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Missouri State Auditor

Thirty-Ninth Judicial Circuit

City of Kimberling Municipal Division

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Thomas A. Schweich
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Thirty-Ninth Judicial Circuit, City of Kimberling Municipal Division

Accounting Controls and Procedures	The municipal division does not have an adequate segregation of accounting duties or independent review processes in place. The Court Clerk does not adequately monitor accrued costs owed to the municipal division and does not utilize a system generated report of balances due to review accrued costs. We determined 7 cases had differences between the balances reported in the manual case file and the balances shown in the computerized system. The municipal division does not reconcile manual receipt slips issued to manual receipt slips recorded in the computerized system. Also, the Court Clerk, who handles and has access to monies, is not covered by the city's bond.
Municipal Division Procedures	The Prosecuting Attorney does not always sign tickets, does not sign any plea agreements to amend violations submitted to the municipal division, and does not clearly document his approval of dismissed tickets. The Court Clerk is allowed to dismiss traffic violations issued for no proof of insurance but there is no indication the dismissals are reviewed by the Prosecuting Attorney to ensure their propriety. The municipal division does not maintain case records in a complete and accurate manner, and assesses a potentially improper \$25 warrant fee for each warrant issued. According to municipal division records, warrant fees collected totaled approximately \$1,500 during the year ended December 31, 2013. The municipal division has not provided a report of traffic violation tickets and associated fines and court costs revenues to the city for inclusion in the calculation and reporting required in the city's annual financial report filed with the State Auditor's office.

In the areas audited, the overall performance of this entity was **Good**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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Thirty-Ninth Judicial Circuit

City of Kimberling Municipal Division

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THOMAS A. SCHWEICH

Missouri State Auditor

Presiding Judge
Thirty-Ninth Judicial Circuit
and
Municipal Judge
and
Honorable Mayor
and
Members of the Board of Aldermen
City of Kimberling, Missouri

We have audited certain operations of the City of Kimberling Municipal Division of the Thirty-Ninth Judicial Circuit in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2013. The objectives of our audit were to:

1. Evaluate the municipal division's internal controls over significant financial functions.
2. Evaluate the municipal division's compliance with certain legal provisions.
3. Evaluate the municipal division's compliance with certain court rules.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the municipal division, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the municipal division's management and was not subjected to the procedures applied in our audit of the division.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) noncompliance with court rules. The accompanying Management Advisory Report presents our findings arising from our audit of the City of Kimberling Municipal Division of the Thirty-Ninth Judicial Circuit.

A petition audit of the City of Kimberling, fulfilling our obligations under Section 29.230, RSMo, is still in process, and any additional findings and recommendations will be included in the subsequent report.

A handwritten signature in black ink, reading "Thomas A. Schweich". The signature is fluid and cursive, with the first name "Thomas" and last name "Schweich" clearly legible.

Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

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Thirty-Ninth Judicial Circuit

City of Kimberling Municipal Division

Management Advisory Report - State Auditor's Findings

1. Accounting Controls and Procedures

Accounting controls and procedures need improvement. During the year ended December 31, 2013, the municipal division collected approximately \$47,000 in fines and court costs and approximately \$8,000 in bonds.

The municipal division has experienced significant personnel changes, and as a result, the current Court Clerk assumed responsibilities after the audit period. There were two different court clerks during 2013, and three different court clerks during 2014, as of our review in August 2014. In addition, the city's Accounting Clerk served as interim Court Clerk for approximately 3 months during 2014.

1.1 Segregation of duties

The municipal division does not have an adequate segregation of accounting duties or independent review processes in place. The Court Clerk is responsible for all duties related to collecting and recording monies, posting fines and court costs into the computerized system, and preparing deposits and disbursements. Neither the Municipal Judge nor other personnel independent of the cash custody and record-keeping functions provide adequate supervision or review of the work performed by the Court Clerk.

To reduce the risk of loss, theft, or misuse of funds, internal controls should provide reasonable assurance all transactions are accounted for properly and assets are adequately safeguarded. Internal controls could be improved by segregating duties to the extent possible. If proper segregation of duties is not possible, the Municipal Judge should establish procedures to ensure a documented independent review of accounting records is performed.

1.2 Accrued costs

The Court Clerk does not adequately monitor accrued costs owed to the municipal division, including fines and court costs, incarceration costs, and court-ordered restitution. A computerized system tracks accrued costs and can produce a report of balances due. The Court Clerk has not used this report to review accrued costs because she was not aware of it until we discussed the report with her. Instead, the Court Clerk performs a monthly review of balances due as recorded in the manual case files. At our request, the Court Clerk printed an accrued costs report, and as of June 19, 2014, accrued costs totaled approximately \$24,000.

We reviewed 10 accrued costs cases and determined 5 cases had differences between the balances reported in the manual case file and the balances shown on the computerized system report, resulting in the computerized system balances being understated by \$743. A separate review of tickets issued identified 2 additional cases where the balances due in the computerized system were understated by \$74.

Proper and timely monitoring of accrued costs is necessary to help ensure unpaid amounts are collected and proper follow up action is taken for non-payment. In addition, proper monitoring is necessary to provide information



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to the Municipal Judge and determine appropriate handling when amounts are deemed uncollectible.

1.3 Manual receipt slips

The municipal division does not reconcile manual receipt slips issued to manual receipt slips recorded in the computerized system. Prior to July 9, 2014, the Court Clerk issued manual receipts slips during court and later recorded the receipts into the computerized system and prepared the deposit for transmittal to the City Clerk. Neither the municipal division nor city personnel reconciled manual receipt slips issued to the system generated receipt reports and the deposits. As a result, there is no assurance all monies collected were properly recorded in the system and deposited.

To adequately safeguard receipts and reduce the risk of loss, theft, or misuse of funds, procedures should be established to account for manual receipt slips and verify receipts have been recorded in the computerized system and deposited.

1.4 Court Clerk bonding

The Court Clerk, who handles and has access to monies, is not covered by the city's bond. Failure to properly bond individuals who have access to funds exposes the municipal division to risk of loss.

Recommendations

The City of Kimberling Municipal Division:

- 1.1 Segregate accounting duties to the extent possible. If it is not possible to segregate duties, documented periodic reviews of municipal division records should be performed by a person independent of accounting functions.
- 1.2 Establish procedures to ensure the accuracy of the accrued costs report, and properly follow up on amounts due.
- 1.3 Ensure manual receipt slips are recorded in the computerized system and deposited.
- 1.4 Maintain bond coverage for all personnel with access to municipal division monies.

Auditee's Response

The City of Kimberling Municipal Division provided the following written responses:

- 1.1 *Currently, duties are separated. The Deputy Clerk is the primary collector of all monies, although monies are sometimes collected by the Finance Clerk or the Court Clerk. The Court Clerk posts fines and court costs into the computer system and prepares deposits and disbursements. All deposits and supporting records are reviewed by the City Administrator prior to deposit. All disbursements are*



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reviewed by the City Administrator, entered into the payment system by the Finance Clerk, approved by the Board of Aldermen, and signed by the City Administrator and Mayor.

- 1.2 *All accrued costs (receivables) are tracked monthly in the computer system and presented to the City Administrator for review to ensure amounts are collected and follow up action is taken for non-payment. Receivables are balanced against amounts assessed and monies received on a monthly basis.*
- 1.3 *All fines and court costs are entered into the computer system and manual receipt slips are only used when the system is down. If the system is down during court, manual receipt slips are then entered into the system as soon as the system is available. The City Administrator will review manual receipt slips issued to the entries into the computer system during his review of deposits. Additionally, the Court Clerk is currently reviewing each manual receipt slip issued by prior court clerks and computer system receipt entries to ensure all monies are correctly accounted for.*
- 1.4 *Currently, the Court Clerk and other staff members handling money are not bonded. The city will ensure that all such employees, including the Court Clerk, will be bonded as soon as possible.*

2. Municipal Division Procedures

Municipal division procedures need improvement. Audit work determined the need for better records and monitoring procedures by the municipal division and city to ensure compliance with state law.

2.1 Prosecutor approval

The Prosecuting Attorney does not always sign tickets and does not sign any plea agreements to amend violations submitted to the municipal division. In addition, the Prosecuting Attorney's approval of dismissed tickets is not clearly documented.

Our review of 40 tickets identified 3 tickets filed with the court but not signed by the Prosecuting Attorney. We also identified 2 plea agreements to amend charges for traffic violations printed on plain paper and not signed by the Prosecuting Attorney. The Prosecuting Attorney prepares plea agreements in a standard word processor and his secretary electronically submits them to the Court Clerk for printing and filing in the case files. Due to the generic nature of the plea agreements and lack of signature, there is less assurance the Prosecuting Attorney authorized all plea agreements.

Additionally, our review of 40 tickets identified 8 dismissed tickets (7 for no insurance and 1 for failure to stop at a stop sign). The Court Clerk is allowed to nolle pros (dismiss) traffic violations issued for no proof of insurance if the defendant later provides proof of insurance. It is not



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possible to determine which charges were dismissed by the Prosecuting Attorney or dismissed by the Court Clerk and there is no indication charges dismissed by the Court Clerk are reviewed by the Prosecuting Attorney to ensure their propriety.

Supreme Court Rule 37.35 states citations shall be in writing and signed by the prosecutor and filed with the municipal division. To adequately safeguard receipts and reduce the risk of loss, theft, or misuse of funds, a procedure should be established to ensure amended charges and dismissals are approved and signed by the Prosecuting Attorney indicating his review and approval.

2.2 Case records

The municipal division does not maintain case records in a complete and accurate manner. The Court Clerk could not locate 2 case files requested during the audit and entries in the computerized system are not always accurate. For 3 of 40 cases reviewed during our test of tickets issued, the fines and court costs assessed in the computerized system did not agree to the fines and court costs established for the violations bureau or the Municipal Judge's orders due to data entry errors. We identified additional differences between case files and computer system records in our review of accrued costs (see MAR finding number 1.2).

Supreme Court Operating Rule No. 8 requires all financial records be maintained for 5 years or until completion of an audit. Retention of applicable records is necessary to properly account for the municipal division's financial activity. In addition, failure to implement adequate case entry procedures increases the risk that loss, theft, or misuse of funds will go undetected and court records will contain errors.

2.3 Warrant fee

The municipal division assesses a potentially improper \$25 warrant fee for each warrant issued. According to municipal division records, warrant fees collected totaled approximately \$1,500 during the year ended December 31, 2013. Per Section 479.260, RSMo, a municipality may by ordinance provide for court fees pursuant to sections 488.010 to 488.020, RSMo. However, there is neither a city ordinance nor statutory provision that authorizes the municipal division to assess the warrant fee. There is also no statutory provision expressly prohibiting such a fee.

2.4 Monitoring of excess revenues

The municipal division has not provided a report of traffic violation tickets and associated fines and court costs revenues to the city for inclusion in the calculation and reporting required in the city's annual financial report filed with the State Auditor's office (SAO).

The municipal division does not have procedures in place to identify traffic violation tickets and the associated fines and court costs collected and transmitted to the city. This information is needed by the city to calculate the percent of annual general operating revenue from fines and court costs



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related to traffic violations, determine whether excess revenues should be distributed to the state Department of Revenue (DOR), and provide an accounting of the percent in its annual financial report as required by state law. The city's audited financial report for the year ended December 31, 2013, was timely filed with the SAO, but did not provide an accounting of the percent. With the completion of its current year (2014), the city will again be required to report the percent of annual general operating revenue from fines and court costs related to traffic violations in its annual financial report. Thus, the municipal division needs to establish procedures and records to identify applicable traffic violations and the related fines and court costs revenues to assist the city in complying with state law.

Effective August 28, 2013, Section 302.341.2, RSMo, was amended, reducing the threshold for remitting excess revenues to the state, and requiring cities to provide an accounting of the percent of annual general operating revenue from fines and court costs in its annual financial report submitted to the State Auditor's office as required by Section 105.145, RSMo. Section 302.341.2, RSMo, further provides that a city that is noncompliant with the law ". . . shall suffer immediate loss of jurisdiction of the municipal court of said city . . . on all traffic-related charges until all requirements of this section are satisfied."

Recommendations

The City of Kimberling Municipal Division:

- 2.1 Ensure the Prosecuting Attorney signs all tickets and reviews and approves all amended and dismissed tickets.
- 2.2 Ensure necessary records are appropriately retained and case activity is recorded accurately in the computerized system.
- 2.3 Work with the city and legal counsel to reevaluate the warrant fee and the authority to assess the fee. If determined appropriate, the municipal division should work with the city and legal counsel to establish an ordinance authorizing the fee.
- 2.4 Develop procedures and records to identify applicable traffic violations and the associated fines and court costs revenues and provide this information to the city.

Auditee's Response

The City of Kimberling Municipal Division provided the following written responses:

- 2.1 *Going forward, all tickets to be filed with the court will be signed by the Prosecuting Attorney. The Prosecuting Attorney will also approve all tickets he amends or dismisses. Any "no proof of*



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insurance" tickets dismissed by the Court Clerk will be independently verified by the City Administrator monthly.

- 2.2 *A large cause of this issue has been turnover in the court clerk position. Our current Court Clerk has been with the city for six months and will be promoted to full-time status at the first of the year. Her records maintenance skills are considerable, and the city is confident that this issue will be resolved. Moreover, the city will independently audit case records annually in the future to ensure compliance.*
- 2.3 *Until an ordinance authorizing this fee is located, no warrant fee will be assessed.*
- 2.4 *The Court Clerk will differentiate between income from traffic tickets and other tickets and report this information to the city. The total traffic ticket revenues will be placed on the city's annual financial report along with a calculation of the ratio of traffic ticket revenue to general revenue.*

Thirty-Ninth Judicial Circuit

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Organization and Statistical Information

The City of Kimberling Municipal Division is in the Thirty-Ninth Judicial Circuit, which consists of Stone, Barry and Lawrence Counties. The Honorable Jack Goodman serves as Presiding Judge.

The municipal division is governed by Chapter 479, RSMo, and by Supreme Court Rule No. 37. Supreme Court Rule No. 37.49 provides that each municipal division may establish a violation bureau in which fines and court costs are collected at times other than during court and transmitted to the city treasury.

Personnel

At December 31, 2013, the municipal division employees were as follows:

Title	Name
Municipal Judge	Mark Rundel
Court Clerk	Kimberly Walden ¹

¹ Kimberly Walden resigned in January 2014 and Amy Carroll was hired in April 2014.

Financial and Caseload Information

	Year Ended December 31, 2013
Receipts	\$47,429
Number of cases filed	507