



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

January 22, 2020

The Honorable Blake Breaux, President
and Members of the Board of Directors
Bayou Gauche Volunteer Fire Department, Inc.
410 First Street
Des Allemands, LA 70030

Dear President Breaux and Members:

We are providing this report to you for your information and use. We conducted this investigative audit in accordance with Louisiana Revised Statutes (La. R.S.) 24:513, *et seq.* to determine the validity of complaints we received. The procedures we performed primarily consisted of making observations and inquiries and examining selected financial records and other documents and were not an examination or review in accordance with generally accepted auditing or attestation standards. Consequently, we provide no opinion, attestation, or other form of assurance with respect to the information upon which our work was based.

Background

Bayou Gauche Volunteer Fire Department (BGVFD) is a Louisiana nonprofit corporation that registered with the Louisiana Secretary of State on September 11, 1974. BGVFD is a “quasi public entity or body” in accordance with La. R.S. 24:513(A)(1)(b), as it was created for a public purpose (i.e., “to do any and all things relative and necessary for the operation of an efficient Fire Department” in the 9th District of St. Charles Parish) and receives or expends local assistance in the fiscal year (i.e., BGVFD received \$241,509 in sales tax revenues and \$408,423 in ad valorem tax revenues in 2018). La. R.S. 24:513(A)(1)(a) authorizes the legislative auditor to examine, audit, or review the books and accounts of quasi public agencies or bodies. The results of our audit are listed below.

Personal Use of BGVFD’s Property and Funds

BGVFD is one of nine volunteer fire departments in St. Charles Parish. BGVFD’s fire chief, Casey Hogan, drove BGVFD’s Chevrolet Tahoe to and from his full-time, nonpublic job in Killona, Louisiana, from December 2018 through September 2019. Killona is located 17 to 20 miles from Bayou Gauche, depending on the route taken, and falls outside of Chief Hogan’s fire district.

BGVFD uses WEX fuel cards to track its fuel purchases. WEX fuel cards require the purchaser to input the vehicle's odometer reading at the pump when buying fuel. Using the odometer readings on the WEX Fuel Purchase Activity Reports, we determined Chief Hogan drove the Chevrolet Tahoe 9,652 miles during our 10-month audit period.

Chief Hogan acknowledged that he lives near BGVFD's fire station and uses the Chevrolet Tahoe to commute to and from his full-time, nonpublic job 17-20 miles away in Killona. Chief Hogan told us that he typically works four 10-hour days a week (Monday through Thursday) at this job and drives the Chevrolet Tahoe to and from work. There are 303 days between December 1, 2018 and September 30, 2019, or 43 weeks and two days. Assuming Chief Hogan drove the shorter route of 17 miles each way to and from Killona for four days per week for 43 weeks, it appears that Chief Hogan used the Chevrolet Tahoe to commute 5,848 miles. As a result, Chief Hogan's personal use of the Chevrolet Tahoe appears to be approximately 60.6%, determined by dividing 5,848 commuting miles by the total mileage of 9,652 over the 10-month audit period. This means Chief Hogan's usage of the Chevrolet Tahoe was substantial and not merely occasional or incidental to his duties as fire chief. In addition to the value of the usage of the Chevrolet Tahoe, Chief Hogan appears to have charged \$1,506 in fuel charges on BGVFD's WEX fuel card, of which \$913 ($\$1,506 \times 60.6\% = \912.64) appears to be attributable to his personal use of the vehicle.

The independent Certified Public Accountant performing BGVFD's annual audit raised the issue of Chief Hogan's personal use of the Chevrolet Tahoe in each year since the year ended December 31, 2015. BGVFD responded in 2017 that it would obtain a legal opinion seeking clarification, but apparently no definitive response was ever received. Chief Hogan told us he thought he could use the Chevrolet Tahoe for personal use because he responded to situations on the highway and was on call 24 hours a day. According to Chief Hogan, his ability to respond to 9-1-1 calls depended on his nonpublic job responsibilities and supervisor's approval. From information obtained by the St. Charles Parish 9-1-1 Communications District, it appears that Chief Hogan was notified of nine 9-1-1 calls occurring on Mondays through Thursdays from December 2018 through September 2019. The 9-1-1 Communications District's records show Chief Hogan notified the 9-1-1 dispatcher of his arrival at the scene on six of these calls.

Chief Hogan provided us with a copy of Attorney General (AG) *Opinion 10-0250*¹ to support his personal usage of the BGVFD Chevrolet Tahoe. However, AG *Opinion 10-0250* states if the personal use of a public vehicle is substantial, the costs associated with the personal use of said vehicle could exceed public benefits and create a constitutional violation. It appears

¹ Louisiana Attorney General *Opinion 10-0250*, dated February 17, 2011, states, "La. Atty. Gen. Op. No. 06-0124 addressed the use of certain fire department vehicles purchased by the fire department and used by the fire chief and three assistant chiefs, all of whom were on 24-hour call to respond to emergencies. The opinion concluded that 'a public purpose exists by providing 24-hour transportation for the fire chief and assistant fire chiefs' and that the fire chief and his assistants may use vehicles purchased with public funds and assigned to them for occasional personal use without violating La. Const. art. VII, Sec. 14."

60.6% personal usage of the Chevrolet Tahoe is substantial and does not fall within AG *Opinion 10-0250*'s exception for "occasional personal use." In addition, Chief Hogan's use is not incidental to his duties as fire chief. Moreover, even if Chief Hogan could have used the Chevrolet Tahoe for personal purposes, Chief Hogan and BGVFD appear to have failed to report the imputed value of the Chevrolet Tahoe's use to the Internal Revenue Service and the Louisiana Department of Revenue as income for Chief Hogan.

By using the BGVFD's WEX fuel card and Chevrolet Tahoe for personal use, Fire Chief Hogan may have violated the Louisiana Constitution and state law. Using BGVFD assets without a business purpose and a legal obligation or authorization to do so may violate Article VII, Section 14(A)² of the Louisiana Constitution (which prohibits the donation of public funds and property) and La. R.S. 42:1641(B)³ (which establishes a fiduciary obligation by officers of a quasi-public entity as to funds under its custody and control).

Recommendations

We recommend that management:

- (1) Prohibit the personal use of BGVFD vehicles and other property when the costs of using same exceed the benefit received by BGVFD and when such use is not incidental to a user's official duties;
- (2) Update policies and procedures regarding the use of BGVFD's funds and other property;
- (3) Require timely submission and retention of original fuel receipts, making sure fuel receipts are submitted before the monthly statement arrives and in time to adequately review the propriety of the fuel expenditures;
- (4) Calculate Chief Hogan's reportable income imputed from the value of his personal use of BGVFD's Chevrolet Tahoe from December 2018 through September 2019; and

² Louisiana Constitution Article VII, Section 14(A) states, "Prohibited Uses. 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."

³ La. R.S. 42:1461(B) provides: "When, pursuant to a statute, ordinance, resolution, or contract or other agreement, a public entity, as defined in Subsection A, entrusts to a contractor or to a quasi-public entity of any kind the care, administration, allocation, or disposition of funds, property, or other things of value belonging to it or under its custody or control, the contractor or the quasi-public entity, and the officers and employees thereof personally, shall be deemed to have undertaken the obligation of a fiduciary with respect to such funds, property, or other things of value of the public entity."

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- (5) Issue information tax returns (e.g., Form 1099-MISC) to Chief Hogan for the imputed value of his personal use of BGVFD's Chevrolet Tahoe from December 2018 through September 2019.

This letter represents our finding and recommendations, as well as management's response. This correspondence is intended primarily for the information and use of BGVFD's management. I trust this information will assist you in improving BGVFD's efficiency and effectiveness of operations. Should you have any questions, please call Gregory Clapinski or Troy Logarbo at (225) 339-3800.

Sincerely,

A handwritten signature in blue ink that reads "Daryl G. Purpera". The signature is fluid and cursive, with the first name being the most prominent.

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

BGVFD

APPENDIX A

Management's Response

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January 10, 2020

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Re: Bayou Gauche Volunteer Fire Department

Dear Mr. Purpera:

On behalf of my client, the Bayou Gauche Volunteer Fire Department (the BGVFD), thank you for your letter dated December 19, 2019, providing the BGVFD a draft of your investigative audit report on Bayou Gauche Volunteer Fire Department.

The BGVFD will be seeking an attorney general opinion from the Attorney General of the State of Louisiana regarding the matters addressed in your draft report. Please consider this a response to your report as suggested in your December 19, 2019, letter.

Please let me have any questions or comments.

Very truly yours,

CRULL, CASTAING & LILLY



EDWARD J. LILLY

EJL/lpr

cc: Bayou Gauche Volunteer Fire Department
Mr. Michael K. Fitzpatrick, Attorney at Law
Mr. Roger W. Harris, Assistant Legislative Auditor and
Director of Investigative Audit (by e-mail)
Mr. Troy Logarbo (by email)