
Public Hearing

before

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

“Testimony regarding the New Jersey State Commission of Investigation Report: The Beat Goes on: Waste and Abuse in Local Government Employee Compensation and Benefits; and the New Jersey Department of Community Affairs, Division of Local Government Services’ Performance Audit of the City of Newark”

LOCATION: Committee Room 7
State House Annex
Trenton, New Jersey

DATE: January 7, 2010
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Chair
Senator Jeff Van Drew
Senator Christopher J. Connors
Senator Philip E. Haines



ALSO PRESENT:

Robert C. Rothberg
Office of Legislative Services
Committee Aide

Julius Bailey
Senate Majority
Committee Aide

Brian Alpert
Senate Republican
Committee Aide

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SENATOR RONALD L. RICE (Chair): Just for the record, this is the hearing of the Department of Community Affairs to bring us up to date on the Newark audit.

For the record, let me just read some comments on the record, because I think it's important to note that when the request was made to have an audit in the City of Newark, the Commissioner of the Department of Community Affairs was the Honorable Joseph Doria, Jr. And since that time, the acting commissioner Charles Richman has had to pick this ball up, and I respect the fact that he himself inherited this as the Commissioner, although the team and the staff remain pretty much the same.

I also want to go on record to indicate that a written report of the agency's findings and recommendations was supposed to be sent to the Governor and to the Legislature. The audit, I believe -- I got a copy finally -- was hopefully sent to the Legislature and to the Governor. And we're having this hearing as a follow-up on that request, to kind of find out what's going on.

But I also want to mention, for the record, when this request was made, Commissioner, in writing to Commissioner Doria, we had asked Commissioner Doria to actually coordinate his efforts with the Department of Labor, the Attorney General's Office, the Inspector General, and SCI to do a thorough investigation. And the reason that was done was because there were complaints -- and they still come in to our offices, and my office in particular -- questioning the (indiscernible) administration's hiring practices from 2006 to the present -- the financing and the awarding of the professional service contracts; but also the City of Newark Office of Workforce Development finances in the awarding and payments of

contracts funded by the Department of Labor. For example, in the Department of Labor One-Stop, there were allegations that money was missing. And I remember running across the Commissioner and asking him if he was looking into this stuff, and he said, "Oh, by the way, I am." He said, "I just want you to know money is not missing." He said they spent more money than they had. I said, "Let me ask you a question, Commissioner. If I have \$100, and someone takes \$50 from me, am I not missing \$50?" He said, "Yes." I said, "Okay; if I have \$100, and I spend \$150, am I still not missing \$50?" He said, "Yes." I said, "Well, your inquiry should tell us why the \$50 is missing; why they spent more. Is it because of poor systems and propriety, or bad management, or what have you?"

We also asked that, in this effort, that if local government finance services-- And we're starting to move legislation that way. If you're going to go and look at a city, particularly a big city like Newark, there's a lot of complexities and interaction there that you need to be aware of before you can go in. Because if, in fact, you're going to do a true cost-benefits analysis, then you need to look at those quasi and independent agencies they set up. So we would ask the Commissioner to have his department or have auditors in the controller's office to go in and take a look a Brick City Development Corporation, the Newark Parking Authority, the Newark Watershed Conservation and Development Corporation, Newark Housing Authority, Newark Special Improvement District, Newark Downtown Core Redevelopment, Newark Enterprise Zones. Because in Newark, what they do is, they use these entities to try to either offset revenues, and to deal with hiring, or to raise revenues to go

back to the city. And we're not sure which, but there is impact on their request for additional dollars.

And so we never know what the real need is. For example, if the City of Newark requests \$45 million, they may very well only need \$30 million. We are also asking you to look at those agencies, because we know that money has been returned to the Federal government from CDBGs. And, as a result, if you have dollars that you're not spending or managing properly, then your hand is coming to the State's side saying, "Give me money to make that up," when you got it here. And so we need to know what your findings are, primarily because the concerns that the taxpayers have -- and they're frustrated -- is that every administration gets looked at; except for the request from taxpayers with this administration.

This is what the communities say we don't pay for (indicating magazines). They said we don't pay for public relations, that it's only a magazine that you get periodically -- and sometimes a lot of mistakes -- just depicting council. That's really a political document, on the (indiscernible) of being a tool.

They don't know that every Sunday -- and I think you know what an ad like this costs (indicating newspaper). That's a pretty expensive ad. And it doesn't say anything; it just says, "Your memories are a part of your legacy. Honorable Cory A. Booker, Mayor of Newark, Honorable Mildred Crump, President of the Council." And the public is trying to figure out, "Well, is this inviting them someplace, or what is it? It says nothing." And this is the stuff you get for dollars in Newark, and you ought to reflect some of that; I think you ought to reflect it in one area. And we're going to go over it and let you tell us that a contract for \$2.25 million

was given out for a consultant. I believe, for some of this stuff. Then they came back and awarded -- with all the *Star-Ledger* articles out there questioning this website and what wasn't done -- they come back and award another \$750,000. So you're talking roughly \$3 million in public relations consultant work that wasn't even done properly, according to the *Star-Ledger*. Then they come back and award another \$490,000 to a different company to clean up the mess. But yet, you ask for \$45 million -- well, that's \$5 million right there that my colleagues did not have to support us on, if in fact we get the audits (indiscernible). Then we read the audits; the audit that I read said that they don't submit the audits on time, and there are questions about that: whether or not, if they're not submitting the audits, why are we approving their budgets? You know, because when I was on council in the City of Newark, if you didn't submit audits to us, or tax abatement things, we didn't approve you -- we just took you out of the system. You didn't get any help from us.

And so why don't you take the opportunity, Commissioner, to start the conversation to tell us about your findings in the audit, or at least what they mean to you; and then you can leave (indiscernible) around to handle the questions. Because there's no doubt in my mind, even when you perform an audit -- because I had asked for something much broader -- it's clear to me that we need to go back and have other agencies take a look at that city. And if anybody wants to play with that, I'm going to be quite frank: If we can't do that from the State level, then maybe we should have the Federal level look at our departments, because this is starting to be too costly. A lot of people are being harmed economically -- they're workers and they're taxpayers.

And so why don't you do that for me, Commissioner.

COMMISSIONER CHARLES A. RICHMAN:

Thank you, Senator.

For the record, I'm Charles Richman, the Acting Commissioner of the Department of Community Affairs. I have with me today Susan Jacobucci, who's the Director of the Local Government Services; and Marc Pfeiffer, who is the Deputy Director of the Division.

If I can just quickly take a couple of minutes to go back in time, in terms of the auditing process over the last 25 years, in terms of Special Municipal Aid and how it's been handled; and then talk about the process we now have; and then get to the audit specifically.

Special Municipal Aid, or its predecessor, Distressed Cities, came about during the late 1980s. It was a program of about \$150 million then, and the staff in the Division of Local Government Services of about 120, of which about 25 were specifically assigned to these activities. So we had internal staff that did the audits of the municipalities, in addition to the independent audits that are conducted. Those audits then were performance audits; we looked specifically at programs and got to the depth, Senator, that you spoke of that should be accomplished in these audits.

The program was ended in 1994 when the CMPTRA legislation, combining some 20 programs of aid to municipalities and Distressed Cities, was folded in. The general financial audits -- the independent audits -- continued at that time, but the program staff at DCA and the whole concept of this independent program ended. In about 1997 the program was resurrected, and down from 50 communities that

participated in the 1980s, it began with three, and now at various times there's been as high as nine, eight. Again, at that period of time, there was significant staff, both at DCA and in the Treasurer's office, that conducted audits and programmatic audits of municipalities. Some we were invited in, many of which we chose based upon audit findings. Over time, the staff at DCA dedicated to this purpose, as well as the staff of Local Government Services generally, has shrunk dramatically from the 120-member staff we had in the mid-80s -- in 2001, there was a staff of 66. Today the Division of Local Government Services has 39 individuals. We can't, with 39 individuals, conduct the type of audit you just described, internally.

In my transition report that I submitted to the Governor-elect's office, aside from each division's list of key issues I had two that I considered essential department-wide: one of which was the sufficient staffing of the Division of Local Government Services, and rules to give that Division some additional authority in terms of supervision over municipalities before it necessitates a virtual failure of municipalities to be able to pay bills. I think we need to seriously -- and I recognize in a time of extraordinary restraint and in terms of the budget -- but we need to seriously look at how to properly provide oversight to our municipalities, both in terms of the technical oversight, in ensuring that there's transparency and dollars are spent correctly, but also to provide assistance to municipalities in their day-to-day operations.

We have no one at the State level any longer -- because of retirements -- that is an expert in the purchasing procurement area; and that is an awful, awful failure. Municipalities shouldn't have to individually hire

people when we should have at least one or two staff members who can answer those questions.

Having said all that, based upon language in the budget two years ago -- which I believe became part of the budget document at Senator Rice's insistence -- the Department was able to use 3 percent of the Special Municipal Aid to provide for this audit function. We issued an RFP at that time under the State contracting system and began the audits of the municipalities that are under the Special Municipal Aid Program. Bridgeton, Asbury Park, Jersey City, Paterson, Harrison were ordered in the first round; Newark, Camden, and Union City in the second round. We chose to create a system where we try not to duplicate auditors and, in some cases, we had to space out because there weren't sufficient auditors bidding at reasonable levels for us to take advantage of their work. All those audits are completed; all the audits are posted online. They're available to the public and we have supplied -- I believe we have supplied -- copies to the Legislature and to the Governor's office.

The first round of audits are what are called *statutory compliance and internal control audits*, and that's what you have before you and what you have reviewed. That isn't parallel to the independent audit that's conducted each year by an independent auditor for the municipality. In some cases, the work overlaps; and in some cases a municipality, in responding to us, responded to both; and you'll find -- if you compare the two of them -- the municipality has attempted to address the issues.

Before commenting specifically on Newark, what our intent is -- and obviously the incoming administration will make this decision -- our intent is to make a second round, to issue a second RFP, to provide for a

subsequent audit in conjunction with the State Controller to review compliance with the first audit, to review compliance with the independent financial audit; and probably the most important aspect is to do what we call a *root cause analysis*: if things have not been complied with, to delve into that level as to why. That is critical to understanding how we got to where we are; that we understand, within each municipality, the why.

We have sat down -- Susan, Marc, and I -- with the Bowman company -- the Bowman company was the company that performed the audit of Newark-- By the way, the audits of all municipalities in total, the first round, ran \$1.3 million. The audit of Newark was \$300,000. In reading the audit and discussing with Bowman's firm, you have identified a wide area of what auditors like to call *weaknesses*, particularly in internal controls. Insufficient staffing in financial areas; insufficient staffing in the business office; questionable costs, in some cases -- there was identification of some trips to South Carolina, there was identification of buying of flowers; and lack of documentation, often where contracts were done without bid, and the reasons for them. A fair amount of lack of documentation in the accounting system, and our internal auditor -- who also reviewed this at DCA -- questioned where like balances occurred year-to-year, and was skeptical that balances, down to 53 cents year-to-year, could actually be repeated in the same way. So there's, at the very least, room for improvement.

This is a difficult process, given that we don't have sufficient staff to do it ourselves. It took almost a year to get through the bidding process, to be able to hire Bowman, to get them in, to meet with them on their preliminary data, and to have them report back to us.

I think the most telling will be the next audit, because that will be the audit that will prove the veracity of what the City is telling us, relative to how they're making corrections in both their financial audit and this audit. They have, in comments at the end of the audit that you've received and in the additional comments they submitted to us last night -- which we will make available to you -- they have documented where they believe they've made progress in meeting the requirements in the identification of these items.

This second round of audits will prove whether, indeed, what they're telling us is accurate and will identify additional areas that savings can be made.

SENATOR RICE: Well, Commissioner, let me ask you a couple of questions, because I know you have to go meet the Governor--

MR. RICHMAN: Sure.

SENATOR RICE: --and then Marc can pick up from there.

That's not going to be good enough because, to be quite frank about it -- from Bergen County all the way down to Gloucester County -- people have actually -- in local government, in State government -- been indicted by the incoming Governor and prosecuted. The issue in cities like Newark is not how they're correcting things, it's what happens correcting what you want them to do and get them on track. But if you tell me that someone may have gotten \$750,000 and there's a proprietary question, at what point in time does that go directly to the Inspector General, the Controller, or someone?

The reason we asked the Commissioner prior to you to start looking at these other entities -- the smaller cities don't have a lot of these

entities, so you can look at it one way. But when you come to cities like Newark and you establish these agencies that you're really putting a lot of your political friends and people to work, and you're sharing CBDG dollars that could go to another purpose with them, or they're raising dollars that should be coming back to you -- we're not even sure what this is all about. The Brick City Development Corporation is nothing more than the old (indiscernible) Shop -- and you know the name -- NEDC. And you know what happened back then.

We don't know if that's happening now -- we're getting all kinds of allegations. How do you account, for example-- The Commissioner was sent a list of names, because you said you're short from 66 to 39. Newark is short, too. Your report indicated that in the court systems and others, there's personnel that's lacking and it's costing the taxpayers dollars because they are not there. But yet, they're furloughing and laying off workers who often serve providers in those areas, as well as the streets; but they're hiring people -- \$110,000 from Maryland in some management level, who may be related to the BA, I'm not even sure; but anyway, from Maryland; \$95,000 from San Antonio, Texas; \$95,000 from Fort Worth or someplace. And the Mayor's comment is that, "I will continue to do it." How do we defend here, at the State level, providing dollars when you look at a document where, through executive order -- when I was on the Council, we weren't allowed executive orders to come through. With an executive order a person gets a \$25,000 pay raise, basically from \$100,000, roughly.

You know, how-- We can put a system in place, but shouldn't someone be looking at why that is and what that relationship is? You

know, if we don't look at the Housing Authority-- I mean, we talked about two helicopters. The question is, do we need two helicopters, what's the cost to keep a person on call for the helicopters? But if you look at the helicopters, had you looked at the Housing Authority, you would have seen -- because it was all over the newspapers -- that the Trenk family took away some housing opportunities -- the Housing Authority did -- but they got the Trenk family to come in and basically approve them to build a heliport. But they wanted an investigation by the Federal government. But the problem is that the attorney -- making about \$500,000 at the time, according to the information we've received -- for the Housing Authority was a Trenk family member, who was the former councilman for West Orange who was under questioning then, but they couldn't prove the stuff in court. Do you see what I'm saying?

How do we make sure that we're looking at people making requests, that we put the connections together so those relationships can be scrutinized, too, as to this entity and these people versus this. The Chief of Staff for the City of Newark is the Chairman of the Newark Housing Authority Board of Commissioners. He comes there as Chief of Staff and gets roughly a \$20,000 pay raise. But he's making decisions on people who may get transferred. We take them out of the city and put them at work over there. CBDG money is going back to the Federal government -- we can document that -- for the same thing: noncompliance, nonuse, etc.

How do we help you to look at that? Because in this case, this audit can't remain what it is; this audit is going to have to go further. And I really believe this should be shared with SCI and anybody else who can give

you a hand until you get some help. And so that's where we are. Where can we help you to get through? This is only one municipality--

MR. RICHMAN: Senator--

SENATOR RICE: --you have several out there that need to have this kind of a look at.

MR. RICHMAN: Senator, my recollection is that you have sponsored legislation to expand the requirements to go into the authorities operated by the municipality; I would welcome that. I think we should; the interrelationships you described ought to be examined. There is a line -- and I think we -- back up. I lay awake at night worrying about spending money properly. I don't think there's anybody on our staff who isn't concerned about that. We have a dedicated, fine staff; but the reality is, with 39 people we are limited in what we can do. We changed, in approximately 1989, to a three-year cycle for examining municipal budgets for a whole host of municipalities, because we don't have enough staff to do that. And when you limit the oversight that way, things slip through.

I believe what you authorized through the Budget Act began the process in the right direction. We certainly have shared this with the Comptroller's Office. We take your advice, and we'll certainly share this with the other entities that you have described and make sure that our auditors look at where an investigation has been conducted by other agencies. You made mention of Department of Labor expenditures and excess expenditures; I believe our State Department of Labor examined that. We will ensure that our auditors look at that.

But at some point, we don't substitute for the local officials; the voters make that call. We'll be there to ensure the integrity; we'll be there

to make sure dollars are spent properly. But how the dollars are expended within the confines of the law -- that's decided locally. But I assure you -- and I'm sure the incoming administration will make it even more apparent -- that the expenditure of dollars -- that the taxpayer is first, and that the dollars that are spent are done wisely, done properly, and that monies aren't spent in any way that is foolish, as I think some of the descriptions here. I thought-- You know, you made mention of the helicopters. The response in the document was that it was paid for out of Federal funds. That's not adequate.

SENATOR RICE: No.

MR. RICHMAN: Why -- and going back, we expect whomever wins the bid to go back -- why do you really need two helicopters, regardless of which taxpayer paid for those helicopters?

SENATOR RICE: Commissioner, I'm going to let you go; I'm going to let Marc pick up on this. I think he's capable in this venture.

But let me say this to you: You need to get back to this Committee to let us know-- I don't know how the new Governor is going to organize the administration; I do have a meeting coming up with him. If we have to legislate it, I don't have a problem. Hopefully, I will work with the new Governor; but if I have to fight him, I will. I think everybody knows that; I'm that independent. But some kind of way-- I'm not going to hear people keep talking about accountability and we're passing all these pay-to-play laws which don't make any sense. We have more than enough of those laws. We're not passing the right kind of laws to get to the heart of this.

Once again, if I can document \$5 million in consultant things, then why are we approving \$45 million -- do you hear what I'm saying? -- or whatever number they're asking. We have to have a system to say, "Hold it. We're going to look at your city" -- regardless of what city it is -- "to find out just what's there." If there are other entities affixed or next to that city, directly or indirectly, then we need to have a system so we can look at all of that collectively to get a true cost-benefit analysis, and let cities know that there are things we're not going to pay for; let counties know the same thing. Because the County Executive is running these half-page ads every day, you know? I don't know which authority pays for them, but the point is that they're asking us for dollars that they have there. As you said, ultimately the local people elect the people. But if they're coming down here, and I'm saying, "Well, Senator Connors, I need your votes here, I need your votes to get this bill out of here, to send \$45 million," and they are kind enough to give it to me, because they believe that I understand that need because they don't represent the big city-- Like I try to rely on them to deal with, say, the Shore community. They may be wrong, but I rely on their integrity. I can't come back when they pick the newspaper up and say, "We did something stupid up there," and we're saying, "We just gave you \$45 million."

And so we're going to have a better system of accountability. Now, if you're telling me that we're down from 66-- First of all, I think that's terrible, particularly because the entities that save dollars -- I always said this in government -- the entities that make us money and save us money are the ones we shouldn't be cutting. If anything, during tough times, we should be enhancing them to get those revenues back in. And so

I'm going to work with the new Governor and with you and, if need be, I'll legislate a floor (*sic*) and try to get the votes, unless the Governor vetoes it, to get you some help. Hopefully, it will do it on its own. Because we have Inspector General, Attorney General, Comptroller -- I don't know -- SCI; and I've always said they need to come under -- they need to be there working with you, they need to come under some type of grouping where we will know, as soon as you look at this and something is flagged, it automatically kicks over here. It's not a question; it automatically happens. So think about that as well, as you move on. And let the Governor know I'll be talking to him tomorrow.

MR. RICHMAN: Absolutely, Senator. And one of the things I'd like to have is-- Susan Jacobucci is the Director. When a municipality enters the Special Municipal Aid program, they sign a memorandum of understanding with us that creates a higher level of scrutiny in terms of decision making. For instance, Susan signs off on any hirings and looks at the level of those hirings. So I'd like her to at least take you through that with regard to how the SMA program operates, because it does provide a higher-level of scrutiny than we've done in the past.

Thank you for indulging me; and the time--

SENATOR RICE: Thank you, Commissioner; you've always been a great guy.

MR. RICHMAN: Thank you.

S U S A N J A C O B U C C I: Thank you, Senator.

When a town gets awarded money in the SMA program, as a contingency of receiving that money they have to sign a memorandum of understanding. Within that memorandum of understanding, they have to

provide monthly reports, they have to have a plan to get out from under Special Municipal Aid; so they have a number of financial reports and documents they have to provide for us -- copies of labor contracts, etc. Also under there is-- Hiring is frozen and they have to submit a waiver for any hiring, any transfers. I meet with CSC -- I forget what they're calling themselves these days -- but DOP, CSC -- weekly to go over these hirings and the waivers with anyone. And I remember your letter asking about specific people, which I answered -- I don't know if it ever got back to you on the specific people who you asked about. They come through our office. In Newark's case, I also looked at all the purchase requests, the resolutions on a certain period of time about what I considered taxpayers' dollars that weren't spent appropriately, i.e. sending people to North Carolina, (indiscernible) North Carolina. And I talked to the individual council people at that time and said, "This is inappropriate if you're receiving Special Municipal Aid, because it's the taxpayers' -- the dollars of everyone in the State that are going to pay for this as well."

So we look at those things. We look at -- I know the helicopters keep coming up -- but we look at the helicopters as well, etc. The people who were from South Carolina or from Texas who came on -- they had a requirement. I don't think they're employed any longer there. So I could provide you with a list of every waiver that we've had from Newark, and what was done with it, and whether it was denied, and what the problems are with it.

But we also have our people in the police department who have identified 175 positions that could be civilianized and put police officers back on the street; and I'm still working with Newark in that regard.

So we have our people there to the limit of our limited staff, so to speak. If you have any specific questions, I'll be happy to answer those along the way, but I agree with you: I think that all these towns that receive Special Municipal Aid require heightened scrutiny because it's everybody's tax dollars that are going into it.

SENATOR RICE: The -- and Marc, you need to listen to this too -- there were several sections that were in there-- Do you have the audit with you?

MS. JACOBUCCI: Yes.

SENATOR RICE: If you go to the section known as Engagement Summary, page 12-21; it was broken down with findings, receipts findings, tax abatements, and all that stuff.

In the tax abatement findings, you indicate that we're not collecting tax abatements. We're letting people go. Someone needs to query why that's happening. Some of that is not by error, in my opinion. I live in Newark, so do you get the drift? Some of it is not by error. You're talking about documents that can't be found. Newark is known for losing documents that come up later after certain things are done. I'm telling you that -- I've been there for 50-some years. Good people get hurt because of their politics. And so I think that, for the sake of expediting this -- because I thought we would have more time with this because of no committee meetings today -- we're going to revisit some of this. But for the sake of this, would you give us some response as to how we're going to treat this stuff? Because the question is: are there penalties? See, you recommended that people be penalized, and they go get this stuff. So naturally, you said, someone would say yes. But that's like somebody robbing the bank and

you're telling them in the future, "Correct your system, don't rob banks." Well, hold it. Are you going to deal with the bank -- with the violation that was made? See, my point is, what are we doing as a State to hold municipalities accountable? And counties? Are we sanctioning them? Because if you go through this stuff, these findings, they're not doing any ethical reports. Every time I turn around, the lady here in the State is calling me, saying "You got to come in; the law says you have to sit down with me." And I say, "I know the law; I wrote the law. Why do I have to sit down?" Well, you got to sit down. They bug me to death. And if I don't come in, I'm on the front page of the newspapers: Senator didn't file his ethics report -- disclosure. You know, but yet, in municipalities, they give you these frivolous answers, and that's acceptable without sanction.

If you look into the areas of "Professional Services" -- some of this stuff, talking about vendors and contractors -- there is no doubt in my mind that this stuff should be moving forthwith. I wouldn't even wait for a response on this; this right away should be going to the Inspector General, Comptroller, SCI, somebody -- because you can't tell me that \$750,000 (indiscernible) propriety question. That's got to be investigated further. You can't tell me that payments were made against 32 open-ended contracts and certification wasn't there. They're awarding contracts prior to getting Council approval. Do you understand what I'm saying? That can't happen; who are these people, what's the relationship to the administration, why are they doing this? All the council members aren't new; most of them are, but some of them have been there a while. My delegation has met with the business administrator. Her first excuse was, "Well, we didn't know, but now we do." Then, two weeks later it's in the paper again.

I just think that you need to take this section here and send it to someone else in the administration, and I wouldn't wait for the new Governor to come in. We still have departments over there, and ask them to go take a look at this while you get your responses back from the administration. I'm being honest about that. Because if not, I'll tell you what I'm going to do with this: I'm going to take this and all these other documents, and I'm going to send them to the Federal government and ask them to be kind enough to take a look at this State government and find out why we can't look at the local government. Because maybe we have the problem with the relationships. Do you understand what I'm saying? And this is not to put-- This is not making you guys the bad guys. I've been here 23 years, I know you have the ability to get it done, but I also know you are lacking the resources now. But there has to be a system that if A is flagged, then something else has to kick in automatically; versus the other stuff where you can truly give good recommendations, enhance your system, and stuff like that.

That's what we are talking about: We need to come back and tell this Committee how we're going to take a look at these other entities to define -- and they need to explain to us the relationship with the City, and vice versa, and the fiscal impact on the local budget versus their request to the State. Because the new Governor is heading in that direction anyway. He may not know how to get there -- he probably knows these things exist -- but I would sure help direct him to those areas. (indiscernible) from my members.

Let me ask the members: Do you have any questions at all in regards to all this stuff?

SENATOR HAINES: No.

SENATOR RICE: Okay; all right. Marc, do you want to explain some of this, and the kind of response-- Are you happy with the responses from the City? I know you're probably not, but I have to ask that anyway.

MARC H. PFEIFFER: Thank you, Senator.

I think that the general response is -- and again, we're dealing with Newark, plus seven other municipalities on this -- is that the current step of the process is that the municipalities have the assignment to go back and basically respond to the comments. All the municipalities did provide an initial response in their audit. Newark provided a response -- an initial response; it was part of the audit document. As Commissioner Richman indicated, we have recently -- as of this morning -- received an update to that document; we'll provide that to you later today, and we'll post that online as well.

The general concept is, now, the municipalities have the responsibility to respond and fix the problems that were identified in the audit report. The next round that we're looking at, we're in the process of preparing the RFP to bring auditors in, is to say, "Okay; did they do it? What did they find? Are their corrections adequate?" We're also going to go and see, for anything that wasn't fixed or anything that gets repeated, why hasn't it gotten fixed?

I think Commissioner Richman mentioned the root cause analysis process. And frankly, I guess, from my own perspective in listening to your comments here today, Senator, I think there may be some other things we may be able to do along those lines, in the next round of audit, to

look at the component (indiscernible) questions and this issue of public benefit corporations that the municipality may be engaged in, and look at those relationships. That is something, conceivably, that could be part of the next round of auditing all the municipalities. So I think your points are well taken, and those are things that we may be able to address in the next round.

SENATOR RICE: Marc, there was-- Someone went to -- and my colleagues may not be aware of this -- we know that some folks went down south. But somebody went out of the country, to a fight or something? Let me see--

MS. JACOBUCCI: To Puerto Rico? They sent a boxing team to Puerto Rico? Or a baseball team?

SENATOR RICE: No, it was *a* person who went to either a fight in Panama-- But the point is-- I'm going to find it for you; just give me one quick moment. The reason I'm raising that is we need to know who and why, how that occurred. Because I think it was \$20,000 or \$30,000, or something like that; it was a big number for the person. And the problem I have with it is that I can recall one of our colleagues being indicted and serving time, allegedly for the use of trips and a credit card in that same city. And so the question is, how does this happen? Who looks at that? Does that go to an agency to be looked at, to pull them in and say, "Well, what's going on here?" You understand what I'm saying?

MS. JACOBUCCI: We'll certainly look at that, Senator.

SENATOR RICE: Sure; what happened to the audit, because you indicated that there was a 2006 audit and one of these audits was never received?

MS. JACOBUCCI: I don't understand that. We have-- I have both the 2006 and 2007 audit, and corrective action plans, so I'm not quite sure where that comment came from -- from the Bowman audit.

SENATOR RICE: Do you have all the audits?

MS. JACOBUCCI: We don't have the 2008 audit yet.

MR. PFEIFFER: The 2008 audit-- We were told that we should have it in about two weeks.

SENATOR RICE: But you have all the rest of them.

MS. JACOBUCCI: Yes.

SENATOR RICE: So the comment on the audit about one not being found, and it wasn't recorded, that's not accurate?

MS. JACOBUCCI: Yes, we had them.

SENATOR RICE: Okay. For the sake of brevity, we heard from Chuck; you know where I'm coming from. You need to go back and revisit it. Let me assure you that the good Lord blessed me and, if things work out, I'm going to be calling you back before this Committee and we may only discuss these municipalities and their audits. But this one -- I want to know that they're going to some other people to take a look at some of those findings, okay?

All right; thank you very much.

MS. JACOBUCCI: Thank you, Senator.

MR. PFEIFFER: Thank you, Senator.

SENATOR RICE: Also-- Are they going to stop buying flowers for-- Marc? Are they going to stop buying flowers for \$14,000?
(laughter)

MS. JACOBUCCI: Unless they send them to me.

SENATOR RICE: Oh, okay. All right.

Okay; that really concludes the hearing part on the City of Newark audit. And for the record, we'll be asking them to come back in. I would put a list of questions and things together to address that.

What I want to do now is get back--

Hang on one moment.

I tell you what we're going to do. Why don't we do this: Hold up on the bill, because my colleagues are out having a discussion on it. Why don't we have SCI come up and start, for the record, a discussion and bring us up to date on this.

Okay, for the purpose of this part of the meeting, this is the SCI update on their report on local abuse. I want to thank you for coming in. I know we have some work to do, as we always have to do, and you do such a good job. But you kind of heard the concerns that were raised in just one municipality in terms of what we need to be doing. I mean, I look at your report, and I'm looking at Newark, and I'm saying, "Well, yours is here, and this stuff is just so big in some of these municipalities in terms of what needs to be looked at," that it just boggles me.

But why don't you go ahead and bring us up to date, where we are, and what we should be doing, and what your findings were.

A L A N A. R O C K O F F: I'm Alan Rockoff, the Executive Director of the State Commission of Investigation. And with me is my Assistant Director, Lee Seglem.

But before I get to my prepared remarks here, I'd like to tell you that coming to your meetings is a learning experience for the SCI, too. It's almost a symbiotic relationship. We learn what you're looking for,

what your needs are, and we try to respond to it -- continually -- because, as you know, we are of the Legislature: you created us, you hopefully will need us to be your independent eyes and your ears with respect to whatever is going to come down the pike over the next several years. So we're looking forward to that relationship as the years go on. And I have to comment, for the record, that we have an excellent relationship with you in all the reports that we've done over the last decade.

So thank you very much for the work that you've done on behalf of the State.

SENATOR RICE: Thank you. Let me ask you a question: Did the State ever send you a copy of the City of Newark audit that they just recently got?

MR. ROCKOFF: Yes, we have it. We've seen the Newark audit, and we've done an analysis of that audit and we are very interested in your remarks today. That's why we say, it's a symbiotic relationship. I took mental notes, and so did Lee Seglem. And we also have a good relationship with Susan Jacobucci and Marc, so we'll be talking to them.

Mr. Chairman, and members of the Committee who are in abstentia at this point, we are here to advise you of the work that was done basically by the team of SCI investigators, and led by one of our counsel who is here standing, just for observation, and that's Dick Steffian (phonetic spelling). But basically it was led by Lee Seglem, my Assistant Director, whose work was instrumental in completing the investigation and the report that we're going to discuss.

As always, Mr. Chairman, on behalf of our Chair, Cary Edwards, and the full Commission: Commissioner Hobbs -- Dean Hobbs;

and Commissioner Martin -- former Senator Martin, we appreciate the opportunity to appear before you on matters of vital importance to the taxpayers of this state.

As we stated on many occasions when we have appeared previously, the SCI exists to serve and to provide the Legislature with the facts and the recommendations necessary to achieve sensible, balanced, and beneficial systemic reforms. During the past 15 years, the Commission has repeatedly examined the nature and fiscal impact of the questionable and excessive public employee benefits that exist in our state. Our findings have demonstrated time and again the significant amount of taxpayers' money that can be saved in this arena if some of our recommendations from the past were finally put into some operative form.

In 1998 the SCI, in our report, revealed costly abuse and manipulation of the State's public employee pension system, and that report is contained in a report that's been on the shelves since 1998. In 2006, we found pension padding and excessive compensation in the public school administrators, and the superintendents, and the business administrators, and others in administration; and pointed the way to initial savings of at least \$10 million for local property taxpayers in just the select school districts cited in that report.

Now, up to that point we thought we had seen everything until our investigators started to come back with evidence of even more egregious waste and abuse that exists today in our communities in the state. Everything from six-figure payouts for unused sick leave, to bonuses and severance deals, to lucrative cash rewards for perfect attendance, and paid time off even for Christmas shopping and other personal business -- all at

taxpayers expense. And much of the excess involved those who were sworn to protect and serve. They did so by interpreting the law to suit their own greed.

During this latest investigation, we identified more than \$30 million of exorbitant cash benefit payoffs to local public employees. Although the report focused on only a fraction of the State's local government entities, we have seen enough of these practices to conclude that such examples are emblematic of a larger problem.

Now, from that report-- We disseminated it, we distributed it to every municipality; and it's amazing the number of responses that we have received, and the number of leads that we have received from various municipalities. Only this week we received a letter from a mayor in a small town in southern Jersey telling us of a situation that developed in that town, where there has been a payout to the Superintendent of Schools of that town and to three of the teachers in that town. The Superintendent of Schools, in a town of 5,000 people with approximately 667 students in the school system, received a payout upon his retirement of \$181,567.36. Most of that was from 434 days of accumulated sick time; that was \$142,239. And that was on a formula: They took his salary and they divided it by the number of days, and then they divided it in half, and it came to \$327 a day that he was entitled to.

Now, that was one of them. Another teacher in that same school district got 153 days of sick time; another one, 225 days of sick time; another one, 194. It all added up to approximately \$300,000. Their total tax levy for that year was about \$1,600,000-some-odd; I don't have the exact figure, but if you want it, I can give it to you. It adds up to 19

percent -- just to pay those four people -- 19 percent of their tax levy for that year.

Now, that's something we've received -- and it was not in our report -- but it is indicative of what is existing among the 556 municipalities we have and the 616 districts in this State.

Now, during this latest investigation of those municipalities that we were able to review, we identified more than \$39 million worth of exorbitant cash benefits. Indeed, if you were to extrapolate what's going on here, it's plain that with concerted action to curtail such exaggeration and such extravagance -- has to result in enormous savings, going probably into the billions of dollars; especially when the fact is that, in addition to State aid, nearly \$40 billion is spent by local taxpayers every year to fund municipal governments, school districts, and local authorities in our state.

Throughout our investigative fact-finding in this area, the objective has been consistent. We sought to provide a rational basis for effective legislative, administrative, and regulatory remedies to ensure that all local employees -- be they at the State, county, or municipal levels, or in any of our schools districts, authorities, and our commissions -- are compensated and treated fairly and uniformly, but without sacrificing the vital interests of the taxpayers who foot the bill.

Some municipalities have already recognized the need to curb unbridled public employee benefits on their own, and their individual initiatives are commendable and they should be credited -- and we did credit them in our report. In the final analysis, however, it's clear and meaningful that balance and equitable reform will require a comprehensive and systemic approach by this Legislature, and we have outlined a plan of

action that includes the following core elements: One: Legislation to restrict the yearly cashing in of sick, vacation, or other leave by all public employees so that they are not treated as entitlement bonuses each year. With regard to redemption of sick leave -- which is where the big money is -- bills already pending in the Senate and the Assembly would, at the very least, restrict some of the local government workers to a maximum of \$15,000 worth of unused sick leave at retirement.

Now, that is a very generous ceiling, and that ceiling is going to affect the State employees for years. It went from \$12,000, and it went up to \$15,000, and that reform alone would save millions of dollars a year if we reduced the cost to a small town like this town in South Jersey that had to pay out almost \$300,000 in sick leave to four employees.

I have also called for other reforms: The elimination of the so-called terminal leave, in which employees stay on the public payroll without working prior to retirement. Now we all know -- we're all people here who have been involved in government for many, many years -- we all know that that condition allows for an individual to leave office and it doesn't allow for the supervisor, it doesn't allow for the town, it doesn't allow for the taxpayer to be represented, because you can't fill that position while that person is on terminal leave; it's frozen, it's vacant. And that situation should not be tolerated. Strict regulation and control of severance arrangements, bonuses, stipends, and related payouts -- you have to deny severance pay for municipal officials, particularly those who are fired for cause. Now, there has been a bill that's been pending, but no action has been taken on it. But just think about it: there are guys and gals who are leaving office for cause, because they've done something -- I mean, they

don't have to be identified by indictments; they could have been just identified by violations of ethics or other types of administrative violations. But these people leave the job for cause and yet the taxpayers have to pay them a severance arrangement that's in their contract. That's unconscionable; it shouldn't be allowed.

Elimination of non-traditional leave, such as paid time off for shopping, weddings, and other personal matters. Now, I'm of the Jewish faith, and I am really opposed to that because we don't get it for Bar Mitzvahs, and we don't get it for-- They happen on Saturdays; you can't get it for that. (laughter) We need to do something about that. I just don't understand why people get off for shopping, and weddings, and other personal matters, and we don't get off for-- Some other religions don't get off for their holidays.

Legislation requiring local government employees to contribute at least one-and-a-half percent of their pay to health insurance. Now, we do it in the State; municipalities don't do it. Why not? It's just common sense to say that we are all employees -- we're all being paid by taxpayers; comes out of the same pocket. It goes to different locations within the State, but it's still the same pocketbook -- the taxpayers of our State. And at this particular time, that 1.5 percent -- if we were to require it to be paid by municipal workers as well as by State workers-- In our report, you can see that there's a chart; and that chart reveals, in just some of the towns that we've looked at, that you can save \$6,300,150 per year from just about -- what do we have, about 12 towns here --

LEE C. SEGLEM: Fourteen.

MR. ROCKOFF: Fourteen towns, including Atlantic City, and Edison Township, and the City of Camden -- \$6 million. Now, extrapolate that into what kind of a savings that would be, and maybe we could save some of the cost cutting that some of the new administration may want to do with respect to some of those of us who work every day trying to protect against these excesses.

Oversight, transparency of personnel contracts and benefit policies. There's not a problem in allowing the public to see what administrators, and what these chiefs of police, and fire departments, and schools, and municipal authorities are getting. I think there should be that type of legislation which would obligate -- certain period of time. We've said it in our administration of the school system report about superintendents, that their contracts should be part of the agenda of the Boards of Education before they are approved, and people should have a chance to have a 30-day period to review it and then to speak about it.

But these are things that we've talked about again and again in our reports, and finally I think it's time for the rhetoric to stop. We said it in our report, *The Beat Goes On*, and that's what we believe -- the beat is going on and it's time for us to stand up, in light of current drastic fiscal conditions that extend all the way from State Street to Main Street.

So the facts are on the table. Simply put -- as we state in this report -- it's unacceptable for taxpayers to continue to be burdened by gold-plated benefit packages for active and retiring public officers and public workers, especially when such arrangements can erode local budgets, drive up property taxes, and actually coincide with the layoff of essential personnel.

Again, on behalf of the full Commission, Senators -- who are sharing this Committee -- I thank you for devoting your time and attention to these important issues, and at this time I would be happy to respond to any questions you might have.

SENATOR RICE: Thank you very much. Do you have any comments?

MR. SEGLEM: No, that's fine

SENATOR RICE: First of all, I know the hour is getting late and there's a lot happening today. I wish we could spend more time with this. But I think that it was important to kind of not just read it, but hear from you, because you emphasize so much the kinds and the ways that we should be getting accountability. I'll try to move legislation in some areas that were recommended from SCI. We're going to continue to try to do that. We need to take a look at recommendations in these reports. You've heard this morning during the hearing with DCA about the large cities. Last year we got into budget situations, and the vote for the budgets became really tight ones -- because I remember Senator Buono indicating she would like to restore the money to small municipalities that were cut. And I asked her at the time, "How much are we talking about for the restoration of what was cut?" She said \$30 million. And I said, "Well, Senator, I know how to get that. If we stop paying for public relations with State dollars and we go and do some of the things that SCI is saying, I guarantee if I went to 10 or 15 municipalities -- if I started in Newark, with \$5 million or \$10 million just being thrown away as far as I'm concerned -- then you would have your \$30 million. If you go and you put these kinds

of things with it (indicating magazines), then you would have the \$100 million. Do you see what I'm saying?

The question I have for you is whether or not any of your members are on the Governor-elect's transition team; or have they reached out for you in terms of the work you've been doing, and some of the concerns that you have that may not have been addressed yet, by way of legislation, with the previous administration? Has that occurred yet?

MR. ROCKOFF: We have had contact with the transition team the Governor-elect has put together. As a matter of fact, it's been published that two of our Commissioners have been asked to share their experiences at the SCI and their previous experience in government with Governor-elect Christie and the new administration. We've shown them our reports; they are familiar with what we do and what our efforts are going to be in the future. So they're aware of these problems that we brought to your attention with respect to The Beat Goes On, and with these other reports that we've done on superintendents, and also on pensions in the past.

MR. SEGLEM: Mr. Chairman, I would just like to emphasize one point. With respect to the reforms that we recommended: we're dealing with some pretty low-hanging fruit here. The Director indicated in his opening remarks that the big money is in unused, accumulated sick leave that's cashed in both on an annual basis and at retirement by public employees. There has been legislation pending for years -- we've made that recommendation repeatedly -- to, at the very least, bring local public employees at the county and municipal level into the same restriction, or ceiling, or cap on the cashing in of unused leave that has prevailed for State

workers for years. That reform alone would save tens of millions of dollars, right out of the gate, starting almost immediately. The bulk of the \$39 million that we cite in our report as having identified in just a small fraction of communities that we looked at, the bulk of that was accounted for by cashing in of unused leave. That's a major big deal, and it could be easily resolved. So I just wanted to put a point of emphasis on that.

SENATOR RICE: Now is this-- Are all the municipalities you look at the same? Is this for civil service workers, or is this time just for workers in general? Is it for union workers and non-union workers, or just workers in general?

MR. SEGLEM: Across the board. And it's a tangled thicket; some of these communities you go into -- depending on their size -- may have a multitude of bargaining units. You may be dealing with 10 or 15 different contracts, each of which have different iterations and perorations and structures of the kinds of benefits and perks that are provided. Some group that's represented by one bargaining unit may be allowed to cash in sick leave on an annual basis; another group may not. Some of them are allowed to cash in different intricate formulas when they retire. And that's an issue also that extends to transparency and public disclosure. I feel sorry for average taxpayers who may want to go into their town board or town hall and find out how much is being spent for these purposes; it's very technical, difficult. Our investigators had to spend a lot of time. We were very meticulous about this, because we want to be right 100 percent of the time. But it's very difficult for the average taxpayer to get a handle on this. So it's all across the board.

MR. ROCKOFF: Mr. Chairman, there's an article that we came across that was written by James McQueeney, who was formerly the White House Bureau Chief at the *Star-Ledger* in Newark and now is a host on New Jersey 12--

SENATOR RICE: NJ 12.

MR. ROCKOFF: --and he came up with some thoughts that Governor Corzine has left to the League of Municipalities attendees in his farewell address. He said, "Governor Corzine, in his farewell address to the League attendees, and freed of his prior political restraint against speaking ill of powerful uniformed unions, made note of the fact that New Jersey and New York City have roughly the same population; but the City has a police force -- New York City has a police force with one commander, and the mayor negotiates one contract for all. Now, in New Jersey, contracts are negotiated town by town, and town governments are played off against each other. The result: departments are vastly over-priced, over-staffed, and over-equipped." And I think that about says and summarizes the fact that-- Why are we treating each one of these municipalities as a separate, almost, province, or--

SENATOR RICE: It's our kind of home rule--

MR. ROCKOFF: --fiefdom. Fiefdom. Well, we know -- we know what it is and how it grew up in New Jersey, but isn't it time for us to really start looking at-- We are looking at the consolidation, we are looking at regionalization, we are looking at shared community work. And Rutgers University is doing an interesting job on that -- there's this Rutgers School of Public Affairs *Municipal Efficiencies* that's starting to send out information concerning consolidation of police services and other services, and asking

people to give them input as to what's happening. So there is that trend. Now we're hoping that some of our reports will be a catalyst in keeping this on the front burner of the Legislature at this point.

SENATOR RICE: I think that, because of your reports, you're getting more attention now from the Legislature, at least the rhetoric part of it. You know, you can hear individuals coming in and those who have been here talking more about transparency, and this and that, and shared services. It just hasn't gotten to the point where the majority of the legislators are willing to move the kinds of recommendations, and that goes back to the local politics. I'm kind of where we have to sever the politics locally from what we're supposed to be doing once we get here. I don't find that a lot of my colleagues have the courage to do that. You get thrown off the party line two or three times, like me, then you know you can survive, then it's easier to say, "No; we're going to do it right way." But I think we're getting there.

But I am concerned, because every time I read this report I'm reminded that I spent eight years as a police officer, 16 years on City Council, four years as Deputy Mayor; was never out sick, and never thought about asking for some sick time -- money. So they owe me a lot of money, huh? (laughter) I'll just never get it -- I guess I'll never collect it now. And so I can see where it can add up, and we have to watch. Let me just say to you that, as we get into the new session, we're going to be communicating more; we're going to be taking a look at this. We are going to have new leadership in both Houses of the Legislature and a new Governor. What all that means, I don't know, but I'll do all I can to continue to push the kind of things that I think, from my perspective and the taxpayers' perspective,

are correct. The advantage I have is that I never worked for SCI but I'm a former investigator. I spent 16 years on Council, I'm a former Deputy Mayor; it's been 23 years -- I know what's going on in the big cities. And I always tell people, "Whatever happens in your town is not news to me from my town; we get it 10 times, it's just new to you."

So that's what makes me very supportive of you and that independence there. If I can find a way to give more -- to give you more teeth, I'm going to find a way to give you more teeth. I'm going to talk to the Governor, because the Governor's coming from the same background, and that's all I've been hearing during the campaign, that's what I still hear. If, in fact, that's his mind set, then he needs to look at his structure as to what happens with the DCA once they provide information that may raise some flags -- does it just sit there? Where does it go? Is this the wrong place? Should everybody be lined up this way -- as you say, shared services -- where as soon as it comes down we know it's going to get dealt with, because after it goes here, it's going there because they've got a flag. You don't have to go there and negotiate with somebody to look at it; because that's what you may have to do sometimes. So I think you ought to take a look at this. "Well, we will when we get to it." "No, no; you'll take a look at it now, because he's in charge of all of you." Hear what I'm saying? And so there's got to be some organization, or reorganization, and SCI has to be a part of it; and that's my fight. And I respect Cary Edwards, and give him my regards.

Thank you very much. I don't have any members here for questions, okay? Thank you.

MR. ROCKOFF: Thank you.

MR. SEGLEM: Thank you.

SENATOR RICE: All right; we're going to go back now, for the purpose of this Committee, to hear from some of the speakers who were first of all in opposition. Let me just check with Bob--

I'm sorry; yes, come on up. Okay, we have one more speaker for SCI, then I'm going to bring the speakers up. I understand that the members who aren't here left their vote, whatever they are, for the Beck bill and the Cunningham bill; I'll find out what they are once we get to them, but I'll hear the speakers first.

Go ahead, for SCI.

WILLIAM LAVIN: Yes, Senator, thank you for the opportunity.

My name is Bill Lavin -- William Lavin -- I'm the President of the New Jersey State Firemen's Mutual Benevolent Association. I wanted to make some public comments regarding the SCI report and make some comparisons to-- Earlier there was a vote out of committee regarding a health benefit bill. And there was some testimony from the League of Municipalities of great concern, and I wanted to address-- One of the comments was of the spiraling costs to the pension system and some of the benefits that our members and the police officers of the State of New Jersey are receiving.

And I want to point to what I see as a political schizophrenia or a hypocrisy: That while we are talking about spiraling costs to the pension system, the same Director and representatives of the League are supporting bills to -- once again -- defer pension payments for municipalities, which is kicking the can down the road, or the payments down the road. And there's some similarities with the SCI report that I want to allude to.

First off, as you know -- as being a police officer-- I mean, today is a bitter cold day; there's police officers out on the beat; there's probably firefighters on the roof of some burning building somewhere; and members of our Association who are putting their fingers into the blood of, literally, bodily fluids and the blood of our citizens, being exposed to every disease, blood-borne pathogen, swine flu, and every illness and injury known to man. So that when a police officer or firefighter were to retire with a health benefit package -- and that particular individual doesn't ask the community, or the State, or the municipality that he serves in to accept a percentage of any back injury or cancer or illness that he receives -- the covenant that he made signing up for that particular job was that at least those illnesses and injuries would be treated with the best health benefits available.

Now, our pension system was one of the healthiest pension systems not only in the state, but in the country. And the reason that is, is because police and firefighters, on average, lose their lives about eight to 10 years earlier than the average rest of the population. So while we don't get to, necessarily, collect our pensions for what was described as 25 and 30 years, many, including my dad who never received a pension, actually passed away prior to -- actually days prior to receiving his pension. So it was a healthy system.

For eight of nine years, the State of New Jersey decided -- as a tax break to the municipalities, as you know very well -- did not make those payments. Those were lawful payments that needed to be made and are still required to be made. So there was a correction in the stock market, the investments didn't do as well as we had hoped, and a huge hole was placed

on our system. So because that money was either taken or not put back into the system, we agreed and, in fact very recently, had agreed that the State of New Jersey and municipalities would be allowed to pay back their payments in an incremental way: in 20 percent, in 30 percent; or 20, 40, 60, 80 percent. So the same people who are now encouraging the State of New Jersey to allow for these payments to be once again deferred are doing two things that is a frustration and an affront to our members. And that is: After not making these payments, and saying that they are doubling and tripling and quadrupling -- if I didn't make my mortgage payment or my credit card payment for eight or nine years, and then I would complain that, in fact, the amount of money I owe has exponentially grown, people would say, "Well, what did you expect?" So once again, as the League of Municipalities states that they can't afford to make these payments, so they need, again, another break, we are only fulfilling a prophecy that has no end. We are going to suggest -- and with, hopefully, the support of some of the legislators -- to potentially have those payments made and maybe taken outside the cap, which-- Once again, the League and some of the municipalities, who want to take advantage of a deferral and again kick the can down the road so that some others would have to make the payments in the future--

Which brings me to the SCI report. And I think that, while what they investigated -- and there sure are some glaring examples of abuse. But I would point out that they missed a huge portion of the investigation. I don't know of any union official, labor negotiator, or, for that matter, interest arbitrator that was contacted as to why those payments-- And I would tell you that the payments they talk about -- and sometimes they are

six figures -- are payments due, because of the same type of system created in municipalities -- Newark, or Elizabeth, for example, on a regular basis -- Jersey City is another example -- that at the current time cannot afford, or do not afford, or do not set aside monies for overtime to keep their staff, or do not hire. So they'll offer to our members compensation time to come to work -- and not work for time-and-a-half, but in fact to work for straight time -- and they will, in say 2010, receive compensation time versus overtime or straight time that they would be normally entitled to.

So that creates a pool of time where we would much prefer to be paid directly or with overtime, that it's put into a bank. And as time goes by, 10, 15 years when that member, it's his time to retire -- he's absolutely entitled to that particular amount of payment. And we are now-- While it is a benefit to the municipalities, and an absolute management prerogative -- and in fact encouraged in most of our communities -- to defer payment upon, whether it's retirement or later on in years -- and again kick the can or pass the buck to the next administration so that their budget is not impacted negatively-- Now we come, and that individual -- who came to work and put his life on the line for 25 and 30 years, and accumulated quite a bit of this compensation time that he was not paid, as he was entitled to be, back 10, 15, 20 years-- If we're going to look at things with transparency and not the hypocrisy -- because there's been a huge campaign of rhetoric by legislators, by mayors, who lament the situation that they have, in fact, been very much a part of and have created.

So I would encourage and I would submit that the next time SCI, or the League of Municipalities, or any investigative body takes into consideration what they perceive to be abuses, they need to look at the

system and why those-- I would tell you this, Senator, that many of these cases are only paid on a 40, 50, 60 percentage of what the true dollar figure is. So while I appreciate the professionalism and the criteria of which this was taken under, I think they missed an entire segment of why the problem, and how we got here -- why those numbers are. If we're going to correct them, certainly let's pay the bills when they're due, not kick them down the road and then complain about them later.

SENATOR RICE: First of all, thank you for your testimony.

I think that what SCI did, at least, was to show the nature of the economic problem as it relates to the fiscal impact; that's real. The question is, if everybody operated on the premise that that's real -- and it is, okay? -- then the question gets back to, where do you go from there? As you said, how do you fix it?

I always thought -- and I'm a former cop -- but I always thought God has blessed me; I have never really been sick. I can't stay home. I never thought about, when I left a job -- whether it was private sector, etc. -- that I was entitled to it. If I was-- Sick pay -- I always thought the sick days were if you got sick. I know people take sick days like vacation; and I always thought it was wrong. I thought it was wrong in police departments. I didn't like riding on my partner because he decided to take a sick day and he wasn't sick. I had a real problem with that. You shouldn't be lying about that, okay? I just lived with it.

MR. LAVIN: Right.

SENATOR RICE: The question is how do you fix that prospectively. But if it's contractual, I just believe that once somebody makes a contract, I may not like the contract, but they agreed to it; they

have to fulfill that. That's the problem that we just ran into -- the Labor stuff with Governor Corzine. In cities like Newark, it doesn't make any sense; a small town, I understand. Because I know they can cry wolf because I know how much they abuse. Like I said earlier, if you take what we did with \$5 or \$6 million with two vendors -- normally they do it with others in other departments of big cities -- this is what we get (indicating magazines). We get every council members' picture and a "hello" message; and this is really political, but it's not stated as political -- it's like "communications." But it doesn't say anything; it doesn't say anything, okay? Everybody had their little corner. And this is what we get for \$5 and \$6 million.

So if I went across the board and cleaned this kind of stuff up, and said, "Look, every time we know that you -- we look at you--" That's what I was trying to get to DCA. When we start looking at your requests for budget approval, all of this stuff we see we action out, you understand? Now if you want, you go find some place else. Because those are dollars we are going to accumulate statewide, from 560 municipalities, to put into the fund to make sure they get these benefits that are due them so they don't have this compounded note. You're talking about everything's going up. Because you're correct: The taxpayers-- I've always said, coming from government and working in government a long time -- and I deal with those who have the least. At one time I represented those who were the most wealthy in the state, and they always told me -- a good example is they would tell some council, "Well, my sewage bill is going up, up, up and I can't afford it." And they used to come before the Council and beat us up. And the Council would play politics, and I just told them the truth:

“There’s nothing I can do about it, because Passaic Valley set the rates, not the City Council. The bill says the City of Newark Water and Sewage, so you come to us because our name’s on the bill.” So I told the Council, “Why are we going through these headaches?” I would ask the people, “Your concern is that it’s going up, so you’re angry because the pocket.” I said, “So let me ask you a question. I control the water rates, so if I can maintain the water rates to give you what you need in your pocket, would that satisfy you?” “Yes, I don’t care where you get it from.” You understand what I’m saying?

So the point is, those things we can control. The government can’t-- SCI did the right thing saying, “Hold it; let me find out what’s happening.” Well, this is a lot of money you’re hanging out here, and there’s a way to deal with it. It may not be the way they suggest, but we all acknowledge that’s a problem. We can’t pay them, that’s what they’re really saying. We found we can’t pay them. We never said we didn’t *owe* them; we can’t *pay* them, okay? Well, we can if we take away this stuff (indicating magazines). So maybe our focus should be here. We can if we take the 66 workers -- 39 workers, and put them back to 66 so that we can stay on top of the waste, etc. We were cutting the wrong places, that’s the point I’m making. And I want to bet you that the people who got cut --I want to bet you they’re union workers. It’s by the same token.

So I just want to say that I think that SCI and individuals in organizations like yours are on the right page. I think the League frustration-- I think the League understands it, but I think the frustration is they don’t know where else to get thousands from, because they are looking at what the State and the Federal government doesn’t have. They don’t

want anybody to raise taxes, and they just need to slow down a little bit and say, "Look, out of 566 municipalities" -- and I'm going to tell them the same thing that I tell people as a Senator -- "we're going to purge our own house." If I got some bad municipalities in this League, I'm telling you right now, we're cleaning up, okay? We're going to police ourselves. We're going to educate you, but we're policing, because we can't have you hurt all of us because your city's not doing things right. Because that's what's really happening, and eventually we will probably wind up consolidating some.

So let me thank you very much for your support, your leadership, and your comments.

What I want to do now is get back to--

MR. LAVIN: Mr. Chairman, I just want to close with this; and I can't agree with you more. I think you know this, as being somebody who is from law enforcement.

This gamesmanship-- My message here today is that this gamesmanship going on is about making your payments when they're due. We are not the enemy; we're still the people out there who stand between a safe situation and an unsafe situation. It's just an overall theme that, quite frankly, our membership becomes tired of being vilified and being the enemy. We're still there. And, in fact, if somebody were to drop you off in a particular part of town, and then chastised you for being in that part of town, you would say that's the height of ridiculousness. And this is what's going on -- the municipalities, and the themes, and the negotiations. And the League is complicit here as well, who say, "Listen, let's pay them later on versus now." I'm just saying we need to look at all sides here.

I appreciate your time here today. I think I'm not telling you anything here today that you haven't already heard or know. I just thought it needed to be said in the wake of what we read because, quite frankly, our members are tired of being portrayed as the bad guys or the enemy here. They're dedicated, committed public servants who deserve and apologize for none of the benefits they get.

Thank you.

SENATOR RICE: You're welcome. Let me say, while you're leaving, that good guys and minorities are always portrayed as the bad guys. I go through it all the time, politically. Even some of the people here who are supportive, they fall apart when it comes to challenging people. You know, in politics, everybody always asks the question, "Well, can she win? Can he win?" I'm saying that's not the question you ask. The question is, is that the right person? Then if they win, you got (indiscernible). Do they have any money? Well, money doesn't vote. And so we're starting to ask the wrong questions now, and it's costing us. Those good guys who don't have money, those good guys who are doing the right things, can't win if you think they can't; they will never have the money to win. People in your position, or in your organization's position, are always going to be vilified for doing the job because somebody needs a scapegoat; then they get harmed in the process of speaking out. As a union leader, what happens is you continue to speak out, then enough of the bad guys get together and put money into your organization to get one of their members to challenge you -- who happens to be one of the bad guys and your members don't care one way or the other.

So we're going to stay bonded, and we're going to do the best we can to put this in its proper perspective.

So thank you very much.

MR. LEVIN: Thank you. To the good guys.

SENATOR RICE: Thank you. To the good guys, right.

(MEETING ADJOURNED)

APPENDIX



***Remarks of
Alan A. Rockoff
Executive Director, State Commission of Investigation
Senate Community and Urban Affairs Committee
January 7, 2010***

Mr. Chairman, members of the committee, I'm Alan Rockoff, Executive Director of the New Jersey State Commission of Investigation. With me is Lee Seglem, the SCI's Assistant Director whose work was instrumental in completing the investigation and report we are discussing here today.

As always, Mr. Chairman, on behalf of the full Commission, we appreciate the opportunity to appear before you on matters of vital importance to the taxpayers of New Jersey. After all, the SCI exists to serve and to provide the Legislature with the facts and the recommendations necessary to achieve sensible, balanced and beneficial systemic reform.

During the past 15 years, the Commission repeatedly has examined the nature and fiscal impact of questionable and excessive public employee benefits. Our findings have demonstrated time and again that significant amounts of taxpayer money can be saved in this arena.

In 1998, the SCI revealed costly abuse and manipulation of the State's public employee pension system.

In 2006, we found pension padding and excessive compensation for public school administrators and pointed the way to initial savings of at least \$10 million for local property-taxpayers in just those select school districts cited in the report.

Up to that point, we thought we'd seen everything – until our investigators started coming back with evidence of even more egregious waste and abuse. Everything from six-figure payouts for unused sick leave to bonuses and severance deals to lucrative cash rewards for perfect attendance and paid time off for Christmas shopping and other personal business – all at taxpayer expense. And much of the excess involved those who were sworn to protect and serve. They did so by interpreting the law to suit their own greed.

During this latest investigation, we identified more than \$39 million worth of exorbitant cash benefit payouts to local public employees. Although the report focused on a fraction of the State's local government entities, we have seen enough of these practices to conclude that such examples are emblematic of a much larger problem. Indeed, if you extrapolate what is going on here on statewide basis, it is plain that concerted action to curtail such extravagance would result in enormous savings – especially given the fact that, in addition to State aid, nearly \$40 billion is spent by local taxpayers every year to fund municipal governments, school districts and local public authorities in New Jersey.

Throughout the Commission's extensive investigative fact-finding in this area, the objective has been consistent. We have sought to provide a rational basis for effective legislative, administrative and regulatory remedies to ensure that all public employees – be they at the State, county or municipal levels or in school districts, authorities and commissions – are treated fairly and uniformly without sacrificing the vital interests of the taxpayers who foot the bill.

Some municipalities already have recognized the need to curb unbridled public employee benefits on their own, and their individual initiative is commendable – and we credit them in our report. In the final analysis, however, it is clear that meaningful, balanced and equitable reform will require a comprehensive systemic approach. And we have outlined a plan of action that includes the following core elements:

- Legislation to restrict the cashing-in of sick, vacation and other leave by *all* public employees. With regard to the redemption of sick leave, which is where the big money is, bills already pending in the Senate and Assembly would, at the very least, restrict local government workers to a maximum of \$15,000 worth of unused sick leave at retirement – the same generous ceiling that's been in effect for State employees for years. This reform alone would save tens of millions of dollars every year.

We have also called for:

- The elimination of so-called "terminal leave" in which employees stay on the public payroll without working prior to retirement.
- Strict regulation and control of severance arrangements, bonuses, stipends and related payouts.
- Elimination of non-traditional leave, such as paid days off for shopping, weddings and other personal matters.

- Legislation requiring local government employees to contribute at least one-and-a-half percent (1.5%) of their pay to health insurance – the same rate required of State workers.
- And finally, steps to ensure greater oversight and transparency of personnel contracts and benefit policies.

Mr. Chairman, members of the committee, the beat – unfortunately – does go on in this realm, and it's time to stop it, particularly in light of the current drastic fiscal conditions that extend all the way from State Street to Main Street.

These matters have been investigated enough.

The facts are on the table.

Simply put, as we state in this report, it is unacceptable for taxpayers to continue to be burdened by gold-plated benefit packages for active and retiring public workers – especially when such arrangements can erode local budgets, drive up property taxes and actually coincide with the layoffs of essential personnel.

Again, on behalf of the full Commission, I thank you for devoting your time and attention to these important issues. At this time, we would be happy to respond to any questions you might have.



State of New Jersey
Commission of Investigation

THE BEAT
GOES
ON

**Waste and Abuse in
Local Government Employee
Compensation and Benefits**

December 2009

State of New Jersey
Commission of Investigation



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Commissioners

December 2009

Governor Jon Corzine

The President and Member of the Senate

The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M, herewith formally submits the final report of findings and recommendations stemming from an investigation of waste and abuse in local government employee compensation and benefits.

Respectfully,

A handwritten signature in black ink, appearing to read "W. Cary Edwards".

W. Cary Edwards
Chair

A handwritten signature in black ink, appearing to read "Joseph R. Mariniello, Jr.".

Joseph R. Mariniello, Jr.
Commissioner

A handwritten signature in black ink, appearing to read "Patrick E. Hobbs".

Patrick E. Hobbs
Commissioner

A handwritten signature in black ink, appearing to read "Robert J. Martin".

Robert J. Martin
Commissioner

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Executive Summary

The beat goes on.

There are local public employees in New Jersey who are guaranteed time off – with full pay at taxpayer expense – to go Christmas shopping or to attend weddings, baptisms and other private events. Others collect bonuses for working on their birthdays or when they leave their jobs. Still others receive multiple paid days off for not being sick or for donating blood; extra cash on top of regular pay for perfect attendance at work; and paid holidays for moving personal belongings.

These are just some of the findings of the State Commission of Investigation's latest probe of waste, excess and abuse in public employee benefit programs. At a time of economic distress unprecedented since the Great Depression – with government budgets depleted and austerity the theme of the day even in the private sector – the gravy train continues to roll without impediment for select groups of employees on the public payroll. The Commission examined a statewide cross-section of local government employment policies, contracts and agreements involving a comprehensive mix of police, fire and civilian personnel and, in addition to extraordinary specialty perks like those described above, found a lucrative array of questionable benefit practices that collectively cost New Jersey taxpayers millions of dollars every year, including:

- Inconsistent, non-existent and/or inadequate restrictions or caps on the accrual and cashing-in of unused accumulated sick, vacation and other leave at retirement, a phenomenon that enables select local government

employees to collect, in addition to generous pensions, lump-sum payouts sometimes ranging well into six figures and in amounts larger than the equivalent of a full year's salary.

- Provisions that enable local public employees to collect cash for unused leave annually while employed, thus effectively circumventing any caps that may exist locally on the redemption of accrued leave at retirement.
- Costly allocation of various forms of so-called "terminal leave," including arrangements that allow local public employees to stay on the public payroll, using up accrued sick time and other leave at full salary and benefits, occupying a position without showing up for work – in some cases for up to a year – prior to retirement.
- On top of pensions and leave redemptions, payments of thousands of dollars in cash bonuses, sometimes couched improperly and inaccurately as "severance," to employees who retire.
- Inordinate amounts of vacation, compensatory time and/or personal days off at full pay.
- Generous health insurance benefits with no requirement that local government employees – unlike their colleagues at the State level – contribute toward the cost of the coverage premium.¹

During the past 15 years, dating back to 1994, the Commission repeatedly has examined the nature and fiscal impact of questionable and patently excessive public employee benefits

¹ State government employees, by contrast, contribute 1.5 percent of their annual salaries toward the cost of health insurance coverage under the State Health Benefits Program (SHBP).

and repeatedly has made recommendations for systemic reform.² The Commission's findings have demonstrated time and again that significant amounts of taxpayer money can be saved in this arena. Indeed, the SCI's 2006 inquiry into pension padding and excessive and questionable compensation for public school administrators alone pointed the way to initial savings in the range of \$10 million for local property-taxpayers in just those select school districts cited in the report. During this latest investigation, the Commission has identified more than \$39 million worth of excessive cash benefit payouts to public employees in just a small fraction of the State's local governmental entities. Extrapolated statewide, action to curtail such extravagance would result in enormous savings – especially given the fact that, in addition to State aid, nearly \$40 billion is spent by local taxpayers every year to fund municipal governments, school districts and local public authorities in New Jersey. Beyond the SCI's inquiry in this area, public-sector benefits also have been scrutinized from time to time by other mechanisms, including a detailed series of local budget reviews undertaken by the Governor and State Treasurer in the mid- to late-1990s in an effort to cut municipal government costs.

Throughout the Commission's extensive investigative fact-finding, the objective has been consistent: to provide a rational basis for effective legislative, administrative and regulatory remedies to ensure that public employees are treated fairly, prudently and uniformly without sacrificing the vital interests of taxpayers who foot the bill. Progress toward that end, however, has been piecemeal. In 2002, for example, in response to the Commission's 1998 report on pension and benefit abuses – which, among other things, recommended limits on

² See the following reports in which the State Commission of Investigation has addressed the taxpayer cost of public-employee benefit issues in part or in whole: *Point Pleasant School District* (1994); *Borough of Seaside Heights* (1997); *Pension and Benefit Abuses* (1998); *Questionable and Hidden Compensation for Public School Administrators* (2006).

cash redemption of employee leave at all levels of government – the sole action on that issue came from the Department of Community Affairs (DCA). In 2002, DCA adopted rules requiring municipalities annually to disclose the total local budgetary liability for unused leave owed to their employees. In 2007, pursuant to a Commission recommendation in an investigation of questionable and hidden compensation for public school administrators, legislation was enacted to bring certain administrators under the same restriction on cashing-in unused sick leave as applies at the State level – a maximum of \$15,000 at retirement.³ Additional proposals have been advanced to reduce that sick-leave payout in some fashion, or to eliminate it entirely. Aside from incremental steps such as these, there has been no concerted effort to rein in lavish, unreasonable and excessive public-employee benefit costs in a comprehensive fashion.

As a consequence, startling amounts of taxpayer-funded booty continue to be dispensed across New Jersey without regard for the common good. In Camden, one of the poorest cities in New Jersey and the nation – with a median household income of less than \$25,000 and fiscal problems so serious that the city's administration is under State supervision – 20 municipal employees between 2004 and 2008 received combined cash benefit payouts of more than \$2.3 million, an average of \$115,000 apiece, when they left their jobs. In Atlantic City

³ State government employees receive 15 sick days per year and may accrue unlimited sick leave. At retirement, unused sick leave may be exchanged for a lump-sum cash payment equal to one-half of the leave balance, calculated at current salary, up to a maximum of \$15,000. Cash redemption of unused leave by retiring state workers was first authorized in 1973, with the maximum individual payout capped at \$12,000. The Legislature took this step, in part, to provide an incentive against employees using up large blocks of accumulated sick time – so-called “terminal” leave – in the weeks and months leading to retirement. Prior to the enactment of the redemption incentive, sick leave was not treated statutorily as an element of state employee compensation. In 1986, the statute governing state employee sick leave, N.J.S.A. 11A:6-19, was again amended to raise the redemption threshold to \$15,000.

during the same five-year period, 160 police officers and firefighters were paid more than \$13.7 million for accrued unused sick leave, in addition to their pensions, at retirement; one of these retirees walked away with a check for \$222,910. In Rockaway Township, Morris County, five individuals between 2005 and 2008 received payments totaling nearly \$780,000 – an average of more than \$155,000 apiece – for cashing in unused holidays and other accumulated time. And in Harrison, a tiny 1.3-square-mile community in Hudson County where the residential property tax bill for municipal purposes has averaged approximately \$2.4 million over the past six years, 23 public employees who retired during that period collected \$1.8 million in combined payouts for unused sick and vacation leave – the equivalent of *more than half* of that average annual community-wide tax bill.

Typically, these and other types of lucrative benefit arrangements are awarded through collective bargaining and carry the force of contracts that often apply only to select individuals or groups of municipal employees, such as police and fire personnel, to the exclusion of all others. Indeed, the Commission found numerous cases in which certain local public employees are subject to strict benefit limits while others who share the same municipal payroll are not. Furthermore, in many instances, the actual contract language governing the award of special benefits is crafted in such intricate, convoluted and creatively targeted ways that, much to the detriment of public transparency, a good deal of technical analysis is required to decipher the true purpose and cost. Some of these documents clearly bear the stamp of more time spent cultivating private rather than taxpayer interests.

It does not have to be this way. The Commission found that a range of government entities in New Jersey have, at their own initiative, put the brakes on runaway employee

benefits by imposing effective local limits on leave redemption, cracking down on buyouts and bonuses and drawing a prudent, common-sense line against exotic perks. Indeed, the New Jersey State League of Municipalities – the lead lobbying and governing assistance association for the State’s 566 municipalities – has long taken a position in general support of reasonable benefit standards for public employees, including uniform caps on leave redemption. At the Commission’s invitation, the League took the opportunity to reiterate that position as part of the record of this investigation. Several examples of municipal action in this area are summarized in this report and should serve as models for local governing boards across this State.

Ultimately, however, while such individual initiative is commendable, the decision on whether to gain greater control of excessive public-employee benefits should not be hostage to discretion born of home rule or any other parochial stricture. Meaningful, balanced and equitable reform in this area requires a systemic approach. Thus, through this report, the Commission renews its repeated calls for standards and uniformity in legislation to restrict the cashing-in of unused leave – by *all* public employees. It also recommends the statutory termination of terminal leave and related schemes that enable public employees to remain on the public payroll without working and prevent government employers from filling the consequent vacancies for the duration of such leave. Uniform rules also should be established to govern the allocation of vacation and personal days and the use of compensatory time and related benefits; to ban retirement “severance” bonuses and similar payouts; and to restrict the awarding of taxpayer-subsidized time off for patently personal circumstances.

The Commission also takes this opportunity to point out once again that New Jersey lacks a comprehensive statutory scheme that explicitly addresses the employment practices of local governmental units. In light of that gap, the Legislature should conduct a thorough review of local government employment and benefits practices in order to establish a set of reasonable standards that will protect both the livelihood of the local public workforce and the integrity of the public purse.

Key Findings

During the course of this investigation, the Commission conducted detailed examinations of taxpayer-subsidized benefits received by public employees in 75 municipalities, counties and quasi-independent local authorities. Although this mix represents a relatively small sampling of the total number of local governmental units in New Jersey, the Commission took pains to invest its inquiry with balance and perspective by including entities of varying size in regions throughout the State.

The vast majority – some 80 percent of the entities examined – were found to provide questionable and/or excessive benefits of one sort or another. More than half routinely engaged in two or more of the following practices:

- Lump-sum cash payouts to retiring employees for unused accumulated sick leave in amounts exceeding the \$15,000 maximum authorized for employees at the State level. In numerous instances, such payouts are not restricted by any cap.
- Annual cash payouts for unused sick or other leave to active employees. In nearly two-thirds of these instances, this occurs even though the same governmental unit maintains some form of cap on sick leave redemption at retirement.
- Excessive vacation and/or holiday leave.
- Abuse in the awarding and use of compensatory time.

- Paid time off for personal events and other special purposes beyond holidays and vacation.
- Cash payouts pursuant to various forms of severance, terminal and bonus provisions for departing employees. Although in some instances, these arrangements are fairly negotiated and aimed at achieving long-term savings, this practice is open to abuse for lack of standards and payout limits. Furthermore, the terms of such arrangements can be hidden from public disclosure by confidentiality clauses.

The Commission also found that only a handful of the local entities examined during this inquiry require employees to contribute to the cost of health insurance, whether through the State Health Benefits Plan (SHBP) or, at their option, through some other coverage mechanism. By contrast, beginning in 2007, public employees at the State level were required to contribute 1.5 percent of their salaries to health-care coverage. According to the State Division of Pensions and Benefits, these contributions to the SHBP amounted to approximately \$56.2 million during FY-2009 alone, thus serving to defray nearly 10 percent of the total State-level employee health insurance tab of \$564.8 million for that year. At the local level, taxpayers collectively spend approximately \$400 million a year to enroll municipal government employees in the SHBP.⁴ Applying the same analysis, if those employees were required to contribute to health care coverage at the same rate as their colleagues at the State level, it could result in annual savings of approximately \$40 million. Furthermore, although the actual figures are not

⁴ Approximately half of New Jersey's 566 municipalities offer medical insurance to employees through the State Health Benefits Plan. Those communities not enrolled in the SHBP provide health coverage through locally negotiated insurance plans.

available, it stands to reason that if the health-care salary deduction was imposed on all local public employees – those enrolled in the SHBP as well as other plans – the annual savings would be considerably larger.⁵

⁵ See chart in the Appendix of this report for the estimated annual savings that would accrue to the sampling of governmental entities examined in detail in this report if their employee salaries were subjected to a 1.5 percent salary deduction for health insurance coverage.

Excessive Benefits and Payouts

The following examples are emblematic of the Commission's findings across the spectrum of issues referenced above:

Atlantic City

In 1996, Atlantic City was criticized by a state-level budget review panel for, among other things, granting lucrative sick-leave payouts to retiring public employees, particularly police personnel.⁶ Indeed, the panel's report stated, "several of the police officers openly refer to their sick leave balance as their retirement fund."

Thirteen years later, while the city has made some progress toward curbing excessive benefit practices, exorbitant leave redemptions continue to burden the taxpayers of this gambling resort by the sea. During the five-year period between 2004 and 2008, Atlantic City paid nearly \$19 million in cash to both active and retiring municipal employees for unused accumulated leave. Among the recipients of this largesse were 71 individuals who received checks in excess of \$100,000 each, including former Fire Chief Benjamin Brenner, who retired in March 2004 with a lump-sum payout of more than \$567,000 for unused sick, vacation and compensatory leave. Brenner also receives a current annual pension of \$107,661 based upon a final average salary of \$137,515.

Windfalls of this magnitude derive from a quiltwork of inconsistent policies and contract stipulations that accrue to the benefit of Atlantic City's public workforce in different ways. The

⁶ *New Jersey Department of the Treasury Local Government Budget Review – Atlantic City*, March 1996.

top tier of the payout pecking order is occupied by police and fire personnel who, depending upon the date of hire, can convert between six and 18 months' worth of unused sick leave into time off at full pay leading to retirement – without medical certification of illness – or collect the cash equivalent of that accumulated leave at current salary the day they retire. Most opt for the cash. The city's unionized blue-collar ranks, meanwhile, can receive up to a full year of terminal leave or a maximum of \$15,000 cash based upon their remaining balance of accumulated unused sick leave at retirement. As for civilian administrators and other white-collar professionals, a group that makes up less than one-third of the municipal workforce, the city two years ago imposed a \$15,000 cap on the amount that those hired after January 1, 2000 can collect for unused sick leave when they retire.

The fiscal impact of these practices can be significant, particularly in an economically distressed municipality such as Atlantic City where a budgetary shortfall in early 2009 prompted local officials to apply to the State for more than \$9 million in extraordinary aid. Even as that emergency appeal was being submitted, the city was in the process of dispensing hundreds of thousands of dollars – a total of \$1.1 million during just the first five months of the year – in lump-sum payouts to retiring city workers for unused accumulated leave. As of the end of May 2009, the city had a balance of \$1.7 million in reserve to cover anticipated terminal/retirement payouts to members of its municipal work force – down from \$16.2 million in January 2006.

Although the bulk of these costs are associated with circumstances surrounding retirement, Atlantic City taxpayers also foot the bill for benefit payouts to active municipal employees. The city's police contract, for example, enables officers promoted to the rank of captain or above to collect cash for any amount of unused sick leave they have accumulated to

the date of promotion. After the promotion, they are permitted to begin accruing sick leave again, although the amount they can later cash in at retirement is capped at 45 days.⁷ Sick-leave payments at the time of promotion to just 11 officers elevated to the rank of captain or higher between 2004 and 2008 totaled more than \$1.1 million. The situation involving the city's current Police Chief, John Mooney III, illustrates the magnitude of what can be at stake in this practice. When Mooney was promoted to his current position from Deputy Chief in 2006, he was permitted to collect more than \$218,000 for 390 days of unused sick leave – an amount equal to approximately \$72,000 more than his pre-promotion annual salary of nearly \$146,000. Also upon his promotion to Chief, Mooney, drawing on a special provision embedded in his personal contract with the city, collected an additional \$31,000 for unused vacation, personal and compensatory leave he had accumulated to that point.

Another generous municipal benefit in Atlantic City enables all police and fire personnel to bank a full year's allotment of vacation and sick leave by the end of January each year.⁸ If they retire that same year, they can cash it in or apply it to terminal leave starting as early as February 1 without restriction. In contrast, public employees at the State level can redeem their pre-retirement leave allotment only in increments pro-rated against time actually spent on the job that final year. Had such pro-rating been in effect in Atlantic City, for example, on March 1, 2004 when former fire Chief Brenner retired, his payout would have been reduced by nearly \$20,000.

⁷ Prior to January 2006, when the 45-day cap was imposed, this secondary "bank" of accumulated sick leave was unlimited.

⁸ This benefit is provided as a matter of policy and is not formally memorialized as a provision in any of the city's municipal contracts, which on the other hand, do spell out the number of sick and vacation days allotted to police and fire personnel annually: 15 sick days; and depending on the date of hire, 12 to 32 days of vacation for police and 12 to 36 vacation days for firefighters.

Avalon

In 2007, heightened fiscal pressures stemming from debt service payments, contractual obligations and other fixed costs forced an increase of nearly 4 percent in this Cape May County community's annual operating budget. That same year, Avalon officials cut a check for more than \$172,000 to retiring police Chief Stephen Sykes for unused accumulated vacation, sick and personal time and other leave. A year later, borough Public Works Director Harry deButts collected more than \$78,000 for unused leave for a grand total between the two of more than \$250,000. Payouts of this magnitude were made possible by unique contractual provisions for select Avalon employees and by a special off-contract arrangement involving Sykes individually.

Under the terms of Avalon's existing policies and contractual provisions governing benefits for its personnel, police and non-unionized civilian employees hired before July 1989 qualify for "terminal leave" cash payments when they retire. These entitlement payments, made above and beyond vacation and other leave redemptions, are calculated based on a formula that provides employees with four free days of pay for each year of service. The lump sums received by Sykes and deButts included a total of nearly \$91,000 in terminal leave payments. The checks also included nearly \$130,000 for unused holiday and vacation time, with the bulk of it – \$102,900 – going to Sykes under a special arrangement that allowed him to exceed limits in the police contract on the number of vacation days officers are allowed to accumulate from one year to the next.

Beyond receiving cash payments for terminal and unused leave, both Sykes and deButts were able to use a substantial portion of their accumulated sick days in the months leading to

their respective retirements. Between January 1 and August 31, 2007, the date he officially retired, Sykes stayed out of work on sick leave for a cumulative total of more than four months – that is, 90 of 175 non-weekend business days during that eight-month period. During the six months leading to his retirement on June 30, 2008 – a period involving 130 business days – deButts used 72 accumulated sick days. Although both suffered from legitimate medical conditions, such is not prerequisite for the use of accumulated sick time by Avalon employees prior to retirement.

Bernards Township

Inconsistent rules governing the redemption of public-employee sick leave in this Somerset County community have produced inequitable benefits within the ranks of the municipal workforce and rendered the township vulnerable to big-ticket cash payouts.

Between 2005 and 2009, five retiring Bernards police officers received a combined total of \$390,735 in payments for accrued sick leave, including, in the case of one individual, a single lump-sum check for more than \$100,000 in exchange for 217 accumulated sick days. Payouts of this magnitude occur, in large part, because the contract between the township and the police officers' union contains a provision requiring that, at retirement, they receive cash compensation for half of all unused sick time accrued since January 1987. By contrast, the township's current contract with non-uniform unionized personnel – negotiated at the same time as the current police contract – imposes a \$15,000 limit on retirement sick leave redemptions for all such employees hired after January 1, 2008. For non-union municipal

workers, the township applies a similar \$15,000 cap for all such personnel hired since the beginning of 2007.

Bernards officials also negotiated a separation-of-employment agreement that delivered both a cash payout and a special pension benefit to former township police Chief Dennis Mott. Effective December 31, 2008, this arrangement called for Mott to collect a lump sum of more than \$107,000 for unused accumulated sick and vacation leave. The township also agreed to purchase 26 months' worth of additional pension-eligible service time for Mott through New Jersey's Police and Firemen's Retirement System (PFRS) at a cost of more than \$63,300. This not only enabled Mott to retire with 25 years of service, thus qualifying him for free lifetime medical coverage, but it also boosted his annual pension by nearly \$20,000, from \$64,950 to \$84,435.

Bradley Beach

The Commission examined the impact of accumulated-leave redemption in this Monmouth County community and found that during 2006 alone, three retiring police personnel received lump-sum payouts totaling more than \$425,400 – an amount equivalent to more than 9 percent of the municipal property-tax levy that year. Two years later, then-Borough Administrator Phyllis Quixley retired with a check for more than \$90,191 for accumulated unused sick leave. All of these payments were in addition to the regular pensions for which these individuals were eligible as public employees. The largest single sick-leave payout during this period – \$194,069 – went to former Police Chief Robert DeNardo, who

retired in December 2006. DeNardo's contract also provided for the conversion of unused accumulated vacation time into terminal leave, a provision that enabled him to remain on the payroll at full salary and benefits while taking eight months off in advance of his official date of retirement.

In 1998, Bradley Beach was one of a number of municipalities cited by the Commission for offering particularly liberal public-employee benefits, especially with regard to certain arrangements involving terminal leave. Borough officials have since taken steps to rein in some costly and questionable practices, but benefit limits vary widely depending on the type and tenure of employee and, as evidenced above, still present local taxpayers with the prospect of fat bills for hefty payouts. For example, although stringent leave-redemption caps are in place for non-uniformed employees who leave or retire with less than 25 years of service, those whose tenure exceeds that threshold can cash in or use unlimited amounts of accumulated sick leave at retirement. A similar, though more lucrative, tiered structure regarding leave redemption exists for police personnel. Officers hired prior to 2001 can sell back all accrued sick leave when they retire. Those hired after 2001, however, are limited to 150 days' worth of accumulated sick leave – a cap that nonetheless still allows for payouts exceeding the State maximum of \$15,000. Rank-and-file police department employees are also permitted to cash in unused personal leave days annually. Between 2004 and 2008, the combined payout for this purpose totaled nearly \$87,000. Meanwhile, all borough employees receive their birthdays off as paid holidays, and they can qualify for extra vacation days as an incentive for not using sick leave while actively employed. Although designed to discourage unnecessary use of sick time,

this benefit also serves as an incentive for building up banks of unused sick leave that can be sold back at retirement.

City of Camden

Camden is New Jersey's most impoverished city and, as such, struggles constantly to maintain basic services and avoid lay-offs of essential personnel, including police and fire personnel who now account for nearly 75 percent the city's annual salary expenditures. A severely diminished property-tax base and a mounting structural deficit force regular and heavy reliance on special State aid to balance the city's budget. During the past six years, Camden has received a total of more than \$257.6 million in special aid through New Jersey's Distressed Cities Program, including \$56.3 million in FY-2009 alone – an amount equal to nearly one-third of the city's \$171 million annual budget. Furthermore, the municipal governing body has been under the extraordinary supervision of a State-appointed Chief Operating Officer since 2002. Despite these circumstances – and in spite of calls for reform and revision of costly contracts with its public employees – Camden continues to pour hundreds of thousands of dollars worth of extravagant, benefit-related cash compensation into the pockets of municipal workers every year.

Between 2004 and 2008, the city awarded payments totaling more than \$3.6 million to 159 retiring municipal employees for accrued sick and vacation time and other benefits. The bulk of that outlay – \$2.3 million – went to just 20 individuals, including former Police Chief Edwin Figueroa and former Deputy Police Chief Joseph Richardson who, together, were granted

more than \$477,000 when they retired in 2006 and 2008, respectively.⁹ Below them, eight other top recipients of this retirement largesse – all of them either police or fire personnel – received individual payments ranging from more than \$106,000 to nearly \$178,000.

A unique aspect of Camden's benefit payouts is that they typically include cash for something variously referred to in employee contracts as "severance" or "terminal" pay – essentially no-strings-attached departure bonuses provided at taxpayer expense for no reason other than leaving the city's employ. Under this longstanding practice, municipal workers who voluntarily terminate their employment receive up to 10 weeks of additional pay based on their years of service and dates of hire. The payouts referenced above for the 159 employees who retired between 2004 and 2008 included nearly \$900,000 in total "severance/terminal" payments.

More payouts of this nature are on the horizon. As part of the city's 2009 annual budget, \$1.5 million was placed in reserve to cover the anticipated cost of future claims for accrued leave, severance and other benefit redemptions. Over the long run, Camden's total retirement payout liability for current active employees, based on the city's existing benefit practices, is estimated at more than \$25.5 million.

In 1996, Camden's public-employee benefit structure was roundly criticized by the Treasury Department's Local Government Budget Review program as exorbitant, particularly in the context of cash payouts at retirement. Among other things, the report recommended that the city re-negotiate contracts with unionized personnel to bring overall benefit costs under

⁹ These payouts were in addition to pensions for these personnel. Figueroa's annual pension is currently \$104,791; Richardson's is \$83,797.

control. In addition to recommending that “severance/terminal” payments be abolished, the report “strongly recommended that the maximum payments for accrued unused sick leave be capped at \$15,000, the same limit imposed by state government upon its employees.” The report stated that this step alone would “reduce the tremendous potential liability for the city due to the uncertainty of what the annual cost might be because of unanticipated retirements. . . . While the provision of such benefits is left to the discretion of local governments, it may not be practical for a city under the dire fiscal constraints of Camden to provide such generous benefits.”

These core recommendations, however, went begging.

With regard to sick leave, every retiring member of Camden’s municipal workforce can sell back an unlimited number of unused days at the value of one-half of their current daily rate of pay – a formula that regularly triggers payouts well in excess of \$15,000. Between 2004 and 2008, the city paid 16 police and fire personnel a combined sum of more than \$500,000 for accrued sick leave. In one case, former Deputy Fire Chief James R. Alexander collected a lump sum payout of more than \$82,000 for unused sick days, in addition to an annual pension of \$74,493.

Similarly, certain Camden employees can redeem substantial amounts of unused vacation and holiday time for cash. Police officers and fire personnel receive up to 25 vacation days per year. Over the years, their contracts with the city have permitted them, at retirement, to cash in varying amounts of vacation time ranging from 30 to 40 days depending on the bargaining unit. However, without any written authorization, the city regularly allowed these personnel to exceed that cap and bank all unused vacation time from year to year. This

practice was ended after being brought to light by the State's budget review in 1996, but the city nonetheless has continued to make large lump-sum payments for all vacation days that had been accumulated by police and firefighters up to that point. For example, former police Chief Figueroa's total payout at retirement included nearly \$150,000 in exchange for 262 unused vacation days. Former Deputy Chief Richardson collected more than \$121,000 for 250.5 accumulated vacation days.

Public-safety personnel in Camden also receive special treatment when it comes to cashing in holidays. While the city's non-uniform employees are prohibited from doing so, all rank-and-file firefighters and police superior officers are permitted to accumulate an unlimited number of unused holidays for redemption at retirement, while rank-and-file police personnel can cash in a maximum of 20 unused holidays. Between 2004 and 2008, as part of the \$3.6 million dispensed by Camden to cover unused sick and vacation time and other benefits, the city paid more than \$290,000 for unused accumulated holiday time to 14 police and fire personnel who retired during that period.

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During this investigation, the Commission also found that three senior Camden fire department officials – without any official authorization – collected a lucrative perk beyond the generous benefits already provided for them through their contracts with the city. During the six years between 2003 and 2008, Joseph Marini, the city's current fire Chief, and his two Deputy Chiefs, Kevin Hailey and Thomas Quinn, took a combined total of 336.5 compensatory days off at their pleasure.

An accounting analysis by Commission staff determined that the value of this paid time off, based upon these individuals' salaries, amounted to \$185,585. At the same time, the three officials continued to receive and accumulate sick and vacation leave that may be cashed in at retirement for exorbitant sums of money.

Not only is there is no written record that Marini, Hailey and Quinn actually earned compensatory time off, but there also is no evidence that they were authorized to take it in the first place. No Camden personnel contract or policy provides for the awarding of compensatory time; instead, certain segments of the city's workforce receive cash overtime for being on the job beyond regular working hours, but senior public-safety personnel are not among them. Indeed, a city ordinance adopted in 2005 explicitly exempts the fire and police chiefs and deputy chiefs from collecting overtime.

In response to a Commission subpoena, Marini stated in a letter dated January 22, 2009 that the fire chief and his deputies were made eligible for compensatory leave "on or about 1993" through a memorandum of understanding (MOU) issued by the city's Department of Administration, which purportedly granted each of them 20 days off at the beginning of each year for on-call duty time. Marini also stated, however, that the MOU "cannot be located." Indeed, as the Commission's inquiry proceeded, no such memorandum was found to exist. Furthermore, Marini's predecessor as fire chief denied knowing of any such compensatory time policy or any memorandum establishing it, and Marini routinely signed his own time sheets.

One month after Marini's letter to the Commission, he wrote a memo to former Superior Court Judge Theodore Z. Davis, then Camden's State-appointed Chief Operating Officer, requesting that Davis take steps to ensure that compensatory time for the three

officials continue to be awarded.¹⁰ In this document, Marini stated that the policy was set forth in a 1991 memorandum prepared by the city's Department of Administration. "More recently, during [a] State audit," Marini wrote, in reference to the SCI's investigation, "the 1991 MOU could not be located for production. In document's absence . . . authorization to the business administrator is required to enable continued compensation beyond calendar year 2008. Your kind attention is certainly appreciated."

In a written response dated March 4, 2009, Davis condemned the taking of compensatory time by Marini and his deputies in the strongest possible terms:

Dear Chief:

I'm in receipt of your memorandum dated February 23, 2009 regarding an alleged agreement or understanding between your department and the City administration which allowed management personnel to compensate themselves by way of taking compensatory time.

Frankly Chief, I'm astounded at such activity and find it quite reprehensible. Management is not entitled to compensatory time; this is similar to a president asking the public to give him or herself additional money because they had to work into the night or on holidays.

I assure you that my position is and will be that what has happened is illegal and will not be countenanced. Each such officer has contractual leave which could have been used.

This error must cease immediately for it is the obligation of the City not to perpetuate an error or theft of time.

With regard to Davis' reference to "contractual leave which could have been used," Marini, as of December 2008, had accumulated 411 sick days and 285.5 vacation days. Quinn and Hailey, respectively, had accrued 340 sick days and 107 vacation days and 20.5 sick days

¹⁰ Davis, who served as Camden's gubernatorily appointed COO since 2007, resigned effective August 31, 2009 and was replaced by Albertha Hyche, a manager in the State Department of the Treasury's Division of Administration.

and 14 vacation days. Under normal circumstances, Camden's overall liability to these individuals, both for this unused time and for the estimated terminal payments due them at retirement under its current benefit structure, would exceed \$557,000 – more than \$346,000 for Marini, nearly \$173,000 for Quinn and more than \$37,400 for Hailey. However, during the course of this investigation, the Department of Community Affairs completed an audit of the Camden Fire Department, including an examination of leave and overtime records dating to the year 2000. As a result, action was taken to deduct the compensatory time taken by these three officials from their existing vacation leave balances. These balances were further reduced in order to comply with the city's policy governing the carry-over of vacation time from year to year. Overall, these deductions reduced the value of the remaining leave balances to \$162,654 for Marini and \$49,841 for Quinn, and would have Hailey effectively owing the city \$7,394.

On August 12, 2009, Marini, represented by counsel, appeared in uniform before the Commission in executive session and was questioned under oath about the facts and circumstances surrounding the receipt and use of compensatory time. Although warned that his refusal to testify could result in action leading to his termination as a public employee¹¹, Marini declined to answer every question – including whether he was Chief of the Camden Fire Department – exercising his constitutional right of protection under the 5th Amendment against possible self-incrimination.

¹¹ N.J.S.A. 2a:81-17.2a1

Edison Township

During its first comprehensive examination of public employee benefits in the mid-1990s, the Commission found that municipal personnel in this Middlesex County community were eligible for one of the most lucrative cash-for-benefits packages available to public workers anywhere in New Jersey. Indeed, Edison's budgetary liability at that time for impending cash redemptions of unused sick and vacation leave by retiring police personnel alone was of such magnitude that in 1995 the township had to borrow \$4.1 million to ensure it could make the payments as required under various contracts. While Edison has since taken some steps aimed at curtailing exorbitant retirement payouts – including the imposition of sick-leave redemption caps on certain classes of employees (\$20,000 for police and civilian personnel; \$10,000 for emergency medical technicians) – the township continues to underwrite highly generous cash-for-benefits deals at taxpayer expense. During 2009, this has occurred against the backdrop of a fiscal crisis that forced the layoffs of six firefighters as part of a strategy to close an \$8.4 million deficit in the municipal budget for FY 2010.

In the immediate five-year period leading up to the current budget crunch, between 2004 and 2008, retiring Edison employees collected more than \$3.9 million in lump-sum payments for unused leave and other benefits. Despite the caps on sick-leave redemption referenced above, the vast bulk of that total payout – more than 80 percent – was for unused accumulated sick days. That's because Edison's fire personnel remain subject to a hodgepodge of redemption formulas that enable them at retirement to cash in accumulated sick leave at far more lucrative levels than their police and civilian colleagues. Individual sick-leave payouts to

rank-and-file firefighters and fire officers who retired between 2004 and 2008 ranged from more than \$53,000 to nearly \$292,000.

Edison also allows its public employees to cash in accrued sick and vacation leave on an annual basis prior to retirement. During just one two-year period alone, active employees on the payroll in 2007 and 2008 received more than \$2.3 million for unused leave over and above the amount distributed to retirees for the same purpose.

Furthermore, Edison rewards non-uniform employees who retire in good standing after 10 or more years of service with bonus payments equivalent to 20 days' worth of current salary. Between 2006 and 2008, four such municipal employees shared nearly \$22,000 in such bonuses. Moreover, Edison employees who are members of one collective bargaining unit qualify for an additional perk – three days off with pay when they get married.¹²

Englewood Cliffs

In 2006 and 2008, this small Bergen County community paid five of its employees a combined sum of nearly \$1.2 million in lump-sum cash benefits at retirement – an amount equal to more than 4 percent of the borough's entire municipal-purposes property tax levy for 2008. These employees shared \$561,886 in payouts for unused vacation leave, \$330,482 for unused sick days, \$291,000 in cash bonuses based on years of service and \$13,810 for accumulated personal leave. The bulk – more than \$931,000 – was divided between three

¹² Edison is one of a number of municipalities in New Jersey that were found to offer paid time off to employees when they get married or otherwise participate in a wedding. For more details see the section of this report entitled *Exceptional Perks* at p. 40.

ranking police officials: Lawrence Whiting, the former chief, who collected a total of \$348,749; former Captain William Gallagher, who was paid \$292,339; and former Captain Martin Barrett, who received \$290,320.

Taxpayer-funded payouts of this magnitude result from a uniquely generous benefit structure that guarantees end-of-career rewards for borough employees at all levels, particularly police personnel.

Police officers, who, by ordinance, receive between 15 and 30 vacation days annually depending on tenure, are allowed to progressively accumulate unlimited amounts of this leave throughout their careers and then cash in the full remaining balance at retirement. This practice has resulted in several officers receiving individual lump sums of \$148,000 or more in exchange for accrued vacation time, with former Chief Whiting topping the list with a payout of \$172,252 for 243 accumulated vacation days. Non-uniformed borough employees, meanwhile may carry over just one year's allocation of vacation (10 to 25 days per year, depending on tenure), and they are required to use at least 10 of those days annually.

With regard to leftover sick leave, all borough employees are entitled to lump-sum checks at retirement for up to 150 accrued sick days paid at a rate ranging between 50 percent and 100 percent of their daily wages at the time of accrual, depending on their years of service.

Retiring Englewood Cliffs employees also qualify for retirement cash bonuses – which the Borough refers to as “terminal leave” – ranging in value from two to six months' pay, depending on years of service.

All employees of the borough also routinely receive pay raises, in addition to regular and contractual salary adjustments, based solely upon length of employment. These “longevity” raises range from 14 percent for municipal workers with 28 years of service to a maximum of 18 percent for uniformed personnel with 36 years of service.

Fort Lee

Based upon personnel policies and contract provisions currently in effect in this Bergen County community, local taxpayers are on the hook for more than 30,000 days of unused leave banked by the borough’s 408 full and part-time employees. If all of this accrued leave were to be cashed in at once, the tab would exceed \$7 million – an amount equal to 11 percent of Fort Lee’s annual budget of \$63.6 million. A taxpayer liability of this magnitude exists in Fort Lee because of a benefit structure that, despite certain caps, allows municipal employees to redeem unused sick leave annually while actively employed and again at retirement for any accumulated days not previously redeemed.

Between 2004 and 2008, the borough paid retiring employees a combined sum of more than \$1.4 million for unused sick, vacation, holiday, terminal and other leave. More than one-third of this payout – approximately \$547,000 – was for accrued sick time. This occurred even though redemption of accrued sick leave at retirement was capped at \$17,500 and \$20,000 for new civilian employees, depending on their classification. Furthermore, these caps are regularly open to wholesale circumvention because Fort Lee allows its employees to cash in unused sick leave every year while still on the job. During the same five-year period, active

employees received a combined total of nearly \$827,000 in exchange for annual leave sell-backs.

Borough police personnel are permitted to redeem unused leave on a yearly basis and are subject to a less stringent cap at the end of their tenure. When officers leave the force either through retirement or resignation, they are authorized to cash in up to 180 days of accumulated sick leave at their current rate of pay. Between 2004 and 2008, five retiring officers collected a combined sum of nearly \$268,000 for accumulated unused sick leave.

Harrison

In 2005, large payouts to retiring police officers in this Hudson County community – former police Chief John Trucillo alone cashed in more than \$305,000 worth of unused sick and vacation leave – drew the attention of the State Department of Community Affairs during the course of an audit. As administrator of New Jersey's Distressed Cities Program, which delivers tens of millions of dollars a year in special budgetary aid to Harrison and other fiscally-strapped municipalities, DCA recommended that the town do something to control these payouts. In response, and pursuant to the terms of an arbitration agreement hammered out with the local police union, Harrison granted its officers unlimited annual sick time in exchange for ending lump-sum payouts at retirement.

Unfortunately, however, large payouts continue. That's because Harrison's paid fire department and civilian municipal personnel were not included in the arrangement.¹³ The Commission found that during the six-year period between 2004 and 2009, 19 retiring firefighters and civilian municipal employees received nearly \$860,000 for accumulated unused sick leave. They also cashed in more than \$498,000 in accumulated unused vacation time. The total of these leave redemptions – \$1.35 million – is equal to 56 percent of the town's average annual property-tax levy of \$2.4 million for municipal purposes during those years. One employee, former Administrative Clerk/Deputy Municipal Clerk Marion Borek, retired with a check for \$241,851, the bulk of it for 881 days of accumulated unused sick leave.

Furthermore, the curtailment of sick-leave payouts to police personnel may prove to be temporary. All unused sick leave accumulated by police prior to January 1, 2005 continues to be held in a "bank" against the future possibility that the town will re-activate its prior policy of allowing retiring officers to cash in reserves of unused leave. If that were to occur, eligible police personnel could receive a combined sum of more than \$594,000.

Other benefits for Harrison's employees include annual longevity raises of up to 14 percent depending upon length of service and bargaining unit, in addition to regular salary adjustments. They also receive paid longevity time off in the form of one additional day of vacation for every five years of service. Moreover, civilian employees who use no sick leave

¹³ Retiring Harrison firefighters can cash in half of their accumulated sick leave at a rate of 97.75 percent of their current pay up to a maximum amount of one year's salary. Civilian employees can redeem half of their accrued sick leave at the full current rate of pay up to a maximum of one year's salary. In both instances, employees with more than 25 years of service as of January 1, 1996, can collect a lump sum greater than their current salary. For example, when Deputy Municipal Clerk/Administrative Clerk Borek retired in January 2009 with 62 years of service, she was paid \$207,237 for unused sick leave. As for vacation leave, firefighters can accumulate unlimited amounts during their careers. Civilian personnel can do the same if they receive written permission to carry over unused time from year to year. Police personnel, meanwhile, are limited to cashing in two year's worth of vacation time at retirement.

qualify for a yearly cash bonus of up to \$500. Between 2006 and 2008, 65 employees received \$51,250 in such sick leave bonuses.

Hoboken

Municipalities across New Jersey are plagued by fiscal difficulties, but this Hudson County city has been particularly hard hit. Over the past several years, Hoboken has been mired in a financial crisis that has forced it to lay off workers, freeze hiring, cut services and boost local property taxes by nearly 80 percent. In 2008, the city failed to adopt a municipal budget and was placed under the supervision of a state monitor.

Against this troubled backdrop, however, the city nonetheless paid more than \$7.3 million in cash to retiring employees in exchange for accrued leave between 2004 and 2009, pursuant to the terms of city personnel policies and negotiated contracts. The total payout was about evenly divided between unused vacation time and so-called "terminal" leave. Under terms of the city's personnel policies and negotiated contracts, terminal leave in Hoboken essentially consists of bonus leave days granted to all categories of municipal employees based on length of service. Police, fire and civilian supervisory personnel are awarded five days for every year of service. Rank-and-file workers, meanwhile, qualify for three days per year of service, depending on their dates of hire. At retirement, employees are permitted to cash in this special bank of terminal leave, along with varying amounts of unused accumulated vacation time defined by their various contracts. The only general caveat is that the combined sum of both the terminal and vacation leave redemptions cannot exceed the equivalent of one year's

salary. During the five-year period referenced above, retiring Hoboken employees collected \$3.87 million worth of terminal leave, including individual payments as high as \$97,000, and \$3.14 million in accumulated vacation leave. In numerous individual instances, the combined lump-sum payout was identical to or within several thousands of dollars of the recipient's last annual salary.

The one notable exception to the maximum-payout rule occurred in the case of Carmen LaBruno, Hoboken's former police chief. LaBruno agreed to retire in 2008 under the terms of a separation agreement in which the city awarded him a lump sum of \$350,000, including \$125,000 in accrued unused vacation leave, \$150,000 in terminal leave and \$75,000 in unused accumulated compensatory time. A confidentiality clause in the agreement cloaks this information from the general public. LaBruno's final salary as Police Chief was \$210,794.

Also, in a strange anomaly, Hoboken police and fire personnel, in addition to lump-sum leave redemptions, are entitled by contract to cash stipends at retirement – \$2,000 for rank-and-file police officers who retire with less than 28 years of service and \$2,000 for firefighters with less than 30 years. Police superiors receive the \$2,000 stipend if they retire on January 1 of any given year, plus \$240 if they are members of the Superior Officers Association.

Beyond retirement payouts for terminal and unused vacation leave, uniformed and civilian employees in Hoboken routinely receive longevity raises ranging from 2 percent to as much as 18 percent per year on top of regular salary adjustments. Depending on the employee group, they also qualify variously for a mix of special leave benefits, including days off as an

incentive for not taking sick leave, time off for donating blood and personal days off for private events, such as weddings and baptisms.¹⁴

Neptune

Compensatory time off, when properly applied in both the public and private sectors, typically is provided in lieu of cash to employees who work overtime. In this Monmouth County community, however, it has taken on a whole new meaning.

At the beginning of every year – before they put in a single hour on the job – Neptune’s top municipal officials, including the township’s chief financial officer, tax assessor, business administrator and clerk, each receive 56 compensatory hours – the equivalent of eight seven-hour days. They may use this time off as they see fit or exchange all or part of it for cash on an annual basis. The extent to which these employees earn this time over the course of each year is difficult to ascertain, however, because the township does not maintain daily or hourly time sheets to reflect total actual hours worked.

Neptune’s supervisory police officers from the rank of sergeant through chief, meanwhile, are provided with 48 hours – equal to six eight-hour days – of advance compensatory time annually. All but the chief and deputy chief, however, must use this time or lose it each year. The occupants of those two top posts also are authorized to earn additional compensatory time beyond the 48-hour entitlement. Their contracts stipulate that they may

¹⁴ For more details, see the section of this report entitled *Exceptional Perks* at p. 40.

cash in 40 of these additional compensatory hours on a yearly basis. Compensatory time accumulated beyond the 40 that are redeemed for cash can be carried over from year to year.

Also, beyond regular vacation time, all of Neptune's public employees who demonstrate perfect attendance over the course of a year receive 3.5 additional leave days, which may be used at their discretion or traded for cash. However, as with compensatory time, the township's record-keeping methodology is weak, making it difficult to determine whether such attendance bonuses are actually earned.

Over time, the payments for accrued compensatory and attendance time can add up. During the five-year period from 2004 to 2008, five of the township's top employees collected a combined sum of nearly \$136,600 for cashing in compensatory time, plus \$40,300 for perfect attendance.

Passaic Valley Sewerage Commissioners

At first glance, it would appear that employees of this Newark-based utility, whose salaries and benefits are underwritten by local ratepayers, are subject to the same sick-leave redemption rule as State employees: at retirement, they can collect no more than \$15,000 for accrued unused sick time. However, unlike their State counterparts, PVSC employees are also allowed to cash in a portion of such leave every year while on the job. During the three-year

period between 2005 and 2007, the bill for such payouts to active employees topped \$681,000.¹⁵

The PVSC also has arranged for special lump-sum departure payments to certain administrative employees. Under the terms of his current contract, Commission Executive Director Bryan Christiansen, if terminated, is guaranteed a cash severance benefit equal to six months' salary for every year employed, up to a maximum of 24 months. Christiansen, the agency's top administrator since March 2004, is budgeted to be paid a salary of \$316,216 for 2009. Meanwhile, in exchange for his promise to retire in May 2007, former Deputy Executive Director James Krone, whose position was eliminated, received a severance payment of \$88,400, in addition to more than \$7,100 for unused accumulated sick time.

Pennsauken Sewerage Authority

Employees of this Camden County utility receive a similar mix of leave and severance payouts courtesy of local ratepayers. Within certain modest limits, they can cash in unused sick leave every year while employed and still look forward to collecting a hefty lump-sum check in exchange for accumulated leave at retirement. During the three-year period between 2005 and 2007, the combined annual payouts to active employees for accrued leave totaled

¹⁵ It is noteworthy that PVSC policies imposing the retirement cap and authorizing the annual leave redemptions took effect simultaneously on January 1, 2002.

\$271,153; almost one-quarter of that amount – \$62,264 – went to William Orth, the Authority's Executive Director.¹⁶

Allowing employees to exchange leave for cash annually has the effect of diluting or rendering completely ineffective any caps that even partially restrict that practice at retirement. Under the Authority's personnel contracts, management employees can cash in up to 70 accumulated sick days and 60 accrued vacation days when they retire. For non-management personnel, the retirement redemptions are capped at 70 sick days and 40 vacation days. During their active years of service, however, Authority personnel in both categories can also collect cash for unused leave annually for as long as they are employed. Managers can sell back an unlimited number of unused vacation days each year. As for sick time, management personnel annually can cash in all accumulated sick leave above 15 days, except for Orth whose contract authorizes him to redeem an unlimited number unused sick days every year. Non-management employees must maintain a minimum 15-day sick leave balance, and any leave above that threshold can be redeemed annually. They may also carry over or sell back up to 10 vacation days per year. All annual sellbacks are done on a day-for-day basis.

The ultimate long-term cost of such leave redemptions can be appreciable. Commission staff calculated that if Authority personnel continue to cash in unused sick and vacation leave annually at the current pace over the next 20 years, they will be paid more than \$1.8 million over and above their regular salaries.

¹⁶ Orth has held this position since January 2006. His contract states that ". . . the Executive Director shall be exclusively employed by the Authority." Concurrently, however, he serves as mayor of Pennsauken Township, a position that carries an annual salary of \$17,720.

Pennsauken Sewerage employees also are guaranteed bonuses when they resign, retire or are otherwise separated from the Authority's employ. Contract documents refer to these payments as "severance." Under this provision, departing managers qualify for lump-sum checks equal to one-third of their annual salaries. In the case of current Executive Director Orth, for example, he would receive a check for \$42,660 based on a salary of \$123,240, if he were to leave the Authority today. That would be in addition to his pension and any other lump-sum payouts for accumulated leave. Non-management employees, meanwhile, qualify for departure bonuses equal to two weeks' pay, if they have been employed by the Authority for at least 25 years. It is noteworthy that seven of the Authority's 19 rank-and-file employees – including Orth's wife, Regina Orth, who is employed as an administrative assistant at a salary of \$49,379 per year – are explicitly exempt by contract from the 25-year tenure threshold and, thus, are eligible for the departure bonus at any time that they leave the Authority's employ.

Rockaway Township

Squeezed by rising costs and diminished revenue, this Morris County community's 2009 municipal budget boosted property taxes by nearly 5 percent, eliminated several vacant positions that local officials had hoped to fill – including a police officer slot – and raised the specter of imminent layoffs. By contrast, during the preceding four years, from 2005 through 2008, generous retirement packages for 21 township employees, primarily police personnel, resulted in cash payouts totaling almost \$1.2 million for accrued sick, vacation and personal leave. Nearly half that sum – \$593,280 – was distributed to just three individuals over a five-

month period between June and October 2008. One of the three was former police Chief Walter Kimble, who, as part of a 2008 buyout negotiated with the township's governing board, collected a combined total of more than \$263,000, including \$135,219 in accumulated personal/holiday time, \$90,530 for unused sick days and \$37,332 for unused vacation time.

As in other municipalities reviewed by the Commission, uniformed personnel in Rockaway generally are positioned for the most generous mix of benefits. In addition to inflated caps on the accrual and redemption of sick leave, township police also receive a potpourri of paid personal time off each year, including 12 to 25 vacation days and 16 holidays.¹⁷ Moreover, the department's top brass, including superior officers and the deputy chief, are granted 15 additional days off for "emergency on-call status." In every instance, it has been the longstanding practice in Rockaway to allow officers to accumulate all of these forms of personal days from year to year and to cash in the accumulated balance at retirement.¹⁸ Between 2005 and 2008, Kimble and four other police officers collected nearly \$445,000 in payments at retirement for redeeming unused accumulated holiday and on-call time.

Different rules apply to the township's non-uniformed employees. For example, civilian employees hired after 1999 are not permitted to accumulate and sell back unused sick time at cessation of employment. Rockaway taxpayers nonetheless are obligated to cover redemptions of accumulated sick leave pre-dating that restriction, and those payouts can be substantial, especially in combination with the cash redemption of unused vacation, holiday and personal

¹⁷ As for fire personnel, Rockaway Township is served by unpaid volunteer firefighters.

¹⁸ The township allows police officers to accumulate unused holidays even though their contract requires that such time be taken as part of their vacation allotment each year. In the case of on-call time, the superior officers' contract is silent regarding the accumulation issue.

time.¹⁹ When former township Business Administrator Steven Levinson left the township's employ in June 2007, he collected a lump sum of \$92,380.

Meanwhile, all township employees – regardless of any caps that may apply on leave redemption at retirement – are authorized to cash in unused leave on an annual basis while employed. During the four-year period between 2005 and 2008, a total of nearly \$827,000 was paid to active Rockaway employees in exchange for certain portions of their accumulated sick, holiday and vacation time, an average of more than \$206,600 per year.

¹⁹ All of Rockaway's civilian employees, regardless of date of hire, are allowed to cash in up to 75 days of unused vacation and personal time at retirement.

Exceptional Perks

In addition to excessive leave benefits and cash payouts, the Commission found that public employees in some New Jersey communities regularly are favored at taxpayer expense with premium fringes that go well beyond conventional time off.

In Union City, all civilian municipal employees receive one day's leave at full pay every year for Christmas shopping. As stated explicitly in the contract between the city and the Union City Employees Association, "each permanent employee shall have one personal day as a Christmas Shopping Day preceding the Christmas holidays" This is in addition to five other personal days, 16 paid holidays – including a half-day each on Christmas Eve and New Year's Eve – and, depending on length of service with the city, between 10 and 25 vacation days annually.

Englewood grants police and fire personnel one day off per year for moving if such a circumstance results in a change of permanent address. This is in addition to regular allotments of paid vacation and other personal time off.

Englewood is also among a number of municipalities that provide select groups of public employees with paid time off for attending personal events. The city's police officers receive three days off when they marry, as do certain civilian municipal employees in Edison Township. In Parsippany-Troy Hills, police officers receive as many as eight days of leave for their weddings; the community's civilian staff qualifies for three such "wedding days." Meanwhile, police officers in West New York receive time off not only for weddings but also for Baptisms,

Confirmations and First Holy Communions, provided they take an active role in the ceremony. Police officers and firefighters in Hoboken benefit from similar contract provisions.

In Hillside, not only are most municipal employees automatically eligible for 14 paid holidays each year but they also qualify for additional paid time off depending upon which day of the week is occupied by certain official holidays. If the Fourth of July, Christmas and/or New Year's Day fall on a Tuesday or a Thursday, for example, these employees also receive Monday or Friday off – in effect, a four-day weekend at taxpayer expense. Hillside also provides monetary incentives, including a unique arrangement in which certain employees are entitled to an extra 35 hours of pay – the equivalent of one week's salary – added to their regular salaries each year.

Donating blood, avoiding accidents and turning in an exceptional performance on the firing range have also been written into various public employee contracts as occasions warranting paid leave. How much depends on the circumstance and the class of employee. In Paterson, for example, all police officers qualify for a day off for donating blood to a colleague. In Hoboken, police personnel can qualify for up to five days off per year for donating blood. Rank-and-file officers there must use that leave within 11 months of its receipt. Police superiors, however, may accumulate such days and apply them to terminal leave at career's end. The city's police chief can bank his unused annual "blood days" for a lump-sum payout at retirement. As for so-called "safety days," all employees of the Long Branch Sewerage Authority are rewarded with an extra day's pay if, on an annual basis, they are not involved in any accident that results in a cost to the Authority and/or its insurance carriers. In the Borough

of Fort Lee, meanwhile, police officers receive one or two days off, respectively, if they qualify at the firing range as expert or distinguished expert marksmen.

Also, in yet another twist on sick leave benefits, public employees are being rewarded with bonuses and additional time off for coming to work and not using sick time. In Rutherford, a lottery system is used to award cash payments to civilian municipal employees who have perfect attendance for a certain period of time. Under the contractual lottery system, all employees who take no sick leave in a given period are eligible to compete for this perk, but only one individual is randomly selected each month, each quarter and each year to receive a cash payout. Rutherford pays out a maximum of \$2,500 for this purpose each year. Between 2004 and August 2009, these sick leave incentives totaled \$12,600. In East Windsor, police officers annually qualify for a cash attendance incentive under a contract provision that, beginning 2006, paid \$500 for perfect attendance with the bonus increased by \$50 annually during the life of the contract. Hoboken employees, depending on the bargaining unit to which they belong, receive annual payments of between \$700 and \$1,500 for perfect attendance. In Union City, civilian employees qualify for a \$200 cash stipend for using no sick leave in a year, \$150 for using only one sick day and \$100 for using just two sick days.

Drawing the Line

Just as there is no State law or regulation in New Jersey that prohibits exorbitant payouts and perks for local public employees, there is no law or regulation that explicitly authorizes and shields excessive benefits, either. Given the latter – and taking it as an invitation to control costs on their own – a number of local government entities have taken direct action to rein in public employee benefits through tougher personnel policies and ordinances and more aggressive collective bargaining. Following are examples of municipal benefit practices that reflect such efforts at cost control:

Flemington

This Hunterdon County community has adopted limits on employee sick-leave redemption that are more stringent than the \$15,000 cap established for State workers. All borough employees hired after March 1995 can collect no more than \$5,000 for unused accumulated sick time at retirement. Meanwhile, police personnel hired after January 1998 are capped at \$10,000. No employee is permitted to carry over more than five vacation days from one year to the next, and the borough provides no terminal leave, severance payments, longevity raises extraordinary leave days or the selling back of unused leave on an annual basis.

Morris County

Depending upon non-union or bargaining unit status, employees of Morris County government are capped at between \$10,000 and \$15,000 on the amount of sick leave they can redeem for cash at retirement, based upon the following formulas: county corrections officers and unionized rank-and-file civilian county employees can cash in between 30 and 35 percent of accumulated sick time up to a monetary maximum of \$10,000; civilian supervisory personnel, 30 percent of accumulated sick leave up to a cash maximum of \$10,500; corrections superior officers, 35 percent of accumulated sick leave up to \$15,000; non-unionized employees, a monetary maximum of \$12,000 for accumulated sick days. No employee can carry over more than one annual vacation allotment – a maximum of 25 days – from one year to the next. Moreover, the county provides no leave redemption by active employees, no terminal leave, no severance pay and no longevity raises or extraordinary benefits.

Point Pleasant

All employees of this Ocean County community hired after February 1999 can sell back 60 percent of accumulated unused sick leave up to a monetary maximum of \$15,000 at retirement. Annual vacation is capped at 29 days, and no more than one year's allotment may be carried over. Employees are not permitted to cash in unused leave on an annual basis, and the borough provides no severance pay or terminal leave. Furthermore, employees are required to contribute at least a nominal amount -- \$260 per year -- toward the cost of their health insurance.

Teaneck

Over the years, this Bergen County community has imposed a sliding scale of caps on sick leave redemptions for various classes of municipal employees, as follows: Rank-and-file municipal workers, \$12,000; public works supervisors, \$15,000; managerial/executive and professional employees hired on or after September 1989, \$15,000; all police hired after January 1996, \$15,000; fire personnel hired on or after December 1978, \$15,000.²⁰ Rank-and-file employees receive 25 vacation days per year while supervisors are entitled to no more than 29. No employee hired after September 1989 may carry over more than two years' worth of unused vacation time. In 2002, the city discontinued the practice of awarding two extra days off per year to the police and fire chiefs. Employees are not permitted to cash in unused leave while actively employed, and members of the civilian work force are required to contribute toward the annual cost of their health insurance coverage.

Vineland

All police, fire and civilian municipal personnel can collect no more than \$15,000 at retirement for cashing in unused accumulated sick leave. Vineland employees receive a maximum of 30 paid vacation days based upon collective bargaining unit agreements and length of service. In each instance they may carry over no more than one annual vacation allotment from one year to the next. The city provides no terminal leave, no severance pay, no longevity raises and no extraordinary leave. New employees – including those hired, depending

²⁰ Members of one bargaining unit representing a portion of Teaneck's fire personnel, Local 42 of the Firemen's Mutual Benevolent Association, are capped at \$16,000 if hired on or after December 1978.

upon the bargaining unit, between January 2002 and January 2003 – are required to contribute toward the cost of health insurance depending upon which coverage plan they choose.

Recommendations

Over the years, the State Commission of Investigation has devoted substantial time and resources to shedding a spotlight of public disclosure on wasteful and excessive public-employee benefit practices. It has made reasonable and practical recommendations which, if implemented, could save New Jersey taxpayers millions of dollars. It has called for the establishment of greater fiscal prudence and fairness within the ranks of the public workforce, and for more accountability, oversight and transparency at all levels. Its core findings and recommendations have been echoed by other official oversight entities, including the State Benefits Review Task Force in 2005 and the Special Session Joint Legislative Committee on Public Benefits in 2006. Moreover, the New Jersey State League of Municipalities, the lead lobbying and governing assistance association for the State's municipalities, is generally supportive of reasonable benefit standards for all public employees, including caps on sick and vacation leave redemptions.

The results of this latest inquiry constitute yet another solid and undeniable predicate for action, another opportunity for government decision-makers to pursue effective and meaningful reform.

Given the severity of current fiscal and economic conditions, the central elements of this reform agenda are more vital today than they were when first proposed more than a decade ago, particularly with regard to the need for restrictions on the awarding and cashing-in of exorbitant amounts of employee leave. It simply is unacceptable and intolerable for taxpayers to continue to be burdened by these sorts of gold-plated, sky's-the-limit payout packages for

active and retiring public workers – especially when the cost of such arrangements can seriously erode local budgets, drive up property taxes and actually coincide with the layoffs of essential personnel, including police officers and firefighters. Fiscal responsibility demands a change in direction, and the very fact that a number of communities have taken the initiative on their own to tighten up benefit practices is both a testament to the common-sense efficacy of such an approach and proof that it can and should be done.

But piecemeal action by local authorities, encouraging though it may be, is not sufficient. Meaningful and balanced reform in this area requires a far more comprehensive response, and the State needs to provide the leadership and guidance necessary to get the job done. The Commission makes this statement mindful of New Jersey's strong and deeply ingrained culture of "home rule." It is also recognized that many of the enhanced fringe benefits doled out at the local level are embedded in contracts negotiated by municipal governing boards and unions through collective bargaining. Neither of those phenomena, however, should be allowed to impede progress toward greater equity between and among all public employees in New Jersey and greater sensitivity to the interests of those who ultimately pay the bill, the taxpayers.

The Commission, therefore, makes the following recommendations for systemic reform:

1. Establish Standards for Local Government Employment Practices

The nature and scope of questionable and patently excessive public-employee benefits detailed in this report reveal a significant and persistent gap in New Jersey's statutory framework for ensuring responsible and prudent local governance. The State lacks a

comprehensive statutory framework that explicitly addresses employment practices at the local government level. All too often, the broad discretion exercised in setting the terms of employment, compensation and benefits for local public employees, including vacation and sick leave and retirement-related payment arrangements, has produced an array of costly and sometimes inequitable benefit packages.

The Commission urges the Legislature to conduct a thorough review of local government employment, compensation and benefit practices in order to establish reasonable systemic standards that will protect both the livelihood of the local public-employee workforce and the integrity of the public treasury.

2. Establish Uniform Limits on Employee Leave

Participation in any of the various state pension plans, at a minimum, should be conditioned upon the acceptance by all governmental entities of the basic benefit provisions and policies maintained for employees at the State level, as follows:

Sick Leave

- Public employees at all levels should be limited to no more than 15 paid sick days per year. At retirement, payment for accumulated unused sick leave should, at the very least, be limited to a lump sum representing no more than 50 percent of an employee's unused sick leave, calculated at current salary, up to a maximum

of \$15,000 – unless the Legislature and Governor determine that a lower sick-leave payout, or none altogether, is in order for all government employees.²¹

- As with State employees, no public employee at any level of government should be permitted to cash in accumulated unused sick leave at any time prior to retirement, including in the event of termination or resignation.

Vacation

- Public employees at all levels should adhere to the State limit of a maximum of 25 paid vacation days per year after 20 years of continuous service. No more than one annual allotment of vacation time should be carried forward by any public employee from one year to the next. At retirement, public employees at all levels should be authorized to redeem only that portion of their final year's vacation allotment which has actually been earned; no such lump-sum payment should be greater than the value of one year's worth of accumulated vacation.

Holidays and Other Leave

- All forms of non-traditional leave, such as paid days off for Christmas shopping, wedding attendance, etc., should be eliminated. Public employees at all levels of government should be required to adhere to the established schedule of holidays and administrative time off authorized for state government personnel.

²¹ Pending legislation would lower the maximum sick leave payout at retirement to \$10,000 for all public employees, including those at the State level. The measure (A-2583/S-1316) is sponsored in the Assembly by Assemblyman Declan J. O'Scanlon, Jr., and Assemblywoman Caroline Casagrande, both R-12th District, and in the Senate by Senator Kevin J. O'Toole, R-40th.

3. Eliminate Terminal Leave

This investigation revealed an elaborate patchwork of local provisions that often enable public employees to remain on the public payroll at full salary and benefits without showing up for work in the weeks and months preceding retirement. Typically, this is accomplished by using up accumulated leave, usually in the form of many sick days banked over the course of a career. This practice not only forces taxpayers to finance the salaries and benefits of no-show employees whose absence or sick leave is not corroborated by medical certification but it also effectively prohibits local governments from hiring permanent replacements since the positions in question technically are still occupied. In other instances, leave allotments are converted to cash for payment to employees at retirement. The Commission recommends that terminal leave, in whatever form it may take, be eliminated for all public employees and expresses its support for the intent of pending legislation to achieve that goal.²²

4. Regulate and Control Severance, Stipends and Related Payouts

As demonstrated by the findings of this investigation, compensation for government employees in New Jersey, at least at the local level, has come to mean far more than standard and guaranteed salaries, pensions and fringe benefits. In addition to these run-of-the-mill personnel costs, taxpayers are picking up the tab for an array of pricey extras, including various types of employee incentive payments, such as lump sums of cash for not missing work, and lucrative severance packages guaranteed even under the circumstance of voluntary resignation.

²² A-2581 (O'Scanlon and Casagrande) would prohibit public employees from using six or more days of accumulated sick leave in the 12 months prior to retirement without medical necessity verified in writing by a physician.

Although severance and employment-separation arrangements, when properly and fairly negotiated, can produce savings over the long run – particularly with regard to early retirement programs and in other cases in which employees receive financial inducements to vacate positions that will be eliminated – the practice is open to abuse for lack of standards and payout limits. Local governments simply can no longer afford the unbridled and unregulated proliferation of such luxuries. Thus, the Legislature should develop a statutory framework to: 1. Define the narrow circumstances under which bonuses, stipends, separation payouts and other special compensation can be awarded, 2. Require local government entities to adhere to a uniform set of caps and restrictions on such payouts, and 3. Require that the terms and conditions of such compensation are subject to public disclosure.

The Commission also supports the intent of legislation that would deny severance pay for municipal officials who are fired from their jobs for cause. Under existing law, terminated local officials are guaranteed severance pay worth up to three months' salary unless they are convicted of a crime.²³

5. Restrict Allocation and Use of Compensatory Time

The Commission found instances in which public employees are routinely awarded compensatory leave in advance of having actually earned it. In some cases, they may exchange it for cash on a yearly basis and/or allow it to accumulate for cash redemption at retirement. To curtail these unregulated and unnecessarily costly practices, legislation should be enacted

²³ Assembly members Dawn Marie Addiego and Scott Rudder, both R-8th, announced in July that they would introduce legislation restricting such severance eligibility after the arrests of 44 persons on federal corruption charges, including an assortment of elected and appointed government officials.

requiring that compensatory time be allocated strictly based upon hours actually worked beyond the normally scheduled hours of employment as confirmed by daily attendance records. Furthermore, public employees should be required to use such time within one year of its allocation. Under no circumstances should compensatory leave be exchanged for cash payment.

6. Require Employee Health Insurance Contributions

According to the State Division of Pensions and Benefits, local governments in New Jersey collectively spend more than \$400 million annually to cover the cost of health insurance for active employees. State employees are required to contribute at least a small share of their health insurance premiums at a rate of 1.5 percent of current salary, a total contribution statewide of more than \$56 million in FY-2009 alone, thus defraying costs that would otherwise be borne by the taxpayers. At the local level, the practice is inconsistent. Most governmental entities require no employee contributions, and those that do have established inconsistent rates. The Commission recommends that, at a minimum, legislation be enacted to require that local government employees contribute to the cost of their health insurance at the same rate as their counterparts in State government.

7. Ensure Public Transparency and Accountability

Beyond the sheer cost of exorbitant public-employee benefit practices, one of the most troubling findings of this inquiry was the difficulty that awaits average citizens who may be interested in finding out more about how their tax dollars are spent in this regard. Numerous

employment contracts, compensation arrangements and other benefit-related records examined by Commission staff contained thickets of convoluted technical provisions and arcane language not readily understood by the untrained observer. The challenge of obtaining and deciphering this material frequently is compounded by the presence of multiple bargaining-unit contracts, each of which may contain different iterations of the same general benefit principle. Some employees, for example, may be subject to a strict monetary cap on leave redemption at retirement, while others in the same community effectively are allowed to exceed that cap by cashing in a maximum number of accumulated sick days at a certain percentage of their final salary. Still others may be prohibited from exchanging sick leave for cash when they retire but authorized to cash it in while actively employed.

Those responsible for negotiating and administering public-employee compensation and benefits should never commit themselves to the disbursement of substantial sums of taxpayer money without, at a minimum, taking steps to ensure that the terms and implications of such disbursements are clearly and accurately spelled out and made readily available for public review. Thus, in the interests of fostering greater transparency, oversight and accountability, the Commission recommends that legislation be enacted requiring local and county government units in New Jersey to maintain easily accessible and readily understandable summary sheets delineating all benefits provided to every individual in their employ. They should also be required to disclose the terms and conditions of all special compensation and benefit arrangements negotiated with and awarded to select individuals upon resignation, retirement and/or termination. The need for ensuring the widest possible public disclosure and transparency in government has been demonstrated repeatedly over years by the SCI's findings

in a wide array of inquiries, ranging from an examination of hidden compensation for public school administrators to the lack of proper accountability and oversight in the governance of New Jersey's institutions of public higher education.

APPENDIX

ESTIMATED TAXPAYER SAVINGS FROM LOCAL PUBLIC EMPLOYEE HEALTH INSURANCE CONTRIBUTIONS (FY-2008)

Local Government Entity	Type of Health Plan	1.5 % of Budgeted Personnel Salaries ¹
Atlantic City	SHBP ²	\$1,452,994
Avalon	Other	\$76,579
Bernards Township	SHBP	\$197,430
Bradley Beach	SHBP	\$43,752
City of Camden	Other	\$1,263,551
Edison Township	Other	\$849,269
Englewood Cliffs	SHBP	\$85,256
Fort Lee	Other	\$265,645
Harrison	Other	\$259,255
Hoboken	Other	\$602,482
Neptune	Other	\$223,701
Passaic Valley Sewerage Commissioners	Other	\$730,240
Pennsauken Sewerage Authority	SHBP	\$59,647
Rockaway Township	SHBP	\$190,349
Total Estimated Savings (FY-2008)		\$6,300,150

¹ Estimated annual savings that would accrue to each of the governmental entities examined in detail in this report if their employee salaries were subjected to a 1.5 percent salary deduction for health-care coverage.

² State Health Benefits Plan

N.J.S.A. 52:9M-12.2 provides that:

- a. The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following materials are responses submitted pursuant to those statutory requirements.

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November 9, 2009

Via Federal Express
Alan A. Rockoff, Executive Director
State of New Jersey
Commission of Investigation
28 West State Street
P.O. Box 045
Trenton, New Jersey 08625-0045

Re: Township of Neptune
Notice of Proposed Report
Dissemination Nos.: 09-10-001, 09-10-004, 09-10-008, 09-10-014,
09-10-015, and 09-10-023

Dear Mr. Rockoff:

This firm serves as labor counsel for the Township of Neptune. Six Township administrative employees – the Township Administrator; the Township’s Chief Financial Officer (“CFO”); the Township Clerk; the Tax Assessor; the Chief of Police; and the Deputy Chief of Police – have each received a letter from the State Commission of Investigation, to which was attached a draft of a section of a future SCI report. Pursuant to N.J.S.A. 52:9M-

12.2(c) and (d) please accept this letter as clarification, correction, and/or objection to the information contained in the draft report section forwarded to these six Township employees:

1. Each of the six employees has employment contracts which were negotiated with and adopted by the Township Committee. The aforementioned adoptions took place at open public meetings of the Township Committee.

2. The provision for compensatory time – 56 compensatory hours per year for the Administrator, CFO, Clerk, and Tax Assessor, and 48 hours per year for the Chief and Deputy Chief – is contained in the employment contracts for each of the six aforementioned individuals. With respect to the four non-public safety employees, the Commission’s draft report fails to note that these compensatory time hours are not automatically awarded by contract but, rather, are earned by the employees. For the two Police employees, the compensatory hours are based upon hours worked in the previous calendar year. Thus, in both cases the compensatory time hours are for hours worked above and beyond the regular workday, and are not simply an unearned contractual benefit awarded to the employees. In addition, the annual number of compensatory hours established by contract is actually a “cap” on the number of compensatory hours that the employees can earn in a year. Thus, even though the Administrator may work of total of 2,500 hours per year, he is entitled to but 56 hours of compensatory time for the hundreds of hours he works above 1,820. The four non-public safety employees work 1, 820 hours per year, while the Chief and Deputy Chief work 2,080 hours per year. Each of these six employees work many hours beyond the contractual number of hours per year, and the 56 hours of compensatory time is the only fiscal recognition of these hundreds of extra hours that these six employees work for the Township each year.

3. The draft report states that it was difficult for the Commission to ascertain whether these 56 hours of compensatory time for the non-public safety employees were actually earned by these employees “because the Township does not maintain daily or hourly time sheets to reflect total actual hours worked”. This is incorrect. The SCI investigator was in fact provided by the Township with time sheets for each of the four employees in question, which time sheets contain specific information to support the earning of these compensatory hours (and many hours more than the 56 hours of annual compensatory time) by the employees in question.

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APRUZZESE, McDERMOTT, MASTRO & MURPHY

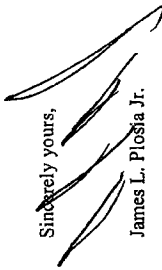
4. The draft report fails to note that the Administrator, CFO, Clerk, and Assessor do not have the ability to carry the compensatory time into subsequent years.

5. The 48 hours of compensatory time for the Chief and Deputy Chief has been included in employment contracts for these positions in Neptune Township for over twenty years. The benefits were negotiated in good faith between the Township Committee and the Chief and Deputy Chief, and the contracts have always been approved at open meetings of the Township Committee. This benefit is designed to account for "incidental overtime which would require the Chief or Deputy Chief to perform service for the Township outside normal business hours, for which no claim of overtime would be made. For instance, the "chain of command" in law enforcement requires superior officers in the chain of command be notified of certain events. Likewise, those superior officers must give instruction back down the chain of command. This notification and instruction undoubtedly occurs which the Chief and Deputy Chief are not on duty, either before or after their shifts begin but most likely, due to the nature of police work, in the middle of the night. Both the Chief and Deputy Chief experience this phenomenon on nearly a daily basis and do not seek to recoup this time through overtime requests. Therefore, the benefits provided to the Township by their service far exceeds the 48 hours of compensatory time benefit the Chief and Deputy Chief receive. Moreover, the ability to obtain supervisory overtime in Neptune Township is available to all Superior Police Officers in the Township, and all such Officers have the ability to either be paid for this Supervisory overtime or to receive time off for this benefit. Finally, the 48 hours of compensatory time is covered in three separate contracts: that of the Chief of Police, of the Deputy Chief of Police, and FOP Lodge No. 19, which covers Superior Officers in Neptune Township.

APRUZZESE, McDERMOTT, MASTRO & MURPHY

6. The reference in the draft to the Township paying out "nearly \$136,000 for cashing in compensatory time" is inaccurate. That amount includes tens of thousands of dollars that the Chief and Deputy Chief have earned throughout previous years pursuant to a collective bargaining agreement and statutory obligation, in positions other than Chief and Deputy Chief. As the Commission is no doubt aware, compensatory time (or overtime in cash) must be paid as a matter of federal law (the Fair Labor Standards Act) to any employee who works more than forty hours per week and is not employed in a position which is exempt under the Act.

The six Neptune Township employees in question hereby request that the Commission revise the draft report to include these corrections and clarifications, and include this letter of objection in the appendix to the report. Thank you for your attention to this matter. Please contact me if you have any questions or require further information.

Sincerely yours,

James L. Plosia Jr.

JLP:CAP:Neptune Twp\Backoff Ltr Public Emp. Benefits Invest. 11-6-09.doc

- cc: Township Administrator (via reg. mail)
- Chief Financial Officer (via reg. mail)
- Municipal Clerk (via reg. mail)
- Tax Assessor (via reg. mail)
- Chief of Police (via reg. mail)
- Deputy Chief (via reg. mail)

67x

RECEIVED

2009 NOV -9 PH 1:23

INVESTIGATION

Bryan Christiansen
2006 Darbes Court
Edgewater, NJ 07020

November 6, 2009

Alan A. Rockoff
Executive Director
State of New Jersey
Commission of Investigation
28 West State Street
Trenton, NJ 08625-0045

Re: Notice of Proposed Report
Dissemination No. 09-10-007

Dear Mr. Rockoff:

I received your letter on behalf of the State of New Jersey Commission of Investigation dated October 30, 2009 regarding the above-referenced matter. Please accept this letter in response.

I have been involved in the administration and management of wastewater and solid waste facilities for over 30 years. During that time, I have built energy to waste plants and wastewater treatment facilities in both the private and public sector, and have also been an Executive Director in those fields.

As you are aware, I currently serve as the Executive Director of the Passaic Valley Sewerage Commissioners ("PVSC"). PVSC is a body politic and corporate created in 1902 by the State of New Jersey pursuant to N.J.S.A. 58:14-1, et seq. PVSC's duties are to manage and regulate the collection and disposal of wastewater generated in a four-county treatment district along the Passaic Valley River Basin and its ongoing mission is to relieve the streams and rivers of the Passaic Valley River Basin of pollution. In furtherance of this purpose, PVSC maintains an extensive main interceptor and branch interceptor sewer system and operates its wastewater treatment plant in Newark, New Jersey with the capacity to treat 330 million gallons of wastewater per day. PVSC is one of the oldest publicly-owned wastewater facilities in the United States and the fifth largest in the entire country. PVSC treats wastewater generated by approximately 1.3 million people, approximately 270 significant industrial users and thousands of small industrial and commercial users in 48 municipalities in northern New Jersey. Pursuant to federal and state laws, PVSC also acts as the regulatory body for the enforcement of wastewater discharge and pollution control laws and regulations.

10/19/09

PVSC's budget for FY 2008 was over \$160,000,000. PVSC receives no operating capital from the State of New Jersey; rather, PVSC raises all of its operating capital itself. Nevertheless, PVSC continues to have the lowest user charges in New Jersey for wastewater treatment and disposal, averaging approximately \$110 per household per year. During my tenure, PVSC has been able to cut its number of employees from 700 to less than 600, saving approximately \$8.4 million in salaries and benefits. At the same time, PVSC has expanded its operation including receiving over \$25 million per year in revenues from the treatment of wastewater generated outside of PVSC's treatment district.


PVSC has won numerous awards on both the state and federal levels for operation and innovation in the wastewater treatment field. We are also the lead agency in the clean up of the Passaic River.

My employment at PVSC is "at-will". Specifically, I may be terminated without cause, for any reason, at any time. Those reasons may include which way the political winds happen to be blowing at any given moment. As a life-long professional in the wastewater industry, it would be foolhardy and a disservice to my family and to me to accept employment under such conditions without an employment agreement that provides some measure of protection from such winds which, as you are no doubt aware, can change suddenly and arbitrarily.

I submit this letter the SCI because of its failure to present the facts in its proposed Commission report in a complete and unbiased manner. Instead of accurately portraying the facts as stated above, the SCI, in tabloid fashion, chooses only to present two components of my negotiated employment agreement with PVSC under the heading, "Excessive Benefits and Payout." That employment agreement was approved by Commissioners who are appointed by the Governor and who possess impeccable credentials.

I anticipate that the Commission will give all due consideration to the facts provided herein.

Please do not hesitate to contact me for any additional information or to further discuss this matter.

Very truly yours,

Bryan Christiansen

68x

02/10/09

EMPLOYMENT AGREEMENT

This employment agreement ("Agreement") is dated as of the 11th day of February, 2009, between Passaic Valley Sewerage Commissioners ("PVSC"), a body politic and corporate created by the State of New Jersey pursuant to N.J.S.A. 58:14-1 et seq., having an office at 600 Wilson Avenue, Newark, New Jersey 07105, and Bryan J. Christiansen, residing at 505 Eilley Court, Edgewater, New Jersey 07020 ("Christiansen").

1. Purposes of the Agreement.

- 1.1 PVSC is a body politic and corporate created by the State of New Jersey to manage and regulate the collection and disposal of wastewater generated in a four-county area along the Passaic Valley River Basin. PVSC's ongoing mission is to relieve the streams and rivers of the Passaic Valley River Basin from pollution. In furtherance of this purpose, PVSC maintains an extensive sewer system and operates a wastewater treatment plant in Newark, New Jersey with the capacity to treat 330 million gallons of wastewater per day. PVSC treats wastewater generated by approximately 1.2 million people, approximately 270 significant industrial users and over 4,000 small industrial and commercial users in approximately 48 towns and cities in Northern New Jersey.
- 1.2 Pursuant to N.J.S.A. 58:14-6, PVSC is authorized to appoint such officers and employees as PVSC may deem necessary to carry out its statutory purposes.
- 1.3 Bryan J. Christiansen ("Christiansen") has served as the Executive Director of PVSC since March 15, 2004, (with succeeding Employment Agreements dated September 14, 2005, and June 14, 2007, entered into between PVSC and Christiansen).
- 1.4 PVSC wishes to provide for continuity in the management of PVSC. PVSC acknowledges that, historically, a written contractual relationship for the Executive Director enhances PVSC's ability to attract high caliber personnel to conduct and administer PVSC's statutory obligations, improves employee morale and performance, and reduces the rate of turnover, all to the distinct advantage of PVSC and its ongoing environmental mission.

- 1.5 PVSC is of the opinion that Christiansen has fully demonstrated the necessary qualifications, experience and ability to continue to serve as the Executive Director of PVSC and wishes to continue to employ Christiansen on the terms and conditions as set forth in this Agreement.
- 1.6 Christiansen wishes to continue his employment with PVSC, on the terms and conditions as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, PVSC and Christiansen hereby agree as follows:

- 2. Employment, Title, Previous Employment Agreement Superseded, and Term.
 - 2.1 Employment and Title. PVSC hereby appoints and continues the employment of Christiansen as the Executive Director of PVSC. Christiansen hereby accepts such appointment and continued employment under the terms and conditions set forth herein.
 - 2.2 Previous Employment Agreement Superseded. The previous Employment Agreement dated June 14, 2007, between PVSC and Christiansen is superseded in all regards by the terms and conditions of this Agreement.
 - 2.3 Term. Subject to Section 6.1, below, the term of this Agreement shall be five (5) years from the date of execution, at which time this Agreement shall expire if it has not previously been terminated in accordance with the terms and conditions of this Agreement.
- 3. Duties, Exclusivity and Limitation of Authority.
 - 3.1 Duties. Subject always to the supervision and direction of PVSC, Christiansen shall perform such services and have such duties and responsibilities as are customarily associated with the position of Executive Director of PVSC, and as otherwise determined by PVSC. Christiansen shall devote his full business time and attention and his best efforts, and apply all of his skill and experience, to the proper performance of his duties under this Agreement. Christiansen shall promote and further the good name of PVSC to the best of his ability. In the event of separation or termination for any reason from PVSC, or upon the expiration of this Agreement, Christiansen shall assist PVSC in an orderly transition of his duties to his successor.

02/10/09

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02/10/09

3.2 Exclusivity. Christiansen shall not, without the prior written approval of PVSC, either directly or indirectly engage in any business other than that specified herein or accept any other employment. Notwithstanding the same, Christiansen shall not be precluded from engaging in the activities of trade associations or similar groups so long as the devotion of attention to such activities does not interfere with the performance and discharge of Christiansen's duties under this Agreement.

3.3 Limitation of Authority. Christiansen shall have limited authority to execute contracts without PVSC's prior approval consistent with PVSC resolutions currently in effect.

4. Compensation.

4.1 Salary. Compensation for the services to be rendered to PVSC by Christiansen shall be paid at Range 25 of the PVSC Annual Salary Schedule, starting at Step 5 and progressing to Step 6 during the term of this Agreement. Range 25 shall also be increased by the same percentage as that granted to all other full time PVSC employees each year, and in no event shall Range 25 be decreased from its current level at any time for purposes of this Agreement.

4.2 Benefits. Christiansen shall be entitled to all employee benefits as enumerated in the PVSC Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto. This includes, but is not limited to, vacation time, health benefits, Pension Programs, and life insurance.

4.3 Car Allowance. In accordance with the past policy of PVSC, Christiansen shall be assigned a car for use without restrictions.

4.4 Expense Reimbursement. PVSC shall reimburse Christiansen for all reasonable and necessary expenses actually incurred by him in the performance of his duties under this Agreement upon the presentation of such bills, expenses, statements, vouchers and other supporting information as PVSC may require. Christiansen shall maintain adequate records, in such form and detail as the PVSC may reasonably request, of all such expenses to be reimbursed and make such records available to PVSC for copy and inspection at any time.

4.5 Withholding. Christiansen acknowledges that all taxes, social security and employee contributions for benefits will be withheld from his salary.

4.6 Severance Benefit. In addition to any other benefits provided for in this Agreement, and in the event that PVSC terminates this Agreement and the employment of Christiansen with PVSC without cause only, Christiansen shall be entitled to a severance benefit, as more fully provided for in Section 6.2 of this Agreement. PVSC acknowledges that such a severance benefit is compensation for past services provided by Christiansen. Christiansen acknowledges that any compensation paid as a severance benefit shall be subject to withholding as provided in Section 4.5 above.

5. Termination.

5.1 Termination Without Cause. PVSC may terminate this Agreement and Christiansen's employment with PVSC at any time, without cause and immediately upon notice to Christiansen.

5.2 Termination Upon Death of Executive Director. Christiansen's employment shall terminate upon his death. Christiansen's beneficiaries shall be entitled to all death benefits as enumerated in the PVSC Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto.

5.3 Termination For Cause. PVSC may terminate Christiansen's employment for "cause". "Cause" may be defined as, but is not limited to, any of the categories identified as "Causes for Disciplinary Action" under the "Employee Conduct" section of the PVSC Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto. If Christiansen's employment hereunder is terminated for cause, Christiansen shall be entitled to the same rights as any PVSC employee as enumerated in PVSC's Personnel Policy and Procedures Manual, as revised on December 13, 2001, or any subsequent revisions thereto.

5.4 Termination for Good Reason. Christiansen may terminate his employment for "good reason". "Good reason" may be defined as, but is not limited to, Christiansen's voluntary resignation following the initial occurrence of: (a) a material breach by PVSC of its obligations under this Agreement; (b) requiring Christiansen to perform duties not customarily performed by the executive director of a business entity comparable in size of operations to PVSC; (c) requiring Christiansen to report to or be accountable to anyone other than either the Chairman or Vice Chairman of PVSC; or (d) establishing Christiansen's primary office to a location other than at PVSC's headquarters at 600 Wilson Avenue, Newark, NJ. Notwithstanding the foregoing, Christiansen must assert any

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02/10/09

severance benefit shall be paid to him if he is terminated or ceases employment with PVSC for any other reason.

7. Miscellaneous.

- 7.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes all prior agreements and understandings, written or oral, with respect thereto.
- 7.2 Amendment; Waiver. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), so long as said amendment or waiver is in writing and signed by both parties.
- 7.3 Binding Effect. This Agreement calls for the personal services of Christiansen and no part of his rights or obligations hereunder may be assigned by Christiansen. This Agreement shall bind and inure to the benefit of and be enforceable by the parties hereto and their respective successors, heirs, legal representatives and permitted assigns.
- 7.4 Governing Law; Jurisdiction. This Agreement shall in all respects be interpreted, enforced and governed by the laws of the State of New Jersey. Any action to enforce the terms of this Agreement may be brought only in the Superior Court of the State of New Jersey or the United States District Court for the District of New Jersey.
- 7.5 Notices. All notices, demands and other communications regarding this Agreement shall be in writing, delivered personally, sent by registered or certified mail, postage prepaid and return receipt requested, or delivered by recognized overnight carrier (e.g., Federal Express) to the address of such party as set forth on the first page of this Agreement, unless changed by a notice given as provided herein. Delivery shall be deemed given upon receipt or when delivery is refused.
- 7.6 Severability. If any provision of this Agreement or its application to any party or circumstance is held invalid, the invalidity does not affect any other provisions or applications of this Agreement that can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

02/10/09

termination for good reason by written notice to PVSC no later than twenty (20) days following the initial existence of the event giving rise to good reason, and PVSC must have an opportunity within thirty (30) days following delivery of such notice to attempt to rescind or correct the matter giving rise to good reason (the "Cure Period"). If PVSC does not rescind or correct the conduct giving rise to good reason to Christiansen's reasonable satisfaction by the expiration of the Cure Period, Christiansen's employment will then terminate with good reason.

6. Severance Benefit; Applicability.

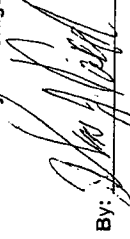
- 6.1 Severance Benefit Payable Upon Termination Without Cause or Upon Termination for Good Reason. In the event that PVSC terminates this Agreement and the employment of Christiansen with PVSC without cause, or in the event Christiansen terminates this Agreement and his employment hereunder for good reason, Christiansen shall be entitled to a severance benefit, payable within forty-five (45) days after the date of termination, to be calculated as follows:
 - a. For every twelve (12) months of employment with PVSC, including employment prior to the effective date of this Agreement, Christiansen shall accrue a severance benefit equal to six (6) months' salary. The severance benefit shall be calculated based on Christiansen's salary as of the date of termination.
 - b. The maximum severance benefit that may accrue to Christiansen shall not be greater than twenty-four (24) months' salary, as calculated based on Christiansen's salary as of the date of termination.
 - c. For the purpose of calculating the severance benefit to which Christiansen may become entitled, the parties agree that Christiansen's employment commenced March 15, 2004.
 - d. The severance benefit shall be based on pre-tax and pre-withholding salary only and shall not include the value of any other benefits Christiansen may receive under this Agreement.
- 6.2 Applicability of Severance Benefit. Any severance benefit under this Agreement is only payable if either (a) Christiansen is terminated by PVSC without cause or (b) Christiansen terminates his employment for good reason. Christiansen acknowledges that no

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02/10/09

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first written above.

Passaic Valley Sewerage Commissioners

By: 

Title: Chairman


BRYAN J. CHRISTIANSEN

Attest:


Anthony Ardis, Clerk

02/10/09

- 7.7 Captions. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.
- 7.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- 7.9 Representation. Christiansen represents and warrants to PVSC that his retention hereunder and performance of the terms of this Agreement as an employee of PVSC does not and will not breach any other agreement of Christiansen.
- 7.10 Attorney Review; Knowing and Voluntary Agreement. Each party represents that it has had the opportunity to consult an attorney to review this Agreement. The parties further represent and acknowledge that they have had a reasonable amount of time to fully consider this Agreement, and that in executing this Agreement, they rely entirely upon their own judgment, beliefs and interests and the advice of their respective counsel, and they do not rely and have not relied upon any representation or statement made by the other party, or by any agents, representatives or attorneys of the other party, with regard to the subject matter, basis or effect of this Agreement or otherwise, other than as specifically stated in this Agreement.
- 7.11 Negotiated Agreement; No Construction Against Any Party. Each party to this Agreement has read this Agreement and has freely and voluntarily executed it. No ambiguity that may arise in this Agreement shall be resolved by construing the Agreement against any of the parties as drafter of same.

72x

RECEIVED
2009 NOV 10 AM 10:51
COMMISSIONER OF
INVESTIGATION

November 4, 2009

State of New Jersey
Commission of Investigation
28 West State Street
PO Box 045
Trenton, NJ 08625-0045
Attention: Alan A. Rockoff, Executive Director

re: HARRY DEBUTTS
BOROUGH OF AVALON
NOTICE OF PROPOSED REPORT
DISSEMINATION NO. 09-10-009

Dear Mr. Rockoff:

I acknowledge receipt of your letter dated October 23, 2009 (received by me on October 27, 2009) pertaining to the Notice of a Proposed Report.

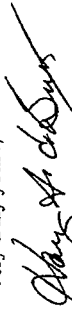
Your letter informs me that the Commission is conducting an investigation and issuing a report on the results thereof.

Your letter informs me that I may submit a written response which the Commission shall, in accordance with the provisions of the Act, include in the report.

Accordingly, enclosed please find Affidavit under oath setting forth my response.

I respectfully request that this response be included in the Commission's report.

Very truly yours,


Harry deButts
10B Fourth Avenue
Cape May Court House, NJ 08210

AFFIDAVIT OF HARRY DEBUTTS

STATE OF NEW JERSEY:
COUNTY OF CAPE MAY:

Harry deButts, being duly sworn upon his oath, deposes and says:

1. I reside at 10B 4th Avenue, Cape May Court House, Cape May County, New Jersey.
2. I acknowledge receipt of a letter dated October 23, 2009 of the State of New Jersey Commission of Investigation received by me on October 27, 2009, pertaining to a Notice of Proposed Report under Dissemination No. 09-10-009.
3. The Commission's letter notifies me that I may submit a written response which the Commission shall in accordance with the law include in a report to be issued in connection with its investigation.
4. Accordingly, the following constitutes my Response that I request be included in the Commission report:

"The payment received by me from the Borough of Avalon upon my retirement was not made possible by unique contractual provisions applicable only to me. I was employed by the Borough on July 1, 1987 and retired on August 1, 2007. After these 20 years of service to the Borough, I was entitled to certain terminal leave benefits.

Section 3.6 1a. of the Avalon Personnel Policy Manual provides in pertinent part that employees "who retire in accordance with the Rules of the Public Employees Retirement System ("PERS")...shall receive terminal leave immediately prior to retirement . Such leave shall be computed at a rate of four (4) calendar days for each calendar year of service. Added to such leave shall be any compensatory time off and vacation time which is owed to the retirement employee..."

As a result of my 20 years of dedicated service to the Borough, I was paid \$78,124.95 for Terminal Leave and other accrued but unused leave. This amounts to approximately \$3,900.00 per year of service.

Over the years, I was committed and dedicated to my work at the Borough. I only used sick leave when it was seriously needed. Thankfully, I did have 72 days available when I became seriously ill prior to my retirement. My understanding is that the 15 sick days I received each year from the Borough is

1017938

MR. ROBERT DeNARDO
618 Evergreen Avenue
Bradley Beach, New Jersey 07720
732-620-3758

the same amount of sick leave that New Jersey regulations require civil service municipalities to provide to their employees. Unfortunately, even with that time I was unable to recover to the point at which I could resume my position as Director of Public Works that I had held for so many years and was forced to retire."

5. I certify that the information contained in this Affidavit is true and correct to the best of my knowledge and belief.

Sworn and Subscribed to before me this 6th day of November, 2009.



AMY W. ZELUSKINS
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXP. 1-28-2013



Harry deButtis

October 29, 2009

Alan A. Rookoff, Executive Director
State of New Jersey
Commission of Investigation
28 West State Street
P.O. Box 045
Trenton, New Jersey 08625

Re: Notice of Proposed Report
Dissemination No. 09-10-010

Dear Mr. Rookoff:


Kindly accept this letter as a response to yours of October 23, 2009.

I reached a contractual agreement with my prior employer, the Borough of Bradley Beach that was within the existing law. My receiving remuneration was based upon past labor practices, and my accumulation of sick time was over a career of thirty-three (33) years. I find it difficult to comprehend how my following the existing rules has now become something that places me in the public spotlight and infers that my agreement with my prior employer is to be retrospectively examined as a public policy to be questioned.

It should also be noted that during my thirty-three (33) years of service there were many occasions that I came to work when not feeling particularly well because my calling in sick would have created the need and burden for others of a small municipal police department to work extended shifts and cause the Borough to pay resulting overtime salaries.

I would like to thank you in advance for allowing me to comment.

Very truly yours,


ROBERT DeNARDO

THIS 2ND DAY OF
NOVEMBER, 2009



RAYMOND BLOETJIES
ID # 2209703
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 2/15/2013

744

RECEIVED

JAMES M. KRONE
20 Morrell Place
Garfield, NJ 07026

2009 NOV -4 AM 9:49
Commission of Investigation

October 28, 2009

Alan A. Rockoff, Esq.
Executive Director
State of New Jersey
Commission of Investigation
28 West State Street
PO Box 043
Trenton, NJ 08625-0045

Re: **Notice of Proposed Report
Dissemination No. 09-10-017**

Dear Mr. Rockoff:

This letter under oath is in response to your notice of October 23, 2009, in which you indicate that the State Commission of Investigation ("SCI") intends to criticize an Employment Severance Agreement between Passaic Valley Sewerage Commissioners ("PVSC") and me. A copy of the Employment Severance agreement is attached to this letter.

Your criticism is unwarranted, unfair and without merit. Your notice that you intend to criticize my Employment Severance Agreement with PVSC reflects a lack of investigation on the part of the SCI and a blind failure to recognize an agreement that inures to the benefit of PVSC and its service community.

If an appropriate investigation was conducted, the SCI would ascertain that I had an employment agreement with PVSC as the Deputy Executive Director with a termination date of April 1, 2008. Ten months prior to the termination date, in an arm's length transaction, PVSC negotiated a severance agreement with me whereby I waived the balance of my contractual agreement in exchange for a lump sum payment calculated at 50% of the value of my remaining salary. The lump sum payment calculated in the amount of \$88,423.04.

From what I am able to glean from the excerpt provided by your office, the SCI fails to disclose that PVSC saved an equal amount of money by entering into this Employment Severance Agreement with me, *i.e.*, PVSC saved \$88,423.04 that it was contractually obligated to pay me.

RECEIVED

Chief Walter A. Kimble
Retired
2769 Independence Way
Gastonia, N.C. 28056

2009 NOV 12 AM 9:39
Commission of Investigation

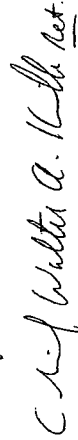
The Honorable Alan A. Rockoff
Executive Director
State of New Jersey Commission of Investigation
28 West State Street
P.O. Box 045
Trenton, N.J. 08625-0045

Re: Report 09-10-016

I am writing in response to the aforementioned report under N.J.S.A. 52:9M-12.2. I have reviewed the text forwarded to me and find that with the limited amount of content that has been provided to me with which to base my response, this task is difficult at best. I would however like to point out the following for your review.

The accumulated time to which you refer in your report was accrued over a twenty-five year police career. The amount of time accumulated was compiled and paid by my employer as part of a contractual obligation. I paid all applicable federal and state taxes associated with this payment. This agreement was approved by the governing body as part of the police contract and as such was public record. Other officers were entitled to the same benefit of payment for accumulated time at the time of retirement.

Sincerely



Chief Walter A. Kimble Ret.

1017440

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RESOLUTION

After the arm's length negotiation, a seven (7) page Employment Severance Agreement was negotiated between counsel, which was approved by resolution of the Commissioners of PVSC at a public meeting on March 8, 2007. If the SCI, consistent with its charter, would have performed an appropriate investigation, it would have discovered that, as part of the resolution approving my severance and release of my contractual rights with PVSC, the Commissioners of PVSC directed that the position of Deputy Executive Director be eliminated as a cost-effective service to its rate payers.

In fact, the position of Deputy Executive Director was eliminated at PVSC and remains eliminated to this day, at a savings of more than \$210,000 annually.

If the SCI wants to present an honest and factually correct report to the people of New Jersey you would report that PVSC, by entering into the Employment Severance Agreement with me, has saved to date in excess of \$403,000. That is real dollars saved to PVSC rate payers. Instead, the SCI has provided me with notice that you intend to "criticize" the Severance Agreement. Nothing can be further from the truth.

Finally, the SCI has advised that they are also going to be critical of the fact that I received approximately \$7,100 for unused accumulated sick time. This sick time payout was earned by me and paid by PVSC in accordance with the same policy utilized by the State of New Jersey for unused sick time.

Very truly yours,

James Krone
JAMES M. KRONE

Virginia D. Moreno

My Commission Expires October 09, 2011

VIRGINIA D. MORENO
Notary Public
State of New Jersey
My Commission Expires October 09, 2011

WHEREAS, pursuant to N.J.S.A. 58:14-6, the Passaic Valley Sewerage Commissioners ("PVSC") may appoint such officers and employees as they may deem necessary to carry out the purposes for which PVSC was created; and

WHEREAS, on October 11, 2001, PVSC entered into an Employment Agreement (the "Agreement") with James Krone ("Krone"), pursuant to the terms of which Krone was employed by PVSC in the position of Deputy Executive Director; and

WHEREAS, the Agreement called for Krone to serve as Deputy Executive Director for a term beginning October 15, 2001, and ending on October 15, 2005; and

WHEREAS, on September 14, 2005, PVSC and Krone entered into an Amendment to the Agreement, pursuant to which amendment the ending date of the term of the Agreement was extended from October 15, 2005, to April 1, 2008; and

WHEREAS, PVSC, in furtherance of providing cost-effective service to its rate payers, desires to eliminate the position of Deputy Executive Director; and

WHEREAS, Krone has agreed to enter into a contract to sever his employment relationship with PVSC, waive the balance of the contractual term of the Agreement, and retire from PVSC in consideration for a lump sum payment equal to fifty percent (50%) of the value of the remaining salary that would have been due to Krone under the Agreement from the date of his retirement until April 1, 2008, a sum which is substantially less than that which would be due and owing to Krone if he remains employed by PVSC until the end of the term of the Agreement, as amended; and

WHEREAS, the payment of above-stated sum to Krone would be solely in consideration for his promise to retire and waive any contractual rights he may have to remain employed with PVSC, and would not constitute salary for any services performed; and

WHEREAS, the acceptance of Krone's retirement from PVSC under the above-stated conditions and the elimination of the position of Deputy Executive Director would create substantial savings to PVSC and its rate payers in the future.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. PVSC accepts the retirement of James Krone, effective June 1, 2007, subject to the following terms and conditions:

- A. Krone, whose adjusted annual salary is \$212,215.29, shall be paid a lump sum payment of \$88,423.04 in consideration for his retirement from the position of Deputy Executive Director on June 1, 2007, said amount to be calculated as 50% of the value of his remaining salary from June 1, 2007 to April 1, 2008 (\$17,684.61 per month x 10 months x 50%); and

RESOLUTION NO. _____
PASSAIC VALLEY SEWERAGE COMMISSIONERS

RESOLUTION

- B. Krone shall receive compensation for accrued sick time, up to a maximum of \$15,000, and for any unused vacation time accrued as of June 1, 2007; and
 - C. PVSC shall make all required deductions for Federal, State and Social Security taxes from all amounts paid to Krone; and
 - D. In further consideration of the above, Krone agrees to waive any claims he may have to additional or further salary and/or compensation from PVSC under the terms and conditions of the Agreement, as amended, including but not limited to, any salary increases; and
 - E. No later than June 1, 2007, Krone shall surrender any and all PVSC property in his possession, custody or control, including, but not limited to any vehicle owned, leased or rented by PVSC and which vehicle is made available for Krone's use.
 - F. Specific Authority is hereby given to the Executive Director to enter into a contract with Krone to sever his employment relationship with PVSC under the terms and conditions as set forth herein.
2. The position of Deputy Executive Director is hereby eliminated, effective June 1, 2007.

77x

[Handwritten signature]

MEETING DATE: MARCH 8, 2007

	YES	NO	ABSTAIN	ABSENT	OTHER	REMARKS
Comm. Calandriello						
Comm. Flynn			✓			
Comm. Levine	✓					
Comm. Luna	✓					
Comm. Paserchia	✓					
Comm. Pengitore	✓					
V.Chmn. Czapliski				✓		
Chmn. Powell	✓					
TOTAL	6		1	1		

RESOLUTION NO. 27
PASSAIC VALLEY SEWERAGE COMMISSIONERS RESOLUTION

EMPLOYMENT SEVERANCE AGREEMENT

- 1. Parties. The parties to this Employment Severance Agreement ("Agreement") are James M. Krone ("Krone") and the Passaic Valley Sewerage Commissions ("PVSC"), a body politic and corporate of the State of New Jersey.
- 2. Intent of the Parties. Krone and PVSC are parties to an employment agreement dated October 11, 2001, as amended by the parties in writing dated September 14, 2005. The employment agreement, as amended, contains the terms and conditions of Krone's employment with PVSC as Deputy Executive Director. It is the specific, mutual intent of the parties to sever Krone's employment with PVSC by and through the execution of this Agreement.
- 3. Retirement from PVSC. Krone will retire from employment as Deputy Executive Director of PVSC, effective June 1, 2007 (hereafter, the "effective date of retirement"). By signing this Agreement, Krone hereby tenders his resignation from that position and any other position with PVSC as of the effective date of retirement. Krone acknowledges that PVSC shall have no obligation to employ or re-employ Krone now or in the future in any capacity.
- 4. Consideration. Krone acknowledges that PVSC, in consideration of Krone's promise to retire and waive any contractual rights he may have with PVSC, will make the following payments and provide the following benefits, conditioned on his agreement to be bound by the terms of this Agreement, including the general release in paragraph 4, his compliance with these terms, and his satisfactory performance of his job duties through the effective date of retirement.
 - a. Severance Payment – PVSC will pay to Krone, whose adjusted annual salary is \$212,215.29, a lump sum payment of \$88,423.04, said amount calculated as 50% of the value of Krone's remaining salary from June 1, 2007 to April 1, 2008 (\$17,684.61 per month x 10 months x 50%).
 - b. Vacation Days – Krone shall be entitled to receive payment from PVSC for all of his accrued, earned and unused vacation through the effective date of retirement, in accordance with the policies and procedures of PVSC.
 - c. Sick Days – Krone shall be entitled to receive payment from PVSC for all of his accrued, earned and unused sick days through the effective date of retirement, up to a maximum of \$15,000, in accordance with the policies and procedures of PVSC.

Initials: *J.K.*
James Krone: *[Signature]*

PVSC: *[Signature]*

d. Health Benefits - Krone shall be entitled to a continuation of PVSC group health benefits and premium payments based on his age and length of continuous service with PVSC as calculated through the effective date of retirement, in accordance with the policies and procedures of PVSC.

e. Outstanding Expenses - PVSC will reimburse Krone for any as-yet unreimbursed business expenses consistent with PVSC policy and provided Krone submits appropriate documentation and receipts within 10 (10) days of the effective date of retirement. Business expenses submitted for reimbursement after that date will not be reimbursed.

5. Full Release of All Claims. In exchange for the consideration described in Paragraph 4 of this Agreement, which Krone acknowledges is not otherwise owed, Krone, for himself, his agents, attorneys, heirs, administrators, executors, and assigns, and anyone acting or claiming on his or their joint or several behalves, hereby waives, releases and forever discharges PVSC, its Commissioners, Officers, agents, attorneys, successors, and assigns, jointly and/or severally (collectively, the "Released Parties"), from any and all known or unknown claims, causes of action, demands, damages, costs, expenses, liabilities or other losses whatsoever to the full extent permitted by law and that in any way arose from, grew out of, or are related to events or circumstances that occurred prior to the date of Krone's execution of this Agreement, including, but not limited to, any matter that relates to Krone's employment with PVSC or the termination thereof. This release includes, without limitation, any claim of discrimination or harassment on any basis, including race, color, national origin, religion, sex, age, handicap or disability arising under any federal, state, or local statute, ordinance, order or law, including without limitation the Age Discrimination in Employment Act, as amended; the Older Workers Benefit Protection Act; Title VII of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act; the Family and Medical Leave Act; the Employee Retirement Income Security Act, as amended; all state law discrimination claims; any and all claims under federal or state statute or common law including any contract claims, tort claims or wrongful discharge claims, including constructive discharge claims; and any other claims which in any manner arise out of Krone's employment or his termination of employment with PVSC. Additionally, Krone certifies and warrants that Krone is not presently aware of any workplace injury suffered while in PVSC's employ. Krone further certifies and warrants that he has received all leave time to which he is entitled and has been paid for all hours worked and properly compensated for all hours worked in excess of forty per week.

6. No Unresolved Claims. This Agreement has been entered into with the understanding that there are no unresolved claims of any nature which Krone has against PVSC and/or any Released Party. Krone acknowledges and agrees that, except for future benefits expressly set forth in Paragraph 4 of this Agreement, all compensation and benefits due him by PVSC have been paid in full. Krone further agrees that the representations in this paragraph have been relied upon by PVSC in offering the consideration specified in Paragraph 4.


7. No Admission of Liability or Wrongful Conduct. Krone acknowledges that the consideration provided by PVSC in this Agreement is given solely in exchange for the promises and representations made by Krone in this Agreement and that such consideration does not constitute an admission by PVSC of liability or of violation of any applicable law or regulation or any wrongful conduct whatsoever. PVSC expressly denies any such liability, violation or other wrongful conduct.

8. Nondisclosure of Confidential Information.

a. Krone acknowledges that by reason of his position with PVSC, he has received access to various types of confidential operational, regulatory, business, medical, and personnel information relating to PVSC, its operations, its internal policies and procedures, users of its Treatment Works, and its employees (collectively, "Confidential Information"). PVSC represents that it has made reasonable and appropriate efforts to maintain the confidentiality of all such Confidential Information and that it will continue to do so. Krone acknowledges that such Confidential Information is of a regulatory, proprietary and sensitive nature and understands that a PVSC and the State of New Jersey have a legitimate interest in continuing to maintain the confidentiality of all such Confidential Information.

b. Krone agrees that, except in the limited circumstances described herein, he shall not disclose any Confidential Information in his possession, or under his control, in any form or in any manner whatsoever to any other person or entity without the express prior written consent of PVSC. Further, Krone may disclose Confidential Information only to the extent required by a court order or other compulsory process. Upon Krone's receipt of any order, subpoena or other compulsory process demanding production or disclosure of any Confidential Information, Krone agrees that he will promptly notify PVSC in writing of the requested disclosure, including the proposed date of the disclosure, the reason for the requested disclosure, and the identity of the individual or entity requesting the disclosure, no later than ten (10) business days prior to the date that such disclosure is to be made, if

Initials:
James Krone: J.K.

PVSC: 

Initials:
James Krone: J.K.

PVSC: 

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possible, but in any event within a reasonable time before such disclosure is to be made.

c. Krone agrees that the disclosure of Confidential Information by him shall result in irreparable harm to PVSC, and that PVSC shall be entitled to injunctive relief to restrain the disclosure or contemplated disclosure of Confidential Information in violation of this Agreement, and PVSC may also be entitled to pursue legal action for damages against Krone.

9. No Disparagement. Krone agrees not to make any false statement or communication to any third party regarding PVSC or Released Parties and not to make any statement regarding PVSC or Released Parties that could be reasonably construed as malicious, disparaging or defamatory.

10. Nondisclosure of Terms of Agreement.

a. Krone specifically acknowledges that PVSC is a "public agency" as defined under the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1, et seq., and thus subject to OPRA and/or common law rights of citizens to access government records and/or public information. Krone specifically acknowledges that this Agreement and/or any part thereof may be subject to disclosure to third parties by PVSC pursuant to OPRA and or other applicable laws, without notice to him of such disclosure.

b. Krone agrees that he will keep the terms and conditions of this Agreement strictly confidential. Except as specifically set forth below, Krone shall not disclose the terms of this Agreement in whole or in part to any individual or entity without express prior written consent of PVSC.

c. Krone agrees that he will not disclose the terms of this Agreement to any other person except: (i) to the extent required by a court order or other compulsory process; (ii) to any federal, state, or local taxing authority as necessary to comply with tax-related obligations; and (iii) as otherwise may be necessary to implement or enforce the terms of this Agreement.

d. Upon Krone's receipt of any order, subpoena or other compulsory process demanding production or disclosure of any term of this Agreement, Krone will promptly notify PVSC in writing of the requested disclosure, including the proposed date of the disclosure, the reason for the requested disclosure, and the identity of the individual or entity requesting the disclosure, no later than ten (10)

business days prior to the date that such disclosure is to be made, if possible, but in any event within a reasonable time before such disclosure is to be made.

11. Surrender of PVSC Property - No later than June 1, 2007, Krone shall surrender any and all PVSC property in his possession, custody and/or control, including, but not limited to, any vehicle owned, leased or rented by PVSC, which vehicle is made available for Krone's use. Krone agrees to immediately return his PVSC-provided identification card and any access card or keys he has to PVSC or to any PVSC-related facilities on unit and/or cabinets or file cabinets. Krone also agrees to immediately return all original and duplicate documents, files, reports, computer files and records, medical records, financial records, personnel records, policies and procedures and all other tangible things in his possession, or over which he has control, that were created, collected or received by Krone while employed at PVSC.

12. Cooperation with PVSC. In consideration for the receipt of any benefit under this Agreement or as part of his past compensation, Krone agrees to make himself fully available to, and to fully cooperate with, PVSC concerning pending and future investigations and litigation matters arising out of or relating to his employment with PVSC or other matters concerning PVSC about which Krone had or has knowledge.

13. Entire Agreement. Krone agrees that no promises or agreements have been made to him except those contained in or referenced by this Agreement and that this document constitutes the entire agreement and understanding between the parties concerning its subject matter.

14. Severability. The parties agree that the terms of this Agreement are intended to be severable. If any term, provision, clause or item of this Agreement is declared to be invalid or unenforceable by any court or administrative body of competent jurisdiction, the term, provision, clause or item should be reformed (if possible, or severed if not) to give maximum effect to the intentions of the parties, and the remaining portions of the Agreement shall be enforced to give effect to the parties' intentions to the maximum extent possible.

15. Controlling Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of New Jersey.

16. Review Period. Krone acknowledges and understands that he has twenty-one (21) days from the date this Agreement is first presented to him in which to review and consider this Agreement. Krone further understands that while he may sign this Agreement before the expiration of twenty-one (21) days, he is not required to do so.

17. Right to Counsel. Krone acknowledges and understands that he has the right to have his legal counsel review this Agreement, and Krone is advised to consult with an attorney prior to executing this Agreement.

Initials:
James Krone: JLK

Initials:
James Krone: JLK

PVSC: [Signature]

PVSC: [Signature]

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IN WITNESS WHEREOF, the parties have executed this Agreement this 21st day of May, 2007.

Signed in the presence of:

Patricia Young
Witness

James Krone
James Krone

Passaic Valley Sewerage Commissioners

Virginia Mabo
Witness

By: [Signature]
Title: Executive Director

18. No Assignment of Claims. Krone represents and warrants that he has not previously assigned or purported to assign or transfer to any person or entity any of the claims or causes of action herein released.

19. Notices. Any notices called for by this Agreement shall be given in writing, via hand-delivery, overnight delivery, and or facsimile (with a simultaneously mailed hard copy to follow via United States Mail, first class postage pre-paid), as follows:

If to PVSC:

Passaic Valley Sewerage Commissioners
Attention: Executive Director
600 Wilson Avenue
Newark, New Jersey
Fax:

With a copy to:

Chasan Leyner & Lamparello, PC
Attention: Ralph J. Lamparello, Esq.
300 Harmon Meadow Boulevard
Secaucus, New Jersey 07094
Fax: (201) 348-6633

If to Krone:

James Krone
20 Morrell Place
Garfield, New Jersey 07026
Fax:

20. Headings. Headings are included herein solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

21. Voluntary and Informed Consent. Krone expressly acknowledges that he has carefully read and understands the terms of this Agreement; that PVSC has advised him to consult with counsel prior to executing this Agreement; that he has had an opportunity to consult with an attorney prior to executing this Agreement; and that he has signed this Agreement voluntarily of his own free will, with a full understanding of its significance and intending to be bound by its terms.

Initials:
James Krone: JK

PVSC: [Signature]

Initials:
James Krone: JK

PVSC: _____

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March 5, 2003, and was in effect at the time of my retirement. The relevant provision states in pertinent part:

"The Chief of Police shall be permitted to carry all vacation time, time owed and compensation time. However, upon retirement, relative to vacation time, he shall only be permitted to sell back to the City of Hoboken three years of vacation days. All other time will be due the Chief of Police upon retirement if not used."

It is important to note that this agreement is a public document, was available for review upon request in the City Clerk's Office as of March 5, 2003 and was in fact given to citizens of Hoboken by the City of Hoboken.

Second, your reference to me being the "one notable exception to the maximum-payout rule" is inaccurate. Please allow me to explain.

1. Upon (NAME REDACTED) retirement, he informed me that his severance package exceeded his yearly salary. In fact, he informed me that he sold back to the City of Hoboken in excess of 300 unused vacation days.
2. At least one other member of the Hoboken Department of Public Safety of which I am aware had the benefit of contract language similar to mine; that is, he was entitled to receive a lump sum payment for terminal leave and accumulated vacation which exceeded a year's salary. It is my understanding that this individual exercised his contractual right and received a lump sum in an amount greater than his annual salary.
3. At least one other member of the Hoboken Department of Public Safety received more compensation than me upon retirement pursuant to a negotiated severance agreement that contained a confidentiality provision like mine which precluded disclosure of the agreement's terms.

It is important to reiterate that while my severance agreement is confidential, the terms relating to my severance compensation are consistent with and reflect contractual provisions that were available for public inspection. Prior to my retirement, there were occasions when certain aspects of police officers' separation from service were protected from public view. Finally, my decision to retire as Chief of Police and my negotiated severance agreement with the City of Hoboken involved sensitive issues beyond compensation provisions that led attorneys for both sides to conclude that a confidentiality clause was appropriate.

In summary, the compensation I received was consistent with the provisions of the publicly filed agreement I had in place with the City of Hoboken at the time of my retirement. The payment of money upon my retirement for unused terminal leave and vacation time in excess of one year of salary was not unique to me. The City of Hoboken paid me only as much as I was legally and contractually entitled to receive, and I submit there is no cause for the Commission to "criticize" my conduct in its public report. Although retired from the City of Hoboken, I continue to seek employment in the private sector and the personal and inaccurate reference to me in the proposed report will certainly be viewed with disfavor and is further likely to be misconstrued.

Therefore, for the reasons cited above, I respectfully request that the Commission modify its

November 5, 2009

Via Certified Mail

Mr. Alan A. Rockoff
Executive Director
State of New Jersey
Commission of Investigation
28 West State Street
PO Box 045
Trenton, NJ 08625

Re: Notice of Proposed Report
Dissemination No. 09-10-018

Dear Mr. Rockoff:

Thank you for the opportunity to respond to the Notice of Proposed Report Dissemination No. 09-10-018. I believe that if the Commission considers the information presented below, it will conclude that the criticism leveled against me, as set forth in the excerpt provided to me, is unwarranted and that no specific personal reference to me is necessary or appropriate.

First, the contract I had with the City of Hoboken expressly provided that as the Chief of Police I was *not* subject to the same one-year limitation on the lump-sum payment for terminal leave and accumulated vacation time that is placed on police officers in the rank of patrolman, sergeant, lieutenant and captain. As correctly indicated in the proposed report, the PBA Local #2 and PSOA Local #2 contract language included a retirement payout limitation not to exceed an amount equal to the officer's salary for one year. That agreement in pertinent part reads:

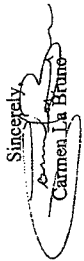
"An employee shall have the option to accumulate vacation time prior to his retirement. He may accumulate a maximum of three years of vacation. The accumulated vacation time shall be paid in a 100% lump sum payment on retirement or at the employee's request he shall receive this accumulated vacation and all other time on consecutive days just prior to his retirement. The maximum of lump sum payment for terminal leave and accumulated vacation shall not amount to more than a year's salary at the time of the employee's retirement....."

However, the specific provision in my contract addressing terminal leave, vacation pay and compensation excluded this limitation. The relevant language in my contract was in effect since

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proposed report to exclude references to me personally and to my situation as a "one notable exception." Thanking you in advance for your consideration, I remain

Sincerely,

Carmen La Bruno

CERTIFICATION

I certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Carmen La Bruno

Dated: November 5, 2009

of [NAME REDACTED]

Thank you again for your time and consideration, I remain

Sincerely,
Carmen V. La Bruna

RECEIVED

2009 NOV 12 AM 9:39

INVESTIGATION

November 10, 2009

Via Certified Mail

Mr. Alan A. Rockoff
Executive Director
State of New Jersey
Commission of Investigation
28 West State Street
PO Box 045
Trenton, NJ 08625

Re: Notice of Proposed Report
Dissemination No. 09-10-018

Dear Mr. Rockoff

Please accept this letter and attachments as a follow-up to my transmittal letter of November 5, 2009. I apologize for not enclosing these documents in my original letter. I requested them in a timely fashion from the City of Hoboken, however, I received them subsequent to the November 5, 2009 mailing of my original letter. These documents, with the exception of Document #5, were provided to me by Mr. Steven W. Kleinman, Corporate Counsel, City of Hoboken.

The official City of Hoboken documents confirm my position as outlined in my November 5, 2009 letter to you. That is, my compensation was consistent with my negotiated contract which is different than the PBA and PSOA contract and I was neither the first nor the last member of the Hoboken Public Safety Department to receive such compensation. I am also not the last member of the Hoboken Public Safety Department to have a confidentiality clause. Again, I respectfully request that you remove all references to me from your proposed report.

An explanation of the documents is as follows:

- 1) Document #1 is the City of Hoboken resolution ratifying my contract and the PSOA contract amendments.
- 2) Document #2 is the amendment to the PSOA contract.
- 3) Document #3 is my contract amendment.
- 4) Document #4 is the contract of recently retired [NAME REDACTED] and contains language identical to mine regarding vacation time, time owed and compensation time. His 2009 separation agreement includes a confidentiality clause.
- 5) Document #5 is a document I located which is a copy of a letter I was ordered to prepare by former [NAME REDACTED] and ordered to submit by former [NAME REDACTED] relative to the retirement

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Sponsored by *Joseph S. Shorman*
Sponsored by *Joseph S. Shorman*

CERTIFICATION

I certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Carmen La Bruno

Dated: November 10, 2009

RESOLUTION NO. 03-895

RESOLUTION AUTHORIZING THE CITY OF HOBOKEN TO ENTER INTO A LABOR CONTRACT WITH THE POLICE SUPERIOR OFFICERS ASSOCIATION (PSOA), and CHIEF OF POLICE

WHEREAS, the labor contract between the City of Hoboken and the Police Superior Officers Association (PSOA) expired on December 31, 2001; and

WHEREAS, the employment contract with the Chief of Police expired on December 31, 2001; and

WHEREAS, the City of Hoboken has engaged in negotiations on behalf of the City with the PSOA regarding the labor contract and seek to ratify the labor contract today, to be effective April 3, 2003; and

WHEREAS, the Mayor and Business Administrator have engaged in negotiations on behalf of the City with the Chief of Police and seeks to ratify this agreement today, to be effective April 3, 2003; and

WHEREAS, the terms resulting from said negotiations have been memorialized in the attached correspondence and Memorandum of Agreement between the parties; and

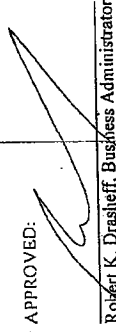
WHEREAS, the City of Hoboken Business Administrator and Chief of Police recommend that the terms memorialized in the attached correspondence and Memorandum of Agreement be incorporated into the labor contract with the PSOA; and

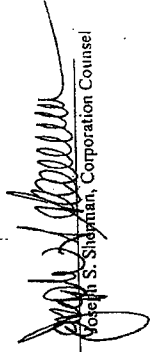
WHEREAS, the Mayor and Business Administrator recommend that the terms memorialized in the attached Memorandum of Agreement be incorporated into the employment contract with the Chief of Police.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hoboken, that:

1. The above recitals are incorporated as if fully set forth at length.
2. The Council hereby authorizes the Mayor or his designee to execute any and all documents and take any and all actions necessary to complete all actions necessary to complete and realize the intent and purpose of this resolution.
3. This resolution shall be effective immediately.

APPROVED:


Robert K. Drashteff, Business Administrator


Joseph S. Shorman, Corporation Counsel

DATE: March 5, 2003

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MEMORANDUM OF AGREEMENT

Between the City of Hoboken and Police Superior Officers Association

1. The contract shall cover a three-year period beginning January 2002 and expire on December 31, 2004.

2. Court Time - Reduce the minimum guarantee from four (4) hours to two (2) hours and increase base pay of all members of the bargaining unit \$1,000.00 effective January 1, 2003.

3. Emergency Leave - Reduce from three (3) occasions of three (3) days each to one (1) occasion of three (3) of the three days per year effective January 1, 2002.

4. Marital Leave - reduced from eight (8) to six (6) consecutive workdays effective January 1, 2002.

5. Blood Days - Effective January 1, 2002; Blood days earned must be used in the first eleven (11) months of the calendar year. Blood days earned in December may be used in December of the first quarter of the following year. In the event an officer is denied the use of a blood day as outlined herein, the day shall accumulate toward terminal leave. The maximum amount of blood days in any year is five (5) days.

6. Recreation Leave - Delete time off for guardian add spouses grandparents effective January 1, 2002.

7. Vacation - Delete requirement that all police officers will be required to take five (5) vacation days between January 2, and May 1 in the event that a member of the bargaining unit has less than five (5) years of service effective January 1, 2002.

8. Retirement - The City will furnish a retirement badge to any member of the bargaining unit who retires after twenty (20) years of service in good standing and upon return of all issued equipment. This shall be effective January 1, 2002.

9. Tuition Reimbursement - Effective January 1, 2002 the City shall implement a program for reimbursement for college tuition at 100% of the tuition costs at a maximum of \$1,500.00 per semester and \$3,000.00 in a calendar year for all courses completed a grade B or better. The courses must be a part of a degree program in criminal justice or a police related course of study as approved in advance by the Chief of Police and the Director of Public Safety. The following amount shall be added to base pay upon attaining the applicable degree.

Associate Degree	\$2,000.00
Bachelors Degree	\$3,000.00
Masters Degree	\$4,000.00
Doctorate/Law Degree	\$5,000.00

The total reimbursement received by each officer shall be as stated above. Such terms are not cumulative (i.e., officers with a masters degree shall receive a total of \$4,000.00 reimbursement).

10. Work Schedule - See addendum (B); Effective January 1, 2002

11. Longevity - Effective January 1, 2002 amend to provide beginning of the 25th year of service, an additional one (1%) and effective January 1, 2003, beginning of the 26th year an additional one (1%).

12. Outside Employment Program - Effective January 1, 2002 the Chief will continue to monitor the number of hours earned by bargaining unit members in the Outside Employment Program. The caps on how much an individual bargaining unit member can earn are still in place. The Chief of Police will review all waiver requests of the cap for dire financial emergencies.

13. Medical Benefits - Effective January 1, 2003 add Vision Care Program for retirees.

14. Effective January 1, 2003, change retirement date from April 1 to January 1.

15. Time Off for Same Sex Couple - Effective January 1, 2002, To be eligible to use same sex spousal time off as provided for in this Agreement, the employee bargaining unit member must indicate by sworn affidavit that the bargaining unit member and the employee's life partner 1) have an intimate, committed relationship, 2) have shared the same principal place of residence for at least twelve (12) months and will attempt to do so permanently, 3) the employee and domestic partner are both over age eighteen (18) not married to anyone else, and or not related by blood. To be eligible, the following additional information shall be required: 1) Evidence of joint home ownership or mortgage, 2) designation of the domestic partner as a beneficiary in the employee's will, 3) mutually granted Power of Attorney for property or health care proxies, 4) joint ownership of savings or bank account, 5) evidence of bill paying at the primary residence (electric, telephone etc.)

16. Time off for Participation in Religious Ceremonies - Effective January 1, 2002; The employee shall be relieved if the event occurs during the twenty-four (24) hours of the day the employee is scheduled.

17. Vacancies - Effective January 1, 2002; Article eliminated - In Addition to the deletion of the language, City agrees to increase the base pay of each title by \$1,000.00 effective January 1, 2002 and FSOA agrees to withdraw any and all grievances, including AR - 2002-590.

PSOA Mem of Agree
2/11/03

PSOA Mem of Agree
2/11/03

17. Rank for Replacement - Effective January 1, 2002, Modify the current language as follows: The city agrees to allow time off to any employee who provides a qualified substitute officer of the same rank within the same Bureau. The Chief shall not unreasonably deny approval of such requests. The Chief retains discretion to approve non-rank for rank replacement (lieutenant for sergeant, for example).

18. Grievance Procedures - Effective January 1, 2002; Step 2 - All grievance shall be filed within sixty (60) days of the event that caused the grievance. Step 4. The PSOA must submit the grievance to PERC within thirty (30) days of the denial of the grievance by the Director of Public Safety.

19. Wages - Effective January 1, 2002, 2003 and 2004, all members of this bargaining unit shall maintain their rank differential above that of a top patrolman's salary.

20. Re-opener Clause - In the event that all contracts between the City and its Unions are silent the re-opener clause shall no longer be effective. The elimination of the re-opener clause shall not be effective until the PSOA has had the opportunity to reopen bases on the final contract between the City and the last union agreeing to eliminate that re-opener.

21. Effective January 1, 2003, The City, at its sole discretion, may waive steps in the rank for those entering their 25th year of service.

22. Effective January 1, 2002, The Union agrees to a monitoring program as outlined in Addendum (A).

Dated: February 24, 2003

ATTEST: CITY OF HOBOKEN

City Clerk _____ by: Business Administrator

Approved as to Form: HOBOKEN POLICE OFFICERS ASSOCIATION

Corporation Counsel _____ By: PSOA President

PSOA Mem of Agree
2/11/03



DAVID ROBERTS
MAYOR

City of Hoboken
Office of Corporation Counsel
94 Washington Street
Hoboken, N.J. 07030
(201) 420-2058



JOSEPH S. SHERIDAN
CORPORATION COUNSEL

February 12, 2003

Cohen, Lester, Montalbano & Grossman L.L.C.
1700 Galloping Hill Road
Kenilworth, New Jersey 07033

ATTN: Bruce Leder, Esq.
Re: Memorandum of Agreement/PSOA

Dear Mr. Leder:

The attached form of Memorandum of Agreement has been revised based upon the meeting which took place in my office on February 11, 2003. Present were Chief La Bruno and this writer for the City of Hoboken. You were accompanied by Walter Wehrhahn, PSOA President, as well as Daniel LoBue and Mark Competello.

It was agreed that "work day and work week", was Article IX, not Article X in the PSOA contract. It was further agreed that ¶6 of Article IX was to be removed.

It was agreed that "sick leave", Article XXIX; ¶4 (Monitoring) was to be amended to limit monitoring calls to after 6:00 a.m., and not later than 11:00 p.m.

It was further agreed that the following grievances would be withdrawn/dismissed when the parties ratify the memorandum:

1. As to Outside Employment
(NAME REDACTED)
(NAME REDACTED)
2. As to Vacancies
(NAME REDACTED)
(NAME REDACTED)
(NAME REDACTED)
3. As to Work Schedule
(NAME REDACTED)

February 12, 2002
Re: Memorandum of Agreement/PSOA

Please contact me if you require any additional correspondence.
Yours very truly,

Joseph S. Sherman
Corporation Counsel



Carmen V. La Jirana
Chief of Police



CITY OF HOBOKEN
ONE POLICE PLAZA
HOBOKEN, NJ 07030-5787



Telephone: (201) 420-2002
Facsimile: (201) 714-9415

Compensation Agreement for Chief of Police

1. Chief of Police shall receive the same benefits and compensation as those received by members of the Police Superior Officer's Association except as herein modified.
2. Article X, section one amended to include Chief of Police to receive six vacation days more than next lower rank.
3. Article III, section 8 amended to read: "blood days" may be "banked" towards retirement pay out.
4. Article IX, as modified in 2002-2004 contract. Chief of Police shall be required to work his current work schedule. However, all days worked in excess of those worked in Police Superior Officer's Association work schedule shall be "banked" by the Chief of Police towards retirement pay.
5. Chief of Police will be required to work a 42 hour work week as opposed to current 35 hour work week of Police Superior Officer's Association. All hours worked beyond 42 hours per week shall be carried as compensation time owed to the Chief of Police.
6. The current compensation plan for the 42nd and 42nd hour shall remain in effect. However, in the year prior to the Chief of Police's retirement or the year 2010 whichever comes first, this compensation plan shall be "rolled" into the base pay of the Chief of Police.
7. The Chief of Police shall be permitted to carry all vacation time, time owed and compensation time. However, upon retirement, relative to vacation time, he shall only be permitted to sell back to the City of Hoboken three years of vacation days. All other time will be due the Chief of Police upon retirement if not used.

Cc: [NAME REDACTED]

Carmen LaBtuno, Police Chief
[NAME REDACTED]
[NAME REDACTED]

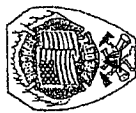
FILED
MAR - 5 2003
HOBOKEN, NJ

87x

108



DEPARTMENT OF PUBLIC SAFETY
DIVISION OF FIRE
201 Jefferson Street
Hoboken, New Jersey
07030



JOHN J. CASSESA
CHIEF OF DEPARTMENT

PHONE (201) 420-2255
FAX (201) 420-2224

MEMORANDUM OF AGREEMENT for FIRE CHIEF

- Chief of Fire shall receive the same benefits and compensation as those received by members of the Fire Superior Officer's Association Local 1076 except as herein modified.
- Article 10, Vacation. Chief of Fire is to receive six (6) vacation days more than the next lowest rank.
- Chief of Fire agrees to waive compensation for overtime; however, all hours worked beyond the 42-hour workweek of Fire Superiors shall be carried as compensation time owed to the Fire Chief. The Fire Chief presently has 100 days of compensation time due him prior to appointment as Fire Chief. Compensation time owed shall be "banked" by the Fire Chief towards retirement pay.
- Current compensation plan for the Specialization Clause (Article 24-B) shall be added to base pay effective January 1, 2003.
- The Chief of Fire shall be permitted to carry all vacation time, time owed and compensation time. However, upon retirement, relative to vacation time, he shall only be permitted to sell back to the City of Hoboken three (3) years of vacation days. All other time will be due the Chief of Fire upon retirement if not used.
- The Chief of Fire shall receive all benefits, compensation and salary increases negotiated or awarded to members of LAFF Local 1076 retroactive to January 1, 2003.
- The Chief of Fire and the City of Hoboken agree to maintain the provisions of this agreement until such time as a successor agreement is in place.
- All other rights, benefits and privileges established by past practice are protected by this agreement without specifications herein.



Police Department
CITY OF HOBOKEN, N. J.
07030-4585

[NAME REDACTED]

(201) 420-2100
FAX (201) 714-9415

March 26, 1990

Director Thomas M. Kennedy, Sr.
Department of Public Safety
City Hall
Hoboken, N.J.

RE: RETIREMENT BENEFITS DUE
AS PER WORK CONTRACT -

Dear Director Kennedy:

Please be advised, relative to the retirement of [NAME REDACTED] effective March 1, 1990, his records indicate the following:

1. Accrued Vacation Time:	1981-82	-	13 days
	1982-83	-	34 days
	1983-84	-	37 days
	1984	-	37 days
	1985	-	43 days
	1986	-	40 days
	1987	-	40 days
	1988	-	40 days
	1989	-	40 days
	1990	-	40 days
Total		=	364 Vacation days

104 days

- Terminal Leave - appointed January 1946 = 44 years, 44 years x 5 consecutive days = 220 consecutive days.
- Retirement Stipend = \$2,000.00
- 1990 Clothing Allowance @ \$50.00 per month = \$100.00
- 1990 Sick Incentive Pay @ \$33.00 per month = \$66.00

Very truly yours,

CARMEN LA BRUNO
CAPTAIN

Page 2

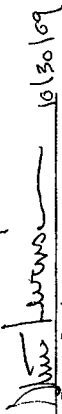
I received payment for 54.3 accumulated vacation days, 381.5 hours (54.5 days) of accumulated sick days and 38.4 accumulated personal days. The payments under each of those categories were consistent with the cap limits set forth in the applicable Policies & Procedures Manual and the "White Collar Contract".

76 Yacht Club Drive
Lake Hopatcong, NJ 07849
October 30, 2009

Please include this response in your report.

I certify and affirm that all the foregoing statements are true to the best of my knowledge and belief. I understand that if any of the above statements are willfully false, I am subject to punishment.

State of New Jersey
Commission of Investigation
28 West State Street, P.O. Box 045
Trenton, New Jersey 08625-0045


Steven Levinson 10/30/09

Attention: Allan A. Rockoff,
Executive Director

Attachments

Re: Notice of Proposed Report
Dissemination No. 09-10-019

Dear Mr. Rockoff,

I received your October 23, 2009 letter which enclosed a portion of the above referenced report that specifically named me and the circumstances surrounding my retirement in a critical context. Please accept this letter, signed under affirmation and certification as required, as the written response to that passage. The retirement benefits paid to me by Rockaway Township were and are consistent with the provisions of Rockaway Township's Policies & Procedures Manual and, to the extent applicable, the "White Collar Contract" effective January 1, 2004 through December 31, 2008. Copies of the relevant portions of those documents are attached.

Although there are enhanced retirement benefits for employees hired prior to December 31, 1998 (I was hired in 1981), the retirement benefits that I received were consistent with the less generous provisions of the applicable Policies & Procedures Manual and "White Collar Contract" for employees hired after December 31, 1998.

Contrary to the information set forth in Footnote 19, the "White Collar Contract" and Policies & Procedures Manual permit at retirement a maximum benefit of 75 accumulated vacation days, 1,500 hours (214.3 days) of accumulated sick time, and 75 days of accumulated personal days.

89X

10/19/09

TOWNSHIP OF ROCKAWAY
EXECUTIVE SESSION
MAY 5, 1981

Mr. Sternlicht moved to go into Executive Session to discuss personnel and interview the Health Director.

Mr. Galdon seconded the Motion.

ROLL CALL:

Mr. Hendrickson, yes; Mr. Wojtaszek, yes; Mr. Hantman, yes; Mrs. Small, yes; Mr. Geppert, yes; Mr. Galdon, yes; President Clark, yes.
Dr. Shellenberger was absent.

At this Executive Session the Council interviewed Steven C. Levinson for the position of Health Director in the Township of Rockaway. The Council discussed with Steven his thoughts on the present water problems we have, and discussed with him his ability to handle these problems. Steven expressed confidence that he could handle the situation, and would be most active in trying to solve it.

At the conclusion of the Executive interview, the Council went back into formal session and engaged Steven C. Levinson as Health Director for the Township of Rockaway.

Steven C. Levinson
Steven C. Levinson, GMC
Township Clerk

TOWNSHIP OF ROCKAWAY
MAY 5, 1981

APPOINTMENTS:

MAYOR TO APPOINT HEALTH DIRECTOR WITH ADVICE & CONSENT OF COUNCIL:
This will be discussed in Closed Session immediately after this Regular Council Meeting.

CITIZEN LIAISON COMMITTEE FOR COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT:

Mayor Bishop made the following appointments to this COMMITTEE:
DAVID WASHINGTON (1 person from Planning Bd.)
CARL MILLER (1 person from Environmental Comm.)
-- (1 person from Board of Adjustment)

Mayor Bishop commented the Board of Adjustment person will be filled shortly.

Mrs. Hartman asked are these your recommendations or are they from the Chairmen of these Committees? She wanted these names cleared with the Chairmen before the Appointments are made.

Mayor Bishop agreed this was fine with him.
Mayor Bishop, at this time, officially appointed NANCY STOLDT

to the Environmental Commission to replace PETER FOX whose term expires in 1983.

HIGHLAND WATERSHED ASSOCIATION REPRESENTATIVE:

This will be kept on the Agenda. This is a Council President's Appointment.

AGREEMENT

Between

TOWNSHIP OF ROCKAWAY
MORRIS COUNTY, NEW JERSEY

and

MORRIS COUNCIL VI, N.J.C.S.A.
(White Collar)

ARTICLE XII

HOLIDAYS AND PERSONAL DAYS

1. There shall be twelve (12) paid holidays accorded to each employee in this bargaining unit. The following shall be observed by the Township as official holidays:

- | | |
|------------------------|------------------------|
| New Year's Day | Martin Luther King Day |
| President's Day | Good Friday |
| Memorial Day | Independence Day |
| Labor Day | Columbus Day |
| Veteran's Day | Thanksgiving Day |
| Day After Thanksgiving | Christmas Day |

If a holiday falls on a Saturday, it shall be observed on the preceding Friday.

If a holiday falls on a Sunday, it shall be observed on the following Monday.

2. In addition to receiving pay for the above holidays, employees shall be granted five (5) personal days with pay during each year of this three (3) year contract. Personal days may be carried over from year to year in accordance with the procedures established for the carry over of vacation time as set forth in Article XVII, Vacation.

3. In addition to the enumerated holidays, the employees shall receive any special unscheduled federal, state, or local holidays declared by The President, the Governor or the Mayor on a one-time basis.

WC-18

January 1, 2004 through December 31, 2008

91X

capable of performing his normal duties and that his return will not jeopardize the health of other employees.

7. Upon cessation of employment with the Township of Rockaway, employees with twenty-five (25) or more years of service shall receive full payment for all unused sick time. Any employee with less than twenty-five (25) years of service shall receive one-half (1/2) pay for all unused sick time. These provisions are subject to the limitations of Paragraph 7A, herein.

A. Employees shall continue to be compensated for a maximum of 1,500 hours of unused sick time that has been accumulated by the employee. While additional sick hours may be accumulated the employee will not be compensated for these additional hours in accordance with Paragraph 7, above. The employee will be able to sell back additional hours as stated below in paragraph 8. Current employees with more than 1,500 hours of unused sick time accumulated through 1998, will be permitted to cap their sick time at the level they will reach as of December 31, 1998.

8. The Township agrees to continue a deferred compensation plan, wherein excessive sick, vacation, and/or personal time may be applied thereto or reimbursed to the employee. An employee may not sell back more than a total of twenty five (25) accumulated days per year. The total may include any combination of sick, vacation and/or personal time. The employee must notify the Business Administrator, in writing, no later than November 1st of the prior year as to how many days will be sold back. Reimbursed time will be payable within ninety (90) days after the budget is adopted by the Rockaway Township Council. A sick leave bank of sixty (60) days must be maintained by each employee to receive benefits cited above.

WC-24

ARTICLE XVII

VACATION

1. The following vacation schedule will be in effect for the length of this Agreement.

First Year of Service	-	One (1) day per month of service
One to Five Years	-	Twelve days per year
Sixth Anniversary to Tenth Anniv.	-	Fifteen days per year
Eleventh Anniversary	-	Sixteen day per year
Twelfth Anniversary	-	Seventeen days per year
Thirteenth Anniversary	-	Eighteen days per year
Fourteenth Anniversary	-	Nineteen days per year
Fifteenth Anniv. to Twentieth Anniv.	-	Twenty days per year
Twenty-first Anniversary	-	Twenty-one days per year
Twenty-second Anniversary	-	Twenty-two days per year
Twenty-third Anniversary	-	Twenty-three days per year
Twenty-fourth Anniversary	-	Twenty-four days per year
Twenty-fifth Anniversary or greater	-	Maximum of Twenty-five days per year

2. Ten (10) Vacation days per year must be used by all employees. Employees will be allowed to carry over a maximum of seventy-five (75) unused Vacation days from year to year. Employees with more than seventy-five (75) unused Vacation days saved through December 31, 1998 will be permitted to cap their Vacation Day levels at their 1998 year end level. The sell back of vacation days does not constitute the utilization of ten (10) vacation days per year.

WC-27

Part-time employees will receive sick time in accordance with the following formula:

$$\frac{\text{No. of hours worked per week}}{35 \text{ or } 40 \text{ hours}} \times \frac{\text{Sick leave hours per year for full-time employee, in accordance with months of service}}{1}$$

1. Employees shall notify their Supervisor or Department Head of absence due to illness prior to starting time.
2. Failure to notify one's Supervisor or Department Head may be cause for denial of sick leave for that absence and may constitute cause for disciplinary action.
3. An employee who is absent on sick leave for five (5) or more consecutive working days may be required to submit a medical certificate from a physician substantiating the illness. (See Chapter II, "Returning to Work Following Sickness, Accident or Injury" for appropriate procedures.)
4. Department Heads shall notify the Business Administrator of the duration and nature of sick leave by employees.
5. Upon cessation of employment with the Township of Rockaway, each and every employee will be paid one-half (1/2) pay for unused sick time. Employees with twenty-five (25) or more years of service with the Township of Rockaway shall receive full payment for all unused sick time within their specified cap.
6. Non-police employees hired after November 1, 1999, shall not receive payment for accrued unused sick time under any circumstances.

PERSONAL DAYS

Full-time employees shall be granted five (5) Personal Days (Floating Holidays) per year, which shall be earned in the first year, in accordance with the following schedule:

- Completion of 3 months service one personal day
- Completion of 5 months service two personal days
- Completion of 7 months service three personal days
- Completion of 9 months service four personal days
- Completion of 10 months service five personal days

Part-time employees shall be granted Personal Days in accordance with the following formula:

$$\frac{\text{No. of hours worked per week}}{35 \text{ or } 40} \times \frac{\text{Personal leave hours for full-time employees in accordance with months of service}}{1}$$

1. Requests for Personal Days should be made, in writing, to the Department Head at least three (3) working days in advance of the requested Personal Day.
2. Department Heads will approve requests which do not unduly conflict with the needs of the Township of Rockaway nor the scheduling requirements of the Department.
3. Accrued Personal Days shall be compensated for upon the separation of an employee, either voluntarily or involuntary, from the service of the Township of Rockaway.

SEPARATION PAY - ACCUMULATED SICK, VACATION AND PERSONAL TIME

The Township of Rockaway shall compensate employees at separation for their accumulated sick, vacation and personal time in accordance with contract requirements.

The employee shall notify the Business Administrator in writing no later than November of the preceding year of intended separation in order to receive compensation in the following year.

MEDICAL BENEFIT PLANS

The Township of Rockaway will provide medical insurance coverage as provided by the New Jersey State Health Benefits Program for all employees and their families.

Additionally, the Township makes available to eligible employees a Dental Plan, a Vision Plan and a Prescription Drug Plan, Temporary Disability Plan and a Life Insurance benefit coverage.

Specific information regarding these benefit plans will be provided to each employee upon hiring and whenever the plans are updated or revised.

LIFE INSURANCE

The Township of Rockaway shall provide a Life Insurance Plan for all employees working thirty (30) hours or more per week in addition to the Group Life Insurance Plan available under the New Jersey Public Employees Retirement System and the Police and Fire Retirement System in accordance with labor contracts.

1. Full-time employees and part-time employees who work 30 hours or more per week will become eligible for participation in the Municipal Life Insurance Plan on the day following completion of two (2) months continuous employment.
2. During an employee's first year of membership in the Public Employee's Retirement System, he/she is required, by Statute, to participate in the System's Contributory ROCKAWAY TOWNSHIP POLICY & PROCEDURE MANUAL - Effective 3/1/04; Revised 3/1/06 Page 35

94x

LEVINE STALLER attorneys at law
Levine, Staller, Sklar, Chan, Brown & Donnelly, P.A.
3030 Atlantic Ave.
Atlantic City, N.J.
08401-6380
(609) 348-1300
www.levinestaller.com

RECEIVED

2009 NOV 10 AM 10: 51

JOHN M. DONNELLY
jdonnelly@levinestaller.com
Fax: 609.347.1166

INVESTIGATION

November 9, 2009

VIA FEDERAL EXPRESS N.D.A.
Alan A. Rockoff, Executive Director
State Commission of Investigation
28 W. State Street
10th Floor
P.O. Box 045
Trenton, NJ 8625-0045

RE: Investigation into Contracts – Statement of John Mooney, III

Dear Director Rockoff:

Please accept this letter as the official statement of Chief John J. Mooney of the Atlantic City Police Department. Your letter was received on October 27, 2009.

I have been an Atlantic City Police Officer since November 17, 1975. During my 34 years of service to the City of Atlantic City I have served in virtually every capacity in the Department, including Executive Officer for Operations, Patrol Platoon Commander, Narcotics Unit Commander and Legal Affairs Officer.

The Atlantic City Police Force currently constitutes 375 officers and 140 civilians for a total complement of 515 employees. I manage our agency with a budget in excess of \$42 million not including the cost of employee health care and pensions. I maintain a working relationship with other local, county, state and federal law enforcement agencies that have an interest in our municipality. I have officers detailed to the Atlantic

Steven Levinson #150		Jun-81
2008 Ending Balance		Sick 525.00
Earned for 2007		105.00
Used during 2007:		630.00
PP#1 12/23-12/31		
PP#1 7/1-1/5		
PP#2		
PP#3		
PP#4		
PP#5		
PP#6		
PP#7		
PP#8		
PP#9		
PP#10		
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PP#12		
PP#13		
PP#14		
PP#15		
PP#16		
PP#17		
PP#18		
PP#19		
PP#20		
PP#21		
PP#22		
PP#23		
PP#24		
PP#25		
PP#26		

2007 Balance	467.00	290.00	434.00
	(67.00)	(21.00)	(62.50)
2007 HOURS USED	360.00	299.00	361.50
	35.00		21.00
RETIRE 01/07			
			390.00
			289.00
			361.50
			1,030.50

subtract 6 months
minus 87 vac hours
minus 21 pers hours
minus 52.5 sick hours

95X

1017935

County Major Crimes Squad, the FBI Resident Agency and the US Marshal's Regional Fugitive Task Force.

Under my leadership our agency has been engaged in multiple long term investigations resulting in the arrest of notable defendants for both state and federal charges. Our agency is designated an Operation Cease Fire participant by the State Attorney General's Office. Although the population of Atlantic City is in the range of 40,000 persons, over 30 million visitors visit the city annually. On any given weekend night the City's population is many times multiple of the actual population. Additionally, during the summer, the City's population expands to an estimated 250,000 people per day. I serve as Incident Commander for the Annual Atlantic City Air Show that draws as many as 750,000 people to our municipality in one afternoon. Thus, the City of Atlantic City during the summer and on weekends/holidays becomes a significantly sized city for the State of New Jersey.

During the course of my employment with the City, I have received several citations and commendations. Among those include the following: Combat Cross citation, Life Saving citation, four Exceptional Duty citations, Meritorious Service citation, Chief's Achievement citation, First Class Certificate of Valor, two PBA Certificates of Commendation, Legion of Honor Membership in the Chapel of Four Chaplains, Police Officer of the Year Award from VFW Post 215, Chief Harry Wilde Academic Achievement Award from the NJSACOP. I have also attended the top law enforcement training programs in the United States. I am a graduate of the 193rd Session of the FBI National Academy, the 54th Session of the FBI Law Enforcement Executive Development Seminar (LEEDS), the NJSACOP West Point Command & Leadership

Program. I have also attained the New Jersey Certified Public Manager (CPM) designation.

I am an active member of the FBI National Academy Associates, the FBI-LEEDA, The Atlantic County Association of Chiefs of Police, South Jersey Police Chiefs Association, the New Jersey State Association of Chiefs of Police and the International Association of Chiefs of Police.

On or about December 6, 2006, I took the examination for Chief of Police for the City of Atlantic City. My score on such examination was 88.310. I outscored the other two individuals seeking the position by the amount of 1.08 pts and 4.25 pts respectively.

As a result of the Civil Service examinations, I was appointed Chief of Police on March 1, 2007 with permanent NJDOP¹ status. Please note that I served as Acting Chief of Police from December 27, 2005 until April 7, 2006, when I was sworn in as Chief of Police with provisional NJDOP status. As a result of a challenge by two other Eligibles in NJDOP (Dockets Nos. 2007-1308 and 2007-1317), my permanent appointment was delayed for approximately one year. My prior appointment to the rank of Deputy Police Chief with an effective date of January 1, 2005 had additionally been delayed and subject to challenges in NJDOP (Docket No. 2006-1318) and Superior Court (Docket No. L-2875-05) and was not recorded until March 17, 2006.

¹ Department of Personnel now known as "Civil Service Commission"

9/12/12

[TEXT DELETED]

On or about June 20, 2008, I entered into negotiations with the Evans Administration with regard to a contract for my services. Traditionally, the Atlantic City Police Chief has had a contract with the City. My [NAME REDACTED] had, to my memory, contracts that ran from May 2000 to April 2006. I also understand, but am not certain, that Police Chiefs who served prior to [NAME REDACTED] also had contracts with the City.

The negotiations of my contract were held between my attorney and the attorneys for the City of Atlantic City and various representatives for the City of Atlantic City Administration depending upon which negotiation session and issue was involved. The negotiations spanned over a period of approximately five months (July through November 2007). Thus, the final agreement contract was fully negotiated.

One delay in reaching an agreement was the City's position that although it had paid me for my accumulated leave in April 2006 and was granting me unlimited annual sick and vacation time with the agreement and expectation of no further accumulation, it also sought to insert an annual 15 days per year sick leave in my agreement. This, I understand was because the City believed that existing regulations required that all employees be allotted at least 15 days of sick leave annually. (See NJAC 4A:6-1.3(a)2

and NJAC 4A:6-1.3(f) for the City's rationale in reinstating my ability to accumulate sick leave). In order to cap further payout, I agreed to set a \$15,000.00 limit on any accumulated sick leave I would accrue in the future. I understood this to be consistent with the existing New Jersey State government personnel practice. On November 3, 2007, my contract was signed by Mayor Scott K. Evans on behalf of the City of Atlantic City and I have been operating under same since then.

I understand that the Commission's concern is compensation for accumulated sick leave. I want to specifically address that as follows:

First, as you note in your report, the compensation provisions are, I understand, contained in the PBA/City Atlantic City Police Superior Officers' Contract. Upon my appointment to provisional Chief in April 2006, I was entitled to a continuation of the sick leave buy-out procedure that was contained in both the City/PBA and the AC Police Superior Officers collective bargaining agreements. At the City's request, and in conformity with a practice adopted upon the elevation of (now retired) [NAME REDACTED] to Fire Chief, I accepted a payout of my sick leave, vacation and compensatory leave to be paid out at the rate (\$561.30 per day) equivalent to the pre-promotion rank of Deputy Police Chief at a substantial savings to the City of Atlantic City. I also insisted on limiting my buyout to 390 days limit in the then PBA Agreement. This, although other offers had been allowed more days of terminal leave.

I received a total net payout of \$155,024.00. Please also note that the "special provision" you noted in your report was "embedded" in my contract was in fact i) the result of a settlement of litigation; ii) consistent with the buyout provisions provided to all recent retiring officers that I am aware of; and iii) hardly "embedded" as it appears on

the first page of the agreement which was negotiated by the administration and approved by the City Council.

Note also that I received the payout in a year in which I remained actively employed, resulting in a significant tax disadvantage to both myself and my spouse, as we filed joint returns. Further, by paying my leave at the lower rank (Deputy) in 2006, rather than at my Chief rate, the payout was reduced by approximately \$144,402, which I would have received had I received the payout at the end of 2012 when my current contract with the City expires. Also, please note that this estimate assumes no additional accumulation of sick, vacation and compensatory time, even though my predecessor was receiving an additional 20 compensatory days per year. I declined this policy when my current agreement was negotiated. Had accumulation and payout of that additional compensatory time been included, an additional liability to the City of approximately \$106,362.00 would have resulted. The total of the two savings is \$250,764 essentially an amount equal to what I was paid in 2006.

The current agreement that I have is similar to the agreement of my (NAME REDACTED) However, my understanding is that (NAME REDACTED) contract provided for several benefits that I do not enjoy, including the above noted ability to accumulate an additional 20 compensatory days per year and four personal days per year. I understand that those accumulated days were paid out at the salary level (Chief) at time of retirement as opposed to my situation were previously accumulated days were paid out at my Deputy Chief salary level.

I believe it is unfair on the part of the State Commission of Investigation to attempt to single me out for criticism of a practice that has been in place in New Jersey

municipalities from the early 1970's when the first collective bargaining agreements were established pursuant to changes in PERC law. Following that change, municipal governments entered into agreements with their employees that in effect created deferred compensation in the form of accumulated sick and vacation leave payout at retirement to avoid the fiscal concerns of overtime costs associated with replacing absent employees. Similarly, while entry level salaries remained low well into the 1980's, municipal employees maintained relatively better health benefits than available in the private sector. This was a tradeoff in the negotiation strategies of both the municipalities and the employee unions.

The accumulation of leave time has in the past acted as a motivating factor to encourage qualified persons to remain in public service and conversely, some payouts have been made to encourage persons to retire early. These concepts are not novel to Atlantic City or to me and I believe it is unfair to criticize me personally for a system or incentives I did not create.

I am a member of a proud family of public safety professionals. My father was a police officer before me. His starting salary was \$2,400.00 per year in 1947 with no paid overtime and six 12-hour days per week each summer. My starting salary was \$6,200.00 in 1975 and we were not at that time paid overtime for court appearances. In my 34 honorable years of service to the City of Atlantic City I have seen salary and benefits rise to a level that do indeed warrant public concern and discussion. Without question, the salaries and benefits paid to today's professional police and firefighters have risen dramatically. Starting salaries are approximately \$50,000 with paid overtime for extra work and court appearances.

99

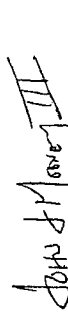
LEVINE, STALLER, SKLAR, CHAN,
BROWN & DONNELLY, PA
3030 Atlantic Avenue
Atlantic City, NJ 08401
(609) 348-1300; Fax: (609) 345-2473

IN RE
PROPOSED REPORT
Dissemination No.: 09-10-021


AFFIDAVIT OF
JOHN J. MOONEY, III

John J. Mooney, III, of full age, being duly sworn according to law, upon his oath,
deposes and says:

1. The facts contained in the attached letter to Alan A. Rockoff, Executive Director, State Commission of Investigation dated November 9, 2009 are true and correct.

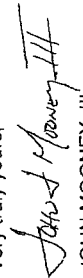

JOHN J. MOONEY, III

Sworn to and Subscribed
before me this 27th day of
November 2009.


JOHN M. DONNELLY
Attorney-at-Law
State of New Jersey

However, that relatively recent situation should not serve as a basis for personal criticism leveled at me and my contract. Moreover, in reviewing what the appropriate level of compensation should be, please do not discount the tremendous burden that public safety professionals shoulder on behalf of the people they serve and protect. During my career, I survived a shootout that left one of my fellow officers killed in the line of duty. I have been called upon to handle incidents involving multiple fatalities due to criminal homicide, motor vehicle crashes and building collapses. I was the Police Incident Commander during the response to the tragic Tropicana garage collapse as just one example that killed four men and injured 50 others. I also suffered a tragedy of both professional and personal magnitude when my nephew, a third generation public safety professional in our agency, was struck and killed by a bus while directing traffic at a motor vehicle crash scene in 2005.

I hope this statement gives you some incite into the facts and circumstances surrounding my particular case. Thank you for providing me the opportunity to submit this statement.

Very truly yours,

JOHN MOONEY, III

99x

APRIL & MAUDSLEY, P.A.

ATTORNEYS AT LAW
240 SOUTH SHORE ROAD
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MARMORA, NEW JERSEY 08223

TELEPHONE (609) 390-9078
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WWW.APRILLAW.NET

JEFFERY A. APRIL
MARY J. MAUDSLEY
JANICE A. CHIALLELLA
MARLA MARINUCCI

November 9, 2009

State of New Jersey
Commission of Investigation
28 West State Street
PO box 045
Trenton, New Jersey 08625-0045
ATT: Alan A. Rockoff, Executive Director

RE: Notice of Proposed Report
Dissemination No.: 09-10-028
My Client: Stephen Sykes

Dear Mr. Rockoff:

Please be advised that I represent Stephen Sykes and have had occasion to review with him your correspondence of October 23, 2009 has lead me to submit a response and relevant factors for hopefully your inclusion in the report.

Stephen was a 32 year officer with Avalon Police Dept. having started in 1975 and went from the rank of Patrolman to Chief of Police. Stephen was a dedicated police officer and but for cancer striking him in 2006, he probably would still be the Chief of Police in Avalon as his retirement was medically necessary.

When Stephen was Chief of Police for the Boro of Avalon, his only administrative officer was a Captain. There was no Lieutenant or Administrative Sergeant. Because of that fact, Stephen was limited in being able to take vacations, holidays and even taking time off from work when he was ill.

When Stephen left the Boro on August 31, 2007, it was necessary for medical reasons as he was being treated for lung cancer. Stephen was being treated for lung

Page Two
November 9, 2009

cancer starting on December 6, 2006 when he was diagnosed. On January 1, 2007, after discussing this matter with Boro Officials, it was determined that he would go on extended sick leave since he had extensive sick leave built up over the years and he did not want to go on disability. In early March 2007, it became apparent to Stephen that he was not going to be able to return to his position as Chief of the Avalon Police Dept. and he gave the City six months notice that on March 1, 2009, that he would be retiring on August 31, 2007.

When Stephen met with Boro Officials it was determined, jointly, that a lump sum payout of his remaining benefits would be made.

It appears that there was nothing unusual between the contract with Stephen Sykes and the Boro of Avalon as many Chiefs of Police have similar contracts.

It had been Stephen's hope to return to work and remain Chief of Police in Avalon for the rest of his life.

I have advised Mr. Sykes that he is not to reveal the contents of your letter of October 23, 2009 nor the one page of records (with text deletions) with anyone other than myself as his attorney.

Very truly yours,
Jeffery A. April

JAA/mar
Cc: Client

100x

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NEW JERSEY DEPARTMENT OF
COMMUNITY AFFAIRS
DIVISION OF LOCAL GOVERNMENT
SERVICES

PERFORMANCE AUDIT OF THE
CITY OF NEWARK



PERFORMANCE AUDIT OF THE CITY OF NEWARK

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Department of Community Affairs
Division of Local Government Services
State of New Jersey

This report presents the results of our performance audit ("audit") of the City of Newark ("the City") for the period from January 1, 2008 through December 31, 2008. Our audit was conducted in accordance with the standards applicable to performance audits contained in Generally Accepted Government Auditing Standards ("GAGAS"), issued by the Comptroller General of the United States of America.

Audit Objectives

The objectives of the performance audit were to (1) conduct a risk assessment to establish testing and sampling methods (2) provide an internal control review/assessment identifying potential internal control deficiencies and recommendations for correcting those deficiencies, (3) provide a compliance review over specific areas to identify potential noncompliance with statutory/regulatory requirements, and (4) identify and provide any potential efficiencies or procedures that would lead to cost saving opportunities for the City.

Audit Scope

In order to achieve the first objective identified above, we first developed an understanding of the City and its environment through interviews with City officials; review of key documents (including the most recent draft annual financial statement, the prior year audit report and corrective action plan, the annual budget, annual debt statement, the organization chart of the City); internal procedural manuals or policies developed by the City; reviewed the Memorandum of Understanding between the City and the State of New Jersey, Department of Community Affairs, Division of Local Government Services (the "Division"); and obtained an understanding of the City's internal control environment.

The second objective was achieved by considering the internal control processes and related controls in place at the time of our fieldwork by performing inquiries, walkthroughs, observations and detailed tests of transactions, where appropriate. The internal control procedures performed were not sufficient to render an opinion on internal control, nor was it the purpose of this performance audit. The City's processes included in the scope of our audit related to the assessment of the internal controls were purchasing/accounts payable/cash disbursements, payroll and human resources, general fiscal operations, information technology operations, risk management, inventory and fixed assets.

The third objective was achieved by performing detailed tests of transactions over each significant process, or other procedures deemed appropriate for each process identified in the previous paragraph, as well as performing tests over certain areas specifically identified in the request for proposal ("RFP"). With the resulting information, various sampling techniques were used to further analyze the data, review supporting documentation, perform inquiries and observations, and identify potential errors. Additionally, we performed a payroll verification audit.

The fourth objective was achieved by obtaining information throughout the entire process and making assessments that may lead to cost saving opportunities.

Audit Methodology

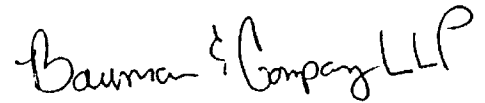
The audit methodology encompassed three phases: (1) Planning, (2) Information Extraction, Gathering, Analysis and Validation and (3) Reporting.

Audit Observations

Observations related to internal controls, statutory/regulatory compliance and cost saving opportunities noted during our audit have been presented in this report. The observations and related recommendations were presented to the City and the Division of Local Government Services.

City of Newark Response

The City's Response to the Performance Audit is attached at the end of this report beginning on page 69.



Bowman & Company, LLP

Voorhees, New Jersey
August 27, 2009

Performance Audit of the
City of Newark

ENGAGEMENT SUMMARY



Engagement Summary and Overview

While the scope of the performance audit is detailed in the Scope of Services section of this report, the Engagement Summary presents a high-level summary of the areas included as part of our procedures and our observations related to the risk for each of those areas. This Engagement Summary was developed based on our analysis of the internal control environment as well as the internal controls over the City's significant processes, inquiries made of City personnel, and observations made during our testing.

As a condition of receiving Special Municipal Aid, the Division of Local Government Services required that the City must undergo a performance audit that focused on the City's internal controls and statutory/regulatory compliance in the following areas:

- Purchasing/Accounts Payable/Cash Disbursements
- Payroll/Human Resources
- General Fiscal Operations, including:
 - o Budget Process
 - o Revenue and Cash Receipts
 - o General Ledger Maintenance
 - o Banking and Investment Policies
 - o Capital Ordinances
 - o Tax Abatements and Exemptions
 - o Trust Funds
 - o Grant Accounting
- Information Technology Operations
- Risk Management
- Inventory and Fixed Assets
- Other Matters

For each of the areas identified above, we developed an understanding of the processes and controls through discussions with the City's various departments, which led to the development of a process and internal control worksheet. In the process and internal control worksheet, we identified the City's key controls that were designed by the City to help ensure the appropriate processing and recording of transactions. We performed walkthroughs of transactions of certain processes to ensure the key controls identified in the worksheet were in place and actually operating as intended. Based on the results of our walkthroughs or other procedures performed, we formulated a preliminary risk assessment of the process and determined whether or not it would be beneficial to perform a detailed test of controls or other internal control and compliance procedures over the process in order to obtain further evidence of the operating effectiveness of the identified key controls, or perform some alternative procedures. For the processes that we determined detail testing of controls to be appropriate, we performed a detailed test of controls over the process in order to obtain further evidence of the operating effectiveness of the identified key controls. Once the results of our tests of controls were obtained, we re-evaluated our preliminary risk assessments, making modifications where necessary, and where warranted and expanded our tests of controls in areas where we found certain control deficiencies or compliance exceptions.

The primary purpose of this performance audit focused on the City's payroll/human resources and purchasing/accounts payable/cash disbursement processes due to the significant level of activity associated with these processes as well as the accumulated dollar value of the items being processed. More detailed information is presented for each process noted below within the two sections of the report titled Internal Control Review and Assessment and Statutory and Regulatory Testing. In these sections, each area is presented and includes (1) overview and background, (2) internal control findings, (3) internal control strengths (4) internal control weaknesses and (5) Statutory/Regulatory Testing.

From our initial meeting at the City (entrance conference) through our final closing meeting with City Management (exit conference), the employees of the City of Newark acted professionally, were cooperative, ensured that we received answers to questions and provide documentation, responded to other requests in a timely manner, and were an integral part of the engagement. The employees of the City were very receptive to our suggestions on how to improve the operations of the City and were not adverse to our findings and recommendations. Consequently, we feel that the results achieved from this performance audit will have a positive impact on the City and we extend our gratitude to the employees of the City for their continued positive attitude and support throughout this process.

Performance Audit of the City of Newark

SCOPE OF SERVICES



SCOPE OF SERVICES

- A. The auditor must conduct an appropriate risk assessment to establish testing and sampling methods. An audit plan must be submitted to the Division five days prior to the commencement of the audit. The commencement of the audit may consist of an entrance conference with a member of the Division in attendance.
- B. In the course of the auditor's work, it is expected that the auditor will review, and if appropriate provide comments, on the following documents:
- a. Annual Financial Statement
 - b. Prior Year Audit Report and related Corrective Action Plans
 - c. Organization Charts
 - d. Administrative code and related ordinances or resolutions
 - e. Internal procedural manuals or policies, including but not limited to:
Personnel, Purchasing and Risk Management
- C. The contractor must complete the following reports, studies, and analyses.
1. Provide a report on the municipality's Internal Controls that will identify both the municipality's strengths and weaknesses in each area of operational controls and include recommendations to correct any deficiencies identified. Areas that shall be tested and reported on shall include:
 - a. purchasing, including but not limited to whether:
 - i. purchase orders were prepared only on the basis of written purchase requisitions or other appropriate form, and approved by authorized persons;
 - ii. controls exist preventing unauthorized purchases, unauthorized use of purchase order forms, and to prevent invoices from being paid in an amount greater than the original purchase order;
 - iii. controls exist to verify that goods and services were received as per contract;
 - iv. contracts (including purchase orders) were awarded in a manner consistent with the Local Public Contracts Law, and if aggregation policies were properly applied;
 - v. there is an appropriate record of open purchase orders; and the use of any credit or procurement cards are used consistent with state law and regulations;
 - vi. contracts awarded by the governing body, have appropriate resolutions, certification of availability of funds, and executed written contracts; and whether there were, in the opinion of the auditor, any, unreasonable, or inappropriate contracts, and identification of any such contracts;
 - vii. an encumbrance system is properly used and administered;
 - viii. invoices agree with original purchase order; purchase order agrees with and is consistent with any governing body approved contract, or if to the contrary, proper procedures for change orders or emergencies were followed;
 - ix. voucher packages contain a purchase order, an invoice, a receiving slip, a proof of delivery (bill of lading, packing slip, notice of delivery, etc.);
 - x. payments are made from original invoices (not statements or duplicates) and invoice dates are not prior to delivery date; and,
 - xi. if written procedural documentation regarding the procurement function (i.e., administrative code, purchasing manual) exists.
 - b. general fiscal operations, including but not limited to whether:
 - i. controls within the City's accounting functions: budgeting, cash receipts, accounts payable, encumbrance, general ledger maintenance, and if the controls are adequate, consistently applied, and in compliance with state law, regulations, and local ordinances;
 - ii. banking and investment practices are consistent with state law;
 - iii. investment policies and procedures are established, followed, and effective;
 - iv. grant accounting is compliant with contracts, draw-down and reimbursement procedures, and timeliness;

SCOPE OF SERVICES (Cont'd)

- b. general fiscal operations, including but not limited to whether (cont'd):
 - v. capital ordinances, tax abatements, and trust funds are maintained in compliance with state law, regulations, and local ordinances; and,
 - vi. appropriate financial staff are in compliance with SAS 112.
 - c. payroll/human resources, including but not be limited to whether:
 - i. controls exist over manual and non-manual payroll payments;
 - ii. payments are made in accordance with contract terms;
 - iii. position control reconciles with payroll and budget information;
 - iv. verification that timesheets exist and tie into payroll records;
 - v. verification that salaries were properly authorized and paid in accordance with contract or ordinance; and,
 - vi. employee benefits are authorized by contract, ordinance, or resolution as appropriate, and received by employees pursuant to authorization (i.e., test to ensure that only active employees receive benefits).
 - d. information technology operations: the adequacy of infrastructure, administrative support and fiscal applications, disaster management, and information security practices;
 - e. risk management: if adequate insurance coverage is provided at the least cost to the municipality; if self-insured, review of controls and oversight procedures; and; if risk management policies are in place and training provided for staff as appropriate; if procedures are established for periodic review of risk management practices and providers; if risk management contracts were awarded pursuant to law; and,
 - f. inventory controls: whether supplies, fixed assets, technology and electronic equipment with value greater than \$5,000 are adequately inventoried and controlled.
- 2. Payroll distribution audit: signed verification of employees receiving a paycheck, or in the absence of reasonable verification, verification of time sheet submissions.
 - 3. Statutory and regulatory compliance review of all (100 percent) professional services, competitive contracting and extraordinary unspecifiable service contracts from the previous fiscal year.
 - 4. Review of all individual employee employment agreements for statutory and regulatory compliance, and identification of, in the opinion of the auditor, any unreasonable, or inappropriate benefits or compensation.
 - 5. Review of all public employee labor contracts to identify any benefits that in the opinion of the auditor are unreasonable, or inappropriate; and whether the organization prepares cost accounting for each labor contract.
 - 6. The organizational structure of the activities reviewed and its adequacy.
- D. Additional procedures shall consist of the following with a narrative explaining the finding:
- 1. an analysis of purchase orders where the payment amounts exceed the original purchase order amount by more than 20 percent;
 - 2. review of databases to determine if any vendors are paid at addresses listed as PO Box, commercial mail receiving agencies, etc.;
 - 3. analysis of payroll personnel databases to identify incomplete or missing hire date, birth date, status, address information and other key data elements;
 - 4. analysis of payroll data to identify employees who receive greater than the normal number of payroll checks within the two year period covering years 2007 and 2008; and,

SCOPE OF SERVICES (Cont'd)

- D. Additional procedures shall consist of the following with a narrative explaining the finding (cont'd):
 - 5. an analysis of payroll data to identify employees whose base salary increased by greater than \$7,500 from year 2007 to 2008.
- E. The firm must follow up on any finding, outliers or anomalies that are identified during the engagement and provide a written conclusion based upon the facts and professional judgment.
- F. The auditor shall identify and provide a report on any efficiencies or procedures that would lead to cost savings for the municipality or state that the auditor discovers beyond those that have been identified from the process in "A" through "D" above, including in the report any findings of non-compliance with applicable laws, regulations, and governance.
- G. A working draft of the report must be submitted by July 24, 2009. This will be to facilitate the Division's understanding of the results. It is expected that this will be a rough draft report and will be subject to editing.
- H. At least ten working days before the date of submission of the final draft of the audit to the Division, the auditor shall, upon receipt of written approval from the Division, conduct an exit interview and provide a draft of the final report to the municipality for review. The municipality shall be encouraged to respond to the report in writing. Any written response from the municipality shall be included in the final report submitted to the Division.
- I. The contractor must provide a separate bound report for the City. Final Reports shall be submitted by August 15, 2009. The reports shall include the following:
 - 1. a cover letter that provides a narrative of the work performed and any assumptions used in performing the work;
 - 2. a table of contents;
 - 3. an engagement summary report (not to exceed two (2) pages);
 - 4. a section describing the findings of statutory and regulatory compliance, which shall include:
 - a. a brief summary within each category,
 - b. specific examples and results,
 - c. a letter from the municipality responding to the contractor's findings;
 - 5. a section describing the findings on internal controls, which shall include:
 - a. overall summary of internal controls with a listing of each category identifying the level of risk (high, medium, low),
 - b. a brief summary within each category; and,
 - c. specific examples and results;
 - 6. a letter from the municipality responding to the contractor's findings.
- J. The contractor must conduct all reviews in accordance with the GAO "Yellow Book", (AICPA) Statements on Standards for Accounting and Review Services or any other industry standards that may apply, in addition to controlling New Jersey statutes, rules, and guidance issued by Division of Local Government Services.
- K. The contractor must provide the Division three copies of each report and one CD-ROM with the report in PDF or MS Word format.
- L. The contractor will make a presentation of the report to the Division and the contractor may also be required to present to the municipality.

Performance Audit of the
City of Newark

COST SAVINGS OPPORTUNITIES AND EFFICIENCIES



Cost Savings Opportunities and Efficiencies

1. Developers escrow fees are not consistently charged. Some of the costs to review projects initiated by developers are borne by the City tax payers.
2. Consideration should be given to simplify the contract approval process. Currently, purchasing certifies certain contracts and sends them to the vendor for signature. Upon receipt of the signed contract, it is sent to the affirmative action office, then the legal department and then the Business Administrator's office for signatures.
3. Grant receipts are posted to the grants receivable or grants unappropriated balance sheet accounts. The actual detailed grant account balances are maintained on a subsidiary excel spreadsheet. Consideration should be given to tracking the detailed grant balances through the financial accounting system.
4. Numerous different insurance companies are being used for various types of health insurance coverage. A review should be made to determine if combining coverages under one or a few companies would be more cost effective.
5. Consideration should be given to use approved on-line vendors to sell assets instead of normal public auctions.
6. The system for billing and tracking of receivables for the water and sewer utilities is not being processed through one system. This seems to create inefficiencies in the receipts processing cycle.
7. The City is self insured for general liability. The claims paid for the year ended December 31, 2008 were in excess of \$9,000,000.00. The City should investigate traditional insurance coverage to determine if it would be more economical.
8. All City union contracts contain a clause that requires that any change in health benefit coverage be of "better or equal to the existing coverage". The City should consider negotiating this clause out of future contracts in order to give the City more flexibility and opportunity to reduce costs.
9. There are forty-eight City employees who are provided vehicles. These employees are assessed imputed income for their personal use of the vehicle. The City should perform a cost study to determine the need for these vehicles.
10. Two contracts for \$400,000.00 each were awarded for accounting services. If these services are other than non-recurring, the City should determine if in-house accounting personnel would be more cost effective.
11. The City has two helicopters and one helicopter pilot. Consider the necessity of this and the possible that the County may already provide helicopter services to the City In cases of emergency.
12. Both sewer and water are billed monthly. Quarterly billings would save a significant amount of administrative costs. An analysis should be made of the costs savings compared to the loss of interest earnings as well as the cash requirement needed to pay expenses.
13. The processing of payroll appears to be too cumbersome. On a weekly basis, the payroll department receives the information from the various departments and processes the payroll and the corresponding checks. The various departments review the checks against the payroll registers which are emailed to them by the payroll department. If errors are found, the checks are voided and new checks are issued. Consideration should be given to have the payroll reviewed prior to the processing of the checks in order to reduce the time required to reprocess the voided checks.
14. The City currently does not charge public defender fees. Consideration should be given to establishing this fee in order to off-set the public defender costs.

Performance Audit of the
City of Newark

STATUTORY AND REGULATORY TESTING



Statutory and Regulatory Testing

Receipt Findings:

1. In our test of receipts for child and family well being, there were two instances where the detail breakdown as to the type of services paid for did not agree, however the total received was correct.
2. Three items tested from special taxes did not have proper support or the coupon attached. Additionally, one did not have proper support and the "FD-3 Form" could not be located.
3. Two items tested from the municipal court manual receipts for bail were not able to be verified since the supporting documentation was not available.
4. All fourteen of the municipal court bail receipts tested did not agree as to the allocation of cash and checks on the respective deposit slips.

Tax Abatement Findings:

1. The legal department settles tax abatements without discussing the abatement with the tax collector's office. The tax collector's office only becomes aware after the settlement.
2. Long term abatements under chapter 24 should be charged a 2% administrative fee per the ordinance Section 10:24-7 part a, however, individual resolutions are overriding the ordinance and some abated properties are being charged a 1% or 2 and a half % administrative fee. Resolutions can't override municipal ordinances.
3. Property owners for certain long term abatements under chapter 24 are required to submit financial statements within 90 days of the end of their fiscal year per the ordinance Section 10:24-7 part b, however most financials are not filed timely.
4. Abatements calculated on property owner's revenues are not always current because financial statements are not always submitted by the property owner. The abatement office sends letters to noncompliant property owners to request the financials, however there is no disciplinary action taken on the noncompliant properties. The city should formally notify the property owner and if noncompliance still exists, the abatement should be terminated. Although the city will collect the funds at some point, the city is not getting the full amount of cash receipts when actually due since financial statements are due within 90 days of the end of the entity's fiscal year.
5. The escalator clause (phase in) on certain tax abatements requires that the greater of the abatement bill or the adjusted escalator amount should be the minimum tax bill. These escalator amounts are not reviewed by tax abatement personnel or tracked by the system.
6. Two tax abatement properties were not "flagged" in the system and therefore the abatement bills were never increased over the base amount and 91 properties in the five year abatement plan were also not "flagged" in the system and therefore are not being calculated correctly.
7. One tax abatement property was over-billed by an estimated \$39,482.41 due to an error in the computer program.

Statutory and Regulatory Testing (Cont'd)

Disbursement Findings:

1. The same vendor is listed several times in the computer system in different ways and there are hundreds of multiple vendors in the system. These additional vendors create confusion and cause inefficiencies.
2. Social Security numbers are listed on support attached to some purchase orders filed in the accounts payable office. The Open Public Records Act restricts access to this information.
3. The annual percentage rate on the Gulf vendor card is 22.99 percent and late fees were also being charged on the card.
4. One vendor was paid through a commercial mail receiving department and 599 vendors were paid at addresses listed as P.O. Boxes however, these appear to be legitimate vendors.
5. Our review of disbursements revealed the following:
 - a. Four voucher packets were unable to be located.
 - b. Fifty-nine purchases were made prior to the date of the purchase order.
 - c. Four disbursements did not have a voucher attached to the voucher packet.
 - d. Four vendors tested who were paid in excess of \$600.00 were not issued a Federal Form 1099.
6. One vendor was paid in excess of \$14,000.00 for fresh flowers most of which was for "flowers in sympathy". This is not a proper use of public funds.
7. One disbursement was for plane fare to the Bahamas for a boxing tournament. We question the necessity of this expenditure.
8. A payment was made for \$1,431.75 for room accommodations in South Carolina for a "Double Dutch" competition.

Review of Encumbrances and Open Purchase Order Findings:

1. Most of the encumbrance and encumbrance contract reports were not accurate and did not tie back to the general ledger.
2. Our review of encumbrances revealed the following:
 - a. The grant encumbrance report had a significant number of old open purchase orders of which 537 were over 10 years old.
 - b. The trust fund had encumbrances dating back to 1984 of which 334 encumbrances are over ten years old.
3. The grant contract report had three negative purchase order amounts.

Ethics Disclosure Form Findings:

1. Fifteen employees and/or officials did not file the Annual Ethics Disclosure Form for 2007. Additionally, six of the same individuals Disclosure Forms were not filed for 2008.
2. Twenty-three employees and/or officials did not file the Annual Ethics Disclosure Form for 2008. Additionally, six of the same individuals Disclosure Forms were not filed for 2007.

Statutory and Regulatory Testing (Cont'd)

Ethics Disclosure Form Findings (Cont'd):

3. One employee's and/or official's Annual Ethics Disclosure Form for 2008 and one 2007 Form was not signed.
4. It appears that the City made payments to five entities that were listed on the Annual Ethics Disclosure Forms as sources of income.

Professional Service Contract Findings:

1. It appears that animal control services were awarded as a professional services contract. We feel that this service does not meet the required criteria of a professional service.
2. A contract for educational transportation was awarded as a professional service. This does not appear to meet the criteria of a professional service.
3. Our review of professional services contracts revealed the following:
 - a. There were seven individual vendors who were paid in excess of the original awarded contract and/or change order.
 - b. Three professional services contracts were awarded but were not advertised in the official newspaper.
 - c. Twelve professional services contracts could not be located.
 - d. Three professional services contracts did not have the required Certificate as to Availability of Funds.
 - e. Five professional services contracts were accompanied by the required Certificate as to Availability of Funds however, the certification was not for the entire amount of the contract.
4. Payments were made against thirty-two open ended contracts where the required Certificate of Available of Funds was not completed each time a payment was made.
5. Most, if not all, of the Business Entity Disclosure Certifications were not properly completed as to the listing of the various political committees, election funds, etc.
6. The required pay-to-play disclosure documents were not available for one engineering contract.

Extraordinary Unspecifiable Service Contract Findings:

1. Twelve EUS Contracts did not have the required Certificate as to Availability of Funds and numerous other Certificates as to Availability of Funds were less than the contracted amount.
2. Eight Business Entity Disclosure Forms were not properly completed as to the listing of the various political committees, election funds, etc.
3. A test of vendors paid in excess of \$17,500.00 via a non-fair and open process revealed that two did not file a business entity disclosure form, one did not file a 271 Disclosure Form and one vendor did not file either.
4. The official notification in the newspaper for ten EUS contracts could not be located.

Extraordinary Unspecifiable Service Contract Findings (Cont'd):

5. The contract for consulting services for advertising which was awarded in December of 2006 for \$2,250,000.00 was properly awarded in the minutes and advertised, however the advertisement for the contract extension in March, 2008 for an additional \$750,000.00 could not be located. We are also questioning the propriety of this contract.

Bid, Change Order, and Other Contract Findings:

1. Certificates of availability of funds are not always kept with contract awards. Some are maintained in the finance office as well. Consideration should be given to establish a central location.
2. The procedure utilized by the City where by new purchase orders are created and the originals are cancelled, does not allow the proper tracking of change orders in excess of 20% of the original contract.
3. There was no documented evidence that a capital budget was ever adopted. The City's copy of the budget as well as the Division of Local Government Service's copy did not contain that section of the budget. Therefore, confirming that adopted capital ordinances were approved in the capital budget could not be performed.
4. The City has adopted an Executive Order (EO) as promulgated by the mayor, along with the City's version of the Chapter 271 Disclosure Form and the Business Entity Disclosure Form. The EO is more restrictive than the pay-to-play law of the State of New Jersey. The comments that we are making regarding non-adherence to the Pay-to-Play Law pertain to the state statute and not to the Executive Order, however we do make the following observations regarding the Executive Order:
 - (1) Whereas local governments are permitted to establish pay-to-play regulations, the City's pay-to-play rules were not approved by ordinance and filed with the State of New Jersey.
 - (2) The Definition of "no bid contracts" appears to encompass all contracts no matter the amount and no matter if a "fair and open" process was utilized.
 - (3) Our testing revealed numerous violations of the Executive Order.
5. We reviewed ten State Contract Awards and it was determined that none had Certificates of Availability of Funds and one was not identified by State Contract Number on the respective voucher.
6. We identified thirteen goods or services that could have been bid if the various purchases would have been aggregated. Additionally, upon a discussion with the purchasing department, a review of like purchases is not performed.
7. Nine of the bids tested did not have the legal advertisement in the bid packets.
8. Twenty-three of the bids tested did not have a Certificate of Availability of Funds. Although the resolution of award stated that a certificate would be completed with each purchase order, they were not completed.
9. The bid packets for fifteen of the contracts tested did not have support that documented the successful bidder was the lowest price. The information for the bidders who were not successful was not available.
10. A contract was awarded for floor covering, in the amount of \$42,285.44, however it was not bid. The minute record reflects that the bid process for this service was tabled.

Statutory and Regulatory Testing (Cont'd)

Bid, Change Order, and Other Contract Findings (Cont'd):

11. A contract was awarded to provide meals for the elderly at a cost of \$117,264.95. The contract was awarded in 2006 by an emergency resolution. The vendor was paid \$287,870.50 during 2008 under the same emergency resolution. The service should be awarded through a bidding process.
12. Two vendors were paid in excess of the bid threshold during 2008. Both did not have a current year contract however, the total amount paid was \$153,668.88.

Payroll Distribution Findings:

1. The ID machine has been broken for months and many of the Newark ID cards are very old and are not legible. A bar code scanning ID system would be a much better system.
2. Some of the positions on the personnel database are not current. Also, some of the retirees collecting pension were not able to be located on the personnel database which may be caused by the data base not being updated for name changes.
3. Five hundred and ten employees did not attend the payroll distribution audit. Two hundred and eighty-nine of these individuals are fire department employees.
4. The payroll distribution audit revealed the following items for those individuals who attended:
 - Eighty-five police officers had expired police identification cards.
 - Eight individuals had no form of identification.
 - Twenty-two individuals provided only a City I.D. and no second form of identification.
 - Sixty-four individuals had a variety of other issues ranging from expired drivers licenses to the current signature not matching the form of identification provided.

Payroll and Personnel Findings:

1. Three hundred and sixteen individuals' base pay earnings increased greater than \$7,500.00 in 2008 as compared to 2007. Two individuals' increases were approved subsequent to August, 2008, one of which was a change of position. Approximately two hundred and sixty-four were police and fire personnel.
2. The verification of employee's social security numbers to the data base at the Federal Social Security Administration revealed that fourteen social security numbers did not match to the corresponding name, of which one did not attend the payroll distribution.
3. Five employees who were tested from the 2008 earnings record were also employed during 2007, however their names did not appear on the 2007 check register.
4. Police Department overtime exceeded 16 million dollars which is greater than 15% of police contracted salaries. This included two individual employees who received a total of \$80,249.80.
5. The direct deposit form for thirteen individuals could not be located.
6. Four individuals tested from the police department received payment for overtime however we were not able to locate the respective timesheet and/or their name on the department summary list detailing overtime hours.

Statutory and Regulatory Testing (Cont'd)

Payroll and Personnel Findings (Cont'd):

7. Two fire department employees received compensation identified as "hazard duty pay" in the amount of \$3,253.00 however the amount per the contract is \$1,253.00.
8. The longevity pay of three employees tested was incorrectly calculated.
9. We were unable to verify the accuracy of six different amounts of compensation, totaling \$4,296.57, to four of the employees tested.
10. We were unable to verify the accuracy of five different amounts of compensation, such as holiday pay and clothing allowances, totaling \$20,135.34, paid to one non-union employee tested.
11. The City Council approves all union contracts and "Executive Orders" are utilized to approve actual salary ranges by position. Most salaries are not approved through the adoption of salary ordinances.

Review of Salary Contracts Findings:

1. Newark Deputy Chiefs Association -- Twenty-two days vacation after six years. After the first year of employment there are 41 days of vacation, personal and holiday pay. Sick days range from 5 days for the first year of service, to 120 days for twenty years of service. Longevity pay of between 12% after 25 years of service and 14% after 30 years.
2. Superior Officers Association -- There is a minimum of 49 days of vacation, personal and holiday pay. Sick days appear to be unlimited. Longevity pay, of between 12% after 25 years of service and 14% after 30 years.
3. Service Employees International Union Local 617 (Police Communication Clerks and Officers) -- After the first year of employment there are 41 days of vacation, sick and holiday. Longevity pay of between 10% after 25 years of service and 14% after 30 years.
4. Communications Workers of America, local 1037, AFL-CIO -- After the first year of employment there are 44 days of vacation, sick and holiday. Longevity pay of between 12% after 24 years of service and 14% after 29 years.
5. Newark Council No. 21, Newark Chapter, NJ Civil Service Association -- Longevity pay of between 10% after 25 years of service and 14% after 30 years.
6. Fraternal Order of Police Newark Lodge No. 12 -- After the first year of employment there are 31 days of vacation, personal and holiday. Sick days appear to be unlimited. Longevity pay is received at a rate of between 12% after 25 years of service and 14% after 30 years.
7. Inter-local Union of Operating Engineers Local 68-68a-68b, AFL-CIO -- Double pay for Sundays and Holidays. Longevity pay is received at a rate of between 10% after 25 years of service and 14% after 30 years. After the first year of employment there are 14 paid holidays.
8. Service Employees International Union, Local 617 -- After the first year of employment there are 41 days of vacation, sick and holiday. Longevity pay is received at a rate of between 10% after 25 years of service and 14% after 30 years.
9. AFSCME AFL-CIO, Local 2297 -- Longevity pay of between 10% after 25 years of service and 14% after 30 years.

Statutory and Regulatory Testing (Cont'd)

Review of Salary Contracts Findings (Cont'd):

10. Service Employees International Union, Local 617 -- Longevity pay of between 10% after 25 years of service and 14% after 30 years.
11. Newark Fire Officers Union, Local 1860 -- Longevity pay of between 10% after 25 years of service and 14% after 30 years.
12. Building Trades Bargaining Committee -- Longevity pay of between 10% after 25 years of service and 14% after 30 years.
13. Jersey Nurses Economic Security Organization -- Longevity pay of between 10% after 25 years of service and 14% after 30 years.
14. American Federation of State, County, and Municipal Employees -- Longevity pay of between 10% after 25 years of service and 14% after 30 years.
15. City of Newark Firefighters Union -- After the first year of employment there are 14 paid holidays. Longevity pay of between 12% after 25 years of service and 14% after 30 years.
16. AFSCME AFL-CIO, Local 2299 -- Hours in excess of 40 on a Holiday will be paid at triple time. Longevity pay of between 10% after 25 years of service and 14% after 30 years.

Banking and Investment Findings:

1. It appears that although the 2007 audit report shows investments on the trial balances, the notes to the financial statements do not reflect any securities categorized as investments. Based on our review, the City does not appear to have investments.
2. The notes to the financial statements in the 2007 Audit Report indicate there is money in New Jersey Cash Management Fund and in repurchase agreements which is not the case.
3. Several bank accounts are not included on the Annual Financial Statement but are instead listed as deposits in transit.

Grant Accounting Findings:

1. Grants are expended upon award but prior to the approval of city council and appropriation in the annual budget. Expenditures are posted to temporary accounts, reflected on the balance sheet as an asset and at some subsequent time charged to the appropriate grants.
2. There is a lag in approval by council for grants since all grants flow through the legal department two different times. Also, there is a lack of continuity in the law department in the review of grants. One person may do the initial review but a different person may do the review of the final agreements.
3. Demolition liens redeemed (paid by property owners) from 1998 to 2007 from HUD funds were not tracked and not subsequently appropriated to the grant as program income until 2008.
4. There were sixteen grants tested where the documentation to determine grant compliance was not able to be located.

Statutory and Regulatory Testing (Cont'd)

Grant Accounting Findings (Cont'd):

5. The Child and Family Welfare Department has indicated that one grant project has been completed and the balance of the grant had been returned, however the 2007 Audit Report discloses expenditures and a balance.

Review of the 2007 Audit Report and Corrective Action Plan Findings:

1. The 2009 budget was introduced on 7/14/09.
2. The 2007 single audit was filed as of 6/23/09 but was due by 9/30/08.
3. The 2006 single audit corrective action plan was completed, however it was never filed.
4. The audit report was dated September 10, 2008 which is beyond the statutory deadline of June 30, 2008.
5. The sales contracts receivable balance was the same as the previous year in the amount of \$12,544,477.53.
6. There is a liability on the Current Fund balance sheet for "Unallocated Receipts/ Tax Overpayments" in the amount of \$8,112,485.33.
7. The protected checks balance is \$1.4 million which is similar to the previous year yet the activity during 2007 was approximately \$600,000.00.
8. The reserve for election workers payable of \$86,277.72 has been the same for at least two years.
9. A deferred charge has been on the General Capital balance sheet for at least two years for "Unfunded Costs of Bond Issue" in the amount of \$355,521.68.
10. A deferred charge has been on the Water Utility Capital balance sheet for at least two years for "Unfunded Costs of Bond Issue" in the amount of \$50,000.00.
11. Footnote #10 identifies a balance of capital leases program through the Essex County Improvement Authority of \$38,481,161.06 which is not on the balance sheet.
12. The revenue accounts receivable statement discloses a balance receivable from the municipal court of \$1,137,546.69 which is the same as the previous year.
13. A balance of \$601,398.74 is disclosed on the Federal and State Grant Fund balance sheet which appears to be monies disbursed for grants prior to the grant being approved in the budget as adopted or by Chapter 159.
14. The balance of Federal and State Grants Receivable is \$164,708,168.00. This includes balances from 1983 through 2000 which totals \$32,156,652.00.
15. The unappropriated grant balance is \$9,812,121.76 as compared to the beginning balance of \$8,858,034.50. This would seem to indicate that approved grants are not being budgeted on a timely basis.

Statutory and Regulatory Testing (Cont'd)

Review of the 2007 Audit Report and Corrective Action Plan Findings (Cont'd):

16. Assessment fund balance exists at December 31, 2007 in the amount of \$883,913.86. Since there is no corresponding debt consideration should be given to utilize these funds as revenue in the current fund budget.
17. Accounts receivable, protested checks and overpayments receivable balances in the Trust Fund total \$1,024,105.02 at year end. These balances were the same as the prior year.
18. There are unfunded costs in the General Capital Fund that have been expended and have deficit cash balances that are over five years old.
19. General Capital Fund Improvement Authorization funded balances exist at December 31, 2007 in the amount of \$4,291,834.47 for projects that were authorized in the years 1998 and prior. The City should give consideration to cancelling these balances.
20. There are unfunded costs in the Water Capital Fund that have been expended and have deficit cash balances that are over five years old.
21. The fixed capital authorized and uncompleted balances included projects from the 1980's and 1990's.
22. There are no outstanding bonds of the "bearer bond" nature, however there is a bond and interest fund listed in the audit.
23. The bond and interest fund identified in the audit should no longer exist. The investment amount consists of the balance of a lease purchase agreement that has been paid. The cash amount is from old bond and interest accounts that are in the process of being closed. These funds are in jeopardy of being escheated to the State.
24. The 2007 Report of Audit was received by the City in September, 2008. As of June, 2009 there is a corrective action plan however, it is in draft form and has not been approved by the Mayor and City Council or filed with the DLGS. The corrective action plan is required to be filed within 60 days of the receipt of audit. Also, the 2006 corrective action plan was never filed.
25. It appears that the various union contracts and the Executive Order for non-union individuals provide benefits to retirees, other than pension benefits. These benefits and others of a similar nature are considered "Other Post Employment Benefits". Effective with the 2007 Audit, information regarding these benefits was required to be disclosed in accordance with GASB 45.

Review of the 2008 Draft Annual Financial Statement Findings:

1. The AFS draft is dated May 22, 2009 which is beyond the deadline of February 10, 2009.
2. Sheet 1d does not identify the dollar value of the expenditures of federal and state programs.
3. Sheet 3 and 3a disclose an emergency note or notes in the amount of \$2,000,200.00 which is to provide the cash for the deferred charge of the revision to the master plan. The original amount of the deferred charge is \$2,000,000.00 and \$400,000.00 was raised in the 2008 budget. The entire amount of the emergency note may not have been required to be issued since one-fifth was already appropriated in the 2008 Annual Budget.
4. Sheet 9a appears to have the bank account numbers identified.

Statutory and Regulatory Testing (Cont'd)

Review of the 2008 Draft Annual Financial Statement Findings:

5. Sheet 41a reflects a deferred charge of \$1,886,846.78 for capitalized interest.
6. Sheet 55a reflects an overdraft in sewer utility capital cash of \$13,520,803.87. This appears to be a result of not collecting funds from the state of NJ for the wastewater loan.
7. The following balances remained unchanged from the 2007 Audit to the 2008 Draft Annual Financial Statement:
 - Sales Contracts Receivable \$12,544,477.53
 - Protested Checks 1,400,000.00
 - Reserve for Election Workers Payable 86,277.72
 - Unfunded Costs of Bond Issues – all funds 405,521.68
 - Assessment Fund Balance 883,913.86

Review of the Organizational Chart Findings:

1. There are only two full time employees and one outside consultant who was hired on a temporary basis to work in the payroll department. Three payroll department employees have passed away in the past couple years and they have not been replaced. The payroll department appears to be understaffed and as a result is using outside consultants. This process may be inefficient and not cost effective.
2. Grant accounting and compliance is decentralized and performed at the department level. Oversight of grants is not possible at this level.

Other Items Noted:

1. As of May 4, 2009 the 2008 minutes were not bound.
2. The February 2008 dog license report was not filed until 4/28/08.
3. Outside lien redemptions are collected by the City but the checks are made out directly to the lien holder. The city does not deposit the funds.
4. The review of the monthly management reports of the City Court revealed that there are 14,415 pending traffic tickets that are over 120 days, there are 579,976 traffic tickets assigned and not issued that are over 181 days, there are 4,935 cases that are eligible for failure to appear notices, and there are 14,703 pending complaints that are over 121 days old.
5. It appears that there are twenty-seven Trust Other Reserves that are identified in the 2008 Annual Financial Statement that do not have approval from the Division of Local Government services. Twelve of the reserves have no expenditures in 2008.
6. Two individuals who were tested were listed on the health benefit bill however, no longer were employed by the City and/or did not have the required years of services to receive benefits after retirement.
7. There were ten individuals receiving health benefits whose names were not listed on the personnel data base. This may be caused by the data base not being updated for name changes.

Performance Audit of the
City of Newark

INTERNAL CONTROL REVIEW AND ASSESSMENT



126x

Description of Audit Risk

Inherent risk - is the susceptibility of a relevant assertion to a misstatement that could be material, either individually or when aggregated with other misstatements, assuming that there are no related controls. The risk of such misstatement is greater for some assertions and related account balances, classes of transactions, and disclosures than for others. For example, complex calculations are more likely to be misstated than simple calculations. Cash is more susceptible to theft than an inventory of coal. Accounts consisting of amounts derived from accounting estimates that are subject to significant measurement uncertainty pose greater risks than do accounts consisting of relatively routine, factual data. External circumstances giving rise to business risks and also influence inherent risk. In addition to those circumstances that are peculiar to a specific relevant assertion, factors in the entity and its environment that relate to several or all of the classes of transactions, account balances, or disclosures may influence the inherent risk related to a specific relevant assertion.

Control risk - is the risk that a misstatement that could occur in a relevant assertion and that could be material, either individually or when aggregated with other misstatements, will not be prevented or detected on a timely basis by the entity's internal control. That risk is a function of the effectiveness of the design and operation of internal control in achieving the entity's objectives relevant to preparation of the entity's financial statements. Some control risk will always exist because of the inherent limitations of internal control. Inherent risk and control risk are the entity's risks, that is, they exist independently of the audit of financial statements.

General Comments

Control Weaknesses & Recommendations:

1. Weakness -- Most internal control documents maintained by the City do not currently reflect the actual controls in place and some departments do not have their internal controls documented.

Recommendation -- All City departments that maintain, process, or account for financial information or physical resources should have up to date internal control documentation.

2. Weakness -- Controls and processes are not in place to enable the timely filing of the Annual Financial Statement by City Officials.

Recommendation -- That controls and processes be established to enable the timely filing of the Annual Financial Statement by City Officials.

Cash and Investments

Audit Area Overview:

Each municipality in the State of New Jersey is required to approve a Cash Management Plan pursuant to the provisions of N.J.S.A. 40A:5-14 in order to set forth the basis for the deposits and investment of certain public funds of the City, pending the use of such funds for the intended purposes. The intent of the plan is to provide that the decisions made with regard to the deposits and permitted investments will be done to ensure the safety, liquidity, and maximum investment return within such limits.

As part of our procedures, we developed an understanding of the cash and investment process. We interviewed all appropriate individuals within the process.

Internal Control Review and Assessment (Cont'd)

Cash and Investments (Cont'd)

Audit Area Overview (Cont'd):

The following is a summary of observations related to the cash and investment policies and process:

The Assistant Treasurer researches various investment options, however, the Director of Finance is the designated official who is required to authorize the deposit or investment in the funds referred to in the approved plan. The plan is also required to identify certain approved institutions in which all public funds covered under the plan are to be deposited. The City may only invest public funds in statutorily permitted investments.

Each month, the Assistant Treasurer is required to maintain a list containing the name of the institution in which the public funds are deposited, the amount of securities purchased or sold, the class or type of securities purchased, the book value of such permitted investments, the earned income on such permitted investments, the fees incurred to undertake such permitted investments, the market value of such permitted investments. The report shall also contain a listing of any certificate of deposits including organization holding funds, interest rate, amount, period and all other information which may be deemed reasonable from time to time by the governing body of the City.

The Assistant Treasurer is also responsible for preparing the bank reconciliations for all the bank accounts in the City's name except for the Municipal Court accounts.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- Bank reconciliations are not reviewed.

Recommendation -- Bank reconciliations should be reviewed by an individual other than someone in Treasury.

Receipts

Central Cashiering

Audit Area Overview:

The City receives money from property taxes, water rents, sewer rents state and federal aid, and various outside departments (agencies) through the issuance of permits, licenses, fees, etc. Some of the more significant outside departments in terms of revenues include Municipal Court, Recycling, Neighborhood Services, Fire Prevention, Police (Alcoholic Beverage Control Division and Taxi Cab Division), Economic Development (Property Management), Engineering (Traffic and Signals Division and the Uniform Construction Code Division), Finance (General Licenses Division), Family and Child

Receipts (cont'd)

Central Cashiering (cont'd)

Audit Area Overview (cont'd):

Well Being, Purchasing and Vital Statistics. All receipts received from outside departments are taken to Central Cashiering for inclusion in the daily deposit and to be entered into the accounting system.

As part of our procedures, we developed an understanding of the revenue and cash receipts processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes of the revenue and cash receipts cycle. In addition to our walkthroughs, we performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the revenue and cash receipts processes:

Revenue Collection

The central cashiering office is responsible for the deposit and recording of all revenue. The various outside departments, including treasury turns all revenue over to central cashiering. Individuals paying in cash must make the payments to central cashiering since procedures indicate that outside departments should not accept cash. The outside departments collect either checks or money orders and issue receipts to the payers. Fees are charged in accordance with schedules established by ordinances approved by the governing body. Each day when revenue is collected, the department completes a FD-3 form summarizing the receipts by type of receipt and assigns the appropriate revenue account code. The FD-3 form and the checks and money orders are taken to central cashiering where they are verified, deposited and recorded in the accounting system. The form is signed by the department and central cashiering to determine they are in agreement with the amount that was turned over.

Deposit of Receipts

Each cashier balances their drawer and reconciles it to the system for the day. After which, the central cashiering supervisor totals the receipts for all the cashiers and reconciles them to the computer system. The supervisor then enters the cash and money orders onto a deposit slip and takes the deposit to the bank escorted by a police officer. The checks are deposited using remote deposit capture (RDC) where they are scanned to the bank for deposit with the RDC machine which automatically deposits them and prints out a summary.

Recording of Revenue

Central cashiering enters the receipts into the revenue accounting system based on the revenue codes on the FD-3 forms from the departments. After the central cashiering supervisor verifies the totals to the deposits, they are uploaded into the general ledger. A copy of the form brought to central cashiering is then returned to the department. Another copy of the form is sent to finance where they are verified to the postings in the system.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Internal Control Review and Assessment (Cont'd)

Receipts (Cont'd):

Central Cashiering (cont'd):

Control Strengths:

1. An armed police officer is on site every day in the cashiering office for security purposes.
2. The turnover of receipts from the various departments is documented and signed off by central cashiering and the department.
3. The central cashiering supervisor reviews the work of each cashier.

Control Weaknesses & Recommendations:

1. Weakness -- The central cashiering supervisor signs the adding machine tape verifying the proof sheet.

Recommendation -- The central cashiering supervisor should sign the proof sheet as documentation of verifying the proof sheet.

Tax Collector

Audit Area Overview:

A significant portion of the City's revenues is derived through the collection of taxes. The Tax Collector is responsible for the billing and collection of property taxes.

As part of our procedures, we developed an understanding of the revenue and cash receipts processes which included tax billings, delinquent tax balances, tax collections and the recording of revenue and cash receipts.

We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes over revenue and cash receipts. In addition to our walkthroughs, we performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the revenue and cash receipts processes:

Tax Billings

The City uses the H&L software application for the tax billing process. For property tax billings, the City receives the yearly tax rate from the County of Essex. Once the tax rate is received, the Tax Assessor verifies that all taxpayers are included within the system and that the tax rates have been updated based upon the county certified tax rate. Once the updates have been performed, all required adjustments to the tax billings are made. Payments are due quarterly on February 1st, May 1st, August 1st and November 1st of the City's calendar year.

Internal Control Review and Assessment (Cont'd)

Receipts (Cont'd)

Tax Collector (Cont'd)

Delinquent Taxes

There is a 10-day grace period by City resolution for delinquent property taxes. If the tax bills are mailed out too close to the due date, the normal 10-day grace period is extended. Payments received after the grace period has expired are subject to a two-tier interest calculation for delinquent property taxes: 8% on the first \$1,500 due and 18% on any amount that exceeds \$1,500. In addition, any delinquency in excess of \$10,000 at the end of the calendar year is subject to a 6% penalty on the unpaid balance. There is a tax sale held once a year as mandated by the State. All properties with delinquent taxes are subject to an annual tax sale with the exception of any properties with a bankrupt owner or a court order.

Tax Collections and Deposits

Property tax payments are collected at the window in the central cashiering office, through payments received in the mail, or through payments made to the City's lockbox. The City accepts cash, checks, money orders and credit cards. In all methods of payment, the payment is verified to the tax stub and tax amount due in the system to ensure that the payment was appropriate. Upon verifying the payment is accurate, the tax payment is entered into the H&L software application and included in the total daily cash receipts.

Recording of Revenue and Cash Receipts

Once the cashiers verify the appropriateness of the cash receipts, they post them to the H&L software application. The postings of the cash receipts in the application are made directly to the subsidiary ledger taxpayer accounts. Once the cashier's registers have been reconciled, they are summarized on a daily report and uploaded electronically which automatically posts them to the general ledger. The department of accounts and control reviews the general ledger and verifies them to the deposits.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Control Strengths:

1. The computer system tracks tax balances and automatically calculates the interest due on delinquent properties.

Control Weaknesses & Recommendations:

1. Weakness -- Non-cash transactions other than appeals are not approved in the minutes. In a prior year, the governing body gave blanket approval for non-cash transactions.

Recommendation -- All required non-cash transactions should be approved by the minutes.

Internal Control Review and Assessment (Cont'd)

Receipts (Cont'd)

Water and Sewer Utilities

Audit Area Overview:

As part of our procedures, we developed an understanding of the revenue and cash receipts processes which included water and sewer billings, delinquent balances, water and sewer collections and the recording of revenue and cash receipts.

We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes over revenue and cash receipts. In addition to our walkthroughs, we performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the revenue and cash receipts processes:

The City operates a water and sewer utility to provide safe drinking water and safe conveyance of waste water to the treatment plant. The Department Head is responsible for the billing of water and sewer rents and maintaining customer accounts. Billing is based on usage and is calculated through meter readings. The meter readings are uploaded into the utility computer system. Changes can be made to the meter reading data by the billing supervisor. The system automatically calculates billing charges which are than authorized, printed and mailed. Receipts are collected by central cashiering and posted to the computer system and are uploaded into the utility computer system daily. After the information is uploaded, payments are electronically posted to the customer accounts and interest is calculated by the utility computer system. Water and sewer billings are subject to the same tax sale regulations as taxes. Water and Sewer billing complaints are investigated by the dispute committee and resolved by the water and sewer department.

Risk Assessment:

Inherent Risk - High
Control Risk - Moderate

Control Strengths:

1. Water and sewer billing calculations are prepared through the computer system.
2. Interest on water and sewer delinquencies is automatically calculated by the computer system.

Control Weaknesses & Recommendations:

1. Weakness -- Reviews of the water meter reading reports are not documented with the reviewer's signature.

Recommendation -- The reviewer of the water meter reading reports should sign off on the report.

2. Weakness -- Special interfacing is required to upload receipt information in to the water and sewer accounting system.

Recommendation -- Consideration should be given to streamline the processing of water and sewer rent collections and accounting.

Internal Control Review and Assessment (Cont'd)

Receipts (Cont'd)

Water and Sewer Utilities (cont'd)

Control Weaknesses & Recommendations (cont'd):

3. Weakness -- Interest calculations for water and sewer are too complicated.

Recommendation -- interest rates charged on water and sewer delinquencies should be simpler and made more practical.

4. Weakness -- Water and sewer billing cancellations are not approved in the minutes.

Recommendation -- All cancellations of water and sewer balances should be approved in the minutes.

Liens

Audit Area Overview:

As part of our procedures, we developed an understanding of the lien processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to lien processes:

All delinquent balances that are not subject to bankruptcy laws are marked for tax sale. A listing of delinquent balances for tax, water, sewer, special assessments and special taxes is created and advertised. These properties are included in the tax sale and become municipal or outside liens. After the tax sale, the results are entered into the computer system to be maintained and tracked. Municipal lien redemptions receipts are collected and deposited by central cashiering, fees are verified, and it is entered into the system. For outside liens, receipt amounts are verified and receipts are held and not deposited. Once the certificate holder returns the original certificate the funds are remitted to the certificate holder. For municipal liens not redeemed, they are foreclosed on annually.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- Tax title lien redemption receipts are not deposited. Checks are held for pickup.

Recommendation -- Tax title lien redemptions receipts should be deposited in an interest bearing account. Also, any interest earnings would be revenue for the City.

Internal Control Review and Assessment (Cont'd)

Receipts (Cont'd)

Tax Abatement

Audit Area Overview:

As part of our procedures, we developed an understanding of the tax abatement processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the tax abatement processes:

The City has five types of tax abatement which are all authorized by ordinance. Abatement billing, receipts and balances are tracked in the computer system. Proposed abatements are reviewed by the Tax Abatement Committee which consists of three members of City Council. The Committee then makes recommendations to the governing body. New abatements are authorized by the governing body and the information is sent to the abatement department. Abatements are then calculated through a Micro-Soft Excel worksheet and the information is entered into the system. The billings are automatically generated by the system. Any delinquencies are subject to tax sale. The assessor notifies the abatement department of any expired or revoked abatements.

Risk Assessment:

Inherent Risk - High
Control Risk - High

Control Strengths:

1. The computer system tracks and bills tax abatements.

Control Weaknesses & Recommendations:

1. Weakness – There is no review of all the input data by a second individual.

Recommendation – All abatements should be manually calculated at least for the first year and all inputs in the computer system should be verified by someone other than the individual who inputs the information.

2. Weakness – Many properties have not submitted current financial statements for tax abatement billings.

Recommendation – An overdue financial statement report should be generated so the abatement office can follow up with delinquent accounts on a timely basis.

Receipts (Cont'd)

Special Improvements / Assessments

Audit Area Overview:

As part of our procedures, we developed an understanding of special improvement processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to special improvement processes:

There are three Special Improvement Districts which are approved by ordinance. They are the Ironbound, Downtown and Mt. Prospect Districts. Assessments to these districts are for business improvement and development and cleaning and maintenance of infrastructure. Expenditures are made from the current fund budget and later apportioned by the tax assessor based on property values. These apportionments are approved by resolution and imputed into the system. Quarterly assessment bills are printed from the system and are processed in the same manner as property taxes.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Control Strengths:

1. The computer system tracks special improvement balances and automatically calculates the interest due on delinquent properties.

Control Weaknesses & Recommendations:

None.

Internal Control Review and Assessment (Cont'd)

Expenditures

Audit Area Overview:

The City operates separate departments for its purchasing and accounts payable functions. The City's purchasing function is handled by the purchasing department and the accounts payable function is handled by the accounts payable department. Key employees were interviewed during our process of gaining an understanding of the processes and controls in place over the operations within each of these departments.

As part of our procedures, we developed an understanding of the purchasing, accounts payable and cash disbursement processes. Major areas included in purchasing process include purchase requisitions and approval, purchase order issuance, ordering and receipt of goods and services, accounts payable and the cash disbursement process.

We interviewed all appropriate individuals within the processes and prepared worksheets documenting the processes and controls in place. We also performed a walkthrough of the appropriate processes of the purchasing, accounts payable and cash disbursement processes. In addition to our walkthroughs, we performed tests of controls and compliance procedures related to the processes in order to determine our risk assessments.

The following is a summary of observations related to the purchasing, accounts payable and cash disbursement processes:

Purchasing Process

The City's purchasing functions are handled by the purchasing department which is responsible for the providing the final approval of the purchasing of goods and services and ensuring that the City is in compliance with all of the purchasing requirements established in the Local Public Contracts Law (N.J.S.A. 40A:11 et seq.).

All requests for purchases of materials, supplies and services must be initiated through the completion of a purchase requisition ("requisition") which is also known as a pre-encumbrance. A requisition may be completed by any of the City's employees. Once the need for a purchase has been determined, the department is responsible for obtaining quotes if the purchase is excess of the statutory quote threshold. All requisitions are completed electronically and are pre-numbered by the City's accounting system ("system").

Once it is determined that the appropriate account has been selected and funds are available, the requisition is electronically forwarded to the department manager for review and approval. Once the purchase requisition has been approved, the purchase requisition is forwarded electronically to the purchasing department.

The purchasing department has buyers assigned to the City's various departments. The buyer's responsibilities include reviewing the requisition for accuracy and completeness along with verifying that the funds are available and determining if a contract or agreement already exists. If there is no existing contract, aggregation is checked on a per item basis to determine if bids would be necessary. If bidding is necessary, the purchase would be required to go through the bid process.

The purchasing department reviews the requisition and any supporting documentation as well as the availability of funds in the budgetary accounts. Upon approval, the requisitions are electronically converted into purchase orders through the nightly automatic batching process which eliminates the unauthorized use of purchase orders. Purchase orders are automatically printed as part of the batching process and the assistant purchasing agent manually signs the original purchase order if it is not under contract.

Expenditures (Cont'd)

Purchasing Process (cont'd)

Once the purchase order is manually approved, the buyers order the goods or services based on the approved purchase order. The purchase orders are then sent to the department that originated the requisition. The department sends the purchase order to the vendor to obtain the claimants certification. The purchase order, signed by the vendor is then returned to the central billing unit with the vendor's invoice. This information is scanned in and emailed to the department while the originals are sent to accounts payable. The department verifies that the goods and services have been received and a packing slip is signed if necessary. The receiving information is entered into the system and a receiving page is printed by the department and attached to the scanned purchase order which is given back to the central billing unit. The vendor information is verified in the system by the central billing unit and the scanned copy with the receiving page is sent to accounts payable.

Accounts Payable and Cash Disbursements Process

The accounts payable department performs a three-way match of the original purchase order, the scanned in version of the purchase order and the receiving page. After the documents are verified, the original purchase order is initialed and an electronic voucher is created. The director of the department is notified of the creation of the voucher. The director then approves the voucher and an electronic notification is sent back to accounts payable. Accounts payable then processes the pay cycle, prints a trial register and verifies it against the vouchers. At this point, a check register is run and the peoplesoft consultants upload the check files to the printer. The treasury department is then notified to print the checks. After the checks are printed, they are distributed by the treasury department.

Bids and Contracts

In instances where the bidding process is required, the department initiating the requisition prepares the bid specifications and requests in for the purchasing department to begin the bidding process. The assistant purchasing agent prepares the advertisement and the bid is advertised in the City's designated newspapers. Upon receipt of bids by the purchasing department, either the applicable department or the purchasing department reviews the bid packages for all required documentation as well as compliance with the bid specifications and makes a written recommendation. The purchasing director awards contracts under \$17,500.00 and City Council awards those over \$17,500.00. The contracts over \$17,500.00 must have the resolution reviewed by the legal department before it is approved. After the award is approved, contracts are prepared by the applicable department and are signed by the purchasing director. At this time, the contracts are sent to the vendor to be signed and returned to the legal department to approve the form and legality prior to final execution.

In the case of emergencies, the department director provides the purchasing agent with a signed written requisition and signed statement of the nature and timing of the emergency. The comptroller then prepares a certificate of availability of funds.

Procurement Cards

The city does not utilize procurement cards.

Petty Cash

Several departments within the City maintain petty cash funds. A resolution is prepared annually identifying the petty cash funds authorized. A resolution is also prepared at any time during the year when the need arises for an additional petty cash fund. In the case of new petty cash funds, three copies of the application are attached to the resolution and the comptroller submits them to the director of finance. They are forwarded to the business administrator for approval. Once they are approved, they are submitted to City Council for approval and a copy is sent to the Division of Local Government

Internal Control Review and Assessment (Cont'd)

Expenditures (Cont'd)

Petty Cash (cont'd)

Services, to attain their approval. After the new petty cash receives final approval, the resolution is sent to the assistant treasurer to disburse the money to the individual custodians of each fund.

Each department that has petty cash designates a custodian to be responsible for the funds. The custodian maintains the funds in a locked box in a secure area. Employees request approval from the custodian prior to purchasing the items. Once items are purchased, the employee submits receipts to the custodian who reimburses the employee. Each custodian balances their petty cash box weekly and when funds need to be replenished, the custodian prepares a voucher request in the system and allocates the reimbursed expenses to the proper budgetary account. The request process follows the same procedures as the previous cash disbursement process.

Debt Service

The assistant treasurer is responsible for maintaining the City's debt service. A debt service schedule is prepared in order to track debt service payments. The assistant treasurer also determines the total amount due for each paying agent and also identifies the amount which remains outstanding. The determination is reconciled with the municipal debt service schedule and compared to the annual financial statement. The assistant treasurer is responsible for preparing debt service vouchers in the system and the payment follows the same procedures as the previous cash disbursement process.

The assistant treasurer also prepares a debt requirement schedule for the forthcoming year prior to the commencement of that year. The assistant director of finance also prepares a five year capital budget for distribution to various officials within the City.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Moderate

Control Strengths:

1. Requisitions go through a department review process as well as obtaining a review by the purchasing department.
2. Purchase orders are automatically generated based upon proper approvals so there is no unauthorized use of purchase orders.
3. The check printing process is performed in a separate department from the check register preparation process.
4. Only two individuals have access to print checks.
5. Positive pay is used to help ensure that only approved checks are paid by the bank.

Internal Control Review and Assessment (Cont'd)

Expenditures (Cont'd)

Control Weaknesses & Recommendations

1. Weakness – There is no procedure to verify that all vendors paid are not on the suspended and debarred contractor's list.

Recommendation – Incorporate a check of vendors for being a suspended and debarred contractor as part of the purchase order approval process.

2. Weakness – Aggregation is not checked by category. It is only checked on a per item basis.

Recommendation – Similar purchases should be reviewed for aggregation purposes to be in compliance with the local public contracts law.

3. Weakness – The PeopleSoft consultants were part of the check preparation process in 2008 however, this has been changed for 2009.

Recommendation – A high level city employee should upload the check files to the printer.

4. Weakness – Some vendors were not flagged in the system to receive a 1099.

Recommendation – All vendors should be reviewed and flagged to either be issued or not issued a 1099.

Payroll

Audit Area Overview:

As part of our procedures, we developed an understanding of the payroll and human resources processes. These processes included the new hire process, termination of employees, processing of payroll, maintenance of payroll deductions payable, and accrual of time.

We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and identified controls in place. We also performed certain walkthroughs of the appropriate sub-processes of the payroll and human resource processes. In addition to our walkthroughs, we performed certain test of controls and compliance procedures related to the processes.

The following is a summary of observations related to the payroll and human resource processes:

New Hire Process

The various municipal departments have the ability to advertise and search for new employees. Upon determination of the need by a department to hire an individual, the appropriate division head is required to notify the personnel department. The personnel department obtains the required information from the prospective employee and then enters the employee's information into the system.

Termination of Employment

Termination of employment begins at the various City department levels. If an employee resigns, retires or is terminated by the City, the appropriate division head is required to notify the personnel department so the personnel database can be adjusted.

Internal Control Review and Assessment (Cont'd)

Payroll (Cont'd)

Processing of Payroll

Payroll is processed on an exception basis which means that the payroll amounts for all employees are automatically calculated each pay period based upon initial salary and wage information established in the system. Each department is responsible for tracking their employee's time. For each pay period, the timekeeper at each department reviews the employee time records and adjusts a standard excel form which is submitted to payroll through email. Support for any exceptions is also forwarded to the payroll department. The payroll department reviews the worksheets and uploads them into the system and makes any necessary adjustments. The payroll department pulls in and verifies the budget account updates. Then payroll prints various reports to check for obvious errors than verifies the totals for the pay period. Checks are then sent to the printer for the Treasury Department to print and distribute to the various departments. The departments then review the checks against the payroll registers which are emailed to them by the payroll department. If errors are found, the checks are voided and a new check is created. Departments must obtain approval from their chief clerk, their department director, the assistant comptroller, the finance director and sometimes the budget director for the new check requests which are submitted to payroll for processing. The departments are than responsible for distributing the checks to employees.

Payroll Deduction Procedures

Payroll sets up and runs validations on all deductions including garnishments form court agreements, changes in union agreements, contract changes and changes in rates. The validations are run to verify that the changes are calculating properly. The treasury department is responsible for preparing and filing the quarterly reports as well as wiring the funds for payroll taxes. Agency balances are tracked in the system as well as in excel.

Compensated Absence / Accumulated Time

Accumulated sick, vacation and compensatory time allowances are permitted for all bargaining units and other employees within the City. Annual allowances for accumulated sick, vacation, and compensatory time are either determined by the individual collective bargaining unit agreements or by the adoption of executive orders and ordinances by the governing body.

Each department has a person known as the timekeeper who is responsible for tracking the usage of time off for all employees in their department. The timekeeper maintains employee time records by inputting allotted time off per contracts and adjusting for time off utilized. All employees are required to submit forms whenever than plan to take off or have missed work. The supervisor for each department reviews the forms prior to them being submitted to the timekeeper. Each month, the time records are submitted to the department's director and also to the personnel director.

Risk Assessment:

Inherent Risk - High
Control Risk - High

Control Strengths:

1. New and terminated employees are entered in to the payroll system by a separate department from the payroll processing function.
2. Salary amounts are calculated by the budget department which is a separate department than the payroll processing function.

Internal Control Review and Assessment (Cont'd)

Payroll (Cont'd)

Control Weaknesses & Recommendations:

1. Weakness -- Each department tracks their employees' time in their own way. (Either a hand scanner, time clock, etc)

Recommendation -- Institute a standard online time tracking system that payroll can also view and use as part of the payroll process.

2. Weakness -- Payroll does not verify the change of rates that the various departments used when employees are paid differently than the normal amount.

Recommendation -- All rates of pay should be verified by the either payroll or the budget office.

State and Federal Grants

Audit Area Overview:

As part of our procedures, we developed an understanding of the grant accounting process. We interviewed certain individuals within the process and prepared a worksheet documenting the process and key controls in place. We also performed other procedures we deemed appropriate in order to develop our risk assessment.

The following is a summary of observations related to the grant accounting process:

Each City department head initiates grant applications for their respective department or area of responsibility. The department requesting the grant is required to complete the application and submit it to the grantor.

Upon receipt of an approved grant, the applicable department sends the grant agreement to the legal department for their review. It is then approved by city council. Once city council approves the grant application, it is reviewed by the law department again and it is signed. At this point, the grant would either be appropriated through a chapter 159 or it would be included in the subsequent budget. The timing of the grant period determines the manner in which the City appropriates the funds. If the annual budget has not yet been introduced, the grant will be included in the annual budget as an item of revenue offset with an appropriation. If the annual budget has been introduced, but not yet adopted, City Council would introduce a budget amendment. If the grant is accepted after the annual budget has been adopted, the City Council would adopt a resolution requesting that the Division to allow the City to insert a special item of revenue and appropriation (Chapter 159) into the annual budget, allowing the City to appropriate the funds immediately. Once the grant has been appropriated, the revenue and expenditure accounts in the Current Fund would be fully charged and a grant receivable and an appropriated reserve would be established in the Grant Fund. If the City receives funds for a grant that they were unaware of and the funds have not been appropriated, the receipts are posted as an unappropriated reserve. During the subsequent year's budget process, the City can anticipate these unappropriated reserve funds in the budget.

Any expenditure of grant funds is subject to the City's normal purchasing policies and is processed and recorded as any other purchase order. In addition to the normal expenditure process, the voucher package is also sent to the grant accounting department where they make sure the money is available in the grant and the purchase is in compliance with the grant agreement. Each department as well as grant accounting tracks expenditures for each grant to determine they are not over-expended.

Internal Control Review and Assessment (Cont'd)

State and Federal Grants (Cont'd)

Audit Area Overview (cont'd):

Any requests for draw downs or reimbursements from a grantor are completed by the applicable department head that is designated as the department's grant administrator. Before they are submitted to the grantor, they are reviewed by the grant accounting department for accuracy. The treasury department receives the checks or sees the wire transfers and fills out the FD-3 form which goes through the normal receipt process and a copy of the FD-3 form is sent to the grant accounting department. Grant accounting verifies the grant was posted correctly in the system and is up-loaded into an excel worksheet that is used to track receivables.

Most compliance requirements are reviewed and administered at the department level.

Risk Assessment:

Inherent Risk - High
Control Risk - High

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- All receipts are posted to either the grants receivable or the grants unappropriated accounts. Receivables are not tracked by grant in the computer system.

Recommendation -- All grant receipts should be posted to individual accounts so that receivables can be tracked by grant in the computer system.

2. Weakness -- Most of the compliance requirements are administered by the department that is in charge of that specific grant.

Recommendation -- All compliance requirements should be reviewed or monitored to ensure that each department is in compliance with the grant agreement.

3. Weakness -- Although grant accounting reviews the reporting of grants, there is a lack of control and administrative oversight to ensure grants agreements are complied with, grants are expended and received timely, and that all administrative requirements are followed.

Recommendation -- The requirements of each grant should be documented and communicated to the various departments to ensure that grant requirements are met.

Internal Control Review and Assessment (Cont'd)

Supplies

Audit Area Overview:

As part of our procedures, we developed an understanding of the supply inventory processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the supply inventory processes:

All departments have supplies, however, there are two locations, Little Falls and Central Avenue, that are deemed to have significant inventory on hand. The Little Falls location for water supplies does not maintain an inventory listing but the Central Avenue location for water supplies does maintain a listing. The listing is maintained by one individual who is the only one to have access to it and no one else reviews it. Employees fill out a request form in order to obtain supplies and a return form to give supplies back. An actual physical check of inventory is not performed so the listing is not tied back to the actual inventory on hand.

Risk Assessment:

Inherent Risk - Moderate

Control Risk - High

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- There is no inventory listing for motors supplies.

Recommendation -- An inventory listing should be maintained for all departments that stock a significant amount of supplies.

2. Weakness -- There is no inventory listing for the Little Falls location for water supplies.

Recommendation -- An inventory listing should be maintained for all departments that stock a significant amount of supplies.

3. Weakness -- The water Central Avenue inventory listing is not reviewed by anyone other than the preparer.

Recommendation -- The water inventory listing should be reviewed by someone other than the preparer.

4. Weakness -- No one verifies the use of supplies to work completed.

Recommendation -- A review of supplies used to the supplies requested and then returned would help ensure proper use of water supplies.

Internal Control Review and Assessment (Cont'd)

Supplies (Cont'd)

Control Weaknesses & Recommendations (cont'd):

5. Weakness -- A physical inventory is never performed to reconcile the listing to the actual inventory on hand.

Recommendation -- A physical inventory should be performed at least once a year for all inventories maintained.

6. Weakness -- The water inventory listing is maintained in units but the cost per unit is not included in the inventory listing.

Recommendation -- The inventory listing should include the cost per unit so the amount can be included in the audit report.

Capital Assets

Audit Area Overview:

As part of our procedures, we developed an understanding of the capital asset processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the capital asset processes:

N.J.A.C. 5:30-5.6 requires all local units to maintain a fixed assets accounting and reporting system that establishes and maintains a physical inventory of fixed assets, places a cost-based value on all fixed assets whether constructed or acquired, has a subsidiary ledger consisting of detailed property records for controlling additions and retirements, provides property management standards that ensure property records are maintained accurately, reflects a description and source of the property, acquisition date and cost, provides periodic physical inventories reconciled with property records, provides adequate safeguards against loss, damage or theft and provides an accurate Statement of General Fixed Assets in every annual audit report.

Inventory and fixed asset items at the City consist of land, buildings, building improvements, furniture, fixtures, vehicles and other items. Each department maintains a listing of their own assets and there is no master listing consisting of all the assets for the entity as a whole.

Disposal of assets begins at the department level. Each department reports all assets that have become obsolete and the proposed disposition for each item to the purchasing director. The purchasing director makes the determination on how the assets are to be disposed of. Once a significant number of assets have been determined to be sold at a public auction, council approval for the sale is obtained. A sale is then advertised and conducted.

Risk Assessment:

Inherent Risk -- Moderate
Control Risk - High

Internal Control Review and Assessment (Cont'd)

Capital Assets (Cont'd)

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- Fixed asset listings are not complete for every department and many departments do not have a listing.

Recommendation -- An up to date fixed asset listings should be completed for every department and procedures for preparation of the listing should be consistent.

2. Weakness -- There is no master accounting and accumulation of assets for the entity as a whole.

Recommendation -- A city wide fixed asset inventory should be performed since the last inventory was completed in 2004.

3. Weakness -- If assets are discarded, they are not approved by the governing body.

Recommendation -- All fixed assets disposals should be approved by the governing body even if they are discarded and not sold.

Insurance - Outside

Audit Area Overview:

As part of our procedures, we developed an understanding of the insurance purchasing processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the insurance purchasing processes:

The City of Newark utilizes outside insurance coverage for health, property and surety bonds. An insurance broker is awarded a contract through a fair and open process. The broker obtains cost proposals for health insurance coverages and submits them to the business administrator and the personnel department for review. Council makes the final determination on which health insurance providers to utilize. Decisions for health insurance coverages must be based on the least cost to the City and still maintain "better or equal to existing coverage". This is required per the language in all existing labor agreements. Property and surety bonds coverages are analyzed by the insurance fund committee, consisting of the Business Administrator, Chief Financial Officer and legal representative, which meets monthly. The Business Administrator recommends to the City Council the vendor to be utilized based on the insurance fund committee's recommendation.

Risk Assessment:

Inherent Risk - Low

Control Risk - Low

Internal Control Review and Assessment (Cont'd)

Insurance – Outside (Cont'd)

Control Strengths:

None.

Control Weaknesses & Recommendations:

None.

Self Insurance – Workers Compensation

Audit Area Overview:

As part of our procedures, we developed an understanding of the workers compensation self insurance processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the workers compensation self insurance processes:

The City has established a self-insurance program as permitted by New Jersey Statute Chapter 40: 10-6. The Statute enables the governing body of any local unit to create a fund to provide insurance coverage for its exposure to a wide variety of claims including workers' compensation obligations.

The City is self insured for workers' compensation and has an insurance fund committee that oversees the operations of the fund. The City uses a safety committee that trains employees to encourage proper procedures regarding equipment use and safety clothing, etc. The City utilizes a third party administrator who is awarded a contract through a formal request for qualifications process. The third party administrator contract is awarded by the governing body based on a recommendation by the insurance fund committee. CCMSI, the third party administrator provides the City with a SAS 70 internal control report on CCMSI's controls.

The claim process initiates with communication by the employee to the City notifying the City that a workers' compensation related injury has occurred during the course of their employment with the City. The employee is required to complete an accident report which is to be signed off by their supervisor. This report is then sent to a City approved doctor and the law department employee who will be handling the case. After the employee is evaluated by the approved doctor, the doctor emails an evaluation report to the third party administrator and to the Law Department. The third party administrator opens a claim file in the online system that is accessible to the Law Department. The claim is then reviewed by the Law Department for reasonableness. All treatment bills go to the third party administrator who prepares a bill list to be sent to the law department for approval. A voucher is prepared and processed and wired to the third party administrator who then pays the bills.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Low

Internal Control Review and Assessment (Cont'd)

Self Insurance – Workers Compensation (Cont'd)

Control Strengths:

1. Monthly meetings are held by the self insurance fund committee to address all issues regarding self insurance.
2. The third party administrator for workers compensation has a SAS 70 report on file with the City.

Control Weaknesses & Recommendations:

None.

Self Insurance – Other Insurances

Audit Area Overview:

As part of our procedures, we developed an understanding of the other self insurance processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the other self insurance processes:

The City is self insured for automobile, general liability, and the first \$50,000.00 of public employee dishonesty coverage. All reserve funds are held in one account but each type of insurance is tracked separately. The insurance fund committee is notified of potential significant claims and is responsible for the self insurance funds. Litigation attorneys handle the claims and determine the amounts to be paid. The amounts go through an approval process then run through the same disbursement process as other expenditures.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Low

Control Strengths:

1. Monthly meetings are held by the self insurance fund committee to address all issues regarding self insurance.

Control Weaknesses & Recommendations:

None.

Internal Control Review and Assessment (Cont'd)

Pension

Audit Area Overview:

As part of our procedures, we developed an understanding of the pension processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the pension processes:

The City accounts for four different pension plans. The two offered and administered by the State of New Jersey are the Public Employees' Retirement System and the Police and Firemen's Retirement System. The two plans offered by the City are self administered plans. One is a contributory plan and the other is a non-contributory plan. New employees are not permitted to enter into the self administered plans. For the state plans, applications are entered into the online state system. The pension department downloads and adjusts the quarterly reports from the State.

The City's pension board oversees the activity of the self administered plans. Pension listings are updated through a review of the obituaries as well as sending affidavits to be completed by the pensioners. Payments are made to the retirees through the payroll system and IRS 1099-R forms are issued at the end of the year instead of IRS W-2 forms. The pension department calculates the amounts to be received for each members of the contributory plan and submits it to the pension board for review. Non-contributory members receive 50% of their pre-retirement salary. Both payment types are submitted to payroll by the personnel office.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Control Strengths:

1. Each retiree's pension payment is reviewed by the pension board.

Control Weaknesses & Recommendations:

1. Weakness -- An actuary report is not always completed annually.

Recommendation -- The actuary report identifying the potential accrued pension liability should be completed annually.

General Ledger Maintenance

Audit Area Overview:

As part of our procedures, we developed an understanding of the general ledger processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Internal Control Review and Assessment (Cont'd)

General Ledger Maintenance (Cont'd)

Audit Area Overview (cont'd)

The following is a summary of observations related to the general ledger processes:

N.J.A.C. 5:30-5.7 requires that the City maintain a general ledger accounting system. The City performs certain procedures on a daily, monthly and year end basis in order to ensure that the information presented in the general ledger is accurate.

Receipts and disbursements are posted to the general ledger automatically. Periodically, the comptroller enters manual entries as deemed necessary. The accounting staff ties back the subsidiary ledgers to the general ledger on a daily basis. At year end, the comptroller meets with the departments to clean up outstanding purchase orders.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - High

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- The work performed to reconcile the general ledger to subsidiary records is not documented.

Recommendation -- Documentation should be maintained supporting journal entries made based on work performed to reconcile the general ledger to subsidiary records.

Information Technology Hardware and General Controls

Disaster Recovery and Contingency Planning

Audit Area Overview:

As part of our procedures, we developed an understanding of the disaster recovery and contingency planning processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

High.

Control Strengths:

1. Data backups of the City's servers and computers are performed on a daily basis through a tape library. The methodology used is to make a complete backup on Fridays and incremental backups Monday through Thursday. The incremental backups are retained for 30 days and full backups are retained for 13 months. The data retention policy is determined by the City's Legal Office. Offsite

Internal Control Review and Assessment (Cont'd)

Information Technology Hardware and General Controls (Cont'd)

Disaster Recovery and Contingency Planning (cont'd)

Control Strengths (cont'd):

storage is located in Clifton, NJ and is maintained and performed by a third party service. The backup administrator audits the offsite location quarterly to ensure the media is kept in a secure, climate controlled environment. Test restores are performed on a weekly basis to ensure data integrity and recovery.

2. By policy, all servers must be located in the datacenters and managed by the City of Newark's Office of Management and Budget (OMB). The datacenters consist of raised flooring and have adequate ventilation and cooling. Surge protectors and uninterruptible power supplies are utilized throughout the City to mitigate short-term power issues.

Control Weaknesses & Recommendations:

1. Weakness -- The overall disaster recovery and/or business continuity plans have not yet been established by the City of Newark.

Recommendation -- A disaster recovery plan should be developed, maintained and tested.

2. Weakness -- There is not an active fire suppression system in the datacenters. A halon fire suppression system exists in the datacenter but has not been maintained and has subsequently been disabled.

Recommendation -- OMB should review the current state of the existing fire suppression system and determine if it can be updated, maintained or replaced with a new system.

3. Weakness -- Offsite storage is not maintained for OMB policies and procedures, application media and related documentation.

Recommendation -- Copies of the policies and procedures, application media and any other related documentation should be stored offsite with the backups.

4. Weakness -- There is no backup power supply to the datacenter in the event of an extended power outage. Battery backups are in place but are only sufficient to provide ample to time to properly shut down computer equipment.

Recommendation -- Power generators should be considered to assist in keeping the datacenters up and running in the event of an extended power outage.

Computer and Server Maintenance, Management, Monitoring

Audit Area Overview:

As part of our procedures, we developed an understanding of the computer and server maintenance, management and monitoring processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

Moderate.

Internal Control Review and Assessment (Cont'd)

Information Technology Hardware and General Controls (Cont'd)

Computer and Server Maintenance, Management, Monitoring (cont'd)

Control Strengths:

1. All information technology purchases for the City are handled by OMB. If a user requests a specific software package or specific hardware, OMB reviews the request and determines validity, feasibility and compatibility. Computers and servers are purchased in bulk to promote make, model and specifications standardization. As new computers are distributed, old computers are repurposed throughout the City.
2. Symantec Altiris is utilized to periodically audit workstations and servers. Logs generated by the software are reviewed for anomalies such as exceeded licensing and unapproved application installations. If an anomaly exists, a Help Desk Technician is dispatched to physically go to the workstation to correct it immediately. Cisco Network Agent (CNA) is used to monitor and manage network switches and routers. The CNA logs are reviewed on a daily basis for possible threats and anomalies.
3. Software is used on all servers and desktops to protect against spyware and virus threats. The software definitions are downloaded by the servers and pushed out to all workstations weekly.
4. Server and desktop security patch updates are tested for compatibility in the test environment prior to being rolled into production.

Control Weaknesses & Recommendations:

1. Weakness – Computers are left in service longer than their useful life. As a result, key production computers are in service without maintenance contracts and/or warranties.

Recommendation – A computer life cycle should be identified and followed. Once a computer has exceeded its useful life, it should be removed from production and replaced.

2. Weakness – There are no controls over security patch management as updates and patches are not applied on a systematic basis.

Recommendation – Controls should be established so that security updates and patches can be rolled out timely and effectively across the City.

3. Weakness -- There are no restrictions on external media drives being used at computer terminals. USB ports should be locked down on all workstations and opened up on an as needed basis.

Recommendation -- External media devices should be locked down on all computers except where necessary for business purposes. Controls should be established to track and monitor what users can utilize external media devices and who authorized such access.

Internal Control Review and Assessment (Cont'd)

Information Technology Hardware and General Controls (Cont'd)

Datacenter Access

Audit Area Overview:

As part of our procedures, we developed an understanding of the datacenter access processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

Low.

Control Strengths:

1. The datacenter is secured and monitored at all times. The entry doors to the datacenters are locked and can be accessed one of two ways. Badge access is limited to only to authorized personnel and there is buzzer access and intercom at the entrance. The buzzer is pressed and the person(s) attempting to enter is identified via the security cameras. A door release is activated and the person(s) can enter.
2. Security cameras are at each datacenter entrance and are continuously monitored. The datacenter has adequate ventilation and temperature controls provided by the HVAC system.

Control Weaknesses & Recommendations:

1. Weakness -- There is no record maintained of visitor access to the datacenter.

Recommendation -- The City should consider a sign in sheet or other logging mechanism to record visitor and/or vendor traffic to the datacenter.

User Access and Security

Audit Area Overview:

As part of our procedures, we developed an understanding of the user access and security processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

Moderate.

Internal Control Review and Assessment (Cont'd)

Information Technology Hardware and General Controls (Cont'd)

User Access and Security (cont'd)

Control Strengths:

1. There is a formal process established as it relates to establishing user accounts. Once an employee is hired, a form must be completed by department heads that includes job title and required network and applications access. The form is submitted to the OMB helpdesk at which point the account is established. The same form is also used to track user rights changes and deletions.
2. Employees are trained and urged to utilize strong passwords. The City defines a strong password as having at least eight alphanumeric characters long, containing both upper and lower case characters, numbers and symbols, not being based on personal information, names of family etc, and never being written down or stored in or around workplace.
3. Employees are required to review and understand the City's Acceptable Use Policy.
4. Internet access is restricted and monitored by a proxy server. Users are only granted access to the internet if approved is granted by department heads. Once approved, a help desk request is submitted. A user account for the proxy is issued and help desk configures the workstation to open the internet up.
5. Firewalls are utilized and the appropriate management and monitoring software has been implemented. Logs are reviewed and monitored daily for threats and anomalies.

Control Weaknesses & Recommendations:

1. Weakness -- Overall leadership as it relates to security rights management is missing. There are five helpdesk employees that have the responsibility of managing user accounts. There is no review process over account management to ensure security rights are being distributed and/or maintained properly.

Recommendation -- One employee should be responsible for periodically reviewing the user security tables.

2. Weakness -- User accounts are not always disabled when an employee is terminated voluntarily or involuntarily. There is lack of communication between Human Resources and OMB at times.

Recommendation -- OMB should be notified in a timely fashion whenever an employee is no longer employed by the City.

Internal Control Review and Assessment (Cont'd)

Information Technology Hardware and General Controls (Cont'd)

Remote Access

Audit Area Overview:

As part of our procedures, we developed an understanding of the remote access processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

Low.

Control Strengths:

1. Only approved City employees have VPN access. Private keys are utilized with strong passphrases. When a user is connected via VPN, all traffic is forced through the encrypted VPN tunnel. VPN tunnels are closed after 30 minutes of inactivity.
2. There is an informal policy in place with regards to how outside third parties are granted access to the City's systems. A VPN account is created for the vendor. Prior to connecting, the vendor must call ahead. The connection is then monitored until the third party notifies the City they have finished and disconnected at which time the VPN account is disabled. If the connection is idle for too long, the City will manually terminate the connection and follow up with the third party.

Control Weaknesses & Recommendations:

1. Weakness -- A formal policy and/or procedure have not been drafted to support the OMB process for third parties.

Recommendation -- A formal policy and/or procedure should be developed. It should include a form the third party completes defining what level of access is needed, purpose and length of time needed. Once access is granted or terminated, OMB should sign off on the form and maintain a copy for their records.

Internal Control Review and Assessment (Cont'd)

Information Technology Hardware and General Controls (Cont'd)

Organizational Controls

Audit Area Overview:

As part of our procedures, we developed an understanding of the organizational controls processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

Low.

Control Strengths:

1. Security briefings for information technology personnel are held on a regular basis. OMB relies on updates from Microsoft, Cisco, Trend Micro subscriptions etc.
2. OMB personnel go through background screenings during the hiring process. Employees are required to have professional certifications in order to perform certain job roles.
3. OMB personnel are prohibited for initiating or authorizing transactions in PeopleSoft. Personnel are also restricted from having access to source code, development tools to modify source code as well as utilities that can access the database.

Control Weaknesses & Recommendations:

1. Weakness – OMB personnel are not required to take one contiguous week of vacation.

Recommendation – Employees should be required to take at least one contiguous week of vacation and their duties should be performed by other personnel in their absence.

Internal Control Review and Assessment (Cont'd)

Information Technology Computer Applications

Computer Applications – (Software) PeopleSoft

Audit Area Overview:

As part of our procedures, we developed an understanding of the PeopleSoft computer application processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

PeopleSoft's Development and Implementation team assesses operational and systemic risk. Operational risk is associated with the risk of fraud, properly controlled user accounts and management of inputs and outputs. Systemic risk covers errors and irregularities related to database management, application processing, system availability and continuity, and controls over the system development life cycle.

PeopleSoft has been tasked by the City of Newark to implement PeopleSoft Financials. In addition, PeopleSoft is responsible for maintaining procedures to reduce and control systemic risk. PeopleSoft also provides complete application support to the city with concentrations in application backups and data retention which is tested frequently, application recovery which is tested monthly, access to content which is controlled by user accounts, and data transfer.

Operational risk is assessed and controlled by the City's Office of Management and Budget. The department maintains the server and information technology infrastructure which supports PeopleSoft application. The information technology management group has defined and implemented tracking systems that manages operational events such as application and server errors.

Risk Assessment:

Low.

Control Strengths:

1. The City of Newark's third party vendor (PeopleSoft) manages the development, system controls and delivery of the main accounting application. There is a standing contract between the City of Newark and PeopleSoft. The City has an appropriate vendor management guideline in place which all third party vendors have to adhere. PeopleSoft published their development standards in conjunction with the City's standard operating procedures (SOP's). The SOP's includes the definition of technical standards, implementation, change management procedures and database management.
2. Both PeopleSoft and the City of Newark have well documented policies and procedures that define user access and controls. The procedures also define new development projects, change management, quality assurance testing, user acceptance testing and production launches.

Information Technology Computer Applications (Cont'd)

Computer Applications – (Software) PeopleSoft (cont'd)

Control Weaknesses & Recommendations:

1. Weakness -- The financial application development effort and support is managed in a limited capacity by the City under the control of a steering committee which consists of managers within the Accounting Group and managers within the Office of Management and Budget (OMB). The steering group only meets four times a year.

Recommendation -- The steering committee should meet more than four times a year.

Control of Data Input, Output and Processing

Audit Area Overview:

As part of our procedures, we developed an understanding of the control of data input, output and processing processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

Low.

Control Strengths:

1. The City of Newark in conjunction with PeopleSoft has application controls in place over the end to end Accounts Receivable and Payable process. Through observation, the gathering of information processes and procedures and policies, it is apparent that users are restricted in the application based on system architecture and their personal access and rights to the application. Examples where data input controls procedures are critical:
 - Input of a transaction – The person inputting a transaction is not the same person approving the transaction.
 - Master file changes – Only the Administrator is allowed to make changes to the master file.
 - Data integrity – Adequate system controls are in place to assure the integrity of information being uploaded into the system.
2. Data Integrity and Processing: PeopleSoft has implemented procedures and controls to detect the completeness, accuracy and integrity of processed data. Through exception reporting and reconciliation each office utilizing the application generates detailed reports that are continuously monitored and maintained. Examples of procedures that detect data integrity are:
 - Systemic reconciliation with PeopleSoft application - Logical technology exists within the application to detect systemic errors.
 - Production exception reports – The reports are produced daily, weekly and monthly for supervisory review.
 - Database Management – PeopleSoft application resides in its own database which is monitored closely for interruptions, backups and ongoing development enhancements and changes.

Internal Control Review and Assessment (Cont'd)

Information Technology Computer Applications (Cont'd)

Control of Data Input, Output and Processing (cont'd)

Control Strengths:

3. The Management Group at the City in conjunction with the PeopleSoft resources has the responsibility to maintain data integrity. Changes to the Master data file are limited to specific resources within the accounts payable and receivable departments. Daily error and processing logs are reviewed and all systemic driven data being output is properly formatted and identified. The overall processing of data does not rely on machine readable formatting.

Control Weaknesses & Recommendations:

None.

End User Operational Controls

Audit Area Overview:

As part of our procedures, we developed an understanding of the end user operational controls processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Risk Assessment:

Moderate.

Control Strengths:

1. End user and operational risk is assessed and controlled by the City's Office of Management and Budget. This department maintains the server and Office of Management and Budget information technology infrastructure, which supports the PeopleSoft application. Information technology management has defined and implemented tracking systems that record operational events such as incidents, errors and problems. Environmental controls are also being monitored for fluctuations in temperature and humidity as well as power interruptions. Uninterruptible power supplies are in place if the city's power supply was interrupted. The appropriate information technology segregation of duties controls are in place where personnel in the Office of Management and Budget group do not have the responsibility for transaction and accounting duties..
2. The segregation of controls between the Office of Management and Budget and the Application Development Team (PeopleSoft) is significant. Controls over the network, application and database are a joint effort between the application and database teams. Application, database and operating system changes are tracked through an online Enterprise Resource Planning system. Areas where strengths were identified are:

Internal Control Review and Assessment (Cont'd)

Information Technology Computer Applications (Cont'd)

End User Operational Controls (cont'd)

Control Strengths:

- Network – User access right are granted on a need to do basis.
- No shared network privileges and user access rights.
- Access to perimeter, firewall and routers are adequately managed.
- Robust intrusion detection software is in place.
- Application - User access is restricted and controlled by the Administrator.
- Database Management – Changes are tracked in centralized change tracking database or system.

Control Weaknesses & Recommendations:

1. Weakness – The Office of Management and Budget Information technology steering committee meets four times a year.

Recommendation – Increased Office of Management and Budget Information technology steering committee should meet more than four times a year to improve operational and strategic efficiency.

2. Weakness – Although there are continued monitoring of user accounts by both the applications group People Soft and the Office of Management Information technology team, occasionally, terminated employees are not restricted in a timely manner.

Recommendation – User account restrictions and monitoring of terminated employees by PeopleSoft and the Office of Management Information technology team should be performed in a timely manner.

Internal Control Review and Assessment (Cont'd)

Outside Offices

Municipal Court

Audit Area Overview:

As part of our procedures, we developed an understanding of the municipal court processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the municipal court processes:

The State of New Jersey has a unified court system and therefore, all the courts in New Jersey utilize the same computer system. The City of Newark court has three divisions which are utilized to conform to State standards. The traffic violation bureau processes traffic summonses issued by the various law enforcement departments within the City. The criminal division processes all disorderly complaints and holds trial jurisdiction over those complaints. The customer service division responds to communication from the public.

Ticket books are pre-numbered and logged when issued to the officers. Fees charged are set by state statutes, city ordinance or the municipal judge. All receipts collected must be entered into the computerized system which allocates the fines and costs and automatically generates a receipt. Reports are printed from the system for tying out daily deposits, creating monthly checks and reconciling the accounts.

Risk Assessment:

Inherent Risk - High
Control Risk - Moderate

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- The deposit total is verified, however, the allocation of cash and check amounts are not tied in.

Recommendation -- Each day's deposit allocation between cash and check amounts should match the computer system.

2. Weakness -- Cashiers can write and utilize the signature plate to prepare a check. There are no controls over the signature plate.

Recommendation -- The signature plate should be accessible to only one or two court employees and those employees should not have check writing access.

3. Weakness -- Checks can be issued without a review process.

Recommendation -- All check requests should be required to be reviewed and approved prior to the printing of the checks.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Recycling

Audit Area Overview:

As part of our procedures, we developed an understanding of the recycling receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the recycling receipt processes:

Newark workers make scrap metal deliveries to the recycling centers and receive a check in Newark's name based on the tonnage. The check is later turned over to the recycling department. In addition, Waste Management collects other of the recyclable materials for the city, delivers it to the recycling centers and maintains the accounting for the deliveries. Periodically Waste Management issues checks to the City for the money they received for the deliveries which is sent to the recycling department. The recycling department records the check in their manual cash book and prepares a FD-3 and the check is sent to central cashiering for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - High

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- Waste Management drop off slips received from the recycling centers are not reconciled back to checks paid to Newark.

Recommendation -- Waste Management drop off slips should be reconciled back to checks paid to Newark to ensure that all funds due Newark are received.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Vital Statistics

Audit Area Overview:

As part of our procedures, we developed an understanding of the vital statistics receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the vital statistics receipt processes:

The Vital Statistics department collects fees for marriage and domestic partnership licenses and birth and death certificates. The fees collected are set by state statute and City ordinance. Applications are completed, reviewed and approved prior to money being collected. The cashier approves, initials, and dates the application. The license or permit is then approved for processing by a vital statistics employee. Each day the supervisor enters the receipts onto a FD-3 form which is taken to central cashing for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- There is no process that is used to reconcile back the receipts from the central cashing office and collected by the registrar's office to the registrar's fees and licenses issued and recorded in the computer system.

Recommendation -- A reconciliation of receipts collected should be performed from central cashing to the registrar's office.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Fire Prevention

Audit Area Overview:

As part of our procedures, we developed an understanding of the fire prevention receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the fire prevention receipt processes:

The fire prevention department seeks to reduce the loss of life, property damage and injuries from fire incidents through building inspections, code enforcement, construction plan reviews and fire safety education. This office collects fees for smoke detectors and various fire permits which are set by City ordinance. The cashier or inspector collects funds, issues receipts and makes copies of the checks or money orders and the receipt stubs to be turned over to the data processing technician. The data processing technician records the transaction in the computer system and each day fills out a FD-3 form and turns the funds over to central cashing for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – High for 2008 and Moderate for 2009

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness -- Inspectors and cashiers collected fees and both had receipt books during 2008.

Recommendation -- Only the cashiers should have a receipt book and collect fees. This has already been corrected in 2009.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Police – Alcoholic Beverage Control

Audit Area Overview:

As part of our procedures, we developed an understanding of the police alcoholic beverage control receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the police alcoholic beverage control receipt processes:

The Alcoholic Beverage Control Board maintains the files and records of the liquor licenses in the City of Newark. They regulate the sale and distribution of alcoholic beverages of each licensee and ensure that all licensees follow the state and municipal laws, rules and regulations governing their operation. Fees are set by ordinance and collected for license renewals and transfers along with finger printing. Everyone in the office collects money and each receipt is entered into a receipt book. Each day the chief clerk enters the receipts on a FD-3 form which is taken to central cashiering for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Low

Control Strengths:

None.

Control Weaknesses & Recommendations:

None.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Economic Development – Property Management

Audit Area Overview:

As part of our procedures, we developed an understanding of the economic development property management receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the economic development property management receipt processes:

The property management division of economic development department provides real estate management services for properties acquired by the City until they can be returned to the city tax rolls. They maintain rental agreements as well as collect and track the rental income. Receipts are entered into a manual log book and a manual receipt is given to the customer. Data processing enters the receipts into the subsidiary ledger. Data processing completes a FD-3 from and the receipts are taken to central cashing for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Moderate

Control Strengths:

None.

Control Weaknesses & Recommendations:

1. Weakness – The subsidiary ledgers utilized to track property balances should not be maintained on manual ledgers.

Recommendation – Consideration should be given to track property balances utilizing a computer program.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Receipts Collected in the Purchasing Department

Audit Area Overview:

As part of our procedures, we developed an understanding of the purchasing receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the purchasing receipt processes:

The purchasing department handles the sale of municipal assets which includes advertising the sale and collecting the revenue. They are also involved in the bidding process and have to collect funds for bid specifications and bid bonds. The administrative fees for towing receipts also flow through this office. A manual receipt is given to individuals who pay in person and receipts collected through the mail are not documented in the receipt book. Each day purchasing completes a FD-3 form and the receipts are taken to central cashiering for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Low

Control Strengths:

None.

Control Weaknesses & Recommendations:

None.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Engineering – Traffic and Signals

Audit Area Overview:

As part of our procedures, we developed an understanding of the engineering traffic and signals receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the engineering traffic and signals receipt processes:

The traffic and signals division of the engineering department provides comprehensive planning, development, construction management, replacement and operation of the City's transportation infrastructure to ensure the safety and ride-ability of the city streets. Once the applications have been reviewed and approved, fees are collected for street and sidewalk permits in accordance with City ordinance. Fees are charges for openings, restorations and other construction in addition to curbs, driveways, construction fence, scaffolds, etc. The cashier enters receipts in the cashbook and fills out a pre-numbered receipt. Each day, engineering fills out a FD-3 and submits it to central cashing for posting and deposit.

Risk Assessment:

Inherent Risk - Low

Control Risk – Low

Control Strengths:

1. Prenumbered receipt books are utilized for the collection of receipts.

Control Weaknesses & Recommendations:

None.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Engineering – Uniform Construction Code

Audit Area Overview:

As part of our procedures, we developed an understanding of the engineering uniform construction code receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the engineering uniform construction code receipt processes:

The Uniform Construction Code (UCC) office enforces rules pertaining to construction codes adopted by the state. Their primary responsibility is to protect the health, safety and welfare of the citizens by reviewing construction permits to insure that building plans and specifications conform to the UCC as well as performing actual inspections to verify that construction is also in accordance with the UCC. There are four basic technical sub-codes for construction: building, electrical, fire protection and plumbing. Fees are collected in accordance with the City ordinance that is based on state statute. Permits are completed, reviewed and approved prior to the fees being collected. The UCC office has a folder for each property to maintain all permits for each property together. The department also has their own computer system for tracking and maintaining the permits. Reports are required to be filed with the State of New Jersey on a quarterly basis. Several clerks collect funds each day and prints out the daily report to verify the receipts to the transaction audit report. The completed FD-3 form is taken to central cashing for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Moderate

Control Strengths:

None.

Control Weaknesses & Recommendations:

None.

Police – Taxi Cab

Audit Area Overview:

As part of our procedures, we developed an understanding of the police taxi cab receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Police – Taxi Cab (cont'd)

Audit Area Overview (cont'd):

The following is a summary of observations related to the police taxi cab receipt processes:

The Taxi Cab Commission establishes and enforces safe standards for taxicabs licensed to operate in the City of Newark through registration and inspection. Money is collected for licenses, inspections and fines for violations. The cashier collects fees and fines in accordance with the city ordinance and issues a receipt. At least daily the cashier counts the drawer and compares it to the register tape. The cashier then prepares a FD-3 form and takes it to central cashiering for posting and deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Low

Control Strengths:

None.

Control Weaknesses & Recommendations:

None.

Finance – General Licenses

Audit Area Overview:

As part of our procedures, we developed an understanding of the general license receipt processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the general license receipt processes:

The general license office of finance collects various business licenses. The fees charged are set by City ordinance. Businesses fill out an application which can be obtained either online or in the general license office. Once this application is approved, it is entered into the computer system for tracking purposes. Once the fee is collected and the application is marked paid by central cashiering, then the license is issued. This office does not physically collect any money, all applicants pay at central cashiering.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Low

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Finance – General Licenses (cont'd)

Control Strengths:

1. All general licenses are collected by central cashiering and not the department.

Control Weaknesses & Recommendations:

None.

Finance – Special Taxes

Audit Area Overview:

As part of our procedures, we developed an understanding of the special tax processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the special tax processes:

The special tax office of finance collects parking, hotel and payroll taxes. Tax forms can be obtained from the City's website to be printed and filled out by the taxpayer. Any business that has quarterly payroll greater than \$2,500 must file a payroll tax form with the City and remit payment. All businesses that charge for parking must pay a parking tax as well. A hotel tax is charged to anyone providing hotel services based on occupancy. The fees charged are set by City ordinance. The Customer Service Representative (CSR) receives the receipts and form and then verifies that the taxpayer has signed the form indicating that they certify it is a correct return. The CSR enters the information into computer system where the account activity of the taxpaying entity is tracked. Checks received by the special tax department are scanned (deposits directly to the bank) to the bank each day by the CSR and a report is generated with the total deposited for the day. The CSR prepares a FD-3 and takes it central cashiering for posting.

Risk Assessment:

Inherent Risk - Moderate
Control Risk – Low

Control Strengths:

1. The computer system tracks special tax activity by property.
2. There are procedures in place to verify the information submitted by the businesses as substantiation for the amounts paid.

Control Weaknesses & Recommendations:

None.

Internal Control Review and Assessment (Cont'd)

Outside Offices (Cont'd)

Child and Family Wellbeing

Audit Area Overview:

As part of our procedures, we developed an understanding of the child and family wellbeing receipts processes. We interviewed all appropriate individuals within the processes and prepared a worksheet documenting the processes and key controls in place. We also performed a walkthrough of the appropriate processes and performed certain tests of internal controls and compliance procedures deemed necessary to determine our risk assessments over the processes.

The following is a summary of observations related to the child and family wellbeing receipts processes:

The Department of Child and Family Well-being provides and advocates for comprehensive health care, social and environmental services for Newark citizens and other customers to ensure an optimal level of health and well-being. The department is broken into five divisions: environmental health, health planning, medical care services, social services and surveillance and prevention. The Environmental Health Division provides comprehensive delivery of inspection services, investigations and education programs to citizens and consumers in order to assure a healthful and protected environment. The Health Planning Division assists management in setting policy to develop the goals, objectives and parameters of Newark's medical, social and environmental health services to ensure access, quality and outcome-based care for Newark residents. The Medical Care Services Division promotes the health of Newark residents, particularly the vulnerable populations, by providing medical care services to Newark residents through a variety of medical practices. The Social Services Division provides quality services to Newark's children and senior citizens through new technology. This is done by collaborating with departments, by identifying resources for funding new and major and/or existing programs and by providing educational training for the staff and the community. The Surveillance and Prevention Division monitors disease trends and develops and maintains a public health system in an effort to improve the City of Newark's ability to address the health needs of residents and provide prevention and early intervention activities. The Division of Welfare provides temporary financial, medical, housing and emergency assistance for single individuals, childless couples and the indigent residents of Newark. The Health Director's Office provides general administrative and operational oversight to the department.

The department of child and family well-being is a full service clinic that provides medical and dental services. They collect money from patients and bill Medicaid for reimbursement. Charges for self-pay are based on a sliding fee scale and reimbursement billings to Medicaid and Medicare based on federal poverty guidelines and uninsured patients are evaluated and assessed charges based on their income. The cashier collects money for patient services and reimbursement checks from Medicaid. A hand written sheet is kept detailing each transaction of the day and at the end of the day the account clerk verifies that the register tapes match the funds collected. A cashier prepares a FD-3 and different account clerk checks the totals and takes the FD-3 form to central cashing for posting and on deposit.

Risk Assessment:

Inherent Risk - Moderate
Control Risk - Moderate

Control Strengths:

1. Cashier totals are verified by the account clerk at the end of each day.

Control Weaknesses & Recommendations:

None.

Performance Audit of the City of Newark

CITY OF NEWARK'S RESPONSE



Newark

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Michelle L. Thomas.
Acting Business Administrator

Mr. Joseph J. Hoffmann
Bowman & Company LLP
601 White Horse Road
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Dear Mr. Hoffman:

The City of Newark would like to thank you and your staff for your time and efforts in the completion of the Performance Audit of the City of Newark as a result of our receipt of Special Municipal Aid. We appreciated your attention to detail in spite of the difficult task which your firm had undertaken. The sheer size of the City's operating budget, organizational structure, number of employees, tremendous volume of transactions, and the complexity of our organization was a challenge that we understand and appreciate.

A number of your comments are also mentioned in our annual audit and we have a detailed plan in place to address many of those issues which you also reviewed as part of this engagement and we will not duplicate those responses in the attached document. We have chosen those items which we consider to be the most material to include in our response. We have taken all of your recommendations seriously and will continue to address other issues raised in this Performance Audit.

There are a number of items with which we are in agreement and we have already begun to implement your suggestions. We thank you for bringing those items to our attention. Additionally, there are some issues with which we have agreed to disagree and we will include those explanations in our response. Overall, we have found this experience to be rewarding to the City since we welcome transparency and recommendations designed to help us reach our goal of setting a national standard for urban transformation.

Sincerely,



Michelle L. Thomas
Acting Business Administrator

CITY OF NEWARK RESPONSE TO PERFORMANCE AUDIT

The City will organize its response by major category and topic.

COST SAVINGS OPPORTUNITIES AND EFFICIENCIES:

Auditor's Comment:

Numerous different insurance companies are being used for various types of health insurance coverage. A review should be made to determine if combining coverage under one or a few companies would be more cost effective.

Response:

The City has been working diligently to consolidate some of its health insurance plans to achieve a cost savings while also providing improved medical benefits to our employee population. We have engaged our insurance broker to work on our behalf to achieve these savings and, as a result, in June of this year we moved all of our employees on our traditional health care plan to a consolidated plan that significantly improved the benefits for our employees while also achieving a \$4.5 million savings for the City. In July, 2008, a similar action was taken for retirees. It is expected that those employees covered by HMO's will be combined in January, 2010.

Auditor's Comment:

Consideration should be given in to using approved on-line vendors to sell assets instead of normal public auctions.

Response:

The City is in the process of enacting legislation to utilize two different on-line vendors.

Auditor's Comment:

All of the union contracts contain a clause that requires that any change in health benefit coverage be of "better or equal to the existing coverage". The City should consider negotiating this clause out of future contracts in order to give the City more flexibility and opportunity to reduce costs.

Response:

The City has been aggressive in its union negotiations and most of the employees contribute to health benefit costs. The City will continue to negotiate additional health benefit savings with its unions.

Auditor's Comment:

There are forty-eight City employees who are provided vehicles. These employees are assessed imputed income for their personal use of the vehicle. The City should perform a cost study to determine the need for these vehicles.

Response:

The City has been reviewing the need for need for vehicles and in March, 2009 reassigned approximately 25 of these vehicles so they are no longer assigned to employees for take-home use.

Auditor's Comment:

Two contracts for \$400,000 each were awarded for accounting services. If these services were for other than non-recurring, the City should determine if in-house accounting personnel would be more cost effective.

Response:

These specific contracts are being used to provide the Finance Department with additional resources to address existing findings in the City's annual audit and implement the Corrective Action Plan. Some of this assistance will be through the implementation of additional components of its existing financial software, the preparation of policy and procedure manuals, and performing standard tasks to allow existing staff to focus on necessary improvements to process and procedures.

Auditor's Comment:

The City has two helicopters and one helicopter pilot. Consider the necessity of this and the possibility that the County may already provide helicopter services to the City in cases of emergency.

Response:

These helicopters were purchased used through Homeland Security Funding after intelligence surfaced that the City of Newark was targeted by terrorists after 9/11/01. A long list of nationally recognized and critical infrastructures has been identified throughout the City as possible targets of terrorist attacks. Essex County does not have a helicopter to assist the City.

Auditor's Comment:

Both water and sewer are billed monthly. Quarterly billings would save a significant amount of administrative costs. An analysis should be made of the cost savings compared to the loss of interest earnings as well as the cash requirement needed to pay expenses.

Response:

The change to monthly billing was made in 1995 for commercial and industrial accounts and in 1999 for residential accounts. The primary reason for the change was to improve cash flow. For example, in 2008, the total budget for the Sewer Utility was \$56,965,759 with the appropriation for sewerage treatment to Passaic Valley Sewerage Authority within that budget equaling \$43,448,652 or 76% of the total budget. This payment to PVSC is due quarterly on 2/1, 4/1, 7/1, and 10/1. There is a similar issue in the Water Utility with approximately 28% of its budget due to North Jersey Water District Supply with mandatory quarterly payments. In addition to the above mentioned reasons, monthly billing creates a more predictable bill for our customers especially those on fixed income. It also alerts customers of possible leaks and waste of water by identifying spikes in consumption monthly as opposed to quarterly.

STATUTORY AND REGULATORY TESTING

Receipt Findings Response:

The City of Newark collects annually over \$750 million of receipts annually consisting of hundreds of thousands of entries. The City will continue to endeavor to ensure all supporting documentation is accurate.

Tax Abatement

Auditor's Comments:

Long term tax abatements under Chapter 24 should be charged a 2% administrative fee per the ordinance Section 10:24-7 part a, however, individual resolutions are overriding the ordinance and some abated properties are being charged 1% or 2 and ½ % administrative fee. Resolutions cannot override municipal ordinances.

Response:

The ordinance section 10:24-7 applies to long term abatements granted by ordinance under NJSA 40A:20-1 et seq. However, it does not apply to HMFA tax abatements which are approved by resolution.

Auditor's Comments:

Certain long term abatements under chapter 24 are required to submit financial statements within 90 days of the end of their fiscal year per the ordinance section 10:24-7 part b; however, most financials are not filed timely.

Response:

Staff members were added to the abatement unit or returned from leave of absence and additional letters seeking the financial statements were mailed to entities during 2009. As a result the following occurred:

Six (6) of the nine (9) commercial tax abatement properties are in compliance through 2007 and five are compliant through 2008.

Forty-nine (49) of the fifty-nine (59) limited dividend projects are in compliance up to 2007 financial statements and thirty-three (33) of the fifty-nine (59) are in compliance through 2008 financial statements.

Long term tax abatements- Thirty-two (32) of the thirty-nine (39) projects are in compliance up to 2007 and twenty-nine (29) of the thirty-nine (39) are in compliance with submission of annual financial statements for 2008. The majority of projects submitted their statements by May 22, 2009.

Delinquency notices were sent to entities not in compliance on June 15, 2009 with a second notice mailed on August 31, 2009 with a recommendation to the Law Department to rescind the tax abatement because of non-compliance.

The City implemented a new revenue collection system during 2008 which included tax abatements some of the comments were a result of ongoing implementation of that system and have been corrected.

Disbursement Findings

Auditor's Comment:

The same vendor is listed several times in the computer system.

Response:

Accounts Payable in concert with the Purchasing Division will execute a review and consolidation of the vendor master table.

Auditor's Comment:

Social Security numbers are listed on support attached to some purchase orders...

Response:

The City will ensure that social security numbers are not listed on purchase order support.

For the other comments regarding the necessity of certain disbursements, all of these disbursements occurred prior to the City's execution of the Memorandum of Understanding with the State for Special Municipal Aid. The City will ensure all eligible

vendors receive 1099 forms and have made corrections within the instructions to staff and system.

Ethics Disclosure Findings:

Auditor's Comment:

Fifteen employees and/or officials did not file Annual Ethics Disclosure Forms for 2007 and twenty-three employees and/or officials did not file these forms for 2008

Response:

The large majority of individuals not filing these forms are not employees, but members of associated organizations. The City will institute new procedures to ensure that these forms are either received from the required individuals or the City will report them to Local Finance Board for failure to file these required forms and they will be subject to fines.

Auditor's Comment:

It appears that the City made payments to five entities that were listed on the Annual Ethics Disclosure Forms as sources of income.

Response:

The City will refer each of these payments to the City's Inspector General for his review.

Professional Service Contract Findings:

Auditor's Comment:

It appears that animal control services were awarded as a professional service. We feel that this service does not meet the required criteria of a professional contract.

Response:

The Contract and Legislation section of the Law Department reviews all contracts submitted to Municipal Council and the attorneys are familiar with the statutory requirements of Local Public Contracts Law. Because the definition of "professional services" is not limited to specific professions, but is also based upon "specialized instruction and study", there is often considerable discussion and research that determines the ultimate decision to award as a professional service.

The City will review in more detail the remaining comments under this section and will take additional steps to ensure all business disclosure statements are completed in full. In terms of certifications of funds, the City will hold seminars for all contracting employees

to ensure they understand these requirements. However, the overall purpose of the certification of funds is to ensure there are legally, budgeted funds available. The City's financial system does an automatic check of budget availability prior to the issuance of any purchase order. Therefore, no payment can be made without this budget check occurring within the system.

Bid, Change Order, and Other Contract Findings

Auditor's Comment

There is no documented evidence that a capital budget was adopted.

Response:

The City did not adopt a capital budget in 2008. The City will ensure that this does not happen again. During this period, a review of all existing capital projects was underway in order to determine which projects could be cancelled or re-appropriated.

Auditor's Comment:

A contract was awarded to provide meals for the elderly at a cost of \$117,264.95. The contract was awarded in 2006 by emergency resolution. The vendor was paid \$287,870.50 during 2008 under the same emergency contract.

Response:

During 2006, the contract to provide meals to elderly was awarded to another vendor. However, the awarded vendor could not perform to specifications during the first month of the contract; therefore, the contract was awarded to the second lowest bidder as an emergency contract. In February, 2007, a two year contract was awarded to this same vendor for the same purpose and the payments indicated in the auditor's comments were paid under the newly awarded contract during 2008 and not under the prior emergency contract.

Payroll Distribution Findings

Auditor's Comment:

Five hundred and ten employees did not attend the payroll distribution audit. Two hundred and eighty-nine of these individuals are fire department employees.

Response:

An audit of 100% of the City's employees was a difficult task for the auditors to perform given the time restraints, various shifts, and numerous work locations. The auditors

required each employee to be present and show two different types of identification. We have reviewed the list of the five hundred and ten employees and have determined the following:

- 157 Fire Department employees were not scheduled to work on day of audit due to shift schedule
 - 100 Employees absent due to vacation or sick
 - 85 Fire Department employee on duty and working in various locations
 - 17 Terminated or resigned
 - 6 Retired
 - 13 Leaves of Absence
 - 7 Military Leave
 - 5 Suspended
 - 3 Workers Compensation or Injured
 - 1 Deceased
 - 1 Jury Duty
- 395

In order to determine the above listed explanations for missing the payroll audits, the City reviewed various attendance records including printouts from hand scan system, roll call sheets from Police and Fire Departments, and the Human Resources computer system. The City's Internal Audit section will continue this audit to identify all of the employees who did not attend the payroll audit.

Auditor's Comment:

The verification of employee's social security numbers to the data base at the Federal Social Security Administration revealed that fourteen social security numbers did not match to the corresponding name, of which one did not attend the payroll distribution.

Response:

The City will verify social security numbers against the Federal data base on an annual basis and at the time of any personnel action for an individual employee. We will notify our employees of any discrepancies. During our review of this information, we determined that four (4) were instances of transposed numbers and we have made those corrections. An additional three (3) employees had legal name changes, but did not make the changes in both databases.

Grant Accounting Findings

Response:

The City is in the process of implementing in total the Grants Management module of its financial software package that will facilitate management of the full grant life cycle from application to close out for each individual grant. This will allow an automated,

technology-driven solution to the management of grant resources. The system is being customized to meet the needs of all City grants from federal, state, and private funding sources. This system is being tailored to facilitate workflow through automatic notifications to staff responsible for execution of specific steps necessary to move grants through all stages of the grants life cycle. This will give the City a necessary tool to be able to manage the grant process for application to close out of the grants. In addition, the Grants Management module will facilitate regular reporting on the status of grants that will be more efficient and effective than current methods and less dependent on individual employee output.

The City is using its new revenue collection system to report detailed revenue to the general ledger; however, grant revenue is not currently reported automatically in detail. We are making modifications to our systems to allow that information to be automatically generated which will allow for quicker identification and recording against the detailed receivables.

The City is also working to centralize many of the currently decentralized grant management functions via the Office of Partnerships and Grant Management. Through centralization, the Office of Partnerships and Grants Management will manage interdepartmental coordination of grant resource allocation as well as provide oversight for all stages of the grant life cycle.

INTERNAL CONTROL REVIEW AND ASSESSMENT

Cash and Investments

Auditor's Comment:

Bank reconciliations should be reviewed by an individual other than someone in Treasury.

Response:

The City will have the Comptroller review all bank reconciliations.

Receipts

Auditor's Comment:

The central cashiering supervisor should sign the proof sheet as documentation of verifying the proof sheet.

Response:

Currently the cashiering supervisor signs the adding machine tape; however, we have changed the procedure so she now signs the proof sheet.

Expenditures

Auditor's Comment:

There is no procedure to verify that all vendors paid are not on the suspended and debarred contractor's list.

Response:

The City will institute procedures to ensure that all potential contractors are reviewed against the State and Federal websites listing suspended and debarred contractors.

Supplies

Response:

The City will research various computer systems to acquire an inventory system which will be useful for all City departments. Presently, several different departments have some type of inventory control system; however, the City would prefer a uniform system.

Disaster Recovery and Contingency Planning

Auditor's Comment:

A disaster recovery plan should be developed, maintained and tested.

Response:

The City will soon open its Emergency Operations Center which will provide disaster recovery services in addition to the current off site storage facility.

Newark Municipal Court
Response to State Audit
9.14.09

Receipt Findings- Page 12

1. *"Two items tested from the municipal court manual receipts were not able to be verified since the supporting documentation was not available."*

The manual bail receipts are provided to the police department so that they can properly record receipt of bail. The Court's Finance Division keeps a log of the specific officers who have been given manual receipts. The two receipts in question were part of a pack of receipts signed out to two Newark Police Precincts but were never utilized. The Court will implement additional procedures for follow-up with the police departments to improve tracking of the manual receipts.

2. *"All fourteen of the municipal court bails tested did not agree as to the allocation of cash and checks on the respective deposit slips."*

Each cashier counts out his/her totals at the end of each day for both the bail and fine accounts. The totals for cash and for checks are attached to each individual cashier's journal summary. Each cashier's journals are reviewed and the totals are confirmed by a supervising cashier. The supervising cashier totals all cashiers receipts and drafts the deposit slip for the bank. Discrepancies such as data entering the incorrect form of payment are extremely rare and are always discovered and rectified through this review process.

One reason for a difference in allocation is that the Bail Cashbook lists money orders as cash, however, the bank deposit slip accounts for them as checks. The Court will implement additional procedures wherein the supervising cashier will reconcile the check/cash/money order allocation between each cashier's journal and the bank deposit slip making any needed notations to the ledger to account for differences in allocation.

Other Items Noted- Page 21

"The review of the monthly management reports of the City Court revealed that there are 14,415 pending traffic tickets that are over 120 days, there are 579,976 traffic tickets assigned and not issued that are over 181 days, there are 4,935 cases that are eligible for failure to appear notices, and there are 14,703 pending complaints that are over 121 days old."

- 14,415 pending traffic tickets over 120 days

The Court was not advised of the particular month reviewed by the auditors for this statistic. However, by reviewing several monthly management reports it is clear that this figure refers to the total amount of traffic tickets over 120 days, the majority of which are parking tickets. The Court receives over 20,000 parking tickets each month, making backlog in this area inevitable. The Court reviews case management reports every month and adjudicates and or disposes older cases as appropriate. For the month of July 2009,

the number of total traffic tickets over 120 days has been reduced to 11,705 a reduction of almost 20% as compared to the month reviewed by the auditors.

- 579,976 assigned but not issued

These are tickets that have been signed out by police officers, but not issued. These tickets date back to 1990. The Court is working with the police agencies to recall all non-issued tickets. The Court is also in contact with the Administrative Office of the Courts (AOC) to administratively delete tickets from this report that police agencies are unable to locate due to passage of time. The Court has also implemented a more strictly controlled sign-out procedure, which requires officers to return unused ticket books before receiving an additional inventory of ticket books.

- 4,935 eligible for failure to appear notices

The Court orders Failure to Appear (FTA) notices on a weekly basis pursuant to AOC guidelines for parking, traffic and now criminal matters.

- 14,703 pending complaints over 121 days old

The Court's overall backlog has been reduced by 30% since July of 2008. The Court will continue to reduce its backlog by addressing the older caseload in both traffic and criminal and by ensuring current cases move efficiently.

Control Weaknesses and Recommendations for the Newark Municipal Court- Page 56

1. *"The deposit total is verified, however, the allocation of cash and check amounts are not tied in."*

The Court will implement additional procedures wherein the supervising cashier will reconcile the check/cash allocation between each cashier's journal and the bank deposit slip. The supervising cashier shall make any needed notations to the ledger to account for differences in allocation.

2. *"Cashiers can write and utilize the signature plate to prepare a check. There are no controls over the signature plate."*

Currently, the cashiers can both write the checks and utilize the signature plate. The Court will implement additional controls wherein only designated supervisors will have access to the signature plate to complete check processing, ensuring that those who write the checks are separate from those who sign them.

It must be noted that the Court has in place several controls with regard to check writing to ensure that every check is accounted for and is in proper order. When a check is written, the check information is entered into a log book and initialed by the issuing

cashier. For refunds, the customer must also sign the log book. All checks, including checks that have been voided, are reflected in the log. The Court's Finance Division monitors the check log book at a minimum of twice a week to 1) ensure that the checks written are accounted for in chronological order, 2) verify the date, check number, and amount, and 3) verify the cashier's initials in the log. If there were to be a discrepancy, a check out of order or missing, for example, the violations manager would be contacted immediately to resolve the issue. These controls have been successful in preventing any improper use of the Court's checks.

3. *"Checks can be issued without a review process."*

The Court's check writing process is reviewed daily by the supervising cashier and bi-weekly by the Court's Finance Division. The Court will implement an additional process for check writing based on the auditors' recommendations. Cashiers will now be required to bring a screen print from the ATS/ACS system to a supervisor for approval. The screen print shall indicate the amount of the check and the payee. Once the supervisor reviews the screen print and the check, the supervisor will initial the screen print and run the check through the signature plate thereby allowing for the check to be distributed. The screen prints will be placed with the check log and given to the finance department as part of the reconciliation process.



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January 7, 2010

Re: SCI Report, "The Beat Goes On."

Dear Chairman Rice and Members of the Senate Community and Urban Affairs Committee:

The recent report of the State of New Jersey Commission of Investigation, titled *The Beat Goes On: Waste and Abuse in Local Government Employee Compensation and Benefits*, demonstrates what the League of Municipalities has long argued: the State must establish reasonable benefits standards for all government employees.

The League has lobbied for benefit and pension reform for some time, which was noted in the SCI Report. For example, the League has long argued for a statewide cap on sick leave buyouts for local government employees. Currently, sick leave buyouts at retirement for state government employees are capped at \$15,000. Both the SCI and the League agree that applying this cap at all levels, including local government, would save the taxpayers a significant amount of money. Some municipalities have been able to negotiate lower caps with some employee unions. A statutory cap would assure similar savings for taxpayers in all municipalities.

In 2006, in response to Governor Codey's Benefit Review Task Force, the League of Municipalities issued the *Correction of Pension Errors (COPE) Report*. The purpose of this report was to fill in the gaps of the Governor's Task Force report and to offer workable solutions to the problem of skyrocketing pension and benefit costs. Taken together, the SCI report and the COPE report offer a comprehensive plan to deal with the current crisis.

However, the SCI and the COPE report differ in one important aspect: the focus (or, in the SCI report, the lack of focus) on police and firefighter compensation and benefits. The SCI report makes scattered mention of this issue and the difference between the strict benefit limits of certain local public employees versus the police and fire employees. However, as the COPE report notes, legislative mandates have created different benefits for employees covered by Public Employee Retirement System (PERS) versus employees covered by the Police and Fire Retirement System (PFRS).

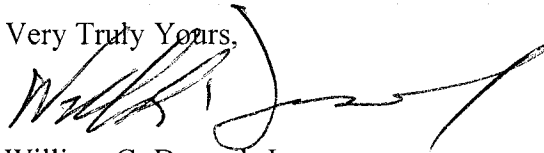
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Perhaps the most glaring example of this, and the primary catalyst for the continual increase in property taxes, is mandatory binding interest arbitration. Whenever talks between a police or fire union and a town break down over economic issues, the union may bring in a third party arbitrator. The awards the arbitrators have the power to impose routinely exceed the rate of inflation. The effect then ripple through local budgets, as public safety employees in neighboring jurisdictions, and other employees of the same municipality, push for greater wage increases. The ripples then gain in strength as pension liabilities expand. As public employee wage and benefit packages go up, towns often have no choice but to increase property taxes.

These mandates have made PFRS the most expensive local pension system. Any efforts at change must include reform of the compensation and benefits of all local government employees, including police and firefighters. For years now, the League has asked the Governor and Legislature to modify the binding arbitration requirements. We now reemphasize the need for immediate relief from this unfunded mandate.

The League believes that the SCI report, along with the COPE report, represents an excellent guidepost on the path towards repairing public employee compensation, benefits, and pensions. This long process has already begun with the recent reforms to our pension systems: the creation of a Defined Contribution Retirement Plan, increasing the requirements to enroll in the pension system, capping the benefit level of new members, raising employee contributions and increasing the retirement age. Many towns are contractually obligated to provide the current level of compensation and benefits. The United States Constitution prohibits any state from passing a law that would interfere with contractual obligations. Thus, we must all hone in on providing a better future for our children and grandchildren. We look forward to working with state legislators and the executive branch in implementing reasonable reforms that treat public employees fairly while saving taxpayer dollars.

Very Truly Yours,



William G. Dressel, Jr.
Executive Director

C orrections
O f
P ension
E rrors

*By the League of Municipalities
and Affiliated Groups*

January 2006

**Correction Of Pension Errors Reported
by The Governor's Benefit Review Task Force**

By The League of Municipalities & Affiliated Groups

Introduction

Acting Governor Codey on May 25th created a Benefit Review Task Force by Executive Order #39. The Order directed the Task Force to examine the current laws, regulations, procedures and agreements governing the provisions of employee benefits to state and local workers. On November 21, 2005, the Benefit Review Task Force reported its findings to Acting Governor Richard J. Codey. The Task Force neglected to undertake a comprehensive review of pension and benefits impact affecting Local Governments. Therefore, their recommendations and findings resulted in the local governments' issues being skewed by problems which are confronting State government. The League recognizes that some elements are common, but there is a definite and distinct difference between the cost of benefit structure affecting local government and problems to be addressed by the State government. The purpose of this report submitted by the League of Municipalities and its Affiliated Groups is to identify the situation and supplement the work performed by the Governor's Task Force. The process of supplementation is twofold. It is to correct the errors of omission by the State Task Force and expand recommendations believed to be part of a workable solution to deal with funding problems.

Recommendations

The Task Force commented that governments at all levels should cease political gimmicks and begin to be responsible through sound funding of their benefit obligations. This includes both pension and health benefit obligations. The Task Force suggests legislation be passed that would eliminate or stop the politically well connected from "gaming" the system by receiving enhanced benefits. Both of these recommendations in general are easy to agree with, but the League's methodology of implementation is different and decisive.

First we draw everyone's attention to the various Valuation Reports approved by the Board of Trustees for the different systems. This paper will deal with just three of the systems. They are PERS, PFRS and TPAF. The recommendations to be reported in the subsequent portion of this report would apply to all systems.

The League recognizes the three pension systems referred to above are mature systems which struggle with economic volatility, demographics and investment return. The funding formulas utilized to value the systems under statements released by the Governmental Accounting Standards Board (GASB) strive for an asset smoothing method in which gains and losses are phased in over a period of several years. This methodology permits mature systems to remain steady regardless of market performance and other factors provided employer and employee contributions are made in a timely manner. Employer and some employee contributions were withheld coupled with a temporary downturn in the stock market resulted in what has been reported as a structural deficit. It is a temporary situation which can be remedied in a few years by judicious and proper management. It will require honest budget appropriations by all levels of government. The Task Force neglected to differentiate between the "crisis" problem the State of New Jersey is confronted with relative to the funding problems (normal payments) local governments face. For example, utilizing GASB statement number 25 and 27 the valuation report for PERS develops the annual required contribution for funding by employer providing benefits. On page 40 Schedule B the latest valuation report indicates the State's funding ratio of assets compared to liabilities is at 84.7% representing an unfunded accrued liability as a percent of covered payroll at 51.4%. The local government portion of PERS is funded at 96.1% and the unfunded accrued liabilities as a percent of covered payroll is only 10.8%. It is very easy to see from the ratios that the local portion of PERS must be considered well funded compared to the State's obligations. Wilshire Research reports and other systems around the country face a much greater problem. If one looks into the various funding ratios a little further, they will see the local portion may be skewed because included in the accrued liabilities and assets are liabilities for those communities (local governments) that elected to implement Early Retirement Initiatives. Many local governments did not implement the ERIs. Therefore, many local governments almost have a 100% funding ratio while some municipalities which made decisions to provide for Early Retirement Initiatives are confronted with significantly larger employer required contributions. This problem confronts the State portion of PERS because they approved Early Retirement Initiatives which proved to be a fiscal fiasco. The State's liability will continue to grow as their funding obligation will be significant because the Administrative and Legislative decisions that were made. The Governor's Task Force neglected to recognize the difference in funding levels between State obligations and Local obligations for PERS.

When the benefit denominator for PERS was changed from N/60 to N/55 Chapter 133 of Public Laws of 2001 established a Benefit Enhancement Fund designed to fully fund the cost of benefits granted by the Legislature. Those assets were specifically set aside to cover the incremental cost for the accrued liability of the enhancement granted. The State in preparing their budgets and establishing the employer contribution to fund their portion of the PERS employer liability has utilized all assets that were set aside under the Benefit Enhancement Fund. This has compounded their fiscal problems by not providing a budget appropriation in a straightforward manner. Conversely, local governments have not confronted this problem and there are significant assets which remain in the Benefit Enhancement Fund representing full funding for the N/55 benefit granted to local government employees. The Benefit Task Force neglected to identify and differentiate funding levels between State and local obligations. The employers of local government through judicious budget appropriations are gradually working down their structural deficit as currently reported under GASB. Also the asset smoothing methodology built into the State law will permit local governments to realize the increases which have been realized through investments. Local governments do not have a PERS funding "crisis", but they do have a large bill to pay. Yes, there are increased costs which employers must fund but the crisis level suggested by the Governor's Task Force is different for each level of government. Therefore, if there is to be a legislative remedy one must know the degree of problem confronted by each system before any strategy is put forth.

Such recognition should apply to the Police and Fire Retirement System (PFRS). On page 27 Schedule B of the latest valuation, it shows the State's funding ratio for their obligations under the PFRS is at 77.35%. The local funding ratio is at 84.79% and this funding ratio may again be skewed because of the Early Retirement Initiatives. Also the State continues to grant increased enhanced benefits to members of this system over the objections of the League, Affiliate Groups and Local Governments. Just look at this past "Lame Duck" legislative action as a small sample. All should recognize funding requirements for PFRS at the local level are significantly higher than the cost of funding PERS. PFRS is a very rich system when measured by benefits granted to employees. The cost to local government for one PFRS member is approximately three times more than the cost of a local government PERS member. Recognizing this significant cost differential is very important and is something with which the Task Force neglected to deal. For example, there is legislation on the books that would significantly increase the local governments' liability for PFRS funding. The legislation has not taken effect because of the formula contained within the legislation. It was the League's recommendation to the Task Force that provisions contained in Chapter 108 Public Laws of 2003 be legislatively corrected by reversing the law. This would save multi-millions of dollars of future liabilities for local taxpayers. By eliminating the provisions of Chapter 108 Public Laws of 2003 there would be no damage to any active or retired individual employee because the provisions have not yet taken effect. Based upon current economic projections, they will not take effect for a number of years, but the liability and damage to the property taxpayer is significant. This recommendation is relatively easy to implement. The Task Force neglected to deal with the most expensive and costly system confronting local governments today. We need to C.O.P.E. with this issue.

Funding costs for PFRS is skewed because of the Early Retirement Initiatives granted. Not all local governments approved ERIs, but the aggravated liability and assets are contained in the funding number. Therefore, the funding ratio at the local level of 84.79% is cumbersome for

some municipalities and less cumbersome for other municipalities. But the general fact is that this is a rich system, very expensive and costly to the local property taxpayers. Past valuation gimmicks were utilized by the State Legislature to grant enhanced benefits to the PFRS membership at the cost of the local property taxpayer. Had those gimmicks not been utilized, the funding ratio at the local level would be significantly higher today. But again it should be recognized that routine employer contributions plus increased market valuations should eliminate the structural deficit currently confronting PFRS if the Legislature takes corrective action. The State's funding obligation is a different story because inadequate state appropriations have compounded their problem.

The Teachers Pension and Annuity Fund (TPAF) reports a funding ratio of 85.63% based upon the latest valuation as reported on page 36 of the report. TPAF funding is reaching the crisis level because of increased retirements, Early Retirement Initiatives granted and the State has accepted obligation to fund TPAF payments. Lifting the pension obligations from the local budget to state funding has permitted local school boards to negotiate with teachers on salaries and staffing levels without measuring the roll up costs associated with pension benefits. The State Legislature relieved the local school boards of their funding obligation and assumed a State aid obligation for active and retired workers. The State has not appropriated its funding commitment causing the funding ratio to decline. Indeed, the State now confronts a crisis with regards to funding of pension obligations. Recognize there is no such commodity as a "free lunch". But many local school boards throughout the State have viewed pensions as a free lunch provided by the State Legislature. They face the question of affordability vs. political hazards.

The Task Force did not adequately reflect the nature and cause of the pension dilemma confronting the State. They assumed all systems were equal and therefore one remedy was suggested for PERS and TPAF, but PFRS was left out of the mix. They did not deal with the most expensive local government system. Their recommendation for modification of benefit structure and age is flawed and must be reconsidered in light of the actuarial data.

Health Benefits Costs

The Benefit Task Force misunderstood the difference between health care costs, the State budget and most local governments. The State, through legislative action, has voluntarily assumed the cost of providing health care to active and retired employees that work for the State, many of its Authorities and post-retirement health benefits for TPAF and school PERS members plus a long list of higher education institutions. By assuming pyramiding liabilities, the State limited the ability for collective bargaining to be part of the contractual process. The overall health care obligations for which the State must fund current employees plus an ever expanding group of eligible retired employees is compelling. The Benefit Task Force recognizes the State's fiscal obligation will become more visible through the requirements of the Governmental Accounting Standard Board's Statements number 43 and 45. In fact, the projected cost of State health benefits for active employees is less than the State's obligation to fund post-retirement health benefits for retired employees in fiscal year 2007. The projected liability to the State is \$2,503,000,000 of which \$1,254,000,000 is for retired employees and \$1,249,800,000 is for the active workforce. The State, when adopting Early Retirement Initiatives compounded their

health benefit cost problem. Not only did they grant benefits across the board to State employees, but they encourage educational institutions around the State to adopt Early Retirement Initiatives. This so called "brain drain" created significant problems for the State operating agencies for minimal temporary savings. Based upon the latest valuation as reported for PERS and TPAF there are more than 13,000 State employees with 25 or more years of service who are eligible to retire immediately to receive post-retirement health benefits. Added are more than 28,000 members of TPAF which could retire immediately as a result of having 25 or more years of service and they would also receive post-retirement health benefits paid for by the State. Fortunately, not all of them will retire at one time. But the pyramid reflects a pending crisis which the State must confront. How will they fund health benefit obligations they have granted? Such a major problem is not an issued with most of the local governments. Local governments over the course of recent history have implemented many cost saving methods through collective bargaining negotiation. They have implemented employee co-pays, caps on obligations, restricted post-retirement health benefits to age 65 at which time Medicare provides coverage. There are many direct savings which local governments have realized to modify the cost of health benefits. The impending crisis for State health benefit funding is significant. This is not to minimize the funding problems which local governments are confronted with, but the Task Force should have recognized the difference between local and State in their report. To such an extent, Legislative remedies should be made available to all levels of government. All must help solve the cost issue. We recognize employees must become more responsible for their health, cost sharing, use of medical, dental and prescription benefits.

Recommendations (A Practical Listing)

1. Additional collective bargaining tools with regards to health benefits should be provided to both State and local governments. Health care costs are pay as you go in new tax dollars each year. A cap must be placed on those items
2. The Task Force report recognizes a pension unfunded deficit of \$12.1 billion of which 40% is the responsibility of local governments through PERS and PFRS. Of the 40% for which local governments are responsible, 60% of that unfunded liability is with the Police and Fire System representing roughly 45,000 active employees out of the 252,568 total local employees or 18%. The primary reason causing an unfunded liability for local employers under the PFRS system is because of State mandated legislation approved over the objections of the League of Municipalities. The Governor's Task Force Report neglected to take this matter under advisement and provided no response. State mandated benefits must be rolled back.
3. The League recognizes the N/55 was a reasonable benefit granted at the time based upon sound actuarial principals and fully funded when adopted. The Task Force suggested N/55 was an imprudent political decision and unjustified benefit granted to members of PERS and TPAF. What the Task Force neglected to report is that when the benefits were provided, the actuarial soundness of the system reported assets in excess of liabilities. When the legislation passed, Benefit Enhancement Funds were established for PERS and TPAF fully funding the benefits granted thereby removing any responsibility or liability

from future generations of taxpayers. The assets specifically set aside to fund the benefits were deemed to be adequate based upon the actuary's analysis. The real political decision was made by the current Administration and Legislature by not adequately funding their normal employer costs. Instead they invaded the reserves set aside under the Benefit Enhancement Fund. The assets that were reserved for benefits granted to State employees of PERS has been fully expunged as the State used those assets to temporarily represent their normal contribution or a portion of their annual payment. They have taken the same approach with the assets set aside for TPAF. Rather than facing up to their responsibilities and financing their normal contributions, they invaded assets that were earmarked for the enhanced benefit thereby compounding the unfunded liability. The Benefit Enhancement Fund established for local governments under PERS was not invaded and those assets continue to be available to fund the N/55 enhancement granted to local public employees. This is one of the reasons why the local portion of PERS has less unfunded liability in spite of the holidays granted to employers from normal contributions coupled with the downturn in the stock market and lower investments. The Governor's Task Force inappropriately misrepresents the N/55 benefit granted while ignoring the rich benefits granted to PFRS at the expense of local employers. When PFRS benefits were granted by the State Legislature over the League's objection, they permitted retirement by members of the PFRS with 25 years of service regardless of age, at a 65% replacement ratio there was a commitment by the State to fund the liability they created. Only a few months after they passed the enhanced benefit, the State again adopted legislation changing the method of valuation of the PFRS assets and used local assets contributed by local taxpayers to fund the State mandate. This invasion of local assets caused in large measure the significant unfunded liability for which local governments are currently confronted thus causing high annual payments for PFRS. The Task Force neglected comment on such issues. They did not recommend correction of future pending liabilities provided by Chapter 108 Public Laws of 2003. The Task Force appeared to support an approach which would continue the gimmicks used by the Legislature and Administration to bypass their funding obligations. PFRS needs legislative changes in the age of retirement and the base upon which pensions are calculated. The League recognizes there is increased longevity among the general public and there should be a change in the retirement age on some prospective date. But a unilateral change for PERS and TPAF simply to temporarily solve the State's budget problem is inappropriate.

4. The Task Force correctly recognized Early Retirement Initiatives by government represent political decisions and fiscal poor planning. Early Retirement Programs can be effective when one has a constricting or reduced workforce. But State and Local governments, as well as educational institutions have an expanding workforce and therefore the implementation of an Early Retirement Initiative is simply a waste of taxpayer money seeking to have a short term economic gain at the expense of future taxpayers. The Early Retirement Initiatives offered by the State, Boards of Education, and Local Governments have proven to be an economic failure on a unilateral basis by all measures. A major portion of the funded crisis which confronts State and local employers is cause by Early Retirement Initiatives that were used as gimmicks. ERI rewarded people who were ready for retirement and open up new positions for political patronage.

The number of State, education and local employees has increased and positions were not reduced. The League concurs with the Task Force that Early Retirement Initiatives should not be considered by government. The high costs of ERI is reported in each valuation report by unit of government.

5. The League testified before the Task Force on the part time positions problem and the eligibility threshold for enrollment. Both should be changed from the current \$1,500 level and service time. The Task Force suggests a threshold of \$5,000 which is inadequate for full time credit because it constitutes part time work. The League recommends that part time positions receive part time credit toward their pension and the threshold be increased from the current \$1,500. Part time service should be prorated. Part time service should not receive full time credit towards retirement. One should receive a full year's credit for a full year's work and anything less should be prorated based upon a standard that can be established using average wages. The implementation of this measure by the Legislature would go a long way to eliminating gimmicks which have been used by many to work for a number of years in a minimal part time position while gaining full time credit and then during their last years of employment accepting a full time job at a significantly high rate of pay thereby enhancing their lifetime pension. The League recognizes this is incorrect and suggests that the Task Force did not adequately address the issue. The Legislature should correct this problem now.
6. The Task Force took a partial look at age of retirement without recognizing the basic problem. The Federal Social Security System years ago recognized extended longevity of individuals and changed the full retirement age. The fact that Americans are living longer is well recognized and something all pension systems should deal with on a prospective basis. Any recognition should apply across the board. For example, the State Police Retirement System permits officers to retire after 20 years of service at 50% pay regardless of age. The results of such a liberal and rich benefit program has resulted in 8.2 retired officers for every 10 officers working. In the next five years, there will be as many retired officers, for which the State must fund a full pension, as there are working officers. Most all of the retired State Police take another full time job after retirement while collecting a state pension. This same situation is resulting in the Police and Fire Retirement System. Without a minimum age before one is eligible for retirement, the accrued liabilities and funding problems continue to grow exponentially. The Task Force neglected to recognize the funding problems associated with the State Police Retirement System, the PFRS, Judicial and other retirement systems where the age restrictions if any at all are much lower than the age requirements for PERS and TPAF. The League suggests a new retirement age be established for all systems on a prospective basis. The Task Force which accused the Legislature of using gimmicks to solve problems attempted the same approach relative to PERS and TPAF while ignoring the other systems. The League believes there should be uniform and equal standards which apply and are implemented for all systems.
7. Pension abuse has been reported by the newspaper and recognized to exist for those who are politically well connected or hold high administrative positions. The Task Force suggests rules, regulations, legislation and changes be made to stop the abuse and

“gaming” of the systems. The League applauds their recommendations and believes a legislative approach is necessary to deal with the issues. The League would support a defined contribution plan be established for elected officials and appointed officials. Such a plan would recognize the valuable service individuals perform and at the same time allow one to be responsible for their own pension contributions. The Task Force also suggests the Division of Pensions have greater authority to deal with salary boosting during the last years of retirement, particularly for appointed positions. The League would support enhanced authority for the Division of Pensions to deal with such problems. While particular situations were highlighted in recent news articles, they do not represent the full universe of problems. At the same time, the majority of the rank and file employees do not “game” the system. But the rank and file would be punished if the unilateral proposal for PERS and TPAF made by the Task Force were to be adopted. Rather than dealing with the specific problems through regulatory control and legislative process, the Task Force takes a broad paintbrush and tries to make all public employees with guilt by association. The League does not support the Task Force’s use of such a broad paintbrush. They are wrong!

8. The Task Force suggests fiscal responsibility should apply to all levels of government. Who could disagree? The League in testifying before the Committee recognized one area of abuse has been the low interest loan programs which have been offered to public employees and below interest mortgage funding programs offered at taxpayers’ expense to public employees. The financial systems in the private marketplace are healthy and able to meet the needs of the general public as well as government employees for loans and mortgages. The League suggests the Legislature eliminate the ability of individuals to have below market loans from the various retirement systems and particularly eliminate the ability of individuals to receive favorable below market interest rates on long term mortgages. It is the responsibility of the Board of Trustees and those charged with the responsibility of investing employer assets to maximize the interest earnings on the taxpayers’ contributions. By permitting below market loans and below market mortgages, the Legislature guarantees a poor return on a large portion of the assets. This hidden or indirect subsidy falls on all taxpayers and contributes to an unfunded liability. Improved earnings on pension assets will be step one to fiscal solvency. The League recommends action. The mortgage program was passed over the League’s objections.
9. Part time positions for local government are an integral part of a cost effective method of providing services to the general public. Many municipalities share a certified Tax Assessor, Tax Collector, Chief Finance Officer or Construction Official. Those individuals working for a small community may serve two small communities by working part time in each community but constitute a full time job. The Task Force suggests such valuable functions be eliminated because they would now reduce the pension for said individuals based upon their recommendations. The League believes the Task Force had good intentions but incorrect information. The League supports certified part time individuals being permitted to serve more than one municipality and thereby having their collective earnings represent their pension base. Two part time jobs representing twenty hours per week at each constitutes one full time job and should be recognized by the systems. But part time professionals such as attorneys or engineers

who game the system by having minimal retainers in order to meet the threshold for enrollment in the pension system and then realize the bulk of their earnings based upon special contractual relationships through their corporation is something that should be addressed and eliminated. The League believes the Task Force was trying to deal with those situations as opposed to the valid shared responsibility. In fact, it has been a program supported by the State through the Department of Community Affairs to encourage interlocal cooperation and shared services of individuals on a technical basis. The League has supported that concept it has proven to be efficient. The League disagrees with the broad brush approach taken by the Task Force.

10. The League suggests the Division of Pensions and the Board of Trustees implement and follow their administrative procedures. An illustration of testimony provided by the League to the Task Force dealt with the concept of "credible salaries" under N.J.A.C. 17:4-4.1(a)2vi which does not permit uniformed personnel to roll into their pension base clothing allowance, holiday pay, vacation pay and many other fringe payments. These fringe payments are rolled into their salary base upon which they will receive 70% for the rest of their retirement. The League recognizes that uniformed personnel should be granted a uniform allowance while they are serving the public and wearing a uniform. But those same individuals should not receive 70% of their uniform allowance, holiday and sick pay for the rest of their life particularly when they on average are retiring at an age of 49 or 50 and living an additional 30 years. The Division of Pensions and the Board of Trustees for the Police and Fire Retirement System should address this issue. The Task Force did not!
11. The League would like to address the issue of pension bonding which resulted in a poor decision. The decision when initially provided was supported by the League because there were accrued liabilities that could be funded by a guaranteed annual amount through proper bonding. This would provide for level payments and would provide significant assets to the pension system for investment. Had the original plan been followed, pension bonding would have proven to be a very successful situation and the pension funds would not be confronted with a significant unfunded liability. The Legislature elected to bond the assets on the front end and once the pot of money was available they determined to spend it again on the other end by granting "holidays" (non-payment times) for the State and local employers. The spending of bonding assets through the granting of holidays simply compounded the funding problem. The lesson that has been learned from a good concept based upon sound principals is that one cannot grant to a political body a large amount of revenue, which without restrictions, could be used for gimmicks to offload their budget thereby permitting them to fund alternative programs which appear to be without cost. The fact is the cost is now double because there is interest and principal due on the original bond and the State is now confronted with an unfunded liability. This is abuse and gaming of the system as the Task Force correctly identifies. But their suggestion that Legislative and Administrative abuse of the assets be paid for by the rank and file employees through a change in their pension base from three to five years and their retirement age by an additional five years is incorrect. They looked at another way to game the system.

12. The Task Force suggests vesting in systems be changed from ten years to five years as a method of rewarding political appointees. There is a cost associated with enhancing the vesting privilege. The impact effects PERS and TPAF, but does not affect the other systems. The League believes this recommendation to be wrong at this time. The League supports no change in the vesting requirements. Why would one encourage additional costs and liabilities at a time when the State is facing a "crisis" as described by the Task Force? This suggestion is inappropriate.
13. The Task Force has suggested the pension system be modified to offer a long life survivor's benefit for spouses based upon a formula. The League has suggested that any change to provide joint and survivor's benefits be linked with modifications to the insurance provided under the Group Long Term Life insurance program. Currently the State operates the program as a self funded program and makes a profit on the offered program to employees. The proper merging of the two concepts could result in a smoothing and clarification of benefits without increased costs as suggested by the Task Force. The League believes more study is needed before this matter is implemented.
14. Health Care Strategies. The problems seem innumerable and the solutions seem to exist behind some big black curtain, if at all. There is little doubt health care is the number one issue confronting State government today. The increased cost of providing benefits for active employees is a major factor for local governments. Legislative help is needed and the proposals suggested by the Task Force are a good start. A major Task Force should be established to deal with this issue inclusive of State and local governments as well as experts. The League believes this to be a high priority.