

ST. HELENA PARISH POLICE JURY



COMPLIANCE AUDIT  
ISSUED OCTOBER 1, 2008

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LOUISIANA LEGISLATIVE AUDITOR  
STEVE J. THERIOT, CPA

October 1, 2008

**MR. JULE CHARLES WASCOM, PRESIDENT**  
**ST. HELENA PARISH POLICE JURY**  
Greensburg, Louisiana

We have audited certain transactions of the St. Helena Parish Police Jury. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*; therefore, we are not offering an opinion on the St. Helena Parish Police Jury's financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of the St. Helena Parish Police Jury. Copies of this report have been delivered to the District Attorney for the Twenty-First Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Steve J. Theriot, CPA  
Legislative Auditor

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During 2006 and 2007, the St. Helena Parish Police Jury (Police Jury) entered into three contracts to pave 159 roads within the parish at a total cost of \$3,007,697, including changes and additions. We inspected 66 of those roads and observed that all 66 were constructed in some manner that appears to violate the Parish Transportation Act, the Louisiana Constitution, and/or the parish's own Master Plan of Operation. Public funds totaling \$1,141,577 were spent to pave those 66 roads with no evidence that the land was donated to or is owned by the parish. In addition, the Police Jury violated terms of the road construction contracts and may have violated state bid laws by adding changes and expenses to the contracts above a specified amount. Finally, the Police Jury enacted a sick leave policy that may violate the Louisiana Constitution.

## **Background**

Louisiana Revised Statute (R.S.) 48:751-762, the Parish Transportation Act (PTA), and local rules govern the manner in which roads are constructed, replaced, maintained, and accepted into the public road maintenance system by local governments. The PTA established a system by which public funds are expended on public roads. The Parish Transportation Fund was created by the state legislature to provide funds for local governments to improve their road systems when those improvements will be done in the best interests of the parish as a whole.

The PTA defines a public road as a road that “serves a public purpose that is in the best interest of the parish or municipality and their respective road systems.” It requires that parishes:

- (1) develop a three-year capital improvement program for the construction, replacement and maintenance of roads;
- (2) only construct roads based upon engineering plans and inspection; and
- (3) adopt a system of administration for all road projects.

An additional requirement is that parishes adopt a parishwide selective maintenance program that is prepared and administered by the parish road manager. Attorney General Opinion 97-267 interpreted the PTA to require that parishes base their road maintenance system on the requirements set forth in the PTA “regardless of the source of funding for a particular road project.” The Police Jury receives approximately \$168,000 per year from the Parish Transportation Fund (PTF) and collects an ad valorem tax to fund road construction in its respective districts.

On November 23, 1982, the Police Jury passed a resolution to establish a “Master Plan of Operation” (MPO). The MPO follows the same basic requirements of the PTA, which mandates that the administration of the parish's road maintenance and capital improvement programs are based on the greatest needs of the parish as a whole and is reviewed and revised on an annual basis. The resolution also provided minimum criteria for the acceptance of private roads into the parish road system. According to the Police Jury's legal counsel, the resolution has the authority of law until rescinded.

Audit reports covering several years indicate that the Police Jury has a history of violating state law and its established rules governing the construction, maintenance, and acceptance of roads into the public road system. From April 18, 2001, to August 29, 2001, the Louisiana Legislative Auditor issued two reports on the Police Jury citing findings related to the Police Jury's capital improvements program. The April 18, 2001, report indicated that the Police Jury failed to abide by R.S. 48:755 in that no parishwide capital improvement program existed. The August 29, 2001, report indicated that the Police Jury did not prioritize its capital improvement projects based on parishwide needs. Both reports also mentioned instances when parish employees performed work on driveways located on private property. In addition, annual audits conducted by the independent certified public accountant cited similar findings in 2003, 2004, 2005, and 2006. These findings indicated that the Police Jury was improperly ranking the proposed projects on its prioritized list of capital improvements.

### **Violations of the PTA and Other Louisiana Laws**

The PTA specifically prohibits the Police Jury from operating a ward system for road improvements or maintenance, by which individual jurors direct road work in their own districts without regard to the most critical needs of the parish as a whole. The PTA requires the Police Jury to develop a three-year capital improvement program for parish roads based on a priority ranking for the most critical needs existing parishwide. The PTA also requires the selective maintenance program to be prepared and administered by the parish road manager.

Attorney General Opinions 99-306 and 92-328 require that all road improvement projects regardless of funding source be included in the parishwide capital improvement program. Attorney General Opinion 96-189 also states that parishes should adhere to the unit system for the administration of their roads programs regardless of the source of funds used. Each district in the parish collects a road tax that is designated for use only in that particular district. Although taxes raised by public vote to be used for a specific purpose should be spent strictly in compliance with the public vote, the Police Jury should administer all other funds on a prioritized basis with approval by the entire Police Jury as required by the PTA.

The Police Jury is not following a priority ranking in the administration of capital improvements but rather acting under a ward system of administration. Each police juror makes an individual decision as to which roads in his district will be paved or put on the road priority list to be paved. Police jurors informed us that they rely upon the other jurors to know which roads in their respective districts are public and which need publicly funded improvements.

Daily logs kept by a contractor paving roads in the parish between March 2007 and September 2007 indicate that three police jurors directly provided instructions to the contractor or engineer on at least 32 roads. Mr. Willie Morgan, police juror from the Third District, did so concerning 23 roads; Mr. Frank Johnson, police juror from the Fourth District, did so concerning six roads; and Mr. Jule Charles Wascom, the Police Jury president from the First District, did so concerning three roads. These jurors acted without the approval of the Police Jury in adding roads to the paving project, in altering the amount of asphalt to be laid, and in providing instructions on how to handle specific situations. Such actions may be in violation of

R.S. 48:755, which prohibits any “member of the governing authority” from expending “any funds in his ward or district without the approval of the parish governing authority.”

The PTA requires that funds “be used for the benefit of the parish as a whole and within the priority ranking for the parish. The most critical needs existing parishwide according to the priority ranking shall be met first.” The Police Jury created and updates a priority list as required by the PTA but does not schedule road improvement projects based on that list. Of the 159 roads paved, only 66 appeared on the priority list before being paved. The jurors nominate roads to be placed on the list and vote to decide which roads will be added. No engineering plans or inspections are consulted before adding roads to the priority list. Jurors informed us that they were aware of the existence of the list but voted to pave roads without regard to the rankings.

The Police Jury voted to include roads in its construction projects that do not appear to benefit the parish as a whole, as required by the PTA. Many of the roads that we inspected can reasonably be described as driveways because they serve as few as one residence; lead to or through posted land; are blocked by the landowner; or dead-end at private driveways, carports, yards, and fields. Police jurors could cite no benefit to the parish as a whole in paving roads that serve so few residences. Jurors also agreed that the only ones to benefit from paving such roads are the residents who live on them and not the public at large.

The Police Jury’s actions by operating on a ward system with respect to capital improvements does not comply with the legal mandates of the PTA. According to the PTA, failure to comply with the PTA may constitute “Malfeasance in Office,” a violation of R.S. 14:134.<sup>1</sup>

### **Violations of the MPO**

The Police Jury’s MPO sets forth guidelines and requirements for the administration of the parish’s capital improvement program as well as minimum criteria for the acceptance of private roads into the parish road system. A primary guideline, which resembles the requirements of the PTA, is the establishment of a priority list of capital improvements based on the most critical needs existing parishwide. During 2006 and 2007, the Police Jury entered into three contracts to pave 159 roads within the parish at a total cost of \$3,007,697, including changes and additions.

We inspected 66 of those 159 roads and determined that all 66 roads in some fashion did not meet the requirements of the MPO. The Police Jury violated the MPO during its process of accepting roads into the parish road system or during its process of improving the roads. Specifically, the Police Jury violated the MPO by failing to use mandatory guidelines in its selection and ranking of roads for the priority list; failing to obtain right-of-ways for those roads; accepting roads into the parish road system that do not meet the minimum construction standards; and paving roads to construction standards less than those required by the MPO. In

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<sup>1</sup> R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

addition, the Police Jury cannot provide evidence to indicate that the land on which 158 of the 159 roads reside was donated to or public use was given to the parish.

The Police Jury spent \$1,141,577 in public funds to pave the 66 inspected roads. The cost to pave each road was calculated by adding the direct costs of grading and asphaltting each road to the pro-rated cost of signage and mobilization divided evenly among the number of roads under each contract. Engineering costs are not included in the totals.

#### Failure to Prioritize the Parish's Most Critical Needs

The MPO requires that the road superintendent and a road committee (comprised of jury members) determine which roads are placed on the priority list for approval by the Police Jury as a whole. The road committee should use "scientific engineering" data when considering the priority list. Once approved, by the Police Jury, the priority list is then incorporated in the Capital Improvement Program. The MPO recommends that the Police Jury annually review the priority list and make changes as needed.

Police jurors and the road superintendent confirmed that the parish has no road committee. Police jurors acknowledged their awareness of the priority list but stated that their decisions about which roads should be paved are not influenced by the list. One juror, the office administrator, the parish attorney, and the road superintendent also confirmed that the superintendent is not involved in the process of selecting roads to be placed on the list or in determining the ranking order in which roads appear on the list.

According to the former and current parish engineers, each police juror compiles a list of roads in his own district that he wants paved and gives the list to the engineer to calculate the costs to pave them. The Police Jury does not require the engineer to inspect those roads to evaluate their need to be on the list or the benefit created by improving them. To have a road added to the parish's priority list or paved, the police jurors only have to pass a motion to do so. The jurors trust that the juror making the motion knows which roads in his own district are public roads and whether they should be paved or placed on the priority list. The jurors select roads to be added to the list and paved based on their opinions of the specific needs of their individual districts and the available funding. They do not consider whether paving a particular road will benefit the parish as a whole when making those decisions.

Only 66 of the 159 total roads paved in 2006 and 2007 appeared on the priority list before being paved. Failure to comply with the MPO has resulted in a ward system of capital improvements and not a system of improvements based on the most critical needs parishwide.

#### Acceptance of Private Roads and Substandard Public Roads

The MPO establishes minimum standards for the acceptance and/or construction of roads into the public road system. According to the MPO, before being accepted into the parish road system, a road is required, in part, to provide a benefit to the parish as a whole, have a width of at least 18 feet, have a 60 foot right-of-way, and have no permanent dead end. The MPO distinguishes a public road as a road that "actually does serve the public" and is usable by the

general public. However, according to Police Jury practice, acceptance of a private road into the parish road system is accomplished by passing a motion at a Police Jury meeting. Passage of the motion requires no evidence that the road under consideration for acceptance meets the MPO's minimum standards.

To determine whether the 66 inspected roads meet the criteria set forth in the MPO and state law, we identified a road as being in compliance if it meets the minimum width and right-of-way provisions; has no permanent dead end; provides access to private property that is of some use to the public; is usable by the general public; and was properly accepted into the parish road system. The 66 roads that we inspected violate state law or are out of compliance with the MPO in the following ways:

- Forty-seven roads have no documentation supporting acceptance by the Police Jury into the public road system.
- All 66 roads have no record of 60 foot right-of-ways.
- All 66 roads are less than 18 feet wide.
- Forty-six roads terminate at permanent dead ends.
- Forty-four roads could be considered driveways and therefore do not serve the general public.

In addition, all 66 roads had no documentation of property ownership transfer to the parish or reciprocal agreements with the property owners for public use of the property.

### **Failure to Properly Accept Roads Into the Public Road System**

According to the MPO, a public road is defined as one that has been formally accepted by resolution of the Police Jury. However, the Police Jury could not produce resolutions supporting 47 of the 66 inspected roads were ever accepted into the public road system. As such, it appears that the Police Jury violated the provisions of the MPO and may have caused the expenditure of public funds to make capital improvements for private purposes.

### **Lack of Right-of-Ways**

In addition to the requirements of the MPO, R.S. 48:491(D) also states, in part, that “. . . no road or street on private property shall be designated as a public road unless ownership is transferred or the right-of-way is given to the local governing authority.” The Police Jury could not produce documentation supporting the acquisition of 60-foot right-of-ways for the 66 inspected roads. The Police Jury produced only one written right-of-way acquisition for the 159 roads involving the 2006 and 2007 contracts.

Some of the inspected roads are constrained in their 60-foot right-of-ways by land improvements. Mr. Frank Johnson, police juror for the Fourth District, confirmed this and stated that it is not always possible to obtain 60-foot right-of-ways when existing roads are accepted into the parish road system because houses and trees may already exist within that distance.

The police jurors claimed to be unaware of the legal requirements to obtain official right-of-ways before accepting private roads into the public road system. Two police jurors, Mr. Morgan and Mr. Wascom, stated that they obtain “verbal” right-of-ways from landowners when roads on private property are to be paved.

### **Substandard Road Widths**

The Police Jury paves roads at standards below what is called for in the MPO. Police Jury records indicate that none of the 66 inspected roads paved by the parish under the three contracts dated February 14, 2006; January 25, 2007; and May 10, 2007, are at least 18 feet wide, as required by the MPO. In addition, R.S. 48:495 requires that the minimum width for roads in the State of Louisiana be 25 feet.<sup>2</sup> Because state law supersedes local law, roads paved by the Police Jury should be at least 25 feet wide. The MPO has not been updated to comply with state law.

### **Dead-End Roads**

The MPO defines several road types, including dead-end roads. The MPO is clear with respect to dead end roads; it simply states, “a permanent dead-end road shall not be permitted.” Forty-six of the inspected roads violate the MPO by terminating at a permanent dead end.

### **Using Public Funds to Improve Private Driveways**

Although there are circumstances in which substandard roads can be accepted, the police jury did not give legitimate reasons for accepting the 66 inspected roads into the public road system. Failing to follow the MPO’s requirements has led to substandard roads, many of which appear to be driveways, being accepted into the public system and subsequently paved using public funds. Forty-four of the 66 roads we inspected could reasonably be deemed driveways and therefore do not appear to serve the general public as required by the MPO because they service as few as one residence, traverse posted land, or are blocked by the property owners.

The MPO intended for new roads adopted into the system “to be of a quality and uniformity to upgrade the Parish Road System rather than place an added burden on it.” The MPO attempts to prevent the Police Jury from adopting a road if “the ‘road’ is clearly a driveway; a private road which is not usable by the general public.” The Police Jury has repeatedly adopted graveled driveways into the public road system that were subsequently paved using public funds.

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<sup>2</sup> R.S. 48:495 states, “All roads laid out in accordance with this Sub-part and all necessary bridges shall be at least twenty-five feet wide.”

According to Mr. Wascom, if a constituent asked him to accept a private, gravel road into the system and to pave that road, he would do so simply because he was asked. Neither Mr. Wascom nor any other police juror could cite a public purpose for accepting a driveway into the public road system then paving the driveway. Three jurors stated that paving driveways benefits the adjacent landowners but not the parish as a whole. Paving or improving driveways with public funds may be a violation of state law<sup>1</sup> and Article 7, Section 14 of the Louisiana Constitution.<sup>3</sup>

### **Failure to Obtain Property Titles or Written Agreements**

The Louisiana Supreme Court has historically decided that third parties cannot be affected by unrecorded claims against the property. Therefore, the parish has no assurance that if the donated property was subsequently transferred to a third party the parish would prevail in a court action against the donor. Before expending public funds on road improvements, the Police Jury has an obligation to ensure the funds and assets of the parish are adequately safeguarded. Land acquired by the Police Jury can be acquired through a donation by the landowner with legal title to the land transferred to the parish or the Police Jury can enter into a written agreement with the landowner that allows public access to the land in exchange for the improvements being paid for by the parish. The Police Jury could not provide documentation as to the ownership of land involved in any of the 66 inspected roads nor could the Police Jury provide written agreements with the landowners allowing for the public use of the land.

For example, public funds totaling \$22,838 were used to pave Tanner Lane. A resident of Tanner Lane blocked its entrance from Jackson Chapel Road with a metal gate, which, according to the resident, was to prevent “dope dealers” from entering the area. That same resident also stated that Tanner Lane is a private drive and that traffic could use another route to access Jackson Chapel Road. Without proper recording of property ownership or agreed-upon public use of the property, the parish cannot demonstrate its authority to use the road or public purpose for expending the \$22,838 nor can the Police Jury demonstrate that it adequately protected public funds and assets. (See picture on the following page.)

Each of the six police jurors claimed to be unaware of the existence of the parish’s MPO. Therefore, they claimed to be unaware of their legal obligation to abide by the MPO’s requirements. Failure to abide by the MPO and safeguard public assets may violate the Louisiana Constitution and constitute “Malfeasance in Office,” a violation of R.S. 14:134.<sup>1</sup>

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<sup>3</sup> **Article 7, Section 14 of the Louisiana Constitution** provides, in part, that except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

The following are pictorial examples of the Police Jury's violations of the MPO.



**Tanner Lane**



**Circle H**

The Police Jury paid \$10,938 to pave Circle H Lane, a driveway that connects a single residence to Red Bluff Church Road. Because its width is less than 18 feet, Circle H Lane does not meet the minimum requirements of the MPO and state law. In addition, the parish could not produce records indicating it has ownership or public use of the improvement. Finally, the property, including Circle H Lane is posted warning the public against trespassing. There is also a chain with two locks on a fence post at the property's entrance. Had the Police Jury complied with the MPO, it would not have expended \$10,938 in public funds.



**Glover Cemetery Lane**

Glover Cemetery Lane is a 1,969 foot long, single lane path that connects two residences and a private cemetery to Highway 16. The land on both sides of Glover Cemetery Lane is owned by members of a single family. It was placed on the Road Priority list on May 23, 2006, and paved on April 16, 2007, at a cost of \$29,321. Because its width is less than 18 feet and it terminates at a permanent dead end, Glover Cemetery Lane does not meet the minimum requirements of the MPO and state law. In addition, the parish could not produce records indicating it has ownership or public use of the improvement. Finally, Glover Cemetery Lane is posted (“Private Drive No Thru Street”) warning the public against trespassing. Had the Police Jury complied with the PTA and its MPO, it would not have expended \$29,321 in public funds in possible violation of the Louisiana Constitution.



**Butch Norris Lane**

Butch Norris Lane is a 1,668 foot long path through a field that leads to a private residence. There are no residences along Butch Norris Lane from its origin at Shropshire Lane to its ending point at a fence row outside the private residence. There are two “Posted” signs at the beginning of the road warning the public against trespassing but no turnaround at its ending point. Butch Norris Lane was paved at a cost of \$28,711 to the parish. The lane does not meet the minimum requirements of the MPO or state law because the asphalt terminates at a permanent dead end, its width is only 13 feet, and there is no discernible benefit to the parish as a whole for its being paved. In addition, the parish could not produce records indicating it has ownership or public use of the improvement. Had the Police Jury complied with the PTA and its MPO, it would not have expended \$28,711 in public funds in possible violation of the Louisiana Constitution.



**Argie Lane**

Argie Lane is a 370 foot long horseshoe driveway that serves one residence. It was adopted into the parish system on April 22, 2003, and paved on June 4, 2007, at a cost of approximately \$5,311. The width of Argie Lane is only 12 feet wide and therefore does not comply with the MPO or state law. In addition, the parish could not produce records indicating it has ownership or public use of the improvement. Finally, there is no discernible benefit to the parish as a whole for improving the property. Had the Police Jury complied with the PTA and its MPO, it would not have expended \$5,311 in public funds in possible violation of the Louisiana Constitution.



**Paige Lane**

Paige Lane is a 1,479 foot driveway that connects three residences to Highway 441. It was added to the Roads Priority list on May 23, 2006, and paved on April 30, 2007, at a cost of approximately \$17,291. Paige Lane terminates at a dead end in the yard of a private residence. The width of Paige Lane is only 12 feet and therefore does not comply with the MPO or state law. In addition, the parish could not produce records indicating it has ownership or public use of the improvement. Finally, there is no discernible benefit to the parish as a whole for improving the property. Had the Police Jury complied with the PTA and its MPO, it would not have expended \$17,291 in public funds in possible violation of the Louisiana Constitution.

**Other Examples of Violation of the MOP**



**Doretha Road**



**Odom Lane**



**Bernard W. Lane**



**Harry Coleman Lane**

**Contract Change Orders**

The 2006 contract between St. Helena Parish and Diamond B Construction, LLC, originally called for 25 specifically named roads to be paved. The project was put out for bid in apparent compliance with R.S. 38:2212 (public bid law). Diamond B Construction was awarded the contract with a bid of \$746,446. The project's scope of work included grading, shaping, compacting, patching, and overlaying roads with asphaltic concrete. Of the 25 roads to be paved, 23 appeared on the priority list.

During construction, changes and additions to the contract expanded the number of roads to 94 and increased the cost by 120% to \$1,640,953. According to the parish engineer, he received change requests from the Police Jury body during scheduled meetings and from individual jurors outside scheduled meetings. Approval of work requested by individual jurors

was normally sought after the actual work had been completed. Change orders generated for the requested changes were signed and approved by either the president or vice-president of the Police Jury, acknowledging acceptance of the changes and the added costs. The engineer also stated that when the initial contract work was completed, the police jurors still had money available for additional paving so they requested additional work to be done. Because the jurors learned they could trust the work of the engineering firm, they were willing to spend the extra money on the additional roads.

The contract between Diamond B and St. Helena Parish states that St. Helena Parish “shall have the right to increase or diminish the amount of work to be done under the Contract at any time or times during the life of the Contract, provided that the total increase or diminution does not exceed thirty percent (30%) of the amount of the contract as bid on.” The Police Jury, however, violated that requirement by increasing the contract amount by 120%.

According to R.S. 38:2211 (A)(3), a “change order outside the scope of the contract” means a change order which alters the nature of the thing to be constructed. . . .” The addition of 69 roads and \$894,507 to the project appears to be outside the scope of the original contract. The changes, therefore, should have caused new bids to be solicited because they were outside the scope of work and their costs exceeded \$100,000, which is the maximum amount allowed for public works projects without soliciting bids.

By not bidding the additional work, the Police Jury may have violated the Louisiana public bid law.<sup>4</sup> In addition, by individual police jurors directing road improvements within their respective districts, the Police Jury appears to have operated under a ward system during the execution of the contract with Diamond B Construction, LLC, which is a violation of the PTA and its MPO.

### **Donation of Sick Leave**

During a Police Jury meeting on September 12, 2006, a parish employee who had exhausted all his earned leave because of a prolonged illness petitioned the jurors “to receive his vacation leave early.” The Police Jury denied his request but passed a motion which “granted each employee that is out of leave time and has emergency sickness to receive 20 days extra sick leave upon verification of illness.” The motion was adopted in the Police Jury’s Personnel Manual. Currently, the policy manual states, in part, “The Police Jury authorized 20 days emergency sick leave to any employee when said employee has no leave time left to cover the time off due to illness.” There is no provision in the policy for employees to re-earn or replace any “extra sick leave” extended to them upon their return to work. Five employees used this benefit since the ordinance was passed, costing the parish a total of \$7,162.

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<sup>4</sup> R.S. 38:2212(A)(1)(a) provides, in part, that all public work exceeding the contract limit to be done by a public entity shall be advertised and let by contract to the lowest responsible bidder who had bid according to the contract, plans, and specifications as advertised, and no such public work shall be done except as provided in this Part.

R.S. 38:2212A(1)(d) states that the term “contract limit” as used herein shall be equal to the sum of one hundred thousand dollars per project, including labor, materials, and equipment as per the rates in the latest edition of the Associated Equipment Dealers Rental Rate Book and administrative overhead not to exceed fifteen percent.

Louisiana Attorney General Opinion 07-0134 requires that public expenditures:

- (1) have a public purpose;
- (2) taken as a whole, do not appear to be gratuitous; and
- (3) provide the public entity with a reasonable expectation of receiving a benefit or value at least equivalent to the amount expended.

Although the new policy may have a public purpose, it may be in violation of Article 7, Section 14 of the Louisiana Constitution because payments to Police Jury employees for leave time that was not earned is gratuitous and there is no evidence that the Police Jury received a benefit at least equivalent to the expenditure.

### **Recommendations**

1. Members of the Police Jury have a duty to the public they serve to comply with the PTA, the Louisiana Constitution, and the parish's MPO. All police jurors should familiarize themselves with the parish's MPO, which sets minimum standards for roads constructed and adopted in the parish. We found that none of the six police jurors were aware of the existence of the Master Plan, which has been in effect since 1982. Failure to comply with the plan led to the improper expenditure of public funds of at least \$1,141,577.
2. Revisions to the MPO should be made to conform to the PTA and other relevant state laws. Every police juror should confirm in writing that he was made aware of the Master Plan as well as any changes that are made to the plan.
3. The Police Jury should hold itself up to the standards required by the PTA and its MPO in adopting and constructing roads. The Police Jury has adopted and constructed scores of roads in contravention of standards set by the Master Plan. Adherence to its own rules would have prevented unnecessary expenditures of public assets to maintain and improve substandard roadways and private property.
4. The Police Jury should abide by the PTA and its MPO when considering whether to adopt a private road into the parish system. Police jurors pass motions to accept roads into the parish system, but no inspection is done to certify that the road meets the minimum criteria for adoption; land transfer documentation is not created; right-of-way acquisitions are not executed, and landowners are not officially notified that roads on their property are being adopted into the parish system.

5. The MPO requires that a road committee evaluate requests from police jurors to add roads to the priority list and to have roads paved. St. Helena Parish does not have a road committee. As a result, roads that would have been otherwise ineligible were placed on the priority list and paved with public funds.
6. Road construction projects should be approved only after an engineer's report stating the proposed cost of the project, the existing condition of the road, the public use factor including the average daily traffic count, the cost benefit ratio based on total cost versus number of persons benefiting, the improvement cost versus continuous spot repairs, the need of the proposed project, and any public safety considerations. Such a report is required by the MPO although police jurors do not abide by the requirement.
7. The Police Jury should identify the roads that were constructed, improved, and adopted in violation of the PTA, Louisiana Constitution, and its MPO and seek restitution from the parties who were responsible and/or benefited from those actions. In addition, we recommend that the Police Jury remove any roads from the parish road system that are not in compliance with the PTA, the Louisiana Constitution, and the MPO.
8. The Police Jury should abide by the terms of its contracts and follow state bid law when undertaking public works projects. Additions to the 2006 St. Helena Parish road improvements contract increased the cost of the contract by \$894,507 or 120%. Any increase greater than 30% violates the terms of the contract. Also, public bid laws require that public works projects in excess of \$100,000 be advertised for public bid. The Police Jury did not re-bid the work done through changes to its existing contract.
9. The Police Jury should request an attorney general opinion on the constitutionality of its policy granting emergency sick leave to employees who have exhausted their earned leave. Providing such a benefit may be a gratuitous donation of public assets and a violation of the Louisiana Constitution.

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The Police Jury is the governing authority for the Parish of St. Helena. Six jurors from six districts within the parish compose the Police Jury. The Police Jury has a road superintendent and six road supervisors, one from each district.

The Police Jury receives funds from the state's Parish Transportation Fund. The statutory provisions of the Parish Transportation Fund require the Police Jury to administer the parish's roads system efficiently and as a whole. This method of administration is commonly referred to as the unit system.

The procedures performed during this examination consisted of:

- (1) interviewing employees and officials of the Police Jury;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records of the Police Jury;
- (4) performing observations; and
- (5) reviewing applicable state laws and regulations.

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## Management's Response



# ST. HELENA PARISH POLICE JURY

**Jule Charles Wascom**  
District 1

**Theodore McCray, Jr.**  
District 3

**Major Coleman**  
District 5

**Thomas J. Wicker**  
District 2

**Frank E. Johnson**  
District 4

**Doug Watson**  
District 6

**Mailing Address:**  
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**E-Mail:** sthelenapolicejury@hotmail.com  
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17911 HWY 43 N  
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**This institution is an equal opportunity provider**

September 8, 2008

Mr. Steve J. Theriot, CPA  
Louisiana Legislative Auditor  
Post Office Box 94397  
Baton Rouge, Louisiana 70804-9397

Re: St. Helena Parish Police Jury  
Response To Draft Audit Letter  
Of August 20, 2008

Dear Mr. Theriot:

Neither I nor the other numbers of the St. Helena Parish Police Jury were aware that the St. Helena Parish Police Jury had adopted a Master Plan of Operation For Road Building And Maintenance dated November 23, 1982, as required by Louisiana Legislature. For many years this document had not been distributed to the police jury membership and may not have been available to either the St. Helena Parish Police Jury Road Superintendent or the parish's engineering consultant. As a result of this lack of information, many of the plan's requirements have not been followed. I have contacted the St. Helena Parish Police Jury Secretary-Treasurer and I have directed that a complete copy of this document be provided to the members of the St. Helena Parish Police Jury, the Interim St. Helena Parish Road Superintendent, Mr. Albert Franklin, and Mr. Tim Hart of P.E.C., Inc., the firm providing the St. Helena Parish Police Jury with engineering services. The parish government will now and in the future follow the requirements of this master plan of operation unless it is properly amended and the parish intends to meet all requirements of the State of Louisiana by adhering to a parishwide unit system of road construction and maintenance.

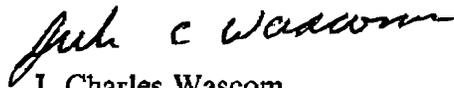
The single issue that I believe is in error in your preliminary letter is that your auditors are treating the sixty-six (66) roads in question as if they are newly acquired parish roadways that were brought into the St. Helena Parish Police Jury Road System after November 25, 1982. That information is erroneous. Each of these parish roadways, all of which are substandard roads, were

part of the St. Helena Parish Police Jury Road System prior to November 23, 1982. These short substandard roadways as of November 23, 1982 were established servitudes of the St. Helena Parish Police Jury that had been maintained for many years prior to November 23, 1982. Because of this maintenance, these roadways were included in the St. Helena Parish Police Jury System. Accordingly, these roads should be judged as upgrades for existing short substandard roads. State law nor the parish's master plan of operations addresses upgrades of existing parish roadways. These roadways should be evaluated as "old" existing substandard roads that the St. Helena Parish Police Jury elected to upgrade with asphalt overlay. To the extent that these sixty-six (66) roads were part of the St. Helena Parish Road Inventory on November 23, 1982, they are not "new" roads and do not have to meet the criteria for public use; the sixty (60) foot right of way requirement nor the twenty-five (25) foot road surface requirement of Louisiana Revised Statute 48:495; and the requirement of a cul-de-sac at the end of a dead end roadway. Prior to November 23, 1982, numerous narrow, substandard roadways were incorporated into the St. Helena Parish Road System, some of which only serve a single dwelling house or two (2). These roadways would not be included within the road system in today's world but they were included in the years and decades prior to November 23, 1982; these roadways have not been legally abandoned by the police jury and there is a duty for the St. Helena Parish Police Jury to maintain, sign and even improve these roadways. To the extent that resolutions were adopted concerning any of these sixty-six (66) roads which are the subject of this inquiry, the resolution was not to create a road right of way or to accept a road right of way but the purpose of the resolution was simply to acknowledge the fact that the right of way is and has been for many decades a part of the St. Helena Parish Road System. These decisions were made by the St. Helena Parish Police Jurors after discussing the road with the parish road superintendent and parish workers. In most cases, these roads were certified to be "old" parish roads by the parish road superintendent.

I hope this letter helps you better understand the processes used by the St. Helena Parish Police Jury.

With best regards, I remain

Yours very truly,



J. Charles Wascom

President

St. Helena Parish Police Jury

JCW:atj

RECEIVED  
LEGISLATIVE AUDITOR  
2008 AUG 26 AM 9: 57

Mr. Thomas J. Wicker, Police Juror  
578 Wicker Lane  
Greensburg, Louisiana 70441

August 25,2008

Mr. Steve Theriot, CPA  
1600 North third Street  
P.O. Box 94397  
Baton Rouge, Louisiana 70804

Dear Mr. Theriot:

This letter is in regards to an auditor's report on transactions of the St. Helena Parish Police Jury. I was elected to the police jury during the year of 2004 and was never presented or made aware of the Master Plan of Operation. If I had been aware of this plan, then I would have followed the guidelines. In 2005, I asked the voters of district 2 to pass a millage tax to pave gravel roads. After the passage of the millage, the engineer was given a list of all parish gravel roads in district 2. The existing roads were checked by the engineer for a cost factor. All of the roads were paved until the money ran out, with the exception of three roads not being paved. As a representative of district 2, I have never instructed the engineer of how to do his job, nor have I instructed the contractor of how to do his job. After the roads were completed, the engineer inspected them and the police jury approve payment to the contractor.

Since being on the jury, I have followed all advice given by our legal advisor and never was aware of the parish's Master Plan of Operation. Under the advisement of our parish's legal advisor, we were told that if the police jury worked a road within ten years and had records indicating this, it was considered to be a parish road. All parish roads that were paved in the district that I represent, which is district 2, were named and placed into the system as parish roads many years before I was elected to the police jury. Our legal advisor also said that if there was a stop sign at the end of a road, then it was also considered to be a parish road.

There were two roads on the auditor's list in the district that I represent that the auditor's considered to be private. I assure you that if I had known this, they would have never been paved. One of the roads, which was paved is Fred Hurst's Lane. The man who ran against me in the election lives on this road. During the campaign, this man attacked my character and told all

types of lies that were not true. Surely, if I had known that this road was private, I most definitely would not have asked for this road to be paved. At the beginning, I had no intentions of paving this road, but felt that this was the right thing to do because I represent all of the people of district 2. The other road that was paved is Bell Street. The reason that it was paved is because there was a stop sign at the end of the road, and from the advice of our legal advisor this was considered to be a parish road.

My future plans are to receive a copy of the Master Plan of Operation and read it. After reading it, I will review it with other members of the jury, with the legal advisor being present to see what works for our parish and what can be changed legally to best serve the interest of St. Helena Parish.

Respectfully submitted,



Thomas J. Wicker

St. Helena Parish Police Jury

District 2