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Missouri State Auditor

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# Kenilworth Transportation Development District



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**Susan Montee, JD, CPA**  
Missouri State Auditor

## YELLOW SHEET

### Findings in the audit of the Kenilworth Transportation Development District

#### Financial Status

The State Auditor's Office conducted an audit of the Kenilworth Transportation Development District (TDD) as required by Section 238.275, RSMo, to determine if the district's financial condition is such that it may be abolished prior to submitting the question of abolishing the district to a vote.

The Kenilworth TDD was organized in August 2000 by petition of the owner/developer of property within the proposed district and is located in the City of Brentwood, in St. Louis County. The district was formed for the purpose of constructing several road and other infrastructure improvements at a cost of approximately \$1.5 million. The City of Brentwood and St. Louis County are the public entities with jurisdiction over these improvements and accepted them upon completion.

In October 2008, a petition was filed to create the Hanley Road Corridor TDD, which includes the entire area encompassed by the Kenilworth TDD. This new TDD was subsequently organized in 2009 for the purpose of consolidating the activities and paying the cost of financing or refinancing certain transportation-related improvements of the Kenilworth TDD and four other existing TDDs. In August 2009, the Kenilworth TDD Board approved a resolution repealing its sales tax and another resolution formalizing its intent to dissolve the district and request an audit by the SAO as required by state law, prior to submitting the question of abolishing the district to a vote.

Our audit of the Kenilworth TDD concluded the district's financial condition is such that it may be abolished and the TDD's Board of Directors can proceed with the abolishment of the district.

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**Missouri State Auditor**

Mark Sedgwick, Chairman  
and  
Board of Directors  
Kenilworth Transportation Development District  
Brentwood, Missouri

The State Auditor is required under Section 238.275, RSMo, to audit a transportation development district prior to the question of abolishment being submitted to a vote. On August 19, 2009, the Board of Directors of the Kenilworth Transportation Development District approved a resolution of its intent to dissolve the district and request an audit as required by state law. The State Auditor was subsequently notified of this resolution.

The district engaged Hochschild, Bloom & Company LLP, Certified Public Accountants (CPAs) to audit the district's financial statements for the year ended December 31, 2008. To minimize duplication of effort, we reviewed the report and substantiating working papers of the CPA firm. The scope of our audit included, but was not necessarily limited to, the period January 1, 2009, to September 30, 2009, and the year ended December 31, 2008. The objectives of our audit were to:

1. Evaluate the financial status of the district and determine whether the district may be abolished pursuant to state law.
2. Review the receipts, disbursements, and cash and investment balances of the district.
3. Evaluate the district's compliance with certain legal provisions.

Our methodology included reviewing minutes of meetings, financial records, and other pertinent documents; interviewing various personnel of the district, as well as certain external parties; and testing selected transactions.

We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. However, providing an opinion on the effectiveness of internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express such an opinion. Abuse, which refers to behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary given the facts and circumstances, does not necessarily involve noncompliance with legal provisions. Because the determination of abuse is subjective, our audit is not required to provide reasonable assurance of detecting abuse.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Management Advisory Report presents our finding arising from our audit of the Kenilworth Transportation Development District.



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The following auditors participated in the preparation of this report:

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# Kenilworth Transportation Development District Management Advisory Report - State Auditor's Findings

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## **Financial Status**

Our audit of the Kenilworth Transportation Development District (TDD) indicates the district's financial condition is such that it may be abolished since the district's assets exceed or meet its outstanding liabilities.

The Kenilworth TDD was organized in August 2000 by petition of the owner/developer of property within the proposed district. The TDD's Board of Directors and officers are employees of the developer.

The qualified voter of the district, in this case the property owner, approved the imposition of a 1/4-cent (0.25%) sales tax on all transactions taxable within the boundaries of the district, effective January 1, 2001. The sales tax was expected to remain in effect for 14½ years unless terminated sooner. The retail establishments collected the sales tax and forwarded the collections to the City of Brentwood, which served as the district's collection agent.

The TDD is located in the City of Brentwood, in St. Louis County. The approximate location is on the west side of Brentwood Boulevard from the city limit of Brentwood on the north to Wrenwood Lane on the south and consists of the entire Brentwood Square development. That development includes retail, restaurant, grocery and other service establishments. The TDD has a fiscal year end of December 31. An annual financial audit of the district was conducted by an independent CPA firm for fiscal year 2008.

The district was formed for the purpose of constructing the Strassner Avenue extension; reconfiguring the Wrenwood Lane and Brentwood Boulevard intersection; construction and installation of additional traffic lanes along Brentwood Boulevard and Eager Road; reconfiguring the Eager Road and Brentwood Boulevard intersection; and construction, reconfiguration, or installation of accompanying curbs, gutters, sidewalks, storm water facilities, traffic signalization, and other infrastructure improvements as needed.

The cost of the transportation projects was approximately \$1.5 million. These costs were financed by the City of Brentwood with the issuance of tax increment financing (TIF) bonds in 2001 (these bonds were later refinanced in 2005). Pursuant to the formal agreement, the district's revenue limit was set at 13.41 percent of the TIF debt service costs. The City of Brentwood and St. Louis County are the public entities with jurisdiction over these projects and accepted dedication of the completed projects.

Because the district is located within a TIF area, 50 percent of the sales tax collected was paid to the City of Brentwood for deposit to the accounts relating to the TIF projects. However, pursuant to a formal agreement with the city, the district agreed to disburse all the TDD sales tax revenues, less administrative expenses (capped at \$25,000 per year) and collection costs,



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to the city to pay debt service on the TDD-portion of the TIF bonds until they were retired.

In October 2008, the Brentwood Point and Folk Avenue South TDDs jointly filed a petition to create the Hanley Road Corridor (HRC) TDD, which includes the entire area encompassed by the Kenilworth TDD. The HRC TDD was officially organized in March 2009 for the purpose of paying the cost of financing or refinancing certain transportation-related improvements, including the refinancing of the Kenilworth TDD's outstanding debt obligations. The creation of the HRC TDD served to effectively consolidate the activities of the Kenilworth TDD and four other local TDDs by refinancing and/or accepting the debt of those TDDs and assuming all other financial responsibilities within the newly created HRC TDD.

On August 19, 2009, the District Board approved a resolution repealing its sales tax upon the effective date of a sales tax imposed and issuance of obligations by the HRC TDD. The Board also approved another resolution formalizing its intent to dissolve the district, request an audit as required pursuant to Section 238.275, RSMo, and subsequently submit to its voters a ballot question to abolish the district. The State Auditor's Office (SAO) was advised of these resolutions on August 25, 2009. The HRC TDD'S bonds were subsequently issued on August 31, 2009, resulting in the HRC TDD becoming responsible for the Kenilworth TDD's share of the TIF debt obligation of the City of Brentwood. In addition, the HRC sales tax became effective September 1, 2009, with the Kenilworth TDD sales tax being repealed that same date.

The SAO has performed an audit of the Kenilworth TDD as required by Section 238.275, RSMo. That statute requires the State Auditor to audit the district to determine the financial status of the district, and determine whether the district may be abolished pursuant to law. That law also states the district board shall not propose the question to abolish the district while there are outstanding claims or causes of action pending against the district, if its liabilities exceed its assets, or while the district is insolvent, in receivership, or under the jurisdiction of a bankruptcy court.

The following table presents the financial activity and cash balances of the district for the period January 1, 2009, to September 30, 2009, and the year ended December 31, 2008 (as presented on a cash basis):



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	Period	
	January 1, 2009 to September 30, 2009	Year Ended December 31, 2008
<b>RECEIPTS</b>		
Sales taxes	\$ 141,628	173,891
Total Receipts	141,628	173,891
<b>DISBURSEMENTS</b>		
Legal costs	12,223	8,355
Administration	10,000	14,856
Collection fees	1,434	2,040
Auditing	2,000	2,400
Debt service	46,580	78,795
Tax increment financing	70,968	104,522
Bank fees	135	180
Total Disbursements	143,340	211,148
RECEIPTS OVER (UNDER) DISBURSEMENTS	(1,712)	(37,257)
BEGINNING CASH	15,641	52,898
ENDING CASH	\$ 13,929	15,641

Based on our audit of the district, the district's cash balance at September 30, 2009, was \$13,929. In October 2009, the TDD received an additional \$1,317 in sales tax from the City of Brentwood. In October and November 2009, the district disbursed a total of \$15,175 to the City of Brentwood (for TIF and debt service obligations, and sales tax collection fees) and to its legal counsel for legal fees.

Upon the HRC TDD's issuance of its debt on August 31, 2009, \$25,000 was transferred from the HRC TDD's bond trustee to the legal firm of the Kenilworth TDD to be used for payment of any final legal costs. Approximately \$17,200 of this amount had been applied toward outstanding legal costs through November 2009. To cover final expenses of the TDD prior to abolishment, additional funding is to be provided by the HRC TDD on behalf of the Kenilworth TDD in an amount up to \$25,000 in accordance with the Third Amended and Restated Intergovernmental Cooperation Agreement and the HRC TDD Bond Indenture.

The district's legal counsel has estimated the district's outstanding liabilities for final administrative, audit, and legal costs at approximately \$16,000. Therefore, the district's assets (the funding provided by the HRC TDD) will be sufficient to pay any remaining obligations and costs of the district.



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Based on our audit of the district, it appears the TDD's Board of Directors can proceed with the abolishment of the district in accordance with Section 238.275, RSMo.