

**SPECIAL PURPOSE EXAMINATION OF THE RECORDS
OF THE TOWN OF GAINESBORO
FOR THE PERIOD JULY 1, 1999, THROUGH MARCH 31, 2001**

FINDINGS AND RECOMMENDATIONS

1. **FINDING: Improper giving or lending of town's credit**

In June 2000, the mayor and members of the board of aldermen voted to allow two individuals to use a portion of a town building rent-free for six months. The prospective tenants agreed to pay utilities and provide upkeep. They used the space for a for-profit manufacturing business. The agreement was not in writing, and as of April 25, 2001, no rent had been paid to the town.

Article II, Section 29, of the *Constitution of the State of Tennessee*, provides:

But the credit of no County, City or Town shall be given or loaned to or in aid of any person, company, association or corporation, except upon an election to be first held by the qualified voters of such county, city or town, and the assent of three-fourths of the votes cast at said election.

Without the above election, the *Constitution of the State of Tennessee* does not provide for giving or lending the town's credit to businesses or individuals.

In addition, the Town of Gainesboro's *Municipal Code*, Section 5-104, states, "[N]or shall the town be authorized to . . . give or lend any money, aid or credit to any person or corporation whatsoever except as otherwise permitted by law . . ."

RECOMMENDATION:

To avoid an unconstitutional giving or lending of the town's credit, the mayor and members of the board of aldermen should stop providing rent free space in town buildings to businesses or individuals. The mayor and members of the board of aldermen should also seek legal counsel to determine a remedy to correct any previous giving or lending of the town's credit.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

The mayor and board of aldermen concur with your finding, and will strive to avoid this occurrence in the future. The town will consult with legal counsel to remedy and correct this lending of the town's credit to businesses or individuals for a for-profit operation. However, the town did act in good faith to assist our declining manufacturing job market.

2. **FINDING: Failure to collect town fines from county court**

The town did not receive applicable fines from cases that were referred to the county courts. State statutes provide that fines from cases involving drug offenses, driving under the influence (DUI) offenses, and traffic offenses be paid to the jurisdiction which initiated the arrest. Section 55-10-303, *Tennessee Code Annotated*, regarding DUI cases, states, "The fines, penalties, and forfeitures of bonds imposed or collected under § 55-10-401 shall be paid to the jurisdiction which initiated the arrest . . ." Regarding traffic fines, Section 16-15-501, *Tennessee Code Annotated*, states, "Judges of courts of general sessions shall direct the clerk of the court that all fines collected shall be paid over to the municipality . . ." Regarding drug-related cases, Section 39-17-420, *Tennessee Code Annotated*, states:

. . . all fines and forfeitures of appearance bonds received because of a violation of any provision of this part and that are specifically set forth in this part, and the proceeds of goods seized and forfeited under the provisions of § 53-11-451 and disposed of according to law, shall be accounted for in a special revenue fund of the jurisdiction that initiated the arrest.

RECOMMENDATION:

The mayor and members of the board of aldermen should initiate necessary procedures to collect applicable fines. To ensure that all such fines are received, the mayor and members of the board of aldermen should require that a separate record of cases referred to the county courts be reconciled with monthly reports received from the courts. The town should follow up on all outstanding cases.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

The mayor and board of aldermen concur with your finding and will try **again** to initiate procedures to collect these fines from the county.

3. **FINDING: Inadequate separation of duties**

Although the city had several employees, one employee obtained the mail, received collections, recorded collections, prepared deposits, and delivered collections to the bank for deposit. In addition, collections for property tax and utility collections, as well as bank statements, were not reconciled. The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 1, Chapter 2, Section 2, states:

Municipal officials should enforce division of duties to provide a system of checks and balances so that no one person has control over a complete transaction from beginning to end. Work flow should be established so that one employee's work is automatically verified by another employee working independently. . . .

Title 1, Chapter 2, Section 4, of the manual further states:

Municipal officials should ensure that automatic proof techniques are applied whenever possible. These techniques include the use of an employee without prior access to the records to . . . reconcile bank accounts . . . periodically test . . . daily balancing of cash receipts . . . open mail and prelist mail receipts . . . perform routine duties of other employees . . . for at least one vacation period per year.

Title 3, Chapter 1, Section 1, of the manual also states:

Municipal officials should ensure that responsibility for each step of cash handling and recording is clearly established. If possible, the employees who receive cash collections should be different from those who maintain the books and records.

In addition, Title 3, Chapter 3, Section 10, of the manual states:

Municipal officials should ensure that . . . the total amount of unpaid individual accounts on the utility billing sheet is reconciled to the applicable general ledger control account total at the end of each month.

And finally, Title 3, Chapter 4, Section 4, of the manual states:

Municipal officials should ensure that . . . the property tax receivable balance per the general ledger is periodically reconciled to the total amount of unpaid accounts per the tax roll and to the total amount of unpaid tax receipts.

RECOMMENDATION:

To decrease the risk of undetected errors and irregularities, management should review employees' responsibilities to ensure that no employee has control over a complete transaction. Municipal officials should ensure that bank statements, property tax collections, and utility collections are periodically reconciled.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

The mayor and board of aldermen concur with your finding. It is our desire to make the town more efficient in record control. We will review employee responsibilities and try to initiate more of a separation of duties if possible.

Recorder:

I concur with the response made by the mayor and board of aldermen in that more of a separation of duties needs to occur.

4. **FINDING: Excess cash in low interest or noninterest-bearing accounts and excess bank accounts**

As of March 31, 2001, the town had bank deposits exceeding \$3 million. However, much of this cash was held in bank accounts that were either low interest or noninterest-bearing. The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 1, Chapter 3, Section 7, states, "Municipal officials should ensure that . . . [I]nvestment program(s) yields a maximum return considering all available legal investments with adequate liquidity and security."

In addition, our examination revealed that the town had several bank accounts that appeared to be dormant. The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 1, Chapter 3, Section 2, states, "Municipal officials should ensure that any dormant bank accounts are closed as soon as they become unneeded." Also, in several instances, there were several related bank accounts that could have been consolidated into a single account. Unless a grant agreement, bond covenant, or specific law requires it, there is no need to have separate bank accounts.

RECOMMENDATION:

To achieve a maximum return on town assets, the mayor and members of the board of aldermen should seek out the highest possible yield for idle cash, within the guidelines of authorized investments. In addition, officials should seek out high yield, interest-bearing bank accounts for operating funds. Finally, to increase efficiency, officials should eliminate all unnecessary bank accounts.

MANAGEMENT'S RESPONSE:

Mayor and Members of the Board of Aldermen:

The mayor and board of aldermen concur with your finding regarding bank accounts. We do plan to invest in higher yield interest-bearing accounts to get a better return on the town's funds. The town plans to eliminate some dormant accounts and possibly consolidate some other ones.

We will be involved in a wastewater plant project that will require excess cash, if we provide interim financing to avoid additional interest cost during the construction process. This interim financing was done on the natural gas project that is approaching completion. This avoided borrowing money and paying interest on it, while waiting for rural development to get the construction funds to us. If interim financing is chosen for this wastewater project, it will limit the money that can be invested in the water and sewer account for a period of time.

Recorder:

I concur with the response made by the mayor and board of aldermen.