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May 20, 2013

The Honorable Michael W. Timm
Mayor, City of Storden
P.O. Box 146
Storden, Minnesota 56174-0146

Mr. Corey Swenson, President
Storden Volunteer Firefighter's Relief Association
4004 United States Avenue
Storden, Minnesota 56174

Dear Mayor Timm and Mr. Swenson:

This letter is in response to information the Office of the State Auditor ("OSA") received regarding financial accounts maintained by the City of Storden ("City") Fire Department. This letter will provide guidance to the City, the Fire Department, and the Storden Volunteer Firefighter's Relief Association ("Relief") on handling financial accounts in compliance with Minnesota law.

City Funds

Under Minnesota law, a municipal fire department may not maintain its own financial accounts. A fire department is part of a city. A city council is required to have full control over a city's financial matters.¹ City funds are only to be paid upon an order drawn by the mayor, city clerk, and city treasurer.² Minnesota law requires that the underlying claims for disbursements of city funds be audited and allowed by the city council before the actual disbursements are made.³ These controls apply to all city departments, including fire departments.

City revenues related to the fire department include fire call receipts and funds obtained through city contracts with other local government units for fire services. City

¹ Minn. Stat § 412.241.

² Minn. Stat § 412.141; Minn. Stat § 412.271, subd. 1.

³ Minn. Stat. § 412.271, subd. 1.

expenditures related to the fire department include expenditures for equipment, training, insurance, and fire fighters' compensation.

Relief Association Funds

A relief association is a separate non-profit organization. All relief associations, including the Storden Volunteer Firefighter's Relief Association, have a Special Fund. The Special Fund is a restricted pension fund that receives all state or city money, and pays for service pension payments and certain authorized administrative expenditures.

Some relief associations also have a General Fund. The Storden Volunteer Firefighter's Relief Association reported to the OSA that it does not have a General Fund. Relief associations that maintain a General Fund often use the General Fund for fundraising events, donations/gifts to the city for the fire department's benefit, refreshments and snacks for meetings, and fire department attire such as jackets, shirts or hats.

Relief associations may also have a separate Gambling Fund.⁴ The Storden Volunteer Firefighter's Relief Association has not reported to the OSA that it has a Gambling Fund.

Separate Fire Department Accounts

Based upon our conversations with the Fire Department's Treasurer, we understand that the Fire Department maintains the following financial accounts:⁵

- General Fund checking account;
- Equipment Fund checking account;
- Regular savings account;
- Raffle savings account; and
- Three certificates of deposit referred to as the Truck Fund.

The Fire Department Treasurer is the authorized signatory on all Fire Department financial accounts.⁶ The Fire Department Treasurer deposits all monies into the Fire Department's General Fund checking account and then disburses the monies to the other Fire Department financial accounts. The Fire Department Treasurer prepares a monthly Treasurer's Report for Fire Department meetings. The Report contains the Fire Department's General Fund checking account balance, the source and amount of receipts, and the amount and payee for checks written on the Fire Department account. The Treasurer's Report is not provided to the City Council for approval.

⁴ The Minnesota Gambling Control Board has authority over gambling activities.

⁵ The Fire Department Treasurer was not aware of the tax identification numbers used on these accounts.

⁶ The City Clerk/Treasurer is an additional authorized signatory on the General Fund checking account. As a result, checks from the General Fund checking account contain the signatures of the Fire Department Treasurer and the City Clerk/Treasurer.

Deposits into the Fire Department's General Fund checking account include payments for contracted fire services, donations, monies resulting from fund raising activities (including a raffle), and, from time-to-time, grant funds.⁷

Analysis and Recommendations

Municipal fire departments may not maintain financial accounts independent of the City's accounts. The Storden Fire Department is a municipal fire department. City funds and non-City funds have been co-mingled in the Fire Department's financial accounts over which the City does not exercise control.

In addition, the Storden Fire Department engaged in fund raising activities. Cities do not have authority to hold fund raising events.⁸

To comply with Minnesota law, the funds in the separate Fire Department financial accounts must be split between the General Fund of the Relief and City-controlled Fire Department financial accounts. The ownership of the Fire Department's financial accounts must be transferred to the City or the Relief, or the accounts must be closed. More specifically, the OSA recommends the following:

- 1) The Relief should establish a General Fund, consistent with the Relief's Bylaws, using the Relief's tax identification number on the account.⁹
- 2) The Relief should consult with the Minnesota Gambling Control Board to determine whether the Relief must create a Gambling Fund to comply with charitable gambling financial requirements.
- 3) The City, the Fire Department, and the Relief should determine whether existing funds are City or Relief funds. The funds should then be moved to the appropriate accounts.
- 4) In the future, all fundraising efforts should be handled by the Relief, using the Relief's newly established General Fund. Donations from the Relief to the City

⁷ The OSA was informed that a raffle permit is obtained by the Storden Volunteer Firefighter's Relief Association. The raffle prizes are purchased through the Fire Department's General Fund checking account. The funds collected from the raffle sales are deposited into the Fire Department's Raffle savings account. Once the raffle sales are complete, all but \$50 is transferred from the Fire Department's Raffle savings account to the Fire Department's General Fund checking account. The amount transferred to the Fire Department's General Fund checking account, minus the cost of the prizes, is then disbursed to the City. In turn, the City writes a check for the same amount back to the Fire Department to use for Fire Department expenses.

⁸ If permitted by its bylaws, a fire relief association may solicit donations and conduct fundraisers.

⁹ See Article VI, section 2 of Bylaws of the Storden Volunteer Firefighter's Relief Association (received by the OSA on August 30, 2006).

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- for the Fire Department should be accepted by the City Council and credited to the appropriate City-controlled Fire Department financial account.¹⁰
- 5) In the future, all fire contract payments should be received by the City and deposited in the appropriate City financial account. All Fire Department expenditures should be approved by the City Council.

For additional guidance on these issues, I have enclosed copies of our Statements of Position on: 1) Fire Relief Association Funds: Special and General Funds, and Charitable Gambling Funds; 2) Fire Departments, Fire Relief Associations and Checking Accounts; and 3) Fire Department and Fire Relief Association Fundraisers and Donations.¹¹

Conclusion

Please notify us in writing, by September 15, 2013, of the changes that are made. Please include a copy of the Fire Department, City Council, and/or Relief Association minutes and/or resolutions reflecting the changes.

Thank you in advance for your cooperation. If you have any questions, you may contact me at 651-282-2388 or by email to Kathy.Docter@osa.state.mn.us, or Nancy Bode at 651-297-5853 or by email to Nancy.Bode@osa.state.mn.us.

Sincerely,

/s/ Kathy Docter

Kathy Docter, CPA, CFE
Legal/Special Investigations
Office of the State Auditor

Enclosures

cc: Mr. Russell Fay, Fire Chief
Mr. James Polk, Fire Department Treasurer
Mr. Mark Shannon, Relief Treasurer
Ms. Karla Nelson, City Clerk/Treasurer
Richard W. Holmberg, Ltd., City and Relief Auditor

¹⁰ See Minn. Stat. § 465.03 (gifts must be accepted by a city council resolution adopted by a two-thirds majority and expressing all terms of the gift as prescribed by the donor).

¹¹ The Statements of Position are also available on our website, www.auditor.state.mn.us.