



## COMPTROLLER'S INVESTIGATIVE REPORT

### Town of Liberty

*January 18, 2024*

**Jason E. Mumpower**  
*Comptroller of the Treasury*



**DIVISION OF INVESTIGATIONS**



JASON E. MUMPOWER  
*Comptroller*

January 18, 2024

Liberty Board of Mayor  
and Aldermen  
Liberty Municipal Building  
Main Street, PO Box 8  
Liberty, TN 37095

Town of Liberty Officials:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the Town of Liberty, and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the District Attorney General of the 13<sup>th</sup> Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason E. Mumpower", with a long horizontal line extending to the right.

Jason E. Mumpower  
Comptroller of the Treasury

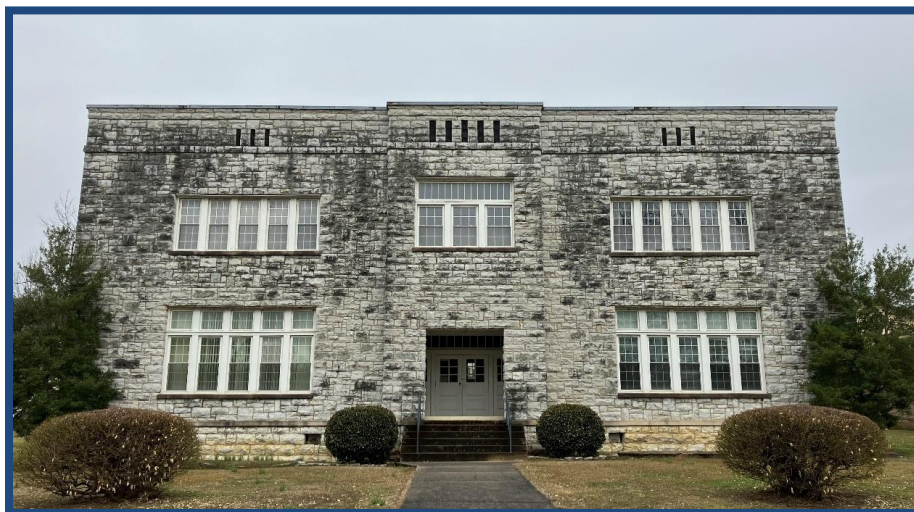
JEM/MLC

# INVESTIGATIVE REPORT

## Town of Liberty

The Office of the Comptroller of the Treasury investigated allegations of malfeasance related to the Town of Liberty. The investigation was limited to selected records for the period January 1, 2020 through January 31, 2023. The results of the investigation were communicated with the Office of the District Attorney General of the 13<sup>th</sup> Judicial District.

### BACKGROUND



Established in 1850, the Town of Liberty (town) is in Dekalb County, Tennessee, and has a population of 342 residents as of 2023. The Board of Mayor and Aldermen (board) is vested with legislative authority for the town. The board is comprised of the mayor and five aldermen elected at-large to four-year terms. The mayor serves as head of the board. Pursuant to Tenn. Code Ann. § 6-4-201, the Town of Liberty Secretary (secretary) is appointed by the board and may also be appointed to the positions of finance director, treasurer, or both.

The secretary is a Certified Municipal Finance Officer (CMFO) and has held the secretary position for over 30 years. Pursuant to Tenn. Code Ann. § 6-56-404, individuals with CMFO credentials must complete sixteen (16) hours of annual Continued Professional Education (CPE) training, and the secretary was in compliance with the CMFO training requirements during the entire scope of the investigation.

### RESULTS OF INVESTIGATION

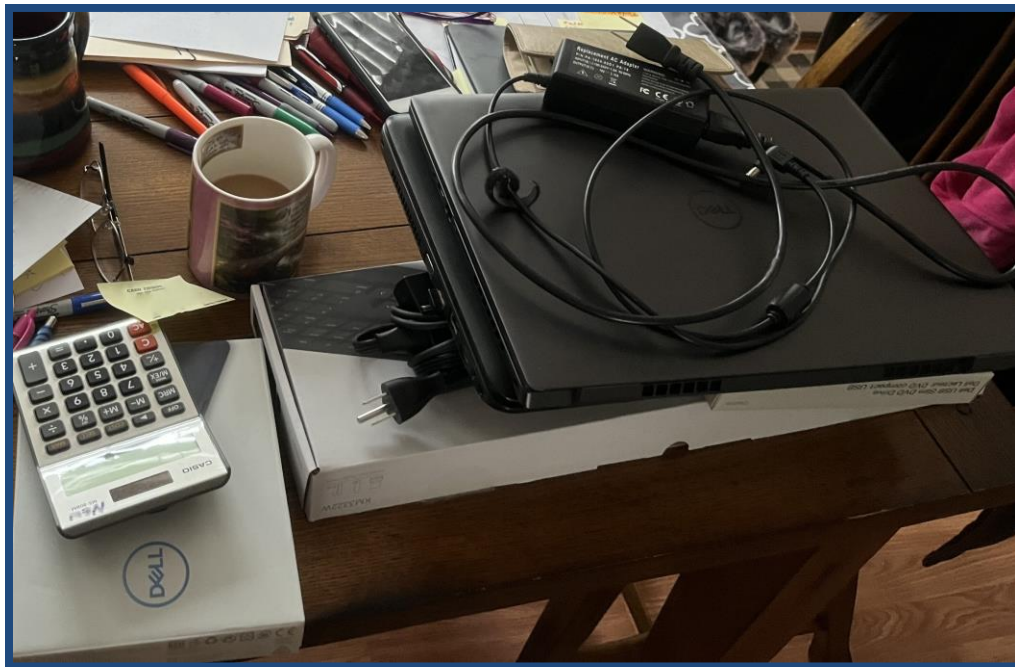
- 1. THE TOWN OF LIBERTY MADE EXPENDITURES TOTALING AT LEAST \$17,960.72 FOR UTILITIES AND MAINTENANCE OF THE TOWN HALL WHILE DAILY OPERATIONS WERE CONDUCTED FROM PERSONAL RESIDENCES**

The town made expenditures totaling at least \$17,960.72 for utilities and maintenance of the town hall; however, daily operations were conducted from town employees' personal residences rather than from the Liberty Town Hall (town hall).

The town does not offer set hours of operation. In order to pay taxes, obtain permits, and conduct other town business, town residents are required to call prior to visiting the personal residences of the Town Secretary (secretary) and Town Tax Collector (tax collector). The town government should offer posted hours of operation to its residents.

The secretary and tax collector began working from their personal residences in 2020, following COVID-19 recommendations and board approval. Prior to town business being conducted from town employees' personal residences, town business was conducted from a local privately owned machine shop for approximately 35 years, using the machine shop's computer and other resources for town business. In late 2020, office supplies totaling \$4,765.27 were purchased to enable the secretary and tax collector to work remotely. The supplies were purchased using a COVID-19 relief grant. **(Refer to Exhibit 1.)** Although initially purchased to facilitate remote workstations, these items would also be functional at the town hall.

**Exhibit 1**



*Various office supplies that were purchased for remote work for town employees*

A secretary, also referred to as recorder, has numerous administrative oversight responsibilities set forth in Tenn. Code Ann. §§ 6-4-202 to -204, which require that “[t]he recorder or the recorder’s designee shall be present at all meetings of the board and keep a full and accurate record of all business transacted, to be preserved in permanent form.” The recorder shall also “... have custody of, and preserve in the recorder’s office, the public records, original rolls of ordinance, ordinance books, and minutes of the board; contracts, ... and all other records,

papers and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by number, date, and content, and keep an accurate and current index of such material.” Additionally, “[t]he recorder shall provide, copy, and when required, certify copies of records, papers, and documents in the recorder’s office.” The secretary is also responsible for collecting and disbursing funds, administering the accounting system, signing checks, and preparing periodic reports for the board. The secretary collected funds via payments from town residents at her personal residence and at the local machine shop. According to page 27 of the Municipal Technical Advisory Service’s (MTAS) Tennessee City Recorder Handbook,

*“Cash and checks received are to be placed in a cash drawer that contains the appropriate cash for making change. The city recorder should decide the appropriate amount of cash to be kept at city hall. Receipts are reconciled with cash collections, amounts are entered on the daily cash report, and all cash and checks are placed in the vault until they can be deposited in the bank account.”*

During a visit to the secretary’s personal residence, investigators noted public funds collected from town residents that were placed openly on a drop leaf table located in the secretary’s kitchen rather than being placed in a cash drawer or vault as required. Investigators did not observe a cash drawer or vault present at the secretary’s personal residence. Failure to properly maintain and secure collected funds increases the risk that errors or misappropriations will occur without prompt detection. **(Refer to Exhibit 2.)**

**Exhibit 2**



***Funds placed on a table located in the secretary’s kitchen, not in a cash drawer or vault***

The town hall is only used to hold monthly meetings for both the board and Liberty Fire Department (fire department). Occasionally, the town hall’s kitchen is rented out to town residents or used to cook community meals.

The town’s property insurance policy provides coverage for the town hall, the community center, the old elementary school (which is now used for community events), and the fire department. None of these locations are currently used for the business of the town hall. The locations covered by this policy include property owned by the town and do not include the personal residences of town employees. Investigators noted that the machine shop previously utilized by the secretary for town business was also not covered by the town’s insurance. Additionally, locations used to conduct town business should be compliant with the Americans with Disabilities Act (ADA) provisions to ensure that individuals with disabilities are provided an equal opportunity to benefit from all services and activities. Conducting town business from personal residences or private businesses creates potential liabilities, both legally and financially, for the town and its employees.

See the table below for the summary of expenditures for utilities and maintenance of the town hall while town business was being conducted at personal residences.

<b>Summary of Utility and Maintenance Expenditures of the Town Hall</b>	
<b><u>Service Type</u></b>	<b><u>Amount</u></b>
<b>A. Electricity</b>	<b>\$ 2,183.77</b>
<b>B. Gas</b>	<b>\$ 2,678.55</b>
<b>C. Water</b>	<b>\$ 398.40</b>
<b>D. Maintenance</b>	<b>\$ 1,215.00</b>
<b>E. Insurance (Property Coverage)</b>	<b>\$ <u>11,485.00</u></b>
<b>Total</b>	<b>\$ <u>17,960.72</u></b>

**2. THE TOWN PURCHASED EQUIPMENT AND PAID FOR SERVICES FROM A BUSINESS OWNED BY A FORMER TOWN ALDERMAN CREATING A CONFLICT OF INTEREST**

The town purchased equipment and paid for services from a heating and air business owned by a former town alderman and his brother creating a conflict of interest. In June 2022, the air conditioning unit in the town community center became faulty and needed to be replaced. Town residents regularly rent out the community center as an event space. Due to an upcoming rental, town officials deemed replacing the air conditioning unit an emergency expense. Town officials met in the community center's parking lot to vote and awarded the bid for the air conditioning unit after receiving two bids for the project by phone. The former alderman stepped away during the vote, and the remaining town officials unanimously voted to accept the lowest bid for \$9,600, which the former alderman’s brother submitted. Although the former alderman did not submit the bid and stepped away during the voting process, he installed the replacement air conditioning unit. Pursuant to Tenn. Code Ann. § 12-4-101(a)(1), it is unlawful

for any officer, committee member, director, or other person whose duty is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation . . . shall or may be interested, to be directly interested in any such contract.

Based on the former alderman's partnership in the business, the town was prohibited from doing business with this company. Furthermore, investigators noted that the registration status of the heating and air company was listed as inactive during the time of the air conditioning unit replacement, per the records obtained from the Tennessee Secretary of State website.

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## INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES

Our investigation revealed deficiencies in internal control and compliance, some of which contributed to the improper practices performed by town officials:

**Deficiency 1: The board failed to properly oversee the replacement of an air conditioning unit in the community center due to their lack of knowledge regarding conflict of interest**

The board failed to properly oversee the replacement of an air conditioning unit. It is the responsibility of the board to be knowledgeable about municipal guidelines and statutes. There are resources available to gain that knowledge, such as the Municipal Technical Advisory Service (MTAS), the town charter, and consultation with legal counsel regarding relevant statutory provisions. Contrary to the requirements of Tenn. Code Ann. § 12-4- 101(a)(1), the board voted to accept a bid submitted by a business owned by the former alderman's brother, in which the former alderman was also a partner, and allowed the former alderman to install the replacement air conditioning unit. Based on the former alderman's partnership in the business, the town was prohibited from conducting business with this company. The board's lack of knowledge regarding the conflict of interest statute resulted in an improper contractual service being obtained.

**Deficiency 2: There were no policies or procedures in place regarding the operations of the town and its employees**

According to the Tennessee Comptroller of the Treasury's *Internal Control and Compliance Manual*, municipal governments must establish and maintain an adequate internal control system for purposes of financial reporting, managing operations, and legal compliance. The town had not established policies and procedures regarding town operations. An established internal control system would assist town officials as well as provide guidelines and structure to the town's operations.

Town officials indicated they have corrected or intend to correct these deficiencies.