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ADDRESS CHARTER CONCERNS  
MENTIONED IN THE 2018 REPORT

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA,  
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT OF FLORIDA,  
IN AND FOR WALTON COUNTY, FLORIDA,  
AT THE FIRST TERM HEREOF,  
IN THE YEAR OF OUR LORD,  
TWO THOUSAND AND EIGHTEEN

FILED  
WALTON CO FLORIDA  
CLERK OF COURTS  
2018 JAN 22 A 11:20

**GRAND JURY REPORT**

WE THE GRAND JURORS OF THE STATE OF FLORIDA, LAWFULLY  
SELECTED, IMPANELED, AND SWORN, INQUIRING IN AND FOR WALTON COUNTY,  
FLORIDA, UPON OUR OATHS AS GRAND JURORS, DO PRESENT THE FOLLOWING  
REPORT:

At the request of the Office of State Attorney, we have conducted an investigation into the operation of the City of DeFuniak Springs. Specifically, this investigation began as a result of the City forfeiting tax revenues of \$220,975.26 as a result of the City repeatedly missing annual deadlines to file financial audits with the State of Florida. The City is currently in its fourth consecutive year of submitting late audits; two of those years resulted in the forfeiture of the above tax revenues, and the City stands to forfeit additional tax revenues beginning in mid-February, 2018.

Although our investigation revealed no criminal or intentional wrongdoing, we have determined that a systemic problem exists within the City government that directly contributed to the delinquent audits and other financial issues. We have questioned numerous witnesses, including current and former elected officials and city employees, as well as subject matter experts, and we have reviewed over one hundred documents.

We conclude that in addition to many of the City's policies and procedures being extremely outdated and inadequate, a certain culture existed within the City in the last several years that included a lack of transparency by some upper-level city officials not keeping the City Council informed of pressing issues, a concern of retaliation felt by some employees if certain suggestions or complaints were made, and a general lack of urgency by several officials and prior employees. We were also shocked to learn of the lack of knowledge of government operations by those entrusted with governance.

As a result of our investigation, we present the following findings and recommendations.

**Financial Audits**

This issue is being addressed first not only because it is what prompted our investigation, but also because the City of DeFuniak Springs is less than one month away from forfeiting tax revenues yet again. We believe it is important to inform the citizens of what has happened in the

Our investigation revealed that the lateness of the audits was primarily caused by an abnormal turnover in key positions, especially of the Finance Director position, as well as a cumbersome reconciliation process and lack of adequate training in that process for incoming Finance Directors. Between late 2012 and early 2017, there were three Finance Directors, and there were several instances where the position was vacant. The position has remained vacant since April 2017. As a result of the turnover and the reconciliation process, the Finance Directors were always behind in reconciling the City's bank accounts, which have numbered as many as 23 bank accounts and currently stand at 19 accounts. We address the City's accounting procedures in more detail in a subsequent section of this Report.

Also in the period of 2012-2017, there was one City Manager followed by two Interim City Managers. A permanent City Manager was then hired in October 2017. The constant changes in the City Manager and Finance Director positions led to instability within the City and resulted in other City employees attempting to pick up the slack and perform job duties not associated with their individual positions without any real training or experience performing those duties. We thank those employees who provided such hard work and exhibited great dedication to the City of DeFuniak Springs during those difficult times.

In the absence of a Finance Director, an outside accounting firm was hired in mid-June 2017 to reconcile the City's bank accounts for fiscal year 15-16 so that the books could be closed and submitted to the City's auditor. Prior to the firm being hired, the accounts had not been reconciled since the end of September 2015. The firm has finished reconciling the accounts for fiscal year 15-16 and has also reconciled most of fiscal year 16-17 but cannot complete that process until the outstanding audit of fiscal year 15-16 is complete. Once that audit is complete, the accounting firm will finish reconciling the City's bank accounts for the 16-17 fiscal year, which will then be provided to the auditor. The deadline for the 16-17 audit is June 30, 2018.

In our review of the audits themselves, it was readily apparent that many of the recommendations of the auditors have not been followed. This is evident because many of the same findings have been made several years in a row, often with the same response by the City that procedures have been implemented to address the problems. In particular, repeated findings have been made that the City has not timely reconciled its accounts.

We also write briefly about the City's budgets to highlight an additional consequence of the lateness of the City's audits and the lack of timely reconciliation of the City's accounts. As of June 2017, the City's bank accounts were unreconciled since the end of September of 2015, and even before that time, the accounts were consistently not reconciled timely. Furthermore, the audit due in 2014 was six months late, the audit due in 2015 was seven months late, the audit due in 2016 was ten months late, and the audit due in 2017 is currently seven months late.

This reveals that budgets have been adopted for the last several years without the benefit of completed audits or closed books. The budget worksheets that we reviewed were obviously incomplete because the final data for prior years was not available at the time the budgets were created. This hampers the City's ability to effectively plan for an upcoming fiscal year when there is not complete data for past years.

## **Recommendations**

It is imperative that steps be taken to ensure that the annual audit and the Annual Financial Report are filed each year prior to the June 30<sup>th</sup> deadline. The City cannot afford to lose additional tax revenues. Even the funds that are temporarily withheld and ultimately released hurt the City because of the City's tight cash flows.

The City must fill the Finance Director position with a qualified person. An outside accounting firm is certainly able to reconcile bank accounts and help catch up the City's books, but that is only one piece of the Finance Director position. Significant changes to the City's policies and procedures are needed, as discussed more fully in another section of this Report, and those changes can only be made by a Finance Director. An outside firm also comes at a cost. We do not write to criticize the money spent on an outside firm to catch up the City's books; it is a necessary cost as a result of past problems. However, the fact that approximately \$75,000 to \$80,000 has been spent to date, with an additional \$25,000 to \$30,000 required to eventually close out the 16-17 fiscal year, demonstrates the importance of hiring a Finance Director to perform that function in house and make necessary changes to avoid such charges in the future.

Once a new Finance Director is in place, we recommend that he or she be required to perform the monthly bank reconciliations within 20 days of receipt of the monthly statements. We also recommend that a quarterly audit readiness report be submitted to the City Manager and made a part of the City Council's agenda so that both the Council and public are aware of the City's preparedness for the annual audit process. This will ensure that any problems will come to light far before the State deadline and give the City time to take appropriate action.

Additionally, we note that two previous Finance Directors informed the City through written memos that the City's debt structure may be of concern. We recommend that the City analyze the current debt structure and restructure as necessary.

Finally, the City needs to follow the auditor's recommendations as presented in the audit findings. The same findings should not be appearing in consecutive audits with the same responses by the City each year.

## **Reserve Accounts**

### **Findings**

One of the repeated audit findings concerns the City's reserve accounts. City Ordinance 664 requires a minimum balance of \$700,000 in the water reserve account, \$1,000,000 in the sewer reserve account, and \$500,000 in the natural gas reserve account. The audits for fiscal years 12-13, 13-14, and 14-15 all contained findings that the water reserve account fell below the required minimum of \$700,000. It remains to be seen whether this will also be a finding in the 15-16 audit. We are also unaware as to whether the water reserve account is currently fully funded.

Similarly, City Ordinance 663 requires a certain amount of funds to be deposited each year into a depreciated property replacement account for sanitation equipment. The audit for fiscal year 14-15 revealed that the City failed to make the required deposit.

In short, the City violated its own laws at least three years in a row.

### **Recommendations**

Upon receipt of the 15-16 audit, we recommend that the City verify that the water reserve account and the sanitation depreciated property replacement account are fully funded in compliance with City Ordinances. If they are not fully funded, we recommend that the City take immediate steps to comply with City Ordinances 663 and 664.

We also note that both of these ordinances were adopted in 2000, and we are not aware what data led to the minimum amounts. This is not to say that there was not good reason for choosing those levels, but we recommend that the City revisit the minimums required by City Ordinance to determine whether they are sufficient. We also recommend that the City evaluate whether those balances should continue to be a flat dollar amount or whether they should be determined by a percentage threshold.

### **BP Settlement Money**

#### **Findings**

Let us be very clear that there was no evidence of any criminal wrongdoing associated with the receipt or expenditure of BP funds. However, the funds were not earmarked for any particular purpose, and the funds were spent on general operating expenses without anyone seeming to be aware. Additionally, the City Council inquired about the funds several months after they were received and were led to believe that the funds still existed, despite the fact that they had already been spent from the General Fund. A brief timeline follows below.

At the end of August, 2015, BP funds were received in the amount of \$368,063.38. These funds were deposited in the General Fund account without any restriction in the general ledger, and a budget amendment was not prepared. By September 30, 2015, less than forty-five days later, most or all of the BP funds had been dispersed as general operating expenses out of the General Fund account. This is evident based on the audit of the 14-15 fiscal year as well as a review of the General Fund bank statements for August and September of 2015.

In January of 2016, the City Council inquired whether the BP money had been received. In February of 2016, the Council again inquired as to the status of the BP money. There was some discussion by the Council at that time of restricting the funds until the Council determined what to do with it, although no vote was taken. No one seemed to be aware that the funds had already been spent. It wasn't until a budget meeting in August of 2016 that a clear pronouncement was made that the BP funds were already gone.

## **Recommendation**

We recommend that any one-time receipt of unexpected funds should be earmarked and memorialized. It is frightening to think that over \$368,000 could be received and expended without drawing the attention of anyone. It also begs the question as to what would have happened if that extra money had not been available in the General Fund to cover operating expenses. Additionally, the BP funds could have been used to replenish the reserve accounts that had fallen below their required minimums, and indeed that possibility was discussed by the Council. However, no vote was taken, and in any event, the money no longer existed.

In the future, unexpected funds should be designated for specific purposes.

## **Accounting Procedures**

### **Findings**

The City's accounting procedures have been described as cumbersome, specifically in relation to the reconciliation process. Several witnesses considered the reconciliation process to be more difficult than necessary. Two Finance Directors also submitted exit letters detailing areas of concern that needed to be addressed by the City that were either rejected as "sour grapes" or ignored. In fact, many of the current problems could have been avoided by considering the recommendations in those letters.

One of the items that repeatedly came to our attention is the fact that the City has too many bank accounts. This was stated by employees, elected officials, and accountants. The City currently has 19 bank accounts. This leads to higher costs to the City in several ways, such as the cost of the accounts themselves and bank fees associated with deposits and transfers. It also leads to higher costs for the annual audits because there are more accounts and transfers that must be audited.

With the high number of bank accounts, deposits are made into one account and then transferred to various accounts. Also, because the City's cash ends up being fragmented into various accounts, transfers between the accounts are often needed to cover shortages. Although there is nothing illegal or unethical with these procedures, it creates a much more difficult reconciliation process, often requiring what amounts to a monthly forensic audit just to balance the general ledger accounts with the bank accounts. If a mistake is made when money is collected and deposited, a large amount of back-tracking is required at the end of the month to figure out what happened.

One of the consequences of a difficult reconciliation process is that it is not completed in a timely manner, which ultimately leads to late audits.

Additionally, the accounting software used by the City was repeatedly described as antiquated. It is a DOS-based system, and it does not contain a reconciliation module as part of the software package.

## **Recommendations**

The City should greatly reduce the number of bank accounts to a more manageable number. Although a few accounts may be required to segregate certain funds by law, most of the City's bank accounts could be consolidated. The individual funds contained in those accounts would continue to be tracked by the City's general ledger accounting software. Several witnesses indicated that other cities, even larger ones, are able to effectively operate with only a handful of bank accounts.

The City also needs to upgrade its accounting software. We do not believe that the City should still be relying on a DOS-based system in 2018. Furthermore, new accounting software, particularly with the possibility of the ability to perform reconciliations, would lead to increased efficiency in the Finance Department.

## **Government Organization**

Although this topic is last in this Report, it is perhaps the most fundamental issue that we write to address. The root cause of all of the problems described in this report is the absence of a clear structure in the City government.

### **Background**

There are four main types of city governments in the State of Florida. A brief summary of these types is as follows:

In a **Commission** form of government, the City Council is responsible for both the legislative and executive functions of city government. Each of the council members assumes the responsibility for a particular department. This results in City Council members being directly involved in day-to-day management of a city.

In a **Council-Strong Mayor** form of government, the City Council is responsible for the legislative function of setting policy, and the elected Mayor operates as the city's Chief Executive Officer. All city employees are responsible to the Mayor. This type of government is often found in larger cities. One critique of this form is that there are no experience or educational qualifications for a Mayor, and elections are only once every four years, which does not allow for changes if there is a problem in the operation of the city.

In a **Council-Manager** form of government, a professional City Manager hired by the City Council is the city's Chief Executive Officer, and all city employees report to the City Manager. The Council sets policy, and the Manager implements that policy. This is the most common form of city government today.

In a **Hybrid** form of government, characteristics of the other three forms are blended together.

## Findings

The City Charter for DeFuniak Springs was written in 1903 and very few sections have been updated. It contains no reference to the form of government for the City. This is extremely unusual. The City Manager position in DeFuniak Springs is established in a City Ordinance, not in the Charter. Importantly, a City Charter serves as the constitution of a city and can only be changed by voter referendum. City Ordinances, on the other hand, can be changed by a majority vote of the City Council.

Although the City of DeFuniak Springs currently has a City Manager, the current form of government is actually a Hybrid system that also has characteristics of a Commission form of government. This ultimately leads to confusion because the chain of command is unclear. Certain employees report directly to the Council instead of or in addition to the City Manager, and some Council members may be tempted to circumvent the City Manager by directing individual employees.

A City Manager is normally responsible for all other city employees, including the hiring, supervision, and firing of those employees. In DeFuniak Springs, however, the Finance Director is directly hired and fired by the City Council instead of the City Manager. The Finance Director is also jointly responsible to both the City Council and the City Manager. Many of the witnesses appearing before us gave different answers when we asked, "Who is the Finance Director's boss?" Some believed that the Finance Director's boss is the City Council, while others believed it is the City Manager. Even Finance Directors and City Managers provided different answers from each other.

As another example, it is clear that the City Manager is hired, fired, and supervised by the City Council, and yet the City Manager ordinance indicates that the City Manager is also responsible to the Mayor.

Similarly, the City Clerk is appointed by the City Council and performs duties as directed by the Council, yet the City's organizational chart places the Clerk under the City Manager. Again, this causes confusion for employees, the City Manager, and the City Council.

Another issue we encountered is that the job descriptions for the City Manager and Finance Director contain overlapping responsibilities. Both are directed to advise the Council on a monthly basis of the financial condition of the City, and both are directed to provide financial reports to the Council. The result of overlapping responsibilities is *not* that the Council ends up being doubly informed; the result is confusion over who is responsible for various financial matters, and the necessary information often never makes it to the Council. This is because each may assume that the other employee is responsible for a particular item.

Another reason that the form of government is a Hybrid form is because the Mayor currently has the ability to vote in cases of a tie and the ability to veto City Ordinances passed by the Council. A referendum to remove the Mayor's right to vote was submitted in both 2013 and 2015 and failed both times, despite the fact that even the Mayor supports the change.

We also discovered that the City Ordinance pertaining to the City Manager has not been updated following actions taken by the Council. For example, on June 9, 2014, the City Council voted to give the City Manager the authority to suspend or terminate any employee other than the Finance Director. Almost a year later, on April 27, 2015, the City Council voted to give the City Manager the authority to hire budgeted staff other than the Finance Director. Two years later, on March 27, 2017, the City Clerk, in conjunction with the Human Resources Manager, presented a Proposed Ordinance to update the City Manager Ordinance to reflect the changes previously made by the Council. As of today, the ordinance relating to the City Manager still only provides the City Manager with the ability to *recommend* to the Council that a particular employee be hired or fired, not the ability to actually perform the hiring or firing.

The City Manager ordinance as written not only is inconsistent with a City Manager form of government, it also does not reflect the changes the City Council already made nearly four years ago.

### **Recommendations**

First and foremost, we recommend that a revised Charter be adopted for the City of DeFuniak Springs. We believe this should be accomplished through a Charter Review Committee comprised of residents and experts and/or with the services of a professional consultant. The Florida League of Cities also has valuable resources to provide direction as to which provisions should be included in a Charter and what various options are available for those provisions.

The City Charter needs to contain a specific form of government. If the form of government is to include a City Manager, then the City Manager position needs to be in the Charter, not in an ordinance. The Mayor's ability to vote and veto should also be evaluated.

We also recommend that the updated Charter include a provision to review the Charter every five years to account for any changing needs of the City.

Clearer job descriptions also need to be written for the City Manager and the Finance Director, and the chain of command needs to be more structured. The City should also evaluate the current positions that exist in the Finance Department. For example, the Finance Director position in the past has mainly functioned as an accounts receivable and bank reconciliation position with little or no time to focus on "bigger picture" issues such as management of employees, debt structure, changes in bank accounts, preparing written accounting policies, and assisting the City Manager in preparing the annual budget. It may be that an Accounts Receivable Clerk needs to be hired to free up the Finance Director to be able to focus on "Director" type issues. Also, the Finance Supervisor position currently operates as the supervisor of the utility billing department and also as an accounts payable position. Our point in highlighting these issues is simply to recommend that the current positions and responsibilities be evaluated to determine if additional positions are needed, and then to establish the required qualifications and descriptions for those positions.



Additionally, the ordinance for the City Manager needs to be updated to reflect prior Council votes. Our discovery of this ordinance not matching up with previous actions taken by the Council also compels us to recommend that the current ordinances be reviewed for accuracy and relevance.

We also believe it would be wise for the City's leaders to seek out training resources from the Florida League of Cities or other similar organizations that provide training on government operations. We recognize that elected officials rely on the information and advice provided by the City Manager, Finance Director, and City Attorney, as well as the collective experience of the other elected officials, but we believe that many free resources exist that are not currently being used.

### Conclusion

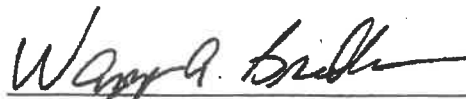
The City of DeFuniak Springs permanently lost a total of \$220,975.26 in tax revenues as a result of late audits. The City is also less than 30 days away from forfeiting additional money because of another late audit. We certainly hope that the audit will be submitted prior to additional money being withheld and forfeited.

Regardless of whether the audit is finally submitted within these remaining days, an underlying problem has existed in the government of the City of DeFuniak Springs. Confusion has stemmed from an outdated and insufficient City Charter, overlapping job descriptions, an unclear chain of command, and City Ordinances that do not reflect prior Council actions. Furthermore, cumbersome accounting procedures, too many bank accounts, and antiquated accounting software have led to the City being behind in reconciling accounts, closing out books, and submitting audits. All of this has combined to form an environment that is unfair to City residents and to City employees. It also led to over \$368,000 in BP settlement money being immediately spent on operating expenses without anyone realizing that it had been spent without specific direction by the Council.

We have identified many areas that need to be addressed, and we recommend that an action plan be developed to address the recommendations in this Report. We encourage the City Council, Mayor, City Manager, and citizens of DeFuniak Springs to use this Report as a catalyst for change.

The City of DeFuniak Springs has great potential in the years ahead, but it cannot reach its full potential if these underlying issues are not addressed. We hope that once these areas are addressed, the City will be able to take great strides in the coming years and become a model of a transparent, efficient, and responsive government. Its citizens deserve it.

DONE THIS 22<sup>ND</sup> DAY OF JANUARY, 2018, IN WALTON COUNTY, FLORIDA.



Foreperson

