

INVESTIGATIVE AUDIT REPORT

CITY OF WHITWELL

JULY 1, 2008, THROUGH OCTOBER 31, 2010



State of Tennessee



**Comptroller of the Treasury
Department of Audit
Division of Municipal Audit**



STATE OF TENNESSEE

COMPTROLLER OF THE TREASURY

Justin P. Wilson

Comptroller

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-9034

PHONE (615) 741-2501

August 15, 2011

Honorable Mayor and Members of the
Board of Commissioners
City of Whitwell
13671 Highway 28
Whitwell, TN 37397

Mayor and Board of Commissioners:

Presented herewith is the report on our investigative audit of selected records of the City of Whitwell. This investigative audit focused on the period July 1, 2008, through October 31, 2010, and was primarily limited to a review of disbursements. However, when the examination warranted, this scope was expanded.

Section 9-2-102, *Tennessee Code Annotated*, requires that the Comptroller of the Treasury prescribe a uniform system of bookkeeping designating the character of books, reports, receipts and records, and the method of keeping same, in all state, county and municipal offices, including utility districts, which handle public funds. This code section also requires that all officials adopt and use the prescribed system. The Comptroller has prescribed a minimum system of recordkeeping for municipalities, which is detailed in the *Internal Control and Compliance Manual for Tennessee Municipalities* combined with Chapters 1-7 of *Governmental Accounting, Auditing, and Financial Reporting*. The purpose of our audit was to determine the extent of the entity's compliance with certain laws and regulations, including those in the above-mentioned manuals.

Our investigative audit revealed that the former city recorder, Robin Nipper, apparently charged personal purchases to credit cards issued in the name of the city. The former recorder made online payments from the city bank account for these personal charges totaling at least \$9,100. In addition, the former city recorder apparently issued a duplicate payroll payment to herself in the amount of \$1,029. Our investigative audit also revealed that the former police chief, Ronnie Davis, Jr., apparently charged personal purchases to a credit card totaling \$4,525 issued in the name of the city. These matters were referred to the local district attorney general. On August 8, 2011, the Marion County Grand Jury indicted Robin Nipper on one count of Official Misconduct and one count of Theft over \$10,000. The Marion County Grand Jury also

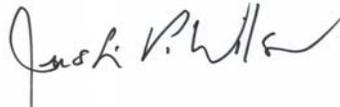
Honorable Mayor and Members of the
Board of Commissioners
City of Whitwell
August 15, 2011

indicted Ronnie Davis, Jr., on one count of Official Misconduct and one count of Theft over \$1,000.

The findings and recommendations in this report also relate to those conditions that we believe warrant your attention. All responses to each of the findings and recommendations are included in the report.

Copies of this report are being forwarded to Governor Bill Haslam, the State Attorney General, the District Attorney General, certain state legislators, and various other interested parties. A copy is available for public inspection in our office and may be viewed at www.comptroller1.state.tn.us.

Very truly yours,

A handwritten signature in black ink, appearing to read "Justin P. Wilson", with a stylized flourish at the end.

Justin P. Wilson
Comptroller of the Treasury



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF MUNICIPAL AUDIT

Justin P. Wilson
Comptroller of the Treasury

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Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

August 15, 2011

Mr. Justin P. Wilson
Comptroller of the Treasury
State Capitol
Nashville, TN 37243-9034

Dear Mr. Wilson:

As part of our ongoing process of examining the records of municipalities, we have completed our investigative audit of selected records of the City of Whitwell. This investigative audit focused on the period July 1, 2008, through October 31, 2010, and was primarily limited to a review of disbursements. However, when the examination warranted, this scope was expanded.

Section 9-2-102, *Tennessee Code Annotated*, requires that the Comptroller of the Treasury prescribe a uniform system of bookkeeping designating the character of books, reports, receipts and records, and the method of keeping same, in all state, county and municipal offices, including utility districts, which handle public funds. This code section also requires that all officials adopt and use the prescribed system. The Comptroller has prescribed a minimum system of recordkeeping for municipalities, which is detailed in the *Internal Control and Compliance Manual for Tennessee Municipalities* combined with Chapters 1-7 of *Governmental Accounting, Auditing, and Financial Reporting*. The purpose of our audit was to determine the extent of the entity's compliance with certain laws and regulations, including those in the above-mentioned manuals.

Our investigative audit revealed that the former city recorder, Robin Nipper, apparently charged personal purchases to credit cards issued in the name of the city. The former recorder made online payments from the city bank account for these personal charges totaling at least \$9,100. In addition, the former city recorder apparently issued a duplicate payroll payment to herself in the amount of \$1,029. Our investigative audit also revealed that the former police chief, Ronnie Davis, Jr., apparently charged personal purchases to a credit card totaling \$4,525 issued in the name of the city. These matters were referred to the local district attorney general. On August 8, 2011, the Marion County Grand Jury indicted Robin Nipper on one count of Official Misconduct and one count of Theft over \$10,000. The Marion County Grand Jury also indicted Ronnie Davis, Jr., on one count of Official Misconduct and one count of Theft over \$1,000.

Mr. Justin P. Wilson
Comptroller of the Treasury
August 15, 2011

Our examination also resulted in findings and recommendations related to the following:

1. Inadequate separation of duties
2. No comprehensive written purchasing policy adopted
3. Failure to establish and follow policies regarding credit cards
4. Inadequate support for disbursements
5. Payment of overdraft charges
6. Unnecessary payment for Internet services
7. Former city recorder sold vacation leave back to the city without authority
8. Failure to maintain complete inventory records of high-risk, moveable equipment
9. No comprehensive written travel policy

In addition to our findings and recommendations, we are also providing management's response. If after your review, you have any questions, I will be happy to supply any additional information which you may request.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis F. Dycus". The signature is fluid and cursive, with a large initial "D" and "F".

Dennis F. Dycus, CPA, CFE, Director
Division of Municipal Audit

**INVESTIGATIVE AUDIT OF SELECTED RECORDS
OF THE CITY OF WHITWELL
FOR THE PERIOD JULY 1, 2008, THROUGH OCTOBER 31, 2010**

LEGAL ISSUES

1. **ISSUE: Personal charges by city recorder totaling \$9,102 made on city credit cards paid with city funds**

Our investigative audit revealed that the former city recorder, Robin Nipper, apparently charged personal purchases to credit cards issued in the name of the city. The former recorder made online payments from the city bank account for these personal charges totaling at least \$9,100¹.

Auditors determined that the city had a credit card account with two credit cards. One of the cards was in Ms. Nipper's name and the other was in the former police chief's name. (Refer to Legal Issue 2.) The former recorder began making nonmunicipal charges with this city card as early as June 2008. Those charges were made from vendors which clearly were not acceptable for lawful municipal purposes, such as GameStop, Aeropostale, Hot Topic, and Dish Network². Rather than pay for these charges with a city check, the former recorder paid for these charges with city funds via online payment.

The former recorder did maintain statements and, in some instances, invoices on file for this card. However, state auditors could not locate invoices for most of these personal charges in city records. In a few instances, Ms. Nipper made handwritten notations on the statements indicating those charges were to be reimbursed.

Our investigative audit determined that the former recorder did make periodic payments to the city for her personal charges totaling \$1,709. However, she repeatedly made personal charges that far exceeded these payments. Subsequent to the beginning of our investigative audit, the former recorder made additional reimbursements to the city of \$7,386.

In interviews with state auditors, the former recorder admitted she made the personal charges on the credit card and that these charges had not been authorized by her supervisor or anyone else.

¹ The majority of these charges were to the city's American Express account; one item was charged to the city's Walmart account, which was paid via city check.

² The city used Charter cable television service.

2. **ISSUE: Personal charges by former police chief totaling \$4,525 made on city credit card paid with city funds**

Our investigative audit revealed that the former police chief, Ronnie Davis, Jr., apparently charged personal purchases to a credit card issued in the name of the city. Those charges were made from vendors which clearly were not acceptable for lawful municipal purposes, such as Abercrombie, ChristianBook.com, and ACT³ Programs.

The former police chief made a few payments to the city totaling \$1,708 for his personal charges. However, he repeatedly made personal charges that far exceeded these payments. Subsequent to the beginning of our investigative audit, the former police chief made an additional reimbursement to the city totaling \$4,500.

In interviews with state auditors, the former police chief admitted he made the personal charges on the credit card; however, he claimed the former city manager authorized him to make personal charges on the city credit card as long as he reimbursed the city. There was no documentation to support this claim and in an interview with state auditors, the former city manager denied authorizing the former police chief to make personal charges to the city credit card.

3. **ISSUE: Duplicate payroll payment to former recorder totaling \$1,029**

Our investigative audit revealed that on one occasion, Ms. Nipper issued a duplicate payroll payment to herself in the gross amount of \$1,029. Employees were paid every two weeks, and it was Ms. Nipper’s responsibility to compile and calculate the city’s payroll payments. She also prepared and signed the payroll checks. However, city records revealed that in May 2009, Ms. Nipper issued herself two checks covering the same pay period. Following an interview with state auditors, she reimbursed the city \$392, the net amount she improperly received.

Amount Apparently Misappropriated by Former City Recorder	
Source	Amount
Personal credit card charges paid for with city funds	\$ 9,102
Extra payroll check	<u>1,029</u>
Total Loss	<u>\$10,131</u>
Reimbursed prior to investigative audit	\$ 1,709
Reimbursed after investigative audit	<u>7,778</u>
Total Reimbursed	<u>\$ 9,487</u>

³ A not-for-profit organization that offers college entrance exams.

Amount Apparently Misappropriated by Former Police Chief	
Source	Amount
Personal credit card charges paid for with city funds	<u>\$4,525</u>
Total Loss	<u><u>\$4,525</u></u>
Reimbursed prior to investigative audit	\$1,708
Reimbursed after investigative audit	<u>4,500</u>
Total Reimbursed	<u><u>\$6,208</u></u>

These matters were referred to the local district attorney general. On August 8, 2011, the Marion County Grand Jury indicted Robin Nipper on one count of Official Misconduct and one count of Theft over \$10,000. The Marion County Grand Jury also indicted Ronnie Davis, Jr., on one count of Official Misconduct and one count of Theft over \$1,000.

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FINDINGS AND RECOMMENDATIONS

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

City officials failed to provide for adequate separation of duties. The former city recorder had the capability of preparing and issuing city checks without any oversight. She prepared and printed city checks, was an authorized signatory on the city's dual signature checks, and reconciled the bank statements. In addition, no one other than the recorder adequately reviewed the bank statements. Online payments for the former recorder's unauthorized personal credit card purchases were clearly recorded on the bank statements, but were not detected. The former city recorder frequently issued payroll checks to herself before payday, in one instance 15 days early. The *Internal Control and Compliance Manual for Tennessee Municipalities*, page 32, states:

Municipal officials should separate duties of employees so that no one person has control over a complete transaction from beginning to end. Workflow should be established so that one employee's work is automatically verified by another employee working independently. When possible, different persons should be responsible for the authorization, recordkeeping (posting), custodial (cash and materials handling), and review procedures, to prevent manipulation of records and minimize the possibility of collusion.

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. In addition, elected officials should exert increased oversight, where necessary.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell has addressed this issue. The city adopted a policy that requires the Whitwell commissioners to review and execute all checks. No city employee is allowed to execute checks. The city manager further reviews the checks after printed by the city recorder. Finally, the city has passed Resolution (#177) to properly limit city employees' access to funds without dual controls.

City Manager:

Response is the same as that of the mayor and board of commissioners.

Recorder:

Response is the same as that of the mayor and board of commissioners.

2. **FINDING: No comprehensive written purchasing policy adopted**

The mayor and the members of the board of commissioners failed to develop and adopt a comprehensive written purchasing policy. The *Internal Control and Compliance Manual for Tennessee Municipalities*, page 61, states that municipalities should adopt a written purchasing policy that includes designating persons authorized to make purchases, requiring the use of prenumbered purchase orders, requiring approval by the finance officer, outlining procedures for emergency and small-item purchases without prior approval, and requiring bids for purchases over a stated amount.

RECOMMENDATION:

To ensure that the city purchases items at the best price and in the most advantageous manner, the mayor and members of the board of commissioners should adopt and enforce compliance with a comprehensive written purchasing policy. To reduce the likelihood that inappropriate purchases will be made with city credit cards, the policy should include specific guidelines regarding city credit card use.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell has a purchasing policy in the Whitwell Municipal Code that the commission and city officials will mandate is followed.

3. **FINDING: Failure to establish and follow policies regarding credit cards**

The mayor and members of the board of commissioners failed to establish policies related to credit cards issued in the city's name. Our investigative audit identified numerous deficiencies in internal controls and procedures related to city credit cards:

- a) City officials had not adopted guidelines on what type of transactions were permissible for charge on the city credit card.
- b) There was no thorough oversight or review of credit card charges by any official other than the former city recorder to substantiate the appropriateness of purchases. As noted in Legal Issues 1 and 2, there were numerous credit card

charges that were clearly not for a valid municipal purpose and would have been regarded as suspicious even after a cursory review.

- c) Even when credit card statements were available, documentation, including original invoices and charge slips, were not always on file. As a result, records were insufficient to determine if the city received the benefit of many purchases.

The *Internal Control and Compliance Manual for Tennessee Municipalities*, page 61, states the policy should:

... designate individuals who are authorized to make purchases with municipal debit or credit cards. Clearly define the types of purchases permitted to be made using debit or credit cards. Such purchases must be approved in the same manner as any other purchase. If municipal officials authorize the use of credit and/or debit cards, the number of cards maintained should be kept to a minimum and should be properly accounted for. A record of the current holder(s)/user(s) should be maintained in the municipality's files. *Personal charges should be strictly prohibited.* [Emphasis added.]

RECOMMENDATION:

To ensure only authorized, permissible charges are made on city credit cards, municipal officials should formulate clear, comprehensive credit card policies and procedures.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell has established a system wherein all credit card purchases now have sales receipts and purchase orders attached to credit card statements. We now use Fuelman cards for the police department, fire department, and the water department. The Fuelman receipts are matched up to the statements to ensure that expenses are properly accounted for.

4. **FINDING: Inadequate support for disbursements**

The municipality's files did not include adequate, supporting documentation for each disbursement. For many disbursements, the files contained no documentation. For most credit card charges, when there was documentation, it routinely consisted of only a statement. As detailed in Legal Issues 1 and 2, some charges were clearly not for valid municipal purposes. However, there were other charges to the city credit card which,

based on the limited information in city files, auditors could not determine whether the purchases made were for a valid municipal purpose. These included fuel charges, among other things. The *Internal Control and Compliance Manual for Tennessee Municipalities*, pages 63–64, state:

Municipal officials should ensure ... that supporting documentation is filed alphabetically by vendor or by date paid....
All disbursements, regardless of the accounting procedures, must be supported by invoices, cash tickets or other adequate supporting documentation. The documentation should be sufficient to determine that the expenditure was for a municipal purpose. (Statements are not adequate supporting documentation.)

Page 63 requires that the related documentation accompany checks presented for approval and signing.

Section 6-56-112, *Tennessee Code Annotated*, states, “All expenditures of money made by a municipality must be made for a lawful municipal purpose.”

RECOMMENDATION:

To document that each disbursement was for a valid municipal purpose, officials should ensure that adequate supporting documentation is maintained in the municipality’s files in accordance with the *Internal Control and Compliance Manual for Tennessee Municipalities*. Before signing a check, authorized individuals should review adequate supporting documentation to determine that the disbursement is for a valid municipal purpose.

MANAGEMENT’S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell has established a practice which is in compliance with the recommendation.

Recorder:

Response is the same as that of the mayor and board of commissioners.

5. **FINDING: Payment of overdraft charges**

Our review of city bank statements indicated that due to insufficient funds, the city incurred service charges on a routine basis. In fact, over \$6,200 in overdraft fees were added to two of the city's bank accounts in the three years ended October 2010. The Charter of the City of Whitwell, Chapter 18, requires the recorder to certify that sufficient funds are available or will be available before any expenditure is made. Chapter 19 allows the mayor and board of commissioners to appropriate and expend money only for lawful corporate or public purposes. Chapter 22 requires that the recorder install and maintain an efficient system of accounting. Section 6-56-112, *Tennessee Code Annotated*, states, "All expenditures of money made by a municipality must be made for a lawful municipal purpose."

RECOMMENDATION:

To ensure that public funds are used wisely, the mayor and members of the board of commissioners should hire competent and capable employees who are conscientious in their management of city money. City personnel should ensure adequate funds are available to pay debts prior to incurring any obligation.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell, through the city manager, has hired a city recorder with an accounting degree and business bookkeeping experience.

Recorder:

Response is the same as that of the mayor and board of commissioners.

6. **FINDING: Unnecessary payment for internet services**

The city paid over \$2,200 for apparently unnecessary internet services. The city used AOL and MSN dial-up Internet service until switching to a DSL Internet vendor in 2008. However, the city continued to pay over \$40 per month to AOL and MSN for their services as well. Section 6-56-112, *Tennessee Code Annotated*, states, "All expenditures of money made by a municipality must be made for a lawful municipal purpose." It is the mayor and members of the board of commissioners' responsibility to ensure that city staff uses taxpayer funds prudently and sensibly. It is difficult to identify a benefit to the city from paying for Internet services that were not needed.

RECOMMENDATION:

To ensure that public funds are used wisely, the mayor and members of the board of commissioners should prevent unnecessary and wasteful expenditures.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell terminated the payments to the different internet servers at the time the American Express card was canceled.

7. **FINDING:** **Former city recorder sold vacation leave back to the city without authority**

During the period December 1, 2008, through March 4, 2010, the former city recorder sold a total of 120 hours of vacation leave back to the city at a total cost of \$1,305. However, there was no provision in the city's personnel policy allowing for the sale of vacation leave. In addition, budgeted payroll amounts could be exceeded when vacation leave is purchased from employees.

RECOMMENDATION:

To prevent abuse, avoid misunderstandings, and to avoid exceeding the payroll budget, city officials should ensure that city guidelines are followed. Any disbursement that is not permitted by city policy should be forbidden.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell is amending the personnel policy to prohibit vacation and sick time to be accrued. Any unused, accrued vacation or sick time will be forfeited if not used by the calendar year end.

Recorder:

Response is the same as that of the mayor and board of commissioners.

8. **FINDING: Failure to maintain complete inventory records of high-risk, moveable equipment**

City officials did not ensure that complete inventory records of high-risk, moveable property such as cameras and computers were maintained, or that all property purchased was available for municipal use. Auditors discovered that a digital camera purchased using a city credit card was not available for city use at city hall. In addition, many of these types of items were not marked or tagged to identify them as city property. The *Internal Control and Compliance Manual for Tennessee Municipalities*, page 72, states:

Municipal officials should require that a record of moveable, high-risk, sensitive property ... be established and maintained. An annual physical inventory should be performed ... All such items should be tagged or marked to identify them as municipal property immediately following the purchase of such items.

RECOMMENDATION:

To safeguard and account for high-risk, movable property, city officials should ensure that an accurate and complete inventory of this property be maintained. A physical inventory should be performed at least annually and documentation of that inventory should be maintained. In addition, all property should be identified (tagged or marked) as belonging to the city.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell is in the process of finalizing the inventory of city equipment and property which will be available for inspection at each yearly audit.

9. **FINDING: No comprehensive written travel policy adopted**

The mayor and the members of the board of commissioners failed to adopt a comprehensive written travel or expense reimbursement policy. Some city employees were reimbursed \$50 per month for using their personal cell phones for city business. However, there was no board-approved policy allowing this practice. Similarly, the former city recorder charged fuel for her personal vehicle to the city credit card apparently for city-related use, but she did not keep a record of mileage driven for city purposes. An approved travel or expense reimbursement policy would allow reimbursement only for actual, documented city-related miles driven. The *Internal Control and Compliance Manual for Tennessee Municipalities*, page 65, states that municipalities should adopt a written travel policy that requires expenses for

reimbursement to be reported on a standardized form in sufficient detail to determine allowability.

RECOMMENDATION:

To prevent unauthorized reimbursement payments and avoid the possible tax ramifications raised by the payment of undocumented expenses, the mayor and members of the board of commissioners should adopt and enforce compliance with a comprehensive written travel policy.

MANAGEMENT'S RESPONSE:

Honorable Mayor and Members of the Board of Commissioners:

We concur. The City of Whitwell is in the process of adopting a travel policy to address this finding.