



OFFICE OF AUDITOR OF STATE
STATE OF IOWA

David A. Vaudt, CPA
Auditor of State

State Capitol Building
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

NEWS RELEASE

Contact: David A. Vaudt
515/281-5835
or Andy Nielsen
515/281-5834

FOR RELEASE _____ October 13, 2006

Auditor of State David A. Vaudt today released a reaudit report on the City of Jamaica for the period July 1, 2003 through June 30, 2004. The reaudit also covered certain items to determine practices applicable to the year ended June 30, 2003 and the years ended June 30, 2005 and 2006. The reaudit was performed as a result of a petition filed with the Office of Auditor of State by a group of residents of the City of Jamaica.

Vaudt recommended the City maintain completed W-4's for all employees, withhold appropriate taxes from payroll checks, report all additional compensation paid to employees as payroll and reconcile water bill payments to deposits. Vaudt recommended the Council require reimbursement of \$148.70 from Council Member Jackie Kinney and of \$74.40 from Water Superintendent Christopher Kinney for employee taxes paid by the City. Vaudt also recommended the City determine and document the public purpose of certain expenditures and require and maintain supporting documentation for all expenditures. The City should continue efforts to implement findings and recommendations from the fiscal year 2004 audit. The City's responses are included in the reaudit report.

A copy of the reaudit report has been filed with the Guthrie County Attorney for her review and determination of further action, if any. Copies of the reaudit report are available for review in the City Clerk's office, in the Office of Auditor of State and on the Auditor of State's web site at: <http://auditor.iowa.gov/specials/specials.htm>.

###

CITY OF JAMAICA
AUDITOR OF STATE'S REPORT ON REAUDIT
FOR THE PERIOD
JULY 1, 2003 THROUGH JUNE 30, 2004

Table of Contents

	<u>Page</u>
Officials	3
Auditor of State's Report on Reaudit	5-6
Detailed Findings:	<u>Finding</u>
Employee's Withholding Allowance Certificate	A 8
Council Member Wages	B 8-10
Water Superintendent	C 10-12
Missing Deposits	D 12-13
Expenditure Documentation	E 13
Fire Station Project	F 13-15
Status of Fiscal 2004 Audit Findings	G 16-17
Staff	18

City of Jamaica

Officials

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
(Before January 2004)		
Mike Roe	Mayor	Resigned September 7, 2003
Lowell Sheehy	Mayor	Jan 2004
LaDonna Kennedy	Mayor Pro tem	Jan 2006
Ron Defenbaugh	Council Member	Resigned August 8, 2003
Lorie Allen	Council Member	Jan 2004
Jackie Kinney	Council Member	Jan 2004
Al Seeman	Council Member	Jan 2004
Dort Heyland	Council Member	Jan 2006
(After January 2004)		
Lowell Sheehy	Mayor	Resigned June 6, 2004
LaDonna Kennedy	Mayor	Jan 2006
Bob Kempf	Mayor Pro tem	Jan 2006
Dort Heyland	Council Member	Resigned June 6, 2004
Lorie Allen	Council Member	Jan 2006
Donna McNeill	Council Member	Jan 2006
Jackie Kinney	Council Member	Jan 2008
Darcy Gliem	Council Member	Jan 2008
Rhonda Nelson	Clerk	Indefinite
DuWayne Dalen	Attorney	Indefinite

City of Jamaica



OFFICE OF AUDITOR OF STATE
STATE OF IOWA

David A. Vaudt, CPA
Auditor of State

State Capitol Building
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

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 Jamaica under Chapter 11.6(4) of the Code of Iowa. The request for reaudit came from a petition filed with the Office of Auditor of State by a group of residents of the City of Jamaica. As a result, we reviewed the audit report and workpapers of the City's independent auditing firm for the fiscal year ended June 30, 2004. We determined a partial reaudit was necessary to further investigate specific issues identified in the request for reaudit or through our preliminary review. Accordingly, we have applied certain tests and procedures to selected accounting records and related information of the City of Jamaica for the period July 1, 2003 through June 30, 2004. We also inquired and performed procedures for certain items to determine practices applicable to the year ended June 30, 2003 and the years ended June 30, 2005 and 2006, as noted.

The procedures we performed are summarized as follows:

1. We reviewed selected payroll records for fiscal 2003, fiscal 2004 and fiscal 2005.
2. We reviewed selected water billings and payments for fiscal 2004 and fiscal 2005.
3. We reviewed amended payroll reports for 2003 and 2004.
4. We reviewed current payroll procedures and reports for propriety.
5. We inquired if there were any additional missing deposits subsequent to fiscal 2004 and if the City adequately followed up on missing deposits during fiscal 2004. We also inquired about current policy and procedures for bank deposits.
6. We inquired about any questionable expenditures subsequent to fiscal 2004 and reviewed the fiscal 2005 ledger for questionable items.
7. We reviewed documentation for bids and contracts for the Fire Station project to determine compliance with bidding statutes.
8. We reviewed documentation for the request for proposal (RFP) process to engage a CPA firm, including Council minutes, discussion and action regarding the RFP process and final selection and approval of the firm.
9. Through inquiry and observation, we followed up on the current status of fiscal 2004 audit report findings to determine if corrective action has been taken, including documentation of the corrective action taken, if any.
10. We reviewed selected payments to City officials, employees and their family members, if any, and other related party transactions for fiscal 2005.

Based on the performance of the procedures described above, we have various recommendations for the City. Our recommendations and the instances of non-compliance are described in the Detailed Findings of this report. Unless reported in the Detailed Findings, items of non-compliance were not noted during the performance of the specific procedures listed above.

The procedures described above are substantially less in scope than an audit of financial statements made in accordance with U.S. generally accepted auditing standards, the objective of which is the expression of an opinion on financial statements. Accordingly, we do not express an opinion. Had we performed additional procedures or had we performed an audit of the City of Jamaica, additional matters might have come to our attention that would have been reported to you. Pursuant to Chapter 11.15 of the Code of Iowa, a copy of this report has been filed with the Guthrie County Attorney for her review and determination of further action, if any.

We would like to acknowledge the assistance extended to us by personnel of the City of Jamaica. Should you have any questions concerning any of the above matters, we shall be pleased to discuss them with you at your convenience.



DAVID A. VAUDT, CPA
Auditor of State



WARREN G. JENKINS, CPA
Chief Deputy Auditor of State

February 28, 2006

Detailed Findings

City of Jamaica

Detailed Findings

July 1, 2003 through June 30, 2004

- (A) Employee's Withholding Allowance Certificate – The City Clerk represented Employee's Withholding Allowance Certificates, IRS Form W-4, were not maintained on file prior to January 2005. It was unclear whether the W-4s were completed and not retained or not completed at all. During the reaudit, we observed W-4s on file for the City Clerk dated January 7, 2005 and the Water Superintendent dated February 14, 2005.

Recommendation – The City should ensure all employees complete Form W-4 so the correct tax withholdings from pay are authorized and deducted, as required. Copies of the W-4's should be maintained on file and retained.

Response – The City Council that was involved in this particular audit was unaware of the fact these forms were not on file.

In the future the Council will make it mandatory that a new W-4 be completed on a yearly basis by all City employees not receiving a yearly 1099 form.

The City will adopt a records retaining policy no later than December 31, 2006 to ensure all records are held for the appropriate amount of time.

Conclusion – Response accepted.

- (B) Council Member Wages – Council Member Jacqueline (Jackie) Kinney served simultaneously as City Clerk from December 2003 through April 2004 and was paid \$1,800, as follows:

<u>Date</u>	<u>For Services Performed</u>	<u>Amount</u>
January 4, 2004	½ December 2003	\$ 200
January 30, 2004	January 2004	400
March 7, 2004	February 2004	400
April 4, 2004	March 2004	400
May 2, 2004	April 2004	<u>400</u>
Total		<u>\$ 1,800</u>

Subsequent to the Council Member serving as City Clerk, the City Attorney issued an opinion dated June 25, 2004 which states, in part:

“... the Iowa Code provides that an elected city officer is not entitled to receive any other compensation for any other city office or city employment during that officer's tenure in office, but may be reimbursed for actual expenses incurred. Iowa Code Sec. 362.5 goes on to say that the previous exception does not apply to the payment of lawful compensation of a city officer or employee holding more than one city office or position, the holding of which is not incompatible with another public office or is not prohibited by law. I could not find in the Code where it says that it is prohibited for a city council person to step in and serve as city clerk. In this particular instance, it seems appropriate that the council member who served as Clerk be paid the clerk's wages for that time period. However, since, in the Jamaica Code, the City Clerk is employed by the Council, I would recommend in the future that a council person not serve as City Clerk.”

Chapter 372.13(8) of the Code of Iowa states, in part, "Except as provided in section 362.5, an elected city officer is not entitled to receive any other compensation for any other city office or city employment during that officer's tenure in office, but may be reimbursed for actual expenses incurred." Chapter 362.5(11) provides an exception for contracts for the purchase of goods or services that may benefit the city officer or employee when the city population is 2,500 or less and the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$2,500 in a fiscal year. Consistent with an Attorney General's opinion dated August 17, 1993, the compensation to Council Member Kinney would not be prohibited pursuant to Iowa Code sections 372.13(8) and 362.5(11) since the City of Jamaica's population is less than 2,500 and total payments to Council Member Kinney did not exceed \$2,500 during the fiscal year.

The Council minutes did not reflect Council action authorizing Council Member Kinney to perform the Clerk's duties or Council action to approve the wages paid to Council Member Kinney for performing the Clerk's duties until a new clerk was hired. Accordingly, we were unable to ascertain whether Council Member Kinney was authorized to perform these services or be paid for performing the services.

According to the payroll register, federal and Iowa taxes were not withheld from the five payroll checks prepared by and paid to Council Member Kinney during the time she performed services as interim clerk. However, the 2004 W-2 issued to Council Member Kinney reflected Medicare tax withheld of \$26.10, social security tax withheld of \$111.60, and Federal income tax withheld of \$11.00. The City remitted both the City's and employee's share of Medicare and social security tax and the federal income tax to the Internal Revenue Service. There was no state income tax withheld or reported to have been withheld for Council Member Kinney.

Recommendation – In the future, if applicable, the Council should take action to authorize services to be performed, including payment, if any. Payments in excess of the \$2,500 threshold prescribed in Chapter 362.5(11) of the Code of Iowa would appear to represent a conflict of interest pursuant to Chapter 372.13(8) of the Code of Iowa. Council action should be documented in the Council minutes. The elected official should abstain from voting on decisions which may provide a direct or indirect benefit to them.

We were unable to determine the propriety of the 2004 W-2 issued for Council Member Kinney. The City should seek reimbursement of \$148.70 from Council Member Kinney for the employee's share of taxes and federal income tax paid by the City and consult legal counsel to determine the disposition of this matter.

Response – The City Council feels it important to make the auditors, State of Iowa, and the County Attorney of Guthrie County aware of the absolute chaos that the City of Jamaica was left in when our former City Clerk, Pamela Smith left the City's employ. She left around the third week of December 2004 with absolutely no warning. She called from California stating her father was ill and she had to leave to be at his side to care for him. The Mayor, Lowell Sheehy and Mayor Pro-Tem LaDonna Kennedy at that time were in need of making sure that day to day activities were completed. For that reason, they asked that Council Member Kinney handle the Clerk's duties while Ms. Smith was away. It was at that time the Council's understanding that Ms. Smith would be returning right after Christmas. The wage was based on the amount that the current Clerk was receiving, which was \$400.00 per month. The Council made an error when this item was not voted upon. Council Member Kinney **did not** get paid her council member wages during the months that she was accepting the Clerk's rate of pay. After several of the citizens expressed a concern regarding Council Member Kinney's performance of these duties, the City contacted the then City Attorney, Jeffrey Bump. He then issued the opinion that is written in your audit findings. He found that there was no conflict of interest in this matter. He made no mention at that time that a

legal motion would need to be made concerning this or that any other action would need to be done in order to amend anything that we had done.

There were no payroll taxes withheld from Council Member Kinney's checks because it was her intent to accept a 1099 at the end of the year. Because of the quandary we were left in by our former clerk, we contacted the League of Cities and asked for assistance from their clerk mentor program. A clerk mentor did in fact come to help us, and she assisted with the quarterly tax returns. The clerk mentor prepared the tax returns and Council Member Kinney was advised to submit the reports at the appropriate time and because the clerk mentor was not aware that Council Member Kinney was accepting a 1099 form there was a tax withholding error that occurred which you have mentioned in your report. It was discussed in a regular Council meeting following the release of the information by the private auditing firm and was decided that the Council would not attempt to collect these funds back from Council Member Kinney. Council Member Kinney did not participate in the discussion due to the fact that the outcome would benefit her.

In the future, should this situation arise again, the Council will make sure that the appropriate motions and votes are carried out to name a clerk replacement, set wages and be documented accordingly in the minutes.

Although the Council has previously agreed to not attempt to collect the unpaid portion of the taxes in regards to Council Member Kinney's pay, Council Member Kinney has made the offer to re-pay these amounts to the City.

Conclusion – Response acknowledged. The City should require reimbursement of Council Member Kinney's share of tax paid by the City of \$148.70. If the City Council declines to require reimbursement, Council Member Kinney's W-2 should be amended and refiled to reflect this additional compensation and Council Member Kinney should consider the necessity of filing amended tax returns.

(C) Water Superintendent – Christopher Kinney, Water Superintendent, received additional pay on several occasions during calendar year 2004, as follows:

<u>Date</u>	<u>Purpose</u>	<u>Amount</u>
March 7, 2004	Snow removal	\$ 188
April 4, 2004	Snow removal	37
June 6, 2004	Water reconnects	30
August 1, 2004	Water reconnects	10
November 7, 2004	Snow plow maintenance	90
December 5, 2004	Snow plow maintenance	<u>15</u>
Total		<u>\$ 370</u>

These additional payments were not recorded as payroll and no taxes were withheld for these payments. In addition, Social Security taxes totaling \$74.40 for the two pay periods were not withheld from Mr. Kinney's payroll checks for the periods ended January 4 and January 30, 2004.

According to Council minutes dated November 7, 2004, "Snow plow driver position was discussed. Applicants to be interviewed by Kennedy and Kinney. Motion made by Kempf, second by Kinney to offer the job to the qualified applicant approved by Kennedy and Kinney at a rate of \$15 per hour." According to Council minutes dated December 5, 2004, "It was reported that Mayor Kennedy had hired Rob Cox and Chris Kinney to drive the snow plow truck at a wage of \$15 per hour." However, the minutes did not document approval for additional services performed by Mr. Kinney for water reconnects or snow plow maintenance.

Recommendation – In the future, the Council should approve extra duties and additional compensation to employees. In addition, the City should report additional compensation as payroll. IRS form SS-8 for “Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding” should be submitted by the City or employee if determination of independent contractor is desired. In the absence of an IRS determination pursuant to IRS form SS-8, the City should withhold tax, as required.

We were unable to determine the propriety of the W-2 issued to Mr. Kinney. The City should seek reimbursement of \$74.40 from Mr. Kinney for the employee’s share of taxes paid by the City and consult legal counsel to determine the disposition of this matter.

Response – The additional duties were those assigned by the Mayor which was covered in the job description that was given to Mr. Kinney during his employment. The description reads “and all other duties as assigned by the Mayor and/or Council”. The Mayor, LaDonna Kennedy, asked Mr. Kinney to perform the routine snow plow maintenance. This issue was discussed and the motion made and approved for Chris Kinney to perform snow plow maintenance the next year at the November 6, 2005 City Council meeting. The snow removal was a position which Mr. Kinney was appointed by the Mayor and this was voted on by the Council. The previous city ordinance stated that when the \$25.00 water re-connect fee was collected to re-instate water service, that \$10.00 of that amount be paid to the Water Superintendent. This was inadvertently left out of our current ordinance when it was re-written.

The issue with Mr. Kinney’s tax withholdings is the same as the issue with Council Member Kinney’s. Former Council Member Robert Kempf made the suggestion that because it was a mistake of the City, that the Council should not pursue reimbursement. The Council agreed that if Mr. Kinney could produce a copy of this completed W-4 form for that year, that the City would then correct their error in not withholding enough taxes. To expedite the process, the paperwork was turned in to the City Clerk prior to the next month’s formal meeting. Based on the information that was provided to the City Clerk, Mayor Kennedy directed Mr. Kinney to have his W-2 prepared by his accountant so that it would be correct for him to file his taxes. The City Clerk was then instructed to file the appropriate corrected documents with the IRS. It has since been brought to the attention of the City Council that this process was not completed. The forms submitted by the City were incorrect and Mr. Kinney made a claim with the IRS to this effect. Mr. Kinney specifically filled out his W-4 form to have an additional amount withheld and because it was not kept on file in the City records, his withholdings were incorrect. Mr. Kempf stated that because Mr. Kinney was able to prove that his W-4 showed (he had retained a photo copy for his records), that the City was in fact responsible for the amounts. Although the City decided not to pursue recovery of these funds, Mr. Kinney has made the offer to re-pay this amount to the City.

Conclusion – Response acknowledged. The City’s ordinance regarding the re-connect fee and related payment(s) to the Water Superintendent should be reviewed and revised if the Council wishes to make additional payment(s) to the Water Superintendent. Additional payments should not be made until this issue has been reviewed and approved by the City Council. Additional payments, if approved, should be processed through the City’s payroll, be subject to withholdings and be reported on the Water Superintendent’s W-2.

The City should require reimbursement of the Water Superintendent’s share of social security tax paid by the City of \$74.40. If the City Council declines to require reimbursement, the Water Superintendent’s W-2 should be amended and refiled to reflect this additional compensation and Mr. Kinney should consider the necessity of filing amended tax returns.

- (D) Missing Deposits – The City identified certain receipts from the December 2003 and February 2004 water billings and two other miscellaneous receipts totaling \$1,596 which could not be traced to deposit. Based upon our understanding, the interim City Clerk, Council Member Kinney, represented the deposits were mailed to the bank but were never received by the bank. During the fiscal 2004 audit, the CPA firm reviewed the missing utility deposits totaling \$1,596. However, no finding was included in the fiscal 2004 audit. According to the City, the CPA firm recommended the City should refrain from mailing deposits in the future, attempt to recover the missing amounts and write-off any remaining uncollected amounts.

Two recorded payments for water bills for Christopher and Jackie Kinney could not be traced to a deposit with the bank. Specifically, according to the City's customer billing ledger, the December 2003 water bill totaling \$106.38 was paid on December 7, 2003 and the February 2004 water bill totaling \$110.33 was paid on March 5, 2004. These payments could not be traced to the bank deposits. According to the City Clerk, Council Member Kinney represented she made the December 7, 2003 payment with cash. According to deposit slips for the month of December, no deposits reflected cash amounts consistent with the amount of this payment. Also, according to the City Clerk, Council Member Kinney represented she issued a check for the February 2004 water bill totaling \$110.33 and subsequently reissued a check to the City in March 2005 for \$110.33 less the \$75 water deposit, or a net amount of \$35.33. The City also received payment in March 2005 from Washington Township for \$191.76 for its missing payment. The City has not collected any additional payments from these missing deposits.

Recommendation – The City should implement procedures to reconcile payments to deposits on a timely basis to help ensure all payments are received and deposited with the bank. Deposits should not be mailed to the bank. The Council should review and determine whether additional collections may be feasible and formally approve amounts, if any, for write-off. The City should consult legal counsel to determine the disposition of this matter.

Response – Again we run into the quandary that we were left in due to the unexpected and lengthy absence of the City Clerk. All Council members, including the Mayor, were doing all they could at the time to keep the City running as smoothly as possible. Each person on the Council was accepting deposits, picking up the mail, checking phone messages and any other duties that they could in an effort to not allow things to get behind. The City Council as a whole made the decision after the initial audit results were released to write off any amount that was not collected after a recovery attempt was made. The amounts that are considered missing during the month of December were transactions that were handled by the former Clerk and the Council has no knowledge of the whereabouts of any of those amounts. The City had no formal billing program at this time, and the billing ledger was something that was invented and used by Ms. Smith. When it was clear that Ms. Smith was not going to return right away to her employment, the City sent her a certified letter advising here that if she did not contact the City within a certain number of days, her position would be considered a voluntary termination. This was the final outcome as we did not hear from her. Be advised; however that by the time this event took place it was nearing March 1, 2005. We feel that based on events that happened between Ms. Smith's departure somewhere around 5 – 7 days before Christmas 2004 and the beginning of March 2005 it is impossible to determine the whereabouts of these monies. It was brought to the Council's attention after her voluntary termination that Ms. Smith's spouse had been in possession of her keys to City buildings during her entire absence and had been seen on several occasions coming and going from the Library and City Hall at various hours and essentially anytime he saw fit. Ms. Smith was present for the December 2003 meeting and was still employed and working until approximately December 20th, 2003.

These keys were not returned to the City until sometime after March 1, 2005. The librarian has also since made the Council aware of the fact that it is her belief that former City employees and Council Members to this day still have keys to the former City Hall building. Many of the missing deposits were allegedly left in the Library's book drop box, which is an open space and available to anyone inside the Library. Upon the Clerk's voluntary termination, the Council made arrangements to meet and clean the disaster area that was left by the former Clerk. There were papers on the floor, burned cigarettes and overflowing ashtrays in desk drawers and all kinds of other messes. It was even stated that if any monies or checks were laying on the desk at the time of cleaning that it was even possible that these items could have been swept away in the trash. Ms. Smith was mailing deposits to the bank in Perry. Council Member Kinney had also given deposit envelopes to then Council Member Allen for her to mail to the bank as well. It is impossible 2 years later to remember if the missing items were in those deposits. Because of the confusion, it is impossible for us to even know if the amounts that were claimed to be paid in cash were even paid to the City. The missing cash deposit for the Kinney's in December 2004 was paid out of Council Member Kinney's annual Council pay check and she was issued a receipt. She has not however; been able to locate this receipt 2 years after the fact.

Although we acknowledge the fact that there were in fact missing monies, it is impossible for us to determine where those might have gone. Considering the number of people that had access to the building, (in excess of 15), we feel that it impossible to track the whereabouts of these amounts. We, the Council, are in total agreement with the initial auditors that there was no criminal activity at all in regards to this particular issue. It was merely a case of it being lost and unable to be accounted for. We have collected that which we could and the Council has previously agreed to write-off the remaining amounts.

Conclusion – Response acknowledged. The City has presented two separate descriptions of Council Member Kinney's water payment. The City should be able to locate the duplicate receipt, if any, written to Council Member Kinney for payment of the water bill. However, if the water payment was withheld from Council Member Kinney's Council pay, as described in the City's response, it is unlikely a receipt would have been written.

The withholding of wages paid from the General Fund for Council pay would result in funds remaining in the General Fund rather than being deposited to the Enterprise Funds for the water payment. If the City determines the water payment was made by withholding Council Member Kinney's Council wages, the City should make a corrective transfer from the General Fund to the Enterprise Funds.

- (E) Expenditure Documentation – We reviewed fiscal 2005 expenditures and noted two payments which did not have supporting documentation, such as an invoice. These included one payment dated September 2, 2004 for \$1,150.00 to Travis Gleim for mowing and one payment dated May 1, 2005 to Kennedy Tree Service for \$80.00 for removal and installation of siren. Upon further inquiry, we determined the payment to Mr. Gleim represented one half of the mowing services pursuant to a bid submitted by Mr. Gleim and approved by the Council on April 4, 2004 with Council Member Gleim abstaining.

Recommendation – The City should ensure all expenditures approved and paid are adequately supported and supporting documentation is maintained on file.

Response – The City will ensure that all expenses approved and paid have an accompanying invoice and that all bids are kept on file for the appropriate amount of time.

Conclusion – Response accepted.

- (F) Fire Station Project – According to Council minutes dated September 19, 2000, the Council “moved to allow the fire department to raise funds for new fire building.” According to information provided by the City, the Association sent a letter to solicit funds as the “fundraising group for the Jamaica Fire Department and Jamaica Responders” with a goal “to raise \$40,000 so that we can assist the City of Jamaica in building this new station.” The fundraising letter was signed “Members of the Jamaica Fire Department and Jamaica Responders,” not by the Association, although the Association maintained the funds and donations for the project.

According to minutes dated August 4, 2002, Bob Kempf was present to report for the Fire Department. The minutes state, in part, “He handed out proposed plans and initial estimates for the new firehouse. When they get closer to an actual building date, he will get more formal bids and present them to Council.” Also, according to Council minutes dated January 5, 2003, “The department will be holding a meeting to examine bids for the new firehouse so that they will be ready to proceed in the spring.”

Council minutes dated October 6, 2002 document approval of the following motion: “Kennedy moved that the Fire Department be given permission to start construction on the new firehouse to be built on lot 1. The expenditures will be paid out of the fire department’s building fund first, and the City will then contribute a maximum amount of \$15,000. The \$15,000 will be made up of the fire department CD (certificate of deposit) held by the City and the City will make up the difference.”

According to an undated memo from former City Clerk Pam Smith to the City Council Members:

“Bob Kempf clarified the new firehouse situation for me. To be in compliance with state law we have to amend the motion made at the October 6, 2002 meeting. The money that was promised for construction has to be donated to the Jamaica Emergency Service Association, Inc. We also need to lease lot 1 to the same entity for \$1.00 per year for five years. This way the property remains in the City’s possession and no hearing is required. The Association handles all bids, construction, insurance, and utilities. The City has no liability and doesn’t have to be involved in the bid process.”

The City’s donation of \$15,000 was given to the Jamaica Emergency Services Association, Inc., (Association), a private nonprofit organization organized pursuant to Iowa Code Chapter 504. Although the Council approved the donation, the minutes did not document the approval of the donation to the Association or address public purpose criteria consistent with Article III, Section 31 of the Constitution of the State of Iowa and an April 25, 1979 opinion of the Iowa Attorney General. The donation was used towards the cost of constructing a new fire station on City-owned land leased to the Association.

According to Council minutes dated February 2, 2003, “Bob (Kempf) said his department received 6 bids for the new building and that Lake Lumber and Meechum Building were the winners.” The minutes did not document and we were unable to determine whether the Council reviewed and approved the bids prior to construction. Although the Council minutes referred to “bids” and “estimates”, the competitive bidding requirements of Chapter 384 of the Code of Iowa for this public improvement appear to have been circumvented and sales tax on the cost of construction of this public improvement was likely paid by the Association.

According to Council minutes dated May 4, 2003, Bob Kempf with the Association reported “the Jamaica Emergency Services Association, Inc. not the Fire Department is building the building. The donation made by the City is to this nonprofit corporation and that the City needs to amend the minutes to reflect this.”

The City held a public hearing on June 1, 2003 to “discuss the new fire station.” According to the minutes for that meeting:

“This lease states the property known as lot 1, Jamaica Park is leased to the Association for the purpose of building a modern fire station. Upon completion of the fire station, the property will revert to the City with all improvements at no cost to the City. The City has no liability or insurance responsibility for this property until such time as it is returned to the City at the end of the lease.”

Discussion also included the funding, insurance and the necessity of a new fire station. The Council approved a motion to sign the lease agreement with the Association, but did not pass a formal resolution pursuant to Chapter 364 of the Code of Iowa and did not amend the minutes to approve a donation to the Association. We could not determine whether the City complied with the notice and publication requirements of Chapter 362.3 and Chapter 364 of the Code of Iowa.

Chapter 364.7 of the Code of Iowa states in part:

“A city may not dispose of an interest in real property by sale, lease for a term of more than three years, or gift, except in accordance with the following procedure:

1. The Council shall set forth its proposal in a resolution and shall publish notice as provided in section 362.3, of the resolution and of a date, time and place of a public hearing on the proposal.
2. After the public hearing, the Council may make a final determination on the proposal by resolution.

Recommendation – Pursuant to Article III, Section 31 of the Constitution of the State of Iowa, public funds may only be spent for the public benefit. According to an Attorney General’s opinion dated April 25, 1979, it is possible for certain expenditures to meet the test of serving a public purpose under certain circumstances, although such items will certainly be subject to a deserved close scrutiny. The line to be drawn between a proper and an improper purpose is very thin.

The City should consider these requirements and determine and document the public purpose served before authorizing payments of public funds to private nonprofit organizations. We were unable to determine the propriety of the donation or compliance with Chapters 364 and 384 of the Code of Iowa.

The City should consult legal counsel to determine the disposition of this matter.

Response – The City did not believe that there was any wrongdoing in respect to this issue. All documentation and records for this project were discussed, reviewed and prepared by the then City Attorney, Jeff Bump. The City and the Association were both represented by the same legal counsel and were advised on how to properly handle every issue on this from start to finish. During the audit performed by the State, we have discovered that this is not the case.

The issue of money being raised by the Association as the Jamaica Fire Department was an error that the Council was not aware of as the members did not present their letter to the City for review prior to mailing. In the future, it will be made clear to all departments that monies collected from fundraisers, donations and other sources will be reported and deposited with the City.

Going forward, the City will take great care to make sure that the competitive bidding process is strictly followed and that any issues in question are discussed with the current City Attorney.

Conclusion – Response accepted.

(G) Status of Fiscal 2004 Audit Findings – The fiscal 2004 audit findings have been resolved, except as follows:

- (a) Segregation of Duties – The City responded “A member of the City Council shall be selected to verify accounting functions.” The City has not taken action to implement this.
- (b) Questionable Expenditures – The City responded “the City Council will establish written policies with parameters so as to avoid misuse of funds.” The City has not established or adopted written policies to address this issue.
- (c) Council Minutes – The City responded “Council minutes will be completed in accordance with the law and salaries will be published.” The City has implemented corrective action for the items noted, except receipts are not summarized by source for publication as required by Chapter 372.13(6) of the Code of Iowa.
- (d) Deposits and Investments – The City responded “the City Attorney will prepare a written policy for the Council to adopt.” The City has not developed a written investment policy.
- (e) Monthly Reconciliations – The City responded “the Council person selected to assist with verification of accounting functions can do this.” As previously noted, the City has not taken action to implement this. Although, monthly reconciliations have been performed in total, individual fund balances are not maintained and reconciliations have not been performed by individual fund.
- (f) Payroll – The City responded “the City will adopt the recommendations.” According to the City Clerk, the librarian payroll is now accounted for by the City in a separate bank account but is still reported to the IRS under a separate Federal identification number.
- (g) Accounting Manual – The City responded “the City will adopt the recommendations and have a completed manual by June 30, 2005.” An accounting manual has not been completed.
- (h) Business Transactions – The business transactions disclosed in the fiscal 2004 report did not appear to represent conflicts of interest pursuant to Chapter 362.5(11) of the Code of Iowa since total transactions with each individual were less the \$2,500 during the fiscal year.

During fiscal 2005, the following business transactions between City and City officials or employees were noted:

Name, Title and Business Connection	Transaction Description	Amount
LaDonna Kennedy, Mayor, Spouse of Randy Kennedy, Kennedy Tree Service	Tree removal, per bid Removal and installation of siren	\$ 2,500 80
Darcy Gliem, Council Member, Spouse of Travis Gliem	Mowing, per bid Mowing Service call	1,150 180 35
Donna McNeill, Council Member, Spouse of Marion McNeill, Brother-in-law is Charles McNeill	Snow removal Snow removal	225 480

In accordance with Chapter 362.5(11) of the Code of Iowa, these transactions do not appear to represent conflicts of interest since the total transactions with each individual did not exceed \$2,500 during the fiscal year or were competitively bid.

Recommendation – The City should continue to address and resolve these findings and recommendations noted in the fiscal 2004 audit report, as well as the findings and recommendations noted in this reaudit report. Corrective action should be documented in the Council minutes to acknowledge and disclose the City’s efforts to correct these issues.

Response – Going forward, the City will make sure to be in compliance and in accordance with State law and the Code of Iowa. The City will continue to work toward resolution of these items and will have the remaining items addressed and fully resolved.

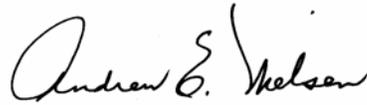
Conclusion – Response accepted.

City of Jamaica

Staff

This reaudit was performed by:

Susan D. Battani, CPA, Director
Joe T. Marturello, CIA, Manager
Paul F. Kearney, CGFM, Senior Auditor
Rick Reeves, Assistant Auditor

A handwritten signature in black ink that reads "Andrew E. Nielsen". The signature is written in a cursive style with a large initial 'A' and 'N'.

Andrew E. Nielsen, CPA
Deputy Auditor of State