confirm that the contracted work at the COD landfill was performed. There is a “memo to the file” dated October 23, 2023, from Kim Johnson, regarding the work performed that includes before and after pictures of some of the work completed.

B. Investigate if Council member Michael Bennett was paid for performing any of the contracted work.

When asked directly, Mike Bennett confirmed that he performed work on the projects at the Landfill. However, he is adamant that he was not compensated directly for his time, and that he received no other gift, nothing of monetary value, nor anything that would be considered “quid pro quo” for his time. He stated that he lost money by helping his father on the project but he did so because that is what you do for family.

When contacted, Neal Bennett stated that Mike Bennett is not on Bennett Enterprises’ payroll and that Mike does not receive anything of monetary value for his assistance at worksites. He stated that Mike grew up in the family’s business, knows how to operate the equipment, and if Neal needs a hand, Mike always jumps in to help. When asked if there was any type of exchange, Neal said no. When asked if he billed the hours for Mike’s work to the project, even if Mike was not compensated, Neal said no.

C. Investigate if procurement requirements were violated.

At the heart of this question is whether the work at the landfill was appropriately separated into three individual contracts, or if it should have been one larger contract.

A review of the scope of the three contracts leads a reasonable person to the conclusion that the work was in fact one job. This is supported by the fact that all tasks were completed at the landfill, that the general descriptions of the work all centered around the metal pile, and that two of the tasks (PO4450 & PO4451) were completed within the same general period of time with the same type of equipment and activities listed on the invoice. This is supported by the 2024 COD audit findings that flagged this specific procurement as having a Material Weakness/Material Noncompliance.

When asked why she entered into three contracts instead of one, Johnson stated that she believed the work to be reasonably discrete; in her mind they were separate tasks, and one task had a unique funding source from an outside entity. When asked if she considered lumping the tasks into one contract, she said that she did not consider it given the individual scope and that she was not advised by Foran to do so. Johnson also stated that she knew that JJC, the only other contractor in the community who could do the work, was unavailable due to other commitments, which left Bennett Enterprises the sole local entity able to perform the work. She stated that bringing in a contractor from outside the community wasn’t practical and would no doubt cost more as equipment and labor would need to be brought into the community.

Johnson’s statements lack credibility. Her explanation of separating the work into three parts does not make sense and her attempt to shift blame to Foran is not reasonable. DMC 04.30 gives the City Manager procurement authority and ultimate responsibility for decisions made. Even if Foran advised Johnson to create three separate contracts, the authority to do so still rests with the City Manager. Foran stated that when she was asked to create three separate POs, she pointed out that there were no quotes for the work and questioned the propriety of creating three contracts for work that appeared to be one project. Foran stated during the investigation, and in a memo to Decker during the audit process, that she questioned Johnson during the process and ultimately capitulated because she feared for her job. She then generated quotes for Bennett to sign and issued the POs that day, setting the work in motion.

POs 4450 – 4452 had a cumulative value of \$89,997. DMC 4.30.090 and COD FIN-01 Procurement Policy require that contracts over \$29,999 be made by “competitive sealed bid.” The procedures for doing so are explicitly outlined, and in this case, were not followed.

It is worth noting that even had the work been appropriately broken into three separate contracts, the provisions of DMC 04.30.080, appear to be violated in two ways. The first issue is that subsection C. requires that contracts “whenever possible and practicable, shall be based upon at least three competitive written quotations from interested bidders...” In this case, Johnson obtained one quote per contract. When asked about her reasoning she stated that she knew the only other local contract who could do the work was not available to do so. There is nothing in the file that documents that information, though there is a note to that effect attached to the PO for the Territorial School demolition, work that was performed around the same time period, but at a slightly later date

Further, DMC 04.30.080 (D) requires that “The city manager shall notify the city council of the award of such contract or purchase at the next regular city council meeting.” Though the work is mentioned in the Manager’s Staff report, it does not specifically mention the contract award. The minutes do not reflect a conversation on the topic.

D. If during the investigation, it is determined that other laws (i.e., DMC 4.04.020, DMC 2.04) were likely violated, identify such laws.

DMC 4.04.020 City obligations. A. All city financial obligations shall be made in the form of a budget appropriation. The council may make supplemental and emergency appropriations. No obligation shall be incurred nor any payment authorized or made unless an appropriation has been made by ordinance.

Because the contract for the work provided to Bennett should have gone through a competitive sealed bid process which requires council approval and appropriation, it appears that DMC 4.04.020 has been violated. There is record of Johnson bringing the landfill project up in her staff reports to council, but there is no mention of the contract terms in her report, nor is there any indication in the minutes that the topic was discussed.

DMC 2.04.020 Definitions. As used throughout this chapter, the following terms shall have the following meanings ascribed to them...“ Official or employee” means any person, officer or employee holding a position by election, appointment, or employment in the service of the city, whether paid or unpaid, including members of any board, committee, or commission thereof; provided, however, that independent contractors shall not be considered public officials or employees. Acts of any family member of a public official or employee, when done with the knowledge and consent of the public official or employee, shall be deemed to be acts of such official or employee for purposes of applying the prohibitions and restrictions of this ordinance”

DMC 2.04.030 Code of conduct. B. Improper Influence. No official or employee shall make, participate in making, or in any way attempt to use his or her position to influence any governmental decision or action in which he or she knows or has reason to know that he or she has a substantial financial interest. An official or employee has a substantial financial interest in

a governmental decision or action when it is reasonably foreseeable that said decision or action will have a material effect on that official or employee distinguishable from its effect on the public generally.

There is nothing in the record to suggest that Johnson profited in any manner for the decision to provide the contracts to Bennett Enterprises. Her motivation appears to have been a desire to get the work done quickly and with a minimum of red tape. DMC 04.30.080 gives the City Manager authority to enter into contracts in an amount up to \$29,999, with a minimum of procedural requirements. Contracts in excess of that amount must be done through sealed competitive bid and require public notice periods that can be time consuming. Johnson stated more than once in the interview that she was proud of her ability to get the work completed. While she may have disregarded code or policy, she does not appear to have done so for private gain or to curry favor with a seated council member.

There is nothing in the record to suggest that carving the body of work into three contracts instead of one was influenced by Mike or Neal Bennett. Both Johnson and Neal Bennett reported that Johnson contacted Bennett Enterprises to do the work because she knew that JJC was not available to do so. Neal Bennett came to the City Manager's office at her request, and Mike Bennett was not present.

Bennett Enterprises has an established relationship of performing work for the COD that precedes Johnson's position as City Manager, and that relationship continued after her tenure. The established relationship with Bennett Enterprises also precedes Mike Bennett's tenure on the council.

It appears that Mike Bennett did not violate DMC 2.04 by working on the projects covered by POs 4450-4452. He stated he did not profit directly or indirectly from that work, and his father, as owner of Bennett Enterprises confirmed that statement. Further, Neal Bennett denies charging COD for the hours worked by his son, so he does not appear to have personally gained through actions of his son. The statements by both individuals came across as credible and, absent an audit of Bennett Enterprises' books, have been taken at face value.

E. If procurement requirements or other laws appear to be violated, provide recommendations of best practices to help the City recognize and prevent a similar violations in the future.

The COD has a Procurement Policy that outlines adherence to code. All City employees with purchasing authority, including the City Manager, should review and sign the policy, a copy of which should be maintained in the employee's personnel file. The policy should be updated to reflect current procurement limits.

When asked about internal controls, Foran stated that she felt that her position was an internal control, and that part of the failure occurred because she did not refuse to create the PO. She avoided doing so because she genuinely feared for her job, a fear that others in the organization echoed during interviews. Staff should be provided with training that affirms their rights and responsibilities to speak up and be provided with an avenue for reporting if they find themselves in what they believe to be a compromised position. This provides safety to them and mitigates risk to the city.

Issue Two

September 2024: Bingman Property cleanup project and Council member Michael Bennett's involvement.

Background

In August of 2024 the City of Dillingham released RFP 2024-03 1000 Kanakanak Rd Demolition, also known as the Bingman property cleanup project. Response to the RFP was due by September 16, 2024.

Two local companies submitted bids, JJC Enterprises (JJC), and Bennett Enterprises (Bennett).

Bid packets that were received were placed in the COD vault until the bid opening. On September 16th, the bids were opened at 4:20 pm and both submissions were determined to be responsive.

On September 19th, the bids were reviewed and scored by the bid award committee. The committee was comprised of Phil Baumgartner, Abigail Flynn, and Anita Foran. The scoring indicated that JJC was the successful bidder. COD issued a Notice of Intent to Award on September 20th, and sent the notice via email to JJC and Bennett that same date. The transmittal email provided detail about how to appeal and notified the parties that the contract award was scheduled for a Council hearing on September 26th during a special meeting.

Neal Bennett, owner of Bennet Enterprises, contacted the COD to notify he intended to appeal and to request a meeting to discuss. His request was made within the relevant appeal timeframes.

On September 25th, JJC and Bennett were notified that the Special Council Meeting had been cancelled and the contract award would be moved to the regularly scheduled Council meeting on October 3rd.

A meeting was set with Neal Bennett for September 27th to discuss his concerns. Parties present at that meeting included Decker, Foran, Flynn, and Baumgartner. In addition to Neal Bennett, Mike Bennett also attended. During the meeting, the Bennetts expressed concern with the way the RFP process was handled and how the bids were scored. According to all parties present the conversation became heated at times. During the meeting, Neal Bennett signed a formal protest of the award.

On October 1st, COD notified JJC that COD had received notice contesting the bidding process used for the RFP and that the issue would be heard at the October 3rd meeting.

Prior to the October 3rd meeting, Decker made the decision not to advance the contract award to the Council for approval and contacted both parties to let them know the COD would not proceed with the contract award.

Issue Scope:

Workplace Solutions was asked to investigate and address the following points:

- A. Investigate whether a contract was awarded and if the contracted work was performed.
- B. Investigate Council member Bennett's involvement in the meeting around September 27, 2024.
- C. Investigate if the Dillingham procurement requirements were likely violated.
- D. If during the investigation, it is determined that other laws (i.e., DMC 2.04, DMC 2.21.060) were likely violated, identify such laws
- E. If procurement requirements or other laws appear to be violated, provide recommendations of best practices to help the City recognize and prevent a similar violations in the future.

Investigation Methodology

The investigation into this issue included reviewing the following documents:

- RFP 2024-03 1000 Kanakanak Rd Demolition
- 9/16/24 Bid Opening for RFP 2024-03 Kanakanak Rd Demolition
- 9/20/2024 Notice of Intent to Award and Scoring Sheet for RFP 2024-03
- 9/25/2024 email from COD staff to JJC and Bennet regarding the cancellation of the 9/26/24 Special Council Meeting
- 9/27/2024 Appeal by Bennett Enterprises contesting the Notice of Intent to Award RFP 2024-03 to JJC
- 10/1/2024 COD email to JJC notifying them the award was being contested
- Notes taken by Abigail Flynn from the 9/27/2004 meeting (not dated)
- DMC 2.04
- DMC 2.21.060
- DMC 4.30
- COD FIN-01 Procurement Policy dated March 27, 2023

In addition, the following witnesses were interviewed

- Dan Decker, Current COD City Manager (City Clerk in Aug of 2023)
- Anita Foran, COD Finance Director
- Abigail Flynn, Acting City Clerk
- Phil Baumgartner, Public Works Director
- Mike Bennett, COD Council Member, son of Neil Bennett
- Neal Bennett, owner Bennet Enterprises, father of Neil Bennett

Summary of Findings:

- A. Investigate whether a contract was awarded and if the contracted work was performed.

A contract was not awarded.

B. Investigate Council member Bennett's involvement in the meeting around September 27, 2024.

Mike Bennett stated that his father Neal asked if he could attend the meeting on September 27th with him. Neal stated the same and added that he found it helpful to have a cool head with him in meetings that he knew might inflame his temper.

During the meeting, the conversation did become escalated at times. Neal Bennett reported that he took exception to the way the RFP was structured and believed it to be procedurally flawed. He communicated that in the meeting. Mike Bennett stated that he agreed with his father's assessment and communicated what pieces of code he felt had been violated in the procurement process.

When asked about his role in the meeting, Mike Bennett essentially stated, "I wasn't there to tell them what to do, but to state what code says. I made it clear that it didn't meet the competitive sealed bid requirements. I would have brought it up in a council meeting the same way."

When Mike Bennett was asked during the interview if he was present as a private citizen or a council member, he stated, "My question to you is what difference does it make?" He then went on to say he was there as a citizen.

Staff in the meeting reported feeling uncomfortable and, at times, intimidated. Decker, Foran, Flynn, and Baumgartner all stated they felt like Mike Bennett was behaving in the manner of a council member, bringing up the same points he would have if he was in a meeting.

C. Investigate if the Dillingham procurement requirements were likely violated.

DMC 4.30.090 (B) requires that the COD City Manager "Unless exempt under the provisions of Section [4.30.130](#), ... be made by competitive sealed proposal." for contracts in excess of \$29,999 (\$50,000). The City Manager directed the creation of a competitive sealed proposal for the property clean up. The document, which was titled "Request for Proposals/Bids" followed the process and procedures outlined in code for sealed competitive proposals.

The scope of work and requirements were identified for the potential bidders. Proper notice was given. A deadline for response including date and time were included. Bids were accepted until the deadline and then publicly opened to determine if the bidders were responsive. A selection committee met, considered the bids, and decided which of the two bids was in the best interest of the COD. Proper notice was then given of the Intent to Award, and when one bidder wanted to appeal the decision, consideration was given to that request. Ultimately, the City Manager elected not to proceed with the contract as bid. All steps taken were in keeping with code.

That said, there appears to have been some legitimate confusion on the part of Bennett Enterprises. That confusion may have contributed to the bid's lower score on the proposal. In addition, a scoring rubric was developed for the selection committee's use, but the tool was not shared with the bidders which is the commonly accepted practice. These irregularities are not a violation of code but do point to process improvement.

During staff interviews, there was concern expressed by Decker that Mike Bennett may have had access to confidential information from the bid packets prior to the meeting on the 27th. However, after discussing the chain of custody of the documents that appears highly unlikely. The bids were placed in a vault when received, publicly opened at the designated time, and then placed back into the vault for safe keeping. They were removed from the vault for the review committee process on the 19th, and then returned to the vault thereafter. There is an email from Flynn to another staff member asking that person to find the documents in the vault and send them to her as she was working off site that day. Finally, there is no record of those documents being accessed by Bennett electronically when council member access to the SharePoint site was audited.

- D. If during the investigation, it is determined that other laws (i.e., DMC 2.04, DMC 2.21.060) were likely violated, identify such laws.

DMC 2.04 – Code of Ethics

2.04.020 Definitions.

As used throughout this chapter, the following terms shall have the following meanings ascribed to them: "Official or employee" means any person, officer or employee holding a position by election, appointment, or employment in the service of the city, whether paid or unpaid, including members of any board, committee, or commission thereof; provided, however, that independent contractors shall not be considered public officials or employees. Acts of any family member of a public official or employee, when done with the knowledge and consent of the public official or employee, shall be deemed to be acts of such official or employee for purposes of applying the prohibitions and restrictions of this ordinance.

2.04.030 Code of conduct. B. Improper Influence. No official or employee shall make, participate in making, or in any way attempt to use his or her position to influence any governmental decision or action in which he or she knows or has reason to know that he or she has a substantial financial interest. An official or employee has a substantial financial interest in a governmental decision or action when it is reasonably foreseeable that said decision or action will have a material effect on that official or employee distinguishable from its effect on the public generally.

Mike Bennett is clearly an official of COD, and section 020 extends that definition to an official's family. The code is silent on the definition of family for this purpose. Mike Bennett's actions on September 27th were taken, by his own admission, to influence the City Manager's decision to proceed with a contract award to JJC Enterprises, he sought to have the contract award withdrawn. Mike Bennett's actions in the meeting on September 27th were perceived by staff in attendance as those of a council member, and Mike Bennett stated that he did not distinguish between his role as a private citizen and a council member and asked the same types of questions and raised the same points that he would if he was in a council meeting. Since his father had a substantial financial interest in the decision or lack thereof, Bennett's actions appear to be a violation of the ethics code.

DMC 2.21.060 Interference with city manager prohibited. Except for the purposes of inquiry, the council and its members and mayor or other official of the city shall deal with the administrative service solely through the city manager, and neither the council nor any council member nor mayor nor other city official shall give orders to any subordinate of the city manager, either publicly or privately

Mike Bennett's behavior at the September 27th meeting did not rise to the level of giving orders to city staff. During the meeting he did state that the process was flawed and that it violated code, but no staff reported that he gave a direct order to pull the contract. The City Manager was present for the meeting and ultimately made the decision not to proceed with the contract award after the meeting on the 27th.

E. If procurement requirements or other laws appear to be violated, provide recommendations of best practices to help the City recognize and prevent a similar violations in the future.

It is not likely that the procurement code was violated. However, the process was not as transparent as it could have been. Staff did not have a lot of expertise in creating RFPs and reported that the development process was not as smooth as it could have been. When it was time to evaluate the bids there was not a scoring sheet so one was generated at that point. While the criteria for review were reasonable in light of the RFP, the rating criteria were not shared with the proposers. While not required by code, sharing the scoring rubric is considered a best practice. The COD would be well served by examining its procurement processes and creating clear templates and guidelines for staff use.

- Templates and related forms should be created and made available for use at all procurement levels.
- Check lists should be created to assure that necessary elements are included in a bid packet.
- Training should be provided to staff who are tasked with creating and evaluating competitive bids so everyone understands the requirements and process, and that it is done in a consistent manner.

- There was no pre-bid conference offered for this RFP. Had there been one, some of the issues could have been surfaced in advance helping to make the process more transparent and improve the quality of the responses.
- Training on procurement practices should also be extended to council members. More than one council member interviewed believed this procurement to be flawed because it was a tilted “Request for Proposal/Bid” rather than titled “Competitive Bid.” There seems to be some confusion about terminology and proper use that could be cleared up with education.

The Council should define the term “family” as it relates to the Code of Ethics. Family can be interpreted as those living in one’s household, first degree of kinship by blood or marriage, or other standards. It should be clear which standard applies.

It is worth noting that Code of Ethics provisions are designed to help safeguard organizations against actual and perceived improprieties. In this case, Mike Bennett’s close connections with Bennett Enterprises will often lead to questions. Mike Bennett should refrain from acting in the role of a council member on any issue that is materially significant to Bennett Enterprises to avoid any question of conflict of interest.

ISSUE THREE

August 2024-present: Council member access to City's digital records

Background:

COD converted its digital files storage system to Microsoft SharePoint on August 9, 2024. Staff access to the site was effective on August 12, 2024. Site security is organized through email address and login and during the conversion, council members were inadvertently granted access to the SharePoint folders that are public to all employees. No council member reported the enhanced access, and the COD discovered the issue in February of 2025, at which point council member access to the SharePoint site was removed.

The city asked its IT Consulting Firm, LMJ, to run an audit of what files council members had accessed since the conversion to SharePoint to the date of the request (August 14, 2024 – February 4, 2025). Through that audit, the city identified 1,056 records that had been accessed by council members Bennett, Westfall, and McCambly. The audit did not reveal that any other council members had accessed files.

Issue Scope:

- A. Investigate the access controls to the City's digital records. Please determine if other Council members accessed the City's digital records like Mr. Bennett, Mr. Westfall, and Mr. McCambly.
- B. Investigate what direction the City gave to its employees and/or elected officials regarding access to the City's digital records.
- C. Using the 1056 digital access entries, please sample 10 to 15 entries that could contain Alaska's Personal Information Protection Act (APIPA) "personal information." If budget allows, more sampling may be requested. APIPA generally requires disclosure to a protected person if a breach of a municipality's record system results in unauthorized access (by an employee without a legitimate basis or by a non-employee) of a protected person's name and one of the following (1) their social security number, (2) the driver's license or state identification number, (3) banking account or credit/debit card number, or (4) access code/password). AS 45.48.010 (generally requiring notice to a protected person if their "personal information" was breached); AS 45.48.090 (defining "personal information");
- D. Using the 1056 digital access entries, please sample 10-15 (in addition to the APIPA sampling) entries that could contain confidential information to determine if a non-employee accessed confidential information. DMC 2.01.030(A)(4). If budget allows, more sampling may be requested.
- E. Please investigate whether any of the 1056 digital access entries were substantively modified. DMC 2.01.030(A)(1).

- F. If your sampling reveals that an employee without a legitimate basis, or non-employee (i.e., Council member), accessed APIPA “personal information” or other confidential information, please try to investigate whether such person used or disclosed that protected information. DMC 2.04.030(E) and DMC 2.01.030(A)(3) prohibit a person from using or disclosing confidential information unless authorized by law.
- G. Recommend access controls for staff, the Mayor, and Council members.

Investigation Methodology

The investigation into this issue included reviewing the following documents:

- COD Council Files Accessed, LMJ Audit report for council members
- 69 files from the COD Council File Accessed report (list attached as Appendix A)
- Email dated August 9, 2024 from Anita Foran (Fuller) to All Employees re: the SharePoint conversion
- February 9, 2025, report from Dan Decker to the U.S. Department of Justice, Computer Crimes and Intellectual Property Section, regarding Report of Unauthorized Access to City of Dillingham IT Systems & Potential Violations of Federal Law
- COD Electronics Communication Policy
- DMC 2.01.030(A)(3)
- DMC 2.01.030(A)(4).
- DMC 2.04.030(E)

In addition, the following witnesses were interviewed:

- Dan Decker, Current COD City Manager (City Clerk in Aug of 2023)
- Anita Foran, COD Finance Director
- Abigail Flynn, Acting City Clerk
- Kyle Johnson, IT Technician
- Mike Bennett, COD Council Member
- Kaleb Westfall, COD Council Member
- Kevin McCambly, COD Council Member
- Alex Dennis, LMJ IT Consultant

Summary of Findings:

- A. Investigate the access controls to the City’s digital records. Please determine if other Council members accessed the City’s digital records like Mr. Bennett, Mr. Westfall, and Mr. McCambly.

Access to the COD’s SharePoint site is granted through a standard process. The user login is the user’s email address, and the user’s site password, is their email password. This is a common practice for an organization’s shared file structure.

The SharePoint site contains a number of folders. Access to the folders is granted by security level, and those security levels are tied to individual email addresses. As an example, Finance has a folder that only employees working within the Finance Department can access, and the ability to access is granted through the employee's user ID and login.

There is also a SharePoint folder that is titled "Public" that all individuals who have access to the SharePoint site are able to access. The folder is "Public" to internal users, but not the public who work outside of COD. When this folder was originally set up, access was granted to any individual who had a COD email address, and neither the consultants nor the staff assigned to the project, thought about the fact that council members (who have COD emails) would have access to this public folder as well.

When COD staff discovered that council members had access to the COD SharePoint site, they worked with LMJ, COD's IT contractors to complete an audit of file access by council members. James Lily and Alex Dennis, LMJ IT consultants ran the audit reports.

Dennis reported that LMJ used a two step process to audit the COD SharePoint site. As a normal course of business, LMJ maintains a report that allows them to see by user, when that user last accessed the system. That report revealed that during the time period that the SharePoint system was live for the COD, only Bennett, McCambly, and Westfall had accessed the system. Based on that information, LMJ ran a more detailed audit report to determine which actual files were accessed.

B. Investigate what direction the City gave to its employees and/or elected officials regarding access to the City's digital records.

The August 9, 2024, email to all employees announcing the SharePoint conversion is very simple, and focused more on SharePoint site training, conversion process, and future access. The email is worded in such a way as to assume anyone receiving it is a valid user of the system. It does not discuss internal security measures.

The COD's Electronics Communication Policy was not provided to council members and, even if the council members were aware of the policy, it is not on point to the issue at hand. Rather, the policy appropriately directs the acceptable and prohibited use of computers and the internet by employees.

Council members interviewed all stated that they did not receive any training on the use of computers as a part of the onboarding or their continued development as council members.

C. Electronics Record Review

- a. Using the 1056 digital access entries, please sample 10 to 15 entries that could contain Alaska's Personal Information Protection Act (APIPA) "personal information." If budget allows, more sampling may be requested. APIPA generally requires disclosure to a protected person if a breach of a municipality's record system results in unauthorized access (by an employee without a legitimate basis or by a non-employee) of a protected person's name and one of the following (1) their social security number, (2) the driver's license or state identification number, (3) banking account or credit/debit card number, or (4) access code/password).

69 electronic records were reviewed that, by title, were determined to have the potential to contain sensitive information. In some cases, more than one council member had reviewed the same record. No records were uncovered that contained APIPA associated with private individuals or other entities outside of the COD organization.

Two documents that were reviewed contained confidential information related to the COD itself:

- Tax ID Numbers.docx had the COD's bank account and routing number (accessed by Bennett).
- Nushagak CPNI Establishment of Account.pdf had the COD's password for its electrical account (downloaded by Westfall).

Regarding the download, Westfall stated that occasionally he had to download documents to open them. This was confirmed by LMJ as a possibility depending on the platform that was used to view the files.

Access of these files was a violation of DMC 2.01.030(A)(4) which provides in pertinent part, "...Unless otherwise permitted or required by law, no person may: ...Except for a city employee in the course of performing official duties, inspect or copy confidential information in a city record."

All files viewed by McCambly would be generally available for public inspection.

- b. Using 1056 digital access entries, please sample 10-15 (in addition to the APIPA sampling) entries that could contain confidential information to determine if a non-employee accessed confidential information. DMC 2.01.030(A)(4). If budget allows, more sampling may be requested.

Of the 69 electronic records that were reviewed, Bennett accessed three documents that contained confidential personnel information:

- 90 Day Self Eval 10.25.16.pdf (a 90 day self-evaluation completed by an employee),
- MS Review by Scott Runzo.pdf (A letter of reference for an employee),

- FIN005 Employee Leave Request.xlsx (a leave request for an employee seeking medical leave to care for a family member).

These files were viewed, but not downloaded.

Access of these files was a violation of DMC 2.01.030(A)(4) which provides in pertinent part, "...Unless otherwise permitted or required by law, no person may: ...Except for a city employee in the course of performing official duties, inspect or copy confidential information in a city record."

- D. Please investigate whether any of the 1056 digital access entries were substantively modified. DMC 2.01.030(A)(1).

The audit flagged eight excel documents that were flagged as "File Modified." All eight documents were accessed by Westfall. A cell-by-cell comparison of the documents did not reveal any changes between the original document and the document that showed as Modified after Westfall's access. This is in keeping with Westfall's assertion that he did not modify the documents. LMJ confirmed that excel documents may show as modified if the information is sorted, columns are adjusted in width, or the person viewing makes other non-substantive key strokes.

- E. If your sampling reveals that an employee without a legitimate basis or non-employee (i.e., Council member) accessed APIPA "personal information" or other confidential information, please try to investigate whether such person used or disclosed that protected information. DMC 2.04.030(E) and DMC 2.01.030(A)(3) prohibit a person from using or disclosing confidential information unless authorized by law.

Both Bennett and Westfall were asked directly about the viewing of the confidential information.

Bennett stated that he "can't recall but don't deny" looking at files that contained confidential personnel information. When asked why he looked at the documents he stated it was a file you could click on. He indicated that he had no personal reason to look, and did not know the individuals referenced in the documents. He further asserts that he viewed but did not disclose or otherwise use the information.

Bennett stated that when he discovered the file titled "Tax ID Numbers" he was concerned about the content and the COD's exposure to a class action lawsuit because employees without a need to know could view the information. He stated he attempted to call a special council meeting or arrange an executive session to discuss but was denied. When asked if he reported he had access to the document he said he did not report the access, and that he was planning on disclosing that in executive session.

It is worth noting that the Tax ID Numbers document is linked in Bennett’s explanation to a Property Tax issue that he also found concerning. When inquiring about the Tax ID Number document, Bennet stated,

“I called Alice, went to voice mail, went to Sam – had Kaleb present. Told Sam that there were issues with property tax. The City is subject to a class action law suit with property tax. I alluded to that there is information out there that is not available to the general public but information that is available to employees. I requested a special council meeting to talk about this and we were denied that executive session. I did not bring it up (document access) in general discussion. This happened prior to February 6, 2025.”

In Bennett’s mind he tried to report the availability of data beyond what he thought was appropriate, but did not report to anyone that he had access to the same information. His actions suggest he knew he had access to information he shouldn’t have, but that knowledge did not change his behavior.

Westfall asserts that he only viewed the document with “Nushagak” in the title because he is interested in general about issues related to the utility. He did not know that it was a document that contained sensitive information. He further stated that he did not use the information in any fashion other than looking at it. He denied knowing that he should not be accessing the documents.

F. Please recommend access controls for staff, the Mayor, and Council members.

SharePoint Access:

Access controls have been re-established through the appropriate use of security measures. Council members who were inadvertently given access to the site can no longer access the SharePoint site. In addition, files that were maintained in the public folder viewable by all employees are being reviewed, and when appropriate, moved to more secure locations.

The Mayor has appropriately directed an investigation into council member activities. The City Manager should follow a similar process and conduct an audit to determine if current or former employees accessed confidential documents that were inadvertently placed in the public folder, and take any actions necessary for appropriate follow up.

Document Access:

When questioned about their motivation to access files, Bennett, McCambly, and Westfall all stated that they had had issues with obtaining city records from staff who they found to be non-responsive. When they saw files that pertained to subjects they were interested in, they clicked on the documents to review the information directly.

COD’s process around information release to council members is, if a council member requests information during a council meeting it is provided to the council as a part of their council member

role. If a council member asks for information outside of a council meeting, they are asked to fill out an Information Release Request form and treated as a member of the general public. Neither Bennett nor Westfall believed a council member should have to complete an Information Release Request form to access public documents. McCambly is not opposed to doing so but thinks it takes too long.

It is worth revisiting the process and controls around information provided to council. If release of documents in general is an issue for the council, they could set parameters related to access of information through administrative process and/or code.

Password Protection:

COD should change the password on its Nugshak Account to protect itself in case there was an intentional or unintentional breach of the password.

Training:

COD Council and Staff would benefit from training sessions on procurement practices and terminology, public records and information requests for elected officials, reading and interpreting code, and best practices in council/manager relations. Such training may be offered by COD's contracted attorney and/or by an organization such as the Alaska Municipal League. The recent training provided by Mr. Palmer and Mr. Severin on the Open Meetings Act is an example of the type of training that could be provided.

Other items of Note:

During this investigation additional issues surfaced that are potentially related to the issues being investigated. Information was recorded as presented to me, but I did not investigate these issues further.

1. Staff reported that they directly witnessed former council member Buholm attempt to direct the former Public Works Director (Billy) to enter into procurement contracts in a manner that may be a violation of the city's purchasing code. It was reported that Bennett was present at the time. Bennett also referenced the event and indicated that he did not agree with Buholm's approach.
2. Staff reported concern with how the procurement and work on the Territorial School Building was handled.
3. Council members reported significant frustration with, and belief that, the procurement process is routinely violated by staff.
4. Council members reported significant frustration with, and belief that, public records are routinely withheld.
5. Council member Bennett reported that he was frequently contacted by City staff for assistance with information related to project costing and related contracting issues. He believes such contact can be inappropriate.

In addition, Mike Bennett, Kevin McCambly, Kaleb Westfall, Kim Williams, and Neal Bennett all expressed frustration with city staff and other council members adhering to code provisions. I do not have detailed notes regarding all of their concerns as the issues expressed were outside the scope of this investigation. I did capture general impressions. Information can be provided if desired.

Summary of Recommendations

Note: The recommendations below are number for ease of reference not order of priority. Recommendations are listed in the order they are addressed in the report sections above.

1. The COD has a Procurement Policy that outlines adherence to code. All City employees with purchasing authority, including the City Manager, should review and sign the policy, a copy of which should be maintained in the employee's personnel file. The policy should be updated to reflect current procurement limits.
2. Staff should be provided with training that affirms their rights and responsibilities to speak up if they are being asked to do something that violates code or policy and be provided with an avenue for reporting if they find themselves in what they believe to be a compromised position. This provides safety to them and mitigates risk to the city.
3. Create clear process and templates for procurement process that align with code, policy, and best practices:
 - a) Templates and related forms should be created and made available for use at all procurement levels.
 - b) Check lists should be created to assure that necessary elements are included in a bid packet.
 - c) Scoring rubrics should be included in bid packets.
 - d) Training should be provided to staff who are tasked with creating and evaluating competitive bids so everyone understands the requirements and process, and that it is done in a consistent manner.
 - e) Pre-bid conferences should be offered for competitive sealed proposals and bids to surface questions and concerns, increase transparency, and improve the quality of the responses.
4. The Council should define the term "family" as it relates to the Code of Ethics. Family can be interpreted as those living in one's household, first degree of kinship by blood or marriage, or other standards. It should be clear which standard applies.
5. It is worth noting that Code of Ethics provisions are designed to help safe guard organizations against actual and perceived improprieties. In this case, Mike Bennett's close connections with Bennett Enterprises will often lead to questions. Mike Bennett should refrain from acting in the role of a council member on any issue that is materially significant to Bennett Enterprises to avoid any question of conflict of interest.
6. Revisit the process and controls around information provided to council. If release of documents in general is an issue for the council, they could set parameters related to access of information through administrative process and/or code.

7. The City Manager should conduct an audit to determine if current or former employees accessed confidential documents that were inadvertently placed in the public folder, and take any actions necessary for appropriate follow up.
8. COD should change the password on its Nugshak Account to protect itself in case there was an intentional or unintentional breach of the password.
9. COD Council and Staff would benefit from training sessions on procurement practices and terminology, public records and information requests for elected officials, reading and interpreting code, and best practices in council/manager relations. Such training may be offered by COD's contracted attorney and/or by an organization such as the Alaska Municipal League. The recent training provided by Mr. Palmer and Mr. Severin on the Open Meetings Act is an example of the type of training that could be provided.



City of Dillingham – Administrative Response Report

Subject: Corrective Actions Following Internal Access Review (Cosgrove Report)

Prepared by: Daniel E. Decker Sr., City Manager

Date: June 5, 2025

Purpose of Report

This report outlines the corrective actions implemented and underway in response to the findings presented in the April 7, 2025 Cosgrove Investigation Report. While the report identified serious concerns regarding improper access to city systems by individuals not employed by the City, and raised potential ethics violations stemming from those actions, the administration's focus remains on implementing meaningful, structured reforms across all departments. These reforms are designed not only to strengthen internal security, reinforce ethical safeguards, and ensure full compliance with policy—but also to prevent such breaches from occurring again or to significantly mitigate the risk should similar issues arise in the future.

Corrective Actions Completed

1. System Access & Security Reconfiguration

- SharePoint permissions and cloud access settings have been reviewed and updated to limit access to internal administrative folders to authorized personnel only.
- Role-based access controls have been partially implemented, with further refinements underway to align user permissions with operational roles.
- Multi-factor authentication is in place for key administrative systems and will be expanded across departments in phases to ensure broader security coverage.
- Routine monitoring of access logs has begun, with plans to formalize scheduled reviews in the coming fiscal year.

2. Procurement Training & Oversight

- Conducting citywide procurement training, with specific guidance on:
 - Dillingham Municipal Code Title 4 purchasing policies
 - Sourcwell utilization procedures
 - Proper documentation and approval protocols
- Finance and administrative teams are working closely to flag inconsistencies before they reach payment.

3. Staff Empowerment & Ethical Safeguards

- All staff have been instructed that they are not to carry out directives they believe to be unethical, regardless of the source.



- Employees have been reminded that policy adherence overrides hierarchy when legality or ethics are at issue.
- These expectations have been reinforced through direct meetings and verbal briefings.

Ongoing and Planned Actions

1. IT Audit & Monitoring Expansion

- Exploring options for an external IT audit in FY26 to assess system vulnerability and establish a recurring review cycle.
- Internal SOPs are being updated to support scheduled checks of system access logs and procurement authorizations.

2. Training Continuity & Role Clarity

- Annual refresher trainings are being institutionalized for both staff and department heads covering:
 - Procurement protocols
 - Ethical conduct
 - Confidentiality standards
- City Council orientation will now include a clearer explanation of **DMC Title 2**, including administrative boundaries and responsibilities.

3. Policy Integration

- Revisions to procurement procedures are in progress, incorporating:
 - Role-specific access policies
 - Procurement workflows
 - Ethics escalation processes

Conclusion

The City of Dillingham has taken meaningful steps to strengthen its internal controls, train its personnel, and ensure clear ethical boundaries are enforced. These actions, while responsive to the Cosgrove findings, are also part of a broader commitment to improve government accountability and public trust.

Through these efforts, we are laying the foundation for a resilient, policy-driven organization that upholds the highest standards of service and integrity.

MEMORANDUM

TO: Alice Ruby, Mayor; City Council
FROM: Sam Severin & Robert Palmer, Attorneys for City
RE: Cosgrove Report Follow-up
DATE: June 6, 2025

The last two pages of the Cosgrove Report summarize the recommendations to improve nine areas of concern. The City Manager has provided corrective actions for the Administration. The following addresses the legal corrective actions.

#2 Staff Rights and Responsibilities training. In addition to internal training provided by the Administration, at the Council meeting on April 28, 2025, we provided broad training for staff and the Council. Multiple staff members were present including the City Manager, the City Clerk, and the Public Works Director. Extensive time was spent discussing DMC 2.21.060 (Interference with City Manager prohibited) and Council member's requests for information/records in addition to other topics like DMC 1.24.050 (Whistleblower Protection). *This item appears to be resolved.*

#4 Code of Ethics definition of "family." At the Council meeting on April 28, 2025, we raised the ambiguity and risk to Council members for not defining "family" in DMC 2.04.020 related to the definition of "Official or employee." We presented three options for the Council to consider. *The Council should formally decide if it wants to define "family."*

#6 Council access to information. At the Council meeting on April 28, 2025, we provided three options for Council members to get City information: (1) ask the City Manager, (2) raise the topic at a Council meeting and direct the City Manager to produce records, or (3) file a public records act request. In relation to asking the City Manager, the Council could formalize the request with a form, which could provide clarity on the request and accountability for production of records/information. We provided a template to the City Manager, which can be adjusted to fit the City's needs. *This item appears to be resolved.*

#9 Council and Staff training. At the Council meeting on April 28, 2025, we provided training on elected officials' information requests, applying code, and Council/Manager relations. Consultant Bill Dan also provided detailed training on the best practices for Council/Manager relations. *This item appears to be resolved.*

Items #1, 3, 5, 7 and 8 are not directly tied to duties of our office, but we are happy to assist the City if desired. For example, if there are gaps in training or templates related to procurement, we can help with training or drafting forms. Also, even though an item may be resolved now, the City may want to audit compliance for a few years to make sure the updated practices still comply with the Cosgrove Report recommendations.