

**EXAMINATION OF CERTAIN POLICIES, PROCEDURES,
AND FINANCIAL ACTIVITY OF THE
CITY OF WHITESBURG, KENTUCKY**



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December 20, 2017

James Craft, Mayor
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38 E. Main Street
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The Auditor of Public Accounts (APA) has completed its examination of the City of Whitesburg (City). This letter summarizes the procedures performed and communicates the results of those procedures.

Examination procedures included interviewing staff concerning the City's environment and operating activities; reviewing financial transactions associated with the City for the time period of January 1, 2014 through April 1, 2017, except when otherwise noted; and reviewing additional financial activity of the City.

The purpose of this examination was not to provide an opinion on the financial statements, but to ensure appropriate processes are in place to provide strong fiscal management and oversight of the financial activity of the City and to review specific issues brought to the attention of this office.

Detailed findings and recommendations based on our examination are presented in this report to assist all parties involved in implementing corrective action. Overall, these findings identify poor fiscal management; failure to obtain required annual audits; inconsistent compliance with state and City laws, policies, and procedures; and ethics concerns. Due to the issues noted, this report will be referred to the Kentucky Office of the Attorney General and the City of Whitesburg Board of Ethics for consideration.

If you have any questions or wish to discuss this report further, contact me or Libby Carlin, Executive Director.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike H.", written over a horizontal line.

Mike Harmon
Auditor of Public Accounts



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Examination of the City of Whitesburg, Kentucky

Examination Objectives

The Auditor of Public Accounts (APA) initiated a special examination of the City of Whitesburg (City) in response to concerns received. The purpose of this examination was to evaluate certain financial activities and other operations of the City to ensure appropriate processes are in place to provide strong fiscal management and oversight of the City's financial activity, and to review specific issues brought to the attention of this office. The examination was not for the purpose of providing an opinion regarding the City's financial statements. Any weaknesses identified by the APA as part of this special examination are presented in this report, along with recommendations to ensure that the City's operations are appropriate and transparent.

During the examination, the APA conducted the following procedures:

- Review of policies, ordinances, and council meeting minutes.
- Analysis of accounting records and other internal financial information, bank statements, invoices, prior-year audits, and tax documentation.
- Interviews with the Mayor, the City Clerk, the Chief of Police, City Council members, and other City personnel.
- Other procedures as necessary.

Unless otherwise indicated, the examination covered activities from January 1, 2014 through April 1, 2017. The APA reviewed items outside of this time period as necessary to develop information regarding the issues identified without expanding the scope of the examination.

City of Whitesburg Background

The City has a population of 2,139 and is the county seat of Letcher County in southeastern Kentucky. The City follows the Mayor-Council plan, which is the most common structure for governance used by cities in Kentucky. The distinguishing characteristic of this form of city governance is a strict separation of powers between the executive branch, which is the Mayor, and the legislative branch, which is the City Council. The current Mayor was first elected in 2006 and has been re-elected to serve two additional four-year terms. The City Council consists of six elected members, each serving a two-year term.

The City provides water and sewer treatment services to City residents through the Whitesburg City Water and Sewer Department, a department of the City. The City also sells water to some residents in Letcher County who live outside the city limits.

Findings and Recommendations

Finding 1: The City Failed To Properly Manage Its Water Utility Accounts, Resulting In Excessive Delinquent Accounts Totaling \$356,814 As Of February 2017, And Increased Risk Of Fraud And Abuse

The City's water utility billing and collection processes have significant weaknesses, resulting in more than \$350,000 in delinquent accounts. The weaknesses impaired the City's ability to investigate and collect the amounts due. Also, the failure to address problems as they were identified, such as erroneous meter readings, resulted in an environment in which adjusting customer billings without proper investigation,

Executive Summary (Continued)

documentation, or approval was the norm rather than the exception. As of February 21, 2017, the City's water billing system identified almost 20 percent of the City's water accounts were past due by 90 days or more. Many of the largest delinquent account balances included in the City's delinquent account report were not residential customers - they were accounts held by local governments and businesses. City records also listed one business owned by the City Attorney as having a delinquent balance of \$22,785 as of February 21, 2017. Additionally, three City employees and one member of the City Council had residential water accounts listed as delinquent as of February 2017. These delinquencies totaled more than \$2,600, indicating the City did not have a standard practice of collecting delinquent accounts even from individuals directly associated with it. The City had significant errors in its water meter readings, reportedly due in part to inaccurate readings recorded by a former meter reader. While the City indicates adjustments were made to address specific issues, the customer accounts often lacked documentation supporting the necessity of the adjustments or authorization of the adjustment by a supervisor. The City does not have an adequate process for investigating billing discrepancies.

Recommendations:

Immediately start investigating and reconciling all past due accounts. Implement sound procedures for collecting all accounts receivable, and implement a consistent process for the treatment of past-due accounts, including fines and service disruptions as approved by the City Council. Implement policies and procedures regarding the adjustment of water utility accounts. We further recommend the City Council consider implementing collection policies specifically related to employees, contractors, and council members or their businesses with past due accounts.

Finding 2: The City Routinely Failed To Meet Statutory Audit And Other Financial Reporting Requirements, Resulting In Over \$92,000 In Municipal Road Aid Funds Being Withheld

The City routinely failed to meet statutory requirements related to external financial reporting, including failure to obtain and publish annual financial statement audits and to submit its annual UFIR. The City's noncompliance with these requirements during the examination period resulted in \$92,973 of Municipal Road Aid (MRA) funds being withheld from the City. Because the City was far behind on meeting its audit requirements, the City decided to forego audits of its FY 2010, 2011, and 2012 financial activity and instead obtain audits of more recent fiscal years. This is concerning because even though the audits are required, there does not appear to be an effective statutory mechanism to penalize the City management for failing to obtain them.

Recommendations: We recommend the City take action to ensure timely compliance with KRS 91A.040(1) by having the City's financial statement audits completed each fiscal year. In addition, we recommend the City comply with the provisions of KRS 65.905 by submitting its required UFIRs to DLG timely. We further recommend the General Assembly consider amending KRS 91A.040 to add a more effective mechanism to enforce the statutory audit requirements for cities.

Finding 3: The City Did Not Identify All Businesses Requiring A Business License, Nor Collect Required Licensing Fees From A Large Number Of Businesses, Including The Mayor's Law Practice Operated Out Of City Hall

The City did not have an adequate process in place to monitor and collect fees for the City's business licenses. City records indicated that the Mayor did not obtain a business license for calendar year (CY) 2015 or 2016 for the private law practice he operated from his office at City Hall. Another problem leading to poor license

Executive Summary (Continued)

fee collection is confusion over who is responsible for collecting delinquent fees and the consequences for failing to pay. The former Tax Clerk indicated she is not responsible for the collection of delinquent or unpaid business license fees, and instead that is a responsibility of the Police Chief. However, the Police Chief, who has held this position since 2011, indicated that he had never received a delinquent business license fee list prior to the former Tax Clerk creating such a list and providing it to him during the APA's examination. City employees indicated the major causes of the collection problem were difficulty identifying businesses required to obtain the licenses and tracking license payments. Regarding two of the businesses that were not billed by the City, a City employee explained that the Mayor did not agree that either business was required to have a license.

Recommendations: We recommend the City review and consider amendments to revise and update its Code of Ordinance regarding the annual occupational license tax. The City should develop procedures for better identifying all businesses required to obtain a business license, as well as procedures for improving the monitoring of business licenses issued and paid. The business license requirements should be clearly established by ordinance rather than left to the discretion of city officials.

Finding 4: The City Collected And Expended ABC Funds In Violation Of State Law

Until June 2016, the City collected Alcohol Beverage Control (ABC) regulatory licensing fees assessed on gross receipts of food and alcohol sales from restaurants located within the city limits licensed to sell alcoholic beverages under the ostensible authority of KRS 243.075. In 2014, KRS 243.075 was revised to authorize collection of these fees only on the gross receipts of the sale of alcoholic beverages. In spite of the statutory change, City ordinances were not updated for over 23 months, which resulted in collection of fees no longer authorized by statute. Additionally, the City spent over \$58,500 in

ABC fees on questionable or disallowed expenditures, including more than \$39,500 for holiday events, gift cards, and food for City employees and others over a two-year period and over \$19,000 to cover payroll expenses for non-ABC related personnel in CY 2014. Pursuant to KRS 243.075(7), the City's improper collection and expenditure of these ABC regulatory licensing fees could subject the City to civil litigation from the licensees who paid the fees and could jeopardize the City's authority to impose such fees.

Recommendations: Ensure state laws relevant to City operations are identified and followed, including those authorizing the collection of fees and taxes. Ensure City ordinances are reviewed on a regular basis for consistency and compliance with current state statutes. Ensure all expenditures of public funds are allowable by law and are necessary and reasonable for the operations of the City.

Finding 5: The Mayor Received Inappropriate Excessive Benefits, Including Use Of Public Property For His Private Law Practice And Receiving Additional Health Insurance Benefits Beyond Those Received By Other City Employees

The Mayor uses his office in City Hall to operate his private law practice. Although he paid some amount to reimburse the City for using public property for his private business, the amount was nominal when considering the cost he would have incurred to maintain a separate, private office. Additionally, the Mayor receives health insurance benefits beyond those received by other City employees. These practices indicate the Mayor made decisions that gave him personal benefits beyond those permitted by the City's ethics policies and those authorized by City Council. The City Clerk reported that the Mayor has had \$60 withheld from each paycheck as payment to the City for office space, materials, and phone usage since February 10, 2012. In addition to the use of his office space, materials, and phone, a City employee occasionally types legal correspondence for the

Executive Summary (Continued)

Mayor. This work reportedly occurs after City business hours, but in the employee's City office, using City equipment. According to the employee and her City supervisor, this work is not charged to the City, rather the Mayor pays her directly in cash. The City Code of Ethics, established by City Ordinance No. 358 in November 1994, appears to have been violated because the Mayor uses City Hall property for private business gain. The Mayor and City employees contribute the same amount towards the cost of their health insurance. However, the Mayor also received contributions from the City to cover the additional cost of a family plan, while City employees were limited to City contributions for the cost of a single coverage plan. The approximate value of this additional benefit received by the Mayor during the last three fiscal years was over \$50,000 cumulatively. Because the City is paying the additional cost of a family plan for only the Mayor, the City appears to have acted inequitably in providing benefits to employees. The Mayor's actions in utilizing public resources in his private business and establishing a higher health insurance benefit level for himself than authorized for other City employees indicate that he is utilizing his position for private gain. This indication is reinforced by the lack of transparency in these matters, including the failure to report the activities in a public meeting to the full City Council or accurately reflect the details in the City's budget.

Recommendations: We recommend the City evaluate whether a rental relationship with the Mayor's private business is permissible under the City's Code of Ethics. We recommend the Mayor restrict any private use of public resources to those defined under a written agreement with the City, so long as such agreement is consistent with the City's Code of Ethics, City ordinances, and state law. We recommend the City follow the guidance in OAG 94-15 and ensure the same health insurance benefits are offered to the Mayor as to other City employees.

This finding is being referred to the Whitesburg Board of Ethics and the Kentucky Office of Attorney General.

Finding 6: The City's Accounting System Is Inadequate And Impaired The Accountability And Transparency Of Financial Activities, Leading To Noncompliance

The City's accounting system is severely inadequate and leaves the city unable to accurately report financial information or properly monitor its finances. According to the Mayor, financial conditions have not allowed the City to purchase new accounting software. The City Clerk stated she has noticed issues in the City's accounting software over the last few years. The City did not maintain general ledgers or have readily available access to financial reports needed for proper monitoring and management. Requests for financial information, such as the amount spent by a department for a specific purpose, would require the City Clerk or a member of her staff to pull all invoices received for that purpose and manually trace the amount included in the vendor invoices for that specific department in order to derive a total. A local CPA, who has prepared payroll for the City since February 2007, confirmed that he had been engaged by the City to prepare general ledgers and other reports needed by a separate CPA contracted to perform the City's FY 2013, 2014, and 2015 audits. During the examination period, the City failed to provide accurate and timely financial information to the City Council, resulting in violation of several state statutes.

Recommendations: We recommend the City invest in a functional accounting system that increases the accuracy of financial reporting, accountability, and transparency. The City should ensure it purchases appropriate accounting software that will enable compliance with statutory requirements regarding monitoring and reporting its financial information. Additionally, we recommend the City comply with all requirements of KRS 91A.030 regarding annual budgets and the presentation of operating

Executive Summary (Continued)

reports to the City Council, including budgetary comparison reports.

Finding 7: The Contractual Terms Between The City And The City Attorney Are Unclear, And The City Attorney's Compensation Was Not Always Reported To The IRS

The City did not have a written contract with the City Attorney, which made it impossible to verify the agreed-upon terms of his compensation. The Mayor hired the current City Attorney in 2007, his first year in office; however, a written contract or agreement between the City and the City Attorney could not be located by either party. During the course of this examination, despite later stating that the contract may have been verbal instead of written, the City Attorney wrote a letter to the City confirming a written contract's existence and sharing some of the terms and conditions of the contract. The 2007 cover letter indicates that the City Attorney is to receive a \$500 monthly retainer, which will cover up to five hours per month, and that his hourly rate is \$125 plus expenses. In contrast, the 2017 letter submitted to auditors by the City Attorney states that the City Attorney is to receive a monthly retainer fee of \$700. The City Attorney's 2017 letter did not mention a description or scope of services provided as a part of the retainer. Additionally, it appears that there has been a change in the City Attorney's hourly rate since the 2007 letter. The City Attorney submitted invoices to the City during the examination period with an hourly rate of \$175 plus expenses, and listed services provided at this rate as early as February 18, 2011. The City Attorney does not receive his monthly retainer as a direct payment, but instead it is applied toward his inclusion as a subscriber to the City's group health insurance plan. It appears this arrangement goes back as far as June 17, 2007. The City pays the full cost of the premium for the City Attorney's single coverage plan. According to the City Clerk, the City paid a cumulative total of \$22,755.28 during FY 2014, 2015, and 2016 for the City Attorney's health insurance policy.

While the City Attorney indicated that this benefit was in place when he was hired, it is unclear whether the position of City Attorney is eligible to participate in City employee benefits because it is not a full-time position. Professional service contractors, such as a City Attorney, should have current, written contracts in place to establish the responsibilities of both the contractor and the City.

Recommendations: We recommend the City ensure any agreement it enters into is documented in a written contract authorized by City officials in accordance with its administrative policies. The City should maintain a copy of all contracts, along with any amendments, as a part of the City's official record. We also recommend the City seek appropriate guidance regarding the City Attorney's eligibility to participate in its group health insurance plan.

Finding 8: The City Had Poor Internal Controls In Its Water And Sewer Department, Creating Significant Risks Of Fraud And Abuse

Weaknesses regarding the City's water utility billing and collection processes were reported in Finding 1. Factors contributing to these weaknesses included poor internal controls within the City's Water and Sewer Department, including failing to properly segregate duties of employees responsible for billing and collections, utilizing a billing system that did not generate accurate reports, and failing to effectively supervise employees to address known problems. Duties were not properly segregated in the City's water billing and collection processes. There are no policies and procedures available to define responsibilities within City Hall, and as a result, employees work without regard to functions that should not be performed by the same person. For example, one employee is responsible for billing utility customers while also having the ability to adjust utility accounts without subsequent authorization from a supervisor. Also, although more employees are involved in handling customer

Executive Summary (Continued)

receipts, there is no clear delineation of responsibilities, no limitations on other employees' access to the cash collection functions, and poor documentation leading to an ineffective audit trail for investigating and resolving problems. Additionally, bank deposits are made by various individuals, without any documentation of who processed the deposit or took it to the bank. Another weakness that impairs the City's ability to properly account for its water and sewer activities is the use of a billing system that is not reliable for accurate reporting or maintaining sufficient historical records. Combined with the poor internal controls, and little or no policies and procedures, the system weaknesses create an environment in which there is a high risk that fraud and abuse could occur without detection. The City does not have well-defined responsibility for supervision of the meter reader position. As described in Finding 1, a former meter reader was identified as having made numerous mistakes in water meter readings. Failing to have clearly assigned lines of authority in monitoring and supervising employees led to significant problems being overlooked for long periods of time, as was the case with the errors attributed to the former meter reader. These practices also make detecting errors, fraud, or abuse difficult, putting the City's resources at even greater risk.

Recommendations: We recommend the City evaluate all business functions to ensure strong internal controls exist, especially appropriate segregation of duties for financial-related job functions. We recommend the City improve its procedures for billing and collection of water accounts, including ensuring the billing systems used are adequate to meet its processing needs, minimize errors, and provide information that can be used as part of a strong monitoring and oversight plan. We also recommend the City evaluate and clarify the roles and responsibilities of all Water and Sewer Department employees to ensure employees understand their work duties, authority, and supervisory reporting lines.

Finding 9: The City Failed To Have Sufficient Policies And Procedures In Place To Ensure Effective Management Of City Operations

The City did not consistently develop, document, maintain, or distribute policies and procedures on personnel or financial matters to its employees. In addition, the City has not performed a comprehensive review of adopted ordinances to ensure consistency with state law or current City operations. These matters, coupled with obsolete accounting processes and limited supervision and training of financial personnel, place the City at greater risk of abuse or misuse of City resources. Without well-written guidance, there is no formal direction given to employees regarding the controls and safeguards that should be in place to ensure financial transactions are properly handled, recorded, and supported by documentation. Such guidance also sets standards of acceptable behavior and business practices and allows for consistency during times of transition or emergencies.

Recommendations: We recommend the City review and revise, as necessary, its personnel policies and procedures ensuring consistency with City operations. We recommend the City develop and formalize in writing financial policies and procedures to provide guidance and oversight to City financial staff. We recommend the Mayor and City Council designate an attorney to conduct a comprehensive review of the City's Code of Ordinances to ensure consistency among the ordinances and state laws and that the ordinances be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions as required by KRS 83A.060(11).

Conclusion

Overall, these findings identify poor fiscal management, resulting in the failure to obtain annual audits, inconsistent compliance with state and City laws, policies, and procedures, and ethics concerns.

Background

Impetus and Objectives of the Examination

The Auditor of Public Accounts (APA) initiated a special examination of the City of Whitesburg (City) in response to concerns received. The purpose of this examination was to evaluate certain financial activities and other operations of the City to ensure appropriate processes are in place to provide strong fiscal management and oversight of the City's financial activity, and to review specific issues brought to the attention of this office. The examination was not for the purpose of providing an opinion regarding the City's financial statements. Any weaknesses identified by the APA as part of this special examination are presented in this report, along with recommendations to ensure that the City's operations are appropriate and transparent.

Scope and Methodology

During the examination, the APA conducted the following procedures:

- Review of policies, ordinances, and council meeting minutes.
- Analysis of accounting records and other internal financial information, bank statements, invoices, prior-year audits, and tax documentation.
- Interviews with the Mayor, the City Clerk, the Chief of Police, City Council members, and other City personnel.
- Other procedures as necessary.

Unless otherwise indicated, the examination covered activities from January 1, 2014 through April 1, 2017. The APA reviewed items outside of this time period as necessary to develop information regarding the issues identified without expanding the scope of the examination.

City of Whitesburg Structure

The City has a population of 2,139 and is the county seat of Letcher County in southeastern Kentucky. The City follows the Mayor-Council plan, which is the most common structure for governance used by cities in Kentucky. The distinguishing characteristic of this form of city governance is a strict separation of powers between the executive branch, which is the Mayor, and the legislative branch, which is the City Council. The current Mayor was first elected in 2006 and has been re-elected to serve two additional four-year terms. The City Council consists of six elected members, each serving a two-year term.

During fiscal year (FY) 2017, records indicate the City employed 45 individuals. An additional seven individuals served in elected positions. The major programs of the City include general administration, police, fire, highways and streets, parks and

Background

recreation, water utilities, sewer utilities, and sanitation. The City's last filed Uniform Financial Information Report (UFIR), which was for FY 2015, reported salaries and wages of \$1,000,548.

In FY 2017, the City budgeted anticipated revenues of \$3,960,579 and carried forward unspent funds of \$345,912 from the previous fiscal year to cover anticipated expenditures of \$4,358,948. Major sources of revenue included payroll tax, property tax, water/sewer utilities, and Alcohol Beverage Control (ABC) licensing fees. Major classifications of expenditures included payroll, police, water/sewer, streets, and sanitation. The City's FY 2015 financial statement audit, which is the most recent audit available, reported total revenues of \$3,916,310, and total expenditures of \$3,062,969.

The City provides water and sewer treatment services to City residents through the Whitesburg City Water and Sewer Department, a department of the City. The City also sells water to some residents in Letcher County who live outside the city limits. In FY 2017, the City budgeted anticipated revenues of \$1,386,216 and anticipated expenditures of \$1,347,138 for the Water/Sewer Fund. As discussed in Finding 2 of this report, audited amounts were not available for FY 2016.

Findings and Recommendations

Finding 1: The City Failed To Properly Manage Its Water Utility Accounts, Resulting In Excessive Delinquent Accounts Totaling \$356,814 As Of February 2017, And Increased Risk Of Fraud And Abuse

The City's water utility billing and collection processes have significant weaknesses, resulting in more than \$350,000 in delinquent accounts. These weaknesses include:

- The City did not have an adequate process for collecting delinquent water utility accounts. This resulted in nearly 20 percent of the City's water utility accounts being 90 days or more past due, with no penalties or service disruptions occurring.
- There was inadequate support and approval for water account adjustments. Therefore, it could not be determined if adjustments were valid or accurate, which significantly increases the risk of fraud or abuse.
- Water meter readings were often inaccurate, resulting in incorrect bills. City employees were aware of the problem, but management and staff did not take sufficient actions to correct the inaccurate readings.

The weaknesses impaired the City's ability to investigate and collect the amounts due. Also, the failure to address problems as they were identified, such as erroneous meter readings, resulted in an environment in which adjusting customer billings without proper investigation, documentation, or approval was the norm rather than the exception. These practices significantly increase the risk of fraud and abuse. Additionally, these practices may result in a disproportionate burden on paying utility customers and taxpayers.

Poor Collection Process for Delinquent Accounts

The City made little effort to collect delinquent water utility accounts, resulting in an excessive amount of past-due customer accounts. As of February 21, 2017, the City's water billing system identified 309 of the 1,546 City accounts, or almost 20 percent, were past due by 90 days or more. The total amount due to the City from these 309 accounts was \$356,814. Some accounts had been accumulating charges for a significant period of time, with 29 of the accounts having a balance outstanding of more than \$2,500. Outstanding account balances included accounts held by City employees, officials, other local governments, and businesses, as well as residential customers.

Of 68 delinquent customer accounts tested, 16 accounts did not have any credits for payments or adjustments posted to them during an 11-month period from March 2016 through January 2017. An additional 16 of the 68 delinquent customer accounts examined had three or less credits applied over the same 11-month period, indicating very little activity was posted for almost half of the accounts in the sample. Standard procedures were not in place to collect past due amounts, disconnect services for non-payment, or

Findings and Recommendations

assess fines or penalties, despite City Council directions to do so. This practice allowed non-paying customers to accumulate larger unpaid balances with little or no adverse consequences. Failing to establish and follow standard procedures in collecting utility account balances leads to increased risk of abuse by employees and officials.

City financial staff reported that other than a related City ordinance, the City had no written policies or procedures regarding the collection of delinquent water utility bills. In 2009, the City passed Ordinance 2009-6, which states “[a]ll bills shall be considered due and payable within 10 days from issue. If not paid, there is a 1 1/2 percent penalty per month imposed on total unpaid balance. The city may serve a customer written notice of his delinquency and will give them 10 days to respond. If no action is taken, then the city may disconnect service without further notice. Reconnection will be made when all past due amounts have been paid plus \$25.00 reconnection charge.” Additionally, the City Council voted in October 2009 to disconnect services for customers whose water bills were 90 days past due. On March 8, 2016, the Mayor reported to the council that “all old water bill [sic] 60 days or older” would be disconnected; however, Monthly System Status Reports identified no water service disconnections occurred in a 14-month period between February 2016 and March 2017. Although the February 2016 report identified a cumulative total of six accounts that had been disconnected at some point in time, the Water Clerk was unsure to whom the six accounts belonged or when the disconnections occurred. Additionally, as reported in Finding 8, the City Clerk indicated these reports were not reliable.

Section 50.159 of the City Code of Ordinances states, “[w]ater service may be discontinued by the Manager for any violation of any rule, regulation, or condition of service. . .” including nonpayment of bills. However, the Utilities Manager stated he knew little about the outstanding water utility accounts, indicating City Hall personnel had more control over that process. Most employees interviewed could not clearly identify who had responsibility to disconnect delinquent customer utility accounts. One City employee indicated that the Mayor would have the final authority in such matters. The City Water Clerk periodically provided the City Clerk and the Mayor with a delinquent customer list; however, little action was taken to address the outstanding balances until auditors began examining the collections process. Subsequent to APA inquiry, the City began submitting notifications to customers advising them of delinquent balances and the City’s intent to discontinue water service if these balances are not paid by a specified date.

Findings and Recommendations

Additionally, the City began entering into payment arrangements with customers to allow for partial payment towards outstanding balances.

Specific Delinquent Accounts

City employees reported that the Mayor indicated to some City personnel that they could take action to disconnect service of delinquent water customers, as long as they were not living within the city limits. This reported limitation makes little practical business sense given that the vast majority of the water customers are within the city limits. When asked why the Mayor reportedly made this suggestion, two City employees indicated that though the Mayor did not provide a reason for his statement, the reason seemed obvious, with one employee indicating that city residents can vote in city elections. When asked if he had ever advised or directed anyone to not disconnect any specific utility account or portion of the City's customer base, the Mayor stated he had not.

In initially discussing the delinquent account balances with the Mayor, he indicated it was difficult to disconnect water service to families. However, many of the largest delinquent account balances included in the City's delinquent account report were not residential customers - they were accounts held by local governments and businesses. As of February 21, 2017, the City itself had multiple delinquent accounts with a cumulative balance of nearly \$11,000, and the Letcher County Jail had a delinquent balance of over \$16,000. Additionally, one business that was previously owned by and still associated with a City Council member, had a delinquent balance of over \$8,000.

City records also listed one business owned by the City Attorney as having a delinquent balance of \$22,785 as of February 21, 2017. According to the City Attorney and other City personnel, this outstanding account balance is due in part to a water flow issue that was identified several years ago through a flow study performed on behalf of the City. The flow study results reportedly indicated a problem with the meter on the City Attorney's property that would require the City to adjust the account down by 29,000 gallons of water each month until funding became available to replace the meter. While the City Water Clerk provided evidence to show some account adjustments had been made to this account, the adjustments were not made consistently and were often made after the bill was submitted to the City Attorney. In March 2017, the account had not been adjusted for a period of six months, resulting in a single reduction of \$3,111.42. Auditors were not able to confirm the accuracy or necessity of these adjustments because documentation of the flow study and its results was not maintained by the City or the City Attorney. Although the City Attorney agreed to future

Findings and Recommendations

monthly adjustments to his business account based on the flow study, he disputed the beginning balance owed and refused to pay the current account bill because the City would not retroactively adjust his bill. During this longstanding dispute, the meter has not been replaced, nor has the City taken any further action to address the disputed account balance.

Additionally, three City employees and one member of the City Council had residential water accounts listed as delinquent as of February 2017. These delinquencies totaled more than \$2,600, indicating the City did not have a standard practice of collecting delinquent accounts even from individuals directly associated with it. Even more troubling, one of these individuals included a water department employee with access to the water billing system. As discussed further in Finding 8, internal controls in the water department are poor. Financial pressure of employees, coupled with system access and poor overall internal controls create a high risk that fraud or abuse could occur and not be detected.

By not properly implementing adequate collection processes, applying penalties authorized by its ordinances, or addressing known meter and account issues, the City is foregoing revenue for services already provided. The City may lose its ability to collect a portion of these past due accounts altogether due to poor record keeping of past due balances. Water rates have not increased since the July 2009 billing period; however, the failure to collect from all customers and maintain accurate records places a disproportionate burden on paying customers to fund the utility operations. If the utility requires a subsidy from the City because its operations do not generate sufficient revenue, this burden may ultimately fall on the taxpayers.

Inaccurate Meter Readings and Account Adjustments

The City had significant errors in its water meter readings, reportedly due in part to inaccurate readings recorded by a former meter reader. Rather than investigating reported discrepancies, some water customer accounts were adjusted by a water department employee without review or approval by anyone else in the City. Proper documentation was not maintained to support the accuracy or necessity of the adjustments.

Auditors tested a sample of past due water accounts for the months of April and October 2016 to determine whether the amounts due to the City were accurate. Comparison of the water system billing history reports for these months to meter readings revealed eight discrepancies, four in each month. According to the Water Clerk and City Clerk, a former City meter reader did not consistently read customer water meters, leading to errors in customer accounts.

Findings and Recommendations

Discrepancies noted in the water billings included instances in which:

- Water customers' beginning April 2016 meter reading used to calculate the usage during the prior month did not agree to their ending March 2016 meter reading, indicating the balance had been adjusted.
- Customers' water usage was exactly the same from one month to the next, suggesting the meter reading was not updated.
- The former meter reader's report identified customer accounts as inactive, although the Water Clerk's records reflected the accounts were still active.

These types of discrepancies indicate that either the meter readings were in error or billings were incorrectly prepared; however, there was little evidence of the discrepancies being investigated or addressed. The former meter reader served in that position from January 2014 to January 2017, and it appears that errors in the water meter readings occurred throughout his term. In discussing the former meter reader's process and documentation with City personnel, it was noted that the former meter reader recorded readings for accounts using his own separately maintained account list rather than using a customer list generated from the water billing system. By not using a list generated from the Water Clerk's billing system or reconciling his list with the Water Clerk's, the former meter reader would not have an accurate statement of active accounts from which to record his readings. For example, documentation provided for April 2016 identified 24 accounts as having been left off the former meter reader's account list, leading to the Water Clerk estimating the water usage for these customers due to not having an actual reading.

The Water Clerk stated that the former meter reader seldom returned work orders to show what work had been performed. Furthermore, because the water system was not automated, the Water Clerk had to manually enter several hundred meter readings each billing cycle into the City's system by the fifth of each month to distribute water bills timely. The Water Clerk noted that she would receive the meter readings from the former meter reader at increasing delay, meaning there was less opportunity to investigate discrepancies before bills were mailed. The Water Clerk noted that she had shared her concerns regarding the meter readings with the City Clerk, the Mayor, the City Utilities Manager, and other City personnel many times. The City Utility Manager and City Clerk both indicated that the City had known issues with meter readings for several years, noting that this was not just an issue with one former meter reader.

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The Water Clerk indicated that when discrepancies in the meter readings were identified, she tried to have the meters re-read on occasion, but she was not able to always collect new readings. Without meter data, she would make adjustments to the customer's current month usage based on an average water usage calculation provided by the Water Department billing software. The software calculates an 11-month average for each customer water account. Additionally, once billings were submitted to customers, if a customer claimed to have received an erroneous bill and brought it to the City's attention, the Water Clerk or City Clerk would make an adjustment to the customer's account using the 11-month average for that account.

While the City indicates adjustments were made to address specific issues, the customer accounts often lacked documentation supporting the necessity of the adjustments or authorization of the adjustment by a supervisor. When discussing how these adjustments were documented, the City Clerk stated that they would make notes in the system at the time of the adjustment, but they were not able to retrieve the information in the system after a month had passed. Hard copies of adjustment reports were printed out and filed. A review of these files for calendar year 2016 identified that documentation was missing for May, June, and December 2016. More than 300 account adjustments had been made during the other nine months for which documentation existed, although there were few notations justifying the adjustments and no evidence of supervisory approval in the files. Failing to maintain this documentation and supervisory authorization increases the risk that customer accounts could arbitrarily be adjusted and not be detected by others within the City. See Finding 8 regarding the lack of clear policies for oversight and supervision, as well as the City's failure to properly segregate duties of its water and sewer employees.

As noted above, the City does not have an adequate process for investigating billing discrepancies. However, it is important to note that meter reading errors do not completely explain or alleviate the City's delinquent account balances. Although some of the delinquent accounts may be due to disputed meter readings, the City has not adequately documented these disputes, and not all accounts have received a follow-up investigation to confirm accurate water usage reporting has occurred.

It is also important to note that the erroneous billing process compounds the delinquent account collections reported above. Errors in bills give customers a reason for not paying their water bills, and could lead to hesitancy to implement consistent collection

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practices on the part of City employees. Improved collection efforts by the City must be coupled with improved billing accuracy, improved accessibility to account histories, and proper maintenance of supporting documentation.

Recommendations

We recommend the City:

- Immediately start investigating and reconciling all past due accounts. For any account for which the City does not have good historical records, the City can use current accurate meter readings to identify whether the accumulated water usage charges are valid. The City should pursue all valid amounts due for collection.
- Implement sound procedures for collecting all accounts receivable, and implement a consistent process for the treatment of past-due accounts, including fines and service disruptions as approved by the City Council.
- Implement policies and procedures regarding the adjustment of water utility accounts. These policies should require that adjustments occur only after the account is investigated to identify meter reading or billing errors. Evidence should be maintained that supports the amount of any adjustments. Additionally, adjustments should only be made after review and approval by a supervisor. The evidence for the adjustment and supervisory approval should be retained, and this information should be noted in the account.

We further recommend the City Council consider implementing collection policies specifically related to employees, contractors, and council members or their businesses with past due accounts.

Due to the circumstances surrounding the collection of past due accounts and limitations on collections reportedly implemented by the Mayor, this matter will be reported to the Whitesburg Board of Ethics and the Kentucky Office of Attorney General.

Finding 2: The City Routinely Failed To Meet Statutory Audit And Other Financial Reporting Requirements, Resulting In Over \$92,000 In Municipal Road Aid Funds Being Withheld

The City routinely failed to meet statutory requirements related to external financial reporting, including failure to obtain and publish annual financial statement audits and to submit its annual UFIR. The City's noncompliance with these requirements during the examination period resulted in \$92,973 of Municipal Road Aid (MRA) funds being withheld from the City.

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KRS 91A.040(1) requires that each city “shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited.” Until mid-2017, the Kentucky Department for Local Government (DLG) listed the City’s most recent audited financial statement report on record as the report for fiscal year ending June 30, 2009, which was received in June 2015.

Because the City was far behind on meeting its audit requirements, the City decided to forego audits of its FY 2010, 2011, and 2012 financial activity and instead obtain audits of more recent fiscal years. This is concerning because even though the audits are required, there does not appear to be an effective statutory mechanism to penalize the City management for failing to obtain them. As illustrated in several findings in this report, the City had a poor operating environment with significant weaknesses in internal control, including improperly segregated duties, erroneous processes for billing and collecting water and licensing fees, incomplete accounting records, and a failure to adhere to City ordinances and state law. This environment creates a substantial risk of fraud and abuse of taxpayer dollars. Without proper monitoring, including obtaining timely and thorough financial audits, there is little opportunity to identify and correct even the most egregious risks.

During the examination, the Mayor stated that the City had received its FY 2013 audit report, dated December 28, 2016; however, the report was not presented to the City Council until July 11, 2017 when the Mayor also presented to the Council the FY 2014 and 2015 combined audit report, dated May 26, 2017. The Mayor stated that he decided to wait until all three of the audit reports were complete before presenting them to the City Council because the CPA engaged to perform these audits indicated he was close to finalizing his work on the FY 2014 and 2015 audits.

Once a city audit is complete, KRS 91A.040(6) states, in part, “[e]ach city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish an advertisement in accordance with KRS Chapter 424. . . .” The information required in the advertisement includes the auditor’s opinion letter, budgetary comparison schedules for major funds, and information about where the complete audit report may be viewed by the public. As previously mentioned, the City submitted its FY 2009 audit report to DLG in June 2015; however, there is no indication from City Council meeting minutes that the FY 2009 audit was presented to the City Council in a regular or special meeting. Furthermore, the City Clerk was not aware of any presentation of the FY 2009 audit

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to the Council, or its publication in the local paper. Since the FY 2013 audit report and the 2014 and 2015 combination audit report were presented to the City Council on July 11, 2017, the City should have published an advertisement relating to these audit reports by August 10, 2017. In follow-up with the City Clerk, she advised the APA that the City had placed advertisement for the 2013, 2014 and 2015 audits in the local paper during the summer of 2017.

In addition to obtaining and publishing annual financial statement audits, cities are required annually to submit a UFIR to DLG pursuant to KRS 65.905. Failure to submit the UFIR to DLG may result in withholding of MRA funds designated for the City until it catches up its financial reporting. According to DLG, if a city is noncompliant with submission for a long period of time, the Kentucky Transportation Cabinet (KYTC) and DLG have agreed to allow cities to catch up by submitting a UFIR for the three most current fiscal years to be considered compliant with submission and allow release of MRA funds. Per DLG, the City submitted its FY 2014 UFIR on October 26, 2016, but it had not submitted either the FY 2013 UFIR or the FY 2015 UFIR during the examination period. As a result, MRA funds were being withheld. However, during the course of this examination, DLG records indicate that the City submitted its FY 2015 UFIR on April 17, 2017, and its FY 2016 UFIR on May 8, 2017. At that time, DLG notified KYTC that the City was compliant with the statutory requirement regarding UFIR submission, and KYTC approved releasing \$92,973 in MRA funds to the City on June 9, 2017. Though DLG records indicate the agency received the City's FY 2016 UFIR on May 8, 2017, DLG could not locate this UFIR in its files, and the City Clerk has no record of submitting this UFIR to DLG. As of November 7, 2017, DLG considers the City to be non-compliant with its 2016 UFIR and reported \$41,759 in MRA funds had been withheld from the City since August 2017.

Recommendations

We recommend the City take action to ensure timely compliance with KRS 91A.040(1) by having the City's financial statement audits completed each fiscal year. The City should ensure required audit deadlines are met by engaging a firm to start the audit well in advance. The City should request that the CPA firm that is contracted to perform the audit also present the audit to the City Council upon completion. We further recommend the City publish the required audit information in accordance with KRS 91A.040(6) and KRS Chapter 424.

In addition, we recommend the City comply with the provisions of KRS 65.905 by submitting its required UFIRs to DLG timely. Such reporting not only affords the City continued access to MRA funds,

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but also fosters transparency and accountability to taxpayers and City residents.

We further recommend the General Assembly consider amending KRS 91A.040 to add a more effective mechanism to enforce the statutory audit requirements for cities, similar to KRS 65A.040 related to special purpose governmental entities. By comparison, a city's failure to comply with the KRS 65.905 requirement to submit a UFIR may result in the withholding of Municipal Road Aid funds, but there is no such requirement for failure to obtain a financial statement audit that is also required by statute. As discussed in this finding, there is currently no effective penalty for the City's decision to entirely skip financial statement audits of three prior fiscal years.

Finding 3: The City Did Not Identify All Businesses Requiring A Business License, Nor Collect Required Licensing Fees From A Large Number Of Businesses, Including The Mayor's Law Practice Operated Out Of City Hall

The City did not have an adequate process in place to monitor and collect fees for the City's business licenses. City records indicated that the Mayor did not obtain a business license for calendar year (CY) 2015 or 2016 for the private law practice he operated from his office at City Hall. Also, out of a sample of 31 other businesses tested to confirm licenses were procured for CY 2015 through CY 2017, the following discrepancies were identified:

- Nineteen businesses, or more than 61 percent, failed to purchase the required business license during at least one of the three years.
- Seven of those 19 businesses did not purchase a business license for any of the three years examined.
- The City had no record of ever billing four of the 19 businesses.

Six of the 19 businesses are also on the delinquent water bill report discussed in Finding 1.

According to Section 110.01 of the City Code of Ordinance, "[w]ithin the corporate limits of the city, it shall be unlawful for any person, firm, or corporation to engage in any business, occupation, trade, or profession, or to sell, or offer for sale, any article of goods, wares, or merchandise named in this chapter without first having procured a license and paid the required license tax." Specific amounts are listed in the City Ordinance for each trade, profession, business, or calling. For example, apartment owners must pay \$25 per apartment for a business license, while lawyers must pay \$300 for their business license, and mercantile establishments pay a \$75 base price plus \$1 per thousand dollars over \$100,000 in annual gross sale receipts. As noted above, the Mayor operates a business within the city limits, which is a private law practice that he operates out of his office in City Hall. City records did not identify the

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Mayor as obtaining a business license for 2015 and 2016. After inquiry from the APA, the Mayor obtained a business license for 2017. The Mayor indicated he had paid his business licenses for several years, and stated he was “quite sure” he had purchased his license for 2015 and 2016. However, after attempting to locate his license for 2016, he was unable to find it, or proof that he had paid for one. Additional concerns related to the Mayor’s private business are reported in Finding 5.

Additionally, City Code of Ordinance, section 110.05 states that “(a)ny or all licenses fees or taxes due to be paid on January 1 and not paid within 30 days from that date shall be assessed a penalty to 10% of the fee or tax required for that particular business, occupation, trade, or profession, and 6% per annum interest, which penalty and interest, together with the regular fee or tax, shall be paid before the license is issued.” The City does not maintain an accurate, up-to-date business license listing, and the City has not established an automated method to monitor or track businesses that have paid for licenses in any given year. Therefore, penalties and interest have not been applied to businesses that fail to obtain licenses timely. Interviews with City personnel indicated that the City’s financial staff identify businesses operating within the City limits by working with the Fire Chief and Police Chief. Although this may explain why some new businesses are not identified by the City for licensing, this does not explain why businesses operating and obtaining licenses in prior years are not billed. Due to the lack of automation, the City’s former Tax Clerk or another employee must perform a manual review of paper files in order to identify any missing or late payments. The lack of a computerized system for tracking payments has made collection efforts laborious, and status reports are not often created. The former Tax Clerk indicated that she was unaware of anyone ever requesting a list of all delinquent businesses and amounts owed.

Another problem leading to poor license fee collection is confusion over who is responsible for collecting delinquent fees and the consequences for failing to pay. The former Tax Clerk indicated she is not responsible for the collection of delinquent or unpaid business license fees, and instead that is a responsibility of the Police Chief. However, the Police Chief, who has held this position since 2011, indicated that he had never received a delinquent business license fee list prior to the former Tax Clerk creating such a list and providing it to him during the APA’s examination. He indicated that he was happy to approach the businesses and individuals on the list and did not receive any pushback from the 15 to 20 businesses he contacted that were included on the initial list he received.

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City employees indicated the major causes of the collection problem were difficulty identifying businesses required to obtain the licenses and tracking license payments. At least four businesses operating in the City were not billed. Even when businesses were identified as needing a license, the City did not always follow appropriate procedures to require and collect for business licenses. An employee indicated that when she brought up one of the businesses to the Mayor, she was repeatedly told by the Mayor not to bill the individual because “we need him.” This business was a contractor who routinely performed services for the City, and City records indicate the City has paid this contractor over \$116,000 for work performed during the examination period. After the APA’s inquiry to the City Police Chief regarding the contractor, the City Police Chief approached the individual and collected payment for a 2017 business license.

Regarding two of the businesses that were not billed by the City, a City employee explained that the Mayor did not agree that either business was required to have a license. Although the employee disagreed with the decision upon reviewing the City’s ordinance, she concluded that the Mayor ultimately had the authority to make the decision not to bill the businesses for the license fees. These two businesses were not in categories specifically listed in the business license ordinance; however, the ordinance states that “[a]ny trade, profession, business, or calling not specifically mentioned herein, if deemed by the Council either morally or legally obliged to be licensed, shall be licensed and taxed in the same amount as the occupation, profession, business, or calling mentioned herein which is most nearly related to the trade, profession, business, or calling which is not specifically mentioned herein.” The City’s Occupational License Tax ordinance, approved in 1972, has been updated only a few times even though the type and number of trades, professions, businesses, and callings have increased in the 45 years since the ordinance’s initial passage.

The Mayor indicated that no one had expressed concern to him about businesses not obtaining a business license and he had never advised anyone that a particular individual or business did not need to obtain a license when it would appear they should by ordinance. The Mayor noted that by matter of procedure, the issue of delinquent business licenses bypasses him and goes to the Police Chief. When specifically addressing the need for the contractor who performs work for the City to have a business license, the Mayor stated that he understood that situation had been rectified when the Police Chief approached the contractor to purchase the 2017 business license. The Mayor suggested that the issue of this particular contractor needing a business license had “fell through the

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cracks” because he was a contractor; however, the Mayor was not aware of any other contractor being identified as needing a business license and not having paid for one.

Recommendations

We recommend the City review and consider amendments to revise and update its Code of Ordinance regarding the annual occupational license tax. The City should develop procedures for better identifying all businesses required to obtain a business license, as well as procedures for improving the monitoring of business licenses issued and paid. The business license requirements should be clearly established by ordinance rather than left to the discretion of city officials.

Also, if the City intends for the Police Chief to continue as the person responsible for collecting delinquent business license fees, a process should be developed and implemented that includes providing him a regular list of delinquent businesses. A process should also be developed and implemented to identify businesses operating without a business license. Additionally, the Police Chief should be provided with procedures for addressing unpaid license fees and businesses operating without a license.

Additional information and recommendations related to the Mayor’s private law practice are presented in Finding 5.

This matter will be referred to the Whitesburg Board of Ethics for further review.

Finding 4: The City Collected And Expended ABC Funds In Violation Of State Law

Until June 2016, the City collected Alcohol Beverage Control (ABC) regulatory licensing fees assessed on gross receipts of food and alcohol sales from restaurants located within the city limits licensed to sell alcoholic beverages under the ostensible authority of KRS 243.075. In 2014, KRS 243.075 was revised to authorize collection of these fees only on the gross receipts of the sale of alcoholic beverages. In spite of the statutory change, City ordinances were not updated for over 23 months, which resulted in collection of fees no longer authorized by statute. Additionally, the City spent over \$58,500 in ABC fees on questionable or disallowed expenditures, including more than \$39,500 for holiday events, gift cards, and food for City employees and others over a two-year period and over \$19,000 to cover payroll expenses for non-ABC related personnel in CY 2014.

KRS 243.075 originally authorized local governments to assess regulatory license fees on the gross receipts of sales from restaurants that were issued an alcohol license, which included receipts from both food and alcohol sales. Based on this statute, the City enacted

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an ordinance to establish a regulatory license fee in the amount of six percent on receipts from the sale of both food and alcohol. When KRS 243.075 was amended effective July 15, 2014, it removed the authority for cities to collect such fees on food sales and stated that qualifying cities are “authorized to impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment therein licensed to sell alcoholic beverages.”

For nearly an additional two years, the City continued to collect fees based on receipts from both food and alcohol sales, citing the authority of the original law. On June 30, 2016, the City revised its local ABC ordinance, repealing the portion of the regulatory license fee applicable to receipts from food sales. The Mayor noted that the revision was made to address public concerns, and he was not aware that a revision to state law had been made. The City was unable to provide a total amount collected from the fee on gross receipts from food sales at restaurants between July 14, 2014 and June 30, 2016 without pulling all individual Monthly ABC Regulatory Reports and manually calculating the amount received on each report.

City records also indicate that expenditures made from the regulatory licensing fees collected were not consistently restricted for purposes allowed by state law. KRS 243.075(1)(b) allows fees to be collected “at a percentage rate that is reasonably estimated to fully reimburse [the City] for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city[.]” The expenditure of ABC regulatory licensing fees is therefore restricted by statute to these purposes. However, auditors found expenditures made from the ABC fund that were for other purposes. At least \$39,559 in CY 2015 and CY 2016 did not appear to be allowable expenditures. Of this amount, \$4,449 was for the purchase of food and 155 gift cards for City employees, council members, and volunteer firefighters. Regardless of the source of funds, the City’s purchase of gift cards for employees appears to be a bonus over and above the amount of salary earned by public employees. Even though the City Council approved the purchase of the gift cards on more than one occasion, bonuses for public employees are prohibited by Section 3 of the Kentucky Constitution. Pay for city employees is to be set by ordinance per KRS 83A.070. According to Attorney General Opinion 62-1, KRS 64.410(2)(c) also applies to prohibit bonuses to city employees. Also, gifts to unpaid employees do not appear to be a necessary and reasonable use of public funds.

There were additional questionable ABC fund expenditures of \$35,110 for promoting the City through holiday events, such as approximately \$19,000 for a fireworks display and entertainment

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expenses associated with the City's 2015 Independence Day celebration. Additionally, on September 18, 2014, the Mayor issued an Executive Order demanding the transfer of \$19,903.80 from the ABC bank account to the City payroll bank account to pay salary and wages for non-ABC related personnel. The Executive Order, signed by the Mayor, stated that the amount would be paid back in full within 60 days; however, as of May 17, 2017, the Mayor indicated that the City had not yet had the excess funds available to pay back this amount. On June 19, 2017, the Police Chief, who also serves as the current ABC Administrator, confirmed that \$5,000 had been transferred into the ABC bank account from the general fund bank account as partial repayment, with \$14,903.80 remaining due. Regardless of whether these funds are reimbursed, this transfer violated KRS 243.075.

Pursuant to KRS 243.075(7), this City's improper collection and expenditure of these ABC regulatory licensing fees could subject the City to civil litigation from the licensees who paid the fees and could jeopardize the City's authority to impose such fees.

Recommendations

We recommend the City:

- Ensure state laws relevant to City operations are identified and followed, including those authorizing the collection of fees and taxes. See also recommendations in Finding 9 to comply with KRS 83A.060(11).
- Ensure City ordinances are reviewed on a regular basis for consistency and compliance with current state statutes.
- Limit the expenditure of ABC regulatory license fees to only those purposes allowed by statute.
- Ensure all expenditures of public funds are allowable by law and are necessary and reasonable for the operations of the City. This should include eliminating gifts to employees and others, and eliminating any transactions that could be deemed to be bonuses paid to public employees.

Finding 5: The Mayor Received Inappropriate Excessive Benefits, Including Use Of Public Property For His Private Law Practice And Receiving Additional Health Insurance Benefits Beyond Those Received By Other City Employees

The Mayor uses his office in City Hall to operate his private law practice. Although he paid some amount to reimburse the City for using public property for his private business, the amount was nominal when considering the cost he would have incurred to maintain a separate, private office. Additionally, the Mayor receives health insurance benefits beyond those received by other City employees. These practices indicate the Mayor made decisions that gave him personal benefits beyond those permitted by the City's ethics policies and those authorized by City Council.

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Use of Public Property in Mayor's Private Law Practice

The Mayor uses his office in City Hall to operate his law practice. There is no written contract to document when this practice began or acceptance of terms, such as the rental amount. The City Clerk reported that the Mayor has had \$60 withheld from each paycheck as payment to the City for office space, materials, and phone usage since February 10, 2012. The Mayor indicated that he estimated this amount based on the rent paid by two other groups renting space from the City when he came into office, another government office and a non-profit entity that currently rents a section of the building in which City Hall is located. Though requested, the APA was not provided a rental agreement with the non-profit entity. The City Clerk noted that the non-profit entity had been renting space from the City for several years and she thinks the agreement was "like a handshake kind of deal" noting that the non-profit pays the City \$700 a month for space it occupies at City Hall.

In addition to the use of his office space, materials, and phone, a City employee occasionally types legal correspondence for the Mayor. This work reportedly occurs after City business hours, but in the employee's City office, using City equipment. According to the employee and her City supervisor, this work is not charged to the City, rather the Mayor pays her directly in cash. Furthermore, as discussed in Finding 3, City records showed that the Mayor had not maintained his City business license.

The City Code of Ethics, established by City Ordinance No. 358 in November 1994, appears to have been violated because the Mayor uses City Hall property for private business gain. Clear separation of public and private resources is necessary to avoid conflicts of interest, abuse of public resources, and the appearance of impropriety. The City Code of Ethics, which documents a code of ethical conduct applicable to the officers and employees of the City and City agencies, states in Section 5 that "[n]o officer or employee shall intentionally use or attempt to use his or her official position with the city to secure unwarranted privileges or advantages for himself or herself or others." Furthermore, Section 8 affirms that "[n]o officer or employee of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless: (1) The use is specifically authorized by a stated city policy. (2) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public." The City Clerk confirmed that no City policies exist to specifically authorize the Mayor's use of City property and equipment for private use, nor has similar space been made available to the general public for the same purpose and on the same terms as has it been made available to the Mayor.

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Additionally, this arrangement between the City and the Mayor was not disclosed to the full City Council for their consideration and approval.

Health Insurance Benefits Beyond Those Authorized

The City offers health insurance as a benefit to its employees. Employees contribute a set amount toward the purchase of their health insurance, and the City pays the difference up to the amount of single coverage. The Mayor and City employees contribute the same amount towards the cost of their health insurance. However, the Mayor also received contributions from the City to cover the additional cost of a family plan, while City employees were limited to City contributions for the cost of a single coverage plan. The approximate value of this additional benefit received by the Mayor during the last three fiscal years was over \$50,000 cumulatively. Auditors did not see evidence of the City Council approving this additional benefit any time during the Mayor's tenure prior to June 2017. At that time, the Mayor requested the City Council's approval of these benefits.

The City's Personnel Policies and Procedures do not specify the level of health insurance coverage provided to full-time employees, but the City Clerk confirmed that the City contributes the difference between the cost of a single coverage policy and the employee contribution of \$120.12 per year. While family coverage is available to all employees, the City will not contribute more to the increased premium if an employee chooses family coverage.

A review of W2s for the Mayor and a sample of employees showed that the Mayor and employees contributed the same amount towards the cost of their health insurance policies, regardless of the level of coverage. However, records indicate that all employees on the City's health insurance group plan had single coverage except for the Mayor. The Mayor's policy has two additional dependents on his coverage. The monthly premiums paid by the City for the Mayor during FY 2014, 2015, and 2016 totaled \$72,497, while the total cost paid for each full-time employee during the same period was \$22,395. This is a difference in benefits received during the three-year period of \$50,102.

Because the City is paying the additional cost of a family plan for only the Mayor, the City appears to have acted inequitably in providing benefits to employees. OAG 94-15 states, "[t]he basic statute providing for governmentally funded health coverage (KRS 79.080) for public employees does not provide for one level of coverage for officers, and another level for employees. Accordingly, we believe such differing coverage would not be lawful as not authorized by statute. In our view such different level of coverage

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would be arbitrary and would involve other than equal treatment of the law and thus would be violative of sections 2 and 3 of Kentucky’s Constitution.”

According to the City Clerk, although the Mayor once indicated to her that he had spoken to the City Council about this inequitable application in policy, she was unable to find documentation in City Council meeting minutes to reflect that an approval occurred or that the City Council members had knowledge of the additional benefit. Auditors concurred with her assessment upon review of City Council meeting minutes for the last three calendar years.

The Mayor stated that since the City was not contributing to his retirement, he had thought the City could alternatively provide him with the additional cost of his family health insurance policy.

He indicated that he spoke to three Council members about the matter in his office, and they all agreed to the idea. While a meeting of three Council members does not constitute a quorum and, thus, is not a direct violation of Kentucky’s Open Meetings laws, such decisions should have been brought to the full Council for discussion and approval. At any rate, these informal discussions did not constitute City approval for this benefit arrangement.

The City Council was also provided with misleading budget information relating to the cost of the Mayor’s health insurance. The amount presented to the City Council as budgeted for the Mayor’s health insurance decreased dramatically in the FY 2016 budget, despite the fact that the amount of the monthly premium actually increased. Table 1 presents the detail regarding this budgeted item for FY 2015 through FY 2017.

Table 1: Budget Line for Mayor’s Health Insurance By Fiscal Year

Budget Category	Budgeted Amounts		
	FY 2015	FY 2016	FY 2017
41127 Mayors Health Insurance	\$22,308	\$5,103	\$5,227

Source: City Budgets for FY 2015, 2016, and 2017, as provided by the City Clerk.

The Mayor and the City Clerk agreed that the amount presented on this line item decreased because the cost of the Mayor’s insurance was now spread across departments, despite the fact that the budget category, Mayors Health Insurance, only appears in the General Government Department budget. Based on a review of the minutes of City Council meetings, this presentation change was not specifically mentioned to the City Council, and no City Council members raised questions about the cause for the decrease. The

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Mayor confirmed that this detail was not discussed with the Council, but that all Council members had a copy of the budget and an opportunity to ask questions. He acknowledged that no one on the Council seemed to observe or question the change.

After auditors began questioning the appropriateness of providing a different level of coverage to the Mayor than that provided to other City personnel, the Mayor stated that he intended to eliminate the issue by either paying the difference between the single and family policy premium or getting a new policy for his spouse and child. However, on June 13, 2017, the Mayor asked the City Council to approve payment of his family health insurance coverage. Without discussion as to the financial impact of such a move, the council members unanimously approved a motion for the City to furnish the Mayor family health insurance coverage. While the first reading of the budget, also presented at the June 13, 2017 Council meeting, showed only the cost of health insurance coverage for the Mayor as \$9,156, the second reading of the budget on June 27, 2017, showed the cost of health insurance coverage for the Mayor and his family as \$27,093. According to the Council meeting minutes, the increase in the budget was not specifically noted by anyone in attendance.

Although this recent development regarding the level of health insurance received by the Mayor from the City has made the City's action more transparent to the City Council and the general public, the City still appears to be providing an inequitable benefit to the Mayor. As described in OAG 94-15, cited above, this inequitable treatment may violate Sections 2 and 3 of the Kentucky Constitution and therefore be an improper expenditure of City funds.

The Mayor's actions in utilizing public resources in his private business and establishing a higher health insurance benefit level for himself than authorized for other City employees indicate that he is utilizing his position for private gain. This indication is reinforced by the lack of transparency in these matters, including the failure to report the activities in a public meeting to the full City Council or accurately reflect the details in the City's budget.

Recommendations

We recommend the City evaluate whether a rental relationship with the Mayor's private business is permissible under the City's Code of Ethics. If the rental relationship is continued, we recommend it be done only with approval of the City Council and a formal, written agreement to ensure compliance with applicable legal requirements.

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We recommend the Mayor restrict any private use of public resources to those defined under a written agreement with the City, so long as such agreement is consistent with the City's Code of Ethics, City ordinances, and state law. Furthermore, any such arrangement should clearly define acceptable public and private use of City resources to minimize the potential for misuse and to avoid the appearance of impropriety.

We recommend the City follow the guidance in OAG 94-15 and ensure the same health insurance benefits are offered to the Mayor as to other City employees.

This finding is being referred to the Whitesburg Board of Ethics and the Kentucky Office of Attorney General.

Finding 6: The City's Accounting System Is Inadequate And Impaired The Accountability And Transparency Of Financial Activities, Leading To Noncompliance

The City's accounting system is severely inadequate and leaves the city unable to accurately report financial information or properly monitor its finances. This situation also seriously limits the transparency of City financial activities. Additionally, the City's accounting software is outdated and has not been supported by the vendor for more than a decade, which increases the City's exposure to a potential loss of records in the event of a system failure. Finally, the system does not provide the City with basic reports needed for proper fiscal management, such as financial statement preparation, budget monitoring, or reporting to the City Council. The inability to produce these basic reports results in noncompliance with state law.

According to the Mayor, financial conditions have not allowed the City to purchase new accounting software. As such, cumbersome manual procedures must be performed by the City Clerk and other financial personnel on a routine basis to simply maintain the City's accounting system. For example, the City Clerk records only information from issued checks into the software and manually reconciles City bank accounts using pencil and paper on the back of the bank statements. Also, during the examination period, paper check registers were maintained by some assistant clerks for funds they manage. Although the Mayor indicated the City is not in a financial position to purchase new accounting software, the City spent over \$26,000 on outside accounting services between January 2014 and December 2016. Those outside accounting services did not include a financial audit of the City.

The City Clerk stated she has noticed issues in the City's accounting software over the last few years. For example, she indicated the system would randomly drop pieces of information into reports that she knew did not belong in that particular report. The City Clerk attempted to locate an update for the software, which had originally

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been purchased in the mid-1990s, but discovered that the software was obsolete. The software developer had been acquired by another business in 2002, and that business had stopped providing support and updates to the old software sometime around 2003.

The current process of only entering written checks into the accounting system does not lend itself to proper accountability and transparency of financial activities. Rather, this process subjects the City to risk of errors and fraud since activity is not readily available for monitoring and oversight. This process also increases the likelihood that certain transactions are not recorded, such as transfers between accounts.

Financial Reports for Fiscal Management

The City did not maintain general ledgers or have readily available access to financial reports needed for proper monitoring and management. Requests for financial information, such as the amount spent by a department for a specific purpose, would require the City Clerk or a member of her staff to pull all invoices received for that purpose and manually trace the amount included in the vendor invoices for that specific department in order to derive a total. If someone were to request the total amount spent on a category of expenses, such as equipment, the City financial staff would first have to identify all relevant vendors and pull those invoices to manually calculate the total. These simple requests could be answered in a matter of seconds by a functional accounting system. The work needed to arrive at mere totals severely increases the risk that no one in the City could detect errors, whether caused by mistakes or fraud.

A local CPA, who has prepared payroll for the City since February 2007, confirmed that he had been engaged by the City to prepare general ledgers and other reports needed by a separate CPA contracted to perform the City's FY 2013, 2014, and 2015 audits. To prepare these reports, the City provided the CPA with bank statements and check registers. Because he was not provided other supporting documentation, the CPA stated he relied on the City Clerk's notes on the check registers or bank statements to determine how to classify the transactions. Due to the fact that these reports, including the general ledger, are being prepared months or even years after the related transactions have occurred, there is a high risk of undetected material errors in the City's financial reporting. The poor accounting functionality is also likely to have contributed to the City's delay in having financial audits and UFIRs completed, as discussed in Finding 2.

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Financial Reporting to the City Council During the examination period, the City failed to provide accurate and timely financial information to the City Council, resulting in violation of several state statutes. Budget proposals, often containing errors, were presented to the City Council after the statutory deadline had passed. Budget-to-actual analysis for all funds and other information needed to properly monitor the City's budget was not provided to the City Council. As reported above, the City's accounting system exacerbated the City's inability to provide accurate reports and respond to information requests timely. These circumstances have led to both management and the City Council making decisions without a complete or accurate picture of the City's financial position.

Budgets KRS 91A.030(7) states “[t]he budget proposal together with a budget message shall be submitted to the legislative body not later than thirty (30) days prior to the beginning of the fiscal year it covers.” A review of City Council meeting minutes confirmed that the budget was routinely presented to the Council less than 30 days before the start of the next fiscal year. The City's fiscal year begins on July 1. Table 2 shows the exact dates of both the first and second readings of the budget ordinances adopted during the last three calendar years. City budget ordinances were adopted on the date of the second reading.

Table 2: City Budget Reading Dates By Fiscal Year

Budget Readings	Budgets by Fiscal Year		
	FY 2014-15	FY 2015-16	FY 2016-17
First Reading	June 10, 2014	June 9, 2015	June 14, 2016
Second Reading	June 17, 2014	June 22, 2015	June 27, 2016

Source: City Council meeting minutes from CY 2014, 2015, and 2016

In addition, KRS 83A.060(9) specifies that, “no ordinance shall be effective until published pursuant to KRS Chapter 424.” The City provided evidence to support the publication of the title of the budget ordinance, a brief narrative describing the ordinance, and the summary budget in the local newspaper for each of the three budget years reviewed; however, upon closer inspection, the publication of the FY 2016-17 budget was incorrectly identified as the FY 2015-16 budget and the budget published was not complete. Neither the City nor the local newspaper subsequently ran a correction showing the full FY 2016-17 budget.

Numerous mathematical and formatting errors occurred in the presentation of the budget each year. A mathematical error in the FY 2016-17 budget obscured that the summary budget reflected total appropriations exceeding total resources available by more than

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\$52,000. The detailed budget for that same year reflected total resources exceeding total appropriations by more than \$703,000. The summary budget often reflected totals that differed from the sum of amounts listed in the detailed budget for the same fund or department. For example, in two of the three fiscal years reviewed, the summary budget listed a much larger appropriation amount for the ABC Fund than did the detailed budget for this fund.

Budgetary Comparisons

KRS 91A.030 (11) states “[a]dministration and implementation of an adopted budget ordinance shall be the responsibility of the executive authority of the city. That responsibility shall include the preparation and submission to the legislative body of operating statements which shall include budgetary comparisons of each governmental fund for which an annual budget has been adopted. These reports shall be submitted not less than once every three (3) months in each fiscal year.”

The evidence reviewed indicated that budgetary comparison reports used to analyze budgeted amounts to actual receipts and disbursements were not provided to City Council members. Instead, monthly bank statements and a check register were provided as financial information to the Council, but in an inconsistent manner. Generally, City Council members were provided with copies of the monthly bank statements for five of the City’s 33 bank accounts: General Fund Account, ABC Fund Account, Water and Sewer Revenue Fund Account (starting in May 2015), Municipal Water Works Account, and Sewer Operating Account.

On at least four occasions during the examination period, the City failed to provide City Council members with any monthly bank statements, and, in two of those instances, the check register was also not provided. At the May 12, 2015 regular meeting of the City Council, the minutes reflected that a City Council member asked if “a more detailed financial report on what we have coming in or going out” could be provided. The Mayor first indicated that he would “see that was made available in the next packet.” However, after calling for a roll call on the motion to provide a more detailed financial report, the vote resulted in a tie. The Mayor broke the tie on the motion by voting against the motion. The Mayor indicated his vote against the motion may have been because he previously expressed to City Council members that they could come to City Hall to review the books, but no one had done so.

Findings and Recommendations

Recommendations

We recommend the City invest in a functional accounting system that increases the accuracy of financial reporting, accountability, and transparency. The City should ensure it purchases appropriate accounting software that will enable compliance with statutory requirements regarding monitoring and reporting its financial information.

Upon implementation of a new accounting system, the City should revisit its financial staff structure to identify the most effective and efficient operational practices. All City financial staff should be trained on the new accounting system, but system access and employee roles within the system should be limited to the functions each individual needs in order to establish the appropriate segregation of duties, as mentioned in Finding 8.

Additionally, we recommend the City comply with all requirements of KRS 91A.030 regarding annual budgets and the presentation of operating reports to the City Council, including budgetary comparison reports. Prior to submitting a draft budget to the City Council for consideration and first reading, the City should review the budget to ensure it is mathematically accurate and that the detail and summary budgets present consistent information.

Finding 7: The Contractual Terms Between The City And The City Attorney Are Unclear, And The City Attorney's Compensation Was Not Always Reported To The IRS

The City did not have a written contract with the City Attorney, which made it impossible to verify the agreed-upon terms of his compensation. Auditors discovered that the payments made to the City Attorney varied in both amount and form during his tenure with the City.

The Mayor hired the current City Attorney in 2007, his first year in office; however, a written contract or agreement between the City and the City Attorney could not be located by either party. During the course of this examination, despite later stating that the contract may have been verbal instead of written, the City Attorney wrote a letter to the City confirming a written contract's existence and sharing some of the terms and conditions of the contract. In his letter, the City Attorney also indicated that a CPA hired by the City for its financial statement audits had been provided a copy of the contract previously as part of a City audit. Auditors requested the contract from the CPA and were provided what appeared to be a cover letter dated June 17, 2007. This cover letter referred to a retainer agreement, but no actual contract or retainer agreement was included. The 2007 cover letter indicates that the City Attorney is to receive a \$500 monthly retainer, which will cover up to five hours per month, and that his hourly rate is \$125 plus expenses. The letter continues to read that, "[t]he retainer covers my availability to all general questions and review of the package sent monthly for the

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regularly scheduled council meeting, and my attendance if required.”

In contrast, the 2017 letter submitted to auditors by the City Attorney states that the City Attorney is to receive a monthly retainer fee of \$700. The City Attorney’s 2017 letter did not mention a description or scope of services provided as a part of the retainer. Additionally, it appears that there has been a change in the City Attorney’s hourly rate since the 2007 letter. The City Attorney submitted invoices to the City during the examination period with an hourly rate of \$175 plus expenses, and listed services provided at this rate as early as February 18, 2011. When asked to provide an explanation for the increase in the retainer, the City Clerk reported that she asked the City Attorney for an explanation and “he stated an increase in work.” Conversely, the Mayor indicated that there had been no updates to the original contract or reappointments to the position. He also noted that he was unsure if the City Council was aware of either the specific expectations on the part of both parties, or the benefits provided to the City Attorney.

The Mayor indicated that the City Attorney’s retainer covered the City’s expectations that he would address their questions immediately, attend meetings when necessary, and provide information to City officials. The City Attorney, in turn, stated that the retainer covered four to five hours of work each month which might include the review of monthly Council meeting packets, preparation of ordinances, review of contracts, consultation with the City Police Department, and other legal matters as deemed necessary by the City. Any work that exceeded the hours allowed by the retainer was billed separately by the City Attorney.

The City Attorney does not receive his monthly retainer as a direct payment, but instead it is applied toward his inclusion as a subscriber to the City’s group health insurance plan. It appears this arrangement goes back as far as June 17, 2007. The City pays the full cost of the premium for the City Attorney’s single coverage plan. According to the City Clerk, the City paid a cumulative total of \$22,755.28 during FY 2014, 2015, and 2016 for the City Attorney’s health insurance policy. The three-year total roughly translates to an average payment of \$632.09 per month, approximately \$132 over the original monthly retainer fee of \$500, or \$68 less than the recently stated monthly retainer fee of \$700.

While the City Attorney indicated that this benefit was in place when he was hired, it is unclear whether the position of City Attorney is eligible to participate in City employee benefits because it is a not a full-time position. The City Clerk provided a copy of a

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form submitted to the City's health insurance agent as evidence of approval for the City Attorney to participate. The form outlines nine guidelines for a person who is paid by 1099 to be considered an eligible employee for group insurance. The first guideline states that "[t]he 1099 employee must work full-time/year-round solely for the employer applying for coverage." The City Attorney did not work solely for the City; instead, he maintained a private law practice.

The City Attorney's inclusion in the City's group health insurance plan is also complicated by the fact that he did not receive a Form 1099-MISC from the City in CY 2015 or CY 2016. When asked why the City Attorney did not receive a 1099-MISC form after CY 2014, the City Clerk indicated the City Attorney advised her that he was not supposed to get a 1099 because his law practice was an incorporated entity. The local CPA that handles payroll and other financial duties for the City, including 1099-MISC preparation, indicated that he had mistakenly confirmed to the City Clerk this exemption for the City Attorney. However, a Form 1099-MISC is required by the IRS for each person paid during the year \$600 or more, including payments to an attorney. While Form 1099-MISCs do not need to be sent to corporations, the IRS does require that Form 1099-MISC be issued for attorney's fees even if the lawyer is part of an incorporated entity.

Professional service contractors, such as a City Attorney, should have current, written contracts in place to establish the responsibilities of both the contractor and the City. These contracts should include the agreed-upon rates for work, form of payment, scope of services, and other relevant terms. Specifically, a retainer arrangement should specify whether the retainer is a minimum fee to secure the attorney's services for that particular entity, a minimum fee for a set number of hours (as appears to have been the initial intent here), or an advance of fees that must be earned in each period by hours actually worked. The agreement should also address any additional hourly work and expenses and how those will be billed. A written contract provides for continuity when there is turnover of employees and elected City officials by creating a record that is less open to interpretation or possible disagreement.

Management letters associated with the City's financial statement audits for FY 2007 and 2008 included a comment stating, "[t]he City should maintain written contractual agreements and a W-9 form related to non-employee payments for contractual arrangements and for which no payroll is withheld."

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Recommendations

We recommend the City ensure any agreement it enters into is documented in a written contract authorized by City officials in accordance with its administrative policies. Contracts entered into should specify the services the contractor will perform and the terms of the contract including the hourly rate or fixed amount charged for contracted services. All contracts should be reviewed on a periodic basis and updated, as needed, to document any change in the terms of the agreement.

The City should maintain a copy of all contracts, along with any amendments, as a part of the City's official record.

We also recommend the City seek appropriate guidance regarding the City Attorney's eligibility to participate in its group health insurance plan.

We further recommend the City correctly report taxable amounts not previously reported to the IRS via 1099-MISC forms. The IRS can assess penalties for failing to issue a proper Form 1099, whether the errors were made inadvertently or intentionally.

Finding 8: The City Had Poor Internal Controls In Its Water And Sewer Department, Creating Significant Risks Of Fraud And Abuse

Weaknesses regarding the City's water utility billing and collection processes were reported in Finding 1. Factors contributing to these weaknesses included poor internal controls within the City's Water and Sewer Department, including failing to properly segregate duties of employees responsible for billing and collections, utilizing a billing system that did not generate accurate reports, and failing to effectively supervise employees to address known problems. These weaknesses resulted in significant errors, including at least one missing deposit that could not be properly investigated due to poor documentation. These weaknesses also significantly increase the risk that waste, fraud, and abuse could occur and not be detected by the City.

Increased Fraud Risk Due to an Improper Segregation of Duties

Duties were not properly segregated in the City's water billing and collection processes. Inadequate segregation of duties means proper checks and balances are not in place because one or more employees have too much access or control without appropriate oversight and monitoring. There are no policies and procedures available to define responsibilities within City Hall, and as a result, employees work without regard to functions that should not be performed by the same person. For example, one employee is responsible for billing utility customers while also having the ability to adjust utility accounts without subsequent authorization from a supervisor. As noted in Finding 1, very little documentation exists to justify adjustments, which makes it difficult to confirm the accuracy and validity of those account changes.

Findings and Recommendations

Also, although more employees are involved in handling customer receipts, there is no clear delineation of responsibilities, no limitations on other employees' access to the cash collection functions, and poor documentation leading to an ineffective audit trail for investigating and resolving problems. Four employees are assigned to collect and record customer receipts, reconcile cash drawers, and make deposits; however, other employees, who were not bonded, were reported to have periodically performed this function during the examination period. Further compounding the lack of documentation, all the clerks used the same cash register sign-on credentials even though they were initially provided individual credentials. This makes it impossible to electronically track which employee handled a specific cash register transaction.

Additionally, bank deposits are made by various individuals, without any documentation of who processed the deposit or took it to the bank. As a result, during the examination period, a bank deposit in the amount of \$202.65 was identified as having been lost and was never reported by the bank. These weaknesses severely impair the City's ability to investigate errors in the collection process and circumvent the intended security feature of the cash register system by not using individual credentials. This exacerbates the lack of segregation of duties because it is impossible to determine if an employee that should be restricted from certain functions has adhered to those limitations.

Water and Sewer System Weaknesses

Another weakness that impairs the City's ability to properly account for its water and sewer activities is the use of a billing system that is not reliable for accurate reporting or maintaining sufficient historical records. The weaknesses reported during the examination, many of which are mentioned in Finding 1, include:

- The system only maintains customer account activity for an 11-month period. This impairs the City's ability to investigate long-term outstanding balances and disputed bills.
- The system reportedly does not maintain notations on customer accounts to document justifications and authorizations of adjustments. This increases the risk of fraud and abuse from arbitrary account adjustments or manipulation of accounts to conceal theft. Also, this limitation impairs the City's ability to implement effective compensating controls to offset the lack of segregation of duties.
- The City Clerk reported that the System Status Report is unreliable and inaccurate. This report summarizes information critical to monitoring the Water and Sewer

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Department's activity, such as the number of active, inactive, and disconnected accounts; aging accounts receivable; and payment transaction activity. Therefore, the City must also rely upon bank records and other manual documents to determine these amounts, indicating the city's manual records are more reliable. However, this situation creates a significant fraud risk because the system does not reconcile to external records, and manual records can more easily be used to conceal theft or misappropriation.

Combined with the poor internal controls, and little or no policies and procedures, the system weaknesses create an environment in which there is a high risk that fraud and abuse could occur without detection.

Lack of Supervision over the Water Meter Reader

The City does not have well-defined responsibility for supervision of the meter reader position. As described in Finding 1, a former meter reader was identified as having made numerous mistakes in water meter readings. Even though several individuals in the City were aware of the errors, no one addressed the problem during the employee's tenure. The City Water Clerk stated that nobody supervises the meter reader position, but she and the City Clerk believed it was supposed to be the responsibility of the City Utilities Manager. The City Utilities Manager indicated he was responsible for the integrity of the water lines and that City Hall hires and supervises the meter readers, noting that this was the process in place when the City had contracted out water system management years ago. When asked who supervised the former meter reader, the City Utilities Manager indicated City Hall did, specifically identifying the City Clerk; however, the City Utilities Manager signed off as supervisor on the last three timesheets for the former meter reader, and one of the two timesheets reviewed for the current meter reader. The other timesheet of the current meter reader was not signed by any supervisor or employee other than the meter reader himself. It appears no one is actively supervising the meter reader position to ensure adequate training, direction, or oversight is provided. As of February 3, 2017, the City has employed a new meter reader, and inquiries indicate that while fewer discrepancies have been noted, meter reading errors continue to occur. The City Water Clerk believes the new meter reader could use assistance.

Failing to have clearly assigned lines of authority in monitoring and supervising employees led to significant problems being overlooked for long periods of time, as was the case with the errors attributed to the former meter reader. These practices also make detecting errors, fraud, or abuse difficult, putting the City's resources at even greater risk. Additionally, meter reading errors result in customer billing

Findings and Recommendations

errors, which not only frustrates customers, but also gives them reasons to dispute their utility bills. Although the City can correct accumulated water meter errors by having an accurate meter reading, the lack of oversight and accountability makes the water accounts subject to favoritism and abuse, creates more work for City personnel, and impairs the City's collection processes.

Recommendations

We recommend the City evaluate all business functions to ensure strong internal controls exist, especially appropriate segregation of duties for financial-related job functions. We further recommend the City allow only bonded personnel to handle cash, including accepting cash receipts, counting cash, or making deposits on behalf of the City. The City should ensure all personnel handling City finances be included in the City's bond coverage to protect the City in case it incurs a loss resulting from a fraudulent act. Without such coverage, the City has limited protection from such losses.

We recommend the City improve its procedures for billing and collection of water accounts, including ensuring the billing systems used are adequate to meet its processing needs, minimize errors, and provide information that can be used as part of a strong monitoring and oversight plan.

We also recommend the City evaluate and clarify the roles and responsibilities of all Water and Sewer Department employees to ensure employees understand their work duties, authority, and supervisory reporting lines. The City should implement and document policies for reporting and addressing employee performance concerns as they are identified.

Finding 9: The City Failed To Have Sufficient Policies And Procedures In Place To Ensure Effective Management Of City Operations

The City did not consistently develop, document, maintain, or distribute policies and procedures on personnel or financial matters to its employees. In addition, the City has not performed a comprehensive review of adopted ordinances to ensure consistency with state law or current City operations. These matters, coupled with obsolete accounting processes and limited supervision and training of financial personnel, place the City at greater risk of abuse or misuse of City resources. By not addressing these matters, the City failed to provide sufficient guidance and controls to ensure effective management of City operations.

City Ordinance No. 277, originally adopted on June 14, 1982, establishes that the current personnel policies and procedures of the City "be finalized by the beginning date of the budget cycle each year..." Despite this requirement, it does not appear that City personnel policies and procedures are routinely reviewed and revised. The City Clerk indicated that the version of the personnel

Findings and Recommendations

policies and procedures in effect during the examination period was largely the original ordinance. Only amendments regarding affirmative action, types of leave, and the addition of two positions to the list of authorized positions have been approved by City Council members since passage of Ordinance No. 277. While some policies and procedures may remain applicable over time, others should have been updated to, at minimum, ensure compliance with state and federal law. Examples of changes that should likely be represented in the policies and procedures include: the Family Medical Leave Act of 1993, the Americans with Disabilities Act of 1990, the Affordable Care Act of 2010, and revisions to Kentucky Minimum Wage Law of 2016.

Although both the City Clerk and the City Attorney recalled working separately, during the current administration, on needed revisions to the City's personnel policies and procedures, neither set of suggested amendments were ever adopted by the City Council. Furthermore, records document that the City Council repealed Ordinance No. 277 in February 2007, but did not replace the personnel policies until July 2009 when it reinstated Ordinance No. 277 in its entirety, over two years later. When asked about the circumstances surrounding the action to repeal Ordinance 277 and re-adopt it years later, the Mayor stated that he had noticed when he came into office that there were at least three individuals employed by the City in positions that were not listed as authorized positions under the personnel policies and procedures, and as such, he asked the City Council to repeal the ordinance. The Mayor noted that he thought the previously unlisted positions would be grandfathered into the City's personnel policies and procedures when the City acted to reinstate Ordinance No. 277.

Additionally, the City personnel policies and procedures direct the development and distribution of an employee handbook "meant to provide employees with a ready-reference on employment practices, employee benefits, and government operations." However, auditors were advised by the City Clerk that the employee handbook as described by the personnel policies and procedures does not exist.

Interviews with City financial personnel revealed employees handle most financial activities independently, with limited supervision, and without the guidance of documented policies and procedures. This includes, but is not limited to, handling accounts payable, cash receipts, business licenses, regulatory fee collections, water billing, and water account adjustments. The City Clerk confirmed that no policies and procedures exist, outside of the personnel policies and City ordinances. While the City Clerk attended training to become a certified city clerk, most of the financial personnel interviewed were

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not formally trained but rather learned through on-the-job training. Given the condition of the City's accounting systems, as described in Finding 6, and the potential turnover described by select City personnel during interviews, the need for formal written financial policies and procedures is paramount to the long-term success of City operations.

Finally, although the City has established a Code of Ordinances, these ordinances are not regularly reviewed. KRS 83A.060(11) requires each city at least once every five years "cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions." According to the Mayor, adopted City ordinances are only reviewed when issues or concerns arise. The City Attorney stated that he had never been asked to review the complete Code of Ordinances but recalled revisions being made to specific ordinances. As is documented in Finding 4, the failure to stay informed of legislative changes and make timely revisions to an ordinance resulted in the City charging a regulatory licensee fee which it was no longer authorized to charge almost two years after a legislative change occurred.

Without well-written guidance, there is no formal direction given to employees regarding the controls and safeguards that should be in place to ensure financial transactions are properly handled, recorded, and supported by documentation. Such guidance also sets standards of acceptable behavior and business practices and allows for consistency during times of transition or emergencies.

Recommendations

We recommend the City review and revise, as necessary, its personnel policies and procedures ensuring consistency with City operations. In revising its personnel policies and procedures, the City should ensure that it develops, in writing, an employee handbook. After all elements of the City personnel policies and procedures are revised and documented, the policies and procedures should be distributed to all City employees. Upon receipt of the revised policies and procedures, employees should sign an affidavit acknowledging receipt and understanding of the City personnel policies and procedures, and the signed acknowledgement should be maintained in each employee's personnel file.

We recommend the City develop and formalize in writing financial policies and procedures to provide guidance and oversight to City financial staff. The City should ensure the policies and procedures are consistent with good management practices and provide adequate controls to safeguard City assets and resources. Once

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finalized, the financial policies and procedures should be distributed to the employees responsible for the City's finances. The City should ensure that financial staff not only receive and acknowledge these policies and procedures, but that they are trained on how to follow and administer the policies and procedures.

We recommend the Mayor and City Council designate an attorney to conduct a comprehensive review of the City's Code of Ordinances to ensure consistency among the ordinances and state laws and that the ordinances be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions as required by KRS 83A.060(11). We further recommend the City establish a procedure to ensure the periodic review of its Code of Ordinances at least every five years in compliance with KRS 83A.060(11).

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**CITY OF WHITESBURG'S
MANAGEMENT RESPONSE**

City of Whitesburg, Kentucky Management Response

WEB ADDRESS: www.cityofwhitesburg.com



TDD: 1-800-648-6066
CITY HALL: 633-3700
FAX: 606-633-3712

"In the Heart of The Hills"
38 East Main Street
WHITESBURG, KENTUCKY 41858

December 14, 2017

Mike Harmon
Auditor of Public Accounts
209 St. Clair Street
Frankfort, Kentucky 40601

RE: City of Whitesburg's Response to Examination of Certain Policies, Procedures and Financial Activity of the City of Whitesburg, Kentucky Draft Report

Dear Mr. Harmon;

We are in receipt of the Draft Report noted above, as provided to us by Name Redacted
 on Monday, December 11, 2017, with the City's response due by Thursday, December 14, 2017 at 4:30 p.m. We requested an extension of time to respond, which request was denied. In light of the limited time to respond and the information provided to us, we have responded to the findings of the auditors to the best of our knowledge and ability at this time as laid out below.

FINDING 1. The City failed to properly manage its water utility accounts, resulting in excessive delinquent accounts, totaling \$356,814.00 as of February, 2017, and increased risk of fraud and abuse.

CITY'S RESPONSE TO RECOMMENDATIONS:

City of Whitesburg, Kentucky Management Response (Continued)

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- a) In 2017, the City has entered into repayment agreements with over 40 delinquent customers. It has disconnected service to 19 customers. It had initiated adding interest charges on past due accounts. The system status report does not show disconnects that have been reconnected. It only shows disconnected accounts that remain disconnected as per [Redacted] Water Clerk.
- b) Each department head including the Chief of Police, The Fire Chief and Superintendent of Water and Sewer, has been refreshed, by review, of their specific duties, per ordinance. The City Clerk has been refreshed by reviewing her duties and responsibilities.
- c) The City incorporates in responses to its auditors as noted in its Reports of Audit for corresponding time period of January 1, 2014 through April 1, 2017 previously filed with the appropriate bodies, copies attached.
- d) The City Clerk and Water Clerk have received instructions as to how to handle complaints requesting adjustments for water and sewer billing issues. As noted in the Draft Audit, much has been said about the City Attorney's business, known as [Redacted]. This has been a long running dispute, but the City has noted that the customer has always paid an amount each month that it felt it owed. To assist in resolving this dispute, the Corporation forwarded its disputed bills to their CPA. The CPA provided a report with the billings attached as documentation for usage, rates and charges. His findings were presented to the City and the Water Clerk and the City Clerk have confirmed that the CPA's figures were correct by comparing his numbers to the customer's meter reading and the rates charged for water pursuant to the 2009 ordinance and the 2008 sewer ordinance. Based on the documentation, the customer's account has been corrected. A copy of how it was documented is attached. And, the format was reviewed with the City Clerk and the City Water Clerk as one method of how to handle a disputed water bill.
Having noted that the City has a problem, that was a combination of not reading meters, wrong readings, and/or applying wrong rates, the City Clerk and Water Clerk were to develop a method to address these issues. The Clerks were to review the delinquency list (some accounts appear to be of long standing) to determine known deceased customers and prioritize delinquent accounts by date, amount and location in order to begin a notice process of cut off and collections.
- e) As per [Redacted] City Clerk, as of December 2016, the City was delinquent with their water bills in the amount of \$11,271.38. As of November, 2017 account 3030 City Hall, had a credit balance of -\$1000.00, Account 3020 Whitesburg Police Department had a balance of \$79.41, Account 3010 City Clerk and Water Department had a \$0 Balance, Account 6742, Whitesburg Sewer Plant had a \$0 balance, Account 1429 had a credit balance of -\$829.58 and Account 8930 Recycle Center had a credit balance of -\$11.44. All water accounts have been satisfied with credits or \$0 balances.
- f) The Letcher County Jail is current on their water bill as of today's date.

FINDING 2. The City routinely failed to meet statutory audit and other financial reporting requirements, resulting in over \$92,000.00 in Municipal Road Aid Funds being withheld.

City of Whitesburg, Kentucky Management Response (Continued)

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CITY'S RESPONSE TO RECOMMENDATIONS:

- a) All funds have been forwarded to the City (\$41,759.00 received on December 8, 2017).
- b) The City will meet statutory requirements going forward.

FINDING 3. The City did not identify all businesses requiring a business license, nor collect required licensing fees from a large number of businesses, including the Mayor's law practice, operated out of City Hall.

CITY'S RESPONSE TO RECOMMENDATIONS:

- a) The City has historically used its prior business license list in determining what businesses should be billed for the current year. It is reviewing its water/sewer records for business omissions and working with the Police Department and others to update. For example, the City has inquired of AEP, Kentucky Power if they can make available to us, a list of businesses receiving electrical service inside the City of Whitesburg for purposes of comparison updating.
- b) The Mayor did obtain a business license in 2017.
- c) It is the intention of the City to develop and implement additional procedures in an effort to comply with the recommendations of the auditors.

FINDING 4. The City collected and expended ABC funds in violation of state law.

CITY'S RESPONSE TO RECOMMENDATIONS:

- a) Section 2.5-18 of the City's ABC Ordinance provides a procedure for refunds. The issue of the payment of the alcohol tax on food, was reviewed and the consensus was that this was a pass through tax, i.e., the City imposed an alcohol tax on food sales, which was charged to, and collected from, the licensees individual customers and remitted to the City. Any individual who presents proper documentation that the alcohol tax was placed on their food during the period in question can be refunded through Section 2.5-18. A review of restaurant license holders for the period in question shows that 2 of the license holders are out of business and that 2 did not collect the alcohol tax on for food sales, those being The [Redacted] and [Redacted].
- b) \$19,903.80, as noted in the findings, has been repaid in full.
- c) As the City felt that sponsoring holiday events was to the benefit of all city businesses, particularly those who held alcohol licenses, (particularly the Independence Day celebration and the OktoberFest Main Street celebration) the costs associated with those events were considered by the City to be administrative costs. However, going forward with the recommendations of the auditors the City will take additional steps to insure statutory compliance with its expenditures of ABC funds, and to limit said expenditures to only those purposes allowed by statute.

City of Whitesburg, Kentucky Management Response (Continued)

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FINDING 5. The Mayor received inappropriate excessive benefits, including use of public property for his private law practice and receiving additional health insurance benefits beyond those received by other city employees.

City's Response to Recommendations:

- a) While it's true that I operate my private law practice from my office in City Hall, this effort only take less than 10% of my total time and less than 5% of time in the use of City equipment. In an effort to be fair and honest with the people of Whitesburg, I have \$120.00 per month deducted from my pay. While this amount may seem "nominal" to someone who compares the cost of a Lexington, Louisville, Frankfort or even a Whitesburg Law Firm, I spend most of my time dealing with City issues. My decision to bring my practice into City Hall was based on the inability to separate City business from private business while in a separate private office. I do not have a law library or other high-end costs generally associated with a law office and being in City Hall allows me to be available to the people of Whitesburg readily to help solve their problems. Even though the use of my office as aforesaid has not been formally approved by the City Ethics Committee or the City Council, every person in the whole City of Whitesburg and specifically every member of the City Council are aware of this arrangement. I will follow the recommendation of and correct this situation. I will certainly submit this issue to the City Ethics Committee and City Council as recommended by APA. (as per the personal response of James W. Craft, Mayor, copied herein)
 - b) It should be noted that the City leases out space in City Hall to other tenants. It also allows the public to use its community room (located upstairs, with a complete kitchen) and City Hall Chambers, when not in use by the City, for business meetings, etc.
 - c) The City takes seriously, the findings, concerning the Mayor's use of his office (which is 9 feet by 16 feet) for personal business. He pays monthly rent and same has been done with the full knowledge of the City Council and practically everyone in the community. However, the matter of his office space, and its use will be presented to the Council for a requested written lease and will be forwarded to the ethics board for review.
 - d) In noting the issues concerning the Mayor's health insurance benefits, the City intended to provide a salary and benefit package comparable to that of those holding the same office in local cities of similar size and function. Upon review of this matter, it is noted that the Mayor was never given a "cost of living" adjustment and that his compensation is not comparable to that of his counterparts in surrounding cities. While the audit reports that the mayor receives a greater health benefit than that of the other City employees, the Mayor's health insurance is part of his total compensation package and has been fully approved by the City Council. It should be noted that the Mayor's total compensation, including salary and family health insurance benefits, is still significantly lower than that of those holding the office of Mayor in many Kentucky cities. This procedure does not appear to violate the personnel policies of the City of Whitesburg, as scope of coverage, paragraph
-

City of Whitesburg, Kentucky Management Response (Continued)

Page 5 of 7

1 (a) (c) and (e) exempt all elected officials, city attorney, consultants, advisors and council rendering temporary service. The Personnel Policy defines an employee (as opposed to an officer) as a person: a) whose position was not created by the Constitution, Kentucky Revised Statutes, or local ordinance; b) who possesses no part of the sovereign power of the city; c) whose powers were not conferred directly by the City; d) who is supervised by someone who in a higher position; and e) whose position has no established permanency. The Mayor does not receive his health benefit as an "employee" of the City, but rather as a component of the total benefit package extended to him as Mayor. This was enacted by virtue of KRS 83 A and the City Ordinance encompasses the distinct division between employees and elected officials.

FINDING 6. The City's accounting system is inadequate and impaired the accountability and transparency of financial activities, leading to the importance of noncompliance.

CITY'S RESPONSE TO RECOMMENDATIONS:

- a) We will comply with the recommendations of the auditors going forward. The City has noted and takes seriously its need for an updated system that can answer for all the issues presented by this audit and its independent auditors. The issue, in the past, has been one of financial resources, but the City believes that it is in a financial position to seek proposals for an absolute updated system that ties all accounting matters to proper procedures and include a centralized system to upgrade and correct the problems with an antiquated and failing water and sewer accounting program.

FINDING 7. The contractual terms between the City and the City Attorney are unclear, and the City Attorney's compensation was not always reported to the IRS.

CITY'S RESPONSE TO RECOMMENDATIONS:

- a) Appointment by Mayor, pursuant to KRS 83A (130(a)) and established by Council (531.35) The council authorizes the hiring of a City Attorney as an independent contractor by including money in the budget for legal services. After the budget is adopted the Mayor may retain an attorney, when necessary, with or without a written contract. This is the most common method by which City Attorneys are hired. Historically, this has been the City's procedure. We have checked with the other cities in our county and have been told that this is their procedure as well. This was also confirmed by the Kentucky League of Cities.
- b) In speaking with the City Attorney, he absolutely had no conversations with the City Clerk concerning a 1099. It is our understanding that the information relied on by the City Clerk

City of Whitesburg, Kentucky Management Response (Continued)

Page 6 of 7

came from the local CPA, who has acknowledged that he mistakenly confirmed this information to her.

- c) The City did request guidance from its group insurance health provider as to the eligibility of the City Attorney, which coverage was approved in writing. A copy confirming same is attached.
- d) The City is reviewing the recommendations and requesting advice from the appropriate entities to instruct the City Clerk to follow the correct procedures and follow the relevant laws.

FINDING 8. The City had poor internal controls in its water and sewer department, creating significant risks of fraud and abuse.

CITY'S RESPONSE TO RECOMMENDATIONS:

- a) See all above responses for explanations.

FINDING 9. The City failed to have sufficient policies and procedures in place and ensure effective management of city operations.

CITY'S RESPONSE TO RECOMMENDATIONS:

- a) A review of our records indicates that the City has requested that City Attorney prepare an updated policy and procedure manual, which will be submitted to the City Council and therefore comply with the recommendations of the auditors.

With regard to the large number of delinquencies for water and sewer customers, we are aware of the deficiencies of the City's antiquated usage and accounting system. In addition to the steps noted above, once the City has replaced the faulty system and have implemented an updated and more efficient system of managing water and sewer accounts, a proposal may be considered, to provide, by ordinance, an amnesty program as determined by the City's legislative body for the forgiveness or reduction of accumulated delinquencies, penalties and interest.

I would like to extend thanks on behalf of the City, to the Office of Public Accounts, for the professional and courteous behavior manner displayed by the auditors as well as the insight they provided. The City does not take the findings of this audit or the recommendations of the auditors lightly. It is the City's intention to continue to review the audit report, confer with the appropriate entities where necessary, and take all necessary steps to insure that the City of Whitesburg is compliant with all statutes and regulations governing it.

Thanking you in advance for your consideration of the above responses, I remain

City of Whitesburg, Kentucky Management Response (Continued)

Page 7 of 7

Very Truly Yours;



Garnett Sexton, City Clerk

cc: James W. Craft, Mayor
James D. Asher, City Attorney

Attachments:

1. Previous Audit Responses
2. Whitesburg Motel Adjustment Documentation
3. Insurance Approval Letter

***Auditor of Public Accounts Note:** To avoid disclosure of personal information, some documents provided by the City with its response have been omitted and certain names have been redacted. Additionally as an attachment to its response, the City provided its entire audit report for Fiscal Years 2015 and 2014. Due to the length of the report, only opinion letters and findings are included herein.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses

Chris Gooch

Certified Public Accountant
P.O. Box 1536
Hazard, Kentucky 41702
(606) 436-5700 FAX: (606) 436-5701
chrisgooch@chrisgoochcpa.com

INDEPENDENT AUDITOR'S REPORT

Honorable Mayor and City Council
City of Whitesburg
Whitesburg, Kentucky 41858

Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of City of Whitesburg, Kentucky, as of and for the years ended June 30, 2015 and 2014, and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

2.

Opinion

In our opinion the financial statements referred to above present fairly, in all material respects, the financial position of the City of Whitesburg, Kentucky, as of June 30, 2015 and 2014, and the changes in financial position thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Change in Accounting Principle

As discussed in Note 1 to the financial statements, the City adopted new accounting guidance, Governmental Accounting Standards Board Statement (GASB) No. 68, Accounting and Financial Reporting for Pensions – an Amendment of GASB Statement No. 27, for the year ended June 30, 2015. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, budgetary comparison information and employer's share of net pension liability and schedules of employer contributions be presented to supplement the basic financial statements. The budgetary comparison information employer's share of net pension liability and schedules of employer contributions are found on pages 45-47. A management's discussion and analysis was not provided. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information made available in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City of Whitesburg, Kentucky's basic financial statements. The combining and individual nonmajor fund financial statements are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The combining and individual nonmajor fund financial statements are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the combining and individual nonmajor fund financial statements are fairly stated in all material respects in relation to the basic financial statements as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated May 26, 2017, on our consideration of the City of Whitesburg, Kentucky's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters.

**City of Whitesburg, Kentucky Management's Response Attachments - Excerpts
from the Previous Audit Responses (Continued)**

3.

The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering City of Whitesburg, Kentucky's internal control over financial reporting and compliance.

A handwritten signature in cursive script, appearing to read "Chris Gooch".

Chris Gooch
Certified Public Accountant

Hazard, Kentucky

May 26, 2017

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

59.

Chris Gooch

Certified Public Accountant
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INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL
REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT
AUDITING STANDARDS*

Honorable Mayor and City Council
City of Whitesburg
Whitesburg, Kentucky 41858

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of City of Whitesburg, Kentucky, as of and for the years ended June 30, 2015 and 2014, and the related notes to the financial statements, which collectively comprise City of Whitesburg, Kentucky's basic financial statements and have issued our report thereon dated May 26, 2017.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered City of Whitesburg, Kentucky's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City of Whitesburg, Kentucky's internal control. Accordingly, we do not express an opinion on the effectiveness of the City of Whitesburg, Kentucky's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying schedule of findings and responses, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying schedule of findings and responses to be material weaknesses: 2015-1, 2015-2, 2015-3 and 2015-4.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompany schedule of findings and responses to be significant deficiencies: 2015-5 and 2015-6.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

60.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether City of Whitesburg, Kentucky's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of City of Whitesburg, in a separate letter dated May 26, 2017.

City of Whitesburg, Kentucky's Response to Findings

City of Whitesburg, Kentucky's response to the findings identified in our audit is described in the accompanying schedule of findings and responses. City of Whitesburg, Kentucky's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



Chris Gooch
Certified Public Accountant

Hazard, Kentucky

May 26, 2017

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

61.

CITY OF WHITESBURG

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS

For the Years Ended June 30, 2015 and 2014

2013-01

Condition:	<p>The City's monitoring procedures for key financial areas are either not established or without documentary evidence in the following areas:</p> <ul style="list-style-type: none"> a) No evidence written supervisory authorization is provided after customer utility meter readings are entered into accounting system; before submission of monthly billings; and, after customer credit adjustments are posted; b) No evidence written supervisory review is provided for cash reconciliation and monthly bank statements; c) No evidence written supervisory review is provided for the reconciliation of customer utility receipts, deposits and general ledger postings; d) The City is not posting transactions to the general ledger in a timely fashion therefore delaying release of periodic and annual financial reporting.
Criteria:	Control procedures for each of these areas are essential to ensure that the risk of financial statement misstatement is maintained at an acceptable risk level and that the risk of fraud is mitigated.
Cause:	The City has not established effective monitoring procedures for the key financial areas indicated above.
Effect:	Financial reporting information may not be free of material misstatement. The risk of fraud occurring is greater. The risk regulatory reporting errors are occurring is greater.
Recommendations:	The City should enhance its control procedures for the above-referenced as follows: a) Provide evidence of written supervisory authorization after customer utility meter readings are entered into accounting system; before submission of monthly billings; and, after customer credit adjustments are posted; b) Provide evidence of written supervisory review for cash reconciliation and monthly bank statements; c) Provide evidence of written supervisory review for the reconciliation of customer utility receipts, deposits and general ledger postings; d) Assure general ledger is maintained in a timely fashion to avoid delays in external reporting.
Management's Response:	The City has retained the services of a certified public accountant to assist in periodic and year-end financial statement preparation; bank reconciliation; and, preparing and maintenance of general ledger. City management is implementing procedures to assure adequate review is occurring regarding its utility billing system.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

62.

CITY OF WHITESBURG

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS (CONTINUED)

June 30, 2015 and 2014

2013-02

Condition: We noted establishments qualifying for sale of alcoholic beverages were remitting less than the amount stated by ordinance based on amounts reported.

Criteria: The City's ordinance for the regulation and requirements of alcoholic beverage sales indicate qualifying licensed establishments shall remit six percent of the gross receipts from its sale of food and alcoholic beverages.

Cause: The City has not established effective monitoring or collection procedures for the collection of the fee.

Effect: The City is not maximizing its local revenue or imposing its ordinance.

Recommendations: The City should assure all previous balances are paid and establish monitoring procedures allowing review of remittances in accordance with ordinances established.

Management's Response: The City will act to collect previous balances and establish monitoring procedures allowing review of remittances in accordance with ordinances established.

2013-03

Condition: We requested but did not receive full corroborating documentation for some transactions selected for audit although statements were presented but not detail receipts.

Criteria: Transactions involving assets in custody of the City should be accompanied by corroborating documentation indicating its purpose and intent related to City of Whitesburg government and/or operations.

Cause: The City did not provide corroborating documentation sufficient to verify the transactions intent.

Effect: The risk is greater fraudulent, unallowable or unreasonable transactions are occurring without supporting documentation.

Recommendations: The City should assure documents are on file to corroborate disbursement transactions and evidence of monitoring is occurring.

Management's Response: The City will assure documents are on file to corroborate disbursement transactions and evidence of monitoring is occurring.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

63.

CITY OF WHITESBURGSUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS (CONTINUED)June 30, 2015 and 2014**2013-4:**

Condition:	At June 30, 2013, the City had several active utility customers with balances over \$1,000 and past due over 30 days.
Criteria:	The City should maximize local revenue by implementing collection procedures for delinquent customers and if necessary cutoff procedures.
Cause:	The City has not established effective monitoring and collection procedures for its customer utility accounts receivable.
Effect:	The City is not maximizing its utility revenue due to ineffective monitoring and collection procedures.
Recommendations:	The City should assure effective monitoring of its utility customers on a continuous basis.
Management's Response:	The City will assure effective monitoring of its utility customer base on a continuous basis. Management has stated utility customers as noted are either disconnected or current.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

64.

CITY OF WHITESBURG

SCHEDULE OF FINDINGS AND RESPONSES

For the Years Ended June 30, 2015 and 2014

2015-01

Condition:	<p>The City's monitoring procedures for key financial areas are either not established or without documentary evidence in the following areas:</p> <ul style="list-style-type: none"> a) No evidence written supervisory authorization is provided after customer utility meter readings are entered into accounting system; before submission of monthly billings; and, after customer credit adjustments are posted; b) No evidence written supervisory review is provided for cash reconciliation and monthly bank statements; c) No evidence written supervisory review is provided for the reconciliation of customer utility receipts, deposits and general ledger postings; d) The City is not posting transactions to the general ledger in a timely fashion therefore delaying release of periodic and annual financial reporting.
Criteria:	Control procedures for each of these areas are essential to ensure that the risk of financial statement misstatement is maintained at an acceptable risk level and that the risk of fraud is mitigated.
Cause:	The City has not established effective monitoring procedures for the key financial areas indicated above.
Effect:	Financial reporting information may not be free of material misstatement. The risk of fraud occurring is greater. The risk regulatory reporting errors are occurring is greater.
Recommendations:	The City should enhance its control procedures for the above-referenced as follows: a) Provide evidence of written supervisory authorization after customer utility meter readings are entered into accounting system; before submission of monthly billings; and, after customer credit adjustments are posted; b) Provide evidence of written supervisory review for cash reconciliation and monthly bank statements; c) Provide evidence of written supervisory review for the reconciliation of customer utility receipts, deposits and general ledger postings; d) Assure general ledger is maintained in a timely fashion to avoid delays in external reporting.
Management's Response:	The City has retained the services of a certified public accountant to assist in periodic and year-end financial statement preparation; bank reconciliation; and, preparing and maintenance of general ledger. City management is implementing procedures to assure adequate review is occurring regarding its utility billing system.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

65.

CITY OF WHITESBURG

SCHEDULE OF FINDINGS AND RESPONSES (Continued)

For the Years Ended June 30, 2015 and 2014

2015-02

Condition:	We noted establishments qualifying for sale of alcoholic beverages were remitting tax contrary as stated by ordinance based on amounts reported and remitted.
Criteria:	The City's ordinance for the regulation and requirements of alcoholic beverage sales define stipulated amounts of tax to be assessed based on the type establishment and type of sales.
Cause:	The City has not established effective monitoring or collection procedures for the collection of the tax.
Effect:	The City is not maximizing its local revenue or adhering to its ordinance.
Recommendations:	The City should assure all previous balances are paid and establish monitoring procedures allowing review of remittances in accordance with ordinances established.
Management's Response:	The City will act to collect previous balances and establish monitoring procedures allowing review of remittances in accordance with ordinances established.

2015-03

Condition:	We requested but did not receive full corroborating documentation for some transactions selected for audit although statements were presented but not detail receipts.
Criteria:	Transactions involving assets in custody of the City should be accompanied by corroborating documentation indicating its purpose and intent related to City of Whitesburg government and/or operations.
Cause:	The City did not provide corroborating documentation sufficient to verify the transactions intent.
Effect:	The risk is greater fraudulent, unallowable or unreasonable transactions are occurring without supporting documentation.
Recommendations:	The City should assure documents are on file to corroborate disbursement transactions and evidence of monitoring is occurring.
Management's Response:	The City will assure documents are on file to corroborate disbursement transactions and evidence of monitoring is occurring.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

66.

CITY OF WHITESBURG

SCHEDULE OF FINDINGS AND RESPONSES (Continued)

For the Years Ended June 30, 2015 and 2014

2015-4:

Condition:	At June 30, 2015 and 2014, the City had several active utility customers with balances over \$1,000 and past due over 30 days.
Criteria:	The City should maximize local revenue by implementing collection procedures for delinquent customers and if necessary cutoff procedures.
Cause:	The City has not established effective monitoring and collection procedures for its customer utility accounts receivable.
Effect:	The City is not maximizing its utility revenue due to ineffective monitoring and collection procedures.
Recommendations:	The City should assure effective monitoring of its utility customers on a continuous basis.
Management's Response:	The City will assure effective monitoring of its utility customer base on a continuous basis. Management has stated utility customers as noted are either disconnected or current.

2015-5:

Condition:	The financial statements presented for audit do not allocate expenditures by departments consistent with authorized budget line items.
Criteria:	The City should present financial statement expenditures by departments for more effective monitoring.
Cause:	The City does not code expenditures presented to its fee accountant by department enabling allocation for financial statement presentation.
Effect:	Expenditures by department may be over or understated. Monitoring results by department is more difficult.
Recommendations:	The City should assure expenditures are coded when presented for posting to its account ledger enabling more efficient monitoring by department.
Management's Response:	The City will assure expenditures are coded when presented for posting to its account ledger enabling more efficient monitoring by department.

City of Whitesburg, Kentucky Management's Response Attachments - Excerpts from the Previous Audit Responses (Continued)

67.

CITY OF WHITESBURG

SCHEDULE OF FINDINGS AND RESPONSES (Continued)

For the Years Ended June 30, 2015 and 2014

2015-6:

Condition:	Tax revenue for governmental funds and proprietary fund revenue was not allocated in the financial statements presented for audit.
Criteria:	The City should classify general fund revenue by type, for example, general property tax, payroll tax, franchise tax, telecommunications tax, other revenue for more effective monitoring. Proprietary type revenues should be allocated in the same manner – water, sewer, sanitation, other.
Cause:	The City does not code revenue prior to presentation to its fee accountant by revenue type enabling allocation for financial statement presentation.
Effect:	Revenue by fund type may be over or understated. Monitoring results by fund type is more difficult.
Recommendations:	The City should assure revenues are coded when presented for posting to its account ledger enabling more efficient monitoring by revenue type.
Management's Response:	The City will assure revenues are coded when presented for posting to its account ledger enabling more efficient monitoring by revenue type.

City of Whitesburg, Kentucky Management's Response Attachments - Adjustment Documentation

James D. Asher, Attorney At Law
35 Bentley Avenue, Whitesburg, KY. 41858
Tel (606)-633-1616 Fax (606) 633-3280
asherlaw@kih.net



December 6, 2017

Mayor James W. Craft
38 East Main Street
Whitesburg, Kentucky 41858

Water/Sewer Bills: Redacted

Dear Mayor Craft;


On August 5, 2009, The Mountain Eagle published Ordinance 2008-1, setting water rates as per the attached schedules prepared by Redacted CPA. The attempt to amend the ordinance covering sewer usage, Ordinance 381, failed for two reasons; 1) it was given a first reading on January 11, 2008, but was not given a second reading, and 2) it was not published. Enclosed is a copy of the publication of 2008-1. (The Mountain Eagle 08/05/2009) *Nov 2009 - 6*

The CPA has confirmed that Redacted has been overcharged by \$7,318.56 from January 1, 2014 through July, 2017. We will review August, 2017 forward and provide you with adjustment, if any. Also, the CPA started with an "as billed" balance on December 18, 2013 of \$14,539.37. We are looking through our receipts for these prior years, and if found, will provide you with additional adjustments, if any.

Further, at the council meeting of July, 2017, and as printed in the Mountain Eagle on July 12, 2017, the Mayor confirmed the above by noting "The City of Whitesburg hasn't raised its rates since it had to increase rates nearly 15 years ago."

At this point I am only asking for a proper credit on this account. I further suggest that the City amend its Water/Sewer Ordinance and review the rates suggested by the report provided by rural water.

Sincerely,


James D. Asher
JDA:ms

City of Whitesburg, Kentucky Management's Response Attachments - Adjustment Documentation (Continued)

DENNIS WAYNE FLEMING
CERTIFIED PUBLIC ACCOUNTANT
P O BOX 280
WHITESBURG, KENTUCKY 41858

606-633-8098

November 21, 2017

Redacted

Whitesburg, Kentucky 41858

In accordance with your request I have prepared schedules of water usage, amounts billed, amounts paid and balance due for the period January 1, 2014 through July 2017. In preparing these schedules I have assumed the water and sewer rates given to me were the same throughout the period.

Attached are the following schedules:

Charges, Payments and Balance Due for the period January 1, 2014 through July 31, 2017
Schedules of water usage, computed amount due, amount billed, credit due on water, sewer and sanitation bills for each year January 1, 2014 through July 31, 2017.

The results of these schedules show a credit due to Redacted in the amount of \$ 7,318.56.



Dennis Wayne Fleming
Certified Public Accountant

City of Whitesburg, Kentucky Management's Response Attachments - Adjustment Documentation (Continued)

Redacted			
Water and Sewer Bills			
Charges, Payments and Balance			
January 2014 through July 2017			
	As Billed	As Computed	
Balance 12/18/13	\$14,539.37	\$14,539.37	
2014 Billed	20,001.43	18,081.90	
2014 Paid	-14,432.13	-15,202.60	No credit for pmt 770.48 Ck # 11087
Credit	-5,259.68	-5,259.68	
2015 Billed	18,359.59	16,785.99	
2015 Paid	-13,244.63	-13,244.60	
Credit	-5,185.70	-5,185.70	
2016 Billed	22,670.51	20,589.86	
2016 Paid	-11,071.61	-11,071.60	
Credit	-4,147.68	-4,147.68	
2017 Billed	10,484.74	9,510.39	
2017 Paid	-8,959.99	-8,959.99	
Credit	-3,111.42	-3,111.42	
2017 Late Fees	1,297.66	1,297.66	
Balance	\$21,940.46	\$14,621.90	
Computed credit due		\$7,318.56	<i>as of July</i>
No assurance is provided.			

Redacted													
2014	WATER RATES							SEWER RATES				SANITATION	
	Gallons Us	First 2000	Next 2000	Next 1000	All over 5000	Total Due	Amount Billed	First 2000	All over 20	Total Due	Amount Billed		
	Gallons	Gallons	Gallons	Gallons	Gallons			Gallons	Gallons				
		at \$ 3.50	at \$ 6.	at \$ 9.56	at \$ 9.56			at \$ 6.67	at \$ 6.67				
		per 1,000 Gal	per 1,000 Gal	per 1,000 Gal	per Gallon			per Gallon	per Gallon				
Jan-14	57500	9.40	7.00	6.00	506.68	519.68	527.86	9.86	373.52	383.38	488.31		100.00
Feb	66000	9.40	7.00	6.00	583.16	596.16	609.12	9.86	426.88	436.74	561.15		100.00
Mar	60800	9.40	7.00	6.00	535.36	548.36	559.41	9.86	393.53	403.39	516.59		100.00
Apr	78900	9.40	7.00	6.00	707.44	720.44	732.44	9.86	513.59	513.59	671.70		100.00
May	89600	9.40	7.00	6.00	812.60	825.60	834.74	9.86	586.96	596.82	763.40		100.00
Jun	154300	9.40	7.00	6.00	1,434.00	1,447.00	1,453.27	9.86	1,020.51	1,030.37	1,317.88		100.00
Jul	82290	9.40	7.00	6.00	659.64	672.64	678.91	9.86	480.24	490.10	623.71		100.00
Aug	73300	9.40	7.00	6.00	745.68	758.68	764.85	9.86	540.27	550.13	700.76		100.00
Sept	152100	9.40	7.00	6.00	1,414.88	1,427.88	1,432.24	9.86	1,007.17	1,017.03	1,299.03		100.00
Oct	24800	9.40	7.00	6.00	191.20	204.20	215.25	9.86	153.41	163.27	208.07		100.00
Nov	83400	9.40	7.00	6.00	755.24	768.24	775.46	9.86	546.94	556.80	710.27		100.00
Dec	53700	9.40	7.00	6.00	468.44	490.84	491.53	9.86	346.84	356.70	455.74		100.00
Totals	976690	\$112.80	\$84.00	\$72.00	8,814.32	8,979.72	9,075.08		6,389.86	6,498.32	8,316.61		1,100.00
Total Billed - Water	9,075.08												
Sewer	8,316.61												
Sanitation	1,200.00												
Sales Tax	1,409.74												
Total		\$20,001.43											
Total Calculated - Water	8,979.72												
Sewer	6,498.32												
Sanitation	1,200.00												
Sales Tax	1,403.86												
Total		\$18,081.90											
Difference		\$1,919.53											
No assurance is given.													

City of Whitesburg, Kentucky Management's Response Attachments - Adjustment Documentation (Continued)

Redacted													
2015	WATER RATES							SEWER RATES				SANITATION	
	Gallons Used	First 2000 Gallons	Next 2000 Gallons	Next 1000 Gallons	All over 5000 Gallons	Total Due	Amount Billed	First 2000 Gallons	All over 2000 Gallons	Total Due	Amount Billed		
		at \$ 3.50 per Gallon	at \$6.00 per Gallon	at \$ 9.56 per Gallon				at \$ 6.67 per Gallon					
Jan-15	81390	\$9.40	\$7.00	\$6.00	\$736.12	\$758.52	\$756.25	\$9.86	\$533.60	\$543.46	\$693.04		\$100.00
Feb	50510	9.40	7.00	6.00	439.76	462.16	461.04	9.86	326.83	336.69	428.40		100.00
Mar	82090	9.40	7.00	6.00	745.68	768.08	762.94	9.86	540.27	550.13	699.04		100.00
Apr	83865	9.40	7.00	6.00	755.24	800.04	779.91	9.86	546.94	556.80	714.25		100.00
May	50510	9.40	7.00	6.00	439.76	462.16	461.04	9.86	326.83	336.69	428.40		100.00
June	81021	9.40	7.00	6.00	726.56	748.96	752.72	9.86	526.93	536.79	689.88		100.00
July	130779	9.40	7.00	6.00	1,204.56	1,226.96	1,228.41	9.86	860.43	870.29	1,116.31		100.00
Aug	90400	9.40	7.00	6.00	822.16	844.56	842.38	9.86	593.63	603.49	770.26		100.00
Sept	61000	9.40	7.00	6.00	535.36	557.76	561.32	9.86	393.53	403.39	518.30		100.00
Oct	71900	9.40	7.00	6.00	640.52	662.92	665.52	9.86	466.90	476.76	611.71		100.00
Nov	56800	9.40	7.00	6.00	497.12	519.52	521.17	9.86	366.85	376.71	482.31		100.00
Dec	56300	9.40	7.00	6.00	497.12	519.52	516.39	9.86	366.85	376.71	478.02		100.00
Totals	896565	\$112.80	\$84.00	\$72.00	8,039.96	8,331.16	8,309.09	118.32	5,849.59	5,967.91	7,629.92		1,200.00
Total Billed - Water	8,309.09												
Sewer	7,629.92												
Sanitation	1,200.00												
Sales Tax	1,220.58												
Total	18,359.59												
Total Calculated - Water	8,331.16												
Sewer	5,967.91												
Sanitation	1,200.00												
Sales Tax	1,285.92												
Total	16,785.99												
Difference	\$1,573.57												
No assurance is given.													

Redacted													
2016	WATER RATES							SEWER RATES				SANITATION	
	Gallons Us	First 2000 Gallons	Next 2000 Gallons	Next 1000 Gallons	All over 5000 Gallons	Total Due	Amount Billed	First 2000 Gallons	All over 2000 Gallons	Total Due	Amount Billed		
		at \$ 3.50 per 1000 Gallon	at \$6.00 per 1000 Gallon	at \$ 9.56 per 1000 Gallon				at \$ 6.67 per 1000 Gallon					
Jan-16	37700	\$9.40	\$7.00	\$6.00	32700	\$335.01	\$338.57	\$9.86	\$238.12	\$247.98	\$318.62		\$100.00
Feb	30400	9.40	7.00	6.00	25400	265.22	268.78	9.86	189.43	199.29	256.06		100.00
Mar	40800	9.40	7.00	6.00	35800	364.65	368.21	9.86	258.80	268.66	345.19		100.00
Apr	56300	9.40	7.00	6.00	51300	512.83	516.39	9.86	362.18	372.04	478.02		100.00
May	71100	9.40	7.00	6.00	66100	654.32	657.88	9.86	460.90	470.76	604.86		100.00
June	247200	9.40	7.00	6.00	242200	2,337.83	2,341.39	9.86	1,635.48	1,645.34	2,114.03		100.00
July	148800	9.40	7.00	6.00	143800	1,397.13	1,400.60	9.86	979.16	989.02	1,270.70		100.00
Aug	117000	9.40	7.00	6.00	112000	1,093.12	1,096.68	9.86	767.05	776.91	998.22		100.00
Sept	160000	9.40	7.00	6.00	155000	1,504.20	1,507.76	9.86	1,053.86	1,063.72	1,366.73		100.00
Oct	94300	9.40	7.00	6.00	89300	876.11	879.67	9.86	615.64	625.50	803.68		100.00
Nov	55700	9.40	7.00	6.00	50700	507.09	510.65	9.86	358.18	368.04	472.88		100.00
Dec	58100	9.40	7.00	6.00	53100	530.04	533.60	9.86	374.19	384.05	493.45		100.00
Totals	1117400	\$112.80	\$84.00	\$72.00		10,377.55	10,420.18	118.32	7,292.99	7,411.31	9,522.44		1,200.00
Total Billed - Water	10,420.18												
Sewer	9,522.44												
Sanitation	1,200.00												
Sales Tax	1,527.89												
Total	\$22,670.51												
Total Calculated - Water	\$10,377.55												
Sewer	\$7,411.31												
Sanitation	\$1,200.00												
Sales Tax	\$1,601.00												
Total	\$20,589.86												
Difference	2080.65												
No assurance is given.													

City of Whitesburg, Kentucky Management's Response Attachments - Adjustment Documentation (Continued)

2017	WATER RATES						SEWER RATES				SANITATION	
	Gallons Us	First 2000	Next 2000	Next 1000	All over 5000	Total Due	Amount	First 2000	All over 2000	Total Due	Amount	
	Gallons	Gallons	Gallons	Gallons	Gallons		Billed	Gallons	Gallons		Billed	
		at \$ 3.50 per 1000 Gallon	at \$6.00 per 1000 Gallon	at \$6.00 per 1000 Gallon	at \$ 9.56 per 1000 Gallon				at \$ 6.67 per 1000 Gallon			
Jan-17	53280	\$9.40	\$7.00	\$6.00	48280	\$483.96	\$487.52	\$9.86	\$342.04	\$351.90	\$452.14	\$100.00
Feb	94400	9.40	7.00	6.00	89400	877.06	880.62	9.86	616.31	626.17	804.54	100.00
Mar	69400	9.40	7.00	6.00	64400	638.06	641.62	9.86	449.56	459.42	590.29	100.00
Apr	37900	9.40	7.00	6.00	32900	336.92	340.35	9.86	239.45	249.31	320.33	100.00
May	91800	9.40	7.00	6.00	86800	852.21	855.77	9.86	598.97	608.83	782.26	100.00
June	78300	9.40	7.00	6.00	73300	723.15	726.71	9.86	508.92	518.78	666.56	100.00
July	85400	9.40	7.00	6.00	80400	791.02	794.58	9.86	556.28	566.14	727.41	100.00
Aug		9.40	7.00	6.00				9.86				
Sept		9.40	7.00	6.00				9.86				
Oct		9.40	7.00	6.00				9.86				
Nov		9.40	7.00	6.00				9.86				
Dec		9.40	7.00	6.00				9.86				
Totals		\$112.80	\$84.00	\$72.00		4,702.38	4,727.17	118.32		3,380.55	4,343.53	700.00
Total Billed - Water		4,727.17										
Sewer		4,343.53										
Sanitation		700.00										
Sales Tax		714.04										
Total		\$10,484.74										
Total Calculated - Water		\$4,702.38										
Sewer		\$3,380.55										
Sanitation		\$700.00										
Sales Tax		\$727.46										
Total		\$9,510.39										
Difference		974.35										
No assurance is given.												

City of Whitesburg, Kentucky Management's Response Attachments - Adjustment Documentation (Continued)

A. Monthly Sewer User Rates and Charges – Minimum Sewer Rate: The minimum monthly bill shall be \$6.80 ~~\$9.86~~ and each customer shall be entitled to discharge water into the municipal water system based upon water usage of 2,000 gallons of water or less for this charge. SEWER USER RATES BASED ON METERED WATER USAGE, IN ADDITION TO MINIMUM CHARGE: The following monthly sewer user charges shall be made for each 1,000 gallons of water discharged, based on the metered water usage.

Beginning February 1, 2008 the Sewer Rate shall be as follows:

SEWER USER CHARGE PER MONTH

# Gallons	Charge	
2,000 or less	\$6.80	\$9.86
Per thousand after first 2,000	\$4.60	\$6.67

Beginning July 1, 2008 the Sewer Rates shall be as follows:

# Gallons	Charge	
<u>2,000 or less</u>	<u>\$9.86</u>	\$11.34
<u>Per thousand after first 2,000</u>	<u>\$6.67</u>	\$7.67

This is correct rate

Beginning July 1, 2009 Sewer Rates shall be an additional 11.75%.

SECTION 3 – MULTIPLE USERS ON ONE METER

Where two or more tenants or occupants of different, rental units of property are served by a single water meter, the property owner will be responsible for the total bill.

City of Whitesburg, Kentucky Management's Response Attachments - Insurance Approval Letter

Charles Anderson
Blackburn Insurance Group
147 Hibbard Street
Pikeville, KY 41501

December 14, 2017

[Redacted]
City of Whitesburg
Whitesburg, KY

RE: Anthem BCBS
Group # [Redacted]

Dear [Redacted]

Your group plan allows full time employees to enroll in your plan after meeting a probationary period and submission of a application in a timely manner. The employee may include his/her spouse and eligible children on the application at that time. It is my understanding that the city only contributes to the employee cost of the coverage and the spouse and eligible children premium would be deducted from the employees earnings.

1099 employees may be eligible with approval from Anthem BCBS. Mr. James Asher was approved by Anthem BCBS.

Part time employees are not eligible for the coverage.

Please let me know if you need any additional information.

Sincerely,


Charles Anderson, agent

AUDITOR'S REPLY

Auditor's Reply

The Auditor of Public Accounts (APA) identified certain matters in the City's response that warranted a reply to clarify statements that may be misleading or inaccurate without further explanation.

In its response, the City indicated that it requested an extension of time to respond to the draft report, and that the request was denied. The APA did not receive any formal request for an extension, nor was any denied.

In its response to Finding 1, the City indicated that a business owned by the City Attorney always paid a water bill each month that it felt it owed. It is important to reiterate the concern that the City's water billing records were not adequate in identifying amounts actually owed, as suggested in the City's response. Additionally, the City Attorney submitted a request to have the delinquent water bill adjusted based on a recalculation performed by a CPA on his behalf. This information was prepared after the examination field work was completed, and provided to APA on December 14, 2017. The worksheets, therefore, were not subject to APA examination procedures, and also were identified as unaudited with a notation stating, "No assurance is provided." The City's response indicates the account has been adjusted based on this information, which further illustrates the concern that the City has no independent way of verifying the disputed bills. Also, the City Attorney's adjustment request stated there was an incorrect water rate applied to the bills. This is a different justification than the Mayor provided as explanation for the large delinquent account. The City Attorney's letter indicates a potential additional problem of inaccurate rates being charged; however, that matter is unclear and was not a subject of the APA's examination.

The City's response to Finding 2 indicates it will meet the statutory audit and financial reporting requirements going forward, but does not address corrective action for fiscal years 2010, 2011, and 2012, that have not been audited. We reiterate that the City should implement procedures to comply with all audit requirements, including the audits of those fiscal years previously skipped.

In its response to Finding 4, the City indicated \$19,903.80 that was transferred from the ABC bank account to the City's payroll bank account has been repaid in full. We would like to clarify that the APA does not have information to independently confirm this occurred.

The City's response to Finding 5 indicates the Mayor is unable to separate City business from his private business while in a separate private office. This further illustrates one aspect of the finding, as it suggests the Mayor in turn would also not be able to separate his private business from the City's business while working in the Mayor's office. Although the City's examination response is signed by the City Clerk rather than by a City official, there is a notation included in the response to this finding indicating it was copied from a personal response provided by the Mayor.

Additionally, the City's response to Finding 5 indicates the Mayor does not receive health insurance benefits as an employee of the City as defined by the City's Personnel Policy, but instead as part of his benefits and compensation package as an official. The response further indicates the City Council approved this arrangement. As noted in the report, the City Council approved this arrangement on June 13, 2017, although City Council approval for the additional benefit received in prior years was not noted. Additionally, the City Council does not have authority to approve practices that are not

Auditor's Reply (Continued)

permissible by law. An opinion of the Office of the Attorney General, OAG 94-15, suggests that this practice may not be legal as cited in the examination.

The City's response to Finding 7 included an attached letter dated December 14, 2017 from an insurance agent indicating that 1099 contract employees may be eligible to participate in the City's group health insurance coverage with approval from the insurer. The letter states the City Attorney was approved to receive this coverage. It is not clear from this letter when the approval was granted, or include additional evidence that it was authorized by the health insurance provider. Additionally, it is important to reiterate that the City Attorney has not received a form 1099-MISC from the City since calendar year 2014.