

SOUTHERN HEIGHTS NEIGHBORHOOD CRIME PREVENTION AND IMPROVEMENT DISTRICT

INVESTIGATIVE AUDIT SERVICES

Issued February 14, 2024

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February 14, 2024

**TROI DAVIS, BOARD PRESIDENT
AND MEMBERS OF THE BOARD OF COMISSIONERS
SOUTHERN HEIGHTS NEIGHBORHOOD
CRIME PREVENTION AND IMPROVEMENT DISTRICT**
Baton Rouge, Louisiana

We are providing this report for your information and use. This investigative audit was performed in accordance with Louisiana Revised Statutes 24:513, *et seq.* to determine the validity of complaints we received.

The procedures we performed primarily consisted of making inquiries and examining selected financial records and other documents and do not constitute 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.

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 19th Judicial District of Louisiana and others as required by law.

Respectfully submitted,



Michael J. "Mike" Waguespack, CPA
Legislative Auditor

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SOUTHERN HEIGHTS



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EXECUTIVE SUMMARY

District Did Not Comply with the Local Government Budget Act

The District may have violated state law, since it could not provide records to demonstrate a properly-adopted budget for fiscal years ended December 31, 2021 through 2023.

Improper Board of Commissioner Meetings

The District may have violated state law, since meeting records did not demonstrate that public meetings were advertised, conducted, and documented properly for fiscal years ended December 31, 2021 through 2023.

Board Adopted Bylaws Do Not Follow State Law

The District may have violated state law, since the board-approved bylaws do not match the legislation that created the district.

BACKGROUND AND METHODOLOGY

The Southern Heights Neighborhood Crime Prevention and Improvement District (District) is located in East Baton Rouge Parish and serves a neighborhood consisting of 320 homes. On November 21, 2015, eligible voters authorized the levy and collection of annual fees on parcels of land within the Southern Heights Neighborhood for years 2016 through 2025.

The District operates under the provisions of Louisiana Revised Statute (La. R.S.) 33:9097.21 and is a political subdivision of the state governed by a board of commissioners consisting of seven members. Three board members have two-year terms and are appointed by the board of directors¹ of the Southern Heights Property Owner's Association. The remaining four board members serve three-year terms and are appointed as follows: the East Baton Rouge Parish Assessor appoints one member; the metro council member(s) who represent(s) the District appoint(s) one member; the member(s) of the Louisiana House of Representatives who represent(s) the area(s) where the District is located appoint(s) one member; and the member(s) of the Louisiana Senate who represent(s) the area(s) where the District is located appoint(s) one member. The District aids in crime prevention by providing funding for an increase in the presence of law enforcement personnel in the District and serves the needs of the residents of the District by funding beautification and improvements for the overall betterment of the district.

We initiated this audit to determine the validity of complaints we received regarding the District's noncompliance with Louisiana's Local Government Budget Act and Open Meetings Law. The procedures performed during this audit included:

- (1) interviewing board members and others, as appropriate;
- (2) examining selected District documents and records;
- (3) gathering and examining third parties' documents and records; and
- (4) reviewing applicable state and federal laws and regulations.

¹ The "board of commissioners" and the "board of directors" appear to be used interchangeably in La. R.S. 33:9097.21 to refer to the same board.

FINDINGS AND RECOMMENDATIONS

District Did Not Comply with the Local Government Budget Act

The District may have violated state law,^{1,2,3,4,5,6} since it could not provide records to demonstrate a properly-adopted budget for fiscal years ended December 31, 2021 through 2023.

State law¹ requires each political subdivision to prepare a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund. It specifies that an adopted budget constitutes the authority of the chief executive or administrative officers to incur liabilities and authorize expenditures.² State law also requires each political subdivision with a combined general fund and special revenue funds under \$500,000, such as the District, to do the following when adopting a budget:

- (1) Include a budget message signed by the budget preparer, which consists of a summary description of the proposed financial plan, policies, and objectives, assumptions, budgetary basis; and a discussion of the most important features.³
- (2) Include a statement for the general fund and each special revenue fund showing the estimated fund balances at the beginning of the year; estimates of all receipts and revenues to be received; revenues itemized by source; recommended expenditures itemized by agency, department, function, and character; other financing sources and uses by source and use; and the estimated fund balance at the end of the fiscal year. The statements must also include a side-by-side comparison of the current-year's financial information to the proposed budget for the following year.³
- (3) Accompany the budget with a proposed budget adoption instrument that defines the authority of the chief executive and administrative officers to make changes without approval of the board, as well as those powers reserved solely to the governing authority.⁴ The budget adoption instrument for any municipality, parish, school board, or special district shall be an appropriation ordinance, adoption resolution, or other legal instrument necessary to adopt and implement the budget document.⁵
- (4) Make the proposed budget available for public inspection no later than 15 days prior to the beginning of the fiscal year.⁵
- (5) Complete all actions necessary to adopt, finalize, and implement the budget in open meeting before the end of the prior fiscal year.⁶

- (6) Retain certified copies of the budget and adoption instrument (obligation of the chief executive or administrative officer).⁶

We reviewed the District’s budgetary records for fiscal years ended December 31, 2021 through December 31, 2023, and found the District did not comply with state law, as shown in the chart below.

Budget Item	FY 2021 ^B	FY 2022 ^C	FY 2023
Budget Message	No	No	No
Fund Statements and Comparison	Yes	No	No ^D
Proposed Adoption Instrument	No	No	No
Available for Public Inspection	No	No	No
Adopt a Budget	No	No	No
Retain Certified Copies	No	No	No

Jesse Glasper,^E former President of the District’s Board of Commissioners, told us the board sets a new budget at the end of each fiscal year based on what they did the year before and the board approves it. He also said the financial secretary gives a financial report at every meeting that includes a comparison of the budget to actual results. He did not know that additional steps were required.

The fiscal years ended December 31, 2021 through December 31, 2023 budget documents provided by the District do not include most of the information required by state law.³ Since the District cannot demonstrate it complied with the provisions of state law^{1,2,3,4,5,6} relating to budgets for political subdivisions, it appears the District failed to adopt a valid budget for the fiscal years ended December 31, 2021 through December 31, 2023.

^B The board voted to accept a proposed budget report at an April 2021 meeting that was not advertised to the public. The proposed budget report was used as a budget for the District.

^C In January 2022, the board tabled the vote to pass the budget. Mr. Glasper said no budget was passed for 2022.

^D The 2023 budget includes a side-by-side comparison to the 2022 budget, but does not include the beginning and ending fund balance.

^E Mr. Glaser was board president from 2015 to 2023.

Improper Board of Commissioner Meetings

The District may have violated state law,^{7,9,10,11,12,17,18} since meeting records did not demonstrate that public meetings were advertised, conducted, and documented properly for fiscal years ended December 31, 2021 through 2023.

State law⁷ requires meetings of public bodies^F be open to the public. State law⁸ defines a “meeting” as the convening of a quorum^G of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power.

State law requires public bodies to do the following when conducting its meetings:

1. Have notice of the meeting at least 24 hours before the meeting via placement of a copy of the notice at the place of the meeting or at the body’s official office or published in the official journal;^{9,10}
 - a. All notices must include the date, time, and place of the meeting(s).¹¹
 - b. If the public body has a website, the notice must be published on the website no less than 24 hours before the meeting.¹⁰
2. The written public notice for any individual meeting requires that an agenda be attached.¹¹
 - a. The agenda must be reasonably clear to provide the public sufficient notice of what subjects will be discussed.¹²
 - b. The agenda shall not be changed less than 24 hours, exclusive of Saturdays, Sundays, and legal holidays, prior to the scheduled time of the meeting.¹¹
 - c. To add items to an agenda at the meeting itself, the Open Meetings Law requires unanimous approval of the members present to add an item to the agenda. Majority vote of the public body is not acceptable.¹³
3. Have “open” meetings – that is, observable to the public with an opportunity for public participation. Public bodies may not close their meetings to the public absent narrowly-defined exceptions.^{7,14,15}

^F La. R.S. 42:13(A)(3) defines a public body as “... special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or administrative functions, including any committee or subcommittee of any of these bodies.”

^G La. R.S. 42:13(A)(4) defines a quorum as “a simple majority of the total membership of a public body.”

- a. Meetings occur at the designated meeting place, with an exception provided from La. R.S. 42:17.1, which allows for teleconferencing during a gubernatorially-declared disaster or emergency.^{7,16}
- 4. Allow for some means of public comment prior to action on an agenda item upon which a vote is to be taken.¹⁷
- 5. Record minutes of the proceedings, and all minutes are subject to public records requests.¹⁸
 - a. If the public body has a website, the public body shall post on its website within a reasonable time after the meeting and maintain the copy of those minutes on the website for at least three months after the posting.¹⁸

The District’s records show they held 10 meetings of the board of commissioners from January 2021 to August 2023. A summary of the District’s records is in the following table:

Requirements	No. of observable instances	No. of unobservable instances	No. of times done correctly	No. of times done incorrectly
24 hours before the meeting, post meeting notice at the designated meeting place	1	9	1	Unknown
Notice includes the date, time, and place of the meeting(s)	10	0	8	2
Notice was published on the District’s website 24 hours before the meeting.	1	2 ^H	1	Unknown
Agenda posted 24 hours before the meeting at the designated meeting place	1 ^I	10	Unknown	1
Clear agenda with subjects to discuss	10	0	10	0

^H The District’s website went live March 4, 2023. We reviewed three meetings that occurred after that date.

^I In addition to the 10 meetings we reviewed, we inspected the library’s message board at the designated meeting place 24 hours in advance of the October 25, 2023 meeting.

Requirements	No. of observable instances	No. of unobservable instances	No. of times done correctly	No. of times done incorrectly
No agenda changes within 24 hours of meeting	10	0	10	0
Unanimous approval of the members present to add an item to the agenda.	10	0	10	0
If the public body has a website, the agenda was posted 24 hours before the meeting.	1	2	Unknown	1
Have "open" meetings	10	0	9	1 ^J
Meetings occurred at the designated meeting place.	10	0	6	4 ^K
Board allowed for public comment prior to voting on an agenda item.	3	7	Unknown	3
Minutes of the proceedings are subject to public records requests.	10	0	10	0
The public body posted meeting minutes on the website for at least three months.	1	2 ^H	Unknown	1

Since meeting records did not demonstrate that public meetings were advertised, conducted, and documented properly for fiscal years ended December 31, 2021 through 2023, the District may have violated state law.^{7, 9,10,11,12,17,18}

^J The board held a meeting that was not advertised to the public. The board discussed topics in executive session not provided by exceptions noted in La. R.S. 42:17, and voted to approve the budget and bylaws.

^K Three meetings were held over a teleconferencing website instead of the designated meeting place after the Governor's emergency declaration for Covid-19 expired. One meeting occurred at End Zone Daiquiri and Bar.

Board Adopted Bylaws Do Not Follow State Law

The District may have violated state law,¹⁹ since the board-approved bylaws do not match the legislation that created the district.

The District operates under the provisions of La. R.S. 33:9097.21, effective August 1, 2013. When the District began operations, the board members received articles from the board’s attorney they could use to create the District’s bylaws. On April 11, 2021, the board held a meeting without giving public notice; in this meeting, the board approved a set of bylaws to use as its internal operating rules. We reviewed the bylaws adopted by the board and compared it to state law¹⁹ and identified multiple items in the bylaws that did not comply with state law. The changes are listed in the table below:

Comparison of State Law to Bylaws			
State Law		Bylaws	
La. R.S. 33:9097.21 Section Number	Law	Bylaw Section Number	Rule
D.1.a	The board of directors of the Southern Heights Property Owners Association, Inc. shall appoint three members.	Article III 3.1	Two members appointed by the board of directors of the Homeowners Association.
		Article III 3.1.2	One member appointed by the Mayor-President of Baton Rouge
D.2	All members of the board shall own property and reside within the district.	Article III	Each commissioner must own immovable property within the district and be a registered voter.

Comparison of State Law to Bylaws			
State Law		Bylaws	
La. R.S. 33:9097.21 Section Number	Law	Bylaw Section Number	Rule
D.3.a	Terms of members appointed by the Southern Heights Property Owners Association shall be two years.	Article IV 4.4.1	The initial terms of office for the commissioners shall be one, two, three, or four years. Two members shall serve two years, two shall serve three years, and one shall serve four years determined by lot at the first meeting of the Board. Subsequent terms shall be four years.
D.3.b	Terms of members appointed by all other appointers shall be three years.		

Mr. Glasper stated that the board’s attorney did not review the bylaws prior to adoption. He said the District did not have funds available to pay her to review the bylaws, so the board members did what they could with what they had. Because the District is operating using bylaws that contradict the legislation that created the district, the board may have violated state law.¹⁹

Recommendations

We recommend the board:

1. Adopt an annual budget for the general fund as required by the Local Government Budget Act (LGBA) that includes the following:
 - a. A budget message signed by the budget preparer, which includes a summary description of the proposed financial plan; policies; and objectives, assumptions, budgetary basis, and a discussion of the most important features;
 - b. A statement for the general fund showing the estimated fund balances at the beginning of the year; estimates of all receipts

- and revenues to be received; revenues itemized by source; recommended expenditures itemized by agency, department, function, and character; other financing sources and uses by source and use; and the estimated fund balance at the end of the fiscal year;
- c. The budget in (b) above should include a clearly presented side-by-side detailed comparison of such information for the current year;
 - d. A proposed budget adoption instrument (resolution) that defines the authority of the chief executive and administrative officers to make changes without approval of the board, as well as those powers reserved solely to the governing authority;
 - e. The proposed budget must be made available for public inspection no later than 15 days prior to the beginning of the fiscal year (January 1);
 - f. All actions necessary to adopt, finalize, and implement the budget must be done in open meeting and completed before the end of the prior fiscal year; and
 - g. Certified copies of the budget and adoption instrument must be retained by the mayor or town clerk.
2. Review all requirements of the LGBA with legal counsel and obtain the training needed to ensure consistent compliance with the LGBA;
 3. Comply with the provisions of the Open Meetings Law;
 4. Review all requirements of Open Meetings Law with legal counsel and obtain the training needed to ensure consistent compliance with the law; and
 5. Review all requirements of Louisiana Revised Statute 33:9097.21 with legal counsel to ensure bylaws are consistent and in compliance with the statute.

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La. R.S.) 39:1305(A)** states, "Each political subdivision shall cause to be prepared a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund and each special revenue fund."

² **La. R.S. 39:1311(C)** states, "The adopted budget and any duly authorized amendments required by this Section shall constitute the authority of the chief executive or administrative officers of the political subdivision to incur liabilities and authorize expenditures from the respective budgeted funds during the fiscal year."

³ **La. R.S. 39:1305(C)** states, in part, "The budget document setting forth the proposed financial plan for the general fund and each special revenue fund shall include the following: (1) A budget message signed by the budget preparer which shall include a summary description of the proposed financial plan, policies, and objectives, assumptions, budgetary basis, and a discussion of the most important features. (2)(a) A statement for the general fund and each special revenue fund showing the estimated fund balances at the beginning of the year; estimates of all receipts and revenues to be received; revenues itemized by source; recommended expenditures itemized by agency, department, function, and character; other financing sources and uses by source and use; and the estimated fund balance at the end of the fiscal year. Such statements shall also include a clearly presented side-by-side detailed comparison of such information for the current year, including the fund balances at the beginning of the year, year-to-date actual receipts and revenues received and estimates of all receipts and revenues to be received the remainder of the year; estimated and actual revenues itemized by source; year-to-date actual expenditures and estimates of all expenditures to be made the remainder of the year itemized by agency, department, function, and character; other financing sources and uses by source and use, both year-to-date actual and estimates for the remainder of the year; the year-to-date actual and estimated fund balances as of the end of the fiscal year; and the percentage change for each item of information..."

⁴ **La. R.S. 39:1305(D)** states, "A budget proposed for consideration by the governing authority shall be accompanied by a proposed budget adoption instrument. The budget adoption instrument for independently elected parish offices shall consist of a letter from the independently elected official authorizing the implementation of the adopted budget. The budget adoption instrument for any municipality, parish, school board, or special district shall be an appropriation ordinance, adoption resolution, or other legal instrument necessary to adopt and implement the budget document. The adoption instrument shall define the authority of the chief executive and administrative officers of the political subdivision to make changes within various budget classifications without approval by the governing authority, as well as those powers reserved solely to the governing authority."

⁵ **La. R.S. 39:1306(A)** states, in part, "The proposed budget for political subdivisions with a governing authority including municipalities, parishes, school boards, and special districts shall be completed and submitted to the governing authority of that political subdivision and made available for public inspection as provided for in R.S. 39:1308 no later than fifteen days prior to the beginning of each fiscal year..."

⁶ **La. R.S. 39:1309** states, in part, "(A) All action necessary to adopt and otherwise finalize and implement the budget for a fiscal year, including the adoption of any amendments to the proposed budget, shall be taken in open meeting and completed before the end of the prior fiscal year...(D) Upon adoption, certified copies of the budget and adoption instrument shall be transmitted to and retained by the chief executive or administrative officer..."

⁷ **La. R.S. 42:14(A)** states, "Every meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:16, 17, or 18."

⁸ **La. R.S. 42:13** states, in part, "...(2) 'Meeting' means the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power. It shall also mean the convening of a quorum of a public body by the public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction or advisory power. (3) 'Public body' means village, town, and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operating utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision subcommittee of these bodies enumerated in this paragraph. (4) 'Quorum' means a simple majority of the total membership of a public body..."

⁹ **La. R.S. 42:19 (A)(1)(b)(i)** states, "All public bodies...shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, before the meeting."

¹⁰ **La. R.S. 42:19 (A)(2)** states, in part, "Written public notice given by all public bodies, except the legislature and its committees and subcommittees, shall include, but need not be limited to: (a) Posting a copy of the notice at the principal office of the public body holding the meeting, or if no such office exists, at the building in which the meeting is to be held; or by publication of the notice in an official journal of the public body no less than twenty-four hours, exclusive of the Saturdays, Sundays, and legal holidays, before the scheduled time of the meeting. If the public body has a website, additionally by providing notice via the Internet on the website of the public body for no less than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, immediately preceding the meeting..."

¹¹ **La. R.S. 42:19 (A)(1)(b)(ii)(aa)** states, "Such notice shall include the agenda, date, time, and place of the meeting. The agenda shall not be changed less than twenty-four hours, exclusive of Saturdays, Sundays, and legal holidays, prior to the scheduled time of the meeting."

¹² **La. R.S. 42:19 (A)(1)(b)(ii)(bb)** states, in part, "Each item on the agenda shall be listed separately and described with reasonable specificity..."

¹³ **La. R.S. 42:19 (A)(1)(b)(ii)(cc)** states, "Upon unanimous approval of the members present at the meeting of a public body, the public body may take up a matter not on the agenda. Any such matter shall be identified in the motion to take up the matter not on the agenda with reasonable specificity, including the purpose of the addition to the agenda, and entered into the minutes of the hearing. Prior to any vote on the motion to take up a matter not on the agenda by the public body, there shall be an opportunity for public comment on any such motion in accordance with R.S. 42:14 or 15. The public body shall not use its authority to take up a matter not on the agenda as a subterfuge to defeat the purposes of this Chapter."

¹⁴ **La. R.S. 42:16** states, in part, "A public body may hold executive sessions upon an affirmative vote, taken at an open meeting for which notice has been given pursuant to R.S. 42:19, of two-thirds of its constituent members present. An executive session shall be limited to matters allowed to be exempted from discussion at open meetings by R.S. 42:17; however, no final or binding action shall be taken during an executive session. The vote of each member on the question of holding such an executive session and the reason for holding the executive session shall be recorded and entered into the minutes of the meeting..."

¹⁵ **La. R.S. 42:17** states, in part, "(A) A public body may hold executive session pursuant to R.S. 42:16 for one or more of the following reasons: (1) Discussion of the character, professional competence, or physical or mental health of a person... (2) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigation position of the public body. (3) Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices, including discussions concerning cybersecurity plans, financial security procedures, and assessment and implementation of such plans or procedures. (4) investigative

proceedings regarding allegations of misconduct... (10) or any other matters now provided for or as may be provided for by the legislature.”

¹⁶ **La. R.S. 42:12 (A)** states, “It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of this Chapter shall be construed liberally.”

¹⁷ **La. R.S. 42:14 (D)** states, in part, “... each public body conducting a meeting which is subject to the notice requirements of R.S. 42:19(A) shall allow a public comment period at any point in the meeting prior to action on an agenda item upon which a vote is to be taken. The governing body may adopt reasonable rules and restrictions regarding such comment period.”

¹⁸ **La. R.S. 42:20** states, in part, “(A) All public bodies shall keep written minutes of all of their open meetings... (B)(1) The minutes shall be public records and shall be available within a reasonable time after the meeting, except where such disclosures would be inconsistent with R.S. 42:16, 17, and 18, or rules adopted under the provisions of R.S. 42:21. (2) If the public body has a website, the public body shall post on its website a copy of the minutes made available pursuant to Paragraph (1) of this Subsection and shall maintain the copy of those minutes on the website for at least three months after the posting...”

¹⁹ **La. R.S. 33:9097.21** states, in part, “(A) Creation. There is hereby created within the parish of East Baton Rouge, as more specifically provided in Subsection B of this Section, a body politic and corporate which shall be known as the Southern Heights Neighborhood Crime Prevention and Improvement District, hereinafter referred to as the “district”. The district shall be a political subdivision of the state as defined in the Constitution of Louisiana... (D) Governance. (1) The district shall be governed by a board of commissioners consisting of seven members as follows: (a) The board of directors of the Southern Heights Property Owners Association, Inc., shall appoint three members. (b) The member or members of the Louisiana House of Representatives who represent the area which comprises the district shall appoint one member. (c) The member or members of the Louisiana Senate who represent the area which comprises the district shall appoint one member. (d) The assessor for the parish of East Baton Rouge shall appoint one member. (e) The metro council member or council members who represent the district shall appoint one member. (2) All members of the board shall own property and reside within the district. (3)(a) The terms of the members appointed pursuant to Subparagraph (1)(a) of this Subsection shall be two years. (b) The terms of the members serving pursuant to Subparagraphs (1)(b) through (e) of this Subsection shall be three years...”

APPENDIX A

Management Chose not to Respond to the Findings