



STEVE J. THERIOT, CPA
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

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April 18, 2007

Honorable Phillip F. Domiano, Mayor,
and Board of Aldermen
Town of Independence
P.O. Box 35
Independence, LA 70443

Dear Mayor Domiano:

We performed a limited examination of certain financial transactions of the Town of Independence (Town) for the period July 1, 2005, through December 31, 2006. These procedures were performed in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain allegations this office received regarding the mayor. The scope of our work was significantly less than that required of an audit by *Government Auditing Standards* in the audit of the Town's financial records; therefore, we are not offering an opinion on the Town's financial statements, the Town's system of internal control, nor assurance as to compliance with laws and regulations.

Based on our examination, we noted a matter that we want to bring to the attention of the board of aldermen and management for consideration.

The mayor currently receives salary from the town for the positions of mayor, street commissioner, water commissioner, and sewer commissioner. The board of aldermen appointed the mayor to the street commissioner position in 1980 but never officially appointed the mayor as water and sewer commissioner. However, the Town's budget includes an \$8,820 annual salary for the mayor in both the water and sewer departments.

Louisiana law¹ prohibits dual employment. The mayor may not be separately employed by the same political subdivision in which he holds an elected position. According to the attorney general, Louisiana law does not allow the mayor to hold the position of water and sewer commissioners.²

According to the attorney general,³ Louisiana law does provide for an exception, which allows a mayor to continue his position and pay as street commissioner providing he held the positions prior to July 1, 1997, and until he removes himself from the position and the board approves the removal.

¹ Louisiana Revised Statute 42:64 provides, in part, no other offices or employments shall be held by the same person in combination if any of the following conditions are found to pertain and these prohibitions shall exist whether or not the person affected by the prohibition exercises power in conjunction with other officers: (1) The incumbent of one of the offices, whether or not in conjunction with fellow officers, or employment has the power to appoint or remove the incumbent of the other.

² Attorney General Opinion No. 98-324 provides that under R.S. 42:64, the Mayor of Grambling City may not appoint himself to hold the position of Water Superintendent.

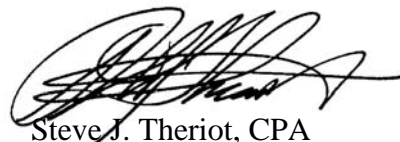
³ Attorney General Opinion No. 99-392 provides that a reelected Mayor who was serving as street commissioner on the date Act 836 of 1997 became effective would continue to serve until the board of alderman confirms a new appointment. Until there is another appointment, the Mayor would continue to act as the Street Commissioner under his previous appointment.

The Honorable Phillip F. Domiano, Mayor
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We recommend the Town seek an attorney general's opinion to determine if the mayor after his reelection can hold the position of street commissioner in a compensated or an uncompensated manner. We also recommend Town officials comply with state law and cease paying the mayor for the positions of water and sewer commissioners. If the mayor continues to perform the duties of the water and sewer commissioners in an uncompensated manner, the Town should request an attorney general's opinion to determine if the mayor can continue to perform those duties.

This correspondence represents our finding and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of the Town. I trust that this information will assist you in the efficient and effective operations of the Town. Should you have any questions, contact me at (225) 339-3800.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve J. Theriot", written over a faint, illegible background.

Steve J. Theriot, CPA
Legislative Auditor

LJD:KK:DD:dl

Town of Independence

ROBIN DAGRO
Accountant-Clerk-Tax Collector

MAYOR PHILLIP F. DOMIANO

LOUIS "NICK" JOSEPH
Mayor Pro-Tem

JULIE PARNELL
Assistant Clerk

Post Office Box 35

Independence, Louisiana 70443

Aldermen

JESSE C. PINGNO
Chief of Police

STEVE "EDDIE" ANTHONY
PARNELL "BUTCH" BAHAM

JOSEPH C. GUZZARDO

RAYMOND ALEXIA
Fire Chief

March 22, 2007

RICHARD NAVARRA

Office of Legislative Auditor
State of Louisiana
c/o Mr. Steve J. Theriot, CPA / Legislative Auditor
Baton Rouge, Louisiana 70804-9397

Dear Mr. Theriot:

This writing is in response to your letter dated March 08, 2007, regarding your office's draft audit findings on the Town of Independence.

Please be advised that I have reviewed the draft, and would like to offer the following information to your office.

- Water and Sewer Commissioner: I do not receive a salary for the water and sewer commissioner. As per your draft audit, paragraph 4, I will seek an opinion from the Attorney General's office to determine if I may assist my staff with any duties related to water and sewerage, uncompensated.
- Street Commissioner: I did in fact hold and serve in the position of Street Commissioner prior to July 1, 1997, and have done so on a continuous basis since 1980. I ask your office to please reference "Acts 1997, No. 836, Section 2", which states: "Any alderman serving as a clerk and any mayor or alderman serving as street commissioner on July 10, 1997 may continue to serve in such capacity". However, as per your audit, paragraph 3, I will seek an opinion from the Attorney General's office to determine if I may continue to operate as Street Commissioner, upon my reelection.

If there is any further information my office may assist you with, please advise. Thanking you in advance for your attention to this matter.

Sincerely,



Phillip F. Domiano
Mayor
Town of Independence

PFD/rd