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Mr. George Trappey, CPA
Broussard, Poche, Lewis & Breaux
302 Hacker Street
New Iberia, Louisiana 70560

Dear Mr. Trappey:

We were requested by Ms. Faye Gray to answer various questions concerning the City of New Iberia. An auditor with my office performed a limited review based on these questions. This review resulted in certain issues that you should consider in your audit of the city's financial statements. These questions and the information we are providing you were discussed with management of the City of New Iberia on April 5, 2002.

1. Section 49 of the charter provides that any public utility shall be accounted for distinct from other city accounts. *Why isn't sewerage accounted for separately? Isn't it a utility?*

Yes, sewerage is a utility and it should be accounted for distinct from other city accounts. Section 49 of the city charter states, in part, "The city, when owning any public utility, shall keep the books of accounts for such public utility distinct from other city accounts and in such a manner as to show the true and complete financial result of such city ownership . . . Such accounts shall be so kept as to show the actual cost to the city of the public utility owned; all cost of maintenance, extension and improvement, all operating expenses of every description . . . A detailed financial report of the operation of each of said utilities shall be made to the mayor and board of trustees annually by the collector or treasurer . . ."

The city partially accounts for the sewerage operation in the Sewerage Enterprise Fund, which is distinct from other city accounts. However, all revenues and expenses relating to the sewerage operation are not included in this fund. For example, the Department of Environmental Quality Capital Projects Fund and revenues from sales taxes, ad valorem taxes, and interest earnings that are used to service debt related to the sewerage operation are not accounted for in the Sewerage Enterprise Fund. Also, the Public Improvement Sales Tax bonds (\$7,046,150 at October 31, 2000) and the 1978 and 1983 Sewerage bonds (\$990,000 at October 31, 2000) are reported in the General Long-Term Debt Account Group and the debt service payments are reported in the Debt Service Fund.

2. *Is the sewerage sales tax a dedicated tax? If so, why isn't it accounted for separately?*

The city has a 1% sales tax for the support and maintenance of the police and fire department, the construction and improvement of streets, bridges or sewerage and for any work of permanent public improvement, including the cost of construction and improving sewerage and sewerage disposal, including servicing debt for sewer construction and improvements. As can be seen, this sales tax is very general, with sewerage being among many of the stated purposes.

Louisiana Revised Statute (R.S.) 39:704 states, "The proceeds of any special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied. The records of the taxing authority shall clearly reflect the objects and purposes for which the proceeds of the tax are used."

The city is not fully complying with this state law, as there is no clear accounting of how the proceeds of the 1% sales tax are being expended. In addition to the 1% sales tax, there is no clear accounting of how the proceeds are being expended for the city's 1981 and 1993 ¼% sales taxes.

The following demonstrates that there is not a clear accounting of these dedicated sales taxes. As a result, we were unable to determine if the taxes were expended for the intended purposes.

- Both the 1961 1.00% sales tax (revenues of \$5,080,624 for fiscal year ending October 31, 2000) and the 1981 ¼% sales tax (revenues of \$1,270,154 for the fiscal year ending October 31, 2000) are accounted for in the same fund (Sales Tax Fund).
 - When transfers are made from the Sales Tax Fund to other funds of the city, there is no indication as to which sales tax is being transferred. Also, there is no clear accounting as to what the monies were expended for by the funds receiving the transfers. Although we were provided with individual departmental financial statements, these statements merely listed all expenditures of that department and did not relate the transfers from the Sales Tax Fund to a specific expenditure(s).
 - The ending fund balance in the Sales Tax Fund, totaling \$5,482,532 at October 31, 2000, cannot be identified as either the 1.00% tax or the ¼% tax.
 - Interest earnings on investments are not accounted for separately by sales tax.
 - The operations of the city court and city marshal and cost of autopsies are also accounted for in the Sales Tax Fund, which compounds the confusion of properly accounting for the sales taxes.
- The 1993 ¼% sales tax (revenues of \$1,270,154 for the fiscal year ending October 31, 2000) is accounted for in the Garbage Special Revenue Fund. Accounting records were not available to document how the 95% of the remaining sales tax proceeds is determined and how the amounts transferred from this fund to the General Fund is used to increase salaries.

3. *Regarding the Louisiana Department of Environmental Quality (DEQ) loans, why wasn't the repayment of debt (1995, 1997, and 1999) reflected in the city's 2001 budget? Were the proceeds from those loans used in accordance with the loan agreements?*

The DEQ loan repayments are budgeted in the 2001 budget under Debt Service – Fund 310 on page 49 of the budget. We obtained a schedule that summarized all payments made from the DEQ loan proceeds for the sewerage system. We tested several of these disbursements by reviewing the supporting documents to determine if the payments were properly supported and complied with the provisions of the loan agreement. No exceptions were found.

4. *Are the .25% sales taxes for the city's garbage and solid waste collection deposited in separate bank accounts?*

The city is not depositing certain sales tax proceeds in separate bank accounts as required by city ordinances. Section 82-220 (Ordinance Book) provides that the proceeds of the 1971 ¼% sales tax for the city's garbage and waste collection be promptly deposited for the account of the city in a separate bank account designated "Sales Tax Fund-One-Quarter Per Cent." Section 82-274 (Ordinance Book) provides that the proceeds of the 1993 ¼% sales tax for the city's solid waste collection be promptly deposited in a special fund designated 1993 sales tax account, which fund shall be established and maintained as sacred funds of the mayor and board of trustees.

These ordinances are not complied with as the city deposits these monies in its "clearing bank account." Therefore, technically, the city is in violation of these requirements.

We suggested to the city that it should either comply with the ordinances or adopt an ordinance to amend the previously mentioned ordinances.

5. *Is the 10.43 millage going only to debt service and is the city collecting the minimum needed?*

The 10.43 millage is accounted for in the Debt Service Fund. As of October 31, 2001, the city levied and collected ad valorem taxes in excess of the amount needed to pay principal and interest on general obligation bonds at October 31, 2001, as they mature. Article VI, Section 33 of the Louisiana Constitution of 1974 provides that the city shall levy and collect ad valorem taxes sufficient to pay principal and interest on such bonds as they mature.

The city levies 10.43 mills on the assessed values of property within the city for the purpose of paying principal and interest on general obligation bonds. For the fiscal year ending October 31, 2000, the city collected ad valorem taxes totaling \$1,159,753 and made payments for principal and interest for general obligation bonds totaling \$1,041,357, resulting in excess collections of \$118,396. This excess increased the ending fund balance at October 31, 2000, to \$1,010,641, which represents the cumulative amount of excess ad valorem tax collections. At October 31, 2000, total general obligation bonds' principal and interest outstanding to maturity was \$4,403,929, with the last general obligation bonds maturing in 2012. The amount accumulated at October 31, 2000, along with the present

10.43 millage, far exceeds the amount of ad valorem taxes needed to pay the \$4,403,929 principal and interest as the bonds mature. Using conservative estimates, approximately \$10,000,000 of excess funds would be accumulated by the year 2012.

On July 21, 2001, the voters of the city passed a sewer bond proposition to issue \$20,000,000 of 22-year general obligation bonds. Because the city failed to adjust its millage to the amount needed to service its current general obligation bonds, the accumulated fund balance may be used to pay principal and interest on this new debt. The bonds have not been issued; therefore, we cannot determine the impact the new bonds will have on the present millage of 10.43 or the accumulated fund balance.

We suggested to the city that it should review its general obligation bond debt service requirements annually and adjust the tax millage so that ad valorem taxes will be sufficient, yet not excessive, to pay principal and interest on such bonds as they mature.

6. *Are transfers in/out authorized by the council and are the balances repaid timely?*

Our review of the budget indicates the transfers are budgeted. Transfers in/out are not intended to be repaid.

7. *Does the charter require purchases over \$1,000 to be bid?*

Section 47 of the charter titled "Public contracts, necessity for bids" states, "All contracts for public work ordered by the mayor and board of trustees where the same exceeds \$1,000 shall be offered for sealed bids, and all contracts below that amount shall be offered, where practicable, and be given to the lowest bidder who can furnish security, satisfactory to the mayor and board of trustees."

A purchasing policy was adopted March 2, 1993, by Ordinance No. 446-93. This ordinance significantly changed Section 47 of the charter because it raised the dollar threshold for obtaining bids from \$1,000 to \$10,000 (public works and materials and supplies). In addition, Resolution No. 00-005 adopted February 1, 2000, amended Ordinance No. 446-93, by requiring that all purchases be made in accordance with applicable state law. This changes the dollar threshold for obtaining bids for public works from \$10,000 to \$100,000 (\$15,000 for materials and supplies).

Ordinance No. 446-93 and Resolution No. 00-005 conflict with the charter, as the charter is much more restrictive. Therefore, the charter should have been amended in accordance with R.S. 33:1181. R.S. 33:1181 provides that the desired amendments be published for three weeks in the city's newspaper and then submitted to the governor, who shall submit them to the attorney general for his opinion that they are consistent with the constitution and laws of the United States and of this state. The governor shall approve the proposed amendments, unless within thirty days after publication, one-tenth of the electors of the municipality protests against any proposed amendment. The governor shall not approve the amendment protested against until it is submitted to and ratified by a majority of the electors of the municipality at an election held within sixty days after the protest was made.

While the thrust of our comments are aimed at improperly amending the charter, we found no violations of the public bid law.

This situation brings to light the fact that the charter is antiquated and is not being amended properly. We suggested that management of the city review the entire charter for those instances where the charter is outdated and should be amended. We also suggested that management of the city review the city ordinances to determine if any ordinances improperly amended or changed the charter.

8. *Is the city adopting ordinances that conflict with the charter? Is the charter being amended improperly?*

Yes, the city adopted an ordinance that conflicted with the charter, as provided in item 7. As we suggested previously, management of the city should review the city ordinances to determine if there are any additional ordinances that improperly amended or changed the charter.

Our review of amendments made to the charter by the present administration complies with the provisions of state law.

9. *Are the ordinances distributed by the city current and is the city properly maintaining the ordinances?*

Municipal Code Corporation codifies the city's ordinances. The ordinances are usually codified once a year. As of March 12, 2002, the ordinances are codified through ordinance 2001-589 enacted July 17, 2001.

Section 30 of the charter states, "A true copy of every ordinance when adopted shall be numbered and recorded in a book marked ORDINANCE RECORD as a prerequisite to its validity, and the mayor must certify under said recordation to its adoption and publication as required by this Charter." We verified that the ordinances are maintained in the city vault and are filed in books by ordinance number.

10. *Payments for janitorial services for the year exceeded \$50,000. Are janitorial services required to be bid?*

The bid law does not apply to services, professional or otherwise. Although the bid law does not apply to services, we recommended to the city that it implement a competitive process (bid, RFP, etc.) at least annually for all such services of that dollar amount.

11. *Were bids regarding \$150,000 of computer software opened in a public meeting or were these opened in the city treasurer's office?*

The city elected to purchase a Financial and Administrative Data Processing System through the request for proposals (RFP) method rather than the bid process. Therefore, bids were not applicable. We reviewed the documentation for the RFP and determined that the city fully complied with the provisions of R.S. 38:2237.

12. Since the budget is adopted by ordinance, doesn't state law require that it be amended by ordinance?

Yes. The 2001 budget was amended by ordinance on October 16, 2001. However, the budget was amended on November 15, 2000, by a resolution dated July 20, 1999. The resolution authorized the mayor to apply for a grant from the U.S. Dept. of Justice for a closed circuit television for testimony of children and to amend the budget should the grant be awarded. The grant was awarded for \$64,403 on September 30, 2000.

According to the city clerk, all amendments to the budget are now done by ordinance. She said that this issue came up some time ago and the city attorney advised them that since the budget was adopted by ordinance, it should also be amended by ordinance. The city clerk said that the November 15, 2000, budget amendment was the last time the budget was amended by resolution.

13. Does the city's charter require that the budget be adopted prior to the end of the fiscal year in progress?

Yes. Section 42 of the city's charter states, "Upon said budget as adopted and filed, the mayor and board of trustees shall pass an ordinance, not later than thirty-first day of October, in each year, which shall be entitled, THE ANNUAL APPROPRIATION ORDINANCE." In addition, Louisiana law (R.S. 39:1309) requires the budget to be adopted prior to the end of the fiscal year in progress (October 31).

The fiscal year ending October 31, 2001, budget was adopted February 20, 2001, (almost four months late) and the fiscal year ending October 31, 2002, budget was adopted November 20, 2001 (almost one month late).

14. Did the "Annual Appropriation Ordinance" approved by the February 20, 2001, minutes actually take place?

We reviewed the minutes and listened to the audiotape for the February 20, 2001, city council meeting. We found the following:

- The minutes and audiotape both include that there was a motion to adopt the budget for fiscal year October 31, 2001, and that a substitute motion was offered that included certain changes. This substitute motion carried.
- In addition to the above, the minutes state that a motion was made "To adopt Budget Adoption Ordinance No. 128-2001 for Fiscal Year Ending October 31, 2001, with amendments to the original budget." The audiotape never mentions this ordinance as the city council meeting is adjourned after the voting for the above mentioned substitute motion.

Section 42 of the city's charter states, "Upon said budget as adopted and filed, the mayor and board of trustees shall pass an ordinance, no later than thirty-first day of October, in each year, which shall be entitled, The Annual Appropriation Ordinance . . ."

Based on the charter, adopting the budget and passing the Annual Appropriation Ordinance are two separate board actions. Therefore, the city violated the charter in not specifically passing the Annual Appropriation Ordinance. Section 29 of the charter states, "All ordinances shall be finally acted on by a yea and nay vote, and shall be recorded in the minutes."

Because the audiotape is at variance with the written minutes, we suggested to the city that the administrative personnel transcribing the audiotape should be extremely careful to accurately record what was said. In addition, the mayor and council members should make sure all future actions are clearly presented.

15. Shouldn't the beginning fund balances on the budget statements agree to the preceding year's ending fund balance?

The beginning fund balances are determined based on projections because when the budget is prepared, the actual fund balance for the previous fiscal year is not known.

R.S. 39:1310A(3) requires that the budget be amended when actual beginning fund balance, within a fund, fails to meet estimated beginning fund balance by five percent or more and fund balance is being used to fund current year expenditures. For fiscal year ending October 31, 2001, this is not a budget violation because actual beginning fund balances exceed the estimated beginning fund balances for the General Fund and special revenue funds.

We recommended to the city that the beginning fund balances should be amended when actual fund balances are known.

16. Does the detail of the budgets add up to the total on the budget summary?

For the 2001 budget, we added individual accounts from the detailed budgets and found no exceptions to the budget amounts reported on the budget summary.

17. For the 2002 budget there is a 3.19% salary increase for city employees. Why are some employees getting a 7.5% increase?

This is explained in the mayor's budget message dated August 20, 2001, which accompanied the 2002 budget. Six employees did not receive the previous year's 3.87% cost-of-living increase. The 2002 budget includes this 3.87% plus the 3.19% cost-of-living increase for this year for those six employees or a total of 7.06%.

18. There is a \$4 million deficit in the budget for 2001. Was the budget amended?

There were significant budget shortages in revenues, but these did not result in actual deficits. I reviewed the September 2001 financial statements and budget comparisons and noted numerous variances that required budget amendments. These budget amendments were made by ordinance dated October 16, 2001.

19. Do firemen earn "K-time" if during their regular 24-hour shift they do other duties, such as carpenter work for the city?

We verified that this practice stopped over a year ago.

20. Are police officers working "off-duty jobs" while on duty for the city?

In January 2001, the police department adopted formal policies and procedures for off-duty and extra-duty employment. In addition, the police department changed payroll record keeping procedures and records to strengthen controls over police officers working off-duty jobs.

21. Can police officers over the rank of captain receive overtime?

The charter does not address overtime for police officers nor does the State Municipal Fire and Police Civil Service address overtime. Also, the city does not provide in its policies the job classifications that earn overtime. R.S. 33:2213 addresses the maximum hours of work and overtime for grades through the rank of captain but does not specifically prohibit overtime for grades over the rank of captain. According to the police chief, all positions under the police chief can earn overtime. We suggested to management of the city that it address this issue in its written personnel policies.

22. Is the police evidence room properly accounting for confiscated weapons and drugs?

Our review of the evidence rooms and inventory records revealed that the city needs to improve its record keeping procedures. The city is now in the process of updating its records and organizing the evidence rooms. We recommended to management of the city and to the police chief that they develop formal policies and procedures for recording, maintaining, and disposing of confiscated weapons and drugs.

23. The police, fire, and 911 were supposed to get laptop computers from the TIIAP grant. Why haven't these departments received these computers?

You are referring to a \$500,000 Telecommunications Information and Infrastructure Assistance Program grant (TIIAP). It is a reimbursement grant awarded in September 1999, for mapping, telecommunication infrastructure, and emergency notification. The city has until September 2002, to spend this money and, according to the administrative assistant, the city may have to get the grant extended. The administrative assistant said that the communications infrastructure must be in place before laptops are purchased. Some monies have been expended under this grant but not for computers (less than \$40,000 and mainly for training).

24. *Did the city have printing done by Sir Speedy, Incorporated, which is owned by Councilmen Pellerin?*

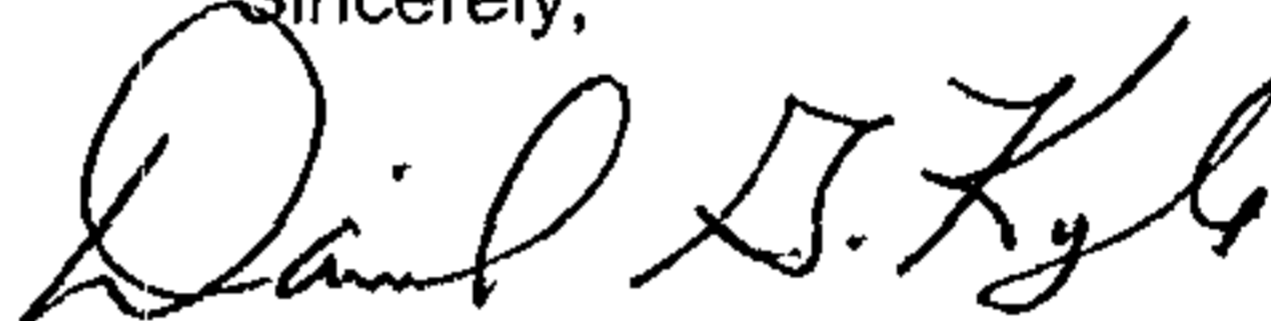
Mr. Pellerin was elected in October 2000, and took office on January 3, 2001. Mr. Pellerin's printing company did work for the city during the time he was elected (October 2000) through December 2000. According to an attorney with the Louisiana Ethics Board, when Mr. Pellerin was "sworn-in" he became a public servant and thus subject to the ethics laws. Consequently, there was no ethics violation with the city doing business with Mr. Pellerin's printing company from the time he was elected to his swearing-in on January 3, 2001.

25. *Was it appropriate for the mayor to place a public works employee on administrative leave with pay?*

We reviewed the documentation for this matter and it appears that the actions taken by the mayor in placing this employee on administrative leave with pay were appropriate.

As you know, a review is substantially less in scope than an audit conducted in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Sincerely,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

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