



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

July 29, 2005

Mayor Tom Guidugli
998 Monmouth Street
Newport, Kentucky 41071

RE: Completion of Examination—Inaugural Reception

Dear Mayor Guidugli:

We have completed our examination of the inaugural swearing-in ceremony and inaugural reception held for the city commissioners of the City of Newport (City) on January 3, 2005, at the Coconut Grove in the City, and paid for with public funds from the City. This examination was initiated as a result of information provided to our office from concerned citizens and local news media.

We examined specific documentation requested from the City in our letter dated June 6, 2005. This documentation included public notices of the inaugural ceremony, a copy of an invitation to the inaugural ceremony, a list of invitees to the inaugural ceremony, City commission meeting minutes, and a written explanation for the reception following the inaugural ceremony. We also interviewed the City Manager to gain an understanding of the purpose and planning of the inaugural reception following the ceremony, and to gather information about other City-related business.

According to documentation provided by the City, in addition to distributing to numerous media outlets the public notice of the regular meeting of the City's Board of Commissioners announcing the inaugural swearing-in ceremony of members of the Board, the City mailed 333 separate invitations to various individuals and entities, inviting them to attend the inauguration ceremony. Invitees sent invitations included City volunteers and employees, Commission members, businesspersons and developers, elected officials, members of the media, and other business and economic development organizations in the City and surrounding area. The City Manager stated that most of these individuals were specifically invited to continue the partnerships and relationships, including the economic relationships between the City and these individuals and entities they represented, which contribute to the City's economic success.

We noted a distinction between the separate invitations mailed and the public notice distributed by the City for the event. The invitations indicate that a reception would immediately follow the inauguration proceedings, while the public notice of the Board meeting did not mention a reception. The City Manager stated that he could not explain why the reception was noted on the invitations but not on the public notice.



Although invitations were mailed to selected individuals and entities, the City Manager stated that invited attendees did not have to present their invitations to attend the reception. He further told us that anyone could have attended the reception because it was open to the public.

The question is whether it was allowable to spend public funds for an inaugural reception, which immediately followed an inauguration ceremony that took place at the same location as a well-publicized, regular, public meeting of the Board, but for which invitations to the reception, also paid for with public funds, were sent only to selected individuals and entities.

KRS 82.082 states, “[a] city may exercise any power and perform any function within its boundaries . . . that is in furtherance of a public purpose of the city and not in conflict with a constitutional provision or statute.” Section 179 of the Kentucky Constitution (Constitution) states, in part, “[t]he General Assembly shall not authorize any . . . city . . . to . . . obtain or appropriate money for, or to loan its credit to, any corporation, association or individual . . .” Section 3 of the Constitution states, in part, “no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services . . .”

Kentucky’s highest court has stated, in *Funk v. Milliken*, Ky., 317 S.W.2d 499 (1958), that, to be allowable, expenditures of public funds by county officials must be necessary, reasonable in amount, beneficial to the public, not predominantly personal in nature, and supported by adequate documentation. In *Dannheiser v. City of Henderson*, Ky., 4 S.W.3d 542 (1999), the Kentucky Supreme Court held that expending public funds to enhance economic development in the area can be considered as expending the funds for a public purpose. It appears that the reception was open to the public and included invitees that could further economic development within the City. Expending public funds, therefore, on the inaugural reception and on the invitations for the reception were for the public purpose of enhancing economic development in the City, and appears not to violate Sections 3 or 179 of the Constitution.

While it appears that the expenditures for the inaugural ceremony and reception do not violate the Constitution, the omission of any reference to the reception on the public notice of the inaugural ceremony, combined with the notice of the reception being included on the invitations to the event do create the appearance that the inaugural reception was a private event paid for with public funds.

We strongly recommend that public notices and invitations to all City events paid for with public funds contain the same language.

In addition to examining the propriety of the inaugural reception expenses, we requested information regarding the use of excess funds generated by the City as host of various events, such as *Italianfest* and *Riverfest*. According to the City Manager, the excess funds generated from these events are used to pay extraordinary expenses of the City. These expenses include

Mayor Guidugli
July 29, 2005
Page 3

the costs of the City employee Christmas luncheon and other employee recognition expenditures (e.g., employee of the month gift certificates, in nominal amounts). The City Manager told us that the City budgets an anticipated amount into the City budget for these expenditures and expends these funds without a formal policy.

We question the necessity of the City's expenditures for employee recognition and Christmas luncheons. Public expenditures that are predominantly personal in nature and without a public benefit do not appear to be allowable expenditures of public funds under Kentucky law.

We recommend the City scrutinize its practice of employee recognition expenditures and determine whether these expenditures are necessary and beneficial to the public. Should the City continue to expend City funds to recognize employees, we recommend the City adopt a formal policy detailing the recognition selection process and the allowable costs and awards for recognizing its employees for work performed.

We appreciate the assistance of City personnel during the performance of our examination. Should you have any questions, please contact me at (502) 573-0050.

Sincerely,

A handwritten signature in cursive script that reads "Brian Lykins".

Brian Lykins, Director
Division of Examination and Information Technology

BL:JH:kct