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May 6, 2010

The Honorable Arnie Johnson, Mayor
City of Mapleview
101 Maple Avenue
P.O. Box 718
Mapleview, Minnesota 55912-0718

Mr. Chester Anderson, President
Mapleview Firefighters Relief Association
101 Maple Avenue
P.O. Box 718
Mapleview, Minnesota 55912-0718

Dear Mayor Johnson and Mr. Anderson:

The Office of the State Auditor (OSA) reviewed the use of state fire aid provided to the City of Mapleview (City) from 1999 through 2008. The OSA determined that the City's former Clerk-Treasurer failed to disburse state fire aid to the Mapleview Firefighters Relief Association (Fire Relief) as required by Minnesota law. The OSA also determined that **\$26,801** in state fire aid was not deposited in the Fire Relief's Special Fund as required by Minnesota law. Of that amount, the OSA determined that the City owes the Fire Relief's Special Fund **\$22,124.76**, and the Fire Relief's General Fund owes the Fire Relief's Special Fund **\$4,676.24**.

This letter serves as notice to the City and the Fire Relief of the amount the OSA has determined is owed to the Fire Relief's Special Fund because of unpaid state fire aid. This letter also provides the City and the Fire Relief with internal control and legal compliance findings and recommendations to improve the handling of public funds in the future.

Background

Minnesota law requires the city treasurer to transfer state fire aid received by a city to its relief association's treasurer within 30 days of receipt.¹ Minnesota law also requires state fire aid to be deposited in the relief association's special fund, which is the relief association's restricted pension fund.²

¹ See Minn. Stat. § 69.031, subd. 5(a).

² See Minn. Stat. § 424A.05, subd. 2.

The City and Fire Relief year ended December 31, 2007, audits revealed, among other things, that state fire aid collected by the City from the State of Minnesota had not been transmitted to the Fire Relief's Special Fund as mandated by Minnesota law.³ In response, the OSA sent a letter to the City dated February 25, 2009, requesting that the City inform the OSA how and when it would pay the state fire aid owed to the Fire Relief.⁴ The OSA also requested documents from the City that would allow the OSA to confirm the amount owed and to determine how the state fire aid had been expended.

The City's payment of past state fire aid owed to the Fire Relief remains unresolved. To explore solutions to this problem, the OSA met with the City on April 20, 2010.⁵ The limited options available to the City to pay the state fire aid were discussed. The options include a levy, a bond, or making payments pursuant to a payment plan. If the City chooses the payment plan, the OSA informed the City it would not be certified to receive 2009 state fire aid, or any future state fire aid, until the amount owed was paid in full.⁶ The OSA requested that, no later than **May 13, 2010**, the City provide the OSA with a written plan on how and when the City would pay the state fire aid.

Unpaid State Fire Aid

The chart on the following page displays the amount of state fire aid provided to the City by the State and the date it was provided, and the amount of state fire aid the City disbursed and did not disburse to the Fire Relief, for the years 1999 through 2008. The OSA created the chart based upon records of state fire aid payments the OSA received from the State and documents the OSA received from the City.

³ The Fire Relief had assets sufficient to require an audit for the year ended December 31, 2007. *See* Minn. Stat. § 69.051. The Fire Relief's year ended December 31, 2007, audit and related letter were issued on November 20, 2008. The City's year ended December 31, 2007, audit and related letters were issued on November 26, 2008.

⁴ The Fire Relief was provided with a copy of the letter.

⁵ In attendance at the meeting were the City's current Mayor, Fire Chief, Clerk-Treasurer, and Police Chief. Fire Relief officers were invited, but were unable to attend the meeting. The Mayor, Fire Chief, and City Clerk-Treasurer are City representatives for the Fire Relief.

⁶ *See* Minn. Stat. § 69.051, subd. 1b.

State Fire Aid Detail (1999-2008)					
State Fire Aid Year	Amount of State Fire Aid	Amount Received by City	Amount Disbursed by City to Fire Relief	Amount Not Disbursed by City to Fire Relief	Date State Fire Aid Disbursed by the State
1999	\$ 5,783.00	\$5,783.00	\$5,783.00	0	9/29/1999
2000	\$ 5,928.00	\$5,928.00	\$5,928.00	0	11/14/2000
2001	\$ 5,879.00	\$5,879.00	\$5,879.00	0	3/14/2002
2002	\$ 5,072.00	\$5,072.00	\$5,072.00	0	11/15/2002
2003	\$ 5,746.00	\$5,746.00	0	\$5,746.00 ⁷	9/30/2003
2004 ⁸	0	0	0	0	N/A
2005	\$ 6,583.00	\$6,583.00	0	\$6,583.00 ⁹	6/14/2006
2006	\$ 6,964.00	\$6,964.00	0	\$6,964.00	6/14/2007
2007	\$ 7,508.00	\$7,508.00	0	\$7,508.00	3/13/2008
2008	\$ 6,874.00	\$6,874.00	\$6,874.00	0	6/18/2009 ¹⁰
Total	\$56,337.00	\$56,337.00	\$29,536.00	\$26,801.00	

The Fire Department Account

From 2001 through 2008, the City's Fire Department maintained its own checking account. The account was opened by the former City Clerk-Treasurer. The former City Clerk-Treasurer and former Fire Chief were authorized signatories on the account.¹¹ The account was maintained in the name of "City of Mapleview – Mapleview Firefighters" (the Fire Department account) and used the City's tax identification number. The Fire Department, a City department, and the former City Clerk-Treasurer maintained control of the account.¹² It is the OSA's understanding that the City Council did not approve expenditures from or deposits into the account.

⁷ The City disbursed the 2003 state fire aid to a Fire Department account discussed later in this letter. When the Fire Department account was closed, a balance of only \$4,676.24 remained in the account.

⁸ The Fire Relief forfeited its 2004 state fire aid by failing to submit to the OSA the annual reporting forms required by Minn. Stat. § 69.051, subd. 1b.

⁹ City check #019037 for \$6,583 was issued to the Fire Relief, but was not cashed.

¹⁰ The \$6,874 was received by the City on June 18, 2009, and was disbursed to the Fire Relief on June 24, 2009.

¹¹ The account was opened on April 12, 2001. The City was unable to locate City Council meeting minutes from January 2001 through May 2001. Therefore, the OSA was unable to determine whether the opening of the account was approved by the City Council.

¹² The City's auditor reported the separate "Firemen's Fund" checking account in the City's year ended December 31, 2007, audit and related letter dated November 26, 2008.

Minnesota law does not permit a city fire department to have its own checking account.¹³ The city must control its finances. All city funds must be turned over to the city treasurer. All city checks must be signed by the appropriate officials, and expenditures generally must be approved in advance by the governing body.

The OSA reviewed the Fire Department's bank statements from May 5, 2005, through December 4, 2008, and various deposit detail and check images. The OSA did not receive bank statements for the time period prior to May 5, 2005.¹⁴

Funds deposited into the Fire Department account included, among other funds:

- 2003 state fire aid totaling \$5,746.
- A charitable gambling-related refund of \$5,095.
- Proceeds from annual fish fry fundraisers.

The 2003 state fire aid was deposited into the Fire Department account; it was not transferred to the Fire Relief's Treasurer as required by Minnesota law. More specifically, the City issued a check dated May 13, 2004, for the 2003 state fire aid amount of \$5,746 to the "Mapleview Firefighters."¹⁵ The City check was signed by the former Mayor and the former City Clerk-Treasurer. The copy of the check provided to the OSA included the endorsement stamp "For Deposit Only Mapleview Firefighters." The check appears to have been negotiated on January 6, 2005.¹⁶ The OSA found no evidence that the 2003 state fire aid was later transferred to the Fire Relief's Special Fund.¹⁷

¹³ See OSA Statement of Position on Fire Departments, Fire Relief Associations and Checking Accounts, available on the OSA's website at:

http://www.auditor.state.mn.us/other/Statements/firedeptsfirereliefassnsandaccts_0703_statement.pdf

¹⁴ The City obtained the Fire Department account documents from the bank. Accounting records for the Fire Department should have been maintained by the City. See Minn. Stat. §§ 15.17 and 138.17.

¹⁵ The City received the 2003 state fire aid of \$5,746 along with the state police aid of \$2,128, for a total receipt of \$7,874 on October 1, 2003 (receipt #3000001). The City then issued check #018015, dated May 13, 2004, to the Mapleview Firefighters, which was deposited into the Fire Department account.

¹⁶ The OSA was not provided with the Fire Department's January 2005 bank statement.

¹⁷ The Fire Relief's Special Fund account was opened on June 22, 2005. The OSA was provided with the June 22, 2005 through February 28, 2009, bank statements for the account. Prior to that date, the account was at a different bank. It appears that the only activity for the Fire Relief's Special Fund from January 2005 through June 21, 2005, was a \$7.50 monthly maintenance fee. The Fire Relief's Special Fund bank statements for June 2005 through 2008 do not show a deposit of \$5,746 into the Fire Relief's Special Fund. The Fire Relief also maintains a pension account with the State Board of Investment (SBI). The OSA reviewed the Fire Relief's SBI account information from 2000 through 2008 to determine if the Fire Department issued a check for the \$5,746 directly to the Fire Relief's SBI account rather than to the Fire Relief's Special Fund. The OSA found no contributions/deposits into the Fire Relief's SBI account between 2005 and 2008.

The OSA also determined that \$5,095 in gambling-related refunds intended for the Fire Relief was deposited in the Fire Department account.¹⁸ The \$5,095 was a refund by the State for prepaid gambling taxes paid in 1999 on unsold pulltab and tipboard tickets. The State issued the refund check to the Fire Relief in 2000, but the check was not cashed. As a result, the State classified the amount as unclaimed property. The refund for the Fire Relief was claimed in 2007 by the former Fire Chief.¹⁹ Because the funds were gambling-related, the funds should have been deposited in the Fire Relief's General Fund.²⁰ Instead, the funds were deposited in the Fire Department account.²¹

Proceeds from annual fish fry fundraisers were also deposited in the Fire Department account. The fundraising events should have been sponsored by the Fire Relief, and any proceeds from the events should have been deposited in the Fire Relief's General Fund.²² Instead, the fundraising money, the gambling-related refund, and the 2003 state fire aid were co-mingled in the Fire Department account.

The Fire Department closed the checking account on December 3, 2008, and the \$4,676.24 balance was deposited into the Fire Relief's General Fund. Due to the co-mingled nature of the funds in the Fire Department account, and the lack of detailed accounting records and support, the OSA was unable to determine the source of the balance in the account. However, Minnesota law requires state fire aid to be credited to the Fire Relief's Special Fund, a restricted pension fund.²³ The Fire Department was prohibited from spending any of the state fire aid.²⁴ While \$5,746 in state fire aid was deposited into the Fire Department account, only \$4,676.24 remained in the Fire

¹⁸ The exact amount is \$5,094.86.

¹⁹ In February/March 2007, a form to reclaim the \$5,094.86 reported that the owners of the money were the "Mapleview Firefighters Relief Assoc" and identified the claimant as the former Fire Chief. In response to the claim form, the State issued another check (#38280451) dated April 2, 2007, for \$5,094.86, addressed to the "Mapleview Firefighters Relief % Dennis Harmer." The former City Clerk-Treasurer notarized the claim form.

²⁰ The Fire Relief's charitable gambling license was revoked in 2000 when the Fire Relief was unable to pay civil penalties and reimbursements resulting from financial irregularities. Therefore, the Fire Relief no longer maintains a Gambling Fund. The amount was classified as "1999 Unrecorded State Aid Recovered" on the Fire Relief's December 31, 2007, Statement of Changes in Plan Net Assets Special Fund – Pension Trust Fund. As a result, the Fire Relief's auditor included the \$5,095 in the amount the Fire Department owed the Fire Relief's Special Fund as of December 31, 2007 (\$5,746 in 2003 State Fire Aid funds + \$5,095 in gambling-related refunds = \$10,841). Because the funds should have been deposited in the Fire Relief's General Fund, the OSA did not include the \$5,095 in the amount owed by the City to the Fire Relief's Special Fund.

²¹ The check was deposited into the Fire Department account on April 5, 2007.

²² See OSA Statement of Position on Fire Department and Fire Relief Association Fundraisers and Donations, available on the OSA's website at:

http://www.auditor.state.mn.us/other/Statements/firedeptsfirereliefassnfundraisersdonations_0811_statement.pdf.

²³ See Minn. Stat. § 424A.05, subd. 2.

²⁴ The former Fire Chief informed the OSA that some of the state fire aid was used to purchase equipment.

Department account when it was closed. Therefore, the OSA considers the remainder in the Fire Department account to be state fire aid.

City Internal Control Findings and Recommendations

During its review, the OSA encountered difficulties in obtaining financial records from the City and its Fire Department. The City had not maintained documents in compliance with Minnesota record retention requirements.²⁵ The City's former auditor reported in the year ended December 31, 2007, audit that the City's records were in disarray.²⁶ Missing documents included receipts, bank statements, canceled checks (including checks from the City Fire Department account), contracts, and invoices dating back to 1999. As a result, the City had to obtain documents from its financial institutions to respond to the OSA's inquiries.

The OSA also identified internal control weaknesses and legal compliance issues in the City's handling of financial matters prior to 2008. For example, the City's general ledgers lacked detail descriptions, making it difficult to understand the purpose of some transactions and to cross reference entries with supporting documents. City checks did not consistently contain two signatures, as required by law.²⁷ City employee time sheets did not contain a declaration statement and did not contain the signatures of the employee and a supervisor.²⁸ Claim forms did not consistently have support (e.g., invoices/bills) attached.²⁹ Expense forms were not used for employee reimbursements such as mileage. At times, handwritten notes were substituted for the required receipt.³⁰ City disbursement registers did not consistently contain descriptions identifying the purpose of the disbursements. Certain city disbursements did not appear to be authorized expenditures.³¹

Many of the internal control weaknesses and legal compliance issues identified by the OSA were also identified by the City's auditor and communicated to the City Council in the City's year ended December 31, 2007 and 2008 audits. Many of these concerns have

²⁵ See Minn. Stat. §§ 15.17 and 138.17. The city clerk-treasurer is the custodian of the city's records. See Minn. Stat. § 412.151. It is the duty of the city clerk-treasurer to protect and preserve government records from deterioration, mutilation, loss, or destruction. Minn. Stat. § 15.17, subd. 2.

²⁶ The auditor also noted in the City's year ended December 31, 2008 audit, a similar concern for the first half of the year. The City's new Clerk-Treasurer started with the City in August 2008. The former City Clerk-Treasurer was responsible for delivering to a successor all government records in custody. See Minn. Stat. § 15.17, subd. 3.

²⁷ See Minn. Stat. § 412.271.

²⁸ *Id.* See also OSA Statement of Position on Employee Timekeeping Procedures For Employees Paid on an Hourly or Daily Basis, available on the OSA's website at: http://www.auditor.state.mn.us/other/Statements/employeetimekeepingproc_0808_statement.pdf.

²⁹ See Minn. Stat. § 471.38.

³⁰ *Id.*

³¹ See OSA Statement of Position on Public Expenditures: Donations and Dues, available on the OSA's website at: http://www.auditor.state.mn.us/other/Statements/publicexpdonationsdues_0809_statement.pdf.

been resolved under the City's new Clerk-Treasurer. However, the OSA makes the following recommendations to the City:

- Comply with Minnesota record retention requirements for the maintenance of City records.
- Conduct a review to ensure that all recommendations communicated to the City during the City's year ended December 31, 2007 and 2008 audits have been implemented.
- Create and implement a reasonable written plan describing how and when the City will pay the state fire aid it owes to the Fire Relief's Special Fund. The plan should be submitted to the OSA no later than **May 13, 2010**.³²

Fire Relief Internal Control Findings and Recommendations

During its review, the OSA found that state fire aid was not transmitted to the Fire Relief, and Fire Relief funds were deposited into a Fire Department checking account. The OSA also encountered difficulties in obtaining financial records from the Fire Relief during its review.³³ The OSA makes the following recommendations to the Fire Relief:

- Monitor the timely deposit of all state fire aid into the Special Fund.
- Transfer \$4,676.24, which the OSA considers to be state fire aid, from the General Fund to the Special Fund, and notify the OSA when the transfer has been made.
- Sponsor the annual fish fry fundraiser and control all funds raised by the event. The OSA was informed that the Fire Relief's current practice follows this recommendation.
- Maintain financial and investment records in compliance with Minnesota law.

Conclusion

The City of Mapleview's former Clerk-Treasurer failed to transfer state fire aid to the Fire Relief within 30 days of receipt, as required by Minnesota law. A total of **\$26,801** in state fire aid was not transferred to the Fire Relief's Special Fund. Of that amount, the City owes the Fire Relief's Special Fund **\$22,124.76**, and the Fire Relief's General Fund owes the Fire Relief's Special Fund **\$4,676.24**. The OSA requests that the City submit a

³² Under Minnesota law, the OSA certifies to the Minnesota Department of Revenue which fire relief associations are eligible to receive state fire aid. The final certification deadline for 2009 state fire aid is June 30, 2010.

³³ Accounting records for state fire aid and pension funds should have been maintained by the Fire Relief. See OSA Statement of Position on Records Management for Volunteer Firefighter Relief Associations, available on the OSA's website at: http://www.auditor.state.mn.us/other/Statements/recordsmanagementforreliefassns_0903_statement.pdf

written plan to pay the funds owed to the Fire Relief's Special Fund to this Office by **May 13, 2010**.

In compliance with Minnesota Statutes §§ 6.495 and 6.50, this letter is being filed with the City and County Attorneys. If you have any questions, please contact Kathy Docter at 651-282-2388 or via email at Kathy.Docter@state.mn.us.

Sincerely,

/s/ Celeste Grant

Celeste Grant
General Counsel/Deputy State Auditor

cc: Mapleview City Council Members
The Honorable Kristen Nelsen, Mower County Attorney
Mr. Arthur Kuchera, City Clerk-Treasurer
Mr. Mike Langstaff, City Fire Chief
Mr. Forrest Miller, City Police Chief
Mr. Phil Kohl, Christian & Peterson, P.A., City Attorney
Mr. Ron Walth, Hill, Larson, Walth & Benda, P.A.
Mr. Alan A. Anderson, City Auditor
Mr. Dennis Bentzin, Fire Relief Treasurer
Ms. Rose Hennessey Allen, Office of the State Auditor Pension Director
Mr. Lawrence A. Martin, Legislative Commission on Pensions and Retirement