

**EXAMINATION OF CERTAIN FINANCIAL OPERATIONS AND
INTERNAL POLICIES AND CONTROLS OF THE CITY OF
LONDON AND THE CITY OF LONDON TOURISM &
CONVENTION COMMISSION**



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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

April 5, 2022

Troy Rudder, Mayor
City of London
501 South Main Street
London, KY 40741

Starr Handy, Commission Board Chair
City of London Tourism & Convention Commission
202 South Broad Street
London, KY 40741

Dear Mayor Rudder and Chairperson Handy,

The Auditor of Public Accounts (APA) has completed its examination of the City of London (City) and the City of London Tourism & Convention Commission (Commission). This report summarizes the procedures performed and communicates the results of those procedures.

The purpose of this examination was not to provide an opinion on the financial statements, but to review specific matters brought to our attention and make recommendations to strengthen and improve internal controls to ensure financial management activities are accurate, transparent, and follow applicable statutes.


Detailed findings and recommendations based on our examination are presented in this report to assist management in implementing corrective action. Overall, these findings indicate the following:

- Expenditures of tourism funds generated by restaurant tax collections without adequate oversight and approval from the Commission.
- Undefined roles and responsibilities of the Commission and City, which led to confusion, conflict, and ineffective operations and governance of the Commission.
- Inconsistent financial processes and the improper award of employee bonuses from public and restricted funds.
- Failure to follow procurement laws, as well as statutory budgeting and reporting requirements, established for tourism commissions.

- Failure to properly maintain various financial and operational records.

We appreciate your assistance and the assistance of your staff throughout the examination. If you have any questions or wish to discuss this report further, please contact me, or Tiffany Welch, Executive Director.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike H", with a long horizontal stroke extending to the right.

Mike Harmon
Auditor of Public Accounts

CHAPTER 1: INTRODUCTION AND BACKGROUND

Examination Scope

Following a preliminary assessment of concerns regarding the City of London (City) and the City of London Tourism and Convention Commission (Commission), the Auditor of Public Accounts (APA) initiated a special examination on August 17, 2021. The purpose of this special examination was not to provide an opinion on the financial statements or duplicate work of routine financial statement audits, but to evaluate certain operations and financial activities of the City and Commission. Unless otherwise specified, examination procedures focused primarily on activity between July 1, 2019 and June 30, 2021.

To address the objectives of the examination, the APA interviewed members of the Commission, as well as various City and Commission personnel. The APA also reviewed and analyzed numerous documents, including, but not limited to, chart of accounts, ledgers, bank statements, purchase order requests, invoices, meeting minutes, personnel files, leases, ordinances, and state laws impacting tourism and convention commissions.

City of London

The City of London, located in southeastern Kentucky, serves as the county seat of Laurel County. As of the 2020 U.S. Census, the City has a population of 7,572. The City is organized and governed under a Mayor-Council form of government, the powers and duties of which are addressed in Kentucky Revised Statute (KRS) 83A.130. Under this form of government, the mayor exercises the executive authority of the city and is elected to serve a four-year term. The Council is made up of six elected members, each serving a two-year term, which functions as the legislative body of the City. Given the City's population size, KRS 91A.040 requires the City to obtain an annual financial statement audit after the end of each fiscal year (FY). City financial statement audits are to be completed by February 1 immediately following the fiscal year audited and a copy of the final audit submitted to the Department for Local Government (DLG) by March 1. Figure 1 presents total City revenue, expenditures, and other key financial information from the City's last two completed audits, covering FY 2019 and FY 2020.

Figure 1: Audited Financial Information for the City of London

Category	FY 2019	FY 2020
Total Revenues	\$ 14,900,028	\$ 27,704,033
Total Expenditures	15,033,129	29,890,468
Excess of Revenues Over (Under) Expenditures	(133,101)	(2,186,435)
Total Other Financing Sources	517,715	1,041,172
Net Change in Fund Balances	384,614	(1,145,263)
Beginning Fund Balance	4,591,447	4,976,061
Ending Fund Balance	\$ 4,976,061	\$ 3,830,798

Source: APA, based on the City's FY 2019 and FY 2020 audited financial statements.

City of London Tourism and Convention Commission

Commission Membership

On August 8, 2013, the City of London enacted Ordinance No. 2013-06 (see Appendix A) establishing the City of London Tourism and Convention Commission, as authorized by KRS 91A.350, to promote and develop convention tourist activities and facilities within the City. The Commission is composed of seven members appointed by the City's Mayor in a manner consistent with KRS 91A.360. Commission appointees include representatives of the local hotel and motel association (3), the local restaurant association (1), the local chamber of commerce (1), and the City (2).

Commission Revenue

In accordance with KRS 91A.400, the Commission is funded through a restaurant retail sales tax of three percent to be collected from restaurants doing business in the city. Per KRS 91A.400(3), “[a]ll moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in that city as provided by KRS 91A.350 to 91A.390.” In OAG 12-012, the Kentucky Attorney General states, “The city may choose whether or not to enact or repeal the restaurant tax, but it may not dictate how the tourism commission spends it, as that power is given to the commission by statute.” See Appendix D for the full OAG 12-012 opinion.

The City established the restaurant retail sales tax on March 24, 2014, through City Ordinance 2014-04 (see Appendix B), “to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business, including the city park system.” This tax is to be turned over to the Commission and is then to be spent by the Commission only for the purpose of “promoting recreational, convention and tourist activity and the maintenance and operation of the facilities related hereto.” According to its FY 2020 audited financial statements, the Commission is considered a special revenue fund of the City and reported \$2,747,426 in restaurant retail sales tax that year.

While the majority of Commission revenue is derived from the three percent restaurant retail sales tax, the Commission receives additional revenues from programs operated under its umbrella, such as community center rentals, Tree Top Adventures fees, and Levi Jackson Wilderness Park (Levi Jackson). For FY 2020, the Commission's audited financial statements report program revenues of \$616,215. See Figure 2 for additional financial information from the Commission's last two completed financial statement audits, covering FY 2019 and FY 2020.

Figure 2: Audited Financial Information for the City of London Tourism and Convention Commission

Category	FY 2019	FY 2020
Total Revenues	\$ 2,895,917	\$ 3,410,183
Total Expenditures	2,519,017	4,554,022
Excess of Revenues Over (Under) Expenditures	376,900	(1,143,839)
Total Other Financing Sources	62,257	7,742
Net Change in Fund Balances	439,157	(1,136,097)
Beginning Fund Balance	848,248	1,287,405
Ending Fund Balance	\$ 1,287,405	\$ 151,308

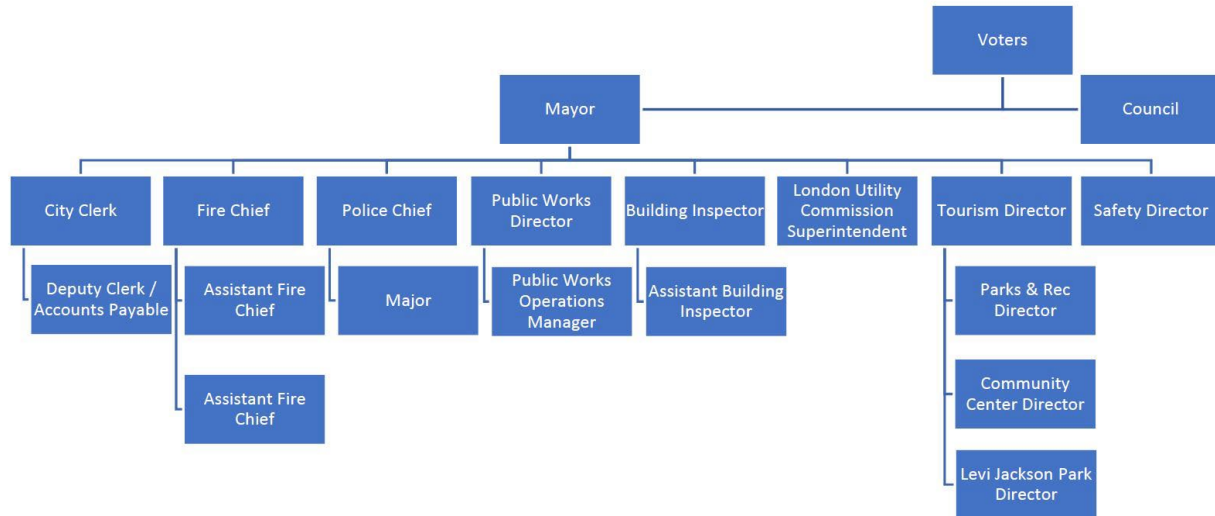
Source: APA, based on the Commission's FY 2019 and FY 2020 audited financial statements.

Commission Structure and Reporting Compliance

While creating the Commission pursuant to KRS 91A.350, the City also established the Commission as an administrative agency of the City. The City's tourism-related programs, such as the Community Center and City parks, were placed under the Commission's budget. The salaries and benefits for the City personnel in those programs, as well as newly added ones, are paid from the Commission's budget. The City provided administrative assistance to the Commission, including payroll and accounting services. Monthly reimbursements from the Commission were made to the City to reimburse for these and other expenses incurred by the City on behalf of the Commission.

Figure 3 reflects the City organizational structure and operations as of July 27, 2021. Though the Commission is not specifically identified in Figure 3, the Commission's umbrella includes those departments falling under the Tourism Director. As shown in Figure 3, departments under the Commission's umbrella include: Parks and Recreation, Community Center, and Levi Jackson.

Figure 3: Organization Chart for the City as of July 27, 2021



Source: City of London.

Tourism commissions are formed by local cities and counties, on an individual or joint basis for the purpose of promoting convention and tourist activities, as well as facilities. Authorized by KRS 91A.350, these commissions are formed to encourage tourism in their local communities. If a tourism commission meets certain criteria as defined by KRS 65A.010, it is considered a Special Purpose Governmental Entity (SPGE).

Regardless of whether a tourism commission functions as part of a city or separately as an SPGE, KRS 91A.360 requires all tourism commissions created under KRS 91A.350 to comply with the rules established for SPGEs, as outlined in KRS 65A.010 through KRS 65A.090. These SPGE requirements in KRS Chapter 65A include registration with DLG, annual financial reporting, and routine audits. See Finding 12 for discussion of the Commission’s failure to properly report as required by KRS 91A.360.

On July 7, 2021, DLG advised the Commission that it must comply with KRS Chapter 65A, regulating SPGEs, as it was formed under KRS 91A.350 et seq. DLG indicated the Commission became compliant with applicable reporting requirements on September 29, 2021. See Appendix C for an excerpt from DLG’s July 7, 2021 email.

CHAPTER 2: FINDINGS & RECOMMENDATIONS

Finding 1: Roles and Responsibilities of the Commission and City Were Not Clearly Defined

Undefined roles and responsibilities of the Commission and City, coupled with inconsistencies in operational processes, created confusion and questions of transparency and ethics in the oversight and use of tourism funds. This confusion has created division between City and Commission officials and has led to a number of issues, identified throughout this report, which evidence ineffective operations and governance of tourism funds. Furthermore, while it is clear that the intent of KRS 91A.350 et seq. is for all funds of the Commission to be used solely for the purpose of tourism and for those funds to remain under the control of the Commission, it appears from findings of this report that this fundamental point has been disregarded.

As described in Chapter 1 of this report, the Commission was established by the City, through Ordinance 2013-06, and is funded primarily by a three percent restaurant retail sales tax as permitted by KRS 91A.400. In establishing the Commission, the City Ordinance 2013-06, states that the “Commission shall be an administrative agency of the city government” and, as is consistent with KRS 91A.360, “may employ personnel and make contracts necessary to carry out the purpose of KRS 91A.350 to 91A.390.” While the ordinance indicates some authority is given to the Commission to act on its own behalf, it does not expound upon what is meant by the Commission being “an administrative agency” of the City and this language is not identified in state statute. When interviewed, the Mayor and City Attorney both were unable to clarify the intent of the language though they were in office when the Commission was established.

In April 2016, the City Attorney provided a slightly different view on the authority of the Commission when he presented his argument to DLG for the Commission to be declassified as an SPGE. Specifically, the City Attorney, who also acted as the Commission’s Attorney at the time, stated that the “Tourism Commission is not a separate corporation or legal entity,” “[a]ll contracts entered into by Tourism Commission are signed by the Mayor of the City of London,” and, “[a]ll employees of Tourism Commission are ‘City’ employees; they are hired by the Mayor and may be fired by the Mayor.” Then on September 30, 2020, City meeting minutes show that after a council member advised that he had received concerns from the public regarding Levi Jackson, the City Attorney explained, “all are employees of the City and (sic) employment of the Fourth-Class City.” The statements made in the Attorney’s letter and to the City Council indicate that though the City gave the Commission the authority to hire and contract for services in Ordinance 2013-06, the City did not actually grant the Commission that authority in practice. See Findings 2 and 4 for additional discussion of personnel decisions made without Commission input.

Additionally, language contained within lease agreements entered into between the City and the Commission to maintain and operate City park property serve to further obscure the roles and responsibilities of the City and Commission. Each of the property lease agreements, including a lease for Levi Jackson, state that the Commission is responsible for the maintenance and operation of the property and that “the City of London will have no control over such operation of the properties.” It is unclear how the Commission could assume absolute responsibility for the maintenance and operation of City owned park properties when the Commission is an administrative agency of city government and the Commission’s authority over personnel, as

defined by the City, was muddled and inconsistent. Findings 2 and 10 of this report evidence the Commission's lack of oversight and control as it relates to personnel and policies.

KRS 91A.400 requires all restaurant retail sales tax collected by the City to be turned over to the Commission. The Commission's Bylaws identify that the City Clerk is responsible for receiving all revenue collected for the Commission and maintaining the record of these revenues. The Bylaws further state, "[a]ll payments shall be made by the City Clerk." Beyond these statements in the Commission Bylaws, no written guidance or agreement exists to define the City expenses or administrative costs associated with this arrangement and how the process to recoup such costs would be handled. For the period of July 1, 2019 through June 30, 2021, the Commission reimbursed the City over \$2.7 million for the cost of shared resources and expenditures initially made by the City on the Commission's behalf. As detailed further in Findings 3 and 4 of this report, the Commission was not always active in the review and approval of these monthly reimbursements and two monthly reimbursements included the cost of inappropriate bonuses awarded by the Mayor to employees paid with Commission funds. Such action calls into question the control the Commission had related to personnel and operations.

To ensure compliance with KRS 91A.400, it would be anticipated that the relationship between the City and Commission provide some level of autonomy to allow the Commission to properly manage the restaurant tax revenue independent of the City. This does not necessitate that the Commission be entirely separate from the City, but to operate effectively and in a transparent manner, it is vital to establish clear lines of authority and document agreements outlining how processes between the two parties will work. Just as important, the established lines of authority and agreements must be consistently followed.

On September 13, 2021, the Commission passed a motion to "join the SPGE program and comply with the Kentucky Statutes and Regulations" pertaining to SPGEs. Since taking this action, the Commission has begun to hire full-time employees, obtain its own insurance, and process its own payroll. See Finding 12 for discussion of the Commission's failure to properly report, as required by KRS 91A.360, prior to September 2021.

On January 20, 2022, the City Attorney advised that the City Council had not taken action related to the Commission since it passed its motion to form as an SPGE. Though the Commission passed a motion and has taken steps to become independent from the City, it is unclear, based on City Ordinance 2013-06, if the Commission has the authority to independently decide and act on its own to establish itself as an SPGE. Without action by the City Council to readdress City Ordinance 2013-06, the Commission's legal status remains unclear.

Recommendations

We recommend:

- The City consider revising Ordinance 2013-06, to address the language identifying the Commission as an administrative agency of city government.
- The City and Commission ensure any cooperative arrangements between both parties are in writing and clearly delineate roles and areas of responsibility for each party. If

resources are to be shared or exchanged between the City and Commission, the agreements should also detail the timing, extent, and process in which the resources will be shared or exchanged, including any cost-sharing or reimbursement expectations.

Finding 2: The Commission Spent Over \$1.5 Million to Operate Levi Jackson Wilderness Park, but Had Minimal Involvement in Its Oversight or Control

The City's restaurant tax money has been used to fund the operations of Levi Jackson Wilderness Park (Levi Jackson) since it was acquired in September 2019, but Commissioners reported they had no involvement in hiring staff, setting the salaries, or planning for the operations of Levi Jackson. According to most current and former Commissioners interviewed, the Mayor directed these tasks using the Commission's funds, spending a cumulative amount of \$1.5 million for FY 2020 and FY 2021. KRS 91A.400 requires restaurant tax money be turned over to the Commission, but Commissioners indicate they have not been in full control of the funds used to operate Levi Jackson. Moving forward, the Commission should fulfill its statutory role to direct the use of restaurant tax monies, including in the operation of Levi Jackson. The Commission should also develop policies and procedures to operate Levi Jackson effectively and efficiently.

The Commission began operating the Tree Top Adventure Park (Tree Top) located within Levi Jackson Park in 2016. Kentucky state government later deeded Levi Jackson to the City at no cost on September 3, 2019. According to the City, it had been working to gain control of Levi Jackson for several years after the state expressed a willingness to give it away due to the lack of funds for its upkeep. The City planned to use tourism funds to maintain and expand the park, so the property was leased to the Commission on September 16, 2019. The lease states that the Commission will operate the property and that the City will have no control over its operation. Therefore, the Mayor's control of Levi Jackson spending and operations appears contradictory to both the lease language and KRS 91A.400.

The appointment letters for four Levi Jackson employees document that the individuals were hired by the City prior to the City's acquisition of Levi Jackson and the date of the Commission's lease with the City. The Levi Jackson Director's start date was August 10, 2019, and the other three employees had start dates on August 12, 2019, August 13, 2019, and September 2, 2019. These letters stated their effective start date, hourly rate of pay, and, in most instances, the position title. These letters were on City letterhead and only signed by the Mayor. While there are conflicting verbal accounts on whether this was a mutual decision by the Mayor and Commission members, the documentation only evidences the Mayor's involvement in the decision process. There was no discussion of the hiring of these individuals in the Commission's meeting minutes. See Finding 9 for additional discussion on the City's personnel and pay classification plan.

The Commission's August 19, 2019 meeting minutes do not mention or address the staff that had been hired for Levi Jackson, but the minutes do document that a City employee presented a list of six vehicles that would be purchased for Levi Jackson and the vendor with the lowest bid. (See Finding 10.) The minutes also include information about playground equipment for the Levi Jackson campgrounds. The Commission voted to purchase the vehicles and the playground equipment "based on the contingency of the City of London acquiring the Levi Jackson State Park."

The Commission's meeting minutes for September 16, 2019 document that the Commission voted to authorize the Chair to sign the lease, but nothing documented that four employees had already been hired and the Commission would be responsible for paying their salaries. Additionally, on

September 9, 2019, one of the vehicles discussed at the previous meeting had been purchased using Commission funds and was assigned to a City employee, instead of being used at Levi Jackson as presented.

Fourteen days later, a special Commission meeting was held on September 30, 2019, where the Levi Jackson Director, hired by the Mayor, informed the Commission that “[e]verything from furniture to the waterpark slides are in horrible, horrible shape. There are some electrical issues and the restrooms have been left in bad shape.” The Director further stated, “approximately \$103,000 is needed to renovate the campground, the clubhouse and the swimming pool.” The Commission voted to approve this amount for funding the renovations.

Current and former Commissioners who were interviewed made the following comments to auditors about this situation:

- More planning should have been done even though they did not want to lose Levi Jackson.
- Levi Jackson staff were not responsive to requests from Commissioners and did not act like they worked for the Commission, but for the City instead.
- The Mayor hired Levi Jackson staff behind the Commission’s back. Now the Commission is paying top wages for unqualified staff.
- Wages for other park employees had to be adjusted because Levi Jackson staff were being paid more.

When asked about the establishment of policies, controls, or rental fees, commissioners commented that Levi Jackson staff worked for the Mayor, and the Commission had no authority to make employment decisions. Levi Jackson is continuing to use the same fees and rates charged under state management. On October 19, 2020, the Commission made a motion to authorize a 10% discount for selected individuals; however, the minutes do not reflect the final vote. See Observation 3 for additional discussion of Commission meeting minutes.

With minimal control and planning, a total of over \$1.5 million was spent to operate Levi Jackson during FY 2020 and FY 2021. This \$1.5 million does not include just over \$150,000 spent by the Commission to operate Tree Top during that same two-year period. The Commission’s budget for FY 2020 had been approved in June 2019 and did not include any budgeted expenditures for Levi Jackson, with the exception of Tree Top which had its own budget. This led to \$592,840 being spent without revising the budget. (See Finding 11.) In FY 2021, the Commission budgeted \$918,850 but exceeded this by \$13,333. In June 2021, the Commission approved the FY 2022 budget with planned expenditures of \$1,345,200 for Levi Jackson operations despite policies or controls still having not been established. Figure 4 illustrates the available budget and actual amounts for Levi Jackson in FY 2020 through FY 2022, as of June 30, 2021. See Appendix E for additional financial data pertaining to Tree Top operations.

Figure 4: Three-Year Budget to Actual Expenditure Comparison for Levi Jackson Wilderness Park*

Fiscal Year	Budgeted Amount	Actual Amount	Difference
2020	\$ -	\$ 592,840	\$ (592,840)
2021	918,850	932,183	(13,333)
2022	1,345,200	N/A	N/A

Source: APA, based on budget tracking reports provided by the Deputy City Clerk.

*Amounts do not include financial data for the operation of the Tree Top Adventure Park.

In FY 2020 and FY 2021, operations of Levi Jackson, excluding Tree Top, produced revenue of almost \$1.24 million. Figure 5 illustrates Levi Jackson's actual revenue and expenditures for FY 2020 and FY 2021 in detailed budget categories.

Figure 5: Levi Jackson's Actual Revenue and Expenditures*

Budget Category	FY 2020	FY 2021
Levi Jackson Pool	\$ -	\$ 16,565
Levi Jackson Rentals	525,310	693,132
Total Revenue	\$ 525,310	\$ 709,697
Salaries	\$ 386,006	\$ 356,579
Fringe Benefits	164,053	187,014
Vehicle Maintenance	0	1,124
Utilities	0	154,787
Phone/Internet	(20)	7,352
Fuel	0	13,273
Office Supplies	14,392	1,638
Miscellaneous	23,500	2,921
Campground	4,834	57,680
Pool	0	48,340
General Maintenance	0	101,175
Marketing	75	300
Total Expenditures	\$ 592,840	\$ 932,183

Source: APA, based on budget tracking reports provided by the Deputy City Clerk.

* Amounts do not include financial data for the operation of the Tree Top Adventure Park.

Though restaurant tax funds have been used to operate Levi Jackson and the Commission signed a lease to operate the park, the Commission has not taken action to establish policies for the effective operation of the park. For example, policies are lacking as to the hiring process, salary setting process, determining user fees and a refund policy, and many other areas related to park operations.

Recommendations

We recommend:

- The City and Commission should comply with KRS Chapter 91A and ensure that restaurant tax revenue is only spent as directed by the Commission for the purpose of promoting convention and tourist activity.
- The Commission should establish policies for Levi Jackson to ensure operations are effective and efficient.

Finding 3: No Written Reimbursement Agreement Existed Between the Commission and the City

Between July 1, 2019, and June 30, 2021, the Commission reimbursed the City \$2,734,135 for the cost of shared resources and expenditures initially made by the City on the Commission's behalf. Despite the lack of a written agreement existing to document when and how reimbursements would occur, the Commission has been reimbursing the City since its inception for expenses identified by the City as tourism-related. Additionally, the Commission performed limited review of the reimbursement requests, and the City submitted reimbursement requests to the Commission on an inconsistent basis.

No written agreement exists between the Commission and the City detailing what is to be included in the monthly reimbursements. According to City Council meeting minutes from September 30, 2020, the City Attorney stated there is an unwritten agreement between the Commission and the City that the Commission reimburses the City for employee salaries and benefits.

While the Commission reimbursed the City for payroll expenses for staff assigned to it by the City, the monthly reimbursement request usually also included expenditures unrelated to these personnel. Such expenses included a portion of personnel expense for City payroll and administrative staff, attorney services, utilities such as electricity and phones, fuel for Commission vehicles, cleaning services, and credit card charges identified as tourism-related. City administrative personnel were often the ones identifying these expenses on behalf of the Commission. For example, during most of the examination period, the City Attorney submitted one invoice to the City for all City and Commission legal charges on the same invoice without always identifying which entity should be billed for which service. The Deputy City Clerk, who prepared the monthly reimbursement requests, would then determine the Commission's portion of the invoice based on her own judgment.

Expenses beyond personnel costs and cell phone charges were often generically categorized by the City as "Expense" within its monthly reimbursement request to the Commission, and no additional detail was offered. Additional detail of what was being charged within the "Expense" category was only provided in City reimbursement requests submitted to the Commission for the period February 2021 through May 2021. Between August 2019 and June 2021, the "Expense" category ranged from \$5,198 to \$15,171. Also, the basis for amounts charged for administrative and payroll duties performed by City employees was not documented, making it impossible to determine if the amounts charged to the Commission were accurate. See Appendix F for an example of a City monthly reimbursement request.

While the Commission chairperson received the monthly reimbursement requests, which provide a summary list of expenses by category of spending to be reimbursed, other Commission members were not fully aware of details associated with the requests. One Commission member, who has served on the Commission since 2016, was under the impression the Commission only reimbursed the City for payroll expenses.

Reimbursement requests also did not occur on a consistent basis, as some reimbursements were requested the following month and other requests were not made until several months later. Figure

6 shows when each month's reimbursement request was submitted and paid during the examination period.

Figure 6: Comparison of Monthly Reimbursement Requests for Commission Expense Incurred By the City in FY 2019 and FY 2020

Reimbursement Month	Reimbursement Request Date	Approval Initials	Check Date	Check Amount	Check Signed By
July 2019	08/16/19	Yes	08/19/19	\$ 62,234.49	Chair & Commission Member
August 2019	10/04/19	Yes	10/07/19	110,238.83	Chair & Commission Member
September 2019	10/22/19	Yes	10/22/19	102,470.88	Chair & Deputy City Clerk
October 2019	01/03/20	Yes	02/11/20	149,853.30	Chair & Deputy City Clerk
November 2019	01/14/20	Yes	02/19/20	133,565.19	Chair & City Clerk
December 2019	02/12/20	Yes	03/09/20	131,957.74	Chair & Commission Member
January 2020	03/20/20	No	03/23/20	193,584.81	Chair & City Clerk
February 2020	04/08/20	No	06/09/20	113,477.39	Deputy City Clerk & City Clerk
March 2020	04/28/20	No	06/09/20	101,664.81	Deputy City Clerk & City Clerk
April 2020	06/04/20	Yes	07/09/20	102,435.24	Deputy City Clerk & City Clerk
May 2020	06/24/20	No	07/09/20	101,405.13	Deputy City Clerk & City Clerk
June 2020	07/17/20	Yes	08/07/20	102,930.34	Deputy City Clerk & City Clerk
July 2020	08/24/20	No	09/03/20	148,574.67	Deputy City Clerk & City Clerk
August 2020	09/15/20	Yes	09/17/20	111,774.84	Deputy City Clerk & City Clerk
September 2020	10/12/20	Yes	10/20/20	110,474.96	Chair & Commission Member
October 2020	11/13/20	Yes	11/19/20	101,963.75	Chair & City Clerk
November 2020	12/11/20	Yes	12/18/20	103,093.20	Chair & City Clerk
December 2020	01/14/21	No	01/19/21	141,963.47	Chair & Deputy City Clerk
January 2021	01/18/21	Yes	02/19/21	96,120.10	Chair & Commission Member
February 2021	03/19/21	Yes	04/08/21	93,745.91	Commission Member & City Clerk
March 2021	04/12/21	Yes	04/19/21	96,478.00	Two Commission Members
April 2021	05/12/21	Yes (via Phone)	05/19/21	97,358.58	Two Commission Members
May 2021	06/17/21	Yes	06/17/21	107,295.38	Two Commission Members
June 2021	07/16/21	No	07/19/21	119,486.99	Two Commission Members
Total				\$ 2,734,135.00	

Source: APA, based on Reimbursement Requests from the City to the Commission for the period July 2019 through June 30, 2021.

Figure 6 also identifies the documented approvals and check signatures applied authorizing payment of each month's reimbursement to the City. As later explained in Finding 10 of this report, it was the Commission's practice for the Commission Chair to approve expenditures and for two Commission members to sign checks. The City Clerk or Deputy City Clerk could also sign a check, if needed.

As shown in Figure 6 by the shaded entries, there were four instances, totaling \$465,122, when a monthly reimbursement request was not initialed by a Commission chair signifying the Commission's approval to pay the bill and the check authorizing the payment of the same reimbursement was not signed by a Commission member. Though the Commission's budget may provide funds to reimburse the City for certain expenses, spending from the budget should still be controlled by the Commission. Furthermore, the Deputy City Clerk's role in preparing the

monthly reimbursement request conflicts with her role as a check signer as she is approving payment of something she herself created.

Finally, in addition to these monthly expense reimbursements, the City also requested and received reimbursement for work performed by City Street Department personnel on behalf of the Commission. Rather than including these expenses in the monthly reimbursements as they occurred along with other expenses, the City held these charges and billed the Commission for the street department services once a year. Documentation supporting the Street Department billing was often illegible; as such, amounts reported could not be verified.

Recommendations

We recommend the Commission:

- Develop and document procedures for how the Commission reimburses the City, including a requirement for more detailed expenditure documentation to be presented to the Commission before reimbursement is approved. Additional guidance regarding the development of these procedures is discussed in the recommendations for Finding 10.
- Document reimbursement agreements in writing, including details for what and when reimbursements should be made.
- Perform detailed reviews of reimbursement requests received, including verification of the total amount due.
- Ensure designated members of the Commission are the only approved signatories for all checks issued as payment for reimbursements.

Finding 4: Bonuses Were Awarded to All City Employees, Including Those Paid With Commission Funds, in Violation of the Kentucky Constitution

Between December 2019 and December 2021, the Mayor expended a total of \$114,753 to award bonuses to all City employees, which included employees working for the Commission in 2019 and 2020. The amounts paid were not part of the City's approved pay and classification plan or a benefit approved by the City Council. Additionally, the awards were not based on work performed by employees. As discussed in more detail below, the award of bonuses from public funds generally violates the Kentucky Constitution. In 2019 and 2020, City personnel receiving bonuses included those working within the Commission's operational umbrella: tourism, community center, and city parks (including Levi Jackson). The costs associated with these bonuses were passed along to the Commission through the City's monthly reimbursement requests, but the Commission was not advised that the bonuses had been paid.

The bonus payments to personnel were run through the City payroll, and gross amounts were individually calculated for each employee in order for the net pay after taxes to be the same for all similar employees. In December 2019, all full-time employees received net bonus pay of \$100, while part-time employees netted \$50 bonus pay each. In December 2020, the amounts awarded were increased so that net pay would equal \$200 for full-time and \$100 for part-time employees. The Mayor stated that the bonuses were paid from City recycling revenues those two years, but the costs associated with parks, the community center and tourism personnel were passed along to the Commission via the City's monthly reimbursement request. In total, \$7,793 in Commission funds were expended to pay for bonuses and the associated payroll taxes awarded to City employees whose wages were regularly paid with Commission funds. However, the former Commission Chair, who served in that position in 2019 and 2020, was unaware of the bonuses and stated that the Commission had not approved any bonuses.

In December 2021, all City employees received bonuses that resulted in net pay of \$600, costing the City a total of \$70,114 in additional salaries and benefits. Because the Commission voted in September 2021 to comply with SPGE requirements moving forward, those employees working within the Commission's umbrella were transitioned to Commission employees and did not receive the bonus payment provided to City personnel at the end of 2021.

The Kentucky Office of Attorney General (OAG) opinion 62-1 states the awarding of a bonus from public funds violates Section 3 of the Kentucky Constitution, as it uses public funds to pay for services not actually performed. Section 3 of the Kentucky Constitution states "no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services." To comply with this section of the Kentucky Constitution, any payment to a public employee should be in consideration of public service, which has been interpreted to mean for salary and wages for work performed. The payments made by the City and the Commission were not linked to work performed and were not part of an official approved compensation plan or employee benefit. According to the Human Resources (HR) Director, bonuses in 2019 and 2020 were "given across the board in appreciation for employee's hard work throughout the year." In 2021, bonuses were given to full-time employees of the City.

Recommendation

We recommend:

- The City and Commission discontinue paying bonuses to employees in violation of Section 3 of the Kentucky Constitution. Copies of Section 3 of the Kentucky Constitution and OAG Opinion 62-1 are included in Appendix G and H, respectively.

Finding 5: City Employee Given Special Privileges by the Mayor

The Mayor gave special privileges to a City maintenance employee and thereby permitted Commission resources and funds to be used inappropriately. In 2015, the Mayor allowed the employee to use his assigned City vehicle for his personal HVAC business. When the City purchased vehicles for Levi Jackson in 2019, Commission funds were used to purchase a new Ford van at a cost of \$23,500 that was assigned to this City employee. The Commission did not direct this assignment, but the Commission Chair at the time was informed that this was done for the benefit of Levi Jackson. The City determined the additional taxable income for this benefit by using the Internal Revenue Service's (IRS) Commuting Rule. However, this method would under report this income because it assumes that commuting to and from work are the only times the vehicle is used for personal purposes. In addition, this employee has been allowed to submit invoices for reimbursement that included sales tax ostensibly because the employee was able to get better discounts for the City at HVAC supply stores based on the amount of his prior personal purchases. This resulted in the Commission paying at least \$1,328 in sales tax for reimbursements, and the employee potentially receiving additional personal discounts. Expenditures of public funds should benefit the public and not provide a private benefit to one employee.

According to the Mayor, he agreed to allow the employee to use his assigned City vehicle for his personal business if the City could use the employee's tools. This agreement was not in writing, but the employee confirmed the arrangement. According to the employee, he was promoted from the street department to a maintenance position after he performed HVAC work on the Mayor's home during his personal time, and the Mayor realized he was able to do this type of work. This promotion occurred on May 11, 2015 per the City's HR Director. The employee said he was given a van for his tools when he started at this position.

In 2019, the employee was assigned a new Ford van that was purchased with Commission funds of \$23,500 for Levi Jackson. (See Finding 2.) The Commission Chair was told by the City that the new van was given to this City employee because he would be performing the most work at Levi Jackson. This employee's older van was then given to the housekeepers working at Levi Jackson. The Commission took possession of this vehicle from the employee in November 2021. According to gas card statements, the last reported odometer reading entered by this employee for the vehicle was 28,473. However, no mileage logs were maintained to determine the personal use portion of these miles.

IRS Publication 15-B states that any fringe benefit provided to an employee "is taxable and must be included in the recipient's pay unless the law specifically excludes it." The publication provides for the following methods to calculate the additional taxable income related to an employer provided vehicle:

General Valuation Rule: The fair market value of an employer provided vehicle is the amount the employee would pay a third party to lease the same or similar vehicle.

Cents-Per-Mile Rule: Taxable income is calculated by multiplying the standard mileage rate by the total number of personal use miles.

Commuting Value Rule: Taxable income is calculated by multiplying each one-way commute by \$1.50. This rule requires that the employee's only personal use of the vehicle is commuting.

Lease Value Rule: Taxable income is determined based on its annual lease value. To use this rule, the employee's business use must be reported to reduce the personal use from the lease value.

The City's Vehicle Policy only provides one method for calculating this tax liability and that is the Commuting Value Rule. The policy states that each employee commuting in a personal use vehicle "must keep a weekly log of his/her use and submit it on a monthly basis to the City Clerk/Treasurer."

However, according to the HR Director, the City does not request this documentation and simply reports \$30 of additional income each pay period for employee's with assigned vehicles, with the exception of first responders. This process was reportedly recommended by their auditors at the time auto fringe calculations were put in place.

Using this method, the City added \$750 to this employee's income for calendar year 2020. Considering that this was a 2019 van that the employee could use for his personal business, not just commuting, the value of this fringe benefit appears to be under reported. Because the City has used this method since auto fringe calculations were put in place, the amount of taxable income for this employee could have been underreported since 2015.

Related to Commission expenditures, our review identified a check written to this employee as a reimbursement for the purchase of two air conditioning units for \$18,677.67, including \$1,057.23 in sales tax. The air conditioners were used for City building renovations and paid from the Commission's Downtown Incentives account. This expense was questioned due to the large amount of sales tax incurred by a tax-exempt entity and because it was not purchased by the City from the vendor directly. According to the employee, he was able to get a better price than the City because the company provides discounts based on how long you have had an account and the amount of purchases made.

A vendor report for this employee documented that this employee received 77 reimbursement checks totaling \$41,388 since his promotion on May 11, 2015. This total included reimbursements from both City and Commission funds.

When asked if these reimbursements conflicted with the City's procurement practices, the Deputy City Clerk stated that this was the only employee that the City reimbursed in this manner. The clerk was told that these reimbursements were okay because the employee was in the HVAC business and was able to get better deals on supplies than the City could. The clerk said that the only time the City typically did reimbursements was when a person was traveling and had to have an item or when a City gas card was denied. The City's personnel policies do include an expense reimbursement section that mainly applies to travel-related expenses.

To determine the extent sales tax was included in these reimbursements, we requested the supporting documentation for reimbursements over \$1,000. Because the City destroyed records

three years after being audited, this review period was January 2018 to December 2021. This review found an additional \$270.87 in reimbursed sales tax paid by the Commission. It also found that the City reimbursed \$81.12 in sales tax for the selected reimbursements. Though no sales tax was indicated, an invoice for \$14,962 for the “Installation of Spiral Ducting” was reimbursed and states that this was paid in cash. There were also handwritten invoices used to support reimbursements that did not document whether sales tax was charged or paid.

According to the City’s Code of Ethics, Section II (B), “[n]o city officer or employee shall use or attempt to use their official position to secure unwarranted privileges or advantages for themselves or others.” The Mayor’s agreement to allow an employee to use a City assigned vehicle for a personal business and make direct purchases that could provide financial benefit for this business by enabling that employee to obtain discounts for his private business based, at least in part, on the amount of purchases made on behalf of the City, are privileges and advantages that appear to violate the City’s Code of Ethics.

Recommendations

We recommend:

- Vehicles be assigned to an employee only when there is a public need. If assignment is needed, the personal use of a governmental vehicle should be minimized.
- Payments should be made directly to the vendor when possible to prevent the reimbursement of sales tax, unauthorized purchases, and financial benefits to individual employees. The employee reimbursement policy should be amended to include criteria for reimbursements and require a detailed invoice.
- Proper IRS reporting methods should be used to determine the amount reported as taxable income for employer-provided vehicles. The City and Commission should consider obtaining guidance and/or an opinion from the IRS regarding the method currently used.

Due to the nature of this finding, it will be referred to the City’s Board of Ethics for further consideration.

Finding 6: The Mayor Permitted a City Employee to Provide Cleaning Services to the City and Commission in Violation of Kentucky Revised Statute 61.252

The Mayor engaged the cleaning services of a City employee's company for City and Commission buildings without proper disclosure or approval. The employee's company received a total of \$131,718 from January 2013 until December 2021 in payment for these services. From February 2021 to October 2021, it appears the employee's company received over \$9,700 from Commission funds. Prior to February 2021, the amount paid with Commission funds could not be determined because the Commission's portion was included in their monthly reimbursement to the City. According to the Mayor, the City Council had been told verbally of the situation but it had not approved the action. KRS 61.252 does not allow city employees to contract with their city of employment unless the situation meets one of the allowed exceptions. With none of those exceptions being met, this agreement is similar to Finding 5 as it provides a privilege and advantage to a City employee and his family.

KRS 61.252 prohibits a city employee from contracting with the city that employs them. This prohibition does have the following exceptions:

1. The contract was created prior to the employee being hired by the city.
2. The contract was competitively bid without the involvement of the employee.
3. Contract transactions are publicly disclosed at a meeting of the city's governing body. Once disclosed, the governing body is required to make a determination that the contract is in the best interests of the City for a specific reason. The disclosure and the determination must be made part of the governing body's official record.

In this instance, the City employee was hired in 2010. Payments to the cleaning company began in 2013, so the contract was not created prior to the employee being hired by the City. Also, the contract was not competitively bid. When cleaning services were needed, the Mayor stated that he knew this employee and his mother had a cleaning company and that the employee needed the additional money. In addition, an official record from City Council was not provided to document the disclosure or approval for this agreement. The employee stated that this was his mother's business and that the City Attorney said this was acceptable. However, the City Attorney stated that he did not recall telling the employee this was acceptable and that he would have wanted to know more about the agreement.

Furthermore, the City's Code of Ethics, Section III (A), requires employees authorized to make purchases or award contracts to disclose private financial interests to the City Council or the City's Board of Ethics. The employee did complete a Financial Interests Statement that disclosed the employee's financial interests in a cleaning company that cleans City buildings and the Community Center. However, the City Attorney did not know if the employee had disclosed his business interest on the City's Financial Interests Statement and the City Clerk is unaware of this form being provided to or approved by the City Council or the Board of Ethics.

The City's Board of Ethics has not met since 2013. The Code of Ethics identifies that board members are appointed to three-year terms and may be reappointed for any number of consecutive terms. Because the appointments are subject to the approval of the City Council, the appointments

and subsequent reappointments should have been approved during a City Council meeting and documented in the meeting minutes. However, the City was unable to provide support that such action occurred since 2016.

Recommendations

We recommend:

- The City ensure compliance with KRS 61.252 and the City's Code of Ethics to ensure transparency and prevent any conflict of interests. The City should also ensure all officials and employees are informed of the policies in place.
- The City refrain from conducting business with any companies associated with an employee unless it is disclosed and officially approved and documented by the City Council.
- The Mayor appoint members to the City's Board of Ethics consistent with Ordinance No. 2021-06.
- The City's Board of Ethics meet regularly to review City Financial Interests Statements submitted per the City's Code of Ethics and to address issues as needed.

Finding 7: Commission Paid Music Group \$45,000 for a Concert That Did Not Occur and Did Not Have a Written Contract

The City and Commission have hosted the annual Bowling Family Music Fest and Talent Search since 2016, paying the Bowling Family music group annually for their performance and coordination of events. Despite the significance of this event to the City and the pre-paid cost associated with it, the Commission has never entered into a written contract with the music group. This left the City and Commission in a concerning position when the 2020 festival was cancelled due to the COVID-19 pandemic, but the payment of \$45,000 issued in January 2020 was not returned.

Commissioners approved the expenditure when approving the budget each year, as the budget includes a line item titled, “Bowling Family Music.” According to a former Commission Chair, the amount initially paid to the group was \$10,000, but the amount has grown over the years to \$45,000.

Despite not having a contract in place, the Commission paid the Bowling Family in full prior to each year’s festival. For both the 2019 and 2020 festivals, the Commission paid the group in January for services to be performed in May of each respective year. When the event did not occur in 2020 due to the pandemic, the City and Commissioners both expected the money paid to the group in January 2020 to be returned. However, the funds have not been recovered as of February 23, 2022.

Written agreements define the services to be provided, set the rates at which the services will be invoiced, and often identify in advance any related expenses and liabilities that may occur incident to the work. Maintaining such documentation enables the Commission to exercise greater oversight of its spending, provides a greater level of accountability and legal protection, and allows for greater transparency.

Recommendations

We recommend the Commission:

- Avoid prepayment of expenses, but to the extent a service requires pre-payment, obtain written contracts with vendors before issuing payment. The terms of such contracts should include at minimum a statement of the agreed-upon services, the amount to be paid or a schedule of rates for the services, and remedies for a breach of contract resulting from a failure to provide the agreed-upon services.
- Consider legal action to obtain reimbursement of funds.

Finding 8: City and Commission Incentives Were Not Properly Tracked or Consistently Awarded By Program Guidelines

The London Downtown Incentive Program (Incentive Program) was launched by the City in late August 2019 as a way to help businesses overcome the expense of renovating old buildings or constructing new buildings in downtown London. The City, the London Utility Commission, and the Commission each contributed to the program, with the Commission funding the cash part of the incentives while the other two entities provided tax and service credits. Based on records provided by City and Commission officials, the Incentive Program provided at least ten businesses/individuals with cash incentives totaling \$74,029; however, the value of additional benefits provided through these awards was not tracked. In addition, the individual incentives awarded and the progress of the Incentive Program were not shared with the full Commission though Commission funds were used to provide the cash incentives and other related expenses. Also, documentation to support four cash incentives was incomplete, and at least two awards were not granted consistent with the program's established guidelines. By not adequately administering the program, properly documenting awards, and tracking all costs associated with the program, the entities involved are not capable of truly determining the success of the program. Furthermore, the lack of documentation and reporting of awards fails to provide the transparency and accountability for the use of public funds and resources.

According to the Incentive Program application, three incentive package options were available: 1) for new businesses that lease or lease/purchase property; 2) for new businesses that purchase property; and 3) for existing retail shops and restaurants. All new businesses, regardless of whether the property was leased or purchased, were eligible for incentives up to a maximum of \$5,000 that could be used for mortgage or lease payments (not to exceed \$3,000), advertisement reimbursement (\$1,000), and signage/façade expense (not to exceed \$1,000). These businesses would also be provided water, sewer, garbage and recycling at no charge for a six-month period. The new businesses that purchased property were provided the additional benefits of having city property taxes waived for five years and being allowed to use the cash incentive to create an apartment or living space. The third tier of incentive packages established for existing retail shops and restaurants located in the downtown area offered a \$2,500 incentive as a 50/50 match for improvements or additions, including signage and façade.

The City's Incentive Program started taking applications on September 1, 2019 and applications were reviewed and approved by a committee, which included: the Community Center Director, individuals from the City Council, the Commission, the London Downtown Board, the Director of the Economic Development Authority, and the Superintendent of the London Utility Commission. In FY 2020, the Commission budgeted \$200,000 under the category Downtown Incentives to cover the anticipated cost of incentives for the first fiscal year of the Incentive Program, while the City and the London Utility Commission agreed to make the proper credits to bills owed by approved applicants. The Commission's budget for this category also included anticipated expenditures related to renovations to a downtown building owned by the City. In total, the Commission expended \$177,386 during FY 2020 under the budget category of Downtown Incentives.

However, no one maintained a cumulative total of benefits received by each approved applicant. For example, the total amount of utility credits provided to businesses/individuals related to the Incentive Program was not readily available. Based on records and statements provided through various City sources it appears at least \$26,393 in garbage and \$2,679 in water and sewer was waived, while no property taxes were waived.

Records associated with the Incentive Program were maintained by the Community Center Director, an employee paid with Commission funds. Documentation provided by the Community Center Director to support the incentives awarded was incomplete, and review of the records identified some awards were granted in excess of the amounts specified for the program. For example, one recipient's award letter stated that the recipient would receive a reimbursement of \$10,000 for equipment needed "to jump start" their business if a lease agreement is signed. The recipient leases a City owned property in which a number of renovations were made using funds from the Commission's Downtown Incentives budget. Another recipient received an incentive package of \$34,629 that included 12 months of mortgage payments. The Community Center Director stated that, because these two recipients were being recruited by the City Council, the packages were done differently.

The Community Center Director indicated that minutes of the committee's meetings existed; however, upon request those minutes could not be found. Because the records were incomplete, the benefits received could not be independently verified. For example, two of the incentive recipients were eligible to have property taxes waived for a five-year period based on the package reportedly awarded to them, but the Community Center Director initially advised that only one applicant was actually eligible for that benefit and they declined the offer. After asking why the second applicant was not eligible, the Community Center Director acknowledged that she had forgotten about the applicant's eligibility. She further stated that "[t]his would be a miscommunication incident as I forgot to advise our city clerk" and the applicant "never contacted me about being billed."

Creating and maintaining records associated with incentives funded by public resources is not only a good management practice, but also is vital to ensure the program operates as intended and provides accountability and transparency as to the use of public resources. During an interview with the Community Center Director it was noted that the recipient receiving \$34,269 in incentives closed less than 12 months after the incentive was awarded. The Community Center Director suggested that the incentive program should have included a clause requiring recipients to repay incentive awards if they do not stay open.

Though the Incentive Program application stated that new businesses would receive water, sewer, garbage, and recycling services at no charge for six months, this incentive was provided to at least two recipients for an entire year. Additionally, the application indicates, "[a]pplicants are limited to one (1) application per fiscal year"; however, one applicant, who currently serves as a Commission member, was approved for two applications, both of which were submitted on October 22, 2019. Documentation of revised incentive guidance was identified in handwritten notes provided by the Community Center Director indicating that the restriction on the number of applications that an individual/business may submit was removed on October 8, 2019; however, the change was not reflected in the application submitted by the recipient weeks later. The

Community Center Director stated there was a typo in the application and it should have read, “one application per property for a fiscal year.” However, again, no committee meeting minutes were made available to evidence the committee’s approval of these changes to the Incentive Program.

Although the Incentive Program process was explained to Commission members during the September 16, 2019 Commission meeting, and all funding was included in the budget and signed off on by the Commission Chair, there is no other evidence that regular updates concerning approved projects and their associated costs were provided to Commission members during subsequent meetings.

Recommendations

We recommend:

- The City or Commission track all relevant financial information for Incentive Programs and provide summary reporting to all involved parties on a periodic basis. All awards should be granted consistent with program guidelines.
- The City or Commission consider including stipulations requiring partial repayment of cash incentives if the award recipient fails to maintain an active business for a certain period of time after receiving the award.

Finding 9: The City Did Not Update or Consistently Apply Its Personnel and Pay Classification Plan, and Failed to Develop a Salary Scale

The City did not have a current employee personnel and pay classification plan or salary scale in place during the examination period, despite criteria requiring both. KRS 83A.070(2) requires the compensation of city employees and nonelected city officers to be fixed by adopting, through ordinance, a personnel and pay classification plan, and KRS 83A.060(11) requires cities to examine all ordinances at least once every five years for possible revisions needed. Despite these statutory requirements, the City last made additions or updates to the personnel and pay classification plan and salary scale in FY 2016. Further, the City violated its own ordinances as no maximums were set in the last approved salary scale, and the Mayor's stepdaughter was hired at a higher grade than was established by ordinance. Such inaction by the City allowed the Mayor leeway to make unilateral salary decisions when hiring or making appointments.

KRS 83A.070(2) requires the legislative body of the city to establish a personnel and pay classification plan by ordinance for city employees and non-elected city officers. The plan consists of two documents, which include a position classification plan and a pay plan. The purpose of a personnel and pay classification plan is to ensure the equitable treatment of city employees so that all employees are paid equitably according to the nature of their work, instead of non-job-related standards such as favoritism. Despite KRS 83A.060(11) requiring an examination of all ordinances in the composite index or code of ordinances at least once every five years to identify inconsistencies and other issues, the last updates to the City's salary scale and to the personnel and pay classification plan took effect in July 2015 and in November 2015, respectively. This lack of action on the part of the City resulted in any Levi Jackson employees hired in or after August 2019 not appearing in the plan. Such actions raised concerns as to whether these employees were being paid equitably compared to employees previously hired in similar positions. For example, the Levi Jackson Director was hired in 2019 at a higher pay rate than the Parks Director was receiving at that time. This was addressed a year later when the Commission voted to raise the Park Director's salary to the same level as the Levi Jackson Director. See Appendix I for the City's latest approved salary scale and Appendix J for the latest approved update to the City's pay classification plan.

The City has also violated its own personnel policy, established by Ordinance No. 2012-19, which states, "A pay scale shall prescribe for each class a minimum and a maximum rate of pay." The City pay scale does not contain maximums for each class as required by its own policy.

Finally, in review of select personnel files, it was identified that on January 4, 2016, the Mayor's stepdaughter was hired as the London Downtown Assistant Director at a grade 25. However, just two months prior to her employment, the City Council established this position at a grade 20 by City Ordinance 2015-09. While the Mayor indicated that the position was mistakenly "labeled as a 20 instead of a 25 like the other Assistants were originally labeled," a correction was not made to the City's personnel and pay classification plan. Additionally, the City Council did not approve the grade change or the necessary edit. The City Personnel Policy allows paying a new employee more than the minimum but not raising them to a higher grade. As a result, the Mayor violated City policy when authorizing the compensation of his stepdaughter at a grade 25. This may constitute a city officer using their official position to secure unwarranted privileges or advantages for others under Section II (B) under the city's code of ethics as existed in 2016.

Of the 202 current and former City employees, elected officials, and Commission members active during the examination period, 50 had some form of familial relationship with at least one other individual within the City. This includes three current or former Commission members with connections to employees at the City or Commission.

The City adopted a new Code of Ethics effective June 9, 2021, which included a more restrictive nepotism policy; however, that policy does not address supervision or managing of employees with familial relationships. Additionally, the new nepotism policy grandfathered in any existing familial relationships. Nepotism, or even the perception of nepotism can have an adverse effect on the workforce.

Recommendations

We recommend:

- The City update the Personnel and Pay Classification Plan to incorporate all current positions (filled and unfilled) and to include minimum and maximum rates of pay for each position.
- The City Council seek a third party to perform a full review of each employee's compensation to ensure that salary and benefit requirements established through the City Personnel and Pay Classification Plan and the City Personnel Policy are followed. Also, we recommend the review be documented and shared directly with the full City Council to ensure results of the review are complete and transparent.
- The grade for a position in which a person is hired agrees with the Personnel and Pay Classification Plan.
- The City review its Code of Ethics to determine whether additional restrictions in the policy for hiring, supervising, or managing employees with familial relationships are needed.

Due to the nature of this finding, it will be referred to the City's Board of Ethics for further consideration.

Finding 10: The Commission and City Operated Without Written Procurement Policies and Procedures

The Commission spent an average of \$3.5 million each year during our review period without having written procurement policies or procedures. Irregularities were noted when testing compliance with verbal practices identified by Commission representatives. Additionally, the stated practices do not address any controls such as what dollar amount can be approved by the Chair versus the amount that must be approved by the full Commission, bidding requirements, or how the Commission would reimburse the City for Commission expenses initially paid by the City. While the City ordinance that created the Commission states that the Commission is an administrative agency of the City, the City does not have documented procurement procedures for them to follow. Documented and detailed procurement policies and procedures should be used to ensure consistent procurement practices, compliance with bidding requirements in state law, proper oversight of spending, and transparent spending decisions.

City and Commission personnel and officials advised that the procurement practice for the Commission has been that the Commission Chair approves written PO requests from department heads before a PO is issued. Once a purchase has been made, the invoice is submitted to the Deputy City Clerk for comparison to the original PO and the check prepared. Once the check is prepared, two Commission members would sign the check, but either the City Clerk or Deputy City Clerk could also sign if a second Commissioner is unavailable. These verbal practices do not address the amounts that need the approval of the full Commission, the statutory requirement to solicit bids for purchases over \$30,000, or the process used to reimburse the City for Commission expenses. See Finding 3 for additional discussion of reimbursements made to the City.

A review of 50 Commission expenditures found that only 34 (68%) had an associated PO request approved by a Commission Chair. Sixteen expenditures did not have an associated PO request to review. Additionally, eight (16%) checks did not include a Commissioner as one of the two check signers, but were signed by the two City clerks. Given the restricted nature of tourism funds, it is expected that Commission members review and approve all expenditures made from these funds.

Procurement practices were not consistently followed by the Commission or the City. In the fall of 2019, City personnel assisted the Commission in procuring a fleet of vehicles totaling \$187,716 without following the required competitive bidding process. As the City has not adopted the local model procurement code per KRS 45A.343 to 45A.460, the City is required to follow KRS 424.260. KRS 424.260 requires expenditures exceeding \$30,000 to be advertised for bid for any contract, lease, or other agreement for materials, non-perishable supplies, equipment, or non-professional services. While only one of the six vehicles individually cost over \$30,000, advertising for bids was still required because the overall cost of the fleet of vehicles would clearly exceed \$30,000. Instead, a City employee was directed by the Mayor and Commission officials to go to local dealerships to obtain bids for specific vehicle models.

Advertisement for solicitation of bids must be published at least once, but may be published more, provided one publication occurs not less than seven days or more than 21 days prior to the last day to submit bids. However, the City did not advertise for bids in procuring these vehicles.

Additionally, one of the six vehicles procured with Commission funds was assigned to a City employee upon receipt instead of Levi Jackson staff as originally indicated when the purchase was approved by the Commission. The vehicle in question was listed as a Commission vehicle in records maintained by the City Clerk, but was instead used by a City maintenance employee for work and personal use. After APA inquiry, the vehicle was returned to Levi Jackson. See Finding 5 for additional discussion of personal vehicle usage by this City employee.

Recommendations

We recommend:

- The City develop and approve written procurement policies that contain the required procedures and approval process for all types of expenditures, including reimbursements. These policies should require detailed supporting documentation for all payments and define the roles and responsibilities of officials and employees in the procurement process.
- The Commission develop and approve written procurement policies that specify how Commission funds can be expended to minimize the risk of unauthorized spending. At a minimum, such policies should include the requirements for proper authorization, disclosure to the full Commission, the supporting documentation that should be maintained, and what monitoring procedures will be used to determine that expenditures are complying with the adopted policy. Should the Commission decide to establish a dollar amount below which purchases require only the approval of the Commission Chair, rather than the full Commission, that policy should also be well-documented.
- The City and Commission comply with KRS 424.260, and other applicable statutes. The City and Commission should ensure a competitive bidding process is used when the aggregate amount of payments to a vendor is reasonably expected to exceed \$30,000. Alternatively, the City may choose to adopt and follow the provisions of KRS 45A.343 to KRS 45A.460.
- City and Commission personnel with any level of procurement authority receive formal procurement training at least annually. As part of a formal training session, employees with procurement authority should be given a copy of the applicable statutes. The City and Commission should also incorporate into the training the consequences for failing to adhere to the requirements, and maintain documentation of who has completed the training. City officials should consult with the City Attorney regarding procurement laws when questions arise rather than relying solely on past practices.

Finding 11: City Personnel Files Did Not Contain Certain Records for Commission Personnel and the Records Maintained Documented Conflicting Information

City personnel files lacked documentation to determine how select Commission personnel were hired, as well as information about their position. The City's personnel policies require specific information to be maintained in all City personnel files such as application forms, hire dates and department assignments, consistent with federal and state law. The sparse information contained within the Commission personnel files examined, restricted the auditors' ability to sufficiently examine employment and compensation activity relating to select Commission personnel.

The City's Personnel Policies and Procedures were adopted by Ordinance No. 2012-19, effective December 28, 2012. According to Section 1.3 Part D.2, the HR officer shall "[m]aintain a personnel file on each employee and insure that the following records for all employees are maintained in accordance with federal and state laws:

- a. Employee's name and permanent address;
- b. Position title;
- c. Department assignment;
- d. Hire date;
- e. Salary;
- f. All changes in status as a City employee;
- g. Compliance with labor standards, EEO-4, immigration and other federal and state requirements;
- h. Application forms;
- i. Disciplinary or commendation memoranda;
- j. Any other material deemed relevant to the employee's permanent record."

Kentucky administrative regulations require that local government agencies, such as the City, comply with the Kentucky Department of Library and Archives' General Records Retention Schedule for Local Governments, Series L5034. This schedule indicates certain information contained within personnel files, such as applications for positions and starting and ending dates of employment, not be destroyed until 60 years from the date of hire.

Review of personnel files for select employees paid from tourism funds found sparse and conflicting information. In 14 files, no application forms were found to document the individuals' qualifications or the hiring process followed to select them for employment. In seven personnel files, there was no indication that the Commission approved the salary, though Commission funds were used. These seven files documented hourly rates of pay, but not the assigned pay grade. See additional discussion of hiring issues at Levi Jackson in Finding 2 and the City's non-compliance with KRS 83A.070 in Finding 9.

Other issues identified in personnel files examined include:

- No documentation to support that the current Community Center Director was appointed to this position. The most recent document for this employee, the Mayor's stepdaughter, was an appointment letter to the position of Tourism Co-Director dated

- July 16, 2019. However, the employee was moved to Community Center Director in 2020, but there is no record of this appointment.
- The appointment letter for the Tourism Co-Director states that three Commissioners were involved in the personnel decision; however, during interviews, not all parties acknowledged involvement in that decision. This is concerning given that the appointment was for the Mayor's stepdaughter, and the Mayor was the only person who signed the letter.
 - The initial employment date for the current Community Center Director was documented in her personnel file as January 4, 2015; however, the City provided an employee list that reported her hire date as December 28, 2015, and then later the HR Director identified her initial employment date was January 4, 2016.
 - The appointment letters for personnel hired to work at Levi Jackson only documented the effective date of hire, person's name, and salary rate. These were initialed by the Mayor, and there was a handwritten note as to the employee's position. Sometimes the note had the position, such as Park Director, but some only said "Full Time" or "Seasonal."
 - An appointment document of one Levi Jackson employee indicates that the employee's brother, a Commissioner, had input on the employee's pay rate. This note was not on any other appointment documents. According to this Commissioner, the City had contacted him to see what rate should be paid and he told her the amount determined by others, but he did not make the decision.

Personnel files should be maintained to accurately document an individuals' employment history and serve to provide support for employment and payroll actions. Additionally, such information is retained to help protect the employer in case of legal disputes.

Recommendations

We recommend:

- All City personnel files be maintained consistent with City policy and document clearly and accurately all hiring and promotion actions, position title changes, grades, and rates of pay.
- All City hiring and salary decisions be made in accordance with the personnel policy (Ordinance 2012-19), the Personnel and Pay Classification Plan, and the Salary Schedule in place, as discussed in Finding 9.
- The City and Commission fully comply with the Local Government General Records Retention Schedule.

Finding 12: The Commission Has Not Complied With Legal Budgeting and Reporting Requirements Established for Tourism Commissions

KRS 91A.360(7) requires tourism commissions established pursuant to KRS 91A.350 to comply with the SPGE transparency provisions of KRS 65A.010 to 65A.090. Regardless of whether the Commission is considered an SPGE, the statutory requirement to register and report financial information to DLG was still in place and was not being followed. Additionally, the Commission exceeded its approved budgeted expenditures in FY 2020 and did not officially approve its budget for FY 2021 despite the requirements of KRS 65A.080.

In 2016, the City Attorney requested DLG declassify the Commission as an SPGE, as he did not believe the Commission met the definition. At that time, DLG removed the Commission from its list of SPGEs until a determination of its status could be made. On July 7, 2021, DLG advised the Commission that it must comply with KRS 65A, as it was formed under KRS 91A.350 et seq.

Registration and reporting requirements established under KRS 65A.010 to KRS 65A.090, exist to provide transparency and accountability to the public. Information required through this process includes: the SPGE's contact person, physical location, and operational boundaries; a list of oversight entities; the statutory basis for the formation of the SPGE; date, time and location of board meetings; a list of board members; whether or not the entity has taxing authority; and the types of services provided. Once registered, the Commission is required to make a series of financial disclosures throughout the year, including the submission of budget reports and financial statement audits.

KRS 65A.080 addresses the budget process and requires that the Commission annually adopt a budget prior to the start of the fiscal year and restricts spending to the original or amended budget. Specifically, KRS 65A.080 states, “[n]o moneys shall be expended from any source except as provided in the originally adopted or subsequently amended budget.” Review of Commission records found the Commission's spending in FY 2020 exceeded its approved budgetary expenditures by almost \$116,000. The excess spending appears to be related to the City taking ownership of the Levi Jackson State Park early in the fiscal year. The budget, as passed by the Commission just months prior to the City's ownership of Levi Jackson, had not accounted for additional expenditures needed to operate the park, and the Commission did not amend its budget to account for the addition to its operations. Additionally, Commission meeting minutes do not document that the Commission's budget for FY 2021 was actually adopted.

During our examination period, neither the City nor the Commission submitted the financial information required by KRS 65A.020(2)(a)2 to DLG for the Commission. Additionally, neither entity submitted audits or other information required by law to DLG, though the Commission did receive a separate audit from the City. After the Commission voted to join the SPGE program in September 2021, the necessary information was submitted and DLG reported that the Commission became complaint on September 29, 2021.

The provisions of KRS 65A.040 outline the consequences for failure by a SPGE to submit registration or financial information timely or for submitting noncompliant information. Such consequences include notice of the situation published in the local newspaper, withholding funds

owed to the SPGE, and an audit or special examination may be initiated by the APA at the expense of the SPGE.

Recommendations

We recommend the Commission:

- Submit all required information to DLG on a timely basis.
- Ensure budgets are formally adopted annually and amend budgets as necessary to account for any unexpected revenues and expenditures throughout the year.
- Spend only within the budget that has been adopted.

CHAPTER 3: OBSERVATIONS

Observation 1: Inconsistencies in Commission Appointments

There are inconsistencies between when Commission member appointments are made and dates when Commission member appointments are set to expire. For example, when a member left before the end of their term, the individual appointed to fill the vacant seat was not appointed to fill the seat for the remainder of the unexpired term but instead was appointed to begin a new three-year term. This has resulted in confusion and frustration among Commission members and the public.

KRS 91A.360(3) provides for commissioners to be appointed for three-year terms, after the initial set of staggered appointments are made. However, the intent of the statute is unclear as it can be read to mean vacancies are filled (a) for the remainder of the unexpired term or (b) for a three-year term beginning from the time of the vacancy appointment. The differing interpretations are impacting the appointment process and the operations of the Commission.

An attempt was made to review the appointment process; however, City records maintained by the Mayor and City Clerk of appointment letters and related documentation appeared incomplete. Additionally, the appointment letters did not consistently identify to the appointee the length of their appointment or term ending date.

Finally, review of appointment letters and related correspondence, found that one long-serving Commission member was reappointed in 2020, only to receive a letter the next year in 2021 stating that his term had ended. In that instance, it does not appear that the process described by the Mayor in appointing members for three-year terms was followed.

Recommendations

We recommend:

- The City send appointment letters to the nominee, representing entity, and the Commission. The letters should include the start date of the term and the end date.
- The City or Commission seek an Attorney General Opinion as to whether vacancies should be filled for the remainder of the unexpired term or filled for a three-year term beginning from the time of the vacancy appointment.

Observation 2: Ordinance No. 2014-04

The City of London Ordinance 2014-04 improperly cited KRS 91A.390, a statute that addresses the special transient room tax rather than the restaurant tax. Ordinance 2014-04, which establishes the restaurant tax under KRS 91A.400, distinctly used the language from KRS 91A.390(3), which requires the revenue from the restaurant tax "shall not be used to provide a subsidy in any form to any hotel, motel, or restaurant." KRS 91A.400 does not authorize the city to impose restrictions on how the revenue can be spent, but requires the money to be turned over to the commission.

According to OAG 12-012, "A municipal ordinance is invalid if it conflicts with a state statute." *Boyle v. Campbell*, 450 S.W.2d 265, 268 (Ky. 1970). Ordinance 2014-04 and OAG opinion 12-012 are included in Appendix B and D, respectively.

Observation 3: Official Commission Minutes Do Not Document the Outcome of Votes

In four known instances, the official Commission minutes do not document the Commission's votes, a violation of KRS 61.835. This statute requires the minutes at every meeting be recorded and available to the public no later than immediately following the next meeting of the body. The July 15, 2019, July 22, 2019, February 18, 2020, and October 19, 2020 Commission meeting minutes indicate matters were brought before the Commission and motions made, but the minutes do not document the outcome of each official vote during these meetings.

Appendices

Appendix A: Ordinance Establishing the Commission

COMMONWEALTH OF KENTUCKY
CITY OF LONDON

ORDINANCE NO. 2013-06

AN ORDINANCE ESTABLISHING A TOURISM AND CONVENTION COMMISSION FOR THE PURPOSE OF PROMOTING AND DEVELOPING CONVENTION AND TOURISM ACTIVITIES AND FACILITIES; AND ESTABLISHING AN EFFECTIVE DATE UPON PUBLICATION AND SEVERABILITY.

BE IT ORDAINED BY THE CITY OF LONDON:

SECTION 1. There is hereby established a tourism and convention commission to be named the City of London Tourism and Convention Commission for the purpose of promoting and developing convention tourist activities and facilities within the territorial jurisdiction of London, Kentucky. Such Commission shall be an administrative agency of the city government; nevertheless, nothing in this ordinance shall preclude London, Kentucky from joining with other local governing bodies of cities or other counties for a joint commission upon future action of the city council and the appropriate inter-local agency agreement provided for in KRS 91A.350 et seq.

SECTION 2. The membership of the Commission shall be composed of seven (7) commissioners to be appointed for terms and in the manner as prescribed in KRS 91A.360 (SEE STATUTE FOR SPECIFIC MANNER). The Commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the Mayor shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) years.

SECTION 3. The Commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of KRS 91A.350 to 91A.390.

SECTION 4. The books of the Commission and its accounts as established in KRS 91A.390(2) shall be audited annually by an independent auditor who shall make a report to the commission, to the associations submitting lists of names from which Commission members are selected, to the Mayor, to the State Auditor of Public Accounts, and to the local governing body that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request for inspection at no charge. Copies shall be provided to the public upon request and may include the standard copy charge of ten (10) cents per page.

SECTION 5. If any of this Ordinance, is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this Ordinance, or the statutes, shall continue in full force and effect.

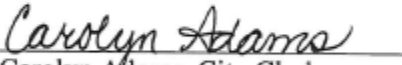
SECTION 6. Any Ordinance, in conflict with this Ordinance is hereby repealed in so far as the same are in conflict herewith.

SECTION 6. This ordinance shall be effective upon publication.

Enacted this 8th day of August, 2013, by the City of London.


Troy Rudder, Mayor

Attested by:


Carolyn Adams, City Clerk

Date of First Reading : August 5, 2013
Date of Second Reading: August 8, 2013
Date Published: August 12, 2013

Appendix B: Ordinance Establishing the Restaurant Tax

AN ORDINANCE ESTABLISHING A RESTAURANT RETAIL SALES TAX

BE IT ORDAINED by the City of London, Kentucky as follows: Whereas the City Council has determined that the citizenry of London would benefit from the revenues generated by a restaurant retail sales tax, The City Council enacts the following:

Sections

1. Imposed
2. Restaurant defined
3. Temporary food stands, booths, street concessions and similar type operations-Applicability
4. Amount-Payment submission
5. Late payment penalties and interest charges
6. Maintenance of supporting documents--Inspection authority
7. Violations-Penalty
8. Maintenance of funds-Use
9. Bond requirements for individual handling and disbursing funds
10. Liens
11. Confidential information
12. Enactment

1) Imposed. A. For the purpose of operation of the City of London Tourism Commission and to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business, including the city park system, there is imposed and levied a special tax of three percent (3%) of the gross retail sales of restaurants doing business within the city.

B. The tax imposed herein shall be in addition to other general taxes and the occupational or business license taxes payable to the City of London.

2) Restaurant defined. As used in this chapter, "restaurant" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready to eat foods in portions to the consumer, including, but not limited to grills, tearooms, sandwich shops, soda fountains, taverns, cocktail lounges, delicatessens, roadside stands, street vendors, catering kitchens, commissaries, non package ice cream and/or yogurt, service stations or similar places in which food is prepared for sale for consumption on the premises or elsewhere. It does not include schools or food vending machines nor does it include any organization identified by the Commonwealth of Kentucky or the Internal Revenue service as a non-profit charitable organization.

3) Temporary food stands, booths, street concessions and similar type operations-Applicability. Temporary food stands, booths, street concessions and similar type operations, when food is prepared and sold for immediate consumption, are not exempt from this tax.

4) Amount-Payment submission. Every person, company, corporation, or other like or similar persons, groups or organizations doing business as restaurants located in the city shall pay monthly to the City Treasurer a tax of three percent (3%) of the gross retail sales collected by them during the preceding month. Such tax shall be due and payable to the City Treasurer fifteen (15) days after the last day of each month, together with a return on a form furnished by or obtained from the City Treasurer, setting forth as aggregate amount of gross retail sales charged and collected during the period to which the tax applies, together with such other pertinent information as the treasurer may require. Restaurants would begin collecting July 1, 2014.

5) Late payment penalties and interest charges. Any tax imposed by this chapter which remains unpaid after it becomes due, as set forth herein, shall have added to it a penalty of ten percent (10%) together with interest at the rate of twelve (12%) percent against the total amount of tax overdue at any time. After sixty (60) days, the amount of penalty shall be compounded each month.

6) Maintenance of supporting documents-Inspection authority. It will be the responsibility of the taxpayer to maintain books, records and papers in support of all amounts reported on the monthly return. The city will be permitted to examine the books, records and papers of the taxpayer upon notification in writing to the taxpayer.

7) Violations-Penalty. Any Person who purposefully refuses to file a return, pay the tax due, or who knowingly files a false or fraudulent return required herein, shall be guilty of a misdemeanor subject to a fine of not more than one hundred dollars (\$100.00) for each violation, imprisonment for not more than thirty (30) days, or both. Each violation shall constitute and be punishable as a separate offense.

8) Maintenance of funds-Use. The funds collected from this tax shall be maintained by the City Treasurer in a special fund and disbursed to the commission monthly in accordance with its annual budget. All such money shall be used solely for the purpose of promoting recreational, convention and tourist activity and the maintenance and operation of the facilities related hereto, in the city as set out in KRS 91 A 390, and shall not be used to provide a subsidy in any form to any hotel, motel, or restaurant. Any money not expended by the City of London Tourism Commission during any fiscal year will be used to make up a part of the City of London Tourism Commission's budget for the next fiscal year. The City Council forbids the City of London Tourism Commission from issuing revenue bonds or borrowing money beyond the fiscal year without the express approval of the City of London Council Members. The fiscal year shall be from July 1 to June 30.

9) Bond requirements for individuals handling and disbursing funds. The treasurer and any other officer of the commission writing checks or handling funds shall be bonded in an amount commensurate to the largest amount of money on hand in any given month.

10) Lien. A lien is granted unto the City of London upon all property, real and personal, of any restaurant facility, to secure the unpaid tax receipts due from that restaurant. The lien shall be perfected by filing a notice of tax due and statement of lien in the Office of the County Court Clerk, describing the property on which the lien is asserted.

11) Confidential Information. No present or former commissioner or employee of the Tourist and Convention Commission or City or any other person shall divulge any information acquired by him of the affairs of any person, or information regarding tax schedules, returns or reports required to be filed with the commission or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the

person's business. This prohibition does not extend to information required in prosecutions for making false reports or any other infraction of this ordinance, nor does it extend to any matter which is in any way made a matter of public record nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own report. Further, this prohibition does not preclude the commission or any employee of the commission or City from testifying in any court, or from introducing as evidence returns or reports filed with the commission or City, in an action for violation of state or federal tax laws.

12) Enactment. Except as otherwise stated herein, this ordinance shall become effective upon reading, vote and publication as required by law.



TROY RUDDER, MAYOR

Attested: 
Carolyn Adams, City Clerk

First Reading	March 5, 2014
Second Reading	March 20, 2014
Publication date:	March 24, 2014

**Appendix C: Excerpt from DLG's July 7, 2021 Email to the Commission and City
Regarding Compliance**

Our records show that in 2016 the Cities and Special Districts Branch of the DLG was contacted by an attorney for the City of London. The letter was a request for the Tourism Commission to be declassified as an SPGE. This request was then provided to the administrative staff in place at that time. The decision was made to remove the Tourism Commission from DLG's database of SPGEs until a determination of its status could be made.

After reviewing the City's letter, we have now determined that the Tourism Commission must comply with KRS 65A, which regulates SPGEs. The basis for this decision is that the Commission was formed under KRS 91A.350 et seq. which specifically requires such compliance in KRS 91A.360.

Due to the delayed response, no late penalties will be assessed that they submit all required filings from that period within a reasonable timeframe.

We realize that you may need time to provide us with past documents to be in compliance with KRS 91A.360, DLG is granting you a 60 day period to become compliant. Please contact DLG-CSD@KY.GOV if you have any questions or concerns with the timeline.

Regards,
CSD Staff

Appendix D: OAG Opinion 12-012

OAG 12-012

August 10, 2012

Subject: Whether a tourism commission may expend transient room tax and restaurant tax revenues for a hotel, motel, or civic improvements

Requested by: Tom Shattuck
Chairman, Bell County Tourism Commission

Written by: Matt James
Assistant Attorney General

Syllabus: Revenues from the transient room tax may not be applied to a hotel or motel, but restaurant tax revenues may be applied to any project that promotes tourism and is in the public interest

Statutes construed: KRS 91A.350, KRS 91A.390(3), KRS 91A.400

Opinion of the Attorney General

Tom Shattuck, Chairman of the Bell County Tourism Commission (“Commission”), has requested an opinion of this office on whether revenues collected by the Tourism Board may be used by the Commission to assist in the repayment of bonds issued by the City of Pineville for the construction and operation of a privately owned hotel. Representative Kim King has requested an opinion on collection of revenue under KRS 91A.390 and 91A.400, and specifically the interpretation of “may be used to finance... facilities useful in the attraction and promotion of tourist and convention business” in KRS 91A.390(3). These requests have been combined in this opinion due to the common underlying issue of what constitutes the promotion of tourist and convention business, and thus how a tourism commission may spend revenue from hotel and restaurant

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taxes. We advise that the promotion of tourist and convention business should be construed broadly in accordance with the public purpose requirement. KRS 91A.390(3) specifically forbids spending transient room tax revenue to subsidize a hotel, motel, or restaurant, but the restaurant tax in KRS 91A.400 is not so restricted, and is limited only by the requirement that funds be spent for the purpose of promoting convention and tourist activity in KRS 91A.350(2).

KRS 91A.350(2) allows local governing bodies of cities of the second through sixth class, or counties containing them, to create tourism commissions “for the purpose of promoting and developing convention and tourist activities and facilities.” KRS 91A.390(1) provides that the commission shall be funded through a transient room tax. KRS 91A.390(3) provides in relevant part:

- (3) A portion of the money collected from the imposition of this tax... may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business... The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant...

KRS 91A.400 allows cities of the fourth or fifth class to levy an additional restaurant tax, and provides that “all moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in that city as provided by KRS 91A.350 to 91A.390.” At issue in this opinion is how the tourism commission may validly spend these revenues.

KRS 91A.390(3) explicitly provides that the proceeds of the transient room tax shall not be used as a subsidy to a hotel, motel, or restaurant in any form, and thus prevents a tourism commission from providing any money from the proceeds of the transient room tax to a hotel, motel, or restaurant. However, KRS 91A.400 makes no such restriction, and only provides that the revenues from it shall be turned over to the tourism commission in that city. It may be argued that since KRS 91A.390 was originally the only source of funding available to a tourism commission until the later enactment of the restaurant tax, the legislature intended that a tourism commission could not spend any money to subsidize a hotel, motel, or restaurant. This argument may be strengthened by the

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claim that KRS 91A.390(2) provides that all of the revenue collected under both KRS 91A.390(3) and 91A.400 must be kept in an account separate and unique from all other revenue. However, “in determining legislative intent, we must refer to the language of the statute and are not at liberty to add or subtract from the legislative enactment or interpret it at variance from the language used.” *Johnson v. Branch Banking and Trust Co.*, 313 S.W.3d 557, 559 (Ky. 2010). KRS 91A.390(3) begins by referring to “this tax,” and later refers to “proceeds of the tax,” both singular terms, indicating that only the transient room tax created in that section was intended. KRS 91A.400 only specifies that the revenue from the restaurant tax must be turned over to the tourism commission in that city, and places no further restrictions on it. If the legislature had intended to forbid the use of restaurant tax revenue to subsidize a hotel, motel, or restaurant, it would have so specified. As the statutes are currently written, while revenue from the transient room tax in KRS 91A.390(3) cannot be used for a hotel, motel, or restaurant, money from the restaurant tax in KRS 91A.400 is restricted only by a tourism commission’s general charter in KRS 91A.350(2) that the commission act “for the purpose of promoting and developing convention and tourist activities and facilities.”

Additionally, in passing an ordinance establishing a restaurant tax under KRS 91A.400, the City of Pineville explicitly borrowed the language of KRS 91A.390(3) and required that the revenue from the restaurant tax “shall not be used to provide a subsidy in any form to any hotel, motel, or restaurant.” “A municipal ordinance is invalid if it conflicts with a state statute.” *Boyle v. Campbell*, 450 S.W.2d 265, 268 (Ky. 1970). KRS 91A.400 provides that “all moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission.” It does not authorize the city enacting the restaurant tax to place restrictions on how that money is spent, and mandates that the money simply be “turned over” to the tourist commission. The city may choose whether or not to enact or repeal the restaurant tax, but it may not dictate how the tourism commission spends it, as that power is given to the commission by statute. As such, the portion of the City of Pineville’s ordinance that restricts the use of restaurant tax revenue in providing a subsidy to a hotel, motel, or restaurant is void.

Regarding what constitutes “promoting and developing convention and tourist activities and facilities,” in *Second St. Properties, Inc. v. Fiscal Court of*

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Jefferson County, 445 S.W.2d 709, 712-13 (Ky. 1969), the former Court of Appeals indicated that it should be construed broadly. “The modern tendency is to be more liberal in permitting grants of discretion to administrative agencies... the promotion of convention and tourist activity... is sufficiently definite to circumscribe the permitted proper functions of the administrative agency.” *Id.* at 713. Since “the promotion of convention and tourist activity” is to be construed broadly, we interpret it similarly to the general public purpose requirements for taxation.

Ky. Const. § 171 provides that “taxes shall be levied and collected for public purposes only.” “The determination of what constitutes a public purpose is primarily a matter for legislative discretion.” *Industrial Development Authority v. Eastern Kentucky Regional Planning Commission*, 332 S.W.2d 274, 276 (Ky. 1960). “A private agency may be utilized as the pipe-line through which a public expenditure is made, the test being not who receives the money, but the character of the use for which it is expended.” *Kentucky Bldg. Com'n v. Effron*, 220 S.W.2d 836, 837 (Ky. 1949).¹ This test is “in the end, not the means.” *Industrial Development*, 332 S.W. 2d at 276. “Courts will not interfere with the action of a state or municipal legislative body except for a clear abuse of power or unless the absence of public interest is clear and palpable.” 64A C.J.S. *Municipal Corporations* § 2233. Tourism commissions are given wide discretion in promoting tourism and convention business, and their judgments will not be questioned unless there is a clear abuse of power, or the absence of public interest or promotion of tourism is clear and palpable. The Tourism Commission may thus apply revenues from the restaurant tax to pay off bonds issued by the City of Pineville to fund a hotel or motel, provided it is in the public interest and promotes tourism. The Tourism Commission may also use the restaurant tax revenues for street and sewer improvements that are connected with the promotion of tourism.

In sum, the revenues from the transient room tax may not be applied to a hotel or motel, but the restaurant tax revenues may be applied to any project that

¹ Ky. Const. § 3 provides that “no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services.” Ky. Const. §§ 3 and 171 are closely intertwined. “If the purposes served by an action constitute public purposes for which tax revenues may be levied and expended under Section 171, the manner of the use and expenditure is also proper under Section 3, and is not a private use as distinct from a public use.” *Hayes v. State Property and Buildings Com'n*, 731 S.W.2d 797, 801 (Ky. 1987).

Appendix E: Tree Top Adventure Park Financial Data

Four-Year Budget to Actual Expenditure Comparison for Tree Top Adventure Park

Fiscal Year	Budgeted Amount	Actual Amount	Difference
2019	\$ 266,800	\$ 174,499	\$ 92,301
2020	\$ 296,800	\$ 93,183	\$ 203,617
2021	\$ 133,800	\$ 56,960	\$ 76,840
2022	153,500	N/A	N/A

Source: APA, based on budget tracking reports provided by the Deputy City Clerk.

Tree Top Adventure Park Actual Revenue and Expenditures by Budget Category

Budget Category	FY 2019	FY 2020	FY 2021
Tree Top Adventure Park	\$ 108,969	\$ 90,905	\$ 2,868
Total Revenue	\$ 108,969	\$ 90,905	\$ 2,868
Salaries	\$ 70,665	\$ 52,797	\$ 18,297
Fringe Benefits	19,206	9,339	5,069
Utilities	2,918	1,802	1,685
Insurance	6,060	0	6,038
Improvement/Repair	66,488	17,856	25,870
Staff Training	800	81	0
Marketing	8,362	11,308	0
Total Expenditures	\$ 174,499	\$ 93,183	\$ 56,960

Source: APA, based on budget tracking reports provided by the Deputy City Clerk.

Appendix F: Example of Monthly Reimbursement, as submitted for June 2021 Expenses

July 16, 2021

City of London Tourism

B I L L I N G

LCC	10,212.96
Exec. Direct	8,761.35
Parks	24,766.21
TreeTop	4,353.53
Levi	44,245.22
Clerk	2,080.00
Health	14,469.41
Life Insurance	93.72
Dental	259.17
Cellphones	213.59
Expenses	10,031.85

Total Reimburse Due City of London 119,486.99

Appendix G: Section 3 of the Kentucky Constitution

Section 3 Men are equal -- No exclusive grant except for public services -- Property not to be exempted from taxation -- Grants revocable.

All men, when they form a social compact, are equal; and no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services; but no property shall be exempt from taxation except as provided in this Constitution, and every grant of a franchise, privilege or exemption, shall remain subject to revocation, alteration or amendment.

Text as Ratified on: August 3, 1891, and revised September 28, 1891.

History: Not yet amended.

Appendix H: OAG Opinion 62-1

OAG 62-1

CITIES GENERALLY - Employees, bonus for

To: J. Gordon Lisanby, City Attorney, Princeton, Ky.
By: Walter C. Herdman, Asst. Atty. Genl., January 2, 1962

This is in answer to your telegram of December 27 in which you request an opinion as to whether or not it is legal for the City of Princeton to give a bonus to its city employees and policemen.

We must first consider the fact that the city is dealing with public funds and public employees. § 3 of the Kentucky Constitution prohibits the granting of separate public emoluments to any person or a set of persons except in consideration of public services. Now the employees referred to are paid a salary and this salary is required to be fixed by the city legislative body under the provisions of KRS 64.580 (1950). The granting or awarding of a bonus would seem to us to contravene the section of the Constitution referred to since it would seem to be using public funds for services not actually rendered.

Referring next to McQuillin, Municipal Corporations, Vol. 4, § 12.193, we find the general rule expressed regarding the granting of extra compensation as follows:

"Extra compensation is compensation over and above that fixed by contract or by law when the services were rendered. Where an officer performs duties imposed by law he is entitled to the compensation therefor fixed by law and no other. He is not entitled to extra compensation for services performed in the line of his official duty...."

In connection with the above quote, we refer you to the case of Ludlow Board of Education v. Ritchie, 149 Ky. 674, 149 S.W. 985 (1912). We also wish to refer you to the terms of KRS 64.410(2)(c) which prohibit a public officer from receiving for his services any fee for services not actually rendered and KRS 434.250 which prohibits any officer from paying any person any sum for services not actually rendered.

There is, of course, no prohibition against a city legislative body changing the compensation of city officers as fixed by it during their employment. This, however, would require an amendment to the ordinance setting forth the compensation of city employees.

Under the circumstances, therefore, we do not believe that the city is legally authorized to grant a bonus or additional compensation to city employees out of public funds over and above that amount fixed according to law.

Appendix I: City's Last Approved Salary Scale

CITY OF LONDON SALARY SCALE

FY 12-13

<u>GRADE</u>	<u>MIN</u>	<u>GRADE</u>	<u>MIN</u>
11	7.25	27	15.88
12	7.61	28	16.62
13	7.99	29	17.45
14	8.39	30	18.82
15	8.81	31	19.24
16	9.25	32	20.20
17	9.72	33	21.21
18	10.20	34	22.27
19	10.71	35	23.38
20	11.25	36	24.55
21	11.81	37	25.78
22	12.40	38	24.55
23	13.02	39	28.42
24	13.67	40	29.84
25	14.35	41	31.33
26	15.07	42	32.90

*Grade Based on Experience in Field

** 5% Increase Per Grade

***Annual Salary Based on 40 hours per week (2080 hours per year)

Appendix J: City Ordinance No. 2015-09 - Last Updated Pay/Classification Plan

562

COMMONWEALTH OF KENTUCKY

CITY OF LONDON


ORDINANCE NO. 2015-09

ORDINANCE UPDATING PAY/CLASSIFICATION PLAN

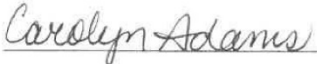
WHEREAS, the City Council recognizes the need for the City's Pay/Classification Plan to be updated to include various positions not previously provided for, to maintain an effective and efficient workforce;

NOW THEREFORE, BE IT ORDAINED by the City Council, City of London, Commonwealth of Kentucky:

- (1) That the attached Employee Classification Plan be updated to include various positions not previously provided for.
- (2) That the attached Employee Classification Plan may be waived, altered, or Suspended only by a change of Ordinance.
- (3) This Ordinance shall become effective after two readings and publication requirements have been met.


TROY RUDDER, MAYOR

ATTESTED:


CAROLYN ADAMS,
CITY CLERK

Date of First Reading: November 2, 2015

Date of Second Reading: November 18, 2015

*City of London
Class and Grade Update
2015*

<i>~Building Inspectors Office~</i>	<i>Grade</i>
<i>Deputy Inspector</i>	<i>20</i>
<i>~Fire Department~</i>	<i>Grade</i>
<i>Full Time Firefighter</i>	<i>20</i>
<i>~London Downtown~</i>	<i>Grade</i>
<i>Assistant Director</i>	<i>20</i>
<i>~Police Department~</i>	<i>Grade</i>
<i>Public Relations</i>	<i>19</i>
<i>~London Tourism~</i>	<i>Grade</i>
<i>Director of Tourism</i>	<i>31</i>
<i>Parks & Rec Director</i>	<i>31</i>
<i>Laborer (full-time)</i>	<i>18</i>
<i>PT/Seasonal</i>	<i>11</i>

City of London Response



Mayor Troy Rudder

501 South Main Street • London, Kentucky 40741
Phone: (606) 864-6995 • Fax: (606) 864-5184

London City Hall

Mike Harmon
Auditor of Public Accounts
209 St. Clair Street
Frankfort, Kentucky 40601-1817

April 4, 2022

RE: Examination of Certain Financial Operations and Internal Policies and Controls of the City of London and the City of London Tourism and Convention Commission

Dear Mr. Harmon:

We appreciate the opportunity you have given us to provide a written response to your report. Since the ending date of your examination process of June 30, 2021, many of the circumstances of which you have been concerned have already been remedied. Other situations that you have addressed will be addressed by contracts to the City of London Tourism and Convention Commission ("Commission") by the City of London.

Generally, it is my understanding that the Commission essentially terminated the employment of all Tourism employees and accepted applications for all of those employment positions. Currently, the Commission and the City have for most, but not all, separated.

The City is required by Statute to collect the Restaurant Tax which funds the Commission. At present time, Tourism pays all Tourism employees. The only remaining issue that I will insist be resolved is that of Tourism employees remaining on the City's Kentucky Pension Retirement Fund for the reporting and payment of the same.

At present time, the Commission continues to reimburse the City for their portion of telephone services, fleet fuel plans, as well as electrical services for the London Community Center, Levi Jackson Wilderness Road Park, the Farmers Market, and all other Tourism parks. Due to your findings and recommendations, the City will insist that Tourism pay the aforementioned items immediately.

A large part of the issues that of which you are concerned involved the Division of Local Government ("DLG") and Tourism's application as a Special Purpose Government Entity ("SPGE"). Without approval of either the City or the Commission, the Director of Tourism made application for Tourism to become an SPGE. In 2016, the City Attorney requested DLG declassify the Commission as an SPGE without supporting information from the City Auditor. At that time, as you have indicated on page 34 of your report, DLG did remove the Commission from being an

SPGE. There was no communication from DLG until July 7, 2021. Since we relied on DLG in declassifying Tourism as a SPGE, we had no reason to believe DLG had taken a different position until July 7, 2021. No explanation was given as to reasons the DLG did not take any action between 2016 and 2021. We do not understand the obvious arbitrary action of DLG in 2016 and 2021.

After DLG did take that position in 2021, the City attempted to act very quickly in separating itself from Tourism. At Tourism's request, the City continued a reimbursement process of Tourism expenses because Tourism did not have the proper personnel or procedures in place to pay its own bills. However, I notified Tourism several times that they needed to take responsibility to pay their own employees' payroll (including benefit packages) and all other expenses. See Letter attached hereto.

CHAPTER 2: FINDINGS & RECOMMENDATIONS

Finding 1: Roles and Responsibilities of the Commission and City Were Not Clearly Defined

We agree with your recommendation, except for that of the Commission be identified as an "administrative agency of City government". DLG has recognized Tourism as an SPGE, therefore, it cannot be an administrative agency of the City; because it is a separate governmental entity. We cannot recognize a separate government entity as an administrative agency of the City; this violates Kentucky law.

Tourism will be responsible for the operation of all Tourism related activities, for its own employees, expenses, and to act on its own as a SPGE.

Finding 2: The Commission Spent Over \$1.5% Million to Operate Levi Jackson Wilderness Park, but Had Minimal Involvement in Its Oversight or Control

We agree with your recommendations in so far as the City is concerned.

Finding 3: No Written Reimbursement Agreement Existed Between the Commission and the City

You made these recommendations to the Commission. The City's intends the reimbursement process be terminated. The City will not pay any expenses on behalf of or related to the operation of the Commission; therefore there will be no reimbursement necessary by the Commission to the City. I will also recommend that the Commission will have sole responsibility for their own expenses.

Figure 6: Comparison of Monthly Reimbursement Requests for Commission Expense Incurred By the City in FY 2019 and FY 2020

You noted that the "reimbursement requests also did not occur on a consistent basis, as some reimbursements were requested the following month and other requests were not made until several months later." You failed to recognize that Tourism simply did not have the funds available

to pay their bills despite the fact that Tourism had the Restaurant Tax but, they chose to spend their funds on other projects rather than reimbursing the City.

Additionally, you also failed to recognize the impact of Covid during that time and the closure of City Hall including the number of employees directly affected by Covid. For this reason, the City Clerk and Deputy City Clerk were instructed to sign checks.

Finding 4: Bonuses Were Awarded to All City Employees, Including Those Paid With Commission Funds, in Violation of the Kentucky Constitution

Even though, my attempt was to provide an incentive to City employees, if it is your position that the City can never pay bonuses to employees, I agree to follow your recommendation.

Finding 5: City Employee Given Special Privileges by the Mayor

We agree to follow your recommendations and will follow the City's Board of Ethics Decision.

Finding 6: The Mayor permitted a City Employee to Provide Cleaning Services to the City and Commission in Violation of Kentucky Revised Statute 61.252

We agree to follow your recommendations.

Finding 7: Commission Paid Music Group \$45,000 for a Concert That Did Not Occur and Did Not Have a Written Contract

We agree with your recommendations in so far as the City is concerned.

Finding 8: City and Commission Incentives Were Not Properly Tracked or Consistently Awarded By Program

We agree with your recommendations in so far as the City is concerned.

Finding 9: The City Did Not Update or Consistently Apply Its Personnel and Pay Classification Plan, and Failed to Develop a Salary Scale

For the past several months, the City has been working with the Kentucky League of Cities to update the City Personnel Policy. Additionally, the City has been working with Hanna Resource Group to perform a full review and update the Pay Classification Plan and Salary Scale. We agree to follow your recommendations and will follow the City's Board of Ethics Decision.

Finding 10: The Commission and City Operated Without Written Procurement Policies and Procedures

We agree with your recommendations in so far as the City is concerned.

Finding 11: City Personnel Files Did Not Contain Certain Records for Commission Personnel and the Records Maintained Documented Conflicting Information

We agree with your recommendations in so far as the City is concerned. For the past several months, the City has been working with the Kentucky League of Cities to update the City Personnel Policy.

Finding 12: The Commission Has Not Complied With Legal Budgeting and Reporting Requirements Established for Tourism Commissions

We agree with your recommendations in so far as the City is concerned.

CHAPTER 3: OBSERVATIONS

Observation 1: Inconsistencies in Commission Appointments

After the date of your audit, an agreement was reached between the Commission and myself as to the start date and end date of the appointment terms for the Tourism Commission. All of the appointees were notified regarding the term of their appointment.

Observation 2: Ordinance No. 2012-04

We agree with your recommendations in so far as the City is concerned.

Observation 3: Official Commission Minutes Do Not Document the Outcome of Votes

We agree with your recommendations in so far as the City is concerned.

We have indicated above our general corrective action plan for the items that you have brought to our attention. We will provide you a full corrective action plan within your requested time period. We will also be seeking the assistance of the Kentucky League of Cities and others in preparing a corrective action plan. Many of the issues that you have addressed have already been corrected by the separation of the Commission from the City. If you have any further suggestions, please contact me.

Sincerely,



Troy Rudder, Mayor
City of London, Kentucky



October 21, 2021

To: City of London Tourism and Convention Commission
Via Electronic Mail Only

Dear City of London Tourism,

We have discussed the orderly transition of many City of London Tourism operations previously performed by the City of London ("City") on behalf of City of London Tourism and Convention Commission ("Tourism"). Tourism recently voted to become an SPGE and Tourism determined that it will function as a separate government entity. The purpose of this letter is to document this transition from the City to Tourism.

The actual transfer of responsibilities should occur no later than November 1, 2021. I understand Tourism already obtained legal, auditing, payroll and other such services from other sources; the City of London Clerk will no longer perform any of those responsibilities; if there is a need to physically transfer documents or papers or anything prior to November 1, 2021, please let me know.

Pursuant to Kentucky law, the City has the responsibility of collecting the three (3%) percent restaurant tax. The City Clerk will collect this tax and provide the monthly collection to Tourism by depositing the funds into the Tourism bank account.

All employees, whose employment benefits have been reimbursed by Tourism to the City, continue to be the responsibility of Tourism as their continuing employer. No later than January 1, 2022, you should have made independent arrangements for employee retirement, insurance, and all other employment benefits under Tourism's own plans. A list of all Tourism employees is attached.

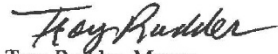
After November 1, 2021, (or sooner at the option of Tourism), with the exception of issuing checks on behalf of Tourism to Tourism employees and the City receiving full reimbursement from Tourism, the services of the Office of the City Clerk, namely City Clerk Marcy Berry, Sherry Jones, and Debbie Hartzell will no longer be performed on behalf of Tourism; this includes, but is not limited to, any and all bookkeeping services, payment of bills, legal advertisements or legal notices, taking minutes at Tourism meetings, the records custodian of any files or documents on behalf of Tourism or meeting any other legal requirements will be the responsibility of Tourism.

All bank account and other business records should be housed at Tourism's office, rather than the Office of the City Clerk. The original of all Tourism records presently housed by the City Clerk

will be provided to Tourism, no later than November 1, 2021. If you wish to house any records at a location other than Tourism's office, you are responsible for making such arrangements.

If you have any questions regarding any of this, please contact me at your convenience.

Sincerely,



Troy Rudder, Mayor
City of London, Kentucky

C: City Clerk Marcy Berry
Chris Robinson, Tourism Director
London City Council Members
Larry G. Bryson, City Attorney

14-Community Center

Brittany Cradic
Deborah Wyatt

16-Parks & Rec

Silas Mack Williams
Bryan Bowling
Jacob Hartzell
William Jones
Jonathan Mackowiak
Malvin Merced
Jordan Steele

22-Tourism

Chris Robinson
Ben House
Will McCowan
Jared Smith

25-Levi Jackson

Joey Engle
Sherri Baker
Donald Burchfield
Glenn Chestnut
Stanley Chestnut
Abigail Dagley
Sandra Davis
Courtney Fetters
John Holt
Stephen Holt
Tonyua Nelson
Tangela Rogers
Brian Smith
Mildred Sturgis
Rebecca Whittmore

City of London Tourism & Convention Commission Response



State Auditor Harmon,

On behalf of The City of London Tourism & Convention Commission we would like to thank you and your staff for the comprehensive review of our standards and practices in relation to our financial reporting and records. As a commission whose mission is to promote tourism in London and Laurel County funded by taxpayer money, our first responsibility is to ensure all funds are spent in the most fiscally responsible way. This is a commitment we take seriously with each and every decision made.

I have thoroughly reviewed the audit report and have started the initial digestion of your office's recommendation of correction. Our board will take these findings and create an action plan to correct all deficiencies.

As you are aware by comments in this audit, our commission started the process in fall of 2021 to comply with Kentucky statutes concerning boards and commissions by enrolling in the Department of Local Governments SPGE program. This process has been completed and our commission is compliant with all financial reporting required at this time. As a result of compliance with the SPGE program, our commission became an independent entity of the City of London, which afforded our board the opportunity to completely overhaul the structure of our organization; a first step in correcting several of your recommendations. We are continuing to review our organizational structure and board policies. With the help of the findings in this report, we continue to strengthen our program for the citizens of London.

Within the 60-day period your office has allotted, our commission and staff will work tirelessly to correct all deficiencies per the recommendations presented. As mentioned above, our commission has worked diligently over the past year to improve our organization and with the assistance of your office, will continue doing so.

On behalf of the City of London Tourism Commission, we would like to thank your office again for your thorough review of our practices.

We are eager to complete this process, continue being good stewards for the citizens of London, and working towards strengthening our organization.

Respectfully,

Vinson Starr Handy

Commission Board Chair