

TOWN OF JONESBORO



INVESTIGATIVE AUDIT
ISSUED MARCH 13, 2013

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

March 13, 2013

**THE HONORABLE LESLIE THOMPSON, MAYOR,
AND MEMBERS OF THE BOARD OF ALDERMEN
TOWN OF JONESBORO**
Jonesboro, Louisiana

Dear Mayor Thompson:

We have audited certain transactions of the Town of Jonesboro. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

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*.

The accompanying report presents our findings and recommendations as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the Second Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/dl

TOWN OF JONESBORO 2013

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EXECUTIVE SUMMARY

Noncompliance with Louisiana Audit Law

Contrary to state law, the Town of Jonesboro (Town) has not maintained its records in a manner to be audited in accordance with the Louisiana Audit Law [Revised Statute (R.S.) 24§513] and therefore is not in compliance with its legal responsibility to submit an annual audit. For the last four fiscal years (ending June 30, 2008, through June 30, 2011), the Town's auditors issued disclaimers of opinion because of the Town's failure to prepare and maintain adequate financial records. According to state law, the responsibility for directing and supervising the administration of the Town is vested with the mayor. By continually failing to provide audits and failing to exercise the duties required of his office to ensure that the Town prepared and maintained adequate financial records that could be audited, Mayor Leslie Thompson appears to have violated state law.

Noncompliance with Local Government Budget Act

During our audit, we also noted that management did not fully comply with the Local Government Budget Act (R.S. 39§1301 *et seq.*) which directs political subdivisions of the state as to the manner in which budgets shall be adopted, implemented, and amended.

Town Improperly Provided Insurance and Other Employee Benefits to Ineligible Individuals

From January 2011 to June 2012, the Town improperly used public funds totaling \$74,169 to provide health insurance and leave benefits to ineligible Town employees and health insurance benefits to former employees and aldermen after termination.

Town Improperly Paid Retirement Contributions for Ineligible Employees

From January 2011 to June 2012, the Town improperly used public funds totaling \$13,721 to pay the employer portion of retirement contributions for ineligible employees.

Personal Use of Town Vehicle by Mayor

Mayor Leslie Thompson may have violated Town ordinance and state law by using his Town vehicle and fuel for personal purposes from September 2010 to September 2012. Mayor Thompson claimed he only used the vehicle for Town business; however, records provided by the Town could only support a public purpose for 20 percent of the mileage incurred during this period. In addition, Town employees, including Mayor Thompson, have not completed daily mileage logs in accordance with the Town's ordinance. Finally, we observed Mayor Thompson driving the Town vehicle without a logo bearing the Town's name in violation of state law.

Mayor Failed to Timely Reimburse Town for Unused Travel Advances

From September 2010 to September 2011, the Town issued eight travel advance payments to Mayor Thompson totaling \$4,050, but he failed to timely reimburse the Town \$2,970 for unused portions of the advances. Mayor Thompson's failure to timely reimburse the Town may have resulted in illegal loans which are prohibited by the Louisiana Constitution.

Town Failed to Remit Unclaimed Property to the State

Contrary to state law, the Town has continually failed to report and remit unclaimed property to the state.

BACKGROUND AND METHODOLOGY

The Town of Jonesboro (Town) is located in Jackson Parish and has a population of 4,704 (Year 2010 Census). The Town operates under the Lawrason Act, which is a mayor-board of aldermen form of government. The Town has five elected aldermen who serve four-year terms. The mayor is elected at-large for a four-year term. Mayor Leslie Thompson first took office on January 1, 2007, and is currently serving his second term.

For four consecutive fiscal years (June 30, 2011; June 30, 2010; June 30, 2009; and June 30, 2008), the Town's auditor has issued a disclaimer of opinion on the financial statements of the Town. The auditors tried to audit the Town but could not complete the work because the Town did not maintain adequate records of disbursements, properly reconcile bank accounts or accounts receivables and payables, and did not enter all transactions into the accounting records. Town records did not permit the application of adequate auditing procedures.

As of the date of this report, the Town has failed to submit its 2012 audit report to the Legislative Auditor. This report was due on December 31, 2012.

Since 2009, the Legislative Auditor has visited the Town four times (September 2009, August 2010, December 2010, and March 2011) to assess management's progress in resolving audit findings. These assessments revealed that little progress was made to correct the audit findings and also revealed additional compliance and control findings.

In June 2012, the Louisiana Attorney General filed a rule to appoint a fiscal administrator for the Town in accordance with Louisiana Revised Statute 39§1351 (2)(a).¹ A fiscal administrator was appointed in July 2012, but resigned in October 2012.

Because of the lack of progress in resolving audit findings and the resignation of the fiscal administrator, the Legislative Auditor visited the Town again in October 2012. The procedures performed during this audit included:

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

FINDINGS AND RECOMMENDATIONS

Noncompliance with Louisiana Audit Law

Contrary to state law, the Town of Jonesboro (Town) has not maintained its records in a manner to be audited in accordance with the Louisiana Audit Law [Revised Statute (R.S.) 24§513] and therefore is not in compliance with its legal responsibility to submit an annual audit. For the last four fiscal years (ending June 30, 2008, through June 30, 2011), the Town’s auditors issued disclaimers of opinion because of the Town’s failure to prepare and maintain adequate financial records. According to state law, the responsibility for directing and supervising the administration of the Town is vested with the mayor. By continually failing to provide audits and failing to exercise the duties required of his office to ensure that the Town prepared and maintained adequate financial records that could be audited, Mayor Leslie Thompson appears to have violated state law.²

Failure to Submit Annual Audits to the Legislative Auditor (R.S. 24§513)

R.S. 24§513 (J)(1)(a)(iv) states that “Any local auditee that receives five hundred thousand dollars or more in revenues and other sources in any one fiscal year shall be audited annually.” Such audits are required to be provided to the Legislative Auditor within six months of the end of the fiscal year [R.S. 24§513 A(5)(a)(i)]. The Town received in excess of five hundred thousand dollars in revenues during fiscal years 2008, 2009, 2010, 2011, and 2012. However, the three different independent audit firms hired by the Town issued disclaimers each year from 2008 to 2011.^A A disclaimer is issued when auditors make the determination that they are unable to issue an opinion on financial statements. The reasons provided by the independent auditors as to why they could not opine on the financial statements of the Town include the following:

1. Inadequacies in the Town’s accounting records
2. Failure to maintain adequate records
3. Failure to reconcile bank accounts and accounts receivable
4. Failure to enter some transactions into the accounting records
5. Inability to obtain written representation from the Town’s management or a legal representation letter from its counsel

Because of these reasons, the auditors stated that “The Town’s records did not permit the application of adequate auditing procedures.” The auditors could not perform the work necessary to conduct audits in accordance with the standards applicable to their work and issue an opinion on the financial statements. It appears the Town has not maintained its records in a

^A As of the date of this report, the Town has failed to submit its audit report to the Legislative Auditor for the fiscal year ended June 30, 2012. This report was due on December 31, 2012.

manner to be audited in accordance with R.S. 24§513 and therefore is not in compliance with its legal responsibility to submit an annual audit. As a result, the Town was placed on the Legislative Auditor's noncompliance list (noncompliant with the Louisiana Audit Law) and the Town is currently ineligible to receive funds that flow through the state.

Duties of the Mayor

The Town is a Lawrason Act town governed by laws set forth in Title 33 of the Louisiana Revised Statutes. R.S. 33§362 (B) states, "The mayor shall be the chief executive officer of the municipality." In addition, R.S. 33§404 provides that the powers, duties, and responsibilities of the mayor are as follows:

1. To supervise and direct the administration and operation of all municipal departments, offices, and agencies, other than a police department with an elected chief of police, in conformity with ordinances adopted by the board of aldermen and with applicable provisions of state law; however, no such ordinance may limit the authority granted to the mayor by this paragraph. All administrative staff shall be subordinate to the mayor.
2. To delegate the performance of administrative duties to such municipal officers or employees as he deems necessary and advisable.
3. Subject to applicable state law, ordinances, and civil service rules and regulations, to appoint and remove municipal employees, other than the employees of a police department with an elected chief of police...Furthermore, selection or removal of any person engaged by a municipality to conduct an examination, review, compilation, or audit of its books and accounts pursuant to R.S. 24§513 shall be subject to approval by the board of aldermen of that municipality.
4. To sign all contracts on behalf of the municipality.
5. To prepare and submit an annual operations budget and a capital improvements budget for the municipality to the board of aldermen in accordance with the provisions of R.S. 39§1301 *et seq.* and any other supplementary laws or ordinances.
6. To represent the municipality on all occasions required by state law or municipal ordinance.
7. To be the keeper of the municipal seal and affix it as required by law.
8. To sign warrants drawn on the treasury for money, to require that the municipal clerk attest to such warrants, to affix the municipal seal thereto, and to keep an accurate and complete record of all such warrants.
9. To have any other power or perform any other duty as may be necessary or proper for the administration of municipal affairs not denied by law.

Mayor Leslie Thompson failed to (1) supervise and direct the administration of the Town so that its records could be audited; (2) delegate duties to competent staff to ensure the records could be audited; (3) appoint competent staff capable of preparing and maintaining Town records in a manner that the independent auditor could apply adequate auditing procedures; and (4) perform other necessary duties for the administration of the affairs of the Town so it could be audited in accordance with state law. As a result, Mayor Thompson is and has been in violation of R.S. 24§513 and R.S. 33§404. Further, by failing to provide an audit of the Town for four years, it would appear that the mayor's actions represent an intentional refusal to perform the duties lawfully required of his office and, as such, he may be in violation of R.S. 14§134, Malfeasance in Office.²

Noncompliance with Louisiana Audit Law (R.S. 24§518)

As described above, the Town has not complied with the Louisiana Audit Law since 2007. The mayor's lack of action, as required by law, obstructed and impeded the audits of the Town such that the auditors could not perform the audits as required by R.S. 24§513 (J)(1)(a)(iv). As a result, Mayor Thompson may have also violated R.S. 24§518 which provides penalties for those not in compliance with the Louisiana Audit Law.

R.S. 24§518 (1) (D) provides that any auditee, local auditee, or public officer, employee, or other person of said auditee who, otherwise in any manner, obstructs or impedes the legislative auditor in making the examination authorized by law shall be fined not less than five hundred dollars, nor more than five thousand dollars, or imprisoned for not less than ten days, nor more than six months, or both. R.S. 24§518 (2) further states that any officer of an auditee or local auditee who violates any of the provisions of this Chapter shall, in addition to the above fines and penalties, be deemed guilty of malfeasance and gross misconduct in office, and shall be subject to removal.

According to the Lawrason Act, the responsibility for directing and supervising the administration of the Town is vested with the mayor (see *Duties of the Mayor*). During this period of noncompliance with the Louisiana Audit Law, Mayor Thompson failed to exercise the duties imposed upon him by law to ensure that (1) the Town records were adequately maintained; (2) appropriate reconciliations were performed; and (3) all transactions were entered into the accounting records. The mayor's lack of action, as required by law, obstructed and impeded the audits of the Town such that the auditors could not perform the audits as required by law. By failing to perform the duties required of his office, Mayor Thompson appears to have obstructed and impeded the Town's audits in violation of R.S. 24§518 (1) (D). As a result, Mayor Thompson may be subject to the penalties enumerated in R.S. 24§518 (2) and may be in violation of R.S. 14§134, Malfeasance in Office.²

Recommendations:

We recommend that the Town:

- (1) comply with all aspects of the state audit law;
- (2) implement a comprehensive accounting system to generate monthly financial statements, budgets, and other reports to ensure that accurate financial information is prepared for all Town funds;
- (3) hire competent staff capable of preparing and maintaining records in a manner that the independent auditor could apply adequate auditing procedures to ensure that audits can be done in keeping with state law;
- (4) develop and implement written policies and procedures to ensure that all transactions are entered into the Town's accounting records; and
- (5) develop and implement written policies and procedures to ensure that bank accounts and accounts receivable are reconciled on a monthly basis.

Noncompliance with Local Government Budget Act

During our audit, we also noted that management did not fully comply with the Local Government Budget Act [R.S. 39§1301 *et seq.*] which directs political subdivisions of the state as to the manner in which budgets shall be adopted, implemented, and amended. These laws, collectively called the LGBA, direct a political subdivision to allow for public participation prior to the adoption of a budget. The laws further call for financial planning and budgeting practices, which will secure the public dollars entrusted to the leaders of the political subdivision.

The Town's noncompliance with the Local Government Budget Act is described as follows:

- **Budget Adopted Late** - Management failed to adopt the Town's 2010-2011 budget before the start of the fiscal year as required by the Local Government Budget Act. Although R.S. 39§1309 (A) and R.S. 33§406 (A)(3) required the budget to be adopted by ordinance before July 1, 2010, the Town did not adopt the budget until September 15, 2010.
- **No Annual Budgets Prepared for Special Revenue Funds** - For the fiscal years ended June 30, 2011; June 30, 2012; and June 30, 2013, separate annual budgets for the Town's special revenue funds (Fire Department Ad Valorem Tax, Street Department Ad Valorem Tax, and the Street Sales Tax) were not prepared and adopted by the Town. R.S. 39§1305 (A) requires the preparation of a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund and each special revenue fund.

It appears as though the revenues associated with the Town's special revenue funds have been included in the consolidated budgets adopted by the Town. However, these budgets did not indicate which fund/funds were included and were not supported by reliable supporting documentation.

- **No Budget Messages** - The budgets adopted by the Town for fiscal years ended June 30, 2011; June 30, 2012; and June 30, 2013, did not include budget messages for each special revenue fund as required by law. R.S. 39§1305 (C) (1) requires a budget message for the general fund and each special revenue fund signed by the budget preparer that provides a summary description of the proposed financial plan, policies, objectives, assumptions, budgetary basis, and a discussion of the most important features.
- **Fund Balances Not Shown in Budgets** - For the fiscal years ended June 30, 2011; June 30, 2012; and June 30, 2013, the estimated fund balances at the beginning and end of each fiscal year were not presented for the general fund and each special revenue fund as required by R.S. 39§1305 (C) (2) (A). Although the budgets adopted by the Town included beginning and ending fund balances, it is not clear as to which fund or funds were included in the budgets because the Town failed to present separate budgets for the general fund and each special revenue fund.

In addition, because the Town has failed to maintain adequate financial records, the amounts recorded as beginning fund balances would appear to be unreliable. Further, simply listing a fund balance is not an indication of a source of funds as it is unknown if the funds are restricted or unrestricted. Because the amounts listed for fund balance are not reliable, it cannot be determined if total estimated funds available for the fiscal year were greater than proposed expenditures in accordance with R.S. 39§1305 (E).

- **Budgets Lacked Additional Information** - Since January 1, 2011, the law (R.S. 39§1305) has required additional information to be included in the annual budget, and the Town did not include such information for the fiscal years ended June 30, 2012 and June 30, 2013. The following information was not included in these budgets:
 - Year-to-date actual and estimated fund balances at end of year
 - Percentage change for all funds
- **Budget Not Amended Properly** - R.S. 39§1310 (A) provides for amending the original adopted budget in an open meeting and states that no amendment be adopted proposing expenditures which exceed the total of estimated funds available for the fiscal year. In February 2011 (during the fiscal year ended June 30, 2011), the Town published a legal notice indicating that the board would consider adopting Ordinance 700 (amending the budget) on March 8, 2011. Although the legal notice indicated that Ordinance 700 was a budget amendment,

the instrument indicated that it was an “Annual Report of the Budget.” The ordinance did not present separate budgets or fund balances for the general fund and each special revenue fund and the estimated beginning fund balance was significantly higher than the fund balance for the original budget.

During the March 8, 2011, meeting of the board of aldermen, board members significantly amended and then adopted Ordinance 700 (as amended). By significantly amending and adopting the ordinance in the same meeting, management appears to have deprived the public of the right of participation and inspection of the amended ordinance. In addition, Town officials may have violated R.S. 33§406 (B) (3) which requires that each proposed amendment to an ordinance be presented in writing or reduced to writing before its final consideration. Finally, because the amount listed as fund balance on the adopted instrument is not reliable, it cannot be determined if total estimated sources of funds for the fiscal year were greater than the total of proposed expenditures in accordance with R.S. 39§1310 (A).

In summary, Mayor Thompson did not submit budgets in accordance with the LGBA [R.S. 39§1301 *et seq.*]. The Lawrason Act, R.S. 33§404 (5), states that the duties of the mayor will be “To prepare and submit an annual operations budget and a capital improvements budget for the municipality to the board of aldermen in accordance with the provisions of R.S. 39§1301 *et seq.* and any other supplementary laws or ordinances.” As such, it appears that the mayor, by not performing the duties lawfully required of him, may also be in violation of R.S. 14§134, Malfesance in Office.²

Subsequent Events

On March 28, 2011, a group of Jonesboro residents sued the Town to enjoin it from making expenditures under Ordinance 700. The trial court (Second Judicial District) ruled that the mayor and board members who voted to adopt Ordinance 700 violated provisions of the Louisiana Local Government Budget Act by passing the law. The court decision was affirmed by the Second Circuit Court of Appeal, State of Louisiana on December 19, 2012. The Town appealed to the Louisiana Supreme Court, but its writ application was denied on January 23, 2013.

Recommendations:

Management should strictly comply with all provisions of the Local Government Budget Act. The Town’s annual budget should be adopted by ordinance before the beginning of each fiscal year (July 1) and the budget should contain all required information. All amendments to the budget are also required to be adopted by ordinance.

Town Improperly Provided Insurance and Other Employee Benefits to Ineligible Individuals

From January 2011 to June 2012, the Town improperly used public funds totaling \$74,169 to provide health insurance and leave benefits to ineligible Town employees and health insurance benefits to former employees and aldermen after termination. By providing these benefits to employees and/or aldermen who either did not consistently work 35 hours per week or were no longer an employee or elected official of the Town, the Town may have violated the Louisiana Constitution,³ which prohibits the donation of public funds or assets.

1. Benefits Provided to Part-Time Employees

According to the Town employee handbook, part-time employees are those who consistently work fewer than 35 hours per week and are not afforded any benefits other than wages. Contrary to this policy, we noted that the Town made payments totaling \$36,097 for health insurance premiums and leave benefits (holiday pay, annual leave, sick leave) for at least five employees who consistently worked less than 35 hours per week during this period. This amount included \$26,918 for health insurance premiums and \$9,179 for leave benefits.

2. Health Insurance Premiums Provided to Former Employees and Aldermen

From January 2011 to June 2012, the Town paid health insurance premiums totaling \$38,072 for eight former employees and three former aldermen after their termination of employment or expiration of their term. In one instance, the Town paid premiums for at least 12 months after an alderman was removed from the board. We also noted that former Town employees were carried on the health insurance from one to 10 months after their termination. According to Town personnel, they had difficulties communicating with their insurance provider to remove terminated employees and aldermen from the policy. However, Town records indicate that no attempts were made to remove two of the former aldermen from the insurance plan until at least five months after the aldermen left office.

According to current and former Town staff members, Mayor Thompson determined which employees were full-time when they were hired. Once an employee was classified as full-time, staff included him/her in the retirement system, provided group health insurance, and tracked leave benefits. However, these staff members indicated that once it was determined that full-time employees were not consistently working 35 hours per week, they informed Mayor Thompson, but he took no action. On at least two occasions, Sheretha Houston, former Town accountant, informed Mayor Thompson in writing that employees not consistently working 35 hours per week were not entitled to holiday pay and refused to make the payments. Ms. Houston stated that Mayor Thompson instructed her to make the payments. Mayor Thompson explained that the Town's policy defines a part-time employee as one who consistently works less than 35 hours per week but added that he determines which employees are considered full-time (and receive benefits).

Because these individuals either did not consistently work enough hours to be considered full-time or did not work for the Town at all, they were not entitled to receive health insurance and/or leave benefits. The mayor had no legal obligation to expend public funds to provide these benefits and may have violated the Louisiana Constitution,³ which prohibits the donation of public funds or assets.

Recommendations:

We recommend that the Town adopt detailed policies and procedures to ensure that public funds are spent in accordance with state law. In addition, the Town should:

- (1) seek reimbursement for improper benefits provided to ineligible and/or former employees and officials;
- (2) classify employees as full-time or part-time based on actual hours worked;
- (3) periodically review employee time sheets to ensure that full-time employees are working the appropriate amount of hours to receive benefits;
- (4) reconcile health insurance invoices to an active list of eligible employees and officials; and
- (5) implement detailed written policies and procedures for adding and removing employees and officials from health insurance.

Town Improperly Paid Retirement Contributions for Ineligible Employees

From January 2011 to June 2012, the Town improperly used public funds totaling \$13,721 to pay the employer portion of retirement contributions for ineligible employees. Although these employees did not regularly work enough hours to participate in the retirement system, Mayor Thompson allowed public funds to be used to make contributions on their behalf. Because these employees did not qualify to participate in the retirement system, the Town had no legal obligation to make these contributions. By using public funds to pay retirement contributions for ineligible employees, Mayor Thompson may have violated state law² and the Louisiana Constitution,³ which prohibits the donation of public funds or assets.

According to R.S. 11§1751, membership of the Municipal Employees Retirement System of Louisiana (MERS) shall be composed of all employees not specifically excluded. R.S. 11§1732 (13) defines employee as a person including an elected official, actively employed by a participating employer on a permanent, regularly scheduled basis of at least an average of thirty-five hours per week. Contribution rates for both the employer and the employee are set by MERS. Each month, the Town is required to report all participating employees and their wages as well as amounts that are being contributed by the employer and the employee.

On or about August 2012, the Town's fiscal administrator noted that certain Town employees were participating in the retirement system but not averaging 35 hours per week. An analysis of time sheets from January 2011 to June 2012 confirmed that at least four Town employees (for whom the Town was making retirement contributions) did not average 35 hours per week. However, during this period, the Town contributed a total of \$13,721 in employer contributions to MERS for these employees. Melba Holland, former Town clerk, stated that she informed Mayor Thompson that certain employees (for whom the Town was making retirement contributions) were not consistently averaging 35 hours each week, but Mayor Thompson took no action. Mayor Thompson stated he believed that participation in MERS only required that employees be scheduled to work 35 hours per week and that he determines which employees are full-time.

In October 2012, the Town's fiscal administrator received an opinion from MERS indicating that eligible employees must be both regularly scheduled and work an average of 35 hours per week. The opinion further indicated that contributions made by ineligible employees were refundable; however, there is no provision in law that would allow a refund for the employer contributions for ineligible employees. Based on the information provided, the actions of the mayor violated Louisiana Municipal Employees Retirement law [R.S. 11§1732 (13)] and as a result, the mayor may be in violation of R.S. 14§134, Malfeasance in Office.²

Recommendations:

We recommend the Town adopt detailed policies and procedures to ensure public funds are spent in accordance with state law. In addition, the Town should:

- (1) discontinue using public funds to provide retirement benefits to anyone other than full-time employees who consistently work at least 35 hours per week;
- (2) require written approval from management to add eligible participants into the retirement system; and
- (3) periodically review hours worked by employees participating in the retirement system to ensure that the Town only makes contributions for eligible employees.

Personal Use of Town Vehicle by Mayor

Mayor Leslie Thompson may have violated Town ordinance and state law⁴ by using his Town vehicle and fuel for personal purposes from September 2010 to September 2012. Mayor Thompson claimed he only used the vehicle for Town business; however, records provided by the Town could only support a public purpose for 20 percent of the mileage incurred during this period. In addition, Town employees, including Mayor Thompson, have not completed daily mileage logs in accordance with the Town's ordinance. Finally, we observed Mayor Thompson driving the Town vehicle without a logo bearing the Town's name in violation of state law.⁵

Town Ordinance 574, adopted in October 2008, prohibits personal use of Town vehicles and requires employees who use them to log their mileage in a daily log book and designate the number of miles traveled for personal use. Personal mileage shall then be reimbursed to the Town at the end of each month. Mayor Thompson confirmed that he does not complete a daily mileage log for the 2008 Ford Crown Victoria he uses. In addition, Linda McCready, purchasing agent, and custodian of the Town's fuel records, stated that daily vehicle logs have not been used for at least the past year. As such, it appears that Town employees, including Mayor Thompson are not recording mileage driven in Town vehicles in compliance with the ordinance. Further, the personal use of Town-supplied vehicles is not included in the income and wages of the Town employees who use them as Internal Revenue Service regulations require.

Mayor Thompson's Vehicle Usage

Town records indicate that from September 2010 to September 2012 (25 months), Mayor Thompson incurred a total of 35,347 miles (an average of 1,414 miles per month) and purchased^B a total of 1,894 gallons of fuel at a cost of \$6,139. Because Mayor Thompson failed to document his daily use of the Ford Crown Victoria, we used available records to account for his business use of the vehicle. We identified business trips that could account for only 20 percent (7,204 of the 35,347) of the miles incurred during this period. Based on the average price per gallon during this period, the fuel cost for Mayor Thompson's undocumented mileage was approximately \$4,911 or 80 percent of the total fuel cost.

Several current and former Town employees and officials indicated that the mayor takes his Town-supplied vehicle home on a regular basis. Many of these employees and officials also indicated they had witnessed what appeared to be personal use of the vehicle by Mayor Thompson including trips to retail stores in Ruston, Louisiana and a trip to Irving, Texas for his daughter's wedding. Two citizens stated they witnessed the mayor and his wife using the Town's vehicle to visit stores and the mayor's private business office in Ruston. We also obtained surveillance footage from the local Wal-Mart on Sunday, December 23, 2012, in which Mayor Thompson's Town vehicle was used to drop off his wife to pick up a private vehicle.

Mayor Thompson indicated he was aware of Ordinance 574 but did not record his mileage because he has never used the Town's vehicle for personal use. He explained that he makes personal stops when travelling on Town business and conceded that he does take it to travel to church on Sundays. When asked about a trip to Irving, Texas in September 2010, Mayor Thompson stated that he did take the vehicle to attend his daughter's wedding, but added that he met with a concert singer about performing at a Town festival. Mayor Thompson stated that he attended the wedding on Saturday evening and met with the concert singer (Cecil Washington) at his hotel the next morning.

^B Total amount of fuel purchased includes 1,760 gallons obtained at the Town pump and additional 134 gallons purchased by Mayor Thompson while traveling outside of Jonesboro.

According to Town records, Mr. Washington was contracted to perform for the Town during a concert in June 2010 (three months prior). The contract for that performance appears to have been signed by Mayor Thompson and faxed to Mr. Washington for his signature. As such, a phone call and/or fax communication could have determined whether or not Mr. Washington was available to perform for the Town. We contacted Mr. Washington by telephone. Mr. Washington stated that he met with Mayor Thompson in September 2010 about performing for the Town. When asked if he had performed for the Town (after September 2010), the call was disconnected. Mr. Washington has not responded to additional attempts to discuss this issue and Town records indicate that he did not perform for the Town after September 2010.

In Opinion 01-0198, the attorney general opined that public vehicles must be used for public purposes. “A public vehicle cannot be used personally because such would be tantamount to a donation of public funds which is prohibited by our constitution.” By failing to document and account for mileage driven in Town-supplied vehicles, Mayor Thompson and other Town employees violated Ordinance 574. In addition, by using the Town’s vehicle and fuel for personal purposes, Mayor Thompson may have violated state law.⁴

Town Vehicle Not Marked in Accordance with State Law

Louisiana law requires any vehicle belonging to the state or any of its political subdivisions to bear a Louisiana public license plate, and that each vehicle must also have a logo that is inscribed, painted, decaled, or stenciled conspicuously on it, bearing the name of the agency. We were informed that the vehicle assigned to the mayor has magnetic decals. On January 11, 2013, and January 25, 2013, we observed Mayor Thompson’s Town-supplied vehicle and noted there were no decals or other identification on it that displayed the Town’s name.

In Opinion 07-0072, the attorney general opined that “magnetized decals do not meet the requirements set forth in R.S. 49§121 for the demarcation of vehicles owned by public entities.” By using magnetic decals and removing the decals from his Town vehicle, Mayor Thompson may have violated state law.⁵

Recommendations:

We recommend that the Town:

- (1) develop and implement policies and procedures for the use of Town vehicles to ensure that public vehicles are only used for public purposes;
- (2) require mileage logs to be maintained in accordance with Ordinance 574 for all Town vehicles;
- (3) seek legal advice as to the appropriate actions to be taken, including recovery of funds related to the fuel purchased for personal use;
- (4) require documentation for all fuel purchased and/or obtained from the Town pump;

- (5) require management to compare vehicle mileage logs with the documentation for fuel purchases; and
- (6) implement written policies and procedures to ensure that all Town vehicles are marked in accordance with state law.

Mayor Failed to Timely Reimburse Town for Unused Travel Advances

From September 2010 to September 2011, the Town issued eight travel advance payments to Mayor Thompson totaling \$4,050, but he failed to timely reimburse the Town \$2,970 for unused portions of the advances. Mayor Thompson's failure to timely reimburse the Town may have resulted in illegal loans which are prohibited by the Louisiana Constitution.³

According to practice, the Town issues travel advance payments and then requires employees to complete an expense form to account for the use of travel funds. If actual expenses were less than the amount of the advance payment, the employee would then be required to reimburse the unused amount.

Although the mayor received \$4,050 in eight advances between September 25, 2010, and September 16, 2011, his actual expenses totaled \$1,080 resulting in unused travel funds totaling \$2,970. Town records indicate that Mayor Thompson did not reimburse these amounts in a timely manner and as of the date of this report still has an unpaid balance of \$280. On average, Mayor Thompson reimbursed the Town 143 days after he had received the advance travel payments. For example, travel records indicate that on June 25, 2011, the Town issued Mayor Thompson a \$1,000 advance payment for a meeting with Cecil Washington in Irving, Texas. The corresponding expense report indicates that Mayor Thompson only incurred expenses totaling \$119 but did not reimburse the Town for the unused travel funds (\$881) until December 30, 2011 (189 days later). Further, these records do not provide any public purpose for this trip and there is no reason Mayor Thompson could not communicate with Mr. Washington (see finding, *Personal Use of Town Vehicle by Mayor*) over the phone.

Mayor Thompson stated that he generally forgets to reimburse the Town for unused travel funds. He added that in the past, the Town's staff was very "lax" on enforcing the travel reimbursement policy. Mayor Thompson's failure to timely reimburse the Town may have resulted in illegal loans which are prohibited by the Louisiana Constitution.³

Recommendations:

We recommend that the Town demand repayment of all Town funds advanced which were either not used (not reimbursed) or for which documentation was not submitted. The Town should also develop a comprehensive written travel policy which clearly identifies allowable expenses, approval procedures, payment methods, and documentation requirements. This policy should also require the timely (within 30 days of the end of the trip) reimbursement of unused travel funds along with the submission of documentation such as completed travel vouchers with detailed receipts to support the public purpose for which these funds were used.

Town Failed to Remit Unclaimed Property to the State

Contrary to state law, the Town has continually failed to report and remit unclaimed property to the state. Records indicate that the Town regularly receives unclaimed property when refunds of water meter deposits are returned as undeliverable. Although state law (R.S. 9§159 -160) requires that unclaimed property be reported and remitted to the state treasurer on an annual basis, the Town has not done so. In addition to failing to comply with state law, the Town appears to have an unrecorded liability owed to the state as it is currently in possession of unclaimed property.

Mr. Kelly Love, a former staff member of the Town's independent auditor, stated that in September 2012, Ann Jones, Town water clerk, showed him a drawer inside the vault that was filled with water meter deposit refund checks. Mr. Love stated that when he returned to Jonesboro in November 2012 to inform management of the returned checks, nearly half of the checks were missing from the drawer. Ms. Jones stated that she and Mr. David Dill, current Town clerk, were the only two employees with access to the vault and that she did not remove the checks. Mr. Dill informed legislative auditor representatives that he did not remove the checks. We obtained surveillance video for the vault from the Town's security vendor; however, the video was defective and we could not review it.

We inventoried the remaining refund checks from the vault on November 21, 2012, and found 203 returned checks totaling \$6,114. These checks had been issued between June 27, 1996, and September 11, 2012. According to the state treasurer's office, the Town has not submitted any unclaimed property to its office within the last 25 years. Because these checks were not reported (with the corresponding amounts transferred) to the state treasurer, the Town has failed to comply with state law and, as such, has an additional unrecorded liability owed to the state. Based on the information provided, the Town failed to maintain all refund checks and adequate records to account for such refunds and cannot determine the total liability owed to the state.

Recommendations:

We recommend that the Town implement written policies and procedures to ensure that unclaimed property such as returned refund checks are properly maintained, reported, and remitted to the state in compliance with state law. The Town should also perform the appropriate reconciliations and reviews to attempt to determine the full amount owed to the state.

LEGAL PROVISIONS

¹ **R.S. 39§1351 (2)(a)** provides that if it is determined by the unanimous decision of the legislative auditor, the attorney general, and the state treasurer at a public meeting to consider such matters that a political subdivision is reasonably certain to not have sufficient revenue to pay current expenditures, excluding civil judgments, or to fail to make a debt service payment, the attorney general shall file a rule to appoint a fiscal administrator for the political subdivision as provided for in this chapter.

² **R.S. 14§134** provides, in part, that 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; (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.

³ **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.

⁴ **R.S. 14§68** provides, in part, 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.

R.S. 14§134 provides, in part, that 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; (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.

R.S. 42§1461(A), provides, in part, that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property or other thing of value belonging to the public entity in which they hold office.

⁵ **R.S. 49§121 (A)(1)** provides, in part, that every boat, watercraft, aircraft, automobile, truck, or other vehicle belonging to the state or to any of its political subdivisions, or to any department, board, commission, or agency of any of its political subdivisions shall, if required by law to bear a Louisiana license plate, bear a public license plate, and each such vehicle also shall have inscribed, painted, decaled, or stenciled conspicuously thereon, either with letters not less than two inches in height and not less than one-quarter inch in width or with an insignia containing not less than one hundred forty-four square inches, or if circular, not less than eight inches in diameter, the name of the board, commission, department, agency, or subdivision of the state to which the boat, watercraft, aircraft, automobile, truck, or other vehicle belongs.

APPENDIX A

Management's Response

Response to Findings and Recommendation

Noncompliance with Louisiana Audit Law

The town disagrees with finding and reserves its right to respond until such that would be more suitably appropriate.

Failure to Submit Annual Audits to the Legislative Auditor (R.S. 24 subsection 513)

The town disagrees with finding and reserves its right to respond until time that would be more suitably appropriate.

Duties of the Mayor

The town disagrees with finding and reserves its right to respond until time that would be more suitably appropriate.

Noncompliance with Louisiana Audit Law (R.S.24 subsection 518)

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Noncompliance with Local Government Budget Act

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Budget Adopted Late

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

No Annual Budgets Prepared for Special Revenue Funds

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

No Budget Message

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Fund Balances no Shown in Budgets

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Budgets Lacked Additional Information

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Budgets not Amended Property

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Town Improperly Provided Insurance and Other Employee Benefits to Ineligible Individuals

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Benefits provided to part-time employees

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Health insurance premiums provided to former employees and aldermen

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Town Improperly Paid Retirement Contributions for Ineligible Employees

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Personal use of Town Vehicle by Mayor

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Mayor Thompson's Vehicle Usage

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Town Vehicle Not Marked in Accordance With State Law

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Mayor Failed to Timely Reimburse Town for Unused Travel Advances

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.

Town Failed to Remit Unclaimed Property to the State of Louisiana

The town disagrees with finding and reserves its right to respond until such time that would be more suitably appropriate.



Leslie Thompson – Mayor of Jonesboro

3-8-13

Date