



**Minutes of:  
Carter County Audit Committee  
June 10, 2021**

**Present:** Vice Chairwoman Margaret Moses  
Secretary Margaret Pate  
Carter Honeycutt  
Travis Hill

**County Officials Present:** Finance Director Brad Burke, Deputy Finance Director Audra Gerty, Connie Ford and Carrie Hinshaw of the Carter County Landfill; Abby Frye of the Mayor's Office serving to provide minutes for the meeting.

**Comptroller Office Officials Present:** Marie Tidwell, Paula Knight, Brandon Hammes

**Call To Order:**

Vice Chairwoman Margaret Moses called the meeting to order at 5:01 p.m.

A motion to approve the agenda for this meeting of the Audit Committee was made by Margaret Pate and seconded by Carter Honeycutt. The motion passed unanimously on a voice vote.

Vice Chairwoman Moses welcomed new committee member Travis Hill. She asked Mr. Hill to introduce himself and tell a little about himself. Mr. Hill shared that he is Chairman of the Carter County Commission, a member of the Financial Management Committee, and that he works as an accountant with the City of Elizabethton.

Vice Chairwoman Moses led a brief discussion regarding the election of officers for the committee. It was decided that the election of officers would take place during the next committee meeting.

**Minutes of Previous Meeting:**

Vice Chairwoman Moses presented the minutes from the previous meeting on June 19, 2020, to the committee for approval. Motion to approve the minutes was made by Carter Honeycutt. The motion received a second from Margaret Pate and passed unanimously on a voice vote.

Vice Chairwoman Moses then introduced herself and committee members Margaret Pate and Carter Honeycutt. Vice Chairwoman Moses then briefly spoke about the duties of the Committee and provided Travis Hill with some documentation regarding the Committee and its responsibilities.

**Public Comments:**

No members of the public wished to speak.

**Old Business:**

None

**New Business:**

Review of audit report for Fiscal Year ended June 30, 2020:

Vice Chairwoman Moses began with a review of Prior-year Financial Statement Findings listed in the audit report. She stated the report was an “unmodified opinion,” which she said is what the County wants to see in their Audit Report. She stated the report also noted an “unmodified opinion” on internal controls and compliance. She noted the report found no material weaknesses regarding internal controls and only one (1) significant deficiency regarding internal controls, which she said is an improvement over audits for previous years. She noted the report found no deficiencies in federal programs this year and no issues of Non-Compliance.

Vice Chairwoman Moses then began with a brief discussion on the findings of the prior year audit for Fiscal Year Ended June 30, 2019. Vice Chairwoman Moses asked the auditors when Carter County could be classified as a “low risk” auditee. Senior Auditor Marie Tidwell stated it would require two consecutive years with no material weaknesses found and no single audit findings.

Vice Chairwoman Moses inquired from the auditors the status of the investigative audit being conducted on the Head Start program of the Carter County School System related to questionable charges. Senior Auditor Marie Tidwell stated the last update she heard regarding the investigative audit was that the investigation portion had been completed and the investigators were waiting to take their findings before the Grand Jury.

Vice Chairwoman Moses then began reviewing the findings for the current year audit report for Fiscal Year ended June 30, 2020.

**PART II, FINDINGS RELATING TO THE FINANCIAL STATEMENTS****FINDING 2020-001 THE CARTER COUNTY HEAD START PROGRAM IS CURRENTLY UNDER INVESTIGATION****(Noncompliance Under *Government Auditing Standards*)**

An investigation of the Carter County Head Start Program by the state Comptroller’s Division of Investigations is ongoing. Findings, if any, resulting from this investigation will be included in a subsequent report.

A brief discussion was held regarding this finding as it had just previously been addressed.

**FINDING 2020-002 COUNTY OFFICIALS WERE NOT PAID IN COMPLIANCE WITH STATE STATUTE****(Noncompliance Under *Government Auditing Standards*)**

As noted in the prior-year audit report, the former county mayor and the former register of deeds were overpaid when they left office on August 31, 2018, which resulted in the then current county mayor and the current register of deeds being under paid for the fiscal year ended June 30, 2019. On September 16, 2019, the county commission voted to forgive the excess amounts paid the two former officials and authorized additional payments to the then current county mayor (\$4,367) and the current register of deeds (\$3,554), which were paid on September 27, 2019.

Approving the overpayment to the former register of deeds appears to violate state statutes since salaries of other county officials were not adjusted proportionately. Section 8-24-102 *Tennessee Code Annotated (TCA)*, establishes a minimum salary that shall be paid to county officials. This statute also provides that the county commission may appropriate more than the minimum, as long as all general officers of the county are paid the same. This statute also requires the compensation of the sheriff and chief administrative officer of the county highway department must be ten percent greater than the general officers of the county, and the county mayor’s compensation must be at least five percent higher than the salary paid to any other county constitutional officer.

The general officers of the county include the Assessor of Property, County Clerk, Clerk and Master, various clerks of court including the circuit and general sessions courts clerk, County Trustee, and Register of Deeds. On June 15, 2020, the county commission voted not to appropriate additional funds for the remaining officials' salaries to correct the violation noted in the prior-year report. As of the date of this report, the county commission has not appropriated, and additional payments have not been made, to the other general officers and constitutional officials as required by the above referenced statute. This noncompliance is due to a lack of management oversight and management's failure to correct the finding noted in the prior-year audit report.

Finance Director Brad Burke stated this is a recurring finding from the previous year. He stated the Financial Management Committee has discussed this and will be sending the information to the Budget Committee for that committee to consider sending it to the full Commission to make the payments suggested by the Comptroller's Office to correct the audit finding.

**FINDING 2020-003 THE COUNTY HAD DEFICIENCIES IN BUDGET OPERATIONS  
(Noncompliance Under Government Auditing Standards)**

Our examination revealed the following deficiencies in budget operations. These deficiencies existed due to a lack of management oversight and management's failure to hold spending to the limits authorized by the county commission. Some of these issues have been reported in previous audit reports. Management has provided written responses and corrective action plans to address these weaknesses; however, these weaknesses continue to exist.

**A.** Expenditures exceeded appropriations approved by the county commission at the major category level (the legal level of control) in the following funds:

Fund/Major Appropriation Category	Overspent
Primary Government:	
Solid Waste/Sanitation:	
Miscellaneous	\$ 2,392
General Debt Service:	
Education	\$ 2,498
School Department:	
General Purpose School:	
Special Education Program	\$ 33,392
Technology	\$ 3,909
School Federal Projects:	
Special Education Program	\$ 5,864

**B.** Salaries exceeded appropriations in 33 of 253 salary line-items of the General, Solid Waste, Highway/Public Works, General Purpose School, School Federal Projects, Central Cafeteria, and Head Start funds by amounts as high as \$61,842. The budget resolution approved by the county commission states that the salary, wages, or enumeration of each official, employee, or agent of the county will not exceed appropriations that accompany this resolution. Therefore, the salaries that exceeded line-item appropriations were expenditures not approved by the county commission.

Section 5-9-401, *Tennessee Code Annotated*, states that "All funds from whatever source derived, including, but not limited to, taxes, county aid funds, federal funds, and fines, that are to be used in the operation and respective programs of the various departments, commissions, institutions, boards, offices and agencies of county governments shall be appropriated to such use by the county legislative bodies."

Finance Director Brad Burke stated one of the issues was the Finance Department did not know until after the fact if employees were working additional time which leads to expenditures being over the budgeted amounts for salaries. Vice Chairwoman Moses stated the amount noted this year had decreased from the amount noted during the previous year's audit. Director Burke stated it is a work in progress, and he is continuing to break

down budgets and salaries into the appropriate line items to better track expenditures. Director Burke stated he has also been working heavily with the School Department regarding budget management and improvements are being seen in that area.

**SOLID WASTE DEPARTMENT FINDING 2020-004 THE DEPARTMENT HAD ACCOUNTING DEFICIENCIES**

**(A. – Noncompliance Under *Government Auditing Standards*; B. – Internal Control – Significant Deficiency Under *Government Auditing Standards*)**

As part of our audit procedures for obtaining reasonable assurance that funds collected at the Landfill and the Roan Mountain Convenience Center were receipted and deposited properly, we judgmentally selected receipts for the month of April 2020 to trace to deposits with the county trustee’s office. Our examination revealed the following deficiencies.

**A.** From a review of receipts issued at the landfill, we noted six instances where collections were held for as many as six days before being deposited with the county trustee. Section 5-8-207, *Tennessee Code Annotated*, requires county officials to deposit public funds within three days of collection. The delay in depositing funds weakens internal controls over collections and increases the risks of fraud and misappropriation.

**B.** Receipts at the landfill were not always independently reconciled with collections, as stated in the corrective action plans submitted for the past two prior years. From our review of collections, we noted five deposit sheets that did not include another employee’s signature as verification. Independent verifications of daily collections act as a deterrent to fraud and abuse and ensure errors that are discovered get corrected properly. These deficiencies are the result of a lack of management oversight, management’s failure to correct the finding noted in the prior-year audit report, and management’s failure to implement their corrective action plan.

Vice Chairwoman Moses discussed the importance of the three-day rule for deposits.

Connie Ford, an office employee at the Carter County Landfill attending the meeting on behalf of Solid Waste Director Benny Lyons, stated improvements have been made in this area. Mrs. Ford said deposits are being done daily or at a minimum of every other day. Mrs. Ford then discussed changes that have been made to the internal operations of the landfill office that provide better segregation of duties for employees. Discussion was held regarding the positive changes made at the Landfill with operations.

**OFFICE OF SHERIFF FINDING 2020-005 THE SHERIFF DID NOT OBTAIN A LETTER OF AGREEMENT OR COURT DECREE TO AUTHORIZE DEPUTY HIRES**

**(Noncompliance Under *Government Auditing Standards*)**

The sheriff did not obtain a letter of agreement or file suit in circuit court to authorize the number and salaries of his deputies. Section 8-20-101, *Tennessee Code Annotated*, requires the sheriff to enter into a letter of agreement with the county mayor concerning the number and the salaries of deputies or to file suit in circuit court. This noncompliance is the result of management’s decision based on the sheriff’s interpretation that the statute does not require him to obtain a letter of agreement or file suit in circuit court.

Sheriff Dexter Lunceford spoke to the committee regarding this finding and stated he does not agree with the finding. Sheriff Lunceford told the Committee that TCA Section 8-20-101 cited in the finding uses the word “may” which he stated means that he may do as the statute states, but he is not required to do so. Sheriff Lunceford read a letter provided to him by County Attorney Josh Hardin in which Attorney Hardin states he agrees with Sheriff Lunceford’s interpretation of the law and agrees that this should not be an audit finding. Sheriff Lunceford provided a copy of the letter and referenced state statutes to Vice Chairwoman Moses. (A copy of the letter and provided statutes are attached to these minutes for the record.)

Sheriff Lunceford told the Committee the reason he has not filed a letter of agreement is because he does not agree with the salary which his deputies are paid, and filing a letter stating that he does would hinder his ability to negotiate with the County Commission to attempt to increase salaries for his employees. Committee member Carter Honeycutt asked Sheriff Lunceford what the starting salary is for one of his deputies. Sheriff Lunceford replied that starting salary is \$24,500 per year. Committee member Honeycutt noted that salary would fall below the federal poverty limit for a family of four. Sheriff Lunceford stated this was true, and if his officers have families, they qualify for food stamps. Sheriff Lunceford stated the low salaries are also contributing to problems with employee recruitment and retention, and that his department is currently at a critical staffing level.

Senior Auditor Marie Tidwell said the Comptroller's Office disagrees with Sheriff Lunceford and Attorney Hardin regarding the interpretation of the TCA code cited in the finding. She stated the Comptroller's interpretation of the law states the Sheriff must either sign the Letter of Agreement or must file a Writ of Mandamus against the county. Senior Auditor Tidwell stated that Sheriff Lunceford is not the first Carter County Sheriff to fail to sign a Letter of Agreement. She stated the last time she remembers seeing a Letter of Agreement from the Carter County Sheriff was during Sheriff John Henson's administration. She said the Comptroller's Office has asked auditors to once again be checking to ensure that Letters of Agreement are being signed by County Officials. She stated this may be a reoccurring audit finding if Sheriff Lunceford has not filed a Letter of Agreement for the fiscal year about to end.

This concluded discussions on the current year audit report findings. Vice Chairwoman Moses opened the floor for any discussion by the committee members. Senior Auditor Marie Tidwell asked if the committee had any questions for them.

A brief discussion was held regarding the uncertainty of current guidance for the new round of federal stimulus money under the American Rescue Plan passed at the federal level.

Vice Chairwoman Moses adjourned the meeting at 5:55 p.m.

Respectfully submitted,  
Abby Frye



Joshua A. Hardin  
Carter County Attorney

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February 4, 2021

Dexter Lunceford  
Carter County Sheriff  
900 East Elk Avenue  
Elizabethton, TN 37643  
*Via electronic mail only*

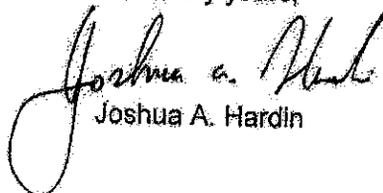
RE: Potential Audit Finding  
2019-2020 fiscal year

Sheriff Lunceford,

I looked into the audit finding matter we spoke about on the phone and based upon the information we discussed I agree with you that there should not be an audit finding. The audit for the fiscal year ended on June 30, 2020 is not yet publicly available so I have not seen it. However, if there is a finding for your office solely for not filing a letter of agreement between you and the County Mayor regarding the number of deputies or the amount of compensation budgeted for your office, that appears to be just plain wrong.

The statutory scheme set forth in TCA 8-20-101 et seq. is clearly intended as a mechanism for the Sheriff or other county officials to institute litigation against the county to increase the number of deputies/assistants needed in their respective offices and/or the related salaries and expenses to operate said offices. A reading of the plain language of the statute indicates there is no requirement for the Sheriff or other officials to file anything if he or she agrees with the number of deputies/assistants and associated salaries/expenses as budgeted by the county. The procedures set forth in the statute are permissive and not mandatory. If the auditors are specifically referring to 8-20-101(c), the word "may" in subsection (c)(1) clearly indicates a letter of agreement is not required and the subsequent portions of the subsection concerning where the letters "shall" be filed are only applicable if the letter of agreement is desired by the official in the first place. I am happy to discuss this matter directly with the auditors if necessary. If I can be of any further assistance please let me know. As always,

Sincerely yours,

  
Joshua A. Hardin

JAH/ana

## Document: Tenn. Code Ann. § 8-20-101

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### Tenn. Code Ann. § 8-20-101

#### Copy Citation

Current through the 2020 Regular and Second Extraordinary Sessions

**TN - Tennessee Code Annotated Title 8 Public Officers And Employees Chapter 20  
Appointment of Deputies and Assistants**

#### 8-20-101. Application for authority to employ deputies.

(a) Where any one (1) of the clerks and masters of the chancery courts, the county clerks and the clerks of the probate, criminal, circuit and special courts, county trustees, registers of deeds, and sheriffs cannot properly and efficiently conduct the affairs and transact the business of such person's office by devoting such person's entire working time thereto, such person may employ such deputies and assistants as may be actually necessary to the proper conducting of such person's office in the following manner and under the following conditions, namely:

- (1) The clerks of the circuit, criminal, and special courts may make application to the judge, or any one (1) of the judges, of their respective courts, in term time or at chambers, by petition duly sworn to, setting forth the facts showing the necessity for a deputy or deputies or assistants, the number required and setting forth the salary that should be paid each;
- (2) The sheriff may in like manner make application to the judge of the circuit court in the sheriff's county, for deputies and assistants, showing the necessity therefor, the number required and the salary that should be paid each; provided, that in the counties where criminal courts are established, the sheriff may apply to a judge of such criminal court; and
- (3) The clerks and masters of the chancery courts, county trustees, county clerks and clerks of the probate courts, and registers of deeds may make application to the chancellor, or to one (1) of the chancellors, if there be more than one (1), holding court in their county by sworn petition as above set forth, showing the necessity for a deputy or deputies or assistants, the number required and the salary each should be paid.

(b) In the event a petition is filed by a court clerk, the court shall, upon request of any party, transfer the case to a court other than a court the clerk serves. No order increasing expenditures shall be

effective during any fiscal year unless the petition is filed within thirty (30) days after the date of final adoption of the budget for the fiscal year, except this shall not apply to any order entered into by

agreement of the parties. A new officeholder shall have thirty (30) days from taking office to file a petition and any order entered with respect to such petition may be effective during the fiscal year.

**(c)**

**(1)** In the event the county official agrees with the number of deputies and assistants and the compensation and expenses related thereto, as set forth in the budget adopted by the county legislative body, the county mayor and the county official involved may prepare a letter of agreement, using a form prepared by the comptroller of the treasury setting forth the fact that they have reached an understanding in this regard.

**(2)** This letter of agreement shall be filed in court; however, no court costs, litigation taxes or attorneys fees shall be assessed.

**(A)** The clerks of the circuit, criminal and special courts shall file their letters of agreement or other petitions with the judge or any one (1) of the judges in their respective courts;

**(B)** The sheriffs shall file their letters of agreement or other petitions with the circuit court; provided, that in counties where criminal courts are established, the sheriff shall file with the criminal court; and

**(C)** The clerk and masters, county trustees, county clerks and clerks of the probate courts and registers of deeds shall file their letters of agreement or other petitions with the chancellor or one (1) of the chancellors if there is more than one (1).

**(3)** Any county official authorized to file a salary petition pursuant to this section may use this letter of agreement without regard to whether the county official's office operates under the fee system.

**(d)** Unless otherwise prohibited by law or rule of the supreme court, any petition or application for the authority to appoint or employ one (1) or more additional deputies or assistants filed pursuant to this chapter shall be heard and determined by a judge or chancellor serving the judicial district in which the petition or application is filed.

## History

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Acts 1921, ch. 101, § 7; Shan. Supp., § 6428a44; mod. Code 1932, § 10731; modified; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A. (orig. ed.), § 8-2001; Acts 1993, ch. 348, §§ 1, 2; 1995, ch. 29, § 1; 2003, ch. 90, § 2; 2005, ch. 276, § 1.

TENNESSEE CODE ANNOTATED

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