

FILED
MAY 06 2024
CIRCUIT COURT CLERK
BY *[Signature]* D.C.

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE,

v.

WANDA HALBERT,
Defendant,

DIVISION CT-1890-24

Docket No. VI

**PETITION TO REMOVE THE SHELBY COUNTY, TENNESSEE COUNTY CLERK,
WANDA HALBERT, FROM OFFICE PURSUANT TO TITLE 8, CHAPTER 47 OF THE
TENNESSEE CODE ANNOTATED**

Comes now, the State of Tennessee, by and through District Attorney General Coty Wamp, to petition this honorable Court to remove the elected Shelby County Clerk, Tennessee, Wanda Halbert ("Defendant"), from office pursuant to Title 8, Chapter 47 of the Tennessee Code Annotated and Tenn. Code Ann. § 8-47-101, due to willful neglect to perform a duty enjoined upon the Shelby County Clerk by the laws of the State of Tennessee. The State of Tennessee further requests as a part of this petition that this honorable Court suspend Shelby County Clerk Wanda Halbert from performing any of the duties of her office pending a final hearing and determination of this matter by this Court.

I. STATUTORY BASIS FOR PETITION FOR REMOVAL OF OFFICER

1. Tennessee Code Annotated § 8-47-101 allows for the removal of officers if that officer has: (1) knowingly or willfully committed misconduct in office; (2) knowingly or willfully neglected to perform any duty enjoined upon such officer by any laws of the State; (3) in any public place was in a state of intoxication produce by strong drink voluntarily taken; (4)

engaged in any form of illegal gambling; or (5) committed any act constituting a violation of any penal statute involving moral turpitude.

2. Officers subject to removal under this title and chapter include “[e]very person holding any office or trust or profit, under and by virtue of any of the laws of the state, either state, county, or municipal, except such officers as are by the constitution removable by methods other than those provided in this chapter . . .” Tenn. Code Ann. § 8-47-101.

3. It is the duty of the . . . district attorneys general . . . upon notice being received by them in writing that any officer herein mentioned has been guilty of any of the acts, omissions, or offenses set out in T.C.A. 8-47-101, to investigate such complaint. Tenn. Code Ann. § 8-47-103. If upon investigation the district attorney general finds that there is reasonable cause for such complaint, the district attorney general shall institute proceedings in the circuit, chancery, or criminal court of the proper county, to oust such officer from office. *Id.*

4. The District Attorney General is authorized to file a petition under this title and chapter in the name of the State of Tennessee pursuant to Tenn. Code Ann. § 8-47-110, which states that “[t]he petition or complaint shall be in the name of the state and may be filed upon the relation of the . . . district attorney general for the state . . .”

II. JURISDICTION

5. Complaints under this title and chapter may be “institute[d] in the circuit, chancery, or criminal court of the proper county, to oust such officer from office.” Tenn. Code Ann. § 8-47-103.

6. All ouster proceedings are governed in accordance with the courts of chancery, regardless of whether the petition was filed in circuit, chancery, or criminal court. Tenn. Code Ann. § 8-47-118.

7. On March 28, 2023, Shelby County Attorney Marlinee Iverson submitted a formal request to Attorney General Skrmetti and Shelby County District Attorney General Mulroy to investigate the Shelby County Clerk for neglect of duty. The request (*attached as "Exhibit A"*) places General Skrmetti and General Mulroy on notice that the Shelby County Attorney's Office had received numerous complaints from elected officials and residents alleging neglect of duty by Ms. Halbert. More specifically, the County Attorney had received concerns regarding the potential closure of a second branch location of the Shelby County Clerk's office. The Shelby County Attorney notified General Skrmetti and General Mulroy of these allegations based on a duty to investigate pursuant to Tenn. Code Ann. § 8-47-103.

8. The District Attorney General for the 30th Judicial District (Shelby County) moved the Criminal Court, pursuant to Tenn. Code Ann. § 8-7-106(b)(1), for a District Attorney General *Pro Tem* in this matter in order to avoid any appearance of impropriety and/or conflict of interest due to the nature of the investigation.

9. On June 29, 2023, the District Attorney General for the 11th Judicial District, Coty Wamp, was appointed as the District Attorney General *Pro Tem* to investigate the Shelby County Clerk pursuant to Tenn. Code Ann. § 8-47-103 to determine whether instituting removal proceedings is appropriate.

III. BASIS FOR REMOVAL AND ALLEGATIONS

10. Article VII Section 1 of the Constitution of the State of Tennessee explicitly states that "[a]ny officer shall be removed from malfeasance or neglect of duty as prescribed by the General Assembly." Tenn. Const. art. VII, § 1.

11. This petition will state the charges against Defendant and the allegations and basis for removal as required by Tenn. Code Ann. § 8-47-113 and *State ex rel. Carney v. Crosby*, 255

S.W.3d 593, 596 (Tenn. Ct. App. 2008). These allegations are comprised of sections 16-69 below.

12. The allegations in this case allege that Defendant has willfully neglected to perform duties enjoined upon Defendant by the laws of the State. *See* Tenn. Code Ann. § 8-47-101. They do not allege willful misconduct, intoxication by drink voluntarily taken, illegal gambling, or acts of moral turpitude.

13. On September 1, 2022, Ms. Halbert took the following Oath of Office:
"I, Wanda Halbert, do solemnly swear that I will support, obey, and defend the Constitution of the United States, the Constitution of the State of Tennessee, and the Charter of the County of Shelby. That I will faithfully discharge the duties of the office of Shelby County Clerk to the best of my ability. I do solemnly swear that I will perform, with fidelity, the duties of the office of Shelby County Clerk to which I have been elected and which I am about to assume."

14. Significantly, Shelby County operates a charter form of government. The Tennessee Constitution allows that the General Assembly may provide alternative forms of county government including the right to charter and the manner by which a referendum may be called. T.C.A. 5-1-201.

15. Ms. Halbert, pursuant to the oath taken on September 1, 2022, is required to support, obey, and defend not only the United States Constitution and State Constitution, but also the *charter of the county of Shelby*.

Inaccurate and Untimely Financial Reporting

16. Shelby County Clerk Wanda Halbert, also known as Wanda Halbert-Singh, ("Ms. Halbert") was sworn into office on September 1, 2022. It being a 4-year term, Ms. Halbert's term began on September 1, 2022 and will end on September 1, 2026.

17. Article VII Section 1 of the Constitution of the State of Tennessee explicitly states that "[a]ny officer shall be removed from malfeasance or neglect of duty as prescribed by the General Assembly." Tenn. Const. art. VII, § 1.

18. Significantly, Shelby County operates a charter form of government. The Tennessee Constitution allows that the General Assembly may provide alternative forms of county government including the right to charter and the manner by which a referendum may be called. Tenn. Code Ann. § 5-1-201.

19. Ms. Halbert is responsible for the collection of millions of dollars a month from Shelby County residents. As County Clerk, Ms. Halbert's responsibilities include but are not limited to selling more than 650,000 vehicle license plates each year, collecting liquor by the drink taxes, issuing notary public commissions, selling business licenses, swearing in deputy sheriffs, issuing marriage licenses, and license plate renewals.

20. Tennessee Code Annotated § 8-22-104 requires that the county clerk shall keep a complete account of every fee of every nature, commission or charge collected by such officer . . . and shall file an itemized statement thereof monthly, under oath, with the county mayor, who shall preserve the same as a part of the records of the county mayor's office.

21. Shelby County operates under a fee system pursuant to Tennessee Code Annotated § 8-22-103. This statute requires that the county clerk remit all excess fees collected by the county clerk's office to the county trustee as a part of the county revenue.

22. Tennessee Code Annotated § 67-5-1902(a) states as follows:

On or before the tenth day in each month, the trustee shall report to and make settlement for all taxes collected during the preceding month, with the county mayor and with the financial agent or treasurer of each municipality, and pay over to the same the amounts shown by the respective settlement to be due each.

Tenn. Code Ann. § 67-5-1902(3) goes on to require that it is the duty of the county mayor to submit a copy of this settlement, showing all debits and credits, to the county legislative body at the following term for inspection, which shall be entered upon the minutes of the county legislative body.

23. Shelby County Government relies on the monthly reports of Ms. Halbert based on the amount of money the Shelby County Clerk's Office collects each month.

24. The Shelby County finance division relies on the Shelby County Trustee, Regina Newman ("Trustee"), and Ms. Halbert reconciling Ms. Halbert's monthly report so that the report can be reviewed for accuracy before it goes to County Government.

25. In accordance with Tennessee Code Annotated § 8-22-103 and Tennessee Code Annotated § 67-5-1902, it is mandated by Shelby County Government, through a County Resolution (*See attached "Exhibit B"*, Resolution Item 11, signed by the Mayor on August 14, 2023) that each department responsible for completing and submitting monthly reports must submit the reports by 10:00 am CST on the 10th day of the following month (i.e., financial report from the month of March 2024 is due by 10:00 am CST on April 10, 2024 to the Shelby County Trustee). The resolution became effective in accordance with Article II, Section 2.06(B) of the Shelby County Charter.

26. Shelby County Trustee Regina Newman cannot comply with Tennessee Code Annotated § 67-5-1902 without the county clerk filing a timely monthly revenue report by the 10th day of each month.

27. The Shelby County Trustee's office prepared a chart that demonstrates the failures of the Shelby County Clerk to submit accurate and timely monthly revenue reports from July 2021 to March 2024 (*see attached "Exhibit C"*).

28. Ms. Halbert consistently fails to turn the monthly report in to the Trustee in a timely manner (*see Exhibit C*). There is no legitimate reason why Ms. Halbert cannot submit the monthly reports in a timely manner. Based on the technology that Ms. Halbert's office maintains, Ms. Halbert should have the ability to submit the financial reports on the first day of the following month. It is the State's understanding that all other Shelby County departments and offices submit their monthly reports in on time so that they can be reconciled before being finalized.

29. Ms. Halbert's monthly reports are consistently inaccurate with collected dollar amounts not added properly. The inaccurate reports are impossible for Shelby County Government to rely on for purposes of government funding distributions and budget requirements (*see Exhibit C*).

30. Since July of 2021 there has not been one revenue report that Ms. Halbert has turned in timely and accurately (*see Exhibit C*). This gross neglect of duties has, over time, caused County officials to have zero confidence in Ms. Halbert's ability to run an office that collects large amounts of taxpayer dollars.

31. Ms. Halbert's reporting became so untrustworthy that the Shelby County Finance Department had to stop submitting the final reports in a timely manner because the inaccuracies were jeopardizing Shelby County budgetary numbers altogether. Essentially, the Shelby County Finance Department began to assume that Ms. Halbert's reports were going to be late, inaccurate, or both and that they would have to be reconciled and resubmitted numerous times.

32. Ms. Halbert has been repeatedly informed that the reports from her office are not accurate and not submitted timely.

33. Several employees in Shelby County Government have offered assistance and support to Ms. Halbert to no avail. These individuals have tried to assist Ms. Halbert because it only makes everyone's job easier. Ms. Halbert rejects the assistance and has even threatened to kick other Shelby County employees out of her office.

34. Ms. Halbert and her employees do not seem to understand the significance of accurate financial reporting. In a meeting on March 21, 2024, employee Shelby County Clerk's Office employee Benny Smith was confronted with the inaccurate monthly reports. When asked why there have been discrepancies in the \$200,000-\$300,000 range, Mr. Smith commented that \$200,000-\$300,000 is not significant given the total amount of the County's annual budget.

35. The Shelby County finance department has consistently had to report to the Shelby County Commission that some items from the Shelby County Clerk's Office are not yet reported after the reporting deadline.

36. The "wheel tax" is an example of a tax that is collected by Ms. Halbert's Office. In 2023 a resolution was passed that increased the wheel tax by \$25 (from \$50 to \$75). Per the resolution, \$50 of the wheel tax would remain allocated to the Shelby County Government for debt collection while the new \$25 would be allocated to the Shelby County School System. Ms. Halbert was and is responsible for reporting to the county which of the collected wheel tax must be allocated to the schools versus debt collection. Essentially, Ms. Halbert was responsible for dividing the \$50 for general government and the \$25 for schools on her monthly reports so the Trustee and Finance Department would know how much money should be allocated to each. For months, Ms. Halbert failed to report the wheel tax allocations appropriately (*see Exhibit C*).

37. Further, Ms. Halbert was not aware for a period of months that the updated wheel tax resolution had passed through the Commission and had become effective. In September of

2023 Ms. Halbert's office finally realized that they were not collecting the proper amount of wheel tax from residents of Shelby County. Some residents were still only paying \$50 even when they were obligated to pay \$75.

38. In failing to charge or collect wheel tax fees properly, Ms. Halbert was in violation of Tennessee Code Annotated § 8-22-105 and *should have been* held personally liable for the fees that she failed to collect. Tennessee Code Annotated § 8-22-105 states as follows:

Any officer enumerated in § 8-22-101, who evades the letter or the spirit of chapters 21 and 22 of this title by failing to charge or collect from the one liable therefor, every fee, commission, perquisite, emolument, or compensation that the county may be entitled to, and which, by the exercise of reasonable diligence could have been collected, or by failing to present the statement of receipts as herein directed, shall be held individually liable to the county for the amount that should have been collected, and the same shall be charged against the officer and be deducted from the officer's salary, or collected from the officer by law.

39. Ms. Halbert maintains that she does not have the appropriate funding to fully staff her office. However, Ms. Halbert is consistently underbudget and has historically given a significant amount of her budgeted money back to the County general fund at the end of each fiscal year.

40. Further, the Tennessee Code Annotated allots the County Clerk's Offices \$2.00 on *most* transactions. This money is recorded to a special revenue fund that is only for Ms. Halbert's Office. Shelby County Government cannot take it from the Clerk's Office. Ms. Halbert also found other special revenue funds through the Tennessee Code Annotated that she asked Shelby County Government about, and Shelby County Government immediately established two special revenue funds for those funds.

- a. When Ms. Halbert spends money (like any County department) she is obligated to report the expenditures to the Shelby County Finance department. Ideally, the expenditures would automatically come out of Ms. Halbert's designated

accounts/funds (see above). However, Shelby County financing technology is older and cannot immediately take the funds from Ms. Halbert's designated accounts. Therefore, currently, the money Ms. Halbert spends must come out of the County's general fund and Ms. Halbert *should be* paying the County general fund back by simply writing a memo stating that the expenditures should be transferred from her designated accounts back to the general fund.

- b. Ms. Halbert has never written a memo requesting that her office expenditures be taken from her designated accounts back to the general fund. Thus, the County would estimate that she owes hundreds of thousands of dollars to Shelby County Government.

41. Despite the turnover in her office and the claims that she cannot adequately staff her office, Ms. Halbert has not gone before the County Commission to express concern with alleged budget constraints . . .

42. Ms. Halbert alleges that she is understaffed despite admitting that there are thousands of applications for employment submitted to her office each year. Ms. Halbert alleges that the Shelby County Human Resources department takes too long to get employees "on-boarded." Shelby County Human Resources would dispute this assertion.

Strain on Auto Dealerships

43. Ms. Halbert's neglect of duties has also directly affected Shelby County citizens and Shelby County businesses. Specifically, Shelby County auto dealerships rely on the Shelby County Clerk's Office in order to operate their businesses efficiently. Since Ms. Halbert entered office, automobile dealers began to face immediate problems.

44. Each time an automobile is sold by a dealership, a packet must be sent to the Shelby County Clerk's Office in order for the Clerk's Office to issue a tag and title for the vehicle. That packet includes (but may not be limited to) the title application, documentation of a released lien if the automobile has a lien on it, a copy of the bill of sale showing that the sales tax was collected, a driver's license that matches the address on the bill of sale, or two forms of a buyer's address so that residency can be proven.

45. Prior to Ms. Halbert assuming office, an automobile dealership was able to take as many packets to the Shelby County Clerk's Office a day as they needed to in order to operate their business. Often, if a customer needed a tag as soon as possible, dealership personnel could take the packet to the Clerk's Office and pick it up a short time later, on the same day.

46. If a customer was not in need of the title as soon as possible, the typical wait time, before Ms. Halbert was in office, was 1 week (2 weeks maximum) for the tag to be sent and received by the buyer.

47. Since Ms. Halbert has been in office, it can take up to *3 months* for an auto buyer to receive their tag. This is burdensome on auto dealerships for multiple reasons. First, a temporary "drive-out" tag is supposed to only be on a vehicle for a short period of time. When it takes months to get the tag from the Clerk's office, buyers have to return to the dealership repeatedly to get their temporary tag updated, or else they are at risk for being pulled over by law enforcement for tag violations. It also costs money for dealers to keep updating the drive-out tags because the tags have to be sent via FedEx.

48. Lienholders are waiting for a title and expect the title within a reasonable amount of time. Capital One, an example of a typical lienholder, asks that a lien is procured within 30 days from time of sale. The lienholder contacts the dealer and requests the loan to be bought

back by the dealer because the lien is not being procured within the typical allotment of time (30 days). The lien cannot be secured without the Shelby County Clerk performing her duties in an appropriate and responsible manner.

49. Another example of a lienholder is Navy Federal Credit Union. If a loan is unsecured after 90 days, per contract, Navy Federal Credit Union turns that loan into a personal loan, a high interest loan which isn't a typical auto loan. Because of this, customers' monthly car payments can nearly double, by no fault of their own and by no fault of the auto dealer. This practice is detrimental to the citizens of Shelby County and those that do business in Shelby County.

50. To compound the abovementioned issues, packets received by the Shelby County Clerk's Office from auto dealers are often rejected by the Clerk. In recent years, most of the rejections are incorrectly rejected and were in fact submitted correctly. If a packet is rejected, it is also subject to the same unreasonable wait time (3 months). Resubmission of a new packet takes the same roughly 3-month period for return.

51. Ms. Halbert's neglect has placed automobile dealerships in Shelby County in the position to have to explain to buyers why the tag and title take so long to acquire, but regardless of the explanation, buyers cannot always fully understand the process and will blame the dealership. This causes dealerships to lose business.

52. The Clerk's failures have placed a strain on automobile dealerships and citizens in Shelby County—especially smaller dealership that have limited resources.

Comptroller Deficiencies

53. Ms. Halbert first received attention from the Comptroller in 2022 when her offices were suddenly and without notice closed to the public for a week (August 22, 2022 to

August 26, 2022) while her employees were working to “clear backlogs.” While this was happening, Ms. Halbert was out of the country on vacation in Jamaica. The Comptroller verified the complaint regarding the Clerk being out of the country and commented that the situation indicated a lack of leadership and opined that she should not have been out of the country while her office was working hard to catch up on a backlog. It was at this time that Comptroller Jason Mumpower, along with Shelby County Commissioners and Shelby County citizens, first mentioned removal from office.¹ At this time, in August of 2022, Ms. Halbert was put on notice that the citizenry, County Government, and even the Tennessee Comptroller were not pleased with her leadership as an elected official.

54. In March of 2024, the Office of the Tennessee Comptroller of the Treasury, Division of Local Government Audit, performed an audit and revenue reconciliations for the period of July 1, 2023 to February 29, 2024 on Ms. Halbert’s office. The Comptroller’s inquiries came after Shelby County Government had expressed concern over the repeated inaccurate and untimely revenue reports submitted by Ms. Halbert’s office. The Comptroller’s Office visited and spent time with Ms. Halbert’s office in March of 2024 in order to ascertain what the deficiencies were and also assist the office in addressing the deficiencies. This visit resulted in the Comptroller issuing a “Revenue Report Reconciliation and Operational Analysis” (*see attached “Exhibit D”*). In their official report the Comptroller’s Office noted “several operational and internal control deficiencies” (*pg. 5 of Exhibit D*) and made six formal recommendations for the Clerk to follow in order to “ensure that a process would be implemented to properly submit revenue reports going forward” (*pg. 1 of Exhibit D*). The Comptroller assisted Ms. Halbert’s office in order to ensure that Shelby County Government as a

¹ <https://www.commercialappeal.com/story/news/local/2022/08/26/comptroller-local-officials-need-deal-shelby-county-clerk-wanda-halbert/7907032001/>

whole can function properly, and County Government can confidently rely on the County Clerk's revenue report in budgeting season. As part of the assistance, the Comptroller provided a new template to Ms. Halbert and her office to be used for revenue reports. The Comptroller also assisted Ms. Halbert with the March report.

55. Ms. Halbert's March 2024 revenue report was due to be submitted to the County (Trustee Regina Newman's office) on April 10, 2024. Despite the Comptroller's visit and formal recommendations for Ms. Halbert, Ms. Halbert did not submit the March report in a timely manner. It was submitted one day late on April 11, 2024. Recommendation number 4 in the Comptroller's Report specifically addresses the timeliness of Ms. Halbert's reports. The report states "[t]he reports should be accurate and submitted to the Trustee's Office by the tenth of each month as required by a resolution approved by the Shelby County Commission" (*pg. 6 Exhibit D*). Further, Ms. Halbert's March 2024 revenue report submitted on April 11, 2024, contained inaccuracies. Ms. Halbert sent the report to the Comptroller for review before submitting it to the Trustee's office for reconciliation and the Comptroller would testify that, while minor compared to previous inaccuracies, there were errors. Despite the Comptroller's report, clear concern regarding deficiencies in the Clerk's Office, assistance from the Comptroller's office, and very clear direction from the Comptroller, Ms. Halbert again knowingly and willfully neglected her duties by not preparing an accurate and timely revenue report for County Government.

Office Closures

56. With close to one million residents, Shelby County is the largest county in the State of Tennessee.

57. The official website for the Shelby County Clerk's Office states that the clerk's office has seven branch offices throughout the county (*see attached "Exhibit E"*). However, only five offices are listed on the website (**Main location:** 150 Washington Avenue, **Whitehaven Plaza:** 4122 Elvis Presley Boulevard, **Millington:** 4836 Navy Road, **Raleigh-Fraser:** 3616 Austin Peay Highway, **Mullins Station:** 1075 Mullins Station Road). Further, the Shelby County Clerk's website states that kiosks are available to use by citizens at three offices (*see attached "Exhibit F"*). However, if one places a call to the Shelby County Clerk's phone number, a clerk will inform that only the kiosk(s) at the downtown location are operable. It is unclear which kiosks are operable.

58. During Ms. Halbert's first term in office, one of the seven offices closed due to a lease expiring. The Germantown branch at 2037 Exeter Road served several communities by processing vehicle registrations and titling. In an interview on September 3, 2020, Ms. Halbert claimed that she did not know the lease was expiring and that she was caught "off guard".² Ms. Halbert blamed the mayor's office for failing to sign a contract although it was Ms. Halbert who was in contact with the property management company and had been informed multiple times over a period of months that the lease was expiring. Ms. Halbert assured the public in 2020 that a new office would replace the Germantown Office, but that has never happened.

59. On March 22, 2023, Ms. Halbert received a letter from Shelby County Mayor Lee Harris reminding Ms. Halbert that the lease at the Poplar Plaza location was set to expire on June 30, 2023, and urged Ms. Halbert to select an alternate location for the office by close of business on Friday, March 24, 2023 (*see attached "Exhibit G"*). It is at this time that Ms. Halbert is clearly placed on notice that she needs to swiftly choose another location for the office to

² <https://wreg.com/news/county-clerks-office-in-germantown-closing-as-lease-expires/#:~:text=GERMANTOWN%2C%20Tenn.,will%20move%20to%20other%20locations>.

operate. Despite this notification, Ms. Halbert chose to ignore Mayor Harris' notice and Ms. Halbert did not select another location for the Poplar Plaza area of town.

60. On October 11, 2023, Ms. Halbert received a letter from Finard Properties (landlord of the Poplar Plaza Clerk's office location at 3412 Plaza Drive) notifying her that the lease for that office space had expired on June 30, 2023, that any automatic three-month extension had expired on September 30, 2023, that the lease was being terminated, and that Ms. Halbert had to surrender the property within 30 days of the written notice (*see attached "Exhibit H"*). The letter also places Ms. Halbert on notice that she (the tenant) is in arrears of its obligations to pay rent (dating back to July 2023) in the amount of \$9,867.50.

61. On November 1, 2023, Ms. Halbert then received a separate notice, this time from the Chief Administrative Officer of Shelby County, Harold C. Collins, advising Ms. Halbert that she needs to adhere to the requests of Finard Properties and vacate the property within the 30 days allotted (*see attached "Exhibit I"*). Mr. Collins also directed Ms. Halbert to "immediately notify the residents of Shelby County that [her] office will no longer do business there" and to suggest another location for citizens to go for services. Ms. Halbert never gave notice to the residents of Shelby County.

62. The Poplar Plaza location closed on November 9, 2023, and another office space has not been selected. It is significant to note that at the time of the closing, Ms. Halbert was aware that she was under investigation for potential removal from office proceedings.

63. To perform the *most* basic functions of her job, Ms. Halbert must operate enough offices and have enough employees to fulfill her duties and serve Shelby County.

64. By allowing office leases to expire, displacing her employees, placing even more of a burden on other offices, and failing to notify Shelby County residents of the office closure,

Ms. Halbert has knowingly and willfully neglected to fulfill her duties as the Shelby County Clerk.

May 1, 2024 County Commission Meeting

65. On April 22, 2024, the Shelby County Board of Commissioners passed a resolution formalizing the need for Ms. Halbert to submit a corrective action plan to the Commission in response to the Comptroller's audit recommendations (*see attached "Exhibit J"*).³ The Commission, in the resolution, also acknowledged the failure on Ms. Halbert's part to submit the March revenue report in a timely manner (submitted on April 11, 2024). The resolution requests that the Shelby County Clerk's Office present the corrective action plan to the Commission at the scheduled Audit Committee meeting on May 1, 2024.

66. Ms. Halbert was present for the May 1, 2024, Shelby County Commission Meeting. However, she was not present for the purpose of presenting a corrective action plan. Instead, Ms. Halbert placed two last-minute budget increase requests on the Commission's agenda.

67. Pursuant to an email sent on March 7, 2024, from the Shelby County Human Resources Director and Shelby County Budget Director, all Shelby County elected officials were informed that the final deadline ("hard deadline") for processing and updating promotions, salary increases, and transfers was March 28, 2024 (*see attached "Exhibit K"*). This email was sent to Ms. Halbert along with at least one member of her staff. Ms. Halbert did not submit a budget proposal by March 28, 2024. Instead, on May 1, 2024, she surprised the Shelby County Commission, the Budget Director, and Human Resources Department by adding a last-minute resolution to the Commission agenda that would increase her office budget.

³ At the time of filing the resolution had not been signed by the Mayor and filed, therefore, the State is not in possession of the final filed resolution, but has attached the unsigned, unfiled version.

68. Ms. Halbert neglected her duties by failing to timely submit budget requests to the Shelby County Budget Director. Ms. Halbert's neglect reflects a lack of knowledge and consideration for how Shelby County Government, or any government for that matter, operates. As a County elected official, it is Ms. Halbert's duty and obligation to submit budget requests and proposals in a manner prescribed by the Shelby County Government. If Ms. Halbert believes her office and employees are in need of money for office improvements or salary increases, she owes it to her employees to request the increases in a timely manner.

69. On May 1, 2024, at the Shelby County Commission budget committee meeting, Ms. Halbert announced her proposed resolutions and was asked very few, if any, questions by Commissioners. She then left the Commission room and never returned, despite being asked to submit and present a corrective action plan to the Audit Committee which met late in the afternoon. As of the time of this filing, Ms. Halbert has not submitted or presented the corrective action plan requested by the resolution passed on April 22, 2024. Ms. Halbert's failure to respond to the Commission's reasonable request for a corrective action plan, constitutes a willful neglect of duty.

IV. PROCEDURE FOR REMOVAL OF OFFICERS UNDER TITLE 47, CHAPTER 8

70. The purpose of the ouster act and the statutes included in Title 8, Chapter 47 is to provide a speedy and summary proceeding by which it may be determined whether a public official is to be ousted from their office. *State ex rel. Leech v. Wright*, 622 S.W.2d 807, 811 (Tenn. 1981); *State ex rel. Carney v. Crosby*, 255 S.W.3d 593, 596 (Tenn. Ct. App. 2008).

71. Upon the filing of this petition for a writ of ouster, a summons shall be issued for Defendant. The summons shall be accompanied by a copy of this petition. Tenn. Code Ann. § 8-47-114.

72. Defendant is entitled to twenty (20) days from service of the petition on Defendant to answer the allegations in this petition. Tenn. Code Ann. § 8-47-114.

73. There are to be no other pleadings in an ouster case besides the petition and the defendant's answer. Tenn. Code Ann. § 8-47-115. This means that there are to be no counterclaims, crossclaims, nor intervention of third parties in this case. *See State v. Stiers*, 571 S.W.3d 706, 709-10 (Tenn. Ct. App. 2018).

74. Should any petition be found to be insufficient in form, it shall be amended at once and such amendment shall not delay the trial of the case. *Id.* This petition is not subject to motions of demurrer or allegations of insufficiency, as such matters are to be taken up during the trial. Tenn. Code Ann. § 8-47-115. *State v. Ward*, 163 Tenn. 265 (Tenn. 1931); *State ex rel. Brooks v. Eblen*, 185 Tenn. 566 (Tenn. 1947).⁴ Any amendments to the pleadings are governed by Tenn. R. Civ. P. 15. *State ex rel. Leech v. Wright*, 622 S.W.2d 807, 811 (Tenn. 1981).

75. Ouster proceedings are given priority over civil and criminal actions and shall be tried in the first term after the filing of the petition, provided that the defendant's answer has been on file for at least ten (10) days before the start of the trial. Tenn. Code Ann. § 8-47-119(a).

76. Continuances may be granted only for good cause, and not by agreement of the parties. Tenn. Code Ann. § 8-47-119(b).

77. Defendant is entitled to demand a trial by jury. Tenn. Code Ann. § 8-47-119(c). In the event the Defendant, Ms. Halbert, makes a jury demand, the State of Tennessee requests a

⁴ Although *State v. Ward*, 163 Tenn. 265 (Tenn. 1931) is a notably old case, the case was interpreting statutory language which is identical in language to the modern statute excepting that the modern statute adds the following language at the end: "... and such amendment shall not delay the trial of the case." As there is no modern ruling controverting *Ward*, and the language of the statute remains the same, the *Ward* ruling applies still today. The same is true for *State ex rel. Brooks v. Eblen*, which states that the only time a demurrer is appropriate in an ouster proceeding is when an officer is not subject to ouster.

jury be chosen from another jurisdiction because Ms. Halbert is an elected official in Shelby County and this fact would make it difficult for either party to receive a fair trial.

78. If there is any conflict between the ouster statutes contained in Title 8, Chapter 47 and the Tennessee Rules of Civil Procedure, the ouster statutes will prevail. *State ex rel. Leech v. Wright*, 622 S.W.2d 807, 810-11 (Tenn. 1981).

79. The standard of proof in an ouster proceeding is clear and convincing evidence. *State ex rel. Thompson v. Walker*, 845 S.W.2d 752, 759-60 (Tenn. Ct. App. 1992) (citing *McDonald v. Brooks*, 387 S.W.2d 803, 806 (1965)).

V. SUSPENSION REQUESTED

80. The State of Tennessee requests that this Court suspend Defendant from the performance of the duties of her office until a final hearing is conducted and a determination of this matter is entered. This suspension is authorized by Tenn. Code Ann. § 8-47-116.

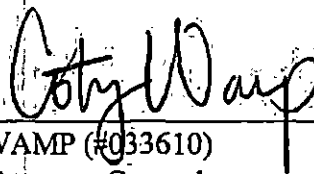
81. The standard for the issuance of an order of suspending is good cause. Tenn. Code Ann. § 8-47-117.

82. The State of Tennessee requests that a date be set for a hearing on the issue of suspension before the trial on the issue of ouster commences. This date is to be set at least five (5) days after the notice of the application for the order of suspension has been served on Defendant. In the interest of fairness to the Defendant, as suspension is requested simultaneously with the petition in this case, the State requests that this hearing be set at least twenty (20) days after the service of this petition be completed so that Defendant may have time to acquire an attorney and respond to the petition.

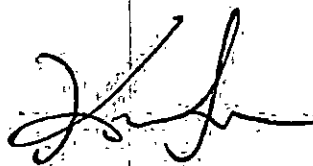
VI. RELIEF REQUESTED

83. For the abovementioned reasons, and pursuant to Tennessee Code Annotated § 8-47-101, the State requests the removal of Wanda Halbert, the County Clerk for Shelby County, Tennessee and her suspension from performing the duties of her office until a determination is made in this case.

Respectfully submitted, this 6th day of May, 2024.



COTY WAMP (#033610)
District Attorney General
11th Judicial District, TN
600 Market Street, Suite 310
Chattanooga, TN 37402
423-209-7400
Coty.wamp@hcdatn.org



KEVIN LOPER (#027389)
Executive Assistant District Attorney General
11th Judicial District, TN
600 Market Street, Suite 310
Chattanooga, TN 37402
423-209-7400
Kevin.loper@hcdatn.org

CERTIFICATE OF SERVICE

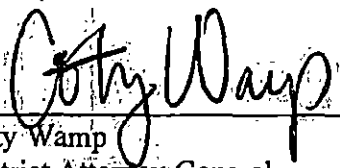
I hereby certify that a true and exact copy of the foregoing has been sent via United States mail, postage prepaid, and properly addressed to defendant, Wanda Halbert at the following address:

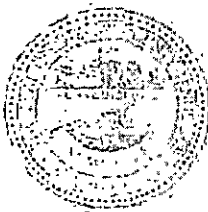
150 Washington Avenue
Memphis, TN 38103

I hereby certify that a true and exact copy of the foregoing has been personally served upon the defendant at the office of Shelby County Clerk Wanda Halbert at the following address:

150 Washington Avenue
Memphis, TN 38103

this 6th day of May, 2024.


Coty Wamp
District Attorney General
11th Judicial District, TN



LEE HARRIS
MAYOR

Shelby County Government

via email

MARLINEE C. IVERSON
COUNTY ATTORNEY

March 28, 2023

Jonathan Skrmetti
Tennessee Attorney General
State of Tennessee
P.O. Box 20207
Nashville, TN 37202

Steve Mulroy
District Attorney General
30th Judicial District
201 Poplar Ave.
Memphis, TN 38103

RE: Allegations of Neglect of Duty Against Shelby County Clerk

Dear General Skrmetti and District Attorney Mulroy:

This office has received unofficial notice from public sources of alleged acts of neglect of duty by Shelby County Clerk Wanda Halbert ("Clerk Halbert"). Elected officials and residents have made numerous complaints about acts and omissions by Clerk Halbert that may be considered a willful neglect to perform the duties of her office. Most recently, the closure of a second branch location of the County Clerk's office appears imminent due to alleged inaction by the Clerk to seek a suitable alternative location, thereby further limiting public access to county clerk services. Pursuant to Tenn. Code Ann. § 8-47-103, there appears to be a duty to investigate to determine whether removal proceedings are appropriate.

While the County Attorney is authorized to conduct an investigation involving allegations of an elected official's dereliction of duty under Tenn. Code Ann. § 8-47-103; under the Tennessee Rules of Professional Responsibilities, I have a conflict of interest conducting such an investigation of past acts due to my prior representation of Clerk Halbert. I am writing you this letter because Tenn. Code Ann. § 8-47-103 also vests the two of you with the authority to investigate these complaints.

Thus, to the extent an investigation of any allegations regarding Clerk Halbert must begin, I am submitting a written request to your offices for review and consultation with each other about any necessary actions that should be taken pursuant to the provisions of Tenn. Code Ann. § 8-47-103.

Sincerely,

Marlinee C. Iverson
Shelby County Attorney



Item #: 11

Moved by: SUGARMON

Seconded by:

Prepared by: Trustee Regina Newman

Reviewed by: Robert Rolwing
Assistant County Attorney

RESOLUTION REQUIRING MONTHLY REPORTING OF FEES AND COMMISSIONS BE REMITTED TO THE SHELBY COUNTY TRUSTEE BY THE TENTH OF THE MONTH. SPONSORED BY COMMISSIONER MICHAEL WHALEY AND COMMISSIONER SHANTE K. AVANT.

WHEREAS, The Shelby County Trustee is the official tax collector and banker for Shelby County Government, responsible by Tennessee Constitution and statutes, and Shelby County Charter and Ordinances for the billing, collecting and allocation of property taxes, collection of sales and other tax, collection of elected official fees and commissions, and providing banking and investment services for County funds; and

WHEREAS, Tennessee Code Annotated, Section 8-22-103, and CTAS-33 provide that all the excess fees, commissions ...that are or may be directly or indirectly collected by virtue of their offices by the clerks of circuit, criminal and special courts, and by the clerks and masters of the chancery courts, county clerks and clerks of the probate courts, register of deeds, clerks of the general sessions courts, juvenile court clerks shall be remitted to the County Trustee as part of the County revenue; and

WHEREAS, CTAS-1582 requires the Shelby County Trustee to report and make settlement for all taxes and monies, collected during the preceding month by the County and its offices, with the County Mayor on or before the tenth of each month; and

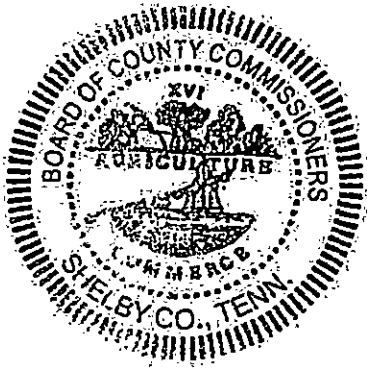
WHEREAS, The Shelby County Trustee cannot comply unless the County's fee offices submit their complete and final monthly revenue report to the Trustee by 10:00



AM CST on the tenth day of the subsequent month [if the 10th of the month falls on a Saturday or is a holiday, the complete and accurate report shall be submitted on the 9th of the month. If the 10th falls on a Sunday or is a holiday, the complete and accurate report shall be submitted on the 11th of the month] to assure proper accounting, collection and reporting of all preceding month County revenue by the 10th of each month.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That all of the County's fee producing offices including the elected officials enumerated above are directed to submit their complete and final monthly revenue report, including but not limited to their fees and commissions, to the Shelby County Trustee by 10:00 AM CST on the tenth of the subsequent month [if the 10th of the month falls on a Saturday or is a holiday, the complete and accurate report and funding shall be submitted on the 9th of the month. If the 10th falls on a Sunday or is a holiday, the complete and accurate report and funding shall be submitted on the 11th of the month] to assure proper accounting, collection and reporting of County revenue.

BE IT FURTHER RESOLVED, That this Resolution shall become effective in accordance with the Shelby County Charter Article II, Section 2.06(B).



ADOPTED: August 14, 2023

Lee Harris
County Mayor

Date: 8/18/2023

ATTEST:

Clerk of County Commission

SUMMARY SHEET

I. Description of Item

Item requires all fee producing County offices including the clerks of circuit, criminal and special courts, and the clerks and masters of the chancery courts, county clerks and clerks of the probate courts, register of deeds, clerks of the general sessions courts, juvenile court clerks, which are required by law to report monthly revenues to the Shelby County Trustee, to submit their final and complete report for the preceding month to the Trustee by 10:00 AM CST on or before the tenth of each month so the Trustee can comply with the applicable law to accurately report to the County Mayor on the 10th of each month.

II. Source and Amount of Funding

N/A

III: Communicate How the Resolution Affects:

- A. Subawards – N/A
- B. Personnel – N/A
- C. Equipment – N/A
- D. Contracts – N/A
- E. Other – N/A

IV. Additional Information Relevant to Approval of this Item

TCA § 8-22-103
CTAS -33
CTAS 1582

SHELBY COUNTY CLERK MONTHLY REVENUE REPORTS

5-2-2024

Submittal required by 10th of following month

Prepared by Shelby County Trustee

DATES OF RECEIPT BY COUNTY TRUSTEE						
FOR MONTH ENDING:	1ST REPORT FROM CLERK	A REVISED REPORT SUBMITTED BY CLERK	A REVISED REPORT SUBMITTED BY CLERK	A REVISED REPORT SUBMITTED BY CLERK-COMPTROLLER AUDITORS	COUNTY AUDITORS OBTAIN/SUBMIT REVISED REPORTS	CLERK SUBMITS REPORTS ALREADY RECD FROM CO. AUDITORS
JUL 2021	09/10/2021					
AUG 2021	10/08/2021					
SEP 2021	10/12/2021	10/13/2021	10/15/2021			
OCT 2021	11/30/2021					
NOV 2021	01/05/2022					
DEC 2021	01/12/2022				12/20/2022*	01/05/2023
JAN 2022	02/15/2022				12/20/2022**	01/05/2023
FEB 2022	03/14/2022				12/20/2022*	01/05/2023
MAR 2022	04/19/2022				12/20/2022*	01/05/2023
APR 2022	05/13/2022				12/20/2022***	01/05/2023
MAY 2022	06/10/2022				12/20/2022*	01/05/2023
JUN 2022	07/21/2022	09/12/2022	07/03/2023			01/05/2023
JUL 2022	08/11/2022	09/12/2022	07/03/2023			
AUG 2022	09/12/2022	07/03/2023	07/03/2023			
SEP 2022	10/18/2022	11/14/2022	11/17/2022			
OCT 2022	11/14/2022	11/17/2022	03/13/2023			
NOV 2022	01/05/2023	03/13/2023				
DEC 2022	01/13/2023	03/13/2023				
JAN 2023	02/10/2023	07/03/2023				
FEB 2023	03/13/2023	05/17/2023				
MAR 2023	05/17/2023	05/26/2023	07/03/2023			
APR 2023	05/17/2023	05/31/2023	07/03/2023			
MAY 2023	06/22/2023	07/12/2023				
JUN 2023	08/11/2023					
JUL 2023	08/11/2023		02/27/2024#	03/11/2024+		
AUG 2023	09/15/2023		02/27/2024#	03/11/2024+		
SEP 2023	10/25/2023	11/08/2023****	02/27/2024#	03/11/2024+		
OCT 2023	11/13/2023		02/27/2024#	03/11/2024+		
NOV 2023	12/12/2023		02/27/2024#	03/11/2024+		
DEC 2023	01/10/2024		02/27/2024	03/11/2024+		
JAN 2024	02/09/2024		02/27/2024	03/11/2024+		
FEB 2024	03/11/2024			03/11/2024+		
MAR 2024	04/11/2024			+		
APR 2024						

DUE 5/10

= report had lines marked "pending"

*UNDATED

**DATED 10-11-2022

*** DATED 6-24-2022

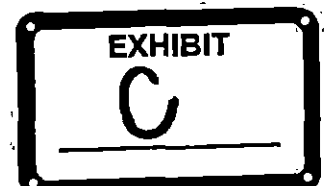
**** UNSIGNED, DOES NOT RECONCILE, & CLERK DENIES SENDING

= \$25 increase in wheel tax for debt service is not segregated

= report is incorrect

#DATED IN 2023

+WITH COMPTROLLER'S INTERVENTION





SHELBY COUNTY CLERK
Revenue Report Reconciliation and Operational Analysis

MARCH 21, 2024

Jason E. Mumpower
Comptroller of the Treasury



**DIVISION OF
LOCAL GOVERNMENT AUDIT**

EXHIBIT

D

SHELBY COUNTY CLERK

Revenue Report Reconciliation and Operational Analysis

EXECUTIVE SUMMARY

Following the failure to submit accurate and timely revenue reports by the Shelby County Clerk to the Shelby County Trustee's Office, which was jeopardizing the ability of the Shelby County Commission to prepare and submit an accurate budget for fiscal year 2025, members of the Division of Local Government Audit (LGA) performed revenue reconciliations for the period July 1, 2023 – February 29, 2024.

During this reconciliation process, LGA identified the portion of the county wheel tax which was collected due to a resolution approved by the Shelby County Commission on June 26, 2023, which increased the county wheel tax by \$25. This additional \$25 was to be allocated to the Debt Service Fund for payment on county infrastructure needs, including but not limited to the rebuilding of the campus of Regional One Health.

LGA was able to reproduce the monthly County Clerk revenue reports for July 2023 through February 2024. The revised reports included all revenue activity, a breakout of the \$25 portion of the wheel tax, along with other fees and commissions that had been collected. The County Clerk submitted these revised reports to the Shelby County Trustee on March 11, 2024.

In addition, LGA performed a limited review of the procedures of the County Clerk's Office, to the extent necessary, to provide recommendations for improvement and to ensure that a process would be implemented to properly submit revenue reports going forward.

PROCEDURES PERFORMED

1. Determined revenue collected due to the \$25 increase in wheel tax.

LGA reviewed the title application and renewal balance reports generated through the County Clerk's Business Information Systems (BIS) software to obtain a count of the number of wheel tax transactions recorded at each possible collection rate. According to the previous fee schedule, wheel tax rates were \$50 for Passenger Vehicles, \$20 for Motorcycles, \$80 for Commercial Vehicles, and \$25 for Non-Profit Vehicles. On July 1, 2023, these amounts were to be increased to \$75, \$45, \$105, and \$50, respectively; however, the County Clerk's Office did not officially implement these changes until August 1, 2023. The County Clerk advised LGA that she was unaware that the county commission had passed a resolution to increase the wheel tax until July 17, 2023, and it took her office a couple of weeks to implement the change. Based on the wheel tax transaction listings, LGA determined that all collections for \$75, \$45, or \$105 included the \$25 increase. The only exception to this were \$50 transactions which could have applied to either a passenger vehicle under the old wheel tax rate or a non-profit vehicle under the new rate. An employee of the

County Clerk's Office was able to generate additional reports to assist LGA to further break down the \$50 amounts to determine which of those transactions included the \$25 increase. There were also some prorated amounts included on the reports due to partial month collections, which LGA was able to separate based on a weighted average calculation.

LGA determined the total wheel tax collections from July 1, 2023, through February 29, 2024, net of commissions was \$29,942,173. During this timeframe, \$21,225,589 was collected for the regular wheel tax and \$8,716,584 was collected due to the \$25 increase.

On March 12, 2024, the County Clerk informed LGA that she had been in touch with BIS and that they were in the process of updating her software to allow the wheel tax increase to be identified separately. Once that process is completed, the County Clerk's system will automatically separate the \$25 amount into a different account. LGA provided the county clerk with a template that can be used to separate the amounts for March, if necessary.

2. Performed revenue report reconciliations.

LGA determined through conversations and observations that the County Clerk's Office is not posting all receipt transactions to the BIS software's general ledger. The BIS system reflects receipt transactions that are processed through one of five reports (i.e., business license, marriage license, renewals, title applications, and miscellaneous receipts). LGA reviewed these five reports for each month to determine how much revenue had been processed in the BIS system. LGA also reviewed bank records to look for other revenue activity that was not receipted in the system. It was determined there is a monthly ACH that is received from the State of Tennessee which includes Shelby County's portion of some of the fees collected that should have been receipted along with the interest from the Trustee's statement of banking activity monthly report. Once LGA identified all revenue activity, they were able to calculate the fees and commissions for each revenue collected.

On Monday, March 11, 2024, LGA met with the County Clerk and some of her staff to discuss the revenue amounts LGA had calculated, including the breakdown of wheel tax collections. The staff asked questions and appeared to understand and to be satisfied with the reports. The revised revenue reports were submitted to the Trustee later that day. LGA also provided the County Clerk with a revenue report template that can be used in the short term until a more appropriate long-term solution can be implemented.

3. Obtained an understanding of how transactions are processed in the County Clerk's Office and identified ways they can provide accurate and timely revenue reports for the Trustee.

A. Analysis of bank transactions

LGA reviewed the County Clerk's deposit and disbursement bank accounts. All receipted funds, including credit card payments, are to be deposited into

the deposit account. The only funds currently disbursed from this account are the ACHs to the State of Tennessee for title and registration fees. The disbursement account processes all other disbursements of the office. This account is primarily used for refund checks, payments to the State of Tennessee, and payments to other entities such as the Tennessee Organ Donor Awareness Foundation.

Both bank accounts maintain a \$0 balance at the end of each day. Collections in the deposit account are swept to an account maintained by the Trustee. The Trustee temporarily places those funds into Fund 540, which acts as a clearing account for the County Clerk's banking activity. These funds are invested throughout the month. When a monthly revenue report is submitted by the County Clerk, the Trustee will then receipt the previously swept funds which moves those funds out of Fund 540 and allocates them to the appropriate county fund(s) and account(s) based on the amounts reported by the County Clerk. LGA reviewed all bank statements from July 2023 through February 2024 for both accounts.

B. Receipts to Deposits

LGA tested a sample of daily collection reports in September 2023 and December 2023 to understand the flow of funds and to determine how much time it typically takes for collections to be deposited into the office bank account. LGA observed from the sample that it generally takes two to three business days from the collection date to the deposit date for funds to be deposited into the County Clerk's bank account. This complies with the three-day deposit law as outlined in Section 5-8-207, *Tennessee Code Annotated*.

However, LGA had to rely on paperwork maintained by the County Clerk's staff to match the collections to the deposits on the bank statements. LGA was unable to reconcile the deposits between the BIS general ledger and the bank statements because the County Clerk's Office generally checks out their daily collections by collection site. The total amounts are then automatically posted to the general ledger by each application (i.e., marriage license, business tax, renewals, etc.). The deposits typically go to the bank by collection site but may include any combination of sites in a single deposit, and the office may have anywhere from five to ten deposits per day. Due to this process, it is extremely difficult to match the collections to the bank deposits. LGA also noted that the County Clerk's Office does not maintain the cash in bank transactions in the BIS software. When the amounts for each application are automatically posted to the general ledger they are posted to the cash on hand account. However, when the deposits are prepared, no entries are made in the BIS software to post the deposits and move the collections from the cash on hand account to the cash in bank account. As a result, the balance continues to increase in the cash on hand account and is inaccurate.

C. Disbursements

The County Clerk's disbursements are not being processed in the BIS software. They are handled through their Sage software. The office also utilizes a positive pay service through their bank, which allows them to submit a list of checks issued to the bank. Any checks presented for payment against the bank account that do not match the provided list would have to be approved for payment. LGA asked employees of the County Clerk's Office if they reconciled this check list, and it does not appear anyone has attempted to reconcile the list in several years. An accurate list of outstanding items is necessary to balance the activity of the office back to the Trustee's Fund 540 account; therefore, LGA manually traced all checks issued to the checks paid on the bank account from July 1, 2023, through February 29, 2024, and prepared a list of outstanding checks. LGA also noted material differences between the positive pay unpaid listing and the disbursements that were outstanding. This was due to many disbursements, which have either cleared the bank or have been voided, but are still included on the positive pay list. The positive pay listing as of February 29, 2024, shows an unpaid balance of \$52,261,862; however, LGA estimates that the actual outstanding checks total to be approximately \$43,545. LGA identified these differences, and a list was provided to the County Clerk's Office.

D. Reconciliation to Trustee

LGA attempted to reconcile the activity in the Trustee Fund 540 through February 29, 2024. They determined an estimate of all outstanding items, based on the available information, and considered amounts due to be paid the following month, as well as amounts from the revised revenue reports that the Trustee posted in March 2024. There appears to be an unidentified balance of approximately \$3,523,229 that is being carried in this fund. This balance likely represents a combination of revenues that were collected in prior years but have yet to be reported and allocated correctly along with posting errors that have gone undetected due to the lack of reconciliations.

E. Sample of wheel tax transactions at old and new collection rates

While separating the \$25 wheel tax increase, LGA observed on the monthly title application and renewal balance reports generated from the BIS software that there were title application and tag renewal transactions that occurred after the clerk's implementation date of August 1, 2023, but were processed at the previous rates. LGA inquired about those transactions. The County Clerk's staff explained that some of these transactions were due to title applications with purchase dates prior to August 1, 2023, and tag renewals with expiration dates prior to August 31, 2023. These late title applications and tag renewals were not to be charged the \$25 additional wheel tax. Since LGA relied on the rates that had been charged to determine which transactions included the \$25 increase, a sample of 25 transactions were tested to determine that the proper rates had been collected. The correct rates were collected for 23 of 25 transactions. One of the exceptions related to a passenger vehicle and was

processed at the old rate of \$50 instead of \$75. The other exception was for a motorcycle/scooter/ATV renewal that was processed at the old rate of \$20 instead of \$45. The number of transactions that are being processed at the old rates each month do appear to be decreasing. Based on the sample tested, any potential errors would be considered nominal considering the volume of title application and renewal transactions performed in the office.

4. **Obtained a general understanding of the operations and internal controls of the office of the Shelby County Clerk to determine how their processes may affect the transactions in the BIS software.**

- A. BIS defines daily transaction reports as invoices. LGA observed during their review that 34 invoices in the BIS software were open at one time, including five dating back to 2023. Test work identified an instance where the office's original reports for a specific invoice did not match the reports regenerated for that invoice at the time of LGA's review. Additional cash and check collections in the amount of \$2,977 were receipted to that invoice after the daily work was balanced. Upon review of the application records, LGA observed that invoices remained open up to 31 days past the invoice date before the first initial closing. Subsequent reopening and closing of invoices are common practices in the County Clerk's Office, often months after the invoice date. It was observed that some invoices had been reopened up to 28 times.
- B. Upon review of the application records, it was observed that employees routinely delete their own transactions. LGA also observed that the authorization feature in the BIS system is not being utilized. If utilized, the employee who entered their credentials to delete the transaction is considered as "authorizing" the deletion and would be recorded on an audit report.

RECOMMENDATIONS

Based on LGA's limited review of the activity of the Office of Shelby County Clerk, we have the following recommendations:

1. **Receipting Process**

All monies received by the office should be receipted using one of the five applications of the BIS system. This would include the interest allocated by the Trustee's Office and the state ACH deposits which are currently not being accounted for in the system. Collections should also be receipted as soon as they are received. There should be no unreceipted collections in the office. Maintaining a complete and accurate accounting for all collections is necessary for the County Clerk's Office to be able to perform accurate monthly reconciliations to ensure that all funds are accounted for.

2. **Disbursement Process**

The official general ledger should accurately reflect all financial transactions of the County Clerk's Office; therefore, LGA recommends that all disbursements be reflected in the BIS software. A list of outstanding disbursements should be prepared each month. The positive pay listing should be maintained regularly, and the unpaid balance report should match the actual list of outstanding items. There are currently checks as old as November 2010 included on the positive pay listing. The County Clerk's Office should work with the bank to correct any errors. The positive pay listing as of February 29, 2024, shows an unpaid balance of \$52,261,862; however, LGA estimates the actual outstanding checks total to be approximately \$43,545. After the appropriate corrections are made, any remaining outstanding checks that are older than one year should be reported and paid to the state as unclaimed funds as required by Section 66-29-113, *Tennessee Code Annotated*.

3. **Reconciliation Process**

The office currently does not perform any documented reconciliations of the banking processes regarding deposits, bad checks, or disbursements. It also appears that there are no formal reconciliations of the items that are swept in and out of the County Clerk's bank accounts to the Trustee's Fund 540 account. Specifically, management should develop a methodology that allows them to determine that deposits are accurate, complete, and made in a timely manner. Additionally, credit card transactions should be verified that they were processed and received by the bank in a timely manner. This would also assist in determining which items have been collected in the month but not deposited into the bank until the subsequent month. If all information is properly recorded in the BIS general ledger, and accurate listings of outstanding items are prepared, then the financial activity reports of the office should reconcile with the Trustee's Fund 540 account once the reconciling items are considered. Also, the office should attempt to identify prior errors in what has been reported to the Trustee so that the unallocated and unidentified funds of approximately \$3,523,229 can be allocated appropriately.

4. **Reporting Process**

Revenue reports submitted to the Trustee's Office should include all activity remitted to Shelby County, including a breakdown of the wheel tax amounts. The reports should be accurate and submitted to the Trustee's Office by the tenth of each month as required by a resolution approved by the Shelby County Commission.

5. **Internal Controls Process**

The County Clerk is using a signature stamp to sign checks that are issued from the disbursement account. A check registry is maintained, and the County Clerk signs the listing, but the actual checks are stamped. Her assistant also initials each stamped check. While it does appear that there are some internal controls in

place, LGA recommends that the County Clerk's Office discontinue the use of the signature stamp and that the stamp be destroyed. All checks should be signed by the County Clerk or a designated individual in the office.

The office should implement controls for the opening and closing of invoices to ensure a minimal number of invoices are open at one time. The office should develop a policy for handling transactions inadvertently receipted to the incorrect day's invoice, and this should be communicated to all employees. Additionally, a procedure should be in place for the re-opening and subsequent closing of invoices for scanning backlogged documentation. The office should consider further restricting the number of users who can open and close invoices. This capability should be restricted to only those employees whose job responsibility dictates they can open, close, or re-open invoices.

Segregation of duties should be improved as it relates to deleting transactions. The act of deleting one's own transactions is highly discouraged. The office should implement the authorization feature in the BIS software and attempt to limit the number of users who can delete transactions. This will require identifying employees at each site who will oversee this functionality, and deletions should only be performed by those employees whose job responsibilities dictate they perform deletions.

The BIS software used by the office allows users to perform deletions, alterations, and voids after transactions are receipted. Several audit logs generated by the system track these changes. Because these logs provide the only audit trail of these transactions, the logs should be routinely reviewed for inappropriate activity. Documentation acknowledging the audit log reviews should be maintained.

6. Other General Recommendations

The office should reach out to BIS and the County Technical Assistance Service (CTAS) to request assistance as they work through the implementation of these recommendations. BIS can assist in getting all transactions properly separated and posted in the software, and CTAS can assist with the reconciling and internal control issues noted.

The County Clerk's Office, as a normal part of business, has a large number of insufficient funds checks (bad checks) that are returned by the bank for insufficient funds or bank chargebacks for e-checks. The County Clerk's Office attempts to collect the bad checks; however, a receivable for any bad checks is not posted to the general ledger. When a customer comes into the County Clerk's Office to pay a bad check, a miscellaneous receipt is generated for the amount collected. This amount is receipted to a receivable account in the BIS software; however, the initial entry to post the receivable for the bad check is not included. Therefore, the office cannot provide an accurate listing of bad checks receivable or the amount of bad checks outstanding.

CONCLUSION

The Shelby County Clerk's Office has several operational and internal control deficiencies. LGA recommends the County Clerk seek assistance and training to improve the service being provided to the citizens of Shelby County while ensuring the integrity and accuracy of all funds being collected and disbursed by the office.

SHELBY COUNTY

T E N N E S S E E

MAYOR LEE HARRIS

I'm looking for...

[HOW DO I...](#)
[LIVE/VISIT](#)
[BUSINESS](#)
[GOVERNMENT](#)

The Shelby County Clerk's Office is one with which nearly everyone in Shelby County has done business. Elected to a four-year term, the clerk's biggest job is selling more than 650,000 vehicle license plates annually. In addition to vehicle licenses, the clerk:

- Collects [Liquor by the Drink Taxes](#)
- Issues [notary public commissions](#)
- Sells [business licenses](#)
- Swears in deputy sheriffs
- Issues [Marriage Licenses](#)
- [Available Online Services](#)
- (Plate Renewals, Renewal Reminders, New Business Application, Marriage Application, New Business List, Returned Checks, Drive Insured Tennessee)

Branch Offices

The Clerk's Office has seven branch offices throughout the county. Because some branches only perform special functions, call the main County Clerk's Office number.

Additional Resources

- [State of Tennessee Vehicle Title and Registration Forms](#)
- [Shelby County Clerk's Office Brochure](#)
- [Tennessee Disability Pathfinder](#)



SHELBY COUNTY

T E N N E S S E E

MAYOR LEE HARRIS

I'm looking for....

HOW DO I

LIVE/VISIT

BUSINESS

GOVERNMENT



County Clerk

Email

Phone: (901) 222-3000

Branches

All locations are in

Main Location**:

Downtown

150 Washington A

Memphis, TN 381

8:00 AM - 4:15 PM

TENNESSEE REAL-ID

Driver's License D

8:00 AM - 3:30 PM

Whitehaven Plaza

4122 Elvis Presley

***Kiosk available at below locations!!**

- **Mullins Station:** 1075 Mullins Station Road, West Wing
- **Whitehaven:** 4122 Elvis Presley Boulevard
- **Downtown:** 150 Washington Avenue
- **Riverdale (Coming Soon)**

ANNOUNCEMENTS

EXHIBIT

F



Shelby County Government

LEE HARRIS
MAYOR

March 22, 2023

The Honorable Wanda Halbert
Shelby County Clerk
150 Washington Avenue
Memphis, Tennessee 38103

VIA U.S. & ELECTRONIC MAIL

Clerk Halbert:

As you know, your lease at 3412 Poplar Avenue ends on June 30, 2023. However, the location at Poplar Plaza is in a large shopping center, with plenty of alternative spaces available. I am writing to you to ask that you select one of the alternative locations as soon as possible, as this is an important location that delivers vital services to the community and there is no reason for this location to close.

The current lessor of Poplar Plaza and others have made repeated, good faith efforts to urge you to select an alternative, available location within Poplar Plaza that would accommodate your needs, improve resident access, and prevent any disruption of services to Shelby County residents who rely on this location. However, you have not made a selection and now time is running short. It is vitally important that you select an alternative location immediately, because it will take time to build out the new location to your specifications prior to June 30. I have talked to the Chairman about this issue, and he and I both agree that you should do everything you can to avoid the chaos that would come from a location closure when such a closure is completely unnecessary.

As you may know, both the County Commission and the District Attorney's Office have the ability to act under state law when a County Clerk is derelict in his or her duty. Thus, if you do not select an alternative location by COB on Friday, March 24, I will be forced to call a special meeting of the County Commission and the District Attorney to discuss these state law provisions.

At the best,


Lee Harris
Mayor

LH/mh

cc: The Honorable Mickell Lowery, Chairman, Shelby County Commission; All County Commissioners
Harold Collins, Chief Administrative Officer, Shelby County Government
Bill Cash, Chief Administrative Officer, Shelby County Clerk's Office
Marlinee Iverson, County Attorney, Shelby County Government
Cliff Norville, Director of Public Works, Shelby County Government
Matt Kuhn, Chief of Staff, Shelby County Mayor's Office
Frankie Dakin, Deputy Chief of Staff, Shelby County Mayor's Office



FINARD
P R O P E R T I E S

BY FEDERAL EXPRESS:

October 11, 2023

Shelby County Land Bank
584 Adams Avenue
Memphis, TN 38103
Attn: Dawn Kinard, Administrator

Shelby County Government
Contracts Administration
160 North Main, Suite 950
Memphis, TN 38103
Attn: Lee Hopson, Contract Administrator

Shelby County Clerk's Office
Shelby County Government
150 Poplar Avenue
Memphis, TN 38103
Attn: Gordon Crisp, Administrator

RE: NOTICE OF EXPIRATION OF LEASE, NOTICE OF TERMINATION OF LEASE, NOTICE TO SURRENDER Agreement for Lease of Improved Real Property dated January 29, 2019 ("Lease") for Suite 201 at Poplar Plaza Shopping Center ("Shopping Center"), 3468 Poplar Avenue, Memphis, Shelby County, TN, 38111 ("Premises") by Shelby County Government on behalf of Shelby County Clerk's Office ("Tenant") with Finard Poplar Realty Limited Partnership ("Landlord")

To Whom It May Concern,

This letter shall serve as a NOTICE OF EXPIRATION OF LEASE and/or NOTICE OF TERMINATION OF LEASE and a NOTICE TO SURRENDER. As you are aware, the Lease expired on **June 30, 2023**, and any automatic three-month extension pursuant to Section 4 of the Lease expired on **September 30, 2023**.

In accordance with Section 27(B) of the Lease, kindly surrender the Premises within thirty (30) days of this written notice and in the condition required by the Lease.

Please be advised that Tenant is in arrears of its obligations to pay rent with such arrears dating back to July 2023. As of the date of this letter, the current amount due and owing (without inclusion of any late fees, penalties, interest, or attorney's fees that may be allowed by the Lease) is **Nine Thousand Eight Hundred Sixty-Seven Dollars and Fifty Cents (\$9,867.50)**. A statement and an aging detail are attached for your ease-of-reference. Kindly remit these monies immediately.

Please be advised that this Notice of Expiration/Notice of Termination of Lease does not relieve Tenant of the obligation to pay rent and other charges for all periods of Tenant's occupancy.

Sincerely,


D. Paul Koch, Jr., Esq.
General Counsel

DPK/sf

cc: Richard A. Smith, Jr. and Rachael Henderson (via e-mail)
Nicole A. Gibson and Linda E. Anderson (via e-mail)
poplar -- shelby county clerk -- notice of termination v1.0 20231011 (3-notice).docx

FINARD PROPERTIES LLC

545 Boylston Street --Fl. 11 | Boston, Massachusetts 02116 | T: 617-892-8687 F: 617-892-8680 | www.finardproperties.com





Shelby County Government

LEE HARRIS
MAYOR

HAROLD B. COLLINS
CHIEF ADMINISTRATIVE OFFICER

November 1, 2023

Mrs. Wanda Halbert
Shelby County Clerk
Shelby County Clerk's Office
150 Washington Ave
Memphis, TN 38103

Mr. William "Bill" Cash
Chief Administrative Officer
Shelby County Clerk's Office
150 Washington Ave
Memphis, TN 38103

Re: Second Notice of Expiration of Lease - Poplar Plaza Shopping Center Location

Dear Clerk Halbert and CAO Cash:

On October 25, 2023, you received a letter from me regarding a "Notice of Termination of Lease" from Finard Properties, the lessor of the referenced location. The letter cites lack of communication and failure to pay rent since March 2023. Finard has allowed you 30 days to vacate the property from the date of its letter (October 11, 2023).

I want to impress upon you how important it is for you and your team to adhere to the request outlined by Finard Properties, which is to **vacate the property and remove all materials belonging to Shelby County, the State of Tennessee, and the U.S. Government.** I also would request that you immediately notify the residents of Shelby County that your office will no longer do business there and suggest another location for them with the least amount of disruption of services possible.

Support Services has been tasked to assist you during this time, and they stand ready to do so. Ultimately, you, as County Clerk, are required to secure and inventory all county and state property prior to and after vacating the premises.

Respectfully,

Harold C. Collins
Chief Administrative Officer

cc: Lee Harris, Mayor
Misk Clay-Bibbs, Shelby County Commission Chair
Marlinee Iverson, County Attorney
Henri Brooks, Chair of General Government
Enclosures



Item: _____

Moved by: _____

Seconded by: _____

Prepared by: Mick Wright

Reviewed by: Marcy Ingram

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE TO REQUEST THAT THE SHELBY COUNTY CLERK'S OFFICE PROVIDE A CORRECTIVE ACTION PLAN TO THE COMMISSION ADDRESSING THE RECOMMENDATIONS FROM THE TENNESSEE COMPTROLLER OF THE TREASURY'S DIVISION OF LOCAL GOVERNMENT AUDIT AND TO EXPLAIN WHY IT IS NOT ADHERING TO THE CORRECTIVE ACTION PLAN IT PROVIDED IN RESPONSE TO FINDINGS FROM THE FISCAL YEAR (FY) 2023 FINANCIAL STATEMENT AUDIT. SPONSORED BY COMMISSIONER MICK WRIGHT.

WHEREAS, the Shelby County Clerk's Office failed to submit accurate and timely revenue reports to the Shelby County Trustee's Office between July 2023 and March 2024; and

WHEREAS, the absence of those reports jeopardized the ability of the Shelby County Commission to prepare and submit an accurate budget for fiscal year 2025; and

WHEREAS, the Tennessee Comptroller of the Treasury sent a team of auditors from its Local Government Audit (LGA) division to perform revenue reconciliations for the period July 1, 2023 through February 29, 2024; and

WHEREAS, the Comptroller concluded that the Shelby County Clerk's Office has several operational and internal control deficiencies; and

WHEREAS, LGA performed a limited review of the procedures of the County Clerk's Office, to the extent necessary, to provide recommendations for improvement and to ensure that a process would be implemented to properly submit revenue reports going forward; and

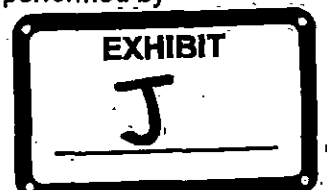
WHEREAS, the LGA audit team provided a list of six recommendations attached hereto and incorporated herein as Exhibit A; and

WHEREAS, one of those recommendations was that accurate revenue reports be submitted to the Trustee's Office by the tenth of each month as required by a resolution approved by the Shelby County Commission; and

WHEREAS, the Shelby County Clerk informed LGA that she had been in touch with Business Information Systems (BIS) and that they were in the process of updating her software to assist with the monthly reporting; and

WHEREAS, LGA provided the Shelby County Clerk with a revenue report template that can be used in the short term until a more appropriate long-term solution can be implemented; and

WHEREAS, the annual FY2023 Financial Statement audit included an audit of the Shelby County Clerk's Office for the Fiscal Year Ending June 30, 2023 and was performed by



audit firms with Certified Public Accountants, i.e., Watkins Uiberall, PLLC and Banks, Finley, White & Co. (Auditors); and

WHEREAS, as a result of the Auditors' review and analysis there were multiple significant deficiencies that warranted issuance of written audit comments to this effect as attached hereto and incorporated herein as Exhibit B; and

WHEREAS, one of the Auditors' recommendations for the Shelby County Clerk's Office is that it should "provide detailed financial information monthly to both the Trustee's office and County finance department by the 10th day following the previous month;" and

WHEREAS, the Shelby County Clerk acknowledged her duty to provide such reporting in a written response to management (as included in Exhibit B on page H-22), writing that "the Monthly Fee Report will be submitted to County Finance and the Trustee by the 10th of each month;" and

WHEREAS, the Shelby County Clerk's Office has failed to submit the ~~February~~ March revenue report to the Shelby County Trustee's office and the County finance department by April 10, 2024; and

WHEREAS, the Shelby County Board of Commissioners requests that the Shelby County Clerk's Office provides a corrective action plan to the Commission, by no later than April 30, 2024, outlining the Clerk's plans to adopt the Comptroller's recommendations and to explain why it has not adhered to the Clerk's own response to the Audit Findings; and

WHEREAS, the Shelby County Board of Commissioners requests that the Shelby County Clerk's Office be prepared to present to the Shelby County Government Board of Commissioners the corrective action plan at the Audit Committee meeting on May 1, 2024.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that the Shelby County Board of Commissioners hereby requests that the Shelby County Clerk's Office provides a corrective action plan outlining the Clerk's plans to adopt the Comptroller's recommendations and explain to the Commission why it has not adhered to the Clerk's own response to the Audit Findings referenced above.

BE IT FURTHER RESOLVED, that the Shelby County Government Board of Commissioners fully supports the request for the Shelby County Clerk's Office to present its corrective action plan to the Commission at the Audit Committee meeting on May 1, 2024.

BE IT FURTHER RESOLVED, that this Resolution shall take effect in accordance with the Shelby County Charter, Article II, § 2.06(B).

Lee Harris, County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED: _____

From: Thornton, Gerald L

Sent: Thursday, March 7, 2024 4:09 PM

To: Boone, Sandra S <Sandra.S.Boone@AgingCommission.org>; Janice Jones <jonesja@assessor.shelby.tn.us>; Huey, Gail <Gail.Huey@scdag.com>; Harding, Dorothy <Dorothy.Harding@shelbycountytn.gov>; Faulkner, Sarah <Sarah.Faulkner@shelbycountytn.gov>; Brasfield, Karen <Karen.Brasfield@shelbycountytn.gov>; Washington, Robert <Robert.Washington@shelbycountytn.gov>; Campbell, Yolanda <Yolanda.Campbell@shelbycountytn.gov>; Turner, Betty <Betty.Turner@shelbycountytn.gov>; Nickols, Ceceria <Ceceria.Nickols@shelbycountytn.gov>; Brooks, Dana <Dana.Brooks@shelbycountytn.gov>; Williams, Cathy <Cathy.Williams@shelbycountytn.gov>; Brunson, Pat <Pat.Brunson@shelbycountytn.gov>; Bowden, Edward <Edward.Bowden@shelbycountytn.gov>; Price, Shuntea <Shuntea.Price@shelbycountytn.gov>; Gunn, Anthony <Anthony.Gunn@shelbycountytn.gov>; Kirby, Deneka <Deneka.Kirby@shelbycountytn.gov>; Woods, Cary <Cary.Woods@shelbycountytn.gov>; Parkerson, Angela <Angela.Parkerson@shelbycountytn.gov>; Hewlett, Sherry <Sherry.Hewlett@shelbycountytn.gov>; Mayes, Jann <Jann.Mayes@shelbycountytn.gov>; Strong, Debbia <Debbia.Strong@shelbycountytn.gov>; Darnisha Williams <Darnisha.Williams@shelbycountytn.gov>; Stroud, Myra <Myra.Stroud@shelbycountytn.gov>; Sanders, Linda <Linda.Sanders@shelbycountytn.gov>; McConnell, Jacqueline <Jacqueline.McConnell@shelbycountytn.gov>; McElhaney, Michelle D <Michelle.d.McElhaney@shelbycountytn.gov>; Cole, Tarsha <Tarsha.Cole@shelbycountytn.gov>; Young, Carl <Carl.Young@shelbycountytn.gov>; Dones, Trenea <Trenea.Dones@shelbycountytn.gov>; Sjostrom, Dana

EXHIBIT

K

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Cc: Melvin Burgess <burgessm@assessor.shelby.tn.us>; Mulroy, Steve
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Subject: Deadlines for FY'24 Compensation Reviews

TO: All Elected Officials
 Human Resources Representatives

FROM: Gerald L. Thornton
 Human Resources Director

Michael Thompson
 Budget Director

DATE: March 7, 2024

RE: Deadlines for FY'24 Compensation Reviews

Thank you for working with Human Resources ("HR") and Finance on your compensation requests in FY' 2024. The final Hiring Review Committee ("HRC") will meet **Thursday, March 21, 2024, final deadline for submitting a Job Status Review Forms and supporting documentation is Monday, March 18, 2024.**

Currently, Compensation and Budget are working through a high volume of HRC requests prior to the end of FY'24. Due to the high volume of requests and personnel shortages, a third-quarter deadline must be established to ensure completion prior to the end of FY'24. Also, Finance and Budget require hard deadlines for timely submission of a budget to the County Commission. For previously approved HRC changes and/or bargaining unit matters, adherence to the following deadlines must be strictly adhered to for inclusion on the June 30th paycheck:

- **Thursday, March 28th: Hard deadline for processing and updating promotions, salary increases and transfers.**

Requests submitted after the deadline will remain in Compensation for processing. Compensation will resume processing requests beginning FY'25. Please note, salary requests are not effective until fully processed by HR and Budget. Retroactive payments will not exceed ninety (90) days and will not bridge fiscal years.

Human Resources and Finance appreciate for your cooperation on this matter.