



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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December 2, 2021

Steve Breunig, Chairperson
Chapman Township Saunders County
2221 County Road I
Weston, NE 68070

Dear Chairperson Breunig:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Chapman Township Saunders County (Township) for the fiscal year ending 2021. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (2021 Neb. Laws, LB 528, § 51), the preliminary examination necessary to determine whether further audit work would be required or the audit waiver should be allowed, the APA noted certain internal control or compliance matters, or other operational issues, within the Township.

The following information is intended to improve internal controls or result in other operational efficiencies.

Comments and Recommendations

1. Possible Conflict of Interest

When reviewing the Township's bank statements, which were received as part of its audit waiver request, the APA identified a potential conflict of interest concern regarding the Township Board Chairperson Steve Breunig. During the fiscal year 2021, the APA noted that the Township made three payments, totaling \$43,082, to Breunig, Inc. Per Mr. Breunig, he is the owner of Breunig, Inc.

Those payments are detailed in the following table:

Claim Date	Name	Description	Amount
10/27/20	Breunig, Inc.	Gravel	\$ 27,153
6/22/21	Breunig, Inc.		\$ 15,000
6/22/21	Breunig, Inc.	Gravel	\$ 929
		Total	\$ 43,082

The APA obtained copies of the October 27, 2020, and June 22, 2021, Township Board meeting minutes. Both sets of minutes document a motion to pay bills, including bills to Breunig, Inc. However, both sets of minutes failed to document if Mr. Breunig abstained from voting on the claims payable to his personal business.

A copy of the October 27, 2020, meeting minutes is shown below.

Chapman Township meeting Oct 27, 2020 (8:00 PM)
 Present: Steve Breunig, Tim Voss, Curtis Havelle
 motion by Voss second by Havelle to pay
 Outstanding bill to: Wahso Newsgazer, Joe Boudovsky,
 Breunig Inc.

A copy of the June 22, 2021, meeting minutes is shown below.

Chapman Township Meeting

The Meeting of Chapman Township was held the 22 of June, 2021 at 8:00 PM
 PM at the Weston American Legion Post #308 hall.

Meeting was called to order by Chair, Steve Breunig.

Board Members:

Present	Absent
<u>Pres Steve Breunig</u>	_____
<u>Sec Tim Voss</u>	_____
<u>Treas Curtis Havelle</u>	_____
_____	_____
_____	_____

New Business Was Discussed:

Sold Paid: Business Records Inc Breunig Inc, NMC, Cat Financial
Steve Breunig, Tim Voss, Jeannette Sabath, Mark Bogenschütz
Breunig Inc, ~~Wahso Newsgazer~~ One Deposit

Old Business:

discussed management of problem on Road 24-25 G

Motion was made by Tim Voss to pay the following bills and Curtis Havelle
 _____ seconded the motion:

The apparent failure of the Chairperson, Steve Breunig, to abstain from voting on authorizing the payment to his personal business gives rise to concerns regarding possible violations of the Nebraska Political Accountability and Disclosure Act (Act), which is set out at Neb. Rev. Stat. §§ 49-1401 (Cum. Supp. 2020) et seq.

To start, Neb. Rev. Stat. § 49-14,102 (Cum. Supp. 2020) states, in relevant part, the following:

(1) Except as otherwise provided by law, no public official or public employee, a member of that individual's immediate family, or business with which the individual is associated shall enter into a contract valued at two thousand dollars or more, in any one year, with a government body unless the contract is awarded through an open and public process.

(2) For purposes of this section, an open and public process includes prior public notice and subsequent availability for public inspection during the regular office hours of the contracting government body of the proposals considered and the contract awarded.

(Emphasis added.) Neb. Rev. Stat. § 49-1443 (Reissue 2010) defines a “public official” as follows:

Public official shall mean an official in the executive branch, an official in the legislative branch, or an elected or appointed official in the judicial branch of the state government or a political subdivision thereof; any elected or appointed member of a school board; and an elected or appointed member of a governing body of a state institution of higher education.

(Emphasis added.) Neb. Rev. Stat. § 49-1424 (Reissue 2010) defines “government body” as follows:

Government body shall mean an authority, department, commission, committee, council, board, bureau, division, office, legislative body, or other agency in the executive, legislative, or judicial branch of state government or of one or more political subdivisions thereof or a school district, state college, state university, or other state-supported institution of higher education.

Neb. Rev. Stat. § 49-1408 (Reissue 2010) provides the following definition for the term “business with which the individual is associated”:

Business with which the individual is associated or business association shall mean a business: (1) In which the individual is a partner, limited liability company member, director, or officer; or (2) in which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth one thousand dollars or more at fair market value or which represents more than a five percent equity interest or is a stockholder of publicly traded stock worth ten thousand dollars or more at fair market value or which represents more than ten percent equity interest. An individual who occupies a confidential professional relationship protected by law shall be exempt from this section. This section shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.

In light of the above definitions, it is reasonable to conclude that the prohibition in § 49-14,102 applies to Township officials, including Chairperson Breunig. Without any meeting minutes to document the Board’s approval of the contract with the Breunig, Inc., however, it is difficult to determine whether the “open and public process” required by § 49-14,102(1) occurred.

Advisory Opinion #169, which the Nebraska Accountability and Disclosure Commission adopted on December 13, 1996, states the following:

In past advisory opinions, the Commission has taken the position . . . that an open and public process includes one in which the matter of awarding a contract is an agenda item for a meeting of a governing body if the meeting is publicized in the normal manner of the governing body.

(Emphasis added.) Furthermore, Neb. Rev. Stat. § 49-14,101.01 (Reissue 2010) provides the following, as is relevant:

(1) A public official or public employee shall not use or authorize the use of his or her public office or any confidential information received through the holding of a public office to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which the individual is associated.

(2) A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain.

* * * *

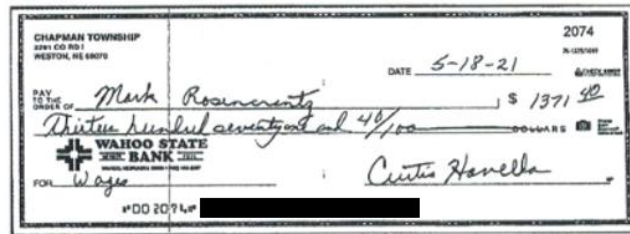
(7) Except as provided in section 23-3113, any person violating this section shall be guilty of a Class III misdemeanor, except that no vote by any member of the Legislature shall subject such member to any criminal sanction under this section.

Good internal controls require procedures to ensure compliance with the requirements of the Act. Without such procedures, there is an increased risk for both statutory violations and loss of Township funds.

We recommend the Township implement procedures to ensure compliance with the applicable provision of the Act. Because the issue addressed herein constitutes a possible violation of the Act, we are forwarding this information to the Nebraska Accountability and Disclosure Commission.

2. Lack of Dual Signatures

The APA obtained the monthly statements for the Township's bank accounts from its fiscal year 2021 audit waiver request. From those statements, the APA noted that all Township checks written during the examination period prior to June 22, 2021, contained only one signature. An example of such checks is shown below.



Nebraska law requires both the Clerk and the Chairperson of the Township Board to sign all checks approved by the Board. In particular, Neb. Rev. Stat. § 23-255 (Reissue 2012) states, in relevant part, the following:

The town clerk shall draw and sign all orders upon the town treasurer for all money to be disbursed by the township, and all warrants upon the county treasurer for money raised for town purposes, or apportioned to the town by the county or state, and present the same to the chairman of the board, to be countersigned by him, and no warrant shall be paid until so countersigned.

(Emphasis added.) In addition, good internal controls and sound accounting practices require procedures to ensure that Township checks contain the statutorily required endorsements.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss or misuse of public funds.

We recommend the Board implement procedures to require dual signatures, from both the Clerk and the Chairperson, on all Township checks, as required by law.

* * * * *

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 Township'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 Township.

This communication is intended solely for the information and use of the Township 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, please contact **Dakota Christensen at 402-499-8702 or dakota.christensen@nebraska.gov.**

Sincerely,

Handwritten signature of Mark Avery.

Mark Avery, CPA
Assistant Deputy Auditor