



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

June 29, 2016

The Honorable Gerard Landry, Mayor
and City Council
City of Denham Springs
P.O. Box 1629
Denham Springs, Louisiana 70726-3632

Dear Mayor Landry and Council Members:

As you are aware, my Investigative Audit staff visited the City of Denham Springs' (City) Wastewater Department to assess the validity of certain complaints. This letter briefly summarizes the results of our work. We stress the importance of addressing these issues and encourage you to consider our recommendations as you work to resolve the following:

Donation of City Equipment and Personnel

During our review of the City's Wastewater Department (Department), we learned that the Department regularly provides its vacuum truck and licensed vehicle operator to other government agencies, including Livingston Parish Sewer District No.1, Livingston Parish Sewer District No. 2, the Town of Livingston, and the City of Walker, to conduct work on areas outside of the City's jurisdiction. Mr. James Clark, Department superintendent, stated that he receives requests from other government agencies to use the vacuum truck and that he sends the vacuum truck and an operator to help the other agencies save money. Mr. Clark stated that other government agencies use the vacuum truck to clear material deposits and "sludge" from construction areas and lift stations.

According to Department personnel, the vacuum truck and operator are loaned to other government agencies approximately once per month. However, we found that the Department does not maintain records, such as log books, to document use of the vacuum truck. In addition, the City was unable to provide us with an intergovernmental agreement or a cooperative endeavor agreement authorizing such work and does not receive reimbursements for the use of the vacuum truck nor the wages paid to the truck's operator.

Louisiana Attorney General Opinion 09-0018 states that, "for an expenditure or transfer of public funds to be permissible under Art. VII, Sec: 14(A), the public entity must have legal authority to make the expenditure and must show... (ii) that the expenditure or transfer, taken as a whole, does not appear to be gratuitous; and (iii) that the public entity has a demonstrable, objective, and reasonable expectation of receiving at least equivalent value for the expenditure or

transfer of public funds.”¹ Because there were no intergovernmental or cooperative endeavor agreements between the City and other government agencies to exchange assets, and the City cannot demonstrate the receipt of equivalent value for the equipment and personnel resources provided to other government agencies, Department personnel may have violated the Louisiana Constitution,² which prohibits the donation of public funds.

Ethics – Prohibited Transactions with GRC Construction

Louisiana Revised Statute (La. R.S.) 42:1113(A)(1)(a) provides, in part, that, “[n]o public servant ... or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.” La. R.S. 42:1112(A) further provides, in part, that, “[n]o public servant shall participate in a transaction in which he has a personal substantial economic interest of which he may be aware involving the governmental entity.” Records indicate that from January 2014 through March 2016 GRC Construcion, a company owned by Mr. Clark, contracted with Livingston Parish Sewer District No. 1 and Livingston Parish Sewer District No. 2 (sewer districts) to perform grass cutting services for both sewer districts. During the same period, Mr. Clark, as Department superintendent, appears to have authorized the donation of City assets to the sewer districts (*see previous finding – Donation of City Equipment and Personnel*). Because Mr. Clark entered into transactions with the sewer districts in which he had a personal, substantial economic interest, he may have violated the state’s ethics laws. However, whether or not a violation of the state’s ethics laws occurred is limited to the particular set of circumstances. We suggest that the Louisiana Board of Ethics review this information and take appropriate action.

Mayor’s Annual Compensation

On April 25, 2016, we received a complaint indicating that Mayor Gerard Landry received salary payments in excess of the amount budgeted by the City Council. As a result, we reviewed City ordinance, minutes of City Council meetings, budgets, and payroll records to determine the credibility of this complaint.

La. R.S. 33:404.1 provides, in part, that “[t]he board of aldermen shall by ordinance fix the compensation of the mayor.... However, the board of aldermen shall not reduce the compensation of any elected official during the term for which he is elected.” On May 22, 2007, the City Council approved Ordinance No. 07-10, Article I., which set the mayor’s salary at \$75,000 per year. According to City personnel and minutes of the City Council meetings, the City Council approved (by ordinance) cost of living adjustments for all City employees in 2008

¹ See also *Attorney General Opinion 16-0022*.

² Louisiana Constitution Article VII, Section 14(A) 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.

The Honorable Gerard Landry, Mayor
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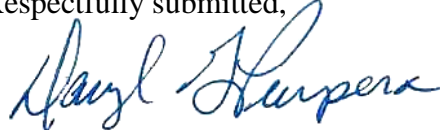
and 2013. These cost of living adjustments increased the mayor's salary to \$81,090 per year. Annual operating budgets provided by the City reflect that this amount was budgeted and approved by the City Council for the fiscal years ended June 30, 2015 and June 30, 2016.

Although the mayor's salary was budgeted at \$81,090 when Mayor Landry began his first term on January 1, 2015, his first payroll check was based on the 2007 ordinance which set the mayor's salary at \$75,000. Payroll records indicate that the City's Human Resources Manager realized this error and adjusted Mayor Landry's salary to the budgeted amount (\$81,090) that had been approved by the City Council. Based on this information, it appears that Mayor Landry is being compensated at the annual rate authorized by the City Council.

Recommendations

We recommend that the City implement written policies and procedures to ensure that all City expenditures comply with the Louisiana Constitution, which prohibits the donation of public funds. These policies and procedures should require the City to properly document and monitor the use of City equipment. We further recommend that the City consult with its legal counsel and the Louisiana Board of Ethics to ensure compliance with the state ethics laws regarding transactions between City employees and government agencies conducting business with the City. The City should also adopt detailed policies and procedures requiring all employees to complete the annual ethics training in accordance with La. R.S. 42:1170. This correspondence represents our findings and recommendations, as well as management's response. This correspondence is intended primarily for the information and use of management of the City. I trust this information will assist you in the efficient and effective operations of the City. If you have any questions, please contact Greg Clapinski or Jonathan Hodson at 225-339-3800.

Respectfully submitted,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

APPENDIX A

Management's Responses



City of Denham Springs

MAYOR
GERARD LANDRY

MAYOR PRO-TEMPORE
LORI LAMM-WILLIAMS

CITY CLERK
JOAN LEBLANC

CITY COUNCIL
CHRISTOPHER DAVIS
RENE DELAHOUSSEY
LORI LAMM-WILLIAMS
ROBERT POOLE
JEFF WESLEY

June 7, 2016

Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Dear Mr. Purpera:

Thank you for allowing your auditors to come to Denham Springs to conduct an audit of our Wastewater Department and respond to Councilman Davis's question regarding the mayor's salary. The following response addresses the findings contained in your report.

Donation of City Equipment and Personnel

It has been a long-standing tradition in Denham Springs to cooperate with neighboring municipalities and Livingston Parish to achieve mutually-beneficial goals. Recently, this has included loaning our Wastewater Department's vacuum truck to other government agencies, including Livingston Parish Sewer District No. 1, Livingston Parish Sewer District No. 2, the Town of Livingston, and the City of Walker.

While mutual benefit for these services has been obtained in the past, it is difficult to ensure that the taxpayers of Denham Springs receive equal value from the governmental agencies with which we cooperate. In an effort to ensure equal benefit, the City of Denham Springs is working with its legal counsel to construct an Ordinance under which FEMA rates and hours spent will be charged to other governmental agencies who wish to utilize the City of Denham Springs' equipment and employees to conduct sewer work. We will work to ensure that all City expenditures comply with the Louisiana Constitution. New policies will be put into place to ensure that the City of Denham Springs is reimbursed for each use by another governmental agency and to ensure that the use of City equipment is properly documented and monitored.

Ethics—Prohibited Transactions with GRC Construction

For a number of years, the City of Denham Springs has required all employees to complete annual training given by the Louisiana Board of Ethics. In addition to making online ethics training available to each employee, 1-2 live training sessions are held at City Hall each year. The City of Denham Springs will ensure that each department within the City has policies in place to ensure its employees attend and complete annual ethics training.

While the cooperation between the City of Denham Springs and other governmental agencies described in the section above is mutually beneficial, the new ordinance and policies described above will prevent gratuitous donations from the City of Denham Springs to other governmental agencies from occurring. Additionally, the City of Denham Springs will request and take action upon any recommendations given by the Louisiana Board of Ethics to ensure compliance with the State ethics laws regarding transactions between City employees and government agencies conducting business within the City.

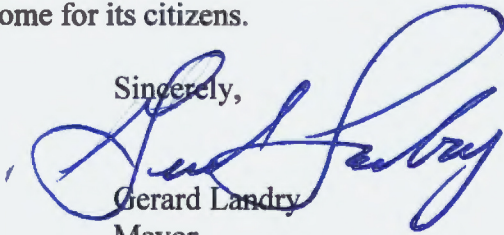
Mayor's Annual Compensation

Prior to Mayor Landry's election, occasional cost of living increases increased the Mayor's salary from \$75,000, as set by Ordinance No. 07-10, art. I, to \$81,090, as set by annual budget approved and made ordinance by the City Council. While this meets all requirements set forth by La. R. S. 33:404.1, the City of Denham Springs will amend Ordinance No. 07-10, art. I, to ensure that both ordinances reflect the same amount. This will add clarity to the existing ordinances and annual budget.

Conclusion

The City of Denham Springs will take the above described steps to ensure complete compliance with the Louisiana Constitution and laws. We appreciate your recommendations and will work to ensure that each one is implemented in a timely fashion. Thank you for taking the time to work with the City of Denham Springs in order to ensure that the City is the best possible home for its citizens.

Sincerely,


Gerard Landry
Mayor



City of Denham Springs

MAYOR
GERARD LANDRY

MAYOR PRO-TEMPORE
LORI LAMM-WILLIAMS

CITY CLERK
JOAN LEBLANC

CITY COUNCIL
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June 14, 2016

Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

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Further, log books will be maintained to reflect the use of City equipment by other entities. While this was not done in the past, City supervisors were responsible for and did ensure that the vehicle was refueled by the agency to which it was loaned prior to its return.

Finally, I did not authorize any equipment to be loaned to other agencies. This was the job and responsibility of Tom Walton, our former Public Works Director. Chevis Ball, who is employed by Livingston Parish, would contact Mr. Walton to request use of the truck. All other requests received by me were approved by Mayor Durbin or Mayor Landry prior to the loaning of the truck.

Ethics—Prohibited Transactions with GRC Construction

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It is my understanding that this case will be referred to the Board of Ethics. I did not authorize the use of equipment by any other agency, and therefore do not feel that I violated any ethical rules. However, I will fully cooperate with the investigation of the Board of Ethics and make any changes they recommend.

Mayor's Annual Compensation

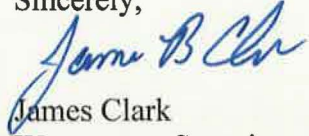
I have no involvement in handling the Mayor's Annual Compensation. Therefore, I defer to the answers provided by Mayor Landry.

Conclusion

The City of Denham Springs will take the above described steps to ensure complete compliance with the Louisiana Constitution and laws. We appreciate your recommendations and will work to ensure that each one is implemented in a timely

fashion. Thank you for taking the time to work with the City of Denham Springs in order to ensure that the City is the best possible home for its citizens.

Sincerely,

A handwritten signature in blue ink, appearing to read "James B. Clark". The signature is fluid and cursive, with the first name "James" and last name "Clark" being clearly legible.

James Clark
Wastewater Superintendent