

VILLAGE OF BONITA



COMPLIANCE AUDIT

ISSUED OCTOBER 25, 2006

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October 25, 2006

**HONORABLE VIRGIL PENN, MAYOR,
AND BOARD OF ALDERMEN
VILLAGE OF BONITA**
Bonita, Louisiana

We have audited certain transactions of the Village of Bonita (Village) in accordance with Title 24 of the Louisiana Revised Statutes. Our audit was performed to examine the concerns of Village officials and to review Village policies and procedures for the purpose of recommending corrective actions if needed.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*; therefore, we are not offering an opinion on the Village's financial statements or system of internal control nor assurances as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. Copies of this report were delivered to the Mayor, Board of Aldermen, the District Attorney for the Fourth Judicial District of Louisiana, the Louisiana Board of Ethics, and others as required by law.

Respectfully submitted,

Steve J. Theriot, CPA
Legislative Auditor

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Mayor Virgil Penn may have improperly accepted between \$1,350 and \$1,450 in payments from a vendor who performed repair work on the Village of Bonita's (Village) backhoe. The vendor stated that documentation supporting the repair work was altered at Mayor Penn's direction. Inadequate controls over the Village's purchasing function allowed payments to this vendor without sufficient documentation. Our review noted internal control deficiencies in several additional areas of Village operations.

Backhoe Repairs

On October 26, 2004, the Village entered into an agreement with the Governor's Office of Rural Development (ORD) under which the ORD would pay for repairs to the Village's backhoe up to a maximum of \$5,000. Mayor Penn hired a local mechanic, Richard Morgan, to make the repairs. Between August 27, 2004, and February 25, 2005, the Village paid Mr. Morgan \$4,132 for his repair work. The \$4,132 was for parts, labor, and expenses. The Village spent an additional \$4,904 on parts, labor, and expenses at the John Deere dealerships in Mer Rouge and Monroe and Glen's Motor Parts of Bastrop. The total cost of the repairs to the backhoe was \$9,036 (\$4,132 + \$4,904).

Mr. Morgan supplied four invoices to the Village to support his repair work on the backhoe. The invoices were handwritten and prepared by Mr. Morgan's wife and granddaughter. The parts listed on the invoices were originally not supported by receipts. According to Village Clerk Barbara Vail, she was reluctant to approve payment without detailed receipts for the parts purchased. She expressed her concerns to Mayor Penn. Shortly thereafter, Mayor Penn provided her with a customer history report from Advance Auto Parts, but not detailed receipts.

Our review of the customer history report revealed the document was an altered report of Mr. Morgan's purchase history from Advanced Auto Parts. Dates for the various parts purchased were "whited out" and new dates handwritten in. Written across the top of the customer history report was "1987 Model John Deere 310-B 173387T Hydraulic," indicating the parts listed on the report were for the Village's John Deere 310-B backhoe. However, according to the manager of the Bastrop branch of Advance Auto Parts, the parts were for a Chevrolet truck and not a John Deere backhoe.

According to Mr. Morgan, Mayor Penn requested he obtain the customer history report. After receiving the report, Mayor Penn told him to change the dates to reflect the period in which the backhoe work was performed and to write the name and model of the backhoe at the top of the page. According to Mr. Morgan, he directed his granddaughter to make these changes and gave the altered copy back to Mayor Penn. According to Mr. Morgan, he knew these were not the parts used on the backhoe and he told this to Mayor Penn. The parts Mr. Morgan used to repair the backhoe were either purchased by the Village at the John Deere dealerships in Mer Rouge or Monroe or were parts he had in his possession before working on the Village's backhoe.

Mr. Morgan stated he gave some of the money he received for the repair work to Mayor Penn at the Mayor's request. Specifically, he gave cash to Mayor Penn on two separate occasions--\$500 on one occasion and \$700 to \$800 on another occasion. According to Mr. Morgan, Mayor Penn told him the amounts he wanted to be paid. In addition, he endorsed one of the six Village checks he received for the backhoe repair and gave it to Mayor Penn. Our review of the check showed that it was for \$150 and that Mayor Penn's name was subsequently endorsed on the check and negotiated. According to statements made by Mr. Morgan and Village records, Mayor Penn may have received between \$1,350 and \$1,450. Mr. Morgan stated that he knew making these payments to Mayor Penn was wrong. Through his attorney, we requested Mayor Penn respond to our written summary of this matter. As of this date, Mayor Penn has not responded.

Inadequate Internal Controls and Recommendations

During our review of the Village's policies and procedures, we noted several internal control weaknesses. Areas of concern included traffic tickets, cash collections, purchasing, budgeting, financial statements, disbursements, personnel records, payroll records, capital assets, confiscations, and computer care. The deficiencies in these areas are noted below along with appropriate recommendations.

Traffic Citations

There are no written policies and procedures regarding the Village's issuance of traffic citations, including the maintenance of proper documentation and the collection of traffic fines. During our review of 569 citations issued or voided between July 1, 2004, and December 31, 2005, 76 citations were unaccounted for. In addition, we noted instances of moving violations reduced to nonmoving violations. According to the Attorney General, Louisiana law does not allow the reduction of a moving violation to a nonmoving violation.¹ We recommend Village officials develop written policies and procedures that detail:

- (1) proper documentation of traffic citations;
- (2) procedures for collecting traffic fines;
- (3) procedures for reducing or voiding citations; and
- (4) procedures for reconciling traffic fines to citations.

Cash

Except for the Village's water works operation, there are no policies and procedures regarding the Village's cash collections and petty cash disbursements. We recommend Village officials develop and implement written policies and procedures regarding cash collections and petty cash disbursements that provide for adequate internal control to include defining and detailing the:

¹ **Attorney General Opinion No. 06-0075** provides that under R.S. 33:441, absent written authority in the ordinances governing the Village of Bonita, the "presiding officer" of the mayor's court may not reduce a moving violation to a nonmoving violation or any other charge.

- (1) acceptance of cash receipts;
- (2) reconciliation of all cash collections;
- (3) recording of cash collections in the Village's financial records;
- (4) reconciliation of the Village's bank accounts; and
- (5) disbursement and replenishment of the petty cash fund.

Purchasing

The Village does not have a written purchasing policy. Louisiana law² requires village officials to bid certain public works projects and purchases of materials and supplies over a certain sum. We recommend Village officials develop and implement written purchasing policy and procedures that provide for adequate internal control to include defining and detailing the:

- (1) initiating of purchases;
- (2) purchase requisition and purchase order preparation procedures;
- (3) purchase requisition and purchase order approval process;
- (4) allowable purchases;
- (5) proper documentation of purchases;
- (6) verification of receipt of goods and services; and
- (7) retention of all bid and quote documentation.

Budgeting

The Village does not have a written budget policy. Louisiana law³ requires Village officials prepare and adopt a comprehensive budget before the end of the prior fiscal year. We recommend Village officials develop and implement a budget policy that includes provisions for preparing, adopting, monitoring, and amending the budget to ensure compliance with Louisiana law. The policy should require periodic comparisons of actual to budgeted revenues and expenditures. Comparisons of actual to budgeted revenues and expenditures will help the Village identify potential financial problems before budgeted amounts are exceeded.

² **R.S. 38:2212** provides, in part, that purchases of materials and supplies, such as equipment, vehicles, etc., which exceed that sum of \$20,000, shall be advertised and let by contract to the lowest bidder. It further provides that purchases of materials or supplies exceeding the sum of \$10,000, but less than \$20,000, shall be made by obtaining not less than three telephone or facsimile quotations. In addition, it provides that all public works, such as the construction of roads, buildings, etc., which exceed \$100,000, including labor, materials, equipment, and administrative overhead not to exceed 15 percent, shall be advertised and let by contract to the lowest responsible bidder.

³ **R.S. 39:1305 and 39:1309** provide, in part, that each political subdivision shall cause to be prepared a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund and each special revenue fund. It further provides, in part, that all action necessary to adopt and otherwise finalize and implement the budget for a fiscal year shall be taken in open meeting and completed before the end of the prior fiscal year.

Monthly Financial Statements

Before each public board meeting, the Clerk provides to the Mayor and Board of Aldermen a list of all financial transactions for all accounts. The Village does not have policies and procedures that provide for the nature, extent, or frequency of financial reporting to the Board. We recommend Village officials develop and implement written policies and procedures that provide for preparing monthly financial statements to include comparisons of actual to budgeted revenues and expenditures and monthly presentation of the financial statements to the Board.

Disbursements

Village officials should develop and implement policies and procedures to ensure all disbursements are appropriate, serve a public purpose, and are paid from the correct fund. We recommend Village officials develop and implement written policies and procedures that provide for adequate internal control to include defining and detailing:

- (1) adequate supporting documentation for all disbursements;
- (2) invoice approval and payment;
- (3) disbursement allocation among funding sources;
- (4) recording disbursements in the accounting records; and
- (5) reconciling and reviewing bank accounts.

Personnel Records

The Village maintains employee files for each employee; however, the files are not complete. Personnel files should contain, at a minimum, the following:

1. Documentation of the employee's approved rate of pay
2. Employment eligibility verification form (Form I-9) for all employees hired after November 6, 1986
3. Federal and state income tax withholding allowance certificates (Forms W-4 and L-4)
4. Employment application form
5. Job description

Payroll Records

Village officials should develop and implement policies and procedures to ensure (1) all payroll disbursements are made only for authorized work; (2) payroll is computed using authorized rates; (3) payroll and related benefits are recorded correctly and distributed properly; and (4) payroll and related benefits are properly presented in the financial statements. We

recommend Village officials develop and implement written policies and procedures that provide for adequate internal control to include defining and detailing the:

- (1) recording and reviewing of employee work hours;
- (2) processing and reviewing of employee pay and related benefits; and
- (3) recording in the financial records of payroll and related benefits.

Capital Assets

The Village does not have a listing of capital assets. Capital assets include property, plant and equipment, and infrastructure assets. Infrastructure assets include roads, bridges, drainage systems, water and sewer plants, lighting systems, sidewalks, and similar items. Louisiana law⁴ requires the Village to maintain an asset listing.

Village officials should develop and implement policies and procedures to ensure that assets are recorded on a fixed asset listing in compliance with Louisiana law. The policy should also require at least annual inventories of all capital assets. The asset listing should include the following:

1. Description of the asset
2. Year of acquisition
3. Means by which the asset was purchased
4. Cost or estimated cost
5. Salvage value
6. Estimated useful life

Confiscated Weapons, Money, and Drugs

The Village does not have a written policy concerning confiscation of weapons, money, and drugs by its police department. We recommend Village officials develop written policies and procedures concerning all police confiscations.

Computer Care

Despite the Village's minimal use of computers, some basic computer usage and care policies and procedures should be implemented. Currently, the Village does not have policies and procedures governing computer usage and care. Village officials should develop and implement written policies and procedures for the care and use of its computers. The policies and procedures should:

⁴ **R.S. 24:515** provides, in part, that each political subdivision shall maintain records of all land, buildings, improvements other than buildings, equipment, and any other general fixed assets, which were purchased or otherwise acquired, and for which the political subdivision is accountable.

- (1) identify authorized users and restrict access and use to those users;
- (2) identify critical and noncritical data;
- (3) require periodic password changes;
- (4) require that employees keep passwords confidential;
- (5) limit access to critical files based on employee job descriptions; and
- (6) specify authorized business use of computers, including the Internet.

Village officials should also develop and implement a written backup contingency and recovery plan in the event of a disaster and test the plan at least annually. In addition, critical data should be backed up regularly and stored offsite.

This information has been provided to the District Attorney for the Fourth Judicial District of Louisiana and others as required by law. The actual determination as to whether an individual is subject to formal charge is at the discretion of the district attorney.⁵

⁵ **R.S. 14:118(A)** provides, in part, that public bribery is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any public officer, public employee, or person in a position of public authority with the intent to influence his conduct in relation to his position, employment, or duty. The acceptance of, or the offer to accept, directly or indirectly, anything of apparent present or prospective value, under such circumstances, by any public officer, public employee, or person in a position of public authority shall also constitute public bribery.

R.S. 14:133 provides, in part, that filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, any forged document, any wrongfully altered document, or any document containing a false statement or false representation of a material fact.

The Village of Bonita was incorporated under the provisions of Louisiana Revised Statute 33:321. The Village operates under a mayor-board of aldermen form of government with three board members.

Services provided by the Village include police protection and street and drainage maintenance. In addition, the Village operates a water distribution system and sewer system for about 200 customers.

An independent certified public account issued an audit report that expressed concerns over the following:

1. Inadequate Segregation of Duties
2. Inadequate Controls Over Court Petty Cash
3. Randomly Issued Citation Books
4. Deficit Enterprise Fund Retained Earnings
5. Deficit Bond Funding Requirements
6. Incomplete Records of Court Proceedings
7. Misuse of Public Funds
8. Donation of Village's Asset to Private Citizen
9. Inadequate Controls over Village's Vehicles

The Louisiana Legislative Auditor conducted an examination concerning the above listed findings and reviewed other matters that came to our attention. The procedures performed during this audit consisted of:

- (1) interviewing officials and employees of the Village as well as third parties;
- (2) applying our *Checklist of Best Practices in Government*;
- (3) examining selected records of the Village;
- (4) performing observations and analytical procedures;
- (5) inquiring of other governmental entities; and
- (6) reviewing applicable Louisiana laws.

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Management's Response

Patricia Holmes, Alderman
Village of Bonita
PO Box 54
Bonita LA 71223

This is in response to the Preliminary Draft Report of the findings of the Office of the Legislative Auditor for the Village of Bonita, for which I am an elected alderwoman and serve as the Mayor Pro tempore; and therefore was asked to sit in on the Exit Meeting held Oct. 2, 2006 at the town hall by way of speaker phone.

Legislative Auditor Gary Duty presented the report briefly, but in detail, allowing those present to respond with comments or questions. Present, besides me, were the town clerk, Barbara Sharik Vail; the court and water clerk, Tammi Garner; and town maintenance supervisor, David Hill, representing Mayor Virgil Penn who was not present for the meeting.

I will respond to each item listed in the report to the best of my ability, with the exception of the findings having to do directly with Mayor Penn regarding the backhoe.

Since most of the findings had to do with the lack of written policies and procedures within the office, before I address each finding individually, I would like to make mention of the fact that the following written policies have been developed and put into place since we were made aware of the importance of having written policies and procedures:

1. Cell Phone Policy
2. Mileage Policy
3. Municipal Building Use Policy
4. Payment Policy
5. Personnel Policy
6. Police Department Policy
7. Police Department Petty Cash Policy
8. Substance Abuse Policy
9. Travel Policy
10. Water Works Policy and Procedures
11. Hazard Mitigation Plan
12. Property Management Policy

Traffic Citations

I understand that the Mayor's Court has specific procedures that the Mayor, acting as Judge, is supposed to follow and I don't feel I have a right to tell him how to operate the court proceedings.

There have been some definite procedures put into place regarding citations. They are now ordered by the town clerk and kept locked in the vault and are issued to the officer(s) in numerical order and each book of citations must be signed for by the officer(s) obtaining them. These are tracked numerically.

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According to our Payment Policy and our Police Department Policy, no one except the Court Clerk or Town Clerk is allowed to accept payment for citations. Receipts are issued for each payment taken. These receipts are reconciled regularly. All citations issued are recorded in several different places:

1. Recorded in a specific citation book by the Court Clerk manually
2. Recorded on the Court Computer by the Court Clerk
3. Recorded individually on deposit slips when a deposit is made by the Town Clerk and reconciled with the receipt book
4. Recorded in a separate notebook by the Chief of Police
5. Recorded on the Police Department computer by the Chief of Police

The computer program the Court Clerk is now using on the Court computer allows the clerk to print reports showing citation numbers that might be missing (and none have been missing since the inception of this procedure); citations that have been voided; citations that have been reduced; citations unpaid; and warrants that have been issued for Failure to Appear and non-payment.

We plan to review the new policies to be certain they cover all the recommendations made by the Office of the Legislative Auditor. If they needed to be revised and updated, this will be done.

It is my understanding that no citations have been reduced to non-moving violations since the Village was given an opinion from the Attorney General that it is unlawful to reduce a moving violation to a non-moving violation.

I do not know what is legally allowed when it comes to voiding a citation, but I will look into this personally. The mayor has the sole discretion and authority to void citations in his capacity as judge for Mayor's Court. No one else has that authority.

Cash

A Payment Policy has been implemented for the collection of any payments which include cash and check payments. Also there is now a Police Department Petty Cash Policy. All cash and checks collected are recorded in receipt books and are accounted for and are reconciled regularly. The Police Department Petty Cash Policy is explicit regarding the disbursement of petty cash; and the Police Department is the only department that has a petty cash fund.

So long as the policies and procedures that are now in place are adhered to, there should be no more problems.

Purchasing

There is a section in our Property Management Policy that covers purchasing. If adhered to it should prevent anything being purchased improperly or without approval.

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We (aldermen) will review this policy and update it if it doesn't appear to sufficiently protect the Village.

Budgeting

Currently we (aldermen) do review monthly financial reports that show actual to budgeted revenues and expenditures, but we do not have a written budget policy to that effect. We will implement a written policy. We (aldermen) meet every month prior to the regularly scheduled monthly meetings to go over all the financial statements and bills (warrants). The town clerk answers any questions we might pose.

Monthly Financial Statements

We (aldermen) meet monthly and go over the detailed financial statements that are provided by the clerk – which include comparisons of actual and budgeted revenues and expenditures and detailed printouts from each and every account, so that we are made aware of every penny deposited and spent within the Village. But we do not have a written policy that specifically states we must do this monthly and what financial reports are to be provided. We have just always done this every month without something in writing – but, we will implement a policy with explicit instructions.

Disbursements

We (Aldermen) will implement a written policy regarding disbursements that will provide for adequate internal control and will insist the policy be adhered to by everyone, because I recognize that even when the clerk advised the mayor in a certain incident that she needed documentation, she was ordered to disburse funds anyway. This was not a good situation for the clerk to be placed in because the mayor is her boss. She did express concerns about this, but felt forced to write the checks. With a written policy in place, this would have helped in such a situation.

Personnel Records

Documentation of individual employee's approved rate of pay is not in each personnel file. This information has been kept in a separate binder. This will be corrected.

The clerk has obtained a Form I-9 and will see that all employees fill one out and they will be placed into each file. She will check to see if everyone's W-4s are current, and if not, will bring them current.

Job descriptions are a part of the various policies and procedures and therefore, have not been placed into individual personnel file folders, but they will be.

Payroll Records

The Personnel Policy covers much of what is referred to in this section of the report, but if there is something that is not covered in writing, it will be added and implemented.

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Time sheets are kept by the Town Clerk for payroll purposes and recording and verification of hours worked.

Payment of payroll checks are prepared and printed on the computer in a payroll program, with vacation and sick hours tracked there as well as by the clerk manually.

When financial reports are presented for review each month, amounts paid to employees are available to us (aldermen) for review. Also, our auditor, Rosie Harper, CPA, LLC, examines all payroll items in detail.

Capital Assets

The Village does have a listing of capital assets – They are listed in the annual audit. They have always been on file. But, I now understand that there are no written policies and procedures to ensure the assets are recorded. Also, I don't believe the assets include the detail that your report advises is required; but starting immediately, the capital asset listing will include this information and we will implement a written policy to that effect.

Confiscated Weapons, Money and Drugs

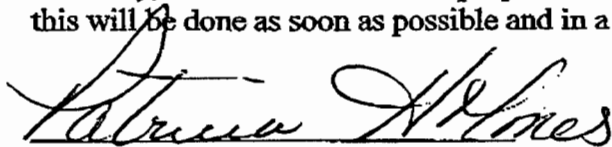
The Village does now have a written policy (Police Department Policy) regarding the confiscation of "evidence" but it does not specify weapons, money and drugs – even though it is explicit with procedures concerning "all police confiscations." We will do an addition specifying "weapons, money and drugs."

Computer Care

We will implement a written policy for use of the computers. Currently it is "understood" but it is not in writing. We will implement a written policy with specifics.

I trust this statement meets the requirements requested by the Office of the Legislative Auditor regarding the Preliminary Draft Report.

Basically, where we do not have proper written policies and procedures implemented, this will be done as soon as possible and in a timely manner.



Patricia Holmes, Alderman
Village of Bonita