

STATE OF LOUISIANA
LEGISLATIVE AUDITOR

City of Leesville
Leesville, Louisiana

June 10, 1998



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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City of Leesville

June 10, 1998



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
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June 10, 1998

HONORABLE JAMES SHAPKOFF, JR., MAYOR
CITY OF LEBUSVILLE

Lebenville, Louisiana

Transmitted herewith is our investigative report on the City of Lebenville. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations, as well as your responses. Copies of this report have been delivered to the City of Lebenville, the Honorable William E. Tilley, District Attorney for the Thirtieth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

Ernest C. Austin, CPA
First Assistant Legislative Auditor

AFB/MI

(2000)

Executive Summary

City of Leesville Investigative Audit Report

The following summarizes the findings and recommendations as well as management's responses that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's response may be found at Attachment 1.

Mayor Has Private Property Condemned and Then Purchases It

(Page 1)

- Finding:** Mayor James Shapkoﬀ, Jr., had private property condemned, and then purchased that property for his personal use.
- Recommendation:** We recommend that Mayor Shapkoﬀ not purchase property, which the City of Leesville has condemned. We also recommend that the City of Leesville establish policies and procedures that will prevent such actions. Furthermore, we recommend that the Louisiana Board of Ethics review this information and take appropriate action.
- Management's Response:** Mayor Shapkoﬀ states that although he purchased condemned property, there was no attempt to force the sale of the property, or to get the property at a price below market.
-

Mayor Improperly Reduced Water, Sewer, and Related Tax and Late Fees for Tower Trailer Park

(Page 2)

- Finding:** Mayor James Shapkoﬀ, Jr., may have violated Article VII, Section 14 of the Louisiana Constitution by reducing Tower Trailer Park's water, sewer, and related tax and late charges by \$12,373.

On May 14, 1998, Mayor Shapkoﬀ asked Mr. Morris to reimburse the City for the amount of the adjustments to Tower's water bills. The City received a check from Tower on May 14 for \$12,000. The City deposited the check, noted that the

account was paid in full, and refunded \$1,052 to Mr. Morris as an overpayment.

Recommendation: We recommend that the City of Louisville establish and implement policies regarding the circumstances under which adjustments may be made to water bills and the level of authorization necessary for such adjustments.

Management's Response: Mayor Shuckoff states that these adjustments were proper and did not believe that Tower Trailer Park's water bill reflected its water consumption fairly. Therefore, Mayor Shuckoff adjusted these bills to better represent the water usage of Tower Trailer Park.

Background and Methodology

On August 28, 1997, the Office of the Legislative Auditor received allegations related to the City of Leesville.

We conducted our investigation to obtain additional information regarding these allegations. Our procedures consisted of (1) interviewing employees and officials of the City of Leesville; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the City of Leesville; (4) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (5) reviewing applicable Louisiana laws.

The results of our investigation are the findings and recommendations presented herein.

Findings and Recommendations

MAYOR HAS PRIVATE PROPERTY CONDEMNED AND THEN PURCHASES IT

Mayor James Shapkoﬀ, Jr., had private property condemned, and then purchased that property for his personal use.

Mayor James Shapkoﬀ, Jr., was elected mayor and assumed oﬃce on June 29, 1993. Records obtained from the Vernon Parish Clerk of Court, Vernon Parish Assessor's Oﬃce, and the City of Leesville, and information obtained from Mr. Ernest Gilbert, the former Code and Tax Enforcer for the City of Leesville, indicate that Mayor Shapkoﬀ purchased property after having it condemned.

City records show that two structures on Magnolia Street were condemned by the City of Leesville, the ﬁrst on April 11, 1993. This structure was removed on September 1, 1994, by the city at a cost of \$160 to the taxpayers. According to former City of Leesville Code and Tax Enforcer Ernest Gilbert, the remaining structure, which was condemned on September 2, 1994, was still standing when Mayor Shapkoﬀ purchased the property on January 24, 1995.

Mr. Gilbert explained to us that Mayor Shapkoﬀ instructed him to condemn the Magnolia Street property because it was behind his moving and storage company and was an eye sore. Mr. Gilbert explained that after Mayor Shapkoﬀ purchased this property, he (Gilbert) had to remind Mayor Shapkoﬀ repeatedly that the building was condemned and must be removed. Mr. Gilbert said that after several reminders Mayor Shapkoﬀ complied and had the remaining building removed. However, Mayor Shapkoﬀ stated that Mr. Gilbert never asked him or sent him reminders demanding the removal of the structure. According to Mayor Shapkoﬀ, he had the building removed soon after he purchased the property. Records indicate that Mayor Shapkoﬀ had the remaining structure removed on August 8, 1995.

Vernon Parish Assessor's records indicate that on January 24, 1995, Mayor Shapkoﬀ purchased the Magnolia Street property from Ms. Muri Phillips Grigby for \$3,800. The property is behind Mayor Shapkoﬀ's moving and storage company. According to Ms. Grigby, Mayor Shapkoﬀ had tried for years to get her mother, Ms. Catharine Phillips, to sell the property; however, Ms. Phillips would not sell. Ms. Grigby said that after her mother passed away, she received a condemnation notice in the mail explaining that if she did not remove the condemned structures, the city would charge her for the removal. Ms. Grigby told us that she could not aﬀord the cost of removing the condemned structures, so she sold the property to Mayor Shapkoﬀ. She added that she asked approximately \$10,000 for the property, but got only \$3,800. She stated that Mayor Shapkoﬀ told her that the property was condemned, and that was all it was worth.

Mayor Shapkoﬀ first told us that he had never purchased any condemned property. He indicated that it was his understanding that it was against the law for a mayor to buy condemned property. However, when we confronted him with the records of those transactions, he stated that what he had told us previously was not entirely true. Mayor Shapkoﬀ told us that he had purchased land behind his moving company in hopes of expanding his business. Mayor Shapkoﬀ stated that he had been interested in Ms. Phillips' property for quite a while, but Ms. Phillips would not sell. When she passed away, her daughter, Ms. Griggley, sold him the property. Mayor Shapkoﬀ said that he was not sure when the property was condemned, but that he used personal funds to remove the structures.

These actions indicate possible violations of the following state laws:

- R. S. 42:1102, "Prohibited Participation in Certain Transactions"
- R. S. 42:1103, "Prohibited Contractual Arrangements"

We recommend that Mayor Shapkoﬀ not purchase property, which the City of Leesville has condemned. We also recommend that the City of Leesville establish policies and procedures that will prevent such actions. Furthermore, we recommend that the Louisiana Board of Ethics review this information and take appropriate legal action.

MAYOR IMPROPERLY REDUCED WATER, SEWER, AND RELATED TAX AND LATE FEES FOR TOWER TRAILER PARK

Mayor James Shapkoﬀ, Jr., may have violated Article VII, Section 14 of the Louisiana Constitution by reducing Tower Trailer Park's (Tower) water, sewer, and related tax and late charges by \$12,373.

The City of Leesville provides water and sewer services to customers within its corporate boundaries and bills for these services on a monthly basis. Accounts are occasionally reduced for incorrectly read meters.

Mayor Shapkoﬀ reduced Tower's city water bills eight times between August 1995, and August 1997, without providing documented explanations for the reductions.

According to his, Loo Pearl Kennedy, City Revenue Collector, Tower had some problems with the city's meter readers. When the problems occurred, Mayor Shapkoﬀ told her to reduce Tower's water and sewer bills. For several months thereafter, Mayor Shapkoﬀ continued to instruct her to reduce Tower's water and sewer bills without any explanation for the adjustments. She added that sometimes Mayor Shapkoﬀ reduced the utility bill by as much as half. Ms. Kennedy told us that since Tower had so many leaks in their water lines, she considered their utility bills appropriate.

Mayor Shapkoﬀ's letter dated February 13, 1997, to Mr. Roger Morris, owner of Tower, stated that "each utility customer has and will continue to be expected to pay their water bill in full as calculated by the meter reading." However, even after this letter, Tower's bills were adjusted by approximately \$1,058.

When we asked Mayor Shapkoﬀ about the adjustments, he told us that he did adjust Tower's water and sewer bills. He further stated that he adjusted these bills because Tower had serious problems with its water and sewer lines, and he (Mayor Shapkoﬀ) did not believe the water bills should have been that high. A letter dated July 20, 1998, from Mr. Sunny Martin, Director of Public Works for the City of Louisville, to Mr. Morris stated that 48 leaks were identified on the property of the Tower Trailer Park. Management pointed out in its response that these leaks referred to the sewer lines, not the water lines. We spoke with Mr. Martin who also verified that his letter pointed out the leaks in the sewer lines only.

These actions indicate a possible violation of Article VII, Section 14 of the Louisiana Constitution, "Donation of Public Assets."

On May 14, 1998, Mayor Shapkoﬀ asked Mr. Morris to reimburse the City for the amount of the adjustments to Tower's water bills. The City received a check from Tower on May 14 for \$12,000. The City deposited the check, noted that the account was paid in full, and refunded \$1,052 to Mr. Morris as an overpayment.

We recommend that the City of Louisville establish and implement policies regarding the circumstances under which adjustments may be made to water bills and the level of authorization necessary for such adjustments.

Attachment I
Management's Response

May 28, 1968

Mr. Daniel G. Kyle, CPA, CFE
Office of Legislative Auditor
State of Louisiana
Post Office Box 84307
Baton Rouge, Louisiana 70804-6307

RE:

Dear Dr. Kyle:

I reviewed the preliminary draft of the findings and recommendations that you forwarded to me, and have the following response.

I. Condemnation

With respect to the issue of condemnation, it has never been my intention to purchase property that was condemned by the City of Leesville. You must realize that since I have been the Mayor of Leesville, more than 400 structures have been condemned. Therefore it is certainly easy to understand why no individual who was on the council would recall the name of each and every owner of all the parcels of property on which structures have been condemned. I have never directed any City personnel to take any action that was outside the scope of the authority of that individual or contrary to the ordinances of the City of Leesville or the laws of the State of Louisiana.

An examination of the details of the transaction in question would reveal several factors which do not appear to be contained in your findings and recommendations.

1. The property in question contained at least three (3) different structures. If it had been my intention to force the condemnation for personal gain, why would the first structures have been condemned in April, 1963, and the remaining structure not condemned until approximately eighteen (18) months later?
2. An appraisal of the parcel in question would reveal that it is worth much less than what I actually paid for it. I paid \$5,800.00 to the owner and had to spend more than an additional \$1,400.00 in costs to remove one of the remaining condemned structures, to clean the property, to pay legal expenses and taxes on the property. I have

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Therefore paid more than \$5,000.00 for a piece of property that is less than one (1) acre in size, when adjoining property has sold in the recent past for approximately \$1,000.00 an acre.

3. The property in question does not adjoin any property owned by me or any companies in which I have an interest. On examination of the ownership of the surrounding property will reveal that my primary competitor, Sam Williams, owns a track of land which is interposed between my present moving and storage facility, and that parcel which is the subject of your investigation. Additionally, a public road is between Mr. Williams' property and the parcel in question. Therefore, it does not join any of my property.
4. I, to date, have found no use for the property in question, and it is being used by me at the present time solely to grow weeds. It is not a significant parcel, and serves no purpose in "expanding my business".

At the time the votes were taken to condemn the property in question, I had no economic interest at all in the property in question, nor have I entered into any contract nor any other transaction with the City with regard to this property. Therefore, I do not believe that any violation of law has occurred.

However, in order to make certain that neither I nor any other official or employee of the City of Leesville has any similar problems in the future, after consultation with the City Attorney, the City has taken steps to make certain that Louisiana Law and the Leesville City Ordinances dealing with condemnation are strictly complied with, and that the Mayor and City Council be briefed by the City Attorney with regard to the requirements of the Code of Governmental Ethics and that Codes prohibition of contractual agreements or transactions between public servants and the City as well as the prohibition of all City Officials benefitting in any economic fashion whatsoever from any transactions in which the City may be involved.

Although I do not believe that I did anything wrong with regard to the purchase of the property in question, I do not personally want to go through a similar investigation in the future nor do I want any other City of Leesville Officials to suffer through such an investigation.

II. A reduction of water rates for Tower Trailer Park

I have contended from the outset of your investigation that I acted appropriately in adjusting the water rates charged by the City of Leesville to Tower Trailer Park. During the time in question, the City was having substantial difficulties with the meter readers. The services of a company with whom the City had contracted were terminated due to the problems with the inaccurate readings. Additionally, I was advised by a plumber who

checked the lines in question that there were no leaks on the Tower Trailer Park side of the meter.

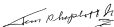
Accordingly, I could only conclude that there was some error made in the reading of the meter in question, and I therefore thought it appropriate to adjust the bill.

Although I thought the action taken by the City in reducing the bills was appropriate, upon my request to the owner of the Trailer Park, Roger Morris, he promptly made payment in full to the City in an amount sufficient to pay the City the amount of the adjustments made to the water bills in question. The City has therefore, as of May 14, 1988, been paid in full for the adjustments which were the subject of this investigation. The City has been made whole.

I have requested the Leesville City Attorney to draft appropriate rules and regulations governing these matters, and he has advised me that he has reviewed a recent Attorney General's Opinion on the subject, and will draft guidelines in accordance with that opinion and the appropriate section of the Louisiana Constitution. Those rules will be submitted to the City Council, and subject to the Council's approval, will be implemented in the very near future.

I acknowledge that the City should not adjust water bills in the absence of proof that the meter is malfunctioning or there were incorrect readings.

I acknowledge further that I did not document my reasons to the Finance Office when I gave the instructions to adjust the water and sewer bills in question. I assure you that if any adjustments are deemed to be appropriate in the future such matters will be fully documented.



P.S. REFERENCE-LAND PURCHASE:

When brought to my attention about a loan owed to the city in the amount of \$560.00, I paid it immediately on March 23, 98.

Attachment II
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

R.S. 42:1112(A) provides that no 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.

R.S. 42:1114(A) provides, in part, that no public servant or member of such a public servant's immediate family, or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

Article VIII, Section 14 of the Louisiana Constitution provides 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.

