

JEFFERSON PARISH COUNCIL



COMPLIANCE AUDIT
ISSUED AUGUST 12, 2009

**LEGISLATIVE AUDITOR
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LOUISIANA LEGISLATIVE AUDITOR
STEVE J. THERIOT, CPA

August 12, 2009

**MR. AARON F. BROUSSARD, PARISH PRESIDENT,
AND MEMBERS OF THE COUNCIL
JEFFERSON PARISH COUNCIL**
Jefferson Parish, Louisiana

We have audited certain transactions of the Jefferson Parish Council (Parish) for the period July 1, 2006, through January 31, 2009. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the credibility of certain allegations.

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 Parish's financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of the Parish. Copies of this report have been delivered to the District Attorney for the Twenty-Fourth Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Steve J. Theriot, CPA
Legislative Auditor

KJ:GC:DD:dl

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The Jefferson Parish (Parish) system of government was established by its Home Rule Charter, which became effective in 1958. The Parish operates under a president-council form of government with seven council members and the parish president who are elected for four-year concurrent terms. The Parish provides fire protection services to residents through the Parish's East Bank Consolidated Fire Department (Fire Department), a 200 member, nine-station fire department.

Since 1991, the Fire Department has maintained a bank savings account named "Jefferson Parish Fire," which contained a balance of \$96,132 as of January 31, 2009. The account was divided and classified by the Fire Department into the following four subaccounts:

1. Flower Fund - \$26
2. Slush Fund - \$4,721
3. Katrina Fund - \$51,617
4. Bell Fund - \$39,768

The flower fund subaccount contains funds collected from Fire Department personnel and was used for coffee, flowers, and office Christmas parties. The slush fund subaccount contains funds collected from Fire Department personnel as well as donations from local businesses. According to Fire Department records, in November 2005, the Katrina fund account was established to receive a \$50,000 donation from the Rusty Staub Foundation (Foundation). Lastly, the bell fund account includes proceeds from the sale of commemorative bells at fire stations.

Funds in the bell fund account were not subjected to the same controls and oversight as other public funds of the Parish. For example, the funds were not (1) appropriated by the Parish government through its budget process, (2) included in the Parish's financial statements, or (3) subject to the Parish's annual financial audit. This would suggest that the funds were managed as private funds. However, there is no legal entity or nonprofit corporation associated with these funds and no income taxes were paid on earnings for funds deposited into this savings account. Donations to the Fire Department were deposited into all subaccounts of the Jefferson Parish Fire savings account, with the exception of the flower fund. As a result, all funds contained within the slush fund, Katrina fund, and bell fund subaccounts are public funds.

The Louisiana Legislative Auditor received an allegation from the Metropolitan Crime Commission regarding bell proceeds and donations received by the Fire Department. This report addresses the Fire Department's sales, collection, and accounting of bell funds, as well as the funds in the slush fund and Katrina fund accounts.

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Slush Fund

Bank records indicate that from July 2006 through January 2009, no funds were expended from this account. According to Fire Department personnel, the slush fund account was funded with private funds and used to pay for coffee and Christmas parties. However, according to Parish management, the slush account also included public funds donated to the Fire Department. Records indicate that before July 1, 2006, several donations issued by the Wal-Mart Foundation to the “Jefferson Parish Fire Department” were deposited into the slush account. Because these donations appear to have been issued to a public entity without any documented restrictions as to how the funds were to be expended, the funds should have been deposited into a Parish bank account to be used for the Fire Department’s general operating account. Because public and private funds were commingled in this account without a separate accounting for the funds, all funds should be expended and accounted for as public funds.

Should the Fire Department continue to collect private funds, we recommend that a separate accounting of these funds be kept and that the funds currently in the slush fund account be spent in accordance with state laws governing public funds.

Katrina Fund

Fire Department records indicate that in November 2005, the Katrina fund account was established to receive a \$50,000 donation from the Rusty Staub Foundation (Foundation). The check from the Foundation was issued to the “Jefferson Park Eastbank Consolidated Fire Dept.” on November 1, 2005, endorsed “Jeff Parish Fire Dept.,” and deposited into the account on December 1, 2005. Because this donation appears to have been issued to a public entity without any documented restrictions as to how the funds were to be expended, the funds should have been deposited into a Parish bank account to be used for the Fire Department’s general operating account.

The funds were left intact and accrued interest until April 15, 2009, when at the request of the Foundation’s management and according to the Parish’s chief administrative officer, Tim Whitmer, without threat of legal actions, the funds, including accrued interest, were returned to the Foundation. According to Mr. Whitmer, the Parish Council did not make a resolution to expend these funds because the funds were never officially accepted. By returning these funds without a legal basis to do so, Parish management may have violated Article 7, Section 14 of the Louisiana Constitution.¹

¹ **Article 7, Section 14 of the Louisiana Constitution** provides, in part, that except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

Bell Fund

Management Oversight

Since 2002, the Fire Department has participated in a WWL-TV sponsored program in which bells commemorating events such as the September 11 attacks and Hurricane Katrina were sold to the public. It appears that the funds were managed by the Fire Department as private funds; however, Parish management considers the funds public in nature. Although the proceeds from the sale of commemorative bells were received and processed by Fire Department employees on department time, these funds have not been included in the Parish's budget or financial statements and thus not subjected to internal controls related to cash collections, the Parish's annual financial audit, nor to public scrutiny or local and state laws.

Currently, there is no formal organization in place, other than the Fire Department, to receive and disburse bell proceeds. George Rigamer, Fire Department public information officer, stated that when the bell program began, the chief at the time decided that the proceeds were going to be used for a tragedy fund for firefighters and their families. Mr. Rigamer stated that he suggested forming a committee to determine how to spend the funds but that was never done. It should be noted that because of the manner in which bell funds were managed, funds generated from past bell sales are public funds, and therefore Fire Department personnel do not have the authority to spend the funds in this manner.

When asked about the status of the funds, Mr. Whitmer indicated that he recently found out about the existence of the bank account and that Parish management believes the funds are public and should be handled accordingly. Mr. Whitmer stated that the Parish is currently working with the Jefferson Parish Firefighter's Union (Union) to determine how the funds can be spent in accordance with state law.

Inadequate Cash Controls

During the Commemorative Bell Program, WWL-TV distributed bells to local fire departments to sell for \$3 to the general public. Once the bells were sold, the Fire Department paid WWL-TV for the cost of the bells and deposited the remaining proceeds into the Fire Department bank account. Based on the number of bells received from 2006 to 2008 by the Fire Department, deposits from bell sales should have been \$36,825. However, bank records indicate total deposits of \$6,168 during this period leaving a possible shortage of \$30,657. Subsequent to our review, Fire Department personnel produced cash not deposited and other documentation which appear to have accounted for \$23,552 in unrecorded bell proceeds. After considering these items, the possible shortage of bell proceeds remains \$7,105.

Receipts for the sale of commemorative bells were collected at all Fire Department stations by on-duty personnel without controls or formal procedures. The process was not overseen by the Parish in any capacity and the Parish's cash policies and procedures were not

used. Records of bells received and sold and funds collected were not maintained and deposits were not made on a daily basis in accordance with state law.² According to Kathy Donovan, the secretary in charge of all aspects of the bank account, payments for bells were placed into envelopes by the fire chiefs and eventually delivered to her office by the district chief or an employee. Once received, she placed the envelopes in her unlocked desk drawer. Ms. Donovan explained that there was never documentation to indicate how much money was in the envelopes. She added that she never opened the envelopes and that the money was not counted until she handed it to the teller at the bank. Because there were no controls in place when handling these funds, the risk of loss due to theft and/or misappropriation was high.

Although the Fire Department did not maintain records detailing bell sales, records provided by WWL-TV indicate that from July 2006 through July 2008, 12,275 bells were provided to the Fire Department. Fire Department management stated that all bells received from WWL-TV were sold, which indicates that donations (\$3 per bell) totaling \$36,825 should have been received by Fire Department personnel and deposited into the bank account. However, bank records indicate that deposits totaling \$6,168 were made into the account during this period leaving a shortage of \$30,657. From July 1, 2006, through January 31, 2009, the only disbursements made from the Bell fund were to WWL-TV totaling \$10,112 for the purchase of the bells which were sold in 2007 and 2008. The funds used to pay WWL-TV were generated before 2006 and therefore would not account for the \$30,657 shortage.

On March 26, 2009, Louisiana Legislative Auditor (LLA) representatives informed Ms. Donovan of the apparent shortage of bell receipts and that no deposits were made in 2007. Ms. Donovan indicated that she had received monies to deposit in each year of the program (2006-2008) and that she must have made the deposits each year. Ms. Donovan had no explanation for the apparent shortage. The following day, LLA representatives received a phone call from the Union legal counsel, Louis Robein. Mr. Robein indicated that firefighter Joseph Bonura brought him \$17,985 in cash from the proceeds of 2007 bell sales. Mr. Robein asked for guidance in returning the funds and to arrange a meeting with LLA representatives and Mr. Bonura.

LLA representatives attempted to meet with Mr. Bonura later that day but were met at the legal offices by Bob Burkett, president of the Union. LLA representatives were provided with an accounting (by denomination) of the currency held by Mr. Bonura as well as what appears to have been the original envelopes containing currency when they were delivered to Ms. Donovan for deposit. Several of these envelopes had handwritten dates and references from 2005, 2006, and 2007. In contradiction to Ms. Donovan's statement, Mr. Burkett stated that Mr. Bonura had assisted Ms. Donovan in counting cash from bell sales. He added that once Ms. Donovan was informed of the shortage, she contacted Mr. Bonura who subsequently found the cash inside a gun cabinet at his residence. Ms. Donovan has not responded to an LLA request to further discuss this matter.

² **R.S. 39:1212** states, in part, that "After the expiration of existing contracts, all funds of local depositing authorities shall be deposited daily whenever practicable, in the fiscal agency provided for, upon the terms and conditions, and in the manner set forth in this Chapter. Deposits shall be made in the name of the depositing authority authorized by law to have custody and control over the disbursements."

On April 21, 2009, Parish management provided LLA representatives with a receipt from WWL-TV which indicated that on September 14, 2006, Mr. George Rigamer, made a cash payment in the amount of \$5,567 to a WWL-TV representative for the purchase of the 2006 “Katrina Bells.” Mr. Rigamer stated he believes that Ms. Donovan gave him the cash and that he delivered it to a WWL-TV representative. After deducting the cash received from Mr. Bonura and the amount of cash paid to WWL-TV in 2006, the possible shortage of bell proceeds remains \$7,105.

Should the Fire Department continue accepting donations for Parish operational purposes, we recommend that Parish management:

- (1) establish policies and procedures to ensure that all public cash accounts are included in the Parish’s budget and financial statements;
- (2) ensure that all cash transactions comply with state law; and
- (3) ensure that all cash transactions are handled within the guidelines of the Parish’s policies and procedures, to include:
 - (a) adequately recording all funds collected;
 - (b) reconciling the daily total deposits to the total receipts on a regular basis;
 - (c) implementing written policies and procedures relating to the collection, deposit, and recordation of receipts; and
 - (d) maintaining adequate public records.

Should the Fire Department continue accepting donations for non-Parish operational purposes, we recommend that Parish management locate a legally established nonprofit entity with 501(c) status to help carry out these activities. Furthermore, the two parties should enter into a written cooperative endeavor agreement to define the public purpose of the activities, as well as the public benefit to the Fire Department and/or the parish.

The Jefferson Parish system of government was established by its Home Rule Charter, which became effective in 1958. The Parish operates under a president-council form of government with seven council members and the parish president who are elected for four-year concurrent terms. The Parish provides fire protection services to residents through the Parish's East Bank Consolidated Fire Department (Fire Department), a 200 member, nine-station fire department.

The Louisiana Legislative Auditor received an allegation from the Metropolitan Crime Commission regarding bell proceeds and donations received by the Fire Department. The procedures performed during this audit consisted of:

- (1) interviewing employees of the Fire Department;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records of the Fire Department;
- (4) gathering documents from external parties;
- (5) reviewing Fire Department policies; and
- (6) reviewing applicable state laws and regulations.

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Management's Response



**JEFFERSON PARISH
LOUISIANA**

OFFICE OF PARISH PRESIDENT

AARON F. BROUSSARD
PARISH PRESIDENT

Our Mission is:
"Provide the services,
leadership, and vision to
improve the quality of life
in Jefferson Parish."

TIM A. WHITMER
CHIEF ADMINISTRATIVE OFFICER

July 24, 2009

Via U.S. Mail and Electronic Mail

Mr. Steve J. Theriot, CPA
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397
kjones@lla.la.gov

Re: Compliance Audit Report on the Jefferson Parish Council as Governing Authority of the East Bank Consolidated Special Service Fire Protection District – 9-11/Katrina Bell Program

Dear Mr. Theriot:

In connection with the above-referenced matter, as Chief Administrative Officer for the Parish of Jefferson and on behalf of the Parish of Jefferson, I hereby acknowledge receipt of the draft report issued by the Office of the Louisiana Legislative Auditor ("LLA") in connection with the above-captioned matter. As instructed by the LLA, the Parish of Jefferson ("**Parish**") offers the following observations as its response to your draft report that will be included in the LLA's final report.

As an initial matter, on behalf of the Parish, thank you for your diligent review that preceded the draft report. Your methodology was sound and your recommendations will assist the Parish in its future endeavors and result in the betterment of the Parish's political subdivisions, and the Parish as a whole. For that reason we are appreciative of your efforts and guidance.

As you are aware, immediately following our initial meeting with your auditors on March 2, 2009, the Parish initiated its own investigation into the sale of memorial bells by the Jefferson Parish East Bank Consolidated Special Service Fire Protection District (hereinafter referred to as the "**East Bank Consolidated Fire Department**"). The investigation was coordinated through the Parish Attorney's Office and included an internal audit of the procedures employed in the sale of memorial bells that was conducted by the certified public accounting firm of Ericksen, Krentel & LaPorte, L.L.P. ("**Parish Auditor**"), pursuant to an existing professional services contract with the Parish. The Parish Auditor reached similar conclusions and made similar



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recommendations to those of the LLA. Specifically, the East Bank Consolidated Fire Department should employ commonly accepted and already established inventory controls, cash handling procedures and financial reporting methods.

The East Bank Consolidated Fire Department employs over two hundred and fifty (250) men and women in its suppression, fire prevention, fire alarm, and office administration divisions, and operates nine (9) fire stations, the primary goal of which is to provide fire protection and emergency services to the residents and businesses located in a portion of the east bank of the Parish. There are eighteen (18) fire departments in the Parish, fourteen (14) of which (including the East Bank Consolidated Fire Department) are governed directly by the Parish Council. In the years that the East Bank Consolidated Fire Department sold memorial bells ("**9-11/Katrina Bell Program**"), the East Bank Consolidated Fire Department focused its resources responding to thousands of emergency medical and fire suppression incidents, providing fire prevention, and providing fire education throughout the Parish.

Credit Union Account

Employees in the administrative office of the East Bank Consolidated Fire Department have maintained a savings account at the Jefferson Parish Employees Federal Credit Union ("**Credit Union Account**") which, as you correctly noted in your draft report, contains funds that have not been included in the Parish Budget or financial statements. In your draft report you note that the funds in sub-account no. 2 titled "slush fund" should be expended and accounted for as public funds. Although a nominal amount of these funds remaining in the "slush funds" account may have been private funds collected from employees in the administrative office, the vast majority of these funds consist of donations to East Bank Consolidated Fire Department, therefore; the Parish considers these funds to be public funds. Accordingly, in May of 2009, the Parish Council formally accepted these donations by council resolution and transferred funds totaling \$4,733.84 to an authorized Parish account to be used in connection with an East Bank Consolidated Fire Department public outreach program that will provide fire education materials and fire safety services to citizens of Jefferson Parish.

Katrina Fund

Although the Parish concurs with the findings in the draft report that the Parish should have treated the \$50,000 donation from the Rusty Staub Foundation ("**Foundation**") as public funds and deposited the funds into a Parish bank account for use in operating expenses, the Parish respectfully disagrees with the suggestion that the donation *may* have violated Louisiana Constitution Article 7, Section 14. As an initial matter, the Director of the East Bank Consolidated Fire Department at the time the donation was attempted failed to administer the donation (i.e. seek formal Council action and deposit the donation into a Parish authorized account) in accordance with Parish procedures.

Instead, he directed that the donation be deposited in a private account without the knowledge or the approval of the Parish Council or the Parish Administration. Since the donation was never formally accepted by the Parish Council, the donation remained private funds in a private account (i.e., the Credit Union Account) permitting its return without violation of the referenced Constitutional prohibition.

It is important to note that although the Foundation did not provide any documented restrictions regarding how the funds were to be expended, the Parish Attorney's Office recently communicated with both the Foundation President, Daniel J. "Rusty" Staub and the Foundation accountant, Frank Bille, in an effort to discover the purpose for which the donation was intended in order to properly accept the donation and satisfy the donor's intent. Those communications revealed the following information. The Rusty Staub Foundation donated these funds in an effort to reciprocate with the East Bank Consolidated Fire Department for its 2001 donation to the New York Police and Fire Widow's and Children's Benefit Fund. According to Mr. Staub, he intended for the Foundation's donation to be used to help pay for food and clothing for East Bank Consolidated Fire Department employees in the immediate aftermath of Hurricane Katrina. At the time the donation was made, Mr. Staub erroneously believed that an overwhelming percentage of East Bank Consolidated Fire Department employees lost "everything" and were unable to obtain food or clothing. In March 2009, the Parish Attorney's Office advised Mr. Staub that such conditions did not exist and that only a small number of firefighters suffered significant property loss due to Hurricane Katrina. Thereafter, representatives from both the Parish and the Jefferson Firefighters Association Local 1374 ("**Union**") contacted Mr. Staub in an effort to redirect the funds to other worthy causes in the Parish area, but to no avail. Thereafter, Mr. Staub requested that the donation be returned to the Foundation so that the money could be redirected to other deserving individuals in the New York area.

Under Louisiana law, a donation *inter vivos*, such as the donation from the Foundation, is without effect until it is accepted by the donee either in the act of donation itself or in a subsequent writing.¹ The Parish Charter and the Parish Code of Ordinances establish the Parish Council as the governing authority of the East Bank Consolidated Fire Department, therefore only the Council has the capacity to receive the donation on its behalf through an act (e.g., ordinance or resolution) executed by the Council Chairman. Since the donation was not formally accepted by the Parish Council and deposited into a Parish authorized account, and the donor's intent was not satisfied, the Parish Attorney's Office returned the funds – along with the accrued interest since the date of deposit – to the Foundation, by counter check drawn against the "Katrina Fund" sub-account of the Credit Union Account.

¹ La. Civ. Code Ann. art. 1544 (West Supp 2009).

Bell Fund

The Parish concurs with the findings in the draft report with respect to the Bell Fund and the 9-11/Katrina Bell Program that the proceeds obtained through the sale of memorial bells are public funds. Accordingly, having deemed the proceeds public funds, the Parish and the Union are exploring available options that would allow the Parish to legally and equitably distribute the proceeds (in accordance with Louisiana and Parish law) to the intended recipients, i.e., those firefighters who require emergency assistance as a result of an unfortunate or tragic occurrence.

Lack of Control Over Cash

The Parish concurs with the findings in the draft report with respect to collection and sale of memorial bells at fire stations by on-duty personnel who failed to utilize the Parish's written cash handling procedure. It is important to note that, although the Parish had proper controls in place for handling cash, the leadership of the East Bank Consolidated Fire Department in place at the time failed to follow these documented procedures and guidelines. Moreover, in the event the East Bank Consolidated Fire Department elects to participate in the future sale of items, such as memorial bells, the Parish Auditor has provided a detailed process for conducting such a program in accordance with generally accepted accounting principles.

The Parish acknowledges that due to the lack of controls and failure to maintain records in connection with the sale of memorial bells the East Bank Consolidated Fire Department is unable to account for a certain portion of possible proceeds. The East Bank Consolidated Fire Department offers no explanation for the actions of its employees who diverted proceeds away from the Credit Union Account. The Parish accepts responsibility for these actions and acknowledges that had East Bank Consolidated Fire Department management followed established procedures, the likelihood that these events would have occurred would have been greatly diminished. The Parish has taken appropriate action against those employees who failed to either perform their duties or conduct themselves responsibly in connection with the 9-11/Katrina Bell Program.

With respect to the possible shortfall of proceeds as described in the LLA's draft report, the Parish offers the following observations. The Parish's investigation revealed, among other things, that approximately ninety-three (93) memorial bells dated 2006, six (6) memorial bells dated 2007 and six (6) memorial bells dated 2008 were in fact not sold, thereby contradicting anecdotal evidence that "all bells were sold" in the years 2006, 2007, and 2008. Based on this discovery, in light of the fact that no records were maintained, it is likely that other bells dated 2006, 2007, and 2008 remain unsold thereby explaining the possible shortage of proceeds. Additionally, the Parish's investigation revealed that in 2008, due to resentment fostered by protracted disputes and litigation between labor and management, some bells may have been either given away to the

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public or thrown away altogether. Once again, based on the fact that no records were maintained, it is likely that not all bells dated 2008 were sold, thereby explaining the possible shortage in sale proceeds.

In conclusion, the draft report shows that there has been a lack of good judgment on the part of some employees of the East Bank Consolidated Fire Department and a lapse in managerial oversight, and for that we all regret the consequences. The Parish sincerely appreciates the LLA's efforts in this matter and shares the common goal of serving the public. We are certainly in accord with your recommendations regarding cash handling procedures and the inclusion of all public cash accounts in the Parish's budget and financial statements. The Parish has already taken steps to comply with these recommendations.

Thank you for your assistance, and for providing us an opportunity to respond. If you have any questions, please contact me at your earliest convenience.

Very truly yours,



TIM A. WHITMER
Chief Administrative Officer

TAW/bc

cc: Hon. Aaron F. Broussard, Parish President
Members of the Jefferson Parish Council
Bert Smith, Deputy Chief Administrative Officer (via e-mail)
Thomas G. Wilkinson, Jefferson Parish Attorney (via e-mail)
Gregory T. Giangrosso, Assistant Parish Attorney (via e-mail)

Response from Joseph Bonura

In a letter dated, June 10, 2009, we asked Mr. Bonura to respond, in writing to this report; we did not receive a response from Mr. Bonura.

Response from Kathy Donovan

In a letter dated, June 10, 2009, we asked Ms. Donovan to respond, in writing to this report; we did not receive a response from Ms. Donovan.