



OFFICE OF AUDITOR OF STATE
STATE OF IOWA

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NEWS RELEASE

FOR RELEASE

September 14, 2020

Contact: Ernest Ruben
515/281-5834

Auditor of State Rob Sand today released an agreed-upon procedures report on the City of Mallard, Iowa for the period July 1, 2018 through June 30, 2019. The agreed-upon procedures engagement was performed at the request of petitioners pursuant to Chapter 11.6(3) of the Code of Iowa. The petition submitted requested an audit or examination. In accordance with Chapter 11.6(3) of the Code of Iowa, the Auditor of State determined an examination was appropriate to address the petitioner's concerns.

Sand reported eight findings related to the receipt and disbursement of taxpayer funds. They are found on pages 7 through 12 of this report. The findings address issues such as the lack of segregation of duties, errors in billing of utilities, no lease agreement or rent being collected for a City owned building, loss of grant money due to failure to file required reports and certain questionable disbursements. Sand provided the City with recommendations to address each of the findings.

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.

A copy of the agreed-upon procedures report is available for review on the Auditor of State's web site at <https://auditor.iowa.gov/reports/audit-reports/>.

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CITY OF MALLARD
AUDITOR OF STATE'S INDEPENDENT REPORT
ON APPLYING AGREED-UPON PROCEDURES
FOR THE PERIOD
JULY 1, 2018 THROUGH JUNE 30, 2019

City of Mallard



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September 10, 2020

Officials of the City of Mallard
Mallard, Iowa

Dear Honorable Mayor and Members of the City Council:

I am pleased to submit to you the agreed-upon procedures report for the City of Mallard, Iowa, for the period July 1, 2018 through June 30, 2019. The agreed-upon procedures engagement was performed pursuant to Chapter 11.6(3) of the Code of Iowa and in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards for attestation engagements contained in Government Auditing Standards.

I appreciate the cooperation and courtesy extended by the officials and employees of the City of Mallard throughout the agreed-upon procedures engagement. If I or this office can be of any further assistance, please contact me or my staff at 515-281-5834.

Sincerely,

A handwritten signature in black ink that reads "Rob Sand". The signature is stylized and cursive.

Rob Sand
Auditor of State

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City of Mallard

Officials

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
James Gehrt	Mayor	Jan 2022
Glen Simonsen	Council Member	(Resigned March 2019)
Troy Auten (Appointed April 2019)	Council Member	Nov 2019
Tara Hoch	Council Member	Jan 2020
Amy Thompson	Council Member	Jan 2022
Andy Wiita	Council Member	Jan 2022
Jerry Schuller	Council Member	Jan 2022
Becky Larson	City Clerk	Indefinite
Don Beneke	Attorney	Indefinite



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Auditor of State's Independent Report on Applying Agreed-Upon Procedures

To the Honorable Mayor and Members of the City Council:

We received a petition requesting an audit or examination (i.e., agreed-upon procedures) of the City of Mallard in accordance with Chapter 11.6(3) of the Code of Iowa. Pursuant to Chapter 11.6(3) of the Code of Iowa, the Auditor of State determined an examination was appropriate to address the petitioner's concerns. Accordingly, we have applied certain procedures to selected accounting records and related information of the City of Mallard for the period July 1, 2018 through June 30, 2019, including procedures related to the City's compliance with certain Code of Iowa requirements identified below. The City of Mallard's management, which agreed to the performance of the procedures performed, is responsible for compliance with these requirements and for the City's records.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards for attestation engagements contained in Government Auditing Standards, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

The procedures we performed are summarized as follows:

1. We observed selected City Council meeting minutes for compliance with Chapters 21 372.13(6) and 380 of the Code of Iowa.
2. We obtained an understanding of the City's internal controls to determine if proper control procedures are in place and incompatible duties, from a control standpoint, are not performed by the same employee.
3. We traced selected receipts to accurate accounting and determined whether proper.
4. We traced selected disbursements to proper approval, adequate supporting documentation, accurate accounting and compliance with the public purpose criteria established by Article III, Section 31 of the Constitution of the State of Iowa.
5. We traced selected payroll and related transactions to proper authorization, and accurate accounting and determined whether proper.
6. We observed the annual certified budget for proper authorization, certification, and timely amendment.
7. We observed potential component units of the City to determine if they are a department of the City. We traced City funds to subsequent disbursement and determined whether proper.
8. We traced capital projects for compliance with Chapter 26 of the Code of Iowa.
9. We observed utility system ordinances and utility bills to determine proper rates were charged and customer payments were accurately recorded.

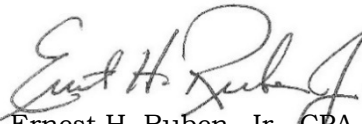
10. We observed business transactions which may represent conflicts of interest for compliance with Chapter 362.5 and 362.6 of the Code of Iowa.

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

We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on specific accounting records and related information of the City, including compliance with specific Code of Iowa requirements. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures; other matters might have come to our attention that would have been reported to you.

The purpose of this report is to report, in accordance with Chapter 11.6 of the Code of Iowa, certain agreed-upon procedures and the resulting findings and recommendations pertaining to selected accounting records and related information of the City, including the City's compliance with certain Code of Iowa requirements. This report is not suitable for any other purpose.

We would like to acknowledge the many courtesies and assistance extended to us by personnel of the City of Mallard during the course of our agreed-upon procedures engagement. Should you have any questions concerning any of the above matters, we shall be pleased to discuss them with you at your convenience.



Ernest H. Ruben, Jr., CPA
Director

September 10, 2020

Detailed Findings and Recommendations

City of Mallard

Detailed Findings and Recommendations

For the period July 1, 2018 through June 30, 2019

(A) Segregation of Duties – Management is responsible for establishing and maintaining internal control. A good system of internal control provides for adequate segregation of duties so no one individual handles a transaction from its inception to completion. In order to maintain proper internal control, duties should be segregated so the authorization, custody and recording of transactions are not under the control of the same employee. This segregation of duties helps prevent losses from employee error or dishonesty and maximizes the accuracy of the City’s financial statements. Generally, one individual has control over each of the following areas:

- (1) Cash – handling, reconciling and recording.
- (2) Receipts – opening mail, collecting, depositing, recording, reconciling and posting.
- (3) Disbursements – purchasing, invoice processing, check writing, mailing, reconciling and recording.
- (4) Payroll – recordkeeping, preparing and distributing.
- (5) Utilities – billing, collecting, depositing and posting.
- (6) Financial reporting – preparing and reconciling.
- (7) Journal entries – preparing and recording.

Recommendation – We realize segregation of duties is difficult with a limited number of employees. However, the City should review its control procedures to obtain the maximum internal control possible under the circumstances utilizing currently available staff, including elected officials. Independent reviews of reconciliations should be documented by the signature or initials of the reviewer and the date of the review.

(B) City Council Meeting Minutes – Chapter 21.3 of the Code of Iowa requires the City Council to keep minutes of all its meetings showing the date, time, and place, the members present, and the actions taken at each meeting. We noted one instance in the January 14, 2019 published minutes where an action taken on a nuisance matter at the City Council meeting per the Clerk’s record of the minutes was excluded from the published minutes.

Chapter 372.13(6) of the Code of Iowa requires minutes of all City Council proceedings be published within fifteen days of the meeting. For two of twenty meeting minutes observed, there was no evidence the minutes were published.

Chapter 21.4 of the Code of Iowa states “a governmental body shall give notice of the time, date, and place of each meeting...and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information.” In addition, the Code of Iowa states “When it is necessary to hold a meeting on less than twenty-four hours’ notice, ... the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.” During the April 8, 2019 meeting, the agenda was amended to include a closed session under Chapter 21.5(g) of the Code of Iowa. Per discussion with City personnel, the issues discussed in the closed session were not of an emergency nature, and the City Council voted to table the matter after emerging from closed session. Therefore, amending the agenda during the meeting to include the closed session without documenting good cause justification, violates the requirement for twenty-four-hour notice for the closed session.

City of Mallard

Detailed Findings and Recommendations

For the period July 1, 2018 through June 30, 2019

Recommendation – The City should ensure published minutes represent the City Council meeting as required. Also, the City should maintain proof of publication of all minutes, as required. In addition, to improve transparency and comply with the twenty-four-hour notice requirement of Chapter 21.4 of the Code of Iowa, meeting agendas should not be amended, except as allowed by the Code of Iowa.

- (C) Friends of Mallard and Special Clean Up Fund – Friends of Mallard and The Special Clean Up Fund committees donated funds to the City to be used for future community events, fundraisers and special community projects. On December 16, 2016 and January 9, 2017, the City Council passed resolutions on the use of the funds. The resolutions allowed the committees to continue to promote and plan annual events and authorized the City Clerk to set up separate checking accounts with the donated funds. The City Council authorized the City Clerk to maintain the accounts with help from committee members. The committees are required to report to the City Council at budget time and at fiscal year-end and to keep them informed of events and projects. The City Council authorized the committees to use the funds without prior City Council approval if they do not over spend the accounts.

Bank reconciliations were not performed for the Friends of Mallard and Special Clean Up Fund accounts. In addition, the committees did not report to the City Council bi-annually, as required.

Also, in addition to the City Clerk, the Special Clean Up Fund account has two additional authorized signers, the City's former public works employee and the Mayor. The account was established prior to the employee's retirement and the retired employee continues to deposit money from can donations into the account. Although the current Public Works Director transports the cans to the redemption center, the retired Public Works Director continues to receive the checks from the redemption center.

The Friends of Mallard and Special Clean Up Fund Committees are paying the construction costs for a building to house the mail cluster boxes for the community. Both accounts are under the City's control, however, there is no evidence that City Council approved the building project. The City has not contributed any other funds to the project.

Recommendation – The City should remove the retired employee as an authorized user on the City bank account and should not allow the retired employee to collect and deposit donations into the account. Only current employees of the City and designated City Officials should have access and responsibility for the account. The City Clerk should account for the Special Clean Up Fund and the Friends of Mallard along with the City's funds and should include it in the budget as it is considered a fund of the City. All bank and investment account balances should be reconciled to total fund balances per the general ledger and variances should be resolved timely. An independent person should review the reconciliations and document the review by signing or initialing and dating the monthly reconciliations. Members of both committees should be appointed by City Council and the committees should report bi-annually to the Council, as required. All disbursements and projects should be approved by City Council.

City of Mallard

Detailed Findings and Recommendations

For the period July 1, 2018 through June 30, 2019

- (D) Separately Maintained Records – Two City Council members established a group called the Friendly Ducks which consists of the Council members, Mayor and members of the public. A separate bank account is maintained for the activities of the Friendly Ducks. The City was unable to provide documentation as to how or whether the Friendly Ducks were officially established as a legally separate organization. Accordingly, as there is no evidence a separate legal entity was established and the City Council members have control over the organization, the Friendly Ducks are considered a part of the City.

The Friendly Ducks was awarded a grant totaling \$72,525 through the Palo Alto Gaming Development Corporation to build a splash pad in the City Park. As the Friendly Ducks are not a 501c3 organization or governmental entity, the City Council was required to sponsor the Friendly Ducks as a condition of receiving grant funds. The resolution to sponsor the Friendly Ducks was approved in December 2017. This grant was received by the City of Mallard and passed through to the Friendly Ducks.

Chapter 384.20 of the Code of Iowa states, in part, “A city shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any city purpose, by any city officer, employee, or other person, and which show the receipt, use, and disposition of all city property.”

The Friendly Ducks maintains a bank account for activity separate from the City Clerk’s accounting records. While this organization is considered part of the City, the transactions and the resulting balances were not included in the City’s accounting records and were not included in the City’s annual budget, monthly financial reports or Annual Financial Reports.

Disbursements from the account were not reviewed and approved by the City Council before disbursements occurred. A summary of the account’s receipts, total disbursements and the listings of claims allowed each month were not published in accordance with Chapter 372.13(6) of the Code of Iowa.

In addition, the City paid \$19,381 in February 2019 for the splash pad construction. This disbursement was not approved by City Council.

Recommendation – In accordance with Chapter 384.20 of the Code of Iowa, in order to strengthen internal control and increase operating efficiencies, the financial transactions of the Friendly Duck’s separate account should be integrated with the City’s accounting records in the City Clerk’s office. The financial activity should be included in the City Clerk’s accounting records, monthly financial reports and the Annual Financial Reports. The activity in these accounts should be subject to City Council review and approval before disbursements occur and should be included in the City’s budget process. Also, a summary of each account’s receipts, total disbursements and listings of claims allowed each month should be published, as required. All disbursements should be approved by the City Council.

City of Mallard

Detailed Findings and Recommendations

For the period July 1, 2018 through June 30, 2019

(E) Utilities – Utility service fees and charges are set by City Council ordinances. We observed the City utility ordinances and customer utility billings and noted the following:

- (1) Per the City's sewer ordinance, the minimum sewer charge to customers is \$13.00, for the first 3,000 gallons based on water used. However, during the period reviewed, a minimum bill of \$11.00 was charged to all City customers.
- (2) Per the City's sewer ordinance, the sewer rate is \$7.00 for each 1,000 gallons over 3,000. However, sewer customers were charged at a rate of \$0.60 for each 1,000 gallons over 3,000.
- (3) Per the City's water ordinance, the basic service charge for water is \$12.50 each month, however, customers were charged \$15.50 each month.
- (4) Per the ordinance in effect from October 2015 through fiscal year 2019, the garbage fee was \$14.50 each month for residential premises. For commercial, industrial, and institutional premises the fee was \$35.00 per month for dumpsters. However, during the period reviewed of July 2018 through June 2019, residential and commercial, industrial and institutional customers were charged \$25.50 per month.

In addition, some commercial premises were charged an additional fee, varying from \$30 to \$126, each month for a dumpster and a cart. These additional fees were not established by ordinance as required by Chapter 384.84 of the Code of Iowa.

In June 2019, the City Council approved reimbursing \$420 to each of the commercial customers who were overcharged. The \$420 reimbursement was calculated at \$20 per month for 21 months which covered the time from when the City began contracting out garbage collection and disposal. There was no documentation to support the \$20/month reimbursement.

- (5) A new City ordinance for garbage fees went into effect for fees billed June 2019 and due July 2019. The schedule of fees for solid waste collection and disposal service, used or as available are as follows:
 - A. For each residential premise and for each dwelling unit of multiple-family dwelling -- \$20.00.
 - B. For commercial, industrial and institutional premises 1½ yard dumpster \$63.00 per month, and 2-yard dumpster \$78.00 per month, and cardboard dumpster \$30.00 per month.
 - C. Garbage Fee \$10.00.

It is unclear what the purpose of the \$10.00 garbage fee is as fees are established in A. and B. above. We could not locate any evidence of discussion in the minutes of the purpose of the additional garbage fee. Per discussion with City personnel, the \$10.00 garbage fee is to cover the costs associated with maintaining the various recycling bins available to residents at City Hall.

In addition, after the new ordinance took effect, customers were charged the additional garbage fee at a rate of \$10.50 rather than the \$10.00 established by ordinance and certain commercial customers were charged the \$10.50 twice for June 2019.

City of Mallard

Detailed Findings and Recommendations

For the period July 1, 2018 through June 30, 2019

- (6) New customers are required to pay a utility deposit of \$150. We scanned customer utility billings and noted one commercial customer was not required to pay a deposit. The City was unable to provide an explanation for not assessing the required deposit.

Recommendation – The City should ensure proper rates are billed to customers in accordance with ordinances. The City should modify the current garbage fee ordinance to clarify the purpose of the additional garbage fee of \$10.00. An independent person should review the rates entered into the system periodically and when rate changes occur to ensure the proper rates are used to calculate utility billings. The City should consult legal counsel to determine the disposition of this matter, including whether refunds should be made to all customers for amounts overcharged. Reimbursements, if any, should be supported by documentation clearly showing how the reimbursements were determined. Also, the City should ensure deposits are paid by all customers as required by the City ordinance.

- (F) City Building – A local business rents space in a City owned building previously occupied by the City Library. According to discussions with City personnel, the tenant is the sister-in-law of one of the City Council members. At the March 11, 2019 City Council meeting, the City approved rent of \$50 each month and the tenant would pay electricity if it exceeded \$25. The City did not document the fair value basis for establishing the monthly rent and electricity reimbursement.

We scanned the City accounting records and did not identify any rent payments received for this space. Through discussions with City personnel and City Council members, the local business has not paid rent to the City.

Renting the City owned space to the City Council member's sister-in-law may represent a conflict of interest in accordance with Chapter 362.5 of the Code of Iowa. This section states "A city officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the officer's or employee's city."

Also, in accordance with Article III, Section 31, of the Iowa Constitution and an Attorney General's opinion dated April 25, 1979, public funds and property may only be spent/used for public benefit. The City did not document, and it is unclear how providing rent-free space or rent at less than fair value to a local business benefits the public.

In addition, a formal lease agreement spelling out the terms of the arrangement, including the monthly rent and utilities, was not prepared and signed by both parties to the agreement.

City of Mallard

Detailed Findings and Recommendations

For the period July 1, 2018 through June 30, 2019

Recommendation – The City should consult legal counsel to determine the disposition of the potential violation of the conflict of interest provisions of Chapter 362.5 of the Code of Iowa and the public purpose criteria of the Iowa Constitution, including seeking reimbursement of past and current unpaid rent at an amount determined to represent fair value.

If the lease is continued, the City should document and charge a fair value rent for the space or clearly document the public benefit of leasing to a local business at an amount less than fair value. The City should also prepare and sign a formal lease agreement with the tenant, detailing the terms of the lease and consequences for lack of compliance with the terms by any party to the lease. The City should also ensure all rent payments required by the agreement are paid.

- (G) Questionable Disbursements – In accordance with Article III, Section 31 of the Iowa Constitution and an Attorney General’s opinion dated April 25, 1979, public funds may only be spent for public benefit. Certain disbursements were noted which we believe may not meet the requirements of public purpose as defined in the Attorney General’s opinion since the public benefits to be derived have not been clearly documented. These disbursements are detailed as follows:

The City paid health insurance premiums totaling \$11,530 from April to August 2019 for an employee who retired in March 2019. Per discussion with City personnel, the City continued to need the services of the retired employee until a new employee could be hired and trained. As a result, the City verbally agreed to pay health insurance premiums for the retiree through June 2019. Insurance premiums were paid through August 2019, however the retired employee verbally agreed to reimburse the City for July and August health insurance premiums and reimbursement of \$4,612 was received by the City in December 2019. The City ultimately paid \$6,918 in insurance premiums for the retired employee.

There was no evidence the City Council approved paying the retired employee’s health insurance premiums after retirement and the City doesn’t have a policy regarding payment of insurance for retired employees. In addition, the insurance paid on behalf of the retired employee represents compensation to that individual but was not subject to payroll taxes.

The City also paid \$250 for the retired employee’s new cell phone and two months of cell phone service. The amount paid for two months of cell phone service and a new cell phone totaled \$435. It is unclear how these costs meet the requirements of public purpose.

Recommendation – The City should consult legal counsel to determine the disposition of the insurance premiums and cell phone costs, including seeking reimbursement. Future consideration of similar disbursements should be clearly documented, including the public benefit, and approved in the City Council meeting minutes. The City should also consult the Iowa Department of Revenue, IPERS and the Internal Revenue Service regarding the unpaid payroll taxes on the compensation paid to the retired employee.

City of Mallard

Detailed Findings and Recommendations

For the period July 1, 2018 through June 30, 2019

- (H) Casino Grant – The City received a City Award grant from the Palo Alto Gaming Development Corporation (PAGDC) in March 2018 for \$18,000. Per the terms of the signed grant agreement, the City agreed to complete 2017 grant cycle projects and file the 2017 final grant report by December 31, 2018 or file a grant extension request by December 1, 2018. The City did not file the final grant report with the PAGDC by December 31, 2018 or the required grant extension request. In February 2019, the PAGDC requested the funds be returned immediately and notified the City that it may not be eligible for future grant funding. The City repaid the \$18,000 grant in May 2019.

Recommendation – The City should ensure grant requirements are met to avoid similar repayment of grant funds in the future.

- (I) Petition for Examination – Except as noted above, all items in the petition for examination have been resolved.

City of Mallard

Staff

This engagement was performed by:

Ernest H. Ruben, Jr., CPA, Director
Lesley R. Geary, CPA, Manager
Micaela A. Tintjer, CPA, Staff Auditor