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STATE OF IOWA

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Mary Mosiman, CPA
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NEWS RELEASE

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FOR RELEASE February 17, 2017

Auditor of State Mary Mosiman today released a reaudit report on the City of Parkersburg for the period July 1, 2012 through June 30, 2013. The reaudit also covered items applicable to the period November 1, 2009 through July 31, 2014. The reaudit was performed at the request of petitioners pursuant to Section 11.6(4)(a)(3) of the *Code of Iowa*.

The reaudit was requested due to concerns regarding City operations, including the components of the City Administrator's and Deputy City Clerk's salaries, certain vendor payments, and use of funding received from the Federal Emergency Management Agency.

Mosiman reported, for the period November 1, 2009 through July 31, 2014, the City Administrator received salary totaling \$32,642.15 over his annual base salary, including \$15,125.19 for overtime, \$7,525.00 for grave digging, \$6,476.96 for compensatory time payouts, \$3,100.00 for maintaining the accounting records for the Veteran's Building and \$415.00 for issuing building permits. In addition, the Water Superintendent received salary over his annual base salary totaling \$4,810.65 for grave digging and compensatory time payouts, the Sewer Superintendent received salary over his annual base salary totaling \$4,340.00 for grave digging, and the Deputy City Clerk received salary in addition to her hourly rate totaling \$1,415.00 for making park reservations and issuing building permits.

Mosiman recommended the City Council exercise due care and require and review pertinent information and documentation prior to making decisions impacting the City. The City Council should review the job duties assigned to the City Administrator to determine proper compensation, comply with the Fair Labor Standards Act guidance regarding overtime and compensatory time for the City Administrator, review and approve the health and dental insurance coverage to be provided to City employees, review the necessity of maintaining certain charge accounts and memberships for City employees, and implement procedures to ensure supporting documentation is detailed enough to allow for an independent assessment of the propriety and public purpose of the goods and services provided.

A copy of the reaudit report is available for review in the City Administrator's Office, on the Auditor of State's website at <https://auditor.iowa.gov/reports/1321-0101-T00Z>, and in the Office of Auditor of State.

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CITY OF PARKERSBURG
AUDITOR OF STATE'S REPORT ON REAUDIT
FOR THE PERIOD
JULY 1, 2012 THROUGH JUNE 30, 2013

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City of Parkersburg

Officials – Fiscal Year 2013

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
Perry Bernard	Mayor	Jan 2014
Denny Kannegieter	Council Member	Jan 2014
Harlan Schuck	Council Member	Jan 2014
Dan Bruns	Council Member	Jan 2016
Klint C. Knock	Council Member	Jan 2016
Leon Thorne	Council Member	Jan 2016
Chris Luhring	City Clerk/City Administrator	Indefinite
Jan Thomas	Deputy City Clerk	Indefinite
Martin Petersen	Attorney	Indefinite

Officials – Fiscal Year 2015

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
Perry Bernard	Mayor	Jan 2018
Dan Bruns	Council Member	Jan 2016
Klint C. Knock	Council Member	Jan 2016
Harlan Schuck	Council Member	Jan 2016
Leon Thorne	Council Member	Jan 2016
Michael Timmer	Council Member	Jan 2018
Chris Luhring	City Clerk/City Administrator	Indefinite
Jan Thomas	Deputy City Clerk	Indefinite
Martin Petersen	Attorney	Indefinite

City of Parkersburg



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Auditor of State's Report on Reaudit

To the Honorable Mayor and
Members of the City Council:

We received a request to perform a reaudit of the City of Parkersburg in accordance with Section 11.6(4)(a)(3) of the *Code of Iowa*. As a result, we performed a review of the audit report for the year ended June 30, 2013 and the workpapers prepared by the City's Certified Public Accounting firm to determine whether the CPA firm addressed any or all of the specific issues identified in the requests for reaudit during the annual audit of the City. Based on this review and our review of the preliminary information available, we determined a partial reaudit was necessary to further investigate specific issues identified in the request for reaudit. Accordingly, we have applied certain tests and procedures to selected accounting records and related information of the District for the period November 1, 2009 through July 31, 2014.

The procedures we performed are summarized as follows:


1. Obtained the payroll history for certain employees and recalculated salary and wages to determine whether payments issued complied with City policy, met the test of public purpose, were properly supported, and were properly approved.
2. Obtained a listing of all reimbursements for certain employees and examined the transactions to determine whether the payments met the test of public purpose and were properly supported.
3. Reviewed the Project Worksheets and supporting documentation for the projects funded, in part, through the Federal Emergency Management Agency to determine propriety of the use of force account labor.
4. Reviewed the policy in the City's employee handbook regarding the provision of health and dental insurance and examined the related transactions for propriety.
5. Reviewed the annual salary publication to determine whether it complied with *Code of Iowa* requirements and was supported by City records.
6. Examined purchases made using the City's business membership held at Sam's Club and on the City's fuel cards held at Kwik Trip, Inc. to determine the propriety of the items purchased, the source of the payments made, and the reasonableness of membership dues, if any.
7. Examined payments to selected vendors to determine whether the payments were properly supported and met the test of public purpose, reviewed all disbursements related to the Kothe Memorial Library to determine propriety, and compared the disbursement listings approved by the City Council per the meeting minutes to the published disbursement listings to ensure accuracy and completeness.

8. Examined payments to related parties to determine whether the payments were properly supported and met the test of public purpose.
9. Examined disbursements from the City's Special Revenue, Urban Renewal Tax Increment Fund to determine allowability.
10. Obtained an understanding of the relationship between the City and Parkersburg Economic Development and examined certain transactions for propriety.
11. Obtained an understanding of the relationship between the City and the Parkersburg Firefighter's Association and examined certain transactions for propriety.
12. Reviewed City ordinances regarding utilities to determine current City policy regarding penalties, shut-offs, and collection of past due accounts. Also, reviewed the utility billing for select businesses to ensure a discriminatory rate was not applied and determined whether the water tower maintenance fee was being properly collected, recorded, and disbursed.
13. Reviewed the City's miscellaneous fee schedule to determine the reasonableness of the amounts charged. Examined certain deposits to ensure fees were charged consistently.
14. Reviewed the classification of the Capital Projects, Historical House Fund for compliance with accounting standards.

Based on the performance of these procedures, we identified inadequate City policies and instances of non-compliance and have developed various recommendations for the City. The inadequate City policies and instances of non-compliance and our recommendations are described in the Detailed Findings of this report. Unless reported in the Detailed Findings, items of non-compliance were not identified during the performance of the specific procedures listed above.

The procedures described above do not constitute an audit of financial statements conducted in accordance with U.S. generally accepted auditing standards. Had we performed additional procedures, or had we performed an audit of the City, additional matters might have come to our attention that would have been reported to you.

We would like to acknowledge the assistance extended to us by officials and personnel of the City during the course of the reaudit.


MARY MOSIMAN, CPA
Auditor of State

September 30, 2016

Detailed Findings

City of Parkersburg
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We received a citizens' petition to conduct a reaudit of the City of Parkersburg for fiscal year 2013. The request detailed specific concerns, including:

- The components of the City Administrator's and Deputy City Clerk's salaries, including payment for managing the Veteran's Building, taking park shelter reservations, and issuing building permits.
- The collection of "double pay" for performing additional duties outside of City Hall, such as snow removal, grave digging, and EMT calls.
- Whether the City Administrator position is considered non-exempt or exempt for the purposes of paying overtime.
- Whether certain employee reimbursements, including mileage reimbursements issued to the Librarian and the City Administrator and health insurance reimbursements were appropriate.
- Certain disbursements related to the City's Fire Department and related to training of City employees, both reimbursed to the employee and paid directly by the City.
- Payment of medical expenses for certain employees.
- Use of the funds recorded in the City's Special Revenue, Urban Renewal Tax Increment Fund.
- Use of the City's Sam's Club membership for personal purchases.
- No related party transactions reported in the audit reports issued by the City's independent CPA firm.
- Receipt of Federal Emergency Management Agency funds to pay full-time City employees to install the fencing around the sewage lagoon.
- Collection of past due utility accounts.
- Use of City vehicles and/or equipment by City employees for personal purposes.
- Expansion of the scope of the Highway 57/14 Corridor to allow for improvements at the personal residence of the Deputy City Clerk.
- Miscellaneous fees charged to citizens for services such as copying City records.
- Accuracy of the annual salary publication.

As a result of the request, we performed a review of the City's audit report and workpapers prepared by the City's independent auditors to determine whether a complete or partial reaudit of the City should be performed. As a result of this review, we determined it was necessary to perform reaudit procedures for all 15 concerns presented.

During the course of the reaudit process, from the filing of the petition throughout field work, we were presented numerous concerns which we did not pursue as they were not an audit issue. In addition, we continued to receive additional concerns during the course of the reaudit which we were required to address with due diligence. We were also presented several concerns which were tested during the course of the reaudit with no significant findings identified.

The procedures identified excess salary totaling \$32,642.15 for the City Administrator, including \$15,125.19 for overtime, \$7,525.00 for grave digging, \$6,476.96 for compensatory time payouts, \$3,100.00 for maintaining the accounting records for the Veteran's Building, and \$415.00 for

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issuing building permits. In addition, excess salary was identified for the Water Superintendent totaling \$4,810.65, the Sewer Superintendent totaling \$4,340.00, and the Deputy City Clerk totaling \$1,415.00. Several internal control weaknesses were also identified. Our detailed findings and recommendations are presented in the following paragraphs.

While the reaudit procedures performed addressed the concerns presented, additional procedures were not performed. Had we performed additional procedures, additional matters might have been identified and included in this report.

The City's responses, included in this report, refer to Exhibits provided with the responses. Due to the volume of the Exhibits, they have not been reprinted with this report. Instead, paper copies of these Exhibits are available for review in the City Administrator's office and in the Office of the Auditor of State.

- (A) Salary Components – According to City Council resolution #886 passed March 5, 2012, the City Administrator and the Deputy City Clerk provide multiple functions to the City, which are compensated separately. Specifically, the resolution states:

Chris Luhring: Clerk/Finance Officer/Administrator	2.5% increase
Chris Luhring: Veteran's Building Manager	\$400.00/quarter
Jan Thomas: Deputy City Clerk	2.5% increase - \$16.62/hour
Jan Thomas: Park Reservations	\$400.00/season
Ambulance Chief: Jan Thomas	\$1,200.00/year
Zoning Administrator: Chris Luhring/Jan Thomas	\$5.00/each permit issued"

In addition, compensation for grave digging was established at \$70.00 per grave. According to the City Administrator, when asked, separate compensation was established for grave digging because it "is a tough job."

As illustrated, the Council resolution to approve salary/wage increases did not include the employees' previous salary/hourly rate and the new salary/hourly rate. As a result, without researching the prior salary amounts, the City Council has no way to ensure the authorized percentage increase was properly applied.

The City Administrator began receiving \$400 per quarter for maintaining the accounting records of the Veteran's Building effective April 2012. Although the building is owned by the City, there is a separate board which oversees the operations of the Veteran's Building. The Veteran's Building Board (Board) is comprised of the following 5 members:

- 2 City Council members appointed by the Mayor,
- 2 members of Post 285 appointed by the Commander, and
- 1 citizen member.

For the period April 2012 to November 2014, the City Administrator received \$3,100 for maintaining the accounting records of the Veteran's Building. When asked about the job duties related to the Veteran's Building, the City Administrator stated, "Working with the janitors, making sure the events are scheduled accordingly, and make sure there are no problems with the building. It's weekends, it's holidays, it's my day off, it's July 4th, it's Fun Days. That building's hard. So, that's taking care of brides, moms. Five minutes before the wedding is supposed to get there because the toilet doesn't flush, or the drain fell off the sink, or they can't get the stove started, or somebody unplugged the coolers, or a wide array of other problems."

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Because the Board could hire a separate employee to maintain its accounting records and the City Administrator was asked to perform additional responsibilities, the quarterly payments issued to the City Administrator may meet the test of public purpose. However, we were unable to determine whether the work was performed outside normal working hours or during the normal working day. If the work was performed during the normal working day, the City Administrator was compensated twice for the same hours.

Beginning in fiscal year 2013, the Deputy City Clerk began receiving \$400 per season for making citizen park reservations. For the period July 1, 2012 through July 31, 2014, the Deputy City Clerk received \$1,200 for park reservations. In addition, beginning in fiscal year 2013, both the City Administrator and the Deputy City Clerk began receiving \$5 per building permit issued. For the period July 1, 2012 through July 31, 2014, the City Administrator and Deputy City Clerk received \$415 and \$215, respectively, for issuing building permits. However, making park reservations and issuing building permits are included in the current job duties in the City's Code of Ordinances for the City Administrator and Deputy City Clerk. According to interviews conducted with the Mayor in office during fieldwork and 3 Council members, 2 of the 3 Council members and the former Mayor stated these duties were part of the job and should not be compensated separately. It is unclear why the City Council resolution was approved as worded if certain City Council members felt the specified job duties should not be compensated separately. We are unable to determine the public purpose or necessity of the additional compensation.

Per City Ordinances 115.04 and 115.08, only authorized personnel employed by the Public Works Department are to open/close graves. A copy of Chapter 115 of the City's Code of Ordinances is included in **Appendix 1**. Because grave opening and closing is included as part of the duties of the Public Works Department, there should not be additional compensation for grave digging. **Table 1** summarizes the amount paid to the City Administrator and the 2 Superintendents within the Public Works Department for grave openings/closings for the period December 1, 2009 through July 31, 2014.

Table 1

Employee	Title	Fiscal Year					Total
		2010	2011	2012	2013	2014	
Chris Luhring	City Administrator	\$ 1,190	2,100	1,330	1,435	1,470	7,525
Scott Barrett	Water Superintendent	1,120	1,610	-	-	-	2,730
Rod Luhring	Sewer Superintendent	-	-	700	1,750	1,890	4,340
Total		\$ 2,310	3,710	2,030	3,185	3,360	14,595

As previously stated, section 115.08 of the City's Code of Ordinances specifies only authorized personnel employed by the Public Works Department are to open/close graves. The City Administrator is not a Public Works employee, and, therefore, he should not be grave digging. In addition, based on a review of the City Administrator's timesheets, we identified a few instances where the hours spent digging a grave were recorded and compensated as overtime in addition to the \$70 supplemental pay. Also, both the Water Superintendent and the Sewer Superintendent recorded the hours spent digging graves on their timesheets. As a result, although the specific hours digging graves may not have been paid as overtime, those hours often contributed to their week exceeding 40 hours, and they were receiving both their hourly rate and the supplemental compensation for performing the job duty. Because the hours spent digging graves did not always result in overtime, we did not attempt to quantify the overtime related to grave digging for the Public Works employees.

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Beginning in September 2010, the City Administrator and Public Works employees were compensated bimonthly. The Deputy City Clerk was compensated monthly for the period of our review. Based on a review of the "Payroll Detail History" report from the City's accounting system, for the employees compensated bimonthly, every other paycheck equaled the employee's authorized salary. However, the alternating paycheck included any additional compensation for job duties recorded on the employee's time sheet for the prior month. **Schedule 1** summarizes each employee's authorized gross salary for a bimonthly pay period and the range of each employee's actual gross salary on the alternating paychecks by fiscal year for fiscal years 2011 through 2014. As illustrated by the **Schedule**, the bottom of the range of actual salary for Mr. Barrett equaled his base authorized salary with no additional pay for each fiscal year reviewed. However, both Chris Luhring and Rod Luhring always received additional pay on the alternating paychecks.

In summary, we identified payments issued to the City Administrator totaling \$11,040.00 for maintaining the accounting records of the Veteran's Building, issuing building permits, and digging graves.

The job duties for which additional compensation was paid, except for grave digging, were performed during the employees' normal working hours. On occasion, grave digging was also performed during the normal working day; however, it can require employees to work outside their normal hours. As a result, these employees are, in essence, receiving compensation for 2 separate job duties simultaneously if performed during their normal working hours. Because these employees did not record vacation, they should not receive double compensation.

Recommendation – The City Council should ensure all wage resolutions include the current salary and/or hourly rate and the new salary and/or hourly rate to ensure the approved percentage increase is applied correctly. In addition, an independent review of the rates entered into the payroll system should be performed to ensure the correct rates and hours are used to calculate employee payroll. The City Council should consult legal counsel to determine what, if any, action needs to be taken regarding the incorrect hourly rate calculation.

The City Council should review the job duties assigned to the City Administrator and determine if maintaining the accounting records for the Veteran's Building is expected of that position. If so, the compensation should be incorporated into the City Administrator's annual salary rather than as an additional payment. If it is not considered to be a job duty of the position, although the City Administrator could still perform the function, it should be performed outside the normal working day. Because making park reservations and issuing building permits are part of the job duties of City administration, these duties should not be compensated separately.

Likewise, because opening/closing graves is included in the duties assigned to the Public Works Department, there should not be additional compensation for performing this duty. Rather, the Public Works Department employees should record the hours, including overtime hours, spent on grave digging on their timesheets and be compensated in accordance with their approved hourly rate at either the regular rate or at time and a half, as appropriate. Also, the City Council should ensure only authorized personnel employed by the Public Works Department are performing this duty, as required by the City's ordinance.

Response – The Auditor's findings related to "Salary Components" appear to address three main issues: (1) the City's use of the City Administrator to provide "multiple functions" for

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the City such as grave digging, snow plowing, and law enforcement work; (2) the City's practice of providing the City Administrator, as well as other employees, additional compensation for such additional job duties; and (3) the City's hourly rate calculation for its employees.

At the outset, it is important to note that the report claims that the current City Administrator was the City Administrator for the entire reaudit period (November 1, 2009 through July 31, 2014). *See e.g.*, p. 10. This is incorrect. The current City Administrator was hired as the City Clerk in October 2009. When he was hired as the City Clerk, he was expected to perform the job duties of the previous City Clerk plus retain his law enforcement certification. He did not become the City Administrator until January 2012. After the City Administrator was appointed, he maintained his title as City Clerk, his same rate of pay, and was expected to perform the same job duties that were previously assigned to him. As he informed your staff when interviewed in 2014, his official job duties include being the Zoning Administrator, part-time public works employee, and Cemetery Sexton. It is unclear why an accurate account of the City Administrator's total job duties was not listed in your report.

With that in mind, it is unclear from the report whether the auditors took into consideration the City Administrator's responsibilities and job duties as a City Clerk before criticizing the City for allowing employees to perform job duties that are not specifically referenced in the City job description or ordinances. Regardless, it would be nearly impossible for any City Council or employer to accurately list every job duty an employee is expected to perform in an ordinance or job description. As a result, the City Council has made it clear that such documents are not all-inclusive and the work examples and competencies listed in the City's current Code of Ordinances are for illustrative purposes only.

In addition, it would be cost-prohibitive to hire an additional employee for each and every duty the City Administrator, Deputy City Clerk, and other City employees perform outside of their normal day-to-day duties, including those duties that are temporary in nature or require a small amount of time. For example, the City estimates it would cost approximately \$78,683.00 to hire, train, and employ an additional law enforcement officer. The auditors appear to recognize that this is an issue as it relates to hiring a separate employee to maintain the accounting records for the Veteran's Building; however, the auditors did not extend the same reasoning to other job duties, such as making park reservations, grave digging, law enforcement duties, snow plowing, or issuing building permits. At the same time, the auditors also recognize that the additional compensation attached to these job duties should be incorporated into the employee's annual salary. This means the City would need to increase the employee's annual salary accordingly, which would cost the City even more money overtime [sic].

For these reasons, the City does not feel that it is fiscally prudent to change its practice of City employees providing multiple functions for the City.

The City's practice is also consistent with its home rule authority. Pursuant to Iowa Code Section 372.14, the Mayor is the Chief Executive Officer of the City and supervises all city officers and departments. Pursuant to Iowa Code Section 372.13(4), the City Council has the authority to prescribe the powers, duties, compensation, and terms of city officers and employees. Because the City has acted within its authority and has not acted inconsistent [sic] with state statute as it relates to its prescription of duties for its city employees, the Auditor's criticisms are unjustified.

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More critically, the Auditor of the State is creating a slippery slope by dictating how cities, big and small throughout Iowa, can prescribe duties to their employees and pay their employees. While the City understands the State Auditor's purpose and power to conduct audits, the City disputes the Auditor's ability to overreach that power and infringe upon the home rule authority of cities throughout Iowa. This is a dangerous and unprecedented proposition.

The City also maintains that its practice of providing the City Administrator, as well as other City employees, additional compensation for additional job duties is not only lawful and practical, but fiscally responsible. The City seeks to balance the need to be prudent with public funds and the compensation needs of its employees. The City competes for a talented dedicated workforce in the same labor market as private sector employers as well as larger public sector employers. Currently, the City has a workforce which is highly skilled, highly educated, certified, and licensed, and cross-trained to work effectively across City departments. The City seeks to keep it that way. As a result, the City seeks to pay its employees for the actual work they do and not pay them based simply on the "job title" given to them.

The City will never be the highest paying employer in the area. However, the City strives to ensure its wages are comparable to cities of similar size. This requires the City to use a unique compensation structure because the City's wages are below the average wage for cities of similar size, as shown in the following charts:

Job Title	2015 Average Hourly Pay (City of Bellevue Salary Survey)	2015 City of Parkersburg Hourly Pay (City Council Resolution)
City Administrator	\$27.97	\$24.31
Police Chief	\$24.50	\$25.24
Utility Department	\$31.40	\$23.10
Public Works	\$24.80	\$21.34

See 2015 Salary Survey Conducted by the City of Bellevue attached hereto as Exhibit 1.

Job Title	2016 Average Hourly Pay (City of Bellevue Salary Survey)	2016 City of Parkersburg Hourly Pay (City Council Resolution)
City Administrator	\$30.30	\$26.98
Police Chief	\$26.80	\$26.00
Utility Department	\$30.69	\$23.79
Public Works	\$25.90	\$22.98
Librarian	\$17.46	\$13.86

See 2016 Salary Survey Conducted by the City of Bellevue attached as Exhibit 2; *see also* Iowa League of Cities Salary Survey for data during the Reaudit period attached as Exhibit 3.

Even with the extra compensation provided to City employees, such as the City Administrator and Public Works employees, the City remains below the average wage of cities of similar size:

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Job Title	2015 City of Parkersburg Hourly Pay (City Council Resolution)	2015 City of Parkersburg Pay (Actual Average Hourly Pay)¹	Compared to 2015 Average Hourly Pay (City of Bellevue Salary Survey)
City Administrator	\$24.31	\$26.92	-\$1.05
Utility Department	\$23.79	\$24.89	-\$6.51
Public Works	\$21.34	\$23.88	-\$0.92

¹ The numbers in this column were calculated by dividing the employee's actual annual compensation by the employee's actual hours worked. For example, for fiscal year 2015, the City Administrator received \$62,822.68. This amount includes the overtime he was paid. In that year, the City Administrator worked 2333.5 hours. Of the 253.5 hours of overtime worked by the City Administrator during this time, 75.25 hours were for FEMA related projects and the City was reimbursed by FEMA for this time.

Job Title	2016 City of Parkersburg Hourly Pay (City Council Resolution)	2016 City of Parkersburg Pay (Actual Average Hourly Pay)	Compared to 2016 Average Hourly Pay (City of Bellevue Salary Survey)
City Administrator	\$26.98	\$28.12	-\$2.18
Utility Department	\$23.79	\$24.55	-\$6.14
Public Works	\$22.98	\$23.89	-\$2.01

Importantly, the City was reimbursed by FEMA for much of the overtime paid in 2015 and 2016, as well as during the reaudit period. See FN 1. This, however, was not noted in the Reaudit Report, which is concerning given the Auditor's findings related to overtime.

In light of the foregoing, it is clear that the City has not overpaid its employees, as indicated by the Reaudit Report. It also establishes that paying its current employees overtime is less expensive than hiring additional employees to perform the work being done. In fact, according to an analysis of fiscal year 2014 annual finance reports, the total amount of salaries paid to Parkersburg employees is well below the average total amount of salaries paid by cities of similar size providing similar services.

Lastly, the City agrees that it must ensure that it is correctly calculating the hourly rate for all of its employees. This also includes correctly calculating the overtime rate for each employee. In this respect, the City likely underpaid its employees for overtime they worked during the reaudit period. As recommended, the City is consulting with legal counsel to determine what, if any, action needs to be taken regarding any incorrect hourly and overtime rate calculations.

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Conclusion – Response acknowledged. Throughout the report, we use each City employee's current title as a way to distinguish of whom we are speaking, but that does not reflect how long the individual held his/her current position. In addition, throughout the report, we refer to the significant functions performed by the City Administrator. We never intended to provide a detailed, all-inclusive list of every task performed by that position.

Based on interviews, discussions, and observations, we have a thorough understanding of the job duties performed by the City Administrator. However, it is not clear why some of these functions are needed to be performed by that position, such as snow plowing and grave digging. Specifically, the City's Code of Ordinances assigns the function of grave digging to the employees within the City's Public Works Department.

While it is not uncommon for City Administrators, City Clerks, and other City employees to perform multiple functions for the City, including those which are temporary in nature or require a limited amount of time, in our experience, it is uncommon for those employees to receive separate compensation for each and every task performed during the working day. Specifically, the issuance of building permits is often performed by the City Administrator or City Clerk; however, this does not necessitate the individual receiving separate compensation to perform that duty.

At no time have we recommended the City hire an additional employee. However, it is not necessary to separate certain job duties, such as issuing building permits or making park reservations. These job duties should be incorporated into the daily tasks of City administration without extra compensation as is done in numerous other cities. With that said, it is reasonable to separate unusual job duties, such as snow plowing or grave digging.

Although cities in Iowa do have home rule authority, this does not preclude the governing body from considering public purpose and public benefit of all disbursements. The governing body is in place to ensure taxpayer dollars are spent in the most efficient and effective manner to benefit the community. Home rule authority is not blanket approval for a governing body to spend taxpayer dollars however they so choose with no regard for public benefit. We are not prescribing which duties should be performed by which position, rather we are looking at the fiscal impact the components of the current compensation structure has on the City. As part of each engagement we perform, we review the efficiency and effectiveness of entity operations and recommend improvements for greater simplicity, accuracy, efficiency, or economy, as applicable. That review is an important procedure, which we feel, meets the expectations citizens have placed on our Office. At no time do our recommendations infringe upon home rule authority.

Because we are not addressing the reasonableness of the City Administrator's salary amount, the Exhibits provided are not relevant to the finding. The salary studies provided are from 2015 and 2016. We cannot apply current information to prior periods nor do we refer to the City's compensation structure in comparison to other cities. When performing our procedures, we can only review the supporting documentation as it existed during the period reviewed. Neither the City Council meeting minutes nor the City Council resolutions establishing annual salaries and hourly rates referenced any comparisons to other cities as a basis for setting City employee wages.

Although certain salary expenses were reimbursed by FEMA, there were no hours worked on FEMA projects during the reaudit period (fiscal year 2013) as stated based on supporting documentation provided by the City Administrator. No hours were incurred until November 9, 2013. In addition, based on the supporting documentation provided by the

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City Administrator, except for the City Administrator himself, very few overtime hours were worked by City employees during the period reviewed. Specifically, for the period November 9, 2013 through September 23, 2014, Rod Luhring worked 24.25 hours of overtime and Scott Barrett worked 9.5 hours of overtime. However, as we are not questioning the payment of overtime to employees of the Public Works Department, that is not relevant. For the overtime incurred by the City Administrator, whether or not those expenses were reimbursed does not impact the nature of **Finding B**.

- (B) Overtime – During our review of employee timesheets, we observed several instances where only the overtime hours were recorded. As a result, it is not possible to verify 40 hours were worked prior to overtime being earned.

According to the Fair Labor Standards Act (FLSA), certain jobs, although governed by the FLSA, are considered “exempt” from the FLSA overtime rules. In fiscal year 2013, employees meeting all 3 of the following criteria were considered exempt:

- Salary level test – Employees compensated more than \$23,600 per year.
- Salary basis test – An employee is considered to be paid on a salary basis if he/she has a “guaranteed minimum” amount he/she can rely on receiving for any work week in which he/she performs “any” work. This is not affected by whether pay is expressed in hourly terms.
- Duties test – There are 3 typical categories of exempt job duties:
 - Executive,
 - Professional, and
 - Administrative.

Administrative job duties are defined as office or nonmanual work directly related to management or general business operations of the employer for which a primary component involves the exercise of independent judgment and discretion about matters of significance. Examples of administrative job duties include, but are not limited to, payroll and finance, records maintenance, accounting and tax, public relations (including government relations), and legal and regulatory compliance.

According to “Fact Sheet #17C: Exemption for Administrative Employees Under the Fair Labor Standards Act (FLSA)” (Fact Sheet) issued by the U.S. Department of Labor, factors to consider when evaluating the administrative exemption include, but are not limited to, whether the employee:

- has the authority to formulate, affect, interpret, or implement management policies or operating practices,
- carries out major assignments in conducting the operations of the business,
- performs work that affects business operations to a substantial degree, and
- has the authority to commit the employer in matters having significant financial impact.

The Fact Sheet also states, in part, “The fact that an employee’s decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment.” In addition, section 541.202 within Title 29 of the Code of Federal Regulations states, in part, “employees can exercise discretion and independent judgment

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even if their decisions or recommendations are reviewed at a higher level. Thus, the term “discretion and independent judgment” does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action.”

In an interview with the City Administrator, he described his position as follows, “It’s mainly, I would say, keeping everybody on the same page. So, for instance, the analogy that I gave, or I’ve given in the past, it’s kind of like you have a big cruise ship, right? You have the Mayor and the Council that sit in the Captain’s chairs. My job is to make sure the Fire Department is communicating with the Sanitation Department. The Sanitation Department is communicating with the Finance Department and the Finance Department is communicating with the Ambulance Crew. Make sure everybody knows what direction the ship is heading. That’s probably the best way I can say it.”

Based on our review of FLSA, the City Administrator position meets all 3 criteria for exemption. As a result, the City Administrator should not receive overtime or compensatory time for exceeding 40 hours per week. **Table 2** summarizes the overtime paid to the City Administrator for additional administration, snow removal, and law enforcement using the hourly rate derived from his annual salary for the period December 1, 2009 through July 31, 2014.

Table 2

Fiscal Year	Additional Administration		Snow Removal		Law Enforcement		Total	
	Amount	Hours	Amount	Hours	Amount	Hours	Amount	Hours
2010	\$1,111.97	34.25	\$2,475.30	76.25	\$413.87	12.75	\$ 4,001.14	123.25
2011	2,523.66	77.75	949.45	29.25	*	*	3,473.11	107.00
2012	1,218.15	35.75	-	-	*238.52	*7.00	1,456.67	42.75
2013	1,755.06	50.25	943.02	27.00	*	*	2,698.08	77.25
2014	2,912.17	79.00	584.02	16.25	*	*	3,496.19	97.25
Total	\$9,521.01	277.00	\$4,951.79	148.75	\$652.39	19.75	\$15,125.19	447.50

* - See **Table 3** for payments issued to the City Administrator using the law enforcement hourly rate for hours worked as a law enforcement officer.

We determined the City Administrator did not consistently use the overtime rate when calculating payroll for hours exceeding 40 during fiscal year 2012. In addition, in August 2011, the City Administrator recorded 2.75 hours of overtime on his timesheet; however, the hours were compensated at his regular hourly rate and not at time and a half.

In fiscal year 2011, the City Administrator used the law enforcement hourly rate to calculate his wages for hours worked as a law enforcement officer. According to the City Administrator, the City’s law enforcement officers’ hourly rate is calculated based on the premise the officers work 10 hour days over the course of 182.5 days, or 1,825 hours per year. However, we were unable to locate City Council approval or other formal documentation for this calculation. We were unable to obtain a consistent response from City Council members, the former Mayor, and the Police Chief regarding the necessity of the City Administrator continuing to serve as law enforcement, what expectations, if any, of the City Administrator’s hours were to be law enforcement, and the related compensation. According to the City Administrator, he wanted to keep his certifications current so he

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continued to serve in a law enforcement capacity for that purpose. **Table 3** summarizes the payroll issued to the City Administrator for law enforcement using the separately established rate for fiscal years 2011 through 2014.

Table 3

Fiscal Year	Hourly Rate	Hours	Amount
2011	\$21.64	10.00	\$ 216.40
2011	23.41	17.00	397.97
2012	25.90	14.50	375.55
2013	26.54	14.75	391.47
2014	27.31	12.75	348.21
Total		69.00	\$ 1,729.60

Based on a review of the City Administrator's timesheets, law enforcement hours were not always outside the normal working hours of the City. We also determined an 11% increase was applied to the City Administrator's law enforcement hourly rate from fiscal year 2011 to fiscal year 2012.

In addition, we determined the City Administrator accrued 201.88 hours of compensatory time and used 45.50 hours of compensatory time during the period reviewed. We identified 3 instances where the City Administrator recorded hours on his timesheet which were not paid; however, the hours were not labeled compensatory time. Because sufficient supporting documentation was not available, we were unable to determine if the 25.50 hours identified were added to the City Administrator's compensatory leave balance. On occasion, the City Administrator accrued compensatory time for snow removal rather than receiving overtime pay. It is unclear why the City Administrator and not employees from the Public Works Department removed snow.

In summary, we identified payments issued to the City Administrator totaling \$15,125.19 for overtime. In addition, we identified \$1,729.60 of law enforcement compensation for the City Administrator paid at the law enforcement officers' hourly rate. However, we were unable to locate City Council approval or supporting documentation for the calculation of the hourly rate.

Recommendation – The City Council should implement procedures to ensure both regular hours and overtime hours are recorded on employee timesheets which would allow an independent reviewer to verify regular hours worked exceeded 40 prior to paying overtime. Also, timesheets should be signed by both the employee and the appropriate supervisor.

In addition, the City Council should comply with the FLSA guidance regarding overtime and/or compensatory time for the City Administrator. The City Council should ensure the City Administrator is not performing work outside the assigned job duties during his normal working hours unless required by emergency circumstances. The City Council should also develop and implement policies and procedures to address compensation under those circumstances.

Response – The Auditor's findings related to "Overtime" address three issues: (1) the recording of overtime; (2) the exempt status of the City Administrator; and again, (3) the

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City's use of the City Administrator, and other City employees, to provide "multiple functions" for the City such as grave digging, snow plowing, and law enforcement work.

With respect to the first issue, the report states "we observed several instances where only the overtime hours were recorded. As a result, it is not possible to verify 40 hours were worked prior to overtime being earned." However, this method of record keeping is specifically authorized by the Fair Labor Standards Act ("FLSA"). See 29 CFR 516.2(c). The Auditor does not indicate anywhere in the report whether she considered this method of record keeping as an option or whether the Auditor determined if the City of Parkersburg was using this method of record keeping as authorized by the FLSA. Therefore, the City disputes this finding based upon the Auditor's failure to fully investigate the matter.

Nevertheless, the Auditor's findings and recommendations concerning this issue are moot. The City has already implemented procedures to ensure that accurate timecards are kept. In 2010, the Mayor began reviewing all employee timecards, including the City Administrator's timecards. The Mayor also began signing the City Administrator's timecards in July 2011. The City also updated the timecards used by employees in November 2011 and has required all hours worked to be documented, both regular time and overtime hours, since January 2012. All employee timecards have been reviewed monthly by the Mayor (or Mayor Pro-tem) and signed since January 2014.

As for the second issue, the Iowa League of Cities, the United States Department of Labor, the City's own legal advisors, and other experts recognize that the misclassification of exempt/non-exempt employees is a major potential liability issue for cities. Nonetheless, the Auditor found that the City Administrator is an exempt employee under the Administrative FLSA exemption, meaning the Auditor believes that the City is not required to pay the employee overtime or compensatory time for time worked over 40 hours a week. This finding puts the City at significant risk. While the City does not dispute that the Auditor correctly regurgitated the FLSA regulations and the Department of Labor's ("DOL") guidance, as found on the DOL's website, the City has been advised by legal counsel, the Department of Labor (on two separate occasions), and the former District Director of the Department of Labor, that it is far too risky to classify the City Administrator as an exempt employee.² This is because the City has been advised that the City Administrator does not have the independent discretion and judgment required to be an exempt employee. To quote the former District Director of the DOL:

"[T]he City Administrator Position does not appear to have the authority to negotiate and bind the City in significant matters; to commit the City to matters that have a significant financial impact; or to deviate from established policies and ordinances. The following facts clearly support this opinion:

- *Luhring has numerous duties that are clearly non-exempt in nature: law enforcement, EMT duties, grave digging, snow removal, maintaining accounting records and scheduling events for the Veteran's Building, taking City park reservations, issuing building permits, and more. None of these extra duties require the use of independent judgment or discretion, nor are they are considered exempt work by WHD.*

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- *The City Council and Mayor have put limits on Luhring's discretionary authority. For example, Luhring may not approve expenditures over \$5000 without Council approval. This figure is low by 2016 standards, and clearly limits his use of discretion. In another instance, Luhring had to defer to the Mayor when a contractor asked him to approve the planting of 1000 fewer seedlings than were ordered for a City landscaping project. This is a prime example of how Luhring does not possess the required independent judgment and discretion to qualify for the exemption.*
- *Prior to being given the title of City Administrator, Luhring worked as the City Clerk/Treasurer, a position that DOL's Wage and Hour Division has routinely found to be non-exempt when conducting investigations involving the Administrative exemption. Luhring was given the title of City Administrator upon the death of the City's Sewer Superintendent in 2012, but his pay did not change nor did his duties to any significant degree. In other words, despite his change in job title, Luhring's primary duty continued to be that of City Clerk/Treasurer, a job typically found to be non-exempt. **

A full copy of the Director's memorandum is attached as Exhibit 4.

It does not appear that the auditors considered any of the facts articulated above. Your office also did not consult with legal counsel or the DOL prior to making its findings, as you stated at the City's exit conference.³

Even more troubling, the Auditor's findings on this issue puts [sic] the City at significant legal liability if the City follows the Auditor's opinion. As the former director of the Department of Labor explained in his memorandum,

Should WHD conduct a FLSA investigation of the City, they would likely find the City Administrator to be non-exempt, meaning that the City would be required to pay back wages for past overtime worked, as well as overtime pay going forward. In those cases where the employer fails to pay a non-exempt employee overtime, the employer is liable for two years of back pay and an equal amount in liquidated damages, and three years if violations are found to be willful, which would be the case because the City is aware that there is a high risk of violating the FLSA by classifying the City Administrator position as exempt. Should a private lawsuit be filed, the liability extends to not only back wages and damages, but court costs and attorney fees, should the City lose the case. [sic] The costs to the City of such litigation could easily reach six figures.

See Exhibit 4. As a result, the City is faced with a tough decision: follow the advice of three, independent experts or follow the findings of the Auditor and risk a six figure lawsuit.⁴

Because the City is unwilling to impose such a risk on its taxpayers and because the City has acted on the advice of legal counsel and the advice of the DOL, the City asks the Auditor to rescind its findings related to the exempt status of the City Administrator, in their entirety, prior to publishing its final report.

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Lastly, the Auditor again comments on the City's practice of using its employees to provide "multiple functions" for the City, such as grave digging, snow plowing, and law enforcement work. The Auditor's report even states "[i]t is unclear why the City Administrator and not employees from the Public Works Department removed snow." But employees from the Public Works Department do remove snow. In addition, as discussed in its Response to Finding (A), the City has already determined that the cost of hiring and training additional employees to perform these tasks well exceeds the cost of paying the City's current employees to perform such tasks.

In addition, the Auditor's report clearly ignores the challenges faced by small cities in rural Iowa. With only five (5) full-time employees, the City must expect, and does expect, its employees to be able to perform a wide variety of functions. Take for example the following:

In December 2013, the City had significant snowfall events on multiple occasions. During that month, the City relied upon all of its employees, including the City Administrator, to remove snow from the public streets and sidewalks. If the City had simply relied upon its two public works employees to remove the snow, it would have taken much longer for the snow to be removed. Importantly, any overtime not paid to the City Administrator would have been transferred and added to the overtime paid to the public works employees. In other words, the cost to the City would have been essentially the same but the service to the City's residents would have been much slower.

Surely, the Auditor would not second guess the City's decision to use its employees in a manner that is the most efficient and cost-effective, especially when "all hands on deck" are needed in the rural community.

The Auditor also criticizes the City for using the City Administrator as a law enforcement officer. Again, this does not take into account the challenges faced by small cities in rural Iowa. As mentioned above, the cost of hiring, training, and employing an additional law enforcement officer is significant. Here, the City Administrator worked as a law enforcement officer well before becoming the City Administrator, and his work as a law enforcement officer has been recognized by the awards he has received and the commendations received from other law enforcement departments and officers, including former Police Chief Scott Schrage. See Exhibit 6.

Therefore, provided the City properly calculates overtime and the hourly rate for each employee, the City sees no reason to change its past and current practice of using its employees to provide "multiple functions" for the City, as it has done for more than thirty-five years.

2 The Auditor's office asked the City to disclose the legal opinion the City received concerning the FLSA. Because the City was unwilling to waive the attorney-client privilege, the City declined the Auditor's request. It was also troubling that the Auditor was unwilling to share certain information with the City based upon a confidentiality statute yet insisted that the City disclose the legal opinion and waive its attorney-client privilege. Lastly, the City did not feel it was necessary to waive the attorney-client privilege given the overwhelming evidence it has to support its position.

3 It also does not appear that the Auditor took into consideration the fact that many small cities throughout Iowa pay their City Administrators and City Clerks on an hourly basis. See Exhibit 3. While this is not dispositive here, it certainly provides further support for the City's practice of paying the current City Administrator on an hourly

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basis. Like the City of Parkersburg, these cities are likely unwilling to put their taxpayers at significant legal and financial risk.

4 The City does not find the Auditor's opinion to be superior to that of three independent experts. The City was informed that the "auditors are very familiar with the rules and regulations pertaining to determination of overtime eligibility. Our Office routinely performs compliance testing in this area." See Exhibit 5. However, the City asked the Auditor's office for "any and all audit reports within the past 10 years that make any findings related to the Fair Labor Standards Act (FLSA). The Auditor's office provided none. Nor was the City able to locate any such reports on the auditor's website. See Exhibit 5. The City also asked the Auditor's office for "any and all documentation which concerns the qualifications and/or expertise of the staff or employees of the Office of the State Auditor to make findings related to the FLSA, including but not limited to resumes, legal degrees, training, etc." The City was only provided with information that revealed the auditors hold accounting degrees and hold professional designations of CPA, CGFM, and CIA. It is our understanding that none of the auditors hold legal degrees or have worked for the DOL in the past.

Conclusion – Response acknowledged. Although the FLSA allows for only overtime to be recorded, the finding, as stated, is not related to compliance with the FLSA but rather strong internal controls and independent oversight of City employees. Timesheet records should allow an independent reviewer to ensure the accuracy of the hours recorded by the employee, as well as the accuracy of the payroll amounts. Without having all hours recorded, it is impossible for the employee's supervisor or other independent reviewer to ensure payroll has been calculated appropriately. The City is correct in stating this condition did not exist for the entire period reviewed; however, because it was a concern identified, it is our responsibility to report our findings. We acknowledge the corrective actions stated in the City's response.

During discussion held with City officials at the exit conference, we were informed the City had obtained a legal opinion regarding whether the City Administrator was an exempt employee under the FLSA. Our sole purpose in requesting a copy of the opinion provided was to take into consideration any information we did not have which may have revised the finding and recommendation included in the reaudit report. We take exception to the statement we "insisted" the City disclose the legal opinion. We understand the importance of attorney-client privilege and respect the City's right to not share the legal opinion obtained. We are precluded from sharing information also by section 11.42 of the *Code of Iowa*. However, without being able to review the information the legal opinion contained, we are unable to revise the finding and recommendation as requested by City officials.

While the City implies our Office does not have a sufficient understanding of the FLSA by using the word "regurgitated," it is our responsibility to test compliance with the FLSA, and we have a thorough understanding of the requirements entailed. In addition, although the City references a legal opinion received, as well as communication received from the U.S. Department of Labor, we were not provided with any documentation for either of these items. As a result, we are unable to determine what, if any, impact those communications may have had on the finding.

We were provided a copy of the memorandum prepared by the former District Director of the U.S. Department of Labor, who is now employed by Dickinson, Mackaman, Tyler & Hagen, P.C., and respectfully disagree with several of the statements quoted in the City's response. Based on our direct observations and discussion with City officials and personnel, the City Administrator does have the ability to negotiate and bind the City in significant matters, such as the health insurance provided to all City employees. In addition, as the City Administrator, Chris Luhning interprets and applies the City's policies and ordinances on a daily basis. Although he has certain job duties that are non-exempt, such as snow plowing and grave digging, they are not his primary duties and do not outweigh the job duties he

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performs as City Administrator. We also disagree that no independent judgment or discretion is used for maintaining the Veteran's Building. There may be examples of instances where he deferred judgment to the Mayor or City Council, but those examples do not necessarily outweigh the overall evaluation of his position. As previously stated, "Fact Sheet #17C: Exemption for Administrative Employees Under the Fair Labor Standards Act (FLSA)" states, in part, "The fact that an employee's decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment." In addition, if the job duties of the position were essentially the same during Chris Luhring's transition from City Clerk to City Administrator, he would have met the criteria of the FLSA in that position as well.

According to the memorandum provided by the City, the investigator from the U.S. Department of Labor's Wage and Hour Division was unable to determine whether the City Administrator position met the administrative exemption test. In addition, the former District Director's conclusions were based upon telephone conversations held solely with the City Administrator. Discussion with the City Administrator should not be the sole basis for a determination of that position's exemption. As previously stated, we have a thorough understanding of the job duties performed by the City Administrator based on our observations and interviews and discussions with several current and former City officials and personnel.

The memorandum also indicates the position would have to be converted to a salaried position. As stated in the City Council meeting minutes and the City's payroll system, the position is paid an annual salary. The hourly rate has been calculated solely for the purposes of paying overtime. In addition, 3 Council members we interviewed, as well as Chris Luhring, all stated the City Administrator position is a salaried position. Regardless of how the wage is expressed, be it an annual salary or hourly rate, if there is a guaranteed minimum, the salary basis test is considered to be met. Based on testing Chris Luhring's payroll for the period reviewed, we determined there was a guaranteed minimum amount paid each pay period.

In the response, the City indicates it is faced with a tough decision regarding which recommendations to follow. At the exit conference, we discussed the legal opinion obtained by the City and stated the City's response to this finding could include a reference to the legal opinion and its disagreement with our position. Had the City chosen to respond in that manner, the response would have been accepted. Instead, the City hired an attorney specifically to refute the findings included in the reaudit report. It is not apparent how the public purpose was served for any resulting attorney costs.

With regard to Footnote 4, the quoted language is not included in Exhibit 5 provided by the City. That language was actually included in an email exchange between a representative of our Office and a representative of Dickinson, Mackaman, Tyler & Hagen, P.C. In addition, although the City could not locate a report with a finding related to FLSA, that is not indicative of whether we test an entity's compliance with FLSA. Not all areas tested during an audit result in a finding which is included in the issued audit report.

We feel it is important to emphasize the responsibilities auditors are charged with in regards to compliance testing. As previously provided to the City's legal counsel upon request, the American Institute of Certified Public Accountants summarizes the role of certified public accountants in government. Specifically, there is a section regarding compliance audits and the related requirements. In addition, section 11.6(7) of the *Code of Iowa* states, in part, "The auditor of state shall make guidelines available to the public setting forth accounting

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and auditing standards and procedures and audit and legal compliance programs to be applied in the audit of the governmental subdivisions of the state, which shall require a review of internal control and specify testing for compliance.” Section 11.11 of the *Code of Iowa* states, in part, “As a part of conducting an audit of a governmental subdivision, an evaluation of internal control and tests for compliance with laws and regulations shall be performed.” Audits of governmental subdivisions within Iowa are also conducted in accordance with Generally Accepted Government Audit Standards (GAGAS). These standards establish a number of requirements for auditors, including determining compliance with laws, regulations, contracts, and grant agreements and reporting instances of noncompliance identified.

We have vast experience with the challenges faced by small cities; and, in our experience, cities considerably smaller than the City of Parkersburg have also employed the “all hands on deck” approach without compensating each individual for the extra time spent. We have spoken with Mayors who have provided snow removal for their cities without requesting or receiving additional compensation. While we are not saying City officials or employees cannot be separately compensated, we are demonstrating the City of Parkersburg is not unique in the challenges it faces.

We respectfully disagree we criticized the City for using the City Administrator as a law enforcement officer. The finding regards the lack of documentation showing City Council approval for the hourly rate to be used to compensate the City Administrator when he is serving in that capacity and the lack of documentation of the expectations the City Council has regarding the City Administrator’s law enforcement responsibilities. During our interviews with City officials and personnel, we were unable to obtain a consistent response regarding those expectations. Although the City provided a statement from the former Police Chief with its response regarding the necessity of using the City Administrator as a law enforcement officer, this statement contradicts the responses given by the former Police Chief in a recorded interview conducted during our fieldwork. During that interview, the former Police Chief stated he used the City Administrator to help with a few investigations and to conduct some interviews. However, he stated he hadn’t really needed him in a while because he mostly used the City Administrator for sex abuse investigations, which he has conducted himself for the past several years. The former Police Chief further stated the City Administrator works on an as needed basis, which is usually a couple times a year. We are unaware of the circumstances which caused the former Police Chief to change his opinion.

(C) Payroll Recalculation – During recalculation of payroll, we identified the following discrepancies in gross pay:

- 4 pay periods for which the Deputy City Clerk’s hours recorded on her timesheets did not agree with the hours recorded on the payroll register. The overpayment for 14 hours totaled \$233.17, and the underpayment for 8 hours worked and a software “glitch” which caused her holiday hours to be deducted from her Ambulance Chief salary totaled \$252.22 for a net underpayment of \$22.05.
- 2 pay periods for which the City Administrator’s gross pay did not agree with the authorized salary based on the timesheet presented. The unsupported payroll overpayment identified totaled \$195.25.
- 1 pay period for which the Sewer Superintendent was not paid the correct rate. The gross underpayment identified totaled \$42.68.

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Recommendation – The City Council should implement procedures to ensure gross payroll is reviewed and approved by an independent person to ensure the proper rates and hours are used to calculate employee payroll.

Response – The Mayor and City Council have implemented numerous procedures to increase oversight and accountability for payroll and the amounts paid to its employees. In 2010, the Mayor and City Council authorized the purchase of a computerized payroll system to calculate payroll, payroll withholdings, and track vacation time, sick time, etc. This system has helped the city to maintain better records and wage reports. When the city has discovered errors, it has worked with its employees and/or software provider to make sure that the time entered into the payroll software system is calculated correctly. In addition, when errors have been found, they were corrected immediately at their source and these errors were disclosed to the appropriate parties. Every effort is made by city staff and elected officials to ensure payroll is complete and accurate. The City Administrator and Deputy City Clerk calculate and enter each other's time cards monthly into the software program and both independently review payroll calculation journals and all timecards, along with the Mayor, to ensure the accuracy of the time-pay entries. Payroll is also included in the annual audit done by an independent auditing firm hired by the city.

Conclusion – Response accepted.

- (D) **Compensatory Time Payouts** – According to the City's overtime policy, employees are entitled to payment at one and one half the hourly rate or the employee may choose to accumulate compensatory time up to a balance of 100 hours. However, there is no provision in the overtime policy for compensatory time payouts.

Table 4 summarizes the compensatory time payouts identified for the City Administrator and the Water Superintendent during the period reviewed.

Table 4			
Date	Employee	Hours	Amount
01/**/10	Water Superintendent	27.50	\$ 565.13
09/01/10	Water Superintendent	40.00	822.00
08/01/12	City Administrator	26.13	608.42
08/15/12	City Administrator	30.00	698.53
04/15/13	City Administrator	20.00	465.69
Total		143.63	\$ 3,159.77

** - Date could not be determined based on available supporting documentation.

In addition, we identified 6 payments issued to the City Administrator for 206.62 hours totaling \$4,704.32 and a payment issued to the Water Superintendent for 31.12 hours totaling \$639.52 for which supporting documentation was not available. Based on discussion with the City Administrator, these payments were compensatory time payouts more than likely issued to reduce the compensatory time balance below the 100 hour ceiling established by City policy. As previously stated, we determined the City Administrator was not eligible to receive compensatory time.

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Recommendation – The City Council should ensure any payouts of accumulated leave balances are in compliance with established City policy.

Response – Similar to the Auditor's findings related to "Overtime," the Auditor's findings related to "Compensatory Time Payouts" focus on the City Administrator's eligibility for compensatory time.

"Compensatory Time" or "Comp Time" is the practice of allowing an employee to take extra time off from work after a long week, instead of being paid overtime wages. The FLSA authorizes state and local governments (not private sector employers) to pay certain non-exempt employees comp time instead of overtime pay. The use of comp time is a common practice among public sector employers throughout the country.

The purpose of comp time is to save public sector employers money. When comp time is used in lieu of paying overtime, public sector employers save money because they are not paying cash for overtime worked at the time and a half rate. The use of comp time is also beneficial for employers because:

- For weeks in which a worker used comp time, his employer would have to pay him only normal wages instead of his normal wages plus an overtime premium.
- When wage payments are lessened, other payments tied to payroll costs are also reduced.
- The "banking" of overtime earnings in the form of comp time hours is an interest-free loan to employers.

In light of the foregoing, the City has decided to allow its employees, including the City Administrator, to accrue and use compensatory time. While it is usually difficult for City employees to take comp time, the City still realizes the benefits discussed above. And, to the extent the City cashes out comp time to its employees, the City is in the same position it would have been had the employee been paid overtime except, under these circumstance [sic], the City would have received an interest-free loan from the employees for a period of time.

With respect to the City Administrator, the City has allowed the City Administrator to accrue and use compensatory time because he is a non-exempt employee under the FLSA. As discussed above, the City has been advised by three outside experts that it is far too risky to classify the City Administrator as an exempt employee. Therefore, contrary to the Auditor's opinion, the City Administrator is eligible to receive compensatory time under the FLSA.

For these reasons and the reasons stated in Response to Finding (B), the City asks the Auditor to rescind its findings related to the exempt status of the City Administrator and his eligibility for comp time, in their entirety, prior to publishing its final report.⁵

5 The City acknowledges that there is no provision in the overtime policy for compensatory time payouts; however, such a practice is clearly permitted by the FLSA and the FLSA does not require employers to have such a provision in their overtime policies. The City will consult with legal counsel to determine whether it is necessary to adopt a provision in its overtime policy for compensatory time payout.

Conclusion – Response acknowledged. As stated on page 25, there is no provision in the overtime policy for compensatory time payouts. The recommendation, as stated, does not pertain to compliance with the FLSA or the purpose of compensatory time as included in the City's response. Rather, the finding and recommendation, as stated, is related to strong internal controls and independent oversight of City employees. In addition, although the

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FLSA allows for the payout of compensatory time, it is not a requirement. The entity's governing body has to determine whether it will issue such payments and document that decision. As a result, the finding remains as stated. Should the City Council continue the practice of allowing compensatory time payouts, a provision should be included in the overtime policy defining the parameters of such payouts.

- (E) Emergency Medical Technicians (EMTs) – Both the City Administrator and the Deputy City Clerk serve the City as EMTs; however, no written policy has been established regarding expected hours of the City Administrator or the Deputy City Clerk, including responding to EMT calls during City Hall office hours. According to the City Administrator, if there is an EMT call during City Hall office hours, both the Deputy City Clerk and he respond. He further stated their salary/wages are not adjusted for the time away from City Hall, and both the Deputy City Clerk and he receive the \$10 per hour per call stipend from the Ambulance bank account.

We reviewed the Ambulance Call Sheet for the periods November 14, 2012 through May 28, 2013 and November 14, 2012 through June 20, 2013 for the City Administrator and Deputy City Clerk, respectively. During that time, the City Administrator was absent from City Hall for 31.50 hours, which equals \$733.46 at his hourly rate, and the Deputy City Clerk was absent from City Hall for 43.50 hours, which equals \$722.97 at her hourly rate. We also identified 18 occasions on which both the City Administrator and the Deputy City Clerk responded to an EMT call. On August 26, 2014, we observed the City Administrator leave City Hall to attend a meeting in Ames, and the Deputy City Clerk responded to an EMT call. In her absence, she placed a sign on the door of City Hall stating, "Clerk is out running an errand – will return in a few minutes."

Recommendation – We realize the City has limited resources available to provide ambulance services for the City. However, the City Council should develop and implement a policy documenting the expectations for the City Administrator and Deputy City Clerk positions, including responding to EMT calls and how those positions will be compensated if an EMT call occurs during City Hall office hours.

Response – As a fully authorized ambulance service in the State of Iowa, the City of Parkersburg is required to satisfy Iowa Code Chapter 147A and Iowa Administrative Code Chapter 132 to provide out-of-hospital emergency medical care. Accordingly, the City of Parkersburg has a fully authorized ambulance service as certified by the Iowa Department of Public Health, Bureau of Emergency & Trauma Services. The authorization requires the City to maintain an adequate number of ambulances and personnel to provide 24-hour-per-day, 7-day-per-week coverage. Failing to abide with Iowa Code Chapter 147A and Iowa Administrative Code Chapter 132 may result in strict penalties being enforced on the City. Some of the legal actions include: a civil penalty, a citation and warning, the ambulance service being placed on probation, suspended, revoked, or it could result in the city's ambulance authorization being denied.

The City of Parkersburg has an adopted policy that requires ALL available ambulance crew volunteers to respond during day-time hours, for vehicle accidents, extreme emergencies, during weekends, holidays, and in severe weather conditions. This policy includes those emergency service volunteers who are employed by the City. In addition to the State of Iowa, the United States Department of Labor, and the International Fire Chiefs Association, the City recognizes the generosity and public benefits provided by public safety volunteers. The City also recognizes the value of providing a nominal fee to these volunteers as a part of their

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dedication and the sacrifices they make for the public's benefit. In the spirit of Iowa Code Chapter 55.2 which generally states:

All officers and employees of the state who are volunteer fire fighters or emergency medical service personnel shall be entitled to a leave of absence from such civil employment for the period of an emergency response without loss of pay during such leave of absence.

The City of Parkersburg agrees with the purpose of Iowa Code Chapter 55.2. The City also does not discriminate against those volunteers who may respond to emergency calls while getting paid by their full-time employers. This includes those volunteers who respond while working for our county government, who are employed by the Aplington-Parkersburg School District, the City of Parkersburg, or any other public or private employer.

The City also recognizes the immense hardship and risk to life and health the citizens of Parkersburg would face if our ambulance service did not exist. In addition, we recognize the amount of money we would have to spend to employ full-time staffing to keep our ambulance service authorization. While many rural cities in Iowa are struggling to keep emergency trauma and medical services available in their communities, Parkersburg is able to continue to provide the services our community requires with highly trained volunteers. Requiring city staff to respond to emergency calls during the day is much more financially responsible than hiring additional full-time or part-time emergency responders to provide this critical service.

Conclusion – Response acknowledged; however, the City's response does not address the recommendation. As previously stated, we understand the importance of providing ambulance services to the City. We have not recommended or indicated City employees should not continue to serve in that capacity or be compensated for their services. We are stating only that the City Council should document the expectations of City employees to respond, as necessary, to emergency calls and be compensated accordingly so it is clear to the community the City Council has discussed and approved the practice.

- (F) Health and Dental Insurance – The City's employee handbook states, in part, "The City self insures employees and their dependents between deductible and the insurance deductible \$100 per person/\$200/family. Co-insurance payments once deductible has been met are reimbursable by the city. Prescription drugs co-pays are also reimbursable." According to interviews with City employees and Council members, the City pays 100% of health insurance coverage for all employees who elect to accept coverage under the City's plan, including deductibles, co-payments, and co-insurance. Employees submit bills for out-of-pocket expenses as they are accumulated. Any amounts over \$100 per person or \$200 per family are reimbursed directly to the employee by the City. Because the wording of the policy is unclear, we are unable to determine if the current practice complies with the policy in the employee handbook. In addition, although the City's employee handbook states the City offers a dental plan, the terms of the coverage and related costs are not defined.

We also determined the choice of health and dental insurance plan is not formally approved by the City Council. According to the City Administrator, the health insurance policy is implicitly accepted by the City Council when they approve the premium amounts in the yearly budget. However, in accordance with City ordinance 7.10, all purchases exceeding \$5,000 shall be approved by the City Council prior to purchase regardless of the item being budgeted. Currently, the City Administrator does the research to compare possible plans and implements the chosen plan with the City's health care representative. The City Council does not review the alternatives, discuss the benefits to be provided to the employees, or

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specify the plan through approval at a City Council meeting allowing the taxpayers to be aware of the benefits provided to City employees.

In addition, employees who do not elect to accept City health insurance coverage are paid a monthly stipend equal to the amount the coverage would have cost the City if coverage had been accepted. However, there is no provision in the City's employee handbook for such stipends. In fiscal year 2013, the City issued payments totaling \$6,112.20 and \$555.89 to the former Library Director and a Parks Department employee, respectively, which were identified as health insurance reimbursements.

Recommendation – The City Council should review the current policy regarding health and dental insurance to ensure it accurately expresses the City Council's intent and ensure current practice complies with the established policy. In addition, the City Council should review and approve or disapprove the health and dental insurance coverage recommended by the City Administrator. The City Council's approval should specify the options reviewed, if any, and the details of the health and dental plan selected to inform the taxpayers how City funds are being expended. Should the City Council choose to continue providing stipends to employees electing not to accept the City health insurance, the City's policy should be updated accordingly. It is the City Council's responsibility to ensure City funds are spent in the most cost effective manner.

Response – The Auditor's Findings related to "Health and Dental Insurance" address two concerns: (1) the details of the City's health and dental insurance plan are not contained in the employee handbook; and (2) the City Council does not research or review alternative health plans before one is chosen.

With respect to the first issue, the City agrees that it does not include all of the details of its health and dental insurance plans in its employee handbook; however, this practice is consistent with the practice of most employers.⁶ Like many employers, the City provides the details of its insurance plans to the employees, including the terms of coverage, by providing the employees with pamphlets and booklets received directly from the insurance agency and insurance company. If the City were to include all of these details in the employee handbook, it would have to revise its handbook every year and the handbook would be hundreds of pages long. Because this [sic] not a practical or an efficient use of the City's limited resources, the City does not plan to include such information in its employee handbook.

The Auditor's second concern is completely unjustified and has no basis in fact. The City Administrator does not conduct the research regarding possible insurance plans. Nor does he unilaterally choose and implement insurance plans.

Not only is the Auditor's report incorrect as it relates to the City Administrator's role in the insurance selection process, but the report is incorrect as it relates to the City's insurance selection process as a whole. The City uses TrueNorth - an independent insurance agency which partners with the Iowa League of Cities - to research possible insurance plans for City employees. The Mayor and City Council rely upon TrueNorth's expertise to find the most cost-effective benefit possible and to provide human resource information to the City in regards to health insurance related topics. The Mayor and City Council also implement any changes to the insurance plans as provided and/or recommended by TrueNorth. The City is on a pay-as-you-go basis and the amount spent on insurance is approved by the City Council every month, as required by City Ordinance. The City's reliance on TrueNorth as

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well as its willingness to shop around has allowed the City to provide its employees with one of the lowest employee benefit levies in Butler County, Iowa.

Because the Auditor's findings are factually incorrect, the City requests that the Auditor rescind these findings, in their entirety, prior to publishing the final report.

6 Examples of language typically included in handbooks: (1) "Permanent employees working 30 or more hours per week and their spouses or qualified domestic partners, and dependents are eligible for benefits coverage on the first of the month following their hire date. If an employee is hired on the first working day of the month, he or she can elect coverage to begin on the first day of employment or the first of the month following their hire date. Permanent part-time employees (those working 20-29 hours per week) are eligible to participate in the benefits program. Premium cost is shared between the Employer and employees and is determined by the hours worked by the employee." (2) "Employer provides health insurance coverage for all regular employees scheduled who work a minimum of thirty (30) hours per week. The premium cost, employee contribution, and coverage will be determined on an annual basis. Employer shares in the cost of such insurance. Eligibility is effective the first day of the month following 30 days of employment. Seasonal employees are not eligible for benefits."

Conclusion – Response acknowledged. Although it is not expected all details of an employer's health plan would be included in the employee handbook, we are unable to determine if the City's current policy, as worded, is consistent with current practice. The City Council should review the current policy regarding health and dental insurance to ensure it accurately expresses the City Council's intent and ensure current practice complies with the established policy. We have observed several employee handbooks at local governments which summarize the benefits provided to City employees. The detail provided is not to a level it would require revision on an annual basis.

During fieldwork, we were provided a rate comparison chart provided by TrueNorth and are not disputing TrueNorth provides the insurance plan information to the City Administrator. However, as previously stated, the City Administrator told the auditors in the field he compares the possible plans and implements the chosen plan with the City's health care representative. In addition, as previously stated, the City Administrator told the auditors in the field City Council approval was not necessary because the policy is implicitly accepted by the City Council when budgeting for the payment of insurance premiums, which does not comply with the City's ordinances. There is no documentation in the City Council meeting minutes showing any discussions held or approval of the implemented plan.

- (G) Tax Increment Financing (TIF) – Section 403.19 of the *Code of Iowa* provides a municipality may certify loans, advances, indebtedness and bonds (indebtedness) to the County Auditor which qualify for reimbursement as provided in the *Code* section. Such certification makes it a duty of the County Auditor to provide for the division of property tax to repay the certified indebtedness and, as such, the County Auditor shall provide available TIF incremental property tax in subsequent fiscal years without further certification until the amount of certified indebtedness is paid to the City. Indebtedness incurred is to be certified to the County Auditor and then the divided property tax is to be used to pay the principal of and interest on the certified indebtedness.

During the year ended June 30, 2013, the City certified \$40,000 as support for Parkersburg Economic Development (PED); however, \$64,055 was disbursed from the Special Revenue, Urban Renewal Tax Increment Fund. According to the City Administrator, the City's financial advisors and attorneys advised the City to certify less TIF debt than is being spent. Because all moneys received into the Special Revenue, Urban Renewal Tax Increment Fund are obligated to certified debt, the additional support provided to PED should be disbursed from another fund. Essentially, by disbursing more than certified, the City is using moneys generated from a different TIF debt to provide support to PED.

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In addition, the City paid \$1,055 of engineering fees from the Special Revenue, Urban Renewal Tax Increment Fund. These costs do not represent TIF debt and, accordingly, are not allowable uses of tax increment financing receipts in accordance with section 403.19 of the *Code of Iowa*.

We also determined principal and interest on the City's 2003 general obligation corporate purpose loan notes and 2012 general obligation street improvement bonds were paid from the Special Revenue, Urban Renewal Tax Increment Fund. Section 384.4 of the *Code of Iowa* states, in part, "Moneys pledged or available to service general obligation bonds, and received from sources other than property tax, must be deposited in the debt service fund."

Recommendation – The City Council should consult TIF legal counsel to determine the proper disposition of these matters. In addition, the City should transfer from the Special Revenue, Urban Renewal Tax Increment Fund to the Debt Service Fund for future funding contributions. Payments on the notes and bonds should then be made from the Debt Service Fund as required.

Response – The Auditor's findings question the fact that, during the fiscal year ended June 30, 2013, the City disbursed \$64,055 from the City's Special Revenue Urban Renewal Tax Increment Fund, but certified as new indebtedness eligible to be paid from TIF revenues only \$40,000. The findings also state, as follows: "According to the City Administrator, the City's financial advisors and attorneys advised the City to certify less TIF debt than is being spent." The reason the City certified less new TIF debt was, in fact, so the City could spend certain funds that had accumulated in the Special Revenue Urban Renewal Tax Increment Fund in prior years, but which were still eligible to be disbursed for projects in the City's Urban Renewal Area. The City spent these accumulated funds rather than certify an equivalent amount of new TIF debt, so that the Urban Renewal Tax Increment Fund could be brought back into balance. Under most circumstances other than pure TIF rebate agreements, any debt that is incurred within an Urban Renewal Area is eligible to be paid out of tax increment revenues that are generated from any taxable property in the Urban Renewal Area. Accordingly, the amount paid to the Parkersburg Economic Development group did not have to be generated from any specific property, but could be paid out of any tax increment revenues the City received from any taxable property in the Urban Renewal Area.

The City was also advised that the expenditure of \$1,055 in engineering costs from the Special Revenue Urban Renewal Tax Increment Fund was appropriate, because those costs were related to an improvement project that had been legally undertaken within the Urban Renewal Area, for which TIF indebtedness had been certified earlier.

With respect to the payment of principal and interest on the City's 2003 general obligation corporate purpose loan notes and 2012 general obligation street improvement bonds, the City has been advised that, as the Auditor's report sets out, these payments should, in fact, be made out of the City's debt service fund, after, if necessary, transferring funds from the Special Revenue Urban Renewal Tax Increment Fund. The City will make the appropriate transfers and will make future payments out of the debt service fund.

Because the City relied upon competent counsel from Dorsey & Whitney LLP to determine the proper disposition of the matters criticized by the Auditor and because the City properly disposed of these matters, the City requests that Finding (G) be rescinded, in its entirety, prior to the publication of the report.

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Conclusion – Response acknowledged. The City agreed the general obligation debt payments were made from the incorrect fund and indicated the appropriate transfers would be made in the future.

During fieldwork, we requested supporting documentation for the TIF disbursements numerous times. However, we were not provided sufficient information at that time, nor have we been provided sufficient supporting documentation to verify the statements made by the City in its response. Because supporting documentation was not provided, the finding and recommendation remain as stated. The finding is not a criticism of the City's administration, rather it is a recommendation to improve operations of the City and compliance with laws and regulations.

Although it is allowable to disburse accumulated TIF funds to other eligible projects, the City should have documentation demonstrating there was an excess balance to be distributed. Based on a review of the City's 2016 Annual Urban Renewal Report, the City has approximately \$2.5 million to be certified for current projects. It would be difficult for the City to determine there was/would be excess TIF remaining in the fund before completion of all projects. To clearly document the intent and ensure funds were available, the City should have decertified the "excess" and certified the \$64,055 to be disbursed to Parkersburg Economic Development.

In addition, in its response, the City stated the \$1,055 of engineering fees were previously certified as TIF debt. However, when asked about the engineering fees during fieldwork, the City Administrator did not provide this explanation, and the fees were not identified on the supporting summary provided by the City Administrator when asked about the engineering fees and the debt certified to support disbursements from the Special Revenue, Urban Renewal Tax Increment Fund. The City should have supporting documentation available to show these fees were certified with the Butler County Auditor as TIF debt.

(H) Disbursements – During our review of certain disbursements, we identified the following concerns:

- Based on a review of the City Council meeting minutes, it appears the previous month's bills are approved at the following month's City Council meeting. For example, the check issued for the City's Sam's Club membership dues for fiscal year 2013 was dated July 20, 2012; however, the City Council did not approve the payment until August 6, 2012.
- The City paid \$1,200 to a local accounting firm for "audits." According to the City Administrator, the firm reviews the monthly bank reconciliations, which is not an audit. Given the available personnel and elected officials, it is not apparent why this expense is necessary.
- Of the 59 disbursements recorded as training expenses, 10 did not appear to be properly coded based on the descriptions in the accounting system. Descriptions used included vehicle repairs, supplies, and immunizations.

Recommendation – The City Council should implement procedures to ensure all disbursements are approved prior to payment and properly recorded in the accounting system. In addition, the City should utilize existing personnel and elected officials to prepare and independently review monthly bank reconciliations.

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Response – The City of Parkersburg has a policy that requires all disbursements be authorized by law, ordinance, or resolution, be properly budgeted and supported by a claim approved by the City Council. In instances where the city will incur a penalty, a loss of discount, interest cost, or lapse in coverage or membership, if not paid in a timely manner, these disbursements are made and reported to the City Council for review and approval with and in the same manner as other claims at the next regularly scheduled City Council meeting following such payment as allowed in its City Code of Ordinances.

The City reserves the right to employ outside independent experts as it sees fit. The hiring of an independent accounting firm to examine the city's monthly financial reports and bank reconciliation statements began over 30 years ago and is still done for a variety of reasons that benefit the public. Some of these reasons include: 1) to increase accountability and compliance 2) to strengthen the city's internal controls, 3) to satisfy prior and current audit findings and concerns regarding the segregation of duties and expressed entity internal control deficiencies, 4) to safeguard resources against loss due to waste, abuse, mismanagement, errors, and fraud, and 5) to increase the public's confidence in regards to the accuracy of the city's financial reports, amongst other additional positive benefits.

Conclusion – Response acknowledged. The City Council may pass a resolution specifying those bills which may be paid prior to approval to avoid incurring late fees, penalties, and/or interest. Common examples include routine, monthly bills, such as payroll, utility bills, and other contractual obligations. However, those bills paid prior to City Council approval are to be presented at the next City Council meeting for their review. All other disbursements should be approved by the City Council prior to payment. The disbursement identified in the finding was payment of the Sam's Club membership dues which is not a routine, monthly bill or an emergency expense.

We understand the City's right to hire outside independent experts. However, as previously stated, the governing body should consider the public purpose and public benefit of all disbursements to ensure taxpayer dollars are spent in the most efficient and effective manner to benefit the community. In addition, as previously stated, given the City's personnel and elected officials, segregation of duties could be achieved with the resources available. The necessity of the expense for a local accounting firm to review the bank reconciliations is not apparent.

- (I) Charge Accounts and Memberships – The City maintains a business account at Sam's Club with multiple membership cards. **Table 5** summarizes the membership cards assigned and the associated membership dues paid by the City for the Sam's Club account for fiscal years 2013 through 2015.

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Table 5

Membership Period	Card Holder	Membership Dues
08/10/12 – 08/09/13	Former Library Director	\$ 35.00
08/10/12 – 08/09/13	Former Library Director's Spouse	-
08/10/12 – 08/09/13	Former Assistant Library Director	35.00
08/10/12 – 08/09/13	City Administrator	35.00
Subtotal		105.00
08/10/13 – 08/10/14	Former Library Director	45.00
08/10/13 – 08/10/14	Former Library Director's Spouse	-
08/10/13 – 08/10/14	City Administrator	45.00
Subtotal		90.00
08/10/14 – 08/10/15	Former Library Director	45.00
08/10/14 – 08/10/15	Former Library Director's Spouse	-
08/10/14 – 08/10/15	City Administrator	45.00
Subtotal		90.00
Total		\$ 285.00

As illustrated by the **Table**, the membership card assigned to the former Library Director's spouse, who is not a City employee, was not assessed a separate membership fee. Based on a review of the supporting documentation, because the membership card assigned to the former Library Director's spouse was the second card on the account, it was included in the membership fee paid for the former Library Director's membership. When the City's membership was queried in January 2014, both the former Library Director's spouse and the City Administrator's spouse were listed as having cards. Neither individual is a City employee.

Based on a review of the City's account activity, the majority of the purchases were personal items. In fiscal year 2013, the City issued reimbursements totaling \$738.61 to the City Administrator and former Library Director for supplies purchased using the Sam's Club membership. Total purchases identified for fiscal year 2013 on the City's membership were \$4,889.94. According to City officials we spoke with, the City's Sam's Club account was to be used solely for City purposes. Because a significant majority of the purchases are personal in nature, it is not apparent why the membership is necessary. In addition, although the City did not pay for the personal items, City employees could avoid paying sales tax on the items purchased by using the City's account.

We also determined the City holds 9 fuel cards with Kwik Trip assigned as follows:

- 2 at the Fire Department,
- 1 in each police car (2 total),
- 1 in each ambulance (2 total),
- 1 for the Water Department,
- 1 for the Sewer Department, and
- 1 at the Kwik Trip for the Fire Department to use.

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The City receives monthly account billings from Kwik Trip for fuel purchases from all departments. However, no vehicle descriptions are included on the supporting documentation and mileage logs are not maintained. The City does not have a vehicle usage policy addressing the supporting documentation to be maintained and proper use of non-emergency City vehicles.

We reviewed 111 fuel card transactions for propriety and sufficient supporting documentation. Of the 111 transactions tested, 90 did not have detailed, itemized receipts provided along with the monthly statements. In addition, we identified 2 transactions which contained non-fuel items totaling \$12.40, including 3 sodas, which are considered improper. The City does not have a credit card usage policy addressing the supporting documentation to be maintained and proper use of City credit cards.

Recommendation – The City Council should review the necessity of holding a membership at Sam’s Club. Should the City Council feel it is beneficial, the City should implement policies and procedures to ensure only City employees hold a membership card and no personal purchases are made on the City’s account. The City Council should also review the necessity of maintaining 9 fuel cards for City employee use.

In addition, the City Council should develop and implement a vehicle usage policy and a credit card usage policy addressing the supporting documentation to be maintained and proper use of all City vehicles and credit cards. Specifically, the vehicle usage policy should include a statement prohibiting the use of City vehicles for commuting miles and a requirement for the use of mileage logs. Mileage logs should include the beginning and the ending odometer readings, total mileage, and purpose of the trip. The mileage logs should be accompanied by fuel receipts which, at a minimum, include the vehicle and the mileage of that vehicle. All disbursements should be accompanied by an original detailed, itemized receipt, including disbursements on a charge account and credit card statements.

Response – The Auditor's findings related to "Charge Accounts" address two issues: (1) the City's use of Sam's Club membership cards; and (2) the City's use of Kwik Trip fuel cards.

The City disputes the Auditor's findings concerning the first issue for the following reasons:

- The City's Sam's Club membership cards are **NOT** credit cards.⁷ They simply allow City employees "in the door" or access to Sam's Club. All purchases are made with the individual's personal checking account, cash, or personal credit card. Purchases for City business are reimbursed by the City.
- The City did **NOT** incur additional membership dues as a result of the Library Director's spouse possessing a card. Pursuant to Sam's Club's Membership Terms and Conditions, each Sam's Club Primary Member and each Add-on Membership include the ability to add a free, complimentary household cardholder. See Exhibit 7. Sam's Club restricts the free, complimentary household cardholder benefits to the spouse, domestic partner, or person living in the same household who is 18 years of age or older of the Primary Member or Add-On Member. *Id.*
- The City employees did **NOT** avoid paying sales tax on items they purchased for personal use. See e.g., Exhibit 8. With the exception of food, which is not taxed, the City employees and their spouses paid sales tax on the items they purchased for personal use. *Id.*

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As for the second issue, the City will develop and implement a vehicle usage policy and a credit card usage policy to ensure that the proper documentation is maintained.

7 The Auditor's original report incorrectly referred to the Sam's Club membership cards as "charge cards," meaning they are the equivalent of a credit card.

Conclusion – Response acknowledged. A revised finding was provided to the City on January 4, 2017 changing the phrase “charge card” to “membership card.” It is unclear why the response dated February 1, 2017 addressed the phrase “charge card” when it does not appear in the revised reaudit finding.

We concur no additional membership dues were incurred by the City. However, at no time should an individual who is not an employee of the City be on the City's business membership at Sam's Club. In addition, as previously stated, because a significant majority of the purchases on the City's business membership are personal in nature, it is not apparent why the City's membership is necessary. In accordance with Sam's Club's Membership Terms and Conditions, “All business purchases must be made with authorized business checks or a company card...Sam's Business Members and Sam's Plus Members with a business designation may not pay for business purchases with cash, personal checks, or personal credit cards.” If the account is a personal account, the membership dues should not be paid with City funds, and the membership should not be in the City's name. If an employee occasionally purchases supplies or other items for the City using the Sam's Club membership, the employee should seek reimbursement following the City's current practice.

In addition, in accordance with Sam's Club's Membership Terms and Conditions, tax-exempt organizations may purchase tax-free. As clearly shown by the receipts provided in Exhibit 8, the purchases were entirely personal; however, the name on the receipt was Kothe Memorial Library. Having a tax-exempt account does not preclude tax from being charged or being used in a manner to avoid payment of sales tax as the member has to inform the cashier what item(s) is and is not tax-exempt.

(J) Employee Reimbursements – We reviewed all reimbursements to certain employees and identified the following discrepancies:

- Sufficient supporting documentation was not provided for reimbursement to the former Library Director for the purchase of compact discs (CDs). The total spent was \$177.98; however, based on the available documentation, it appeared only 3 CDs were purchased.
- The incorrect mileage rate was used for a police officer's reimbursement resulting in an overpayment of \$9.42.
- Sufficient supporting documentation was not provided for a mileage reimbursement to the former Library Director. The purpose of the trip was not documented. In addition, the incorrect mileage rate was used resulting in an overpayment of \$3.36.

Recommendation – The City Council should implement procedures to ensure all reimbursements are supported with original, itemized receipts or invoices and mileage is paid at the authorized rates.

Response – The City of Parkersburg requires all employee reimbursements to be supported by original, itemized receipts, copies of which are provided to the Mayor and City Council prior

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to approval for reimbursement being made. Another copy of the supporting documentation for the Library Director's reimbursement for compact discs was easily acquired from the Librarian's records upon request and the expenditure was appropriate.

The mileage rate authorized by the City Council was changed by Resolution in March, 2012 to be effective July 1, 2012. The mileage reimbursements made to the two employees in 2012 and 2013 did not reflect the change in the mileage rate to \$.455/mile and they were paid at the prior authorized rate of \$.485/mile. The City Council annually assesses mileage rates and determines if changes need to be made accordingly. Verification of any changes to mileage rates are documented by Resolution and are checked before reimbursements are made.

Conclusion – Response acknowledged. Although complete supporting documentation was received from the Library Director upon request, complete receipts, invoices, or other supporting documentation should have been submitted when reimbursement was requested. Because it was not submitted prior to payment, the City Council did not have the opportunity to review the items purchased prior to approval of the reimbursement.

- (K) Parkersburg Fire Association (Association) – Prior to November 2013, the Association was not legally separate from the City. We reviewed Governmental Accounting Standards Board (GASB) Statements No. 14, The Financial Reporting Entity, No. 39, Determining Whether Certain Organizations Are Component Units—an amendment of GASB Statement No. 14, and No. 61, The Financial Reporting Entity: Omnibus—an amendment of GASB Statements No. 14 and No. 34, and determined the Association was a department of the City during fiscal year 2013. Accordingly, the transactions and resulting balances should have been included in the City's annual budget, monthly financial reports, and Annual Financial Reports.

After November 2013, the Association became a legally separate entity. However, it is so intertwined with the City it is, in substance, the same as the City. It should be reported in the City's financial statements as part of the City and blended into the appropriate fund.

Recommendation – The City Council should determine what, if any, balance remained in any outside bank accounts held by the Association prior to November 2013 and consult with legal counsel to determine what, if any, action needs to be taken to ensure the funds were allocated appropriately between the City and the Association.

In addition, the City Council should ensure the Association is properly reflected in the City's financial statements.

Response – We will consult with our legal counsel to determine what action needs to be taken in regards to any bank accounts of the Association prior to November, 2013.

We will consult with our legal counsel and have our independent auditing firm conduct an assessment of GASB standards and interpretations to determine if the Fire Association should be included in the City's financial statements. The Fire Association is a non-profit organization and has separate funding sources independent of the City of Parkersburg. The Fire Association has the capacity to have their own name. They have the right to sue and be sued in their own name without recourse to the City of Parkersburg. The Fire Association also has the right to buy, sell, lease, and mortgage property in its own name. The Fire Association has their own board of directors, separate tax identification number, tax exempt status, and attorney.

Conclusion – Response accepted.

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- (L) Business Transactions – Johnson Plumbing & Heating is owned by the City Administrator's brother-in-law. In fiscal year 2013, the City disbursed \$6,252.95 to Johnson Plumbing & Heating for various repairs and maintenance services. In accordance with section 362.5(3)(d) of the *Code of Iowa*, the transactions with the brother-in-law of the City Administrator may represent a conflict of interest since the transactions exceeded \$2,500 during the fiscal year and were not entered into through competitive bidding.

In addition, the invoices prepared by Johnson Plumbing & Heating did not always contain sufficient detail to determine the work provided. Specifically, if labor was provided to the City, there was no documentation of the work performed, the number of hours charged, or where the work was performed.

Recommendation – The City Council should consult legal counsel to determine the disposition of the potential conflict of interest. In addition, the City Council should implement procedures to ensure supporting documentation is detailed enough to allow for an independent assessment of the propriety and public purpose of the goods and services provided.

Response – The Auditor's findings related to "Business Transactions" focus on the fact that Johnson Plumbing & Heating ("JP&H") performs work for the City. JP&H is owned by the City Administrator's brother-in-law, Wes Johnson. According to the Auditor, this simple fact *may* create a conflict of interest. But the City Administrator does not hire JP&H. In fact, he isn't even involved, or knowledgeable of in most cases, that JP&H is being contacted when their services are required. Instead, the Public Works Department is responsible for contacting JP&H when a problem arises, such as to repair emergency water main breaks. In this respect, the Mayor and City Council have taken steps to ensure that a true conflict of interest does not arise.

Furthermore, the City uses JP&H for four critical reasons: (1) JP&H is a local business that has serviced the City for over 40 years; (2) JP&H's proximity ensures that emergencies are responded to quickly, which in turns, safeguards the health of the City's residents; (3) JP&H is the only Parkersburg business able to perform the work required to fix emergency water main breaks and other complex plumbing issues; and (4) the cost of JP&H's services are equal to or below the cost of similar out-of-town contractors who perform similar work.

With that said, the City has implemented procedures to ensure supporting documentation is detailed enough to allow for an independent assessment of the propriety and public purpose of the goods and services provided, as recommended by the Auditor.

Conclusion – Response acknowledged. The City's response indicated the Mayor and City Council have consulted with legal counsel. They should ensure the decision is clearly documented, along with the criteria used to address the issue. To clarify, the finding and recommendation was neither stating Johnson Plumbing & Heating should not be used nor questioning why the vendor was used, rather, it was stating the City Council should consult legal counsel to determine what documentation should be maintained to address the potential conflict of interest.

- (M) City Council Oversight – The City Council has a fiduciary responsibility to provide oversight of the City's operations and financial transactions. Oversight is typically defined as the "watchful and responsible care" a governing body exercises in its fiduciary capacity. Many of the findings included in this report are indications the City Council did not exercise proper fiduciary oversight.

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Recommendation – Oversight by the City Council is essential and should be an ongoing effort by all members. In the future, the City Council should exercise due care and require and review pertinent information and documentation prior to making decisions impacting the City. Appropriate policies and procedures should be adopted, implemented, and monitored to ensure compliance.

Response – The City disputes the Auditor's last finding in its entirety and views Finding (N) [now Finding M] as a personal attack on the Mayor and City Council.

As discussed throughout the City's responses, the Auditor's findings are inaccurate and directly contradict the advice the City has received from neutral, third-party experts. They also place the City at significant financial and legal risk. These shortcomings are summarized in the Mayor's February 1, 2017 cover letter to State Auditor Mosiman and is being reattached here as Exhibit 9. Despite the City's best efforts to explain these shortcomings to the Auditor, the Auditor has refused to correct blatantly false findings or retract her ill-advised findings on the FLSA. For this reasons [sic] alone, Finding (N) [now Finding M] is completely unjustified.

To make matters worse, the Auditor failed to recognize the unique challenges the City faces as a small rural community and failed to recognize the City's efforts to provide proper oversight in light of these challenges. After facing insolvency and possible bankruptcy from the devastating 2008 tornado, the Mayor and City Council took a number of steps to rebuild the City and improve its internal controls. These steps include, but are not limited to, the following:

- Implementing the use of computerized accounting and payroll software;
- Adopting the recommended uniform chart of accounts for financial transactions;
- Updating the City's investment policy;
- Requiring segregation of duties for certain city activities (e.g., payroll, accounts payable, receipt management, etc.);
- Conducting an independent review and reconciliation of the City's financial reports and bank statements monthly;
- Requiring employee wages to be authorized by Resolution;
- Requiring direct oversight by the Mayor of all timecards and wages paid to city employees;
- Working with the Iowa Northland Region Council of Governments to provide training, grant writing expertise, comprehensive planning, etc;
- Requiring training and certifications sponsored by the Iowa League of Cities, Iowa Department of Natural Resources, Iowa Department of Ag and Land Stewardship, Iowa Professional Leadership Academy, Institute for Decision Making and others;
- Hiring architectural and engineering firms to facilitate strategic planning and the design and oversight of the completion of capital projects;
- Working with legal counsel from Dorsey & Whitney LLP, a nationally ranked law firm and a law firm named tier 1 "best law firm" by U.S. News & World Report, to ensure compliance with Tax Increment Financing and Bonding;

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- Retaining a separate financial advisor - Speer Financial - to provide financial planning and to ensure compliance in regards to Tax Increment Finance Reporting and debt management;
- Working with the Department of Labor as far back as 2012 to ensure compliance with the FLSA;
- Retaining legal counsel from Dickinson, Mackaman, Tyler & Hagen, P.C., a nationally ranked law firm and a law firm named tier 1 "best law firm" by U.S. News & World Report, to ensure compliance with the FLSA;
- Hiring Carney, Alexander, Marold & Co - a financial accounting firm- to conduct annual auditing, which exceeds Iowa's legal requirements; and
- Recodifying the City's Code of Ordinances.

Each and every one of these steps was taken by the City to promote orderly, efficient and effective operations and to safeguard resources against loss due to waste, abuse, mismanagement errors and fraud. They were also taken to promote compliance with laws, regulations, and contracts, and to ensure the City's financial reports are reliable and accurate.

It is clear that the City's efforts have ensured proper fiduciary oversight because it took the Auditor 2.5 years to find issues with City expenditures that only represent **0.11%** of the City's budget!⁸ This fact also begs the question: Is it fiscally responsible for State Taxpayers to fund a 2.5 year reaudit for the sole purpose of criticizing a City on such superficial issues?

Given the systemic issues in the report and audit process and the City's watchful and responsible care of taxpayer funds, the City disputes Finding (N) [now Finding M] and requests that the Auditor rescind Finding (N) [now Finding M], in its entirety, before publication of the final report.

8 For the reaudit period of November 30, 2009 through July 31, 2014, the report criticizes the City's expenditure of \$43,488.78. During this same time frame, the City's budget was approximately \$38,801,155. While the City agrees only that \$285.44 of the Auditor's findings are legitimate, the City has given the Auditor the benefit of the doubt and used the Auditor's total financial findings to reveal that the impact on the City's overall finances is still minute.

Conclusion – Response acknowledged. The Office of Auditor of State is an independent, non-biased third party tasked with review of certain concerns presented. Depending on the findings identified during the course of any engagement conducted by the Office, it is not uncommon for a finding to be included regarding City Council Oversight. To say the finding included in the reaudit report is a personal attack on the Mayor and City Council is factually inaccurate.

The findings presented in the reaudit report were based on a review of the available supporting documentation and discussions with current and former City officials and personnel and, in our opinion, are justified.

We have vast experience working with small rural communities in Iowa and drew on that experience when formulating the findings and recommendations presented to the City. Although several of the items bulleted by the City are important procedures to implement to strengthen controls, most of them are done by numerous cities in Iowa and are not unique

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to the City of Parkersburg. In addition, some of the items bulleted by the City are required by Federal and State laws and regulations.

The statement “it took the Auditor 2.5 years to find issues with City expenditures” is inflammatory and misleading. As City officials are aware, there were a number of factors which impacted the time line of this engagement. The City’s lack of responsiveness has also contributed to the delay in issuing the reaudit report. In addition, because the reaudit was initiated by the citizens, the percentage of disbursements addressed is irrelevant. Not all matters addressed in reaudits are selected for evaluation solely on the basis of the amount of the related financial transactions. Because a concern does not have a “material” financial impact on the City’s finances does not disqualify it from scrutiny.

City of Parkersburg

Schedule

City of Parkersburg
Authorized Bimonthly Salary and Range of Actual Bimonthly Salary
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Employee	Fiscal Year					
	2011*			2012		
	Authorized	Actual Range		Authorized	Actual Range	
Chris Luhring	\$ 1,875.00	1,945.00	3,420.19	1,968.75	2,038.75	2,824.84
Scott Barrett	1,780.85	1,780.85	3,130.85	1,870.05	1,870.05	2,942.85
Rod Luhring	##	##	##	1,666.67	2,085.81	2,220.71
Jan Thomas	^^	1,953.16	2,466.54	^^	1,876.31	2,754.51

* - The first 2 months of fiscal year 2011 were paid monthly. Beginning in September 2010, the employees were paid biweekly. The authorized salary and actual salary range is based on the biweekly pay period.

- Rod Luhring began working for the City in fiscal year 2012.

^^ - Jan Thomas was compensated on a monthly basis for the period of our review, and her paycheck was calculated based on the number of hours recorded on her timesheet. As a result, do not have a base authorized gross amount for comparison.


2013			2014		
Authorized	Actual Range		Authorized	Actual Range	
2,017.99	2,071.07	3,047.11	2,076.49	2,112.43	3,517.49
1,916.80	1,916.80	2,916.80	1,972.39	1,972.39	3,201.34
1,770.83	2,123.29	2,730.69	1,822.19	2,119.88	3,079.86
^^	2,052.57	3,234.68	^^	2,017.81	2,670.03

City of Parkersburg

Staff

This reaudit was performed by:

Jennifer Campbell, CPA, Manager
Kelly L. Hilton, Senior Auditor II
Matthew C. Hickenbottom, Staff Auditor


Tamera S. Kusian, CPA
Deputy Auditor of State

Appendix

City of Parkersburg
Chapter 115 of the City's Code of Ordinances
July 1, 2012 through June 30, 2013

CHAPTER 115
CEMETERY

115.01 Definition
115.02 Trusteeship
115.03 Public Works Department
115.04 Duties of Department
115.05 Records

115.06 Sale of Interment Rights
115.07 Perpetual Care
115.08 Grave Openings and Closings
115.09 Rules and Regulations

115.01 DEFINITION. The term “cemetery” means the Oak Hill Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.
(*Code of Iowa, Sec. 523I.501*)

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.
(*Code of Iowa, Sec. 523I.502*)

115.03 PUBLIC WORKS DEPARTMENT. The Public Works Department shall operate the cemetery in accordance with applicable rules and regulations and under the direction of the Council.
(*Code of Iowa, Sec. 372.13[4]*)

115.04 DUTIES OF DEPARTMENT. The duties of the Public Works Department are as follows:
(*Code of Iowa, Sec. 372.13[4]*)

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery;
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a report of the cemetery operation to the City Council when requested.

115.05 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:
(*Code of Iowa, Sec. 523I.311*)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
 - A. The date the remains are interred.

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CHAPTER 115

CEMETERY

B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.

C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.06 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by resolution of the Council.

(Code of Iowa, Sec. 523I.310)

115.07 PERPETUAL CARE. The Council, by resolution, shall accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery or interment spaces that have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

115.08 GRAVE OPENINGS AND CLOSINGS. No person, except authorized grave diggers employed by the Public Works Department, shall open or close any grave in the cemetery. The charges for grave openings and closings are as established by resolution of the Council.

115.09 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions, and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

(Code of Iowa, Sec. 523I.304)

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