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OFFICE OF
STATE ATTORNEY
FIRST JUDICIAL CIRCUIT OF FLORIDA

March 5, 2019

PRESS RELEASE

State Attorney Bill Eddins announced today that an Escambia County Grand Jury has returned a written report regarding the operations, policies, procedures and financial status of the Town of Century. This Grand Jury was impaneled at the request of the State Attorney as a result of numerous complaints and concerns being raised regarding the financial conditions of Century. This report makes multiple findings and recommendations regarding these financial matters. A copy of this Grand Jury Report is attached to this press release.

For further information, please contact State Attorney Greg Marcille at (850) 595-4761.

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR
ESCAMBIA COUNTY, FLORIDA
AT THE FIRST TERM HEREOF,
IN THE YEAR OF OUR LORD,
TWO THOUSAND AND NINETEEN

PAM CHILDERS
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FLORIDA
2019 FEB - 8 P 12:45
FILED & RECORDED

REPORT

WE THE GRAND JURORS OF THE STATE OF FLORIDA, LAWFULLY SELECTED AND IMPANELED AND SWORN, INQUIRING IN AND FOR THE BODY OF THE COUNTY OF ESCAMBIA UPON THEIR OATHS AS GRAND JURORS, DO PRESENT THE FOLLOWING REPORT.

At the request of the Office of the State Attorney, we have reviewed the operations, policies, procedures and financial status of the Town of Century. In our review we have received testimony from eighteen witnesses and reviewed numerous financial documents. Based upon our review we have determined that criminal charges are not appropriate and therefore return a NO TRUE BILL. We are, however, deeply concerned by the testimony we have heard and believe that the citizens of Century and of Escambia County should be made aware of our findings and recommendations. For that reason we issue this report.

BACKGROUND

The Town of Century, Florida was first established in 1901. At that time the primary economy of the community was timber and sawmill operations. In the 2010 census the official population of the Town was 1698 residents. Testimony we have heard has indicated that the population numbers have decreased since that time. The primary employer in the area is the Florida Department of Corrections that operates a large correctional institution in the Town.

The current form of government in Century was established by a Town Charter that was adopted by ordinance on November 27, 1979 and approved by referendum on January 8, 1980. This Charter has been amended from time to time since that date.

Section 4.01 of the Charter establishes the Office of Mayor as the chief executive officer of the Town. The Mayor is charged with the general supervision of all Town offices, departments and agencies. The Mayor has the authority to hire, with the approval of the Town Council, all Town employees. It is also the responsibility of the Mayor to prepare and submit the annual budget to the Town Council for their consideration and approval. The Mayor has the authority to authorize expenditures up to \$200 and, in the case of an emergency, up to \$500, without approval. All other expenditures must be approved by the Town Council.

The Charter also establishes a Town Council to be made up of five members. All legislative powers of the Town are vested in the Council. The Council has the power to approve budgets, expenditures and hiring. The Council may also pass ordinances as are necessary to protect and promote the health, safety and welfare of the Town and its citizens.

The Town of Century provides certain services to its citizens. These include planning and permitting through the administrative offices of the Town hall. The Town also maintains streets, roads and parks within the Town limits. Police services are provided by the Escambia County Sheriff's Department and fire protection is provided by volunteer fire departments through Escambia County. Century also operates various enterprises that provide sanitation, natural gas and water and sewer services. These enterprises are designed to operate at a profit to provide needed income for the Town. Unfortunately, these enterprises have operated at a loss for a number of years.

The Town of Century employs between twenty and thirty people at any given time. This includes the Mayor and five Council members, all of whom are elected officials. The Town also contracts with outside individuals and businesses to provide services that Century cannot provide on its own. These contract employees include a private attorney and certified public accountant who provide advice and services to the Town. It appears that Town officials are sometimes reluctant to seek the advice of their attorney because of concerns related to expenses.

Based upon our review, we are deeply concerned with the financial status of Century. It is clear that the Town cannot continue to operate as it has in the past. Of particular concern are the enterprise operations, most specifically the natural gas system. Financial audits indicate that Century's overall financial condition demonstrates signs of deterioration which may result in a future financial emergency. The poor relationship between the Mayor and at least several members of the Town Council has hampered the ability of the Town to respond to this situation.

GAS SERVICES

The Town of Century has operated a natural gas service for many years. This gas is delivered to Century from its provider by underground lines and then delivered to customers throughout a franchise area. This franchise area includes the Town limits as well as additional areas. At its highest level, the Town had approximately 1,000 customers. Currently, that number has declined substantially to between 500 and 600 customers. The largest purchaser of natural gas is the Department of Correction for its Century prison. Witnesses have described the prison as accounting for between one third and three quarters of all gas sold by the gas service. The most recent audit indicates that the Town has a major utility customer that comprises more than twenty percent of all revenues reported in the various enterprise funds.

For numerous reasons the gas service has incurred substantial operating losses for a number of years. In the audit for the fiscal year which ended September 30, 2017, the operating loss, including depreciation, was \$303,427. For the previous year, the loss was \$224,311. We anticipate that the loss for 2018 may be substantially greater. The reasons for these losses are many. The system itself is antiquated and has not been adequately maintained. Employees

responsible for reading the meters have failed to do so properly or have not read them at all. Between twenty five and fifty customers have received gas services without ever having been billed. The prison and other commercial customers have had either inadequate or faulty meters which have resulted in substantial under charging.

The problems with the gas system are particularly apparent as demonstrated by the percentage of unaccounted gas reported to the State. Each year Century is required to file a report with the Public Service Commission regarding the operation of its gas service. As part of this report, the percentage of unaccounted gas must be listed. Unaccounted gas is the amount of gas that comes into the system minus the amount that is sold to customers. All gas services will have some unaccounted gas. Industry standards puts this amount at less than two or three percent. In 2015 Century reported unaccounted gas as 14.0 percent, in 2016 12.4 percent and in 2017 as 12.9 percent. In 2018 this amount jumped to 41.9 percent. This means that of the natural gas bought and paid for by Century in 2018 only 58.1 percent was actually paid for by its customers.

Witnesses have testified that the problems with the prison have been corrected and new meters for all customers have been purchased. None of these new meters have been installed at this time because of problems with the meters as delivered. Additionally, billing errors have not yet been corrected. We do not believe that the Town has given these matters the attention that they need nor have they responded as quickly as required under these circumstances.

While the current gas supervisor appears to be qualified for the position, we are concerned that previous supervisors were hired without adequate qualifications or experience. This may have contributed to these problems.

Financial concerns with the enterprise operations are not limited to the gas service. In 2017 the water and sewer fund had an operating loss of \$217,248. In 2016 that loss was \$248,652. These losses also contribute to the financial difficulties of the Town.

FINANCIAL DIFFICULTIES

Testimony before the Grand Jury has indicated numerous other financial difficulties for the Town of Century. Payroll checks for employees have been written on an account that did not have sufficient funds to cover these checks. This was caused by the failure to transfer sufficient funds from other accounts to the payroll account to cover these costs. Federal withholding was not paid to the United States Treasury because sufficient funds were not available. This resulted in fines or penalties being imposed. Routine bills for the Town such as utilities, telephone and other similar expenses are regularly not paid timely because sufficient funds are not available. As part of its benefits program Century offers its employee's health insurance coverage. The Town pays 99 percent of the employee's health insurance premium and 78 percent for the employee's family. Five employees were under withheld resulting in a cost to the town of approximately \$6,000. While these costs have been paid timely, witnesses have indicated that Century cannot afford to continue to pay for such an expensive program.

In 2003, loans were provided by the Town to several business owners for economic development purposes. Three of these people went on to become elected officials, two who presently serve on the Council and one who was a previous Mayor. One of these loans was not paid timely and the Council in July 2018, modified the terms of that loan to extend the repayment time by an additional three years. The monthly payments were also lowered at that time. These loans do not appear to have been listed on any audit as a debt owed to the Town until 2017.

The employee responsible for preparing and mailing the monthly utility bills to the customers of the Town's various enterprise services recently resigned her position. Before she left she began training the desk clerk to perform these duties. The Mayor proposed that the desk clerk be promoted to this new position. This request was denied by the Council. As a result, none of the utility bills have been prepared or mailed which will delay payment to the Town. This will only add to the financial problems of the Town. There was no backup employee that was capable of performing these tasks.

As previously mentioned, the Council must adopt a budget for each fiscal year. For the fiscal year ending September 30, 2017 the original general fund budget was \$679,857. This was later amended to \$1,053,830 and the actual expenditures was \$1,359,964. Revenues in the current year's budget have been raised by approximately 30 percent. There does not appear to be a realistic basis for this increase. In order to make up this shortfall it was necessary for the Town to borrow from other accounts. According to the most recent audit, these funds were borrowed from restricted accounts made up of gas taxes and monies from the Local Option Sales Tax. Gas taxes may only be used for road improvement and LOST funds may only be used for infrastructure or purchases having an expected life expectancy of at least five years. They cannot be used for the day to day operation of the Town. Century improperly borrowed \$306,134 in fiscal year 2017 from these funds which must be repaid.

This is not the first year that Century has borrowed from these funds. As of September 30, 2017 the Special Revenue Fund was owed approximately \$2,700,000. In June 2018 the Council approved a repayment plan of \$300 per month. At this rate it would take 750 years to pay back these funds.

SUNSHINE AND PUBLIC RECORDS

Based on our review, there appears to be a lack of understanding of the requirements of both the Sunshine and Public Record Laws. Testimony we have heard indicates that numerous public record requests have not been responded to in a timely manner. Minutes of Council meetings have not been prepared for months at a time. The digital recording of at least one meeting has been lost. The file containing the paperwork for the economic development loan made to one Council member has been misplaced and cannot be located. The Office of the State Attorney has filed charges of noncriminal violations of the Sunshine Law against three members of the Town Council. Two of these cases have been disposed of by pleas of no contest and the imposition of fines.

POLICIES AND PROCEDURES

From testimony that we have heard, there is a lack of policies and procedures manuals to be used by the office staff. There does not appear to be adequate job descriptions available to describe employee duties or position requirements when seeking new employees.

FINDINGS AND RECOMMENDATIONS

Based on the testimony we have heard and the evidence we have reviewed, we make the following findings and recommendations:

1. We find that the Town of Century is in a state of financial emergency. The current administration and Council have failed to act in the best interest of the community. Town officials have shown a clear lack of knowledge and understanding as to the operations of a governmental organization.

2. The current administration and Council have failed to prepare and approve a budget that is realistic or financially solvent.

3. We find that the administration and Council have improperly borrowed funds from the gas tax account and the Local Option Sales Tax account.

4. We find that there has been a lack of accountability between the Mayor and supervisors and between supervisors and employees.

5. We find that the Mayor has failed to follow proper procedure when approving the use of Town equipment and manpower on private property. This appears to be as a result of a misunderstanding of public purpose and the definition of private and public property. Regular consultation with the Town's attorney may prevent this type of misunderstanding in the future.

6. We recommend that Century sell the assets of its utility services, sanitation, natural gas, and water and sewer, and use the proceeds to repay the amounts borrowed from the restricted fund. The loss of customers and problems with the operation of these services make it unlikely that they can ever consistently produce a profit for the Town in the future.

7. Amendments should be made to the Charter or ordinances to provide that the Town will be solely responsible for roads, parks, and land use programs.

8. We recommend that this matter be brought to the attention of the State Auditor General's Office and that forensic financial audits be done for the past five years. Any irregularities should be referred to the appropriate agencies, including professional licensing boards if such action is warranted. All contracts for third party professional services should be audited as well.

9. We recommend that Century seek the assistance of a municipal consulting firm to assist in the development of policies and procedures. As part of this process we recommend that an operational audit be done. These policies should provide both job descriptions and salary ranges. All employee benefits should be consistent with industry standards. Employee handbooks should be updated and should contain an anti-nepotism provision. The Florida League of Cities may be able to assist in this matter.

10. All loans by Century should be clearly listed on all appropriate financial statements. No person who has an outstanding loan from the Town should be able to run for any Century public office. Loans should not be made to any Town employee or official.

11. We have heard testimony that there is a lack of written contracts and that contracts do not have expiration dates. All contracts should be reviewed and amended as necessary. All businesses or individuals providing professional services to the Town should have written contracts containing appropriate expiration dates.

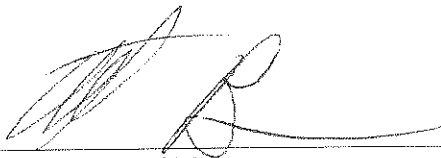
12. We recommend additional training in the area of Sunshine and Public Records. This may be done by the Town's attorney, the First Amendment Foundation or the Attorney General's Office. We request that the Office of the State Attorney continue to investigate allegations of missing public records as well as the failure to properly respond to public records requests.

13. We recommend that before funds are spent that they be clearly allocated and approved. We have heard testimony that economic development funds may have been spent without proper county approval. In addition, all expenditures must comply with the limitations set forth in the Town Charter.

14. The State of Florida and Escambia County should investigate the misappropriation of gas tax and LOST funds.

15. Spending restrictions should be placed on any funds provided by outside governmental entities that are not otherwise limited in their use. Prior approval should be obtained by the Town before these funds are spent. Specifically, before any funds provided to the Town of Century by Escambia County can be spent, the County should review the proposed expenditure and determine that such expenditure is appropriate.

2-8-2019
DATE



FOREPERSON