



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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January 31, 2018

Allen Gansemer, Board Chair  
Village of Nehawka  
PO Box 134  
Nehawka, NE 68413-0134

Dear Mr. Gansemer:

As you know, the Nebraska Auditor of Public Accounts (APA) has received concerns regarding the finances of the Village of Nehawka (Village). Responding thereto, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. In doing so, the APA requested certain information regarding the Village's financial transactions or compliance matters.

Based upon the outcome of this preliminary planning work, the APA has determined that it is unnecessary for this office to perform a separate financial audit or attestation of the Village at this time. However, the Village will still need either to provide the APA with an official audit or request an audit waiver for the fiscal year ended September 30, 2017.

During the course of the preliminary planning work, we noted certain internal control or compliance matters, or other operational matters within the Village, that are presented below. The following information is intended to improve internal controls or result in other operational efficiencies.

### **COMMENTS AND RECOMMENDATIONS**

#### **1. Negative Account Balance**

In August 2017, the Village wrote a check to Kerns Excavating for \$27,790 out of the Water Department bank account, causing a negative balance. As a result, the bank began charging the Village \$12.50 per day for a "Continuous Overdraft Fee." As of September 30, 2017, the account balance was negative \$29,781, and the Village had paid \$333 in overdraft fees.

At the end of November 2017, the Village received a loan from the bank evidenced by a promissory note in the amount of \$55,000. Per Neb. Rev. Stat. § 18-201 (Cum. Supp. 2016), this note is to be used to provide financing for the construction of street and sewer improvements within the Village.

Good internal control and sound business practices require procedures to ensure that funds are available prior to payment. Without such procedures, additional fees can occur.

We recommend the Board implement procedures to ensure that funds are available before the work is scheduled to be done.

*Village Response: The Village of Nehawka Board of Trustees (“BOT”) understands the severity of a negative account balance as well as the implications it has. However, there was an emergency water situation and it needed to be fixed immediately. Bank management was contacted who indicated that the checks should be written and they would be “covered”. Given the discussion with Bank management the BOT was shocked when it learned that overdraft fees had been assessed. Protocol has been put into place to prevent this issue from reoccurring in the future. Additionally, the BOT has scheduled informational meetings with Bond counsel to get different avenues for repairs in place in advance of future water and or sewer infrastructure failures.*

## **2. Claims Issues**

During our comparison of the Village’s bank account details to claims approved by the Village Board (Board), the APA identified other issues, including checks with only one signature, claims paid but not approved, claims paid for an amount other than what was approved, and claims that were approved after the check date. These issues, from February 2017 through September 2017, are summarized below.

- Numerous checks, totaling \$3,868.96, were paid, but not included on the claims listing to be approved by the Board. As summarized in the table below, those disbursements were for, among other things, payments to vendors and State and local governments:

| <b>Name</b>               | <b>Bank Account</b> | <b>Check #</b> | <b>Check Date</b> | <b>Check Amount</b> |
|---------------------------|---------------------|----------------|-------------------|---------------------|
| Postmaster 68048*         | General             | 1807           | 02/08/2017        | \$49.00             |
| Office Depot/Max          | General             | 1833           | 03/24/2017        | \$163.36            |
| Postmaster 68048*         | General             | 1834           | 03/27/2017        | \$105.50            |
| Nebraska UC Fund*         | Ambulance           | 1760           | 04/05/2017        | \$30.69             |
| Dons Johns*               | General             | 1856           | 05/15/2017        | \$451.00            |
| Go Daddy Web Order        | General             | ACH            | 05/01/2017        | \$15.17             |
| Windstream                | General             | ACH            | 05/23/2017        | \$89.11             |
| Postmaster 68048*         | Ambulance           | 1746           | 05/25/2017        | \$49.00             |
| Nebraska Dept of Revenue* | General             | 1878           | 06/26/2017        | \$448.25            |
| Nebr. Dept of Revenue*    | General             | 1813           | 06/26/2017        | \$358.70            |
| Nebraska Dept of Revenue* | General             | 1879           | 06/26/2017        | \$490.94            |
| Windstream                | General             | ACH            | 06/20/2017        | \$113.22            |
| Windstream                | General             | ACH            | 07/20/2017        | \$24.11             |
| Postmaster 68048*         | General             | 1893           | 08/02/2017        | \$98.00             |
| Bob Sorensen              | General             |                | 08/09/2017        | \$60.00             |
| Jan Bonham*               | Water               | 2164           | 08/26/2017        | \$50.00             |
| Postmaster 68413*         | Water               | 2165           | 08/27/2017        | \$98.00             |
| Ruth Johnson*             | General             |                | 09/17/2017        | \$75.00             |
| Deluxe Check              | General             | ACH            | 09/26/2017        | \$125.39            |
| Win Supply*               | Water               | 2166           | 09/11/2017        | \$974.52            |
| <b>Total</b>              |                     |                |                   | <b>\$3,868.96</b>   |

\*Check was also noted as only being signed by the Clerk – see table below for a summary of all checks only signed by the Clerk.

- Twenty-six checks, totaling \$16,453.94, were signed only by the Clerk. The following table summarizes those payments:

| Name                             | Bank Account | Check # | Check Date | Check Amount       |
|----------------------------------|--------------|---------|------------|--------------------|
| Jim Nichols                      | General      | 1809    | 02/01/2017 | \$2,277.78         |
| Nehawka Rural Fire District      | Ambulance    | 1745    | 02/06/2017 | \$1,142.00         |
| Nebraska Rural Water Association | General      | 1810    | 02/06/2017 | \$75.00            |
| Jen Gansemer                     | General      | 1814    | 02/07/2017 | \$77.00            |
| Postmaster 68048                 | General      | 1807    | 02/08/2017 | \$49.00            |
| Jim Nichols                      | General      | 1822    | 03/01/2017 | \$2,177.00         |
| Postmaster 68048                 | General      | 1834    | 03/27/2017 | \$105.50           |
| Nebraska UC Fund                 | Ambulance    | 1780    | 04/05/2017 | \$30.69            |
| Nehawka Baseball                 | General      | 1855    | 05/05/2017 | \$875.00           |
| Don Johns                        | General      | 1856    | 05/15/2017 | \$451.00           |
| Postmaster 68048                 | Ambulance    | 1746    | 05/25/2017 | \$49.00            |
| Ben Henger                       | General      | 1891    | 06/05/2017 | \$90.00            |
| Cass County Register of Deeds    | General      | 1843    | 06/06/2017 | \$10.00            |
| Mike Gamauay                     | General      | 1875    | 06/20/2017 | \$75.00            |
| Nebraska Dept of Revenue         | General      | 1879    | 06/26/2017 | \$490.94           |
| Nebraska Dept of Revenue         | General      | 1878    | 06/26/2017 | \$448.25           |
| Nebraska Dept of Revenue         | General      | 1813    | 06/26/2017 | \$358.70           |
| Postmaster 68413                 | General      | 1876    | 06/26/2017 | \$49.00            |
| Jim Nichols                      | General      | 1892    | 08/01/2017 | \$2,177.78         |
| Postmaster 68048                 | General      | 1893    | 08/02/2017 | \$98.00            |
| Wirebuilt                        | General      | 1874    | 08/20/2017 | \$1,872.00         |
| Jan Bonham                       | Water        | 2164    | 08/26/2017 | \$50.00            |
| Postmaster 68413                 | Water        | 2165    | 08/27/2017 | \$98.00            |
| Jim Nichols                      | General      |         | 09/01/2017 | \$2,277.78         |
| Winsupply                        | Water        | 2166    | 09/11/2017 | \$974.52           |
| Ruth Johnson                     | General      |         | 09/17/2017 | \$75.00            |
| <b>Total</b>                     |              |         |            | <b>\$16,453.94</b> |

Neb. Rev. Stat. § 17-711 (Supp. 2017) requires the Village's warrants to be authorized by two signatures, as follows:

*All warrants drawn upon the city treasurer of a city of the second class or village treasurer must be signed by the mayor or chairperson of the village board of trustees and countersigned by the city clerk or village clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn and the amount already expended of such fund.*

- Multiple Village checks, totaling \$6,976.29, were issued before the underlying claims were approved by the Board. The table below provides a summary of those premature payments:

| Name                  | Bank Account | Approval Date | Check # | Check Clear Date | Check Amount      | Days Paid Before Approval |
|-----------------------|--------------|---------------|---------|------------------|-------------------|---------------------------|
| Jim Nichols*          | General      | 02/08/2017    | 1809    | 02/02/2017       | \$2,277.78        | 6                         |
| Jim Nichols*          | General      | 03/08/2017    | 1822    | 03/02/2017       | \$2,177.78        | 6                         |
| Westlake Ace Hardware | General      | 05/03/2017    | 1846    | 04/17/2017       | \$167.95          | 16                        |
| Mike Gannaway*        | General      | 07/05/2017    | 1875    | 06/29/2017       | \$75.00           | 6                         |
| Jim Nichols*          | General      | 09/13/2017    |         | 09/01/2017       | \$2,277.78        | 12                        |
| <b>Total</b>          |              |               |         |                  | <b>\$6,976.29</b> |                           |

\*Check was also noted as only being signed by the Clerk – see table above for a summary of all checks only signed by the Clerk.

**Note:** Meeting minutes were not obtained for the May 2017 meeting; therefore, it is unknown if this claim was approved in the Board minutes.

- The APA also noted two checks where the amount paid was higher than the amount approved.

| Name          | Bank Account | Amount Approved | Check # | Check Date | Check Amount      | Amount Paid Over Approved |
|---------------|--------------|-----------------|---------|------------|-------------------|---------------------------|
| Bob Heneger*  | General      | \$60.00         | 1891    | 06/05/2017 | \$90.00           | \$30.00                   |
| EMS Billing   | Ambulance    | \$595.76        | 1767    | 06/07/2017 | \$931.52          | \$335.76                  |
| <b>Totals</b> |              | <b>\$655.76</b> |         |            | <b>\$1,021.52</b> | <b>\$365.76</b>           |

\*Check was also noted as only being signed by the Clerk – see table above for a summary of all checks only signed by the Clerk.

Good internal control requires procedures to ensure that all claims are approved by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved. Without such procedures, there is an increased risk for the loss or misuse of Village funds. Absent adequate procedures to ensure that Village checks are properly signed by the individuals specified in statute, moreover, there is a risk of not only noncompliance with the law but also loss or misuse of Village funds.

We recommend the Board implement procedures to ensure all claims are approved by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved. We recommend also the Board ensure Village checks are signed by the appropriate parties in accordance with State statute.

*Village Response: In Jan. 2012 a motion was made and passed regarding the clerk issuing checks under \$500 each without dual signatures. This procedure will no longer be utilized and dual signatures will be implemented on all checks going forward. Moreover, all checks will be strictly written to confirm and cross checked against claims chart after approval by the BOT. Many of the payments listed by the APA that were not on the claims list were specifically discussed at a meeting, approved by the BOT, and reflected in the minutes. Many checks written to individuals are refunds of water deposits and/or refunds of deposits for rental of the community building. Jim Nichols is the maintenance employee for the Village. When the BOT moved its meeting to the second week of the month Mr. Nichols expressed that a delay in receiving his paycheck would cause his family financial distress. As such, at the meeting it was discussed and approved that Mr. Nichol's pay would be approved in advanced. Approving his payroll a month in advance to ensure that he would receive his paycheck on the first day of the month as the board meeting the 2nd Wednesday of the month.*

### **3. Clerk Pay**

At a meeting held on January 8, 2015, the Board approved a 5% increase to the Village Clerk's monthly salary. Per the information received by the APA from the Village, there was no documentation supporting the actual gross amount the Clerk was to receive. However, the Board has been approving the Village Clerk's net pay, after deductions, each month, which was included on the monthly claims listing.

We noted also that the Village Clerk is the spouse of the Board Chairman. Contrary to statutory mandate, the Board Chairman did not prepare and enter into the public record a statement describing the nature of his potential conflict of interest, nor did he abstain from voting on the approval of his wife's proposed pay raise.

The Nebraska Political Accountability and Disclosure Act (Act) is set out at Neb. Rev. Stat. §§ 49-1401 to 49-14,141 (Reissue 2010, Cum. Supp. 2016, Supp. 2017). Section 49-1499.03(2)(a) of the Act provides, in relevant part, the following:

*Any person holding an elective office of a city or village not designated in section 49-1493 and any person holding an elective office of a school district who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:*

*(i) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;*

*(ii) Deliver a copy of the statement to the person in charge of keeping records for the city, village, or school district who shall enter the statement onto the public records of the city, village, or school district; and*

*(iii) Abstain from participating or voting on the matter in which the person holding elective office has a conflict of interest.*

Per § 49-1425 of the Act, immediate family members include “a spouse of an individual.”

Although the situation described herein appears relatively straightforward, § 49-1499.03(2)(b) of the Act does offer assistance for more problematic circumstances, as follows:

*The person holding elective office may apply to the commission [Nebraska Accountability and Disclosure Commission] for an opinion as to whether the person has a conflict of interest.*

Likewise, § 49-14,100 of the Act states the following:

*Any person who is in doubt as to the propriety of action proposed to be taken by him may apply to the commission [Nebraska Accountability and Disclosure Commission] for an advisory opinion relating thereto, and the commission shall have authority to render such opinions. When an advisory opinion is issued pursuant to a complete and accurate request, such opinion shall be a complete defense to any charge of violation of sections 49-1493 to 49-14,104 as to any action taken strictly subject to the terms of such opinion.*

Section 84-1413(1) of the Open Meetings Act, which is set out at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014, Cum. Supp. 2016, Supp. 2017), requires public bodies to keep meeting minutes that show “the substance of all matters discussed.” Failure to include in the meeting minutes the specific amount of an approved salary increase – assuming that such amount was stated on the record – conflicts with this statutory mandate. Neglecting to specify that amount during the Board meeting, on the other hand, could lead, at best, to a misunderstanding as to the actual amount to be paid and, at worst, an opportunity to take improper advantage of that omission.

Good internal control requires procedures to ensure that all payroll expenses are properly reviewed and approved by the Board, as well as supported by adequate documentation and stated explicitly in the meeting minutes. Without such procedures, there is an increased risk for fraud or abuse. Furthermore, failure to disclose potential conflicts of interest not only heightens that risk but also gives rise to a possible violation of law.

We recommend the Board ensure its meeting minutes reflect fully all approved salary adjustments, specifying the actual amounts to be paid. We also recommend the Board take measures – perhaps seeking the guidance of the Nebraska Accountability and Disclosure Commission in doing so – to ensure that a potential conflict of interest involving any of its members is handled in accordance with the provisions of the Act. Finally, because this comment points to a possible violation of the Act, we are forwarding the information contained herein to the Nebraska Accountability and Disclosure Commission for further review.

*Village Response: Mr. Gansemer had not previously filed a conflict of interest statement, however, he announced the conflict and did refrain from voting in relation to the appointment of Mrs. Gansmer. Mr. Gansemer now has on file a conflict disclosure statement. The BOT will also seek guidance from the Nebraska Accountability and Disclosure Commission as to how to properly deal with future potential conflicts that may arise by virtue of the relationship between Mr. and Mrs. Gansmer. The board is taking steps to list payroll separately for approval of payment, which will identify gross pay and net pay.*

#### **4. Disallowed Purchase**

One flower purchase by the Board does not appear to be authorized under the Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. §§ 13-2201 through 13-2204 (Reissue 2012). The details of that purchase are provided below.

| Check # | Check Date | Vendor       | Check Amount |
|---------|------------|--------------|--------------|
| 1841    | 04/04/2017 | Brown Floral | \$79.48      |

When questioned about the purchase, the Clerk responded that the Village had “purchased a plant for the funeral of long time maintenance employee.”

In “A Guideline to the Use of Public Funds by Cities and Villages – Revised” (Guideline), issued on September 11, 1992, the Nebraska Accountability and Disclosure Commission explained that the Act disallows the purchase of flowers for funerals, as follows:

*Question #6 – May municipal funds be expended for flowers and memorials for deceased elected officials, employees or their families?*

*Response – No.*

Although issued more than two decades ago, the Guideline remains relevant, as the Act has not been amended since its inception.

We recommend the Board ensure compliance with the provisions of the Act by refraining from expending public funds to purchase flowers for funerals and other unallowable purposes or occasions.

*Village Response: The board is now aware that this type of purchase is not allowed and will refrain from any similar expenditures in the future.*

\* \* \* \* \*

The preliminary planning work that resulted in this letter was designed primarily on a test basis and, therefore, may not bring to light all existing weaknesses in the Village's policies or procedures. Nevertheless, our objective is to use the knowledge gained during the performance of that preliminary planning work to make comments and suggestions that we hope will prove useful to the Village.

Draft copies of this letter were furnished to the Village to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this letter. Responses have been objectively evaluated and recognized, as appropriate, in the letter. Responses that indicated corrective action has been taken were not verified at this time.

This communication is intended solely for the information and use of the Village and its management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Mary Avery".

Mary Avery  
Special Audits and Finance Manager  
Phone 402-471-3686  
mary.avery@nebraska.gov

cc: Nebraska Accountability and Disclosure Commission