



**CITY OF NORTON
SUMMIT COUNTY
SPECIAL AUDIT**

**FOR THE PERIOD
JANUARY 1, 1999 THROUGH DECEMBER 31, 1999**



JIM PETRO
AUDITOR OF STATE

STATE OF OHIO

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**CITY OF NORTON
SUMMIT COUNTY**

SCHEDULE OF ELECTED AND ADMINISTRATIVE OFFICIALS

<u>ELECTED OFFICIALS</u>	<u>TERMS</u>	<u>BOND</u>
Amy L. Addis, Mayor	01/01/00 - 12/31/03	\$25,000
Terry Jones, Mayor	01/01/96 - 12/31/99	\$25,000
Joseph Kernan, Council President	01/01/00 - 12/31/03	
Tom Jones, Councilman Ward 1	01/01/98 - 12/31/01	
Dave Koontz, Councilman Ward 2	01/01/98 - 12/31/01	
William Helmick, Councilman Ward 3	01/01/98 - 12/31/01	
John Conklin, Councilman Ward 4	01/01/98 - 12/31/01	
William Mowery, Councilman at-Large	01/01/00 - 12/31/03	
James Price, Councilman at-Large	01/01/00 - 12/31/03	
<u>ADMINISTRATIVE PERSONNEL</u>		
Joseph Betkoski, Director of Finance		\$100,000 (1)
Claude Collins, Administrative Officer		\$25,000
John Morgan, Former Administrative Officer		\$25,000 (2)

- (1) The Ohio Casualty Insurance Company
(2) Resigned on December 31, 1999

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Report of Independent Accountants

Honorable Mayor Amy Addis
City of Norton
4060 Columbia Woods Drive
Norton, Ohio 44203

Pursuant to your request dated December 20, 1999, we have conducted a "Special Audit" and performed the procedures summarized below and detailed in our "Supplement to the Special Audit Report," which were agreed to by you for the period January 1, 1999 through December 31, 1999 ("the Period"). These procedures were performed solely to determine the purpose and legality of a specific transfer made from the Mayor's Court Computer Fund; whether City policies and procedures relating to employee resignations, employee accrual and usage of compensatory and vacation leave time were complied with respect to a former employee, and; whether City Council followed the administrative procedures described in the City Charter with respect to compensation of the Mayor and Council. This engagement to apply agreed-upon procedures was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the users of the report. Consequently, we make no representation regarding the sufficiency of the procedures discussed below 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 interviewed the Finance Director and reviewed Ordinance No. 93-1998 - "Annual Appropriation Ordinance" for the year ended December 31, 1999 relating to a \$40,000 inter-fund transfer from Fund 025- "Mayor's Court Computer Fund" to the City's "General Fund" to determine the purpose of the transfer and to determine whether the transfer was authorized and permitted under the City Charter and Ohio Law.
2. We reviewed City policies and procedures relating to employee resignations, employee accrual and usage of compensatory and vacation leave time to determine what documentation and authorizations must be obtained and maintained with respect to these areas. We then reviewed personnel and payroll documentation of a former secretary in the Mayor's office, Ms. Cynthia A. Fogle, to determine whether her leave accrual and usage during the period July 13, 1999 through September 8, 1999, and her subsequent resignation complied with policies and procedures.
3. We reviewed the City's Charter to determine what administrative procedures must be followed by City Council with respect to establishing compensation of the Mayor and Council. We reviewed administrative actions taken by City Council in 1999 with respect to compensation of the Mayor and City Council to determine whether the City Charter was followed.

4. On July 31, 2000 we held an exit conference with the following elected officials and administrative personnel of the City:

Amy L. Addis, Mayor
Joseph Betkoski, Director of Finance
Claude Collins, Administrative Officer

The attendees were given five days to respond to this report. The Mayor and Finance Director requested an extension to respond until August 16, 2000. As of August 16th, no response had been received, and so we contacted the Finance Director, and he requested another extension of time until August 25th. On August 23rd, we received a partial response from the Mayor. The Finance Director requested another extension of time until August 30th. During the period August 30th through September 6th, we contacted the Finance Director on three other occasions requesting a complete response from him and the Mayor. On September 7th we received a complete response from the Mayor and Finance Director. Since then, we have received responses from the Finance Director which have been revised as of September 26th and October 10th. All the responses were evaluated and changes were made to the report as considered necessary.

Our detailed procedures and the results of applying these procedures are contained in the attached "Supplement to the Special Audit Report." Because these procedures do not constitute an examination conducted in accordance with generally accepted auditing standards, we do not express an opinion or limited assurance on any of the accounts or items referred to above. Also, we express no opinion on the City's internal control system over financial reporting or any part thereof. Had we performed additional procedures, or had we conducted an examination of the financial statements in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you. This report relates only to transactions relating to the above procedures, and does not extend to any financial statements of the City taken as a whole.

This report is intended for the use of the specified users listed above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. Reports by the Auditor of State are a matter of public record and use by other components of state government or local government officials is not limited.

Jim Petro
Auditor of State

October 10, 2000

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

BACKGROUND

In a letter dated December 20, 1999, Amy Addis, Mayor-Elect of the City of Norton requested a "Special Audit" to:

- ▶ determine whether a transfer from the Mayor's Computer Fund to the General Fund was in accordance with the Ohio Rev. Code;
- ▶ determine the propriety of ten weeks of leave paid to a former secretary in the Mayor's Office during the period July 13, 1999 through September 8, 1999;
- ▶ review the City's Charter and Ordinances concerning compensation, and determine whether the Mayor and City Council members can accept payment for compensation when an ordinance had not been passed since 1993; and
- ▶ review documentation relating expenditures totaling \$30,000 allegedly made for the purpose of assembling and printing 50 books for the City's year end to determine whether the expenditures were appropriately authorized.

Ms. Addis' written request, as well as, additional information obtained during a meeting with Mayor Addis on January 26, 2000, was presented to the Auditor of State's Special Audit Committee on February 1, 2000. The Special Audit Committee voted to initiate a "Special Audit".

On May 1, 2000, and upon further clarification of the issue, the Mayor requested that we not investigate the issue concerning the expenditure of \$30,000 related to the printing of the books. The books which were printed were accounting policy and procedure manuals which are located within the Finance Director's office. Therefore, this issue was excluded from the scope of our special audit.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 1 - Inter-fund Transfer from the Mayor's Court Computer Fund to the General Fund

We interviewed the Finance Director and reviewed Ordinance No. 93-1998 - "Annual Appropriation Ordinance" for the year ended December 31, 1999, relating to a \$40,000 inter-fund transfer from Fund 025 - "Mayor's Court Computer Fund" to the City's "General Fund" to determine the purpose of the transfer and to determine whether the transfer was authorized and permitted under the City Charter and Ohio Law.

Procedures:

1. We reviewed all state and local authority relating to the transfer of funds from the Mayor's Court Computer Fund to the General Fund to determine what procedures must be followed to perform such a transfer.
2. We obtained and reviewed City documents authorizing the \$40,000 transfer from the Mayor's Court Computer Fund to the General Fund.
3. We interviewed the Finance Director to inquire of his knowledge of the specific transaction, the purpose of the transaction, and what documentation was available to support the transaction.

Results

1. We reviewed Ohio Rev. Code Sections 5705.14, 5705.15, and 5705.16, and the City of Norton Charter for provisions relating to this transfer and determined that the Ohio Rev. Code provisions controlled this transaction. Therefore, in accordance with Ohio Rev. Code, City Council is required to file a petition and obtain approval from the Tax Commissioner and Court of Common Pleas prior to making this type of transfer.
2. We reviewed the City of Norton Ordinance No. 93-1998 - "Annual Appropriation Ordinance" for the year ending December 31, 1999. Section 5 of this ordinance authorized the Finance Director to make the necessary and proper transfers as appropriated and described in an attachment to the ordinance. The attachment disclosed a \$40,000 "transfer/reimbursement" from the Mayor's Court Computer Fund to the General Fund. There was no evidence within the ordinance indicating that City Council filed a petition and obtained approval from the Tax Commissioner and Court of Common Pleas prior to approving this "transfer/reimbursement".
3. We interviewed the Finance Director and obtained information relative to the City's \$40,000 "transfer/reimbursement" from the Mayor's Court Computer Fund to the General Fund. According to the Finance Director, the purpose of the transfer was to reimburse costs associated for training court personnel, the purchase of court computer supplies, and other court computer costs paid by the General Fund in previous years. He confirmed that the City did not file a petition and obtain approval from the Tax Commissioner and Court of Common Pleas prior to making this transfer.

We requested the Finance Director provide us with specific invoices and supporting documentation to support the court computer costs which were allegedly paid by the General Fund in previous years. He declined to provide such documentation. We will issue a management comment recommending the Finance Director maintain invoices and related documentation to support all reimbursements from one fund to another.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

In order to corroborate the Finance Director's assertion that the General Fund originally paid the costs associated with computerizing the court in previous years, we contacted the Mayor's Court Clerk, Jim Mitchell. Mr. Mitchell stated that the court was computerized in April of 1997. Mr. Mitchell provided us with payment documentation evidencing that the court's computer system totaling \$19,322 was paid from the Mayor's Court Computer Fund, not the General Fund.

In conclusion, the \$40,000 "transfer/reimbursement" from the Mayor's Court Computer Fund to the General Fund was executed in violation of the Ohio Rev. Code. In addition, the Finance Director's assertion that this transaction was a reimbursement to the General Fund for court computer costs which were originally paid by the General Fund could not be supported. As a result, we are issuing a Finding for Adjustment against the General Fund in favor of the Mayor's Court Computer Fund.

FINDING FOR ADJUSTMENT

Transfer of Funds

Although there is no specific provision in Ohio Rev. Code Chapter 1905 which provides for the collection of court computerization fees by mayor's courts, AOS Bulletin 97-019 interprets the Chapter to mean that mayor's courts, like municipal and common pleas courts, may collect computerization fees. The Bulletin provides guidance in applying Ohio Rev. Code provisions governing computerization funds, to mayor's courts, and specifically applies the provisions of Ohio Rev. Code Section 1901.261 to mayor's courts within the jurisdiction of a municipal court.

The Barberton Municipal Court has jurisdiction within the municipal corporation of Norton, pursuant to Ohio Rev. Code Section 1901.02. Ohio Rev. Code Sections 1901.261(B)(1) and authorizes the collection of a filing fee not to exceed \$10, when necessary to computerize the operations of the clerk of a municipal court. It requires that these funds be placed in a separate fund and disbursed in an amount not greater than the actual cost of procuring and maintaining computer systems for the office of the clerk of the court. The City of Norton imposed the fees in the amount of \$10, pursuant to Ohio Rev. Code Section 1901.261(B)(1).

Ohio Rev. Code Sections 5705.14, 5705.15 and 5705.16 establish guidelines pertaining to inter-fund transfers that are not specified as allowable transfers within Ohio Rev. Code Section 5705.14. In certain instances, before an inter-fund transfer can be made, an ordinance of the taxing authority of the political subdivision shall be passed by a majority vote of the governing body and such taxing authority shall prepare a petition to be presented to the Tax Commissioner and the Court of Common Pleas requesting approval for this said transfer.

During the year ended December 31, 1999 and contrary to Ohio Rev. Code Section 5705.14, the City transferred \$40,000 from Fund 025 - "Mayor's Court Computer Fund" - Special Revenue Fund Type to the General Fund without preparing a petition and obtaining approval from the Tax Commissioner and the Court of Common Pleas.

Accordingly, we are issuing a finding for adjustment totaling \$40,000 against the General Fund and in favor of Special Revenue Fund 025 - "Mayor's Court Computer Fund".

In the future, we recommend the City obtain approval from the Tax Commissioner and the Court of Common Pleas in order to legally transfer funds from the "Mayor's Court Computer Fund" to the General Fund.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

MANAGEMENT COMMENT

Supporting Documentation of Reimbursement

City Council authorized the Finance Director to transfer \$40,000 from the Mayor's Court Computer Fund to the General Fund. According to the Finance Director, the purpose of the transfer was to reimburse costs associated for training and the purchase of computer supplies and other Court costs paid by the General Fund. Specific invoices and supporting documentation could not be provided to support the amount of costs attributable to the \$40,000 transfer.

We recommend that the Finance Director maintain documentation to support costs related to Court operations that are initially paid by the General Fund and reimbursed through a transfer from the Mayor's Court Computer Fund to the General Fund.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 2 - Review of Policies and Procedures Relating to Employee Resignations, Employee Accrual and Usage of Compensatory and Leave Time

We reviewed City policies and procedures relating to employee resignations, employee accrual and usage of compensatory and vacation leave time to determine what documentation and authorizations must be obtained and maintained with respect to these areas. We then reviewed personnel and payroll documentation of a former secretary in the Mayor's office, Ms. Cynthia A. Fogle, to determine whether her leave accrual and usage during the period July 13, 1999 through September 8, 1999, and her subsequent resignation complied with policies and procedures.

Procedures

1. We reviewed the City's policies and procedures relating to employee resignations, employee accrual and usage of compensatory and vacation leave time.
2. We obtained personnel and payroll documentation of the former Mayor's secretary, Ms. Cynthia A. Fogle, during the period July 13, 1999 through September 8, 1999.
3. We obtained an understanding of how Ms. Fogle's leave and payroll were approved, and reviewed her time sheets for the Period to determine whether her leave and compensation was properly approved.
4. We determined whether Ms. Fogle was eligible to earn compensatory time.
5. We requested a copy of Ms. Fogle's resignation to determine her last day of employment.
6. We determined whether Ms. Fogle was paid for accumulated leave time in accordance with the City's policy.

Results

1. A. The City has no formal written policies and procedures relating to the submission and acceptance of employee resignations. We will issue a management comment recommending the City adopt a written policy relating to the submission and acceptance of employee resignations.
- B. The City has no formal written policies and procedures relating to the accumulation and use of compensatory time by employees; however, based on interviews with Mayor Addis and Finance Director, the City has an informal unwritten policy which has been practiced in the past. This informal policy allows an employee to accumulate compensatory time up to 80 hours. Any accumulation of compensatory time in excess of 80 hours will be paid. There is no time limit in which the employee may take the compensatory time. According to the Finance Director, unused compensatory balances which exist at the time of separation will be paid. We will issue a management comment recommending the City adopt a written policy relating to the accumulation and the usage of compensatory time.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

- C. The City has a formal written policy relating to the accrual of vacation. Section 258.08 of the City's Administrative Code, states that a full-time employee hired before February 1, 1997 shall earn vacation as follows:

after 1 year of service	80 hours
after 5 years of service	120 hours
after 10 years of service	160 hours
after 15 years of service	200 hours
after 20 years of service	240 hours

An employee hired on or after February 1, 1997 shall earn vacation as follows:

after 1 year of service	80 hours
after 8 years of service	120 hours
after 15 years of service	160 hours

The vacation policy states that an employee shall forfeit their right to take and be paid for any vacation to their credit which is in excess of the accrual for one year. Such excess vacation shall be eliminated from the employee's leave balance. Upon separation from City service, an employee shall be entitled to compensation at their current rate of pay for lawfully accrued and unused leave to his or her credit at the time of separation, up to one year.

- D. There is no formal written policy which requires vacation or compensatory leave be approved; however, Payroll Department personnel informed us that they will not process a time sheet/leave form unless it has an approval signature.
2. We obtained and reviewed Ms. Fogle's bi-weekly payroll time sheets for the period July 10, 1999 through September 8, 1999, Ms. Fogle's personnel file, and the City's payroll ledgers and noted the following:
- A. Ms. Fogle's last day worked at the office was July 13, 1999, however, time sheets were completed and submitted, and Ms. Fogle was paid through September 8, 1999. The compensation she received for the period July 14, 1999 through September 8, 1999 consisted of 8 hours of holiday pay, and 170 hours of leave. As reflected on her time sheets, these 170 hours of leave were comprised of 82 hours of vacation and 88 hours of compensatory time. All of Ms. Fogle's time sheets were approved by City Administrator, John Morgan.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

- B. In order to determine whether Ms. Fogle was entitled to receive compensation for the period July 14, 1999 through September 8, 1999, we reviewed her personnel file and requested the Mayor and Finance Director provide us with Ms. Fogle's formal resignation letter indicating her last day of employment. During our fieldwork, no resignation letter was included in Ms. Fogle's personnel file and neither the Mayor nor the Finance Director could provide us with such a letter.

On August 23, 2000, subsequent to holding an exit conference with City officials, the Mayor faxed us a copy of Ms. Fogle's resignation letter which she stated had been located by her office. After receiving Ms. Fogle's resignation letter, we interviewed Mr. Morgan and Ms. Fogle to determine whether Ms. Fogle's resignation was formally submitted and accepted by the department head. Mr. Morgan and Ms. Fogle, in separate interviews, both stated that the resignation letter had not been formally accepted and Mr. Morgan had extended Ms. Fogle's service until September 8, 1999. Mr. Morgan stated that Ms. Fogle was kept on the payroll, and she could be asked to work on an as needed basis. However, Mr. Morgan did not request her assistance at any time during the period July 14, 1999 through September 8, 1999 and therefore, she was compensated for leave hours only.

Since the Administrative Officer, Mr. Morgan exercised discretion in not formally accepting Ms. Fogle's resignation as it was offered, but with an extended service date, and his action did not violate any clear written formal policy, we determined that Ms. Fogle was entitled to receive the compensation for the period July 13, 1999 through September 8, 1999.

We reviewed all of Ms. Fogle's accrual, usage, and leave balances during the Period, as well as, the calculation of her final pay-out of leave upon separation and determined that the dollar amount of Ms. Fogle's pay-out was consistent with the extended service date she was granted.

MANAGEMENT COMMENTS

Employee Resignations

The City does not have a formal written policy and procedure detailing the process which an employee shall submit and the City shall accept an employee's resignation.

We recommend the City develop a formal written policy and procedure detailing the process which an employee shall submit and the City shall accept an employee's resignation.

Compensatory Time

The City has an informal policy relating to the accumulation and usage of compensatory time; however, this policy is not formalized and evidenced in written form.

The City should formalize, in written form, policies relating to the accumulation and usage of compensatory time. This written policy should be given to all personnel who are eligible to accumulate and use compensatory time.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 3 - Review the City's Charter Relating to Compensation of Mayor and Council

We reviewed the City's Charter to determine what administrative procedures must be followed by City Council with respect to the compensation of the Mayor and Council. We reviewed administrative actions taken by City Council in 1999 with respect to compensation of the Mayor and City Council to determine whether the City Charter was followed.

Procedures:

1. We obtained a copy of the City's Charter and reviewed it to determine whether an ordinance must be passed in order for compensation to be paid.
2. We obtained and reviewed compensation ordinances from 1993.
3. We reviewed a legal opinion from the City's legal counsel relating to this issue.

Results

1. Section 3.08 of the City of Norton Charter states that not less than thirty days prior to the final date for filing nominating petitions, Council shall set the compensation of the Mayor and all members of Council for the term of office commencing January 1st of the ensuing year, and such compensation shall not thereafter be changed with respect to such period.

2. City Ordinance No. 34-1993, passed on April 19, 1993, states that the President of Council shall be paid \$500 in addition to the regular compensation for being a member of Council, effective January 1, 1994.

City Ordinance No. 37-1993, passed on April 19, 1993, states that the Mayor shall be paid a salary of \$9,000, effective January 1, 1994.

City Ordinance No. 38-1993, passed on April 19, 1993, states that Council members shall be paid \$6,000 per year effective January 1, 1994, for Council members whose terms begin on that date and effective January 1, 1996, for members whose terms begin then.

3. The Mayor and the City's Council-at-Large members are currently serving four- year terms beginning January 1, 2000.

The City's Ward Council members are currently serving four-year terms beginning January 1, 1998.

There have been no other salary ordinances passed affecting the Mayor or members of Council since April 12, 1993.

4. A letter dated January 27, 2000 from Irving B. Sugarman an attorney for Goldman & Rosen, Ltd. states that the 1993 Ordinances legally authorize payment so long as the compensation was not changed during any ensuing year.

Based on the facts outlined above, Council did not comply with Section 3.08 of the City of Norton Charter. We will issue a noncompliance citation and recommend that Council comply with Charter.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

NON COMPLIANCE

Section 3.08 of the City of Norton's Charter states that not less than thirty days prior to the final date for filing nominating petitions, Council shall set the compensation of the Mayor and all Council Members for the term of office commencing January 1st of the ensuing year, and such compensation shall not thereafter be changed with respect to such period.

City Council has not passed compensation ordinances in accordance with Section 3.08 of the City of Norton Charter.

We recommend that Council set the compensation of the Mayor and all members of Council by passing compensation ordinances in accordance with Section 3.08 of the City of Norton's Charter.



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CITY OF NORTON

SUMMIT COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
NOVEMBER 14, 2000**