



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

January 25, 2017

The Honorable Josephine Washington, Mayor
and Members of the Board of Aldermen
Town of Clayton
101 Shady Lane
Clayton, Louisiana 71325

Dear Mayor Washington and Aldermen:

As you are aware, my Investigative Audit staff visited the Town of Clayton (Town) 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:

Ethics – Prohibited Transactions with Town Employee

Louisiana Revised Statute (La. R.S.) 42:1113(A)(1)(a) provides, in part, that, “[n]o public servant...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 reasonably expected to know involving the governmental entity.” Records indicate that Calvin Jones was employed by the Town’s utility department from July 21, 2015 to October 2, 2015. During the same period, Mr. Jones contracted with the Town to perform maintenance jobs at Town facilities. From July 27, 2015 to August 13, 2015, the Town issued contract labor payments totaling \$1,025 to Mr. Jones. Because Mr. Jones contracted with the Town during his employment, 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 a particular set of circumstances. We suggest that the Louisiana Board of Ethics review this information and take appropriate legal action.

Recommendations: We recommend that the Town consult with its legal counsel and the Louisiana Board of Ethics to ensure compliance with the state’s ethics laws regarding transactions between the Town and its employees. The Town should also adopt detailed policies and procedures requiring all employees to complete the annual ethics training in accordance with La. R.S. 42:1170.

Town Paid Employee For Sick Leave Not Accrued

Sick leave benefits are accumulated and intended to compensate full-time employees during periods when they are ill. The Town provided us with two different sets of sick leave policies, neither of which were dated. According to one policy, each employee shall earn one day of sick leave for each month worked. The second policy states that each employee receives 10 sick leave days per year.

Our review of employment and contract labor transactions for Calvin Jones (*see previous finding – Prohibited Transactions with Employee*) revealed that Mr. Jones was employed by the Town from July 21, 2015 to October 2, 2015, and was paid for a total of 10 days of sick leave. Based on the first sick leave policy, Mr. Jones should have only accrued and been paid for two days of sick leave because his term of employment was less than three months. Although Mr. Jones was paid for 10 sick leave days in accordance with the second sick leave policy, the Louisiana Attorney General has consistently opined that gratuitous unearned payments to public employees or officials are prohibited, as they are tantamount to donations. By paying Mr. Jones for leave not accrued, Town management may have violated the Louisiana Constitution,¹ which prohibits the donation of public funds.

Recommendation: We recommend that Town management formally adopt consistent and detailed policies and procedures for employee benefits pertaining to leave. These policies and procedures should require all employees to complete time sheets and require Town management to maintain records to support the amount of leave accrued and taken by each employee.

Board of Aldermen Improperly Fixed Salaries of Municipal Officers

La. R.S. 33:404.1 requires the Board of Aldermen (Board) to fix, by ordinance, the compensation of the mayor, aldermen, clerk, and chief of police and prohibits the Board from reducing the compensation of an elected official during the term which he/she is elected. Meeting minutes from July 25, 2015, indicate that the Board increased former Mayor Rydell Turner's salary from \$850 per month to \$1,700 per month and increased the aldermen's salary from \$150 to \$325 per month. The following month, on August 4, 2015, the Board increased former Mayor Turner's salary to \$2,100 per month. Although these salary increases were approved by the Board, the increases were not made by ordinance as required by La. R.S. 33:401.1.

Recommendation: We recommend that the Town adopt policies and procedures to ensure that compensation for municipal officers is set by ordinance in accordance with state law.

¹ Louisiana Constitution Article VII, Section 14(A) states, in part, "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."

Personal Use of Town Equipment

The Town does not maintain a detailed listing of the Town's capital assets (e.g., property and equipment) nor did it require the tagging of assets for identification purposes or require that a complete physical inventory of capital assets be performed at least annually. During our audit, the Town provided a handwritten list of assets believed to be missing and requested that we locate the items. Although we were able to locate a majority of the items, former Mayor Turner informed us that the Town's nail gun and air compressor were located at the Concordia Parish Recreation District No. 1 (District) recreation center in Ferriday, Louisiana. Mr. Turner stated that he was hired as a contractor to perform work on the District's recreation center. By using Town equipment for personal purposes, Mr. Turner may have violated state law.²

Recommendations: We recommend that Town management maintain a complete and accurate record of all Town assets and equipment and implement procedures to ensure of the proper use, storage, and maintenance of its equipment. We further recommend that the Town perform a complete physical inventory of assets on an annual basis.

Municipality Improperly Classified as a Town

According to the most recent federal census, the Town had 711 residents in 2010. La. R.S. 33:341 classifies municipalities with 1,000 or fewer inhabitants as villages. Because the Town has less than 1,001 inhabitants, La. R.S. 33:342 also requires the Board to adopt a resolution requesting the governor change its classification to a village based on the Town's current population.

The Town currently operates under the Lawrason Act (La. R.S. 33:321, *et seq.*) as a town and has five elected aldermen. Federal census data indicates that Clayton has had fewer than 1,001 inhabitants since at least 2010. Based on this information, the Town should be classified as a village and can have only three elected aldermen. Because the Town has had less than 1,001 inhabitants since at least 2010 and did not adopt a resolution requesting the governor to change its classification, the Town may be in violation of state law.

² La. R.S. 14:68(A) provides that, "Unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently. The fact that the movable so taken or used may be classified as an immovable, according to the law pertaining to civil matters, is immaterial."

La. R.S. 14:134(A) provides, in part, "Malfeasance in office is committed when any public officer or public employee shall: (1) Intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; or (2) Intentionally perform any such duty in an unlawful manner; or (3) Knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him, or to perform any such duty in an unlawful manner."

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Recommendation: If the Town contends that the 2010 federal census is incorrect, and that the Town's population currently exceeds 1,000 citizens, the Board should pass a resolution to take its own census to establish the correct number of citizens. If, on the other hand, the Town concedes that its population has dropped below 1,001 citizens, the Board should adopt a resolution requesting the governor to change the Town's municipal classification to a village as required by the Lawrason Act.

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 Town. I trust this information will assist you in the efficient and effective operations of the Town. Should you have any questions, please call Greg Clapinski or Kunta Osberry at (225) 339-3800.

Sincerely,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

TOWN OF CLAYTON

APPENDIX A

Management's Response

JOSEPHINE E. WASHINGTON
MAYOR

BOBBY MADISON, SR.
POLICE CHIEF

SALLY B. LEWIS
CLERK

TOWN OF CLAYTON

P.O. Box 277

CLAYTON, LOUISIANA 71326

Phone: 318-757-8540 Fax: 318-757-8543

"This Institution Is An Equal Opportunity Provider"

ALDERMEN:

FLOYD L. BARBER

HOUSTON HOLMES

IRENE JEFFERSON

SHANNON B. MADISON

WILLIE EVANS

December 14, 2016

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

Dear Mr. Purpera:

Thank you so very much for allowing your office personnel to perform an audit for The Town of Clayton in such a timely manner at our request.

Mr. Roger W. Harris along with other members of your team went through their findings with us and made sure that we understood everthing.

In the first findings: Ethics-Prohibited Transactions with Town Employees: The Town Mayor and Board of Aldermen had not attended an LMA Conference in years, we will include this in our new policy and procedure manual along with the on-line class offered by the LMA. Our office staff took the on-line computer class and one aldermen, I (Josephine Washington) attended the last LMA Conference.

The second finding: The Town Paid Employees For Sick Leave Not Accured: Our new and updated policy and procedure manuel will address this sick leave policy. The past Administration had the staff thinking that their time could be accumulated orsaved from one year to the next.

The Third Finding: Board of Aldermen Improperly Fixed Salaries of Municipal Officers: An Ordinance will be passed according to State Law when or if salary increases are discussed in the future.

The Fourth Finding: Personal use of Town Equipment: The Mayor nor The Board of Aldermen nor the staff will be allowed to use town equipmnet and will be added to the updated policy and procedure manuel. We have purchased two portable buildings to hold all small equipment, equipment list have been made and a date of purchase will be added. These items are kept under lock and key and only assigned staff can get to them.

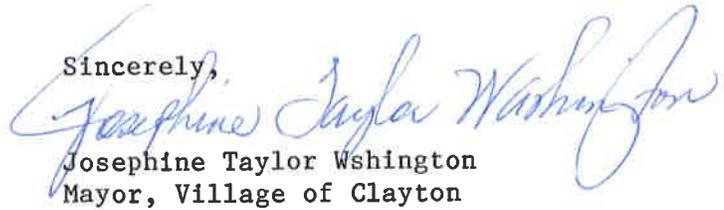
The Fifth Finding: Municipality Improperly Classified as A Town. We have contacted Governor John Bell Edwards office concerning this matter and an Ordinance will be adopted at our January 3, 2017 regular meeting.

I assure you that the above mentioned findings will be addressed immediately. If you feel you need a copy of our new policy and procedure manuel it will be available at your request.

Thank you again for your immediate response to our request. If I were to rate the auditors on your staff they would be graded with an A+ and highly recommended to others.

Thank you again.

Sincerely,

A handwritten signature in blue ink that reads "Josephine Taylor Washington". The signature is written in a cursive style with a large, looping initial "J".

Josephine Taylor Washington
Mayor, Village of Clayton