



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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January 26, 2024

James Dresch, Chairperson
Village of Primrose
107 Dewey Street
Primrose, NE 68655

Dear Chairperson Dresch:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Primrose (Village) for the fiscal year ending 2023. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2023), the preliminary examination necessary to determine whether the audit waiver should be allowed or further audit work would be required, the APA noted certain internal control or compliance matters, or other operational issues, within the Village.

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

Comments and Recommendations

1. Possible Conflict of Interest

The APA received the Village Board (Board) meeting minutes, along with the accompanying claims listing for April 6, 2023. From that documentation, the APA identified a potential conflict of interest involving the actions of Board member James Dresch.

According to the meeting minutes, James Dresch appears to have failed to abstain from voting on the following claim to his spouse, Irene Dresch, who is the Village Clerk:

Name	Description	Check #	Gross Payroll	Net Pay
Irene Dresch	Payroll/Wages	10361	\$ 150.00	\$ 138.52
Total			\$ 150.00	\$ 138.52

An excerpt from the April 6, 2023, Board minutes is provided below:

Primrose Village Board April 6, 2023

The regular meeting of the Primrose Village Board was held Thursday, April 6, 2023, at the Primrose Village Hall. Present: Jim Dresch, Bob Thompson, Jeanette Burda. Absent: Victoria Dobson, DJ Greger. Also present: Deputy Brent Beekman.

Chair, Jim Dresch, called the meeting to order at 6:30 p.m. Dresch announced that the Open Meetings Act is available for review. Deputy Beekman introduced himself and gave the police report. Motion by Jim Dresch, second by Bob Thompson, to approve the March minutes. 3 ayes, 2 absent.

Bills were presented as follows: Albion News / Boone County Tribune (legals printing): \$28.10; Boone County Sheriff (police protection): \$100.00; J & S Garbage: \$550.00; Black Hills Energy (utilities): \$318.21; Loup Power (utilities): \$709.33; Great Plains Communications (well house phone): \$56.66; NE Public Health Lab: \$461.00; Applied Connective (monthly wi-fi): \$55.00; Spalding Irrigation (lagoon pump repairs): \$77.90; NE Rural Water Association (membership dues): \$200.00; (NOTE: ck #10333 payable to NE Rural Water Association 03/08/2023, for dues was voided and a new check will be issued); Kearney Comfort Inn (water conference): \$253.68; Kearney Holiday Inn (clerks conference): \$229.90; Cedar Rapids Rescue: \$59.78; Roger Ternus (serving counter/bar for community bldg): \$3,014.00; Jim Dresch (postage): \$5.19; Salaries: Jim Dresch: \$322.00; Bob Thompson: \$11.00; Jeanette Burda: \$11.00; Irene Dresch: \$150.00; Total: \$6,612.75. Motion by Bob Thompson, second by Jeanette Burda, to pay the bills. 3 ayes, 2 absent.

The APA inquired with the Village, and on January 24, 2024, Irene Dresch confirmed, via email, that Board member James Dresch is her husband and stated the following:

It is my understanding that Jim, along with the other board members (trustees) are allowed to vote on payroll. If there is an outside bill for one of the board members, then that board member will abstain. We have never signed a conflict of interest form.

The apparent failure of Board member James Dresch to abstain from voting on the motion above 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 to 49-14,142 (Reissue 2021, Cum. Supp. 2022).

To start, Neb. Rev. Stat. § 49-14,101.01(1) (Reissue 2021) states the following:

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.

The penalty for violating the above-cited conflict of interest statute is set out in subsection (7) thereof, as follows:

[A]ny 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.

Furthermore, Neb. Rev. Stat. § 49-1499.03(2) (Reissue 2021) provides the following:

(a) 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) Except as otherwise provided in subsection (3) of this section, abstain from participating or voting on the matter in which the person holding elective office has a conflict of interest.

(b) The person holding elective office may apply to the commission for an opinion as to whether the person has a conflict of interest.

(Emphasis added.) Good internal control requires procedures to ensure compliance with the applicable provisions of the Act. Without such procedures, there is an increased risk for both statutory violations and the loss of Village funds.

We recommend the Board implement procedures to ensure compliance with the applicable provisions 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 for further review.

2. Lack of Dual Signatures

The APA obtained the bank statements for the Village's accounts from its fiscal year 2023 audit waiver request. From these statements, the APA noted that two of the Village checks written during the examination period contained only one signature, as shown below.



State statute requires Village checks to be signed by both the Chairperson of the Board of Trustees (Board) and the Village Clerk. Specifically, Neb. Rev. Stat. § 17-711 (Reissue 2022) provides the following:

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.

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that Village 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 and/or misuse of Village funds.

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

3. Lack of Claim Purpose

During our comparison of the Village's bank account details to claims approved by the Board, the APA observed meeting minutes dated April 6, 2023, and noted that the claims listed therein lacked descriptions of their respective purposes.

The following is an example of the approved claims listing provided by the Village for April 6, 2023:

Bills were presented as follows: Albion News / Boone County Tribune (legals printing): \$28.10; Boone County Sheriff (police protection): \$100.00; J & S Garbage: \$550.00; Black Hills Energy (utilities): \$318.21; Loup Power (utilities): \$709.33; Great Plains Communications (well house phone): \$56.66; NE Public Health Lab: \$461.00; Applied Connective (monthly wi-fi): \$55.00; Spalding Irrigation (lagoon pump repairs): \$77.90; NE Rural Water Association (membership dues): \$200.00; (NOTE: ck #10333 payable to NE Rural Water Association 03/08/2023, for dues was voided and a new check will be issued); Kearney Comfort Inn (water conference): \$253.68; Kearney Holiday Inn (clerks conference): \$229.90; Cedar Rapids Rescue: \$59.78; Roger Ternus (serving counter/bar for community bldg): \$3,014.00; Jim Dresch (postage): \$5.19; Salaries: Jim Dresch: \$322.00; Bob Thompson: \$11.00; Jeanette Burda: \$11.00; Irene Dresch: \$150.00; Total: \$6,612.75. Motion by Bob Thompson, second by Jeanette Burda, to pay the bills. 3 ayes, 2 absent.

Neb. Rev. Stat. § 84-1413(1) (Cum. Supp. 2022) of the Open Meetings Act, which is set out at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014, Cum. Supp. 2022), requires political subdivisions and other public entities to “keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.” (Emphasis added.)

Additionally, Neb. Rev. Stat. § 19-1102 (Reissue 2022) requires publication of the Board’s official proceedings, which must include, among other things, the purpose of each claim allowed, as follows:

It shall be the duty of each city clerk or village clerk in every city or village having a population of not more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census to prepare and publish the official proceedings of the city council or village board of trustees within thirty days after any meeting of the city council or village board of trustees. The publication shall be in a legal newspaper in or of general circulation in the city or village, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in section 23-122.

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that the Board’s meeting minutes describe the purpose of each claim allowed.

Without such procedures, there is an increased risk of not only failure to comply with statutory requirements pertaining to the keeping of proper meeting minutes and the publication of the municipality’s “official proceedings” but also a lack of transparency regarding the nature of public expenditures.

We recommend the Board implement procedures to ensure the purpose of each claim allowed is included in both the Board’s meeting minutes and the “official proceedings” required to be published afterwards.

4. Negative Fund Balance

On Exhibit A of the Village’s audit waiver request form, the APA noted that the Water Fund had a deficit balance of \$26,554 as of September 30, 2023.

Good internal control and sound accounting practices require procedures to ensure that Village fund balances are sufficient to cover fully all disbursements and transfers approved by the Board. Those same procedures should ensure also that the Board is apprised regularly of each Village fund balance and, therefore, placed in a position to take necessary action to resolve any deficits therein.

Without such procedures, there is an increased risk of not only insufficient Village fund balances but also the resultant inability to cover fully all disbursements and transfers approved by the Board.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA's letter dated February 23, 2023, which can be found on the APA's website. However, it does not appear this issue was corrected after the APA's notification.

We recommend the Village board implement procedures to ensure the Board is apprised regularly of each Village fund balance and, therefore, placed in a position to take necessary action to resolve any deficits therein.

5. Potentially Disallowed Purchases

During our review of the bank statements accompanying the Village's audit waiver request, the APA noted that the Village made a questionable purchase, totaling \$50, for a "donation". The cleared check image for this donation payment is show below.



The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. § 13-2201 (Reissue 2022) et seq., specifies various expenditures, aside from those otherwise authorized by law, that constitute allowable uses of public funds by designated political subdivisions. The provisions of the Act are made applicable to Villages, among numerous other public entities, by both subsections (2) and (3) of Neb. Rev. Stat. § 13-2202 (Reissue 2022). Nowhere in the Act is provision made for the donation of public funds.

Additionally, the APA's examination of other statutes applicable to the Village failed to identify any specific legislative grant of authority for making the type of donation addressed herein.

Neb. Rev. Stat. § 13-2203 (Reissue 2022) of the Act enumerates the miscellaneous expenditures permitted by governing bodies of local governments. Donations are not found among that select statutory list of permissible expenditures. As a result, such disbursements must be considered disallowed by law.

Good internal control requires procedures to ensure compliance with the provisions of the Act. Without such procedures, there is an increased risk for not only noncompliance with applicable statutory requirements but also loss or misuse of Village funds.

We recommend the Board implement procedures to ensure all Village purchases are allowable under State statute, including the provisions of the Act.

* * * * *

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.

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, please contact **Dakota Christensen at 402-499-8702 or dakota.christensen@nebraska.gov**.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Avery", with a long, sweeping horizontal line extending to the right.

Mark Avery, CPA
Assistant Deputy Auditor