

**STATE OF NEBRASKA
ATTESTATION REVIEW
OF THE
VILLAGE OF MILLER**

**FOR THE PERIOD
JULY 1, 2007 THROUGH APRIL 30, 2009**

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the Auditor of Public Accounts.**

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Issued on June 8, 2009

VILLAGE OF MILLER
ATTESTATION REVIEW

TABLE OF CONTENTS

<u>Sections</u>	<u>Page</u>
Independent Accountant's Report	1 - 2
Background	3
Criteria	3
Summary of Procedures	3 - 4
Summary of Results	4 - 10
Overall Conclusion	10
Exhibit 1 - Current Bond Number for the Village Clerk and Treasurer	



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Independent Accountant's Report

Citizens of the State of Nebraska:

We have reviewed the expenditures, Village Board proceedings, Village Board and Village Clerk/Treasurer utility accounts, bank accounts, audit waivers, and budget documents of the Village of Miller for the period July 1, 2007, through April 30, 2009. The Village of Miller's management is responsible for the expenditures, Village Board proceedings, utility billing and collection, bank accounts, annual audit waiver requests, and annual budget documents. We did not obtain a written assertion regarding such matters from management.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the expenditures, Village Board proceedings, Village Board and Village Clerk/Treasurer utility accounts, bank accounts, annual audit waivers, and annual budget documents. Accordingly, we do not express such an opinion.

Based on our review, nothing came to our attention that caused us to believe that the expenditures, Village Board proceedings, Village Board and Village Clerk/Treasurer utility accounts, bank accounts, annual audit waivers, and annual budget documents are not presented, in all material respects, in conformity with the criteria set forth in the Criteria section.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Village of Miller's expenditures, Village Board proceedings, Village Board and Village Clerk/Treasurer utility accounts, bank accounts, annual audit waivers, and annual budget documents and any fraud and illegal acts that are more than inconsequential that come to our attention during our review. We are also required to obtain the views of management on those matters. We did not perform our review for the purpose of expressing an opinion on the internal control over the Village of Miller's expenditures, Village Board proceedings, Village Board and Village Clerk/Treasurer utility accounts, bank accounts, annual audit waivers, and annual budget documents or on compliance and other matters; accordingly, we express no such opinions.

Our review disclosed certain findings that are required to be reported under *Government Auditing Standards* and certain other matters. Those findings, along with the views of management and the identification of significant deficiencies and material weaknesses, are described below in the Summary of Results. A significant deficiency is a deficiency in internal control, or combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria or framework such that there is more than a remote likelihood that a misstatement of the subject matter that is more than inconsequential will not be prevented or detected.

This report is intended solely for the information and use of the Citizens of the State of Nebraska, management of the Village of Miller, others within the Village of Miller, and the appropriate Federal and regulatory agencies; however, this report is a matter of public record, and its distribution is not limited.

Signed Original on File

Mike Foley
Auditor of Public Accounts

Sandra Steinbrecher
Audit Manager

Mary Avery
Special Audits and
Finance Manager

June 8, 2009

VILLAGE OF MILLER
ATTESTATION REVIEW

Background

The Village of Miller (Village) is a small municipality of 156 residents (2000 U.S. Census) located in Buffalo County. The Village is governed by an elected five-person board (Village Board), whose responsibilities include monitoring and approving the Village expenditures, documentation and publication of Village Board proceedings, utility billing and collection, bank accounts, annual audit waivers, and annual budget documents.

The current Village Board members are:

Ross Karabel	Terry Hansen
Leroy Lambert	Rick Bowie
Ronda Gilmore	

The Village Board appoints the Village Clerk, who functions as both the Clerk and Treasurer, and is responsible for maintaining the records for the Village and handling the finances of the Village upon approval of the Village Board. The current Village Clerk (Clerk/Treasurer) is Lynn Weston.

Criteria

The criteria used in this attestation review were Nebraska State Statutes, Village of Miller Municipal Code, good internal control, and sound accounting practices.

Summary of Procedures

Pursuant to Neb. Rev. Stat. § 84-304 (Reissue 2008), the Auditor of Public Accounts (APA) conducted an attestation review of the expenditures, Village Board proceedings, Village Board and Village Clerk/Treasurer utility accounts, bank accounts, annual audit waivers, and annual budget documents for the period of July 1, 2007, through April 30, 2009, in accordance with standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The APA's attestation review consisted of the following procedures:

1. Obtained and reviewed Village Board proceedings for a general understanding of the Village's government operations, issues, etc.
2. Determined if the Clerk/Treasurer was publishing Village Board proceedings in accordance with Neb. Rev. Stat. § 19-1102 (Reissue 2007).
3. Reviewed Village Board proceedings for presentation of the Village monthly accounting and Village treasury balances from the Clerk/Treasurer in accordance with Neb. Rev. Stat. § 17-606 (Reissue 2007).
4. Reviewed several Village expenditures, including payroll, for adequate supporting documentation.
5. Reviewed utility accounts of Village Board members to determine if they were assessed and paid utilities at established Village rates.
6. Reviewed the Village's bank statements of the Village's six bank accounts for large/unusual transactions.

VILLAGE OF MILLER
ATTESTATION REVIEW

7. Reviewed the Village's procedures related to the sale of personal property.
8. Reviewed the Village's audit waivers for the fiscal years 2007 and 2008 and the budget for fiscal year 2009.

Summary of Results

The summary of our attestation review noted the following findings and recommendations:

1. Board Proceedings

Neb. Rev. Stat. § 19-1102 requires: 1) publication, within thirty days after any meeting of the council, of the official proceedings of the village in a newspaper of general circulation in the village; 2) publication to include the amount of each claim allowed, the purpose of the claim, and the name of the claimant; and 3) publication, between July 15 and August 15 of each year, of all employee job titles and current annual, monthly, or hourly salaries corresponding to those job titles. Neb. Rev. Stat. § 19-1103 (Reissue 2007) further requires that, if no legal newspaper is published in the village, such publication is to be made in one legal newspaper published or of general circulation within the county in which such village is located.

Review of Board proceedings noted the following:

- Proceedings were not published in a general circulation newspaper within the county. Rather, proceedings were only posted at three separate locations within the Village of Miller.
- The Village Clerk/Treasurer was inconsistent in reporting of claims. Most proceedings documented new claims presented and approved by vendor name and amount; however, they did not include an expenditure purpose. For example:
 - December 4, 2008, minutes included no mention of claims
 - January 8, 2009, minutes included new claims presented and approved by vendor name and amount, but did not include an expenditure purpose.
- No annual publication of employee job titles and current annual, monthly, or hourly salaries was noted.

When official proceedings are not published as required by State Statute, and claims and employee's job titles and salaries are not adequately disclosed, there is an increased risk Village Board and citizens are not completely and accurately informed of government's decisions and operations.

We recommend the Village Board and Clerk/Treasurer review the above-cited State Statutes and immediately implement procedures to ensure timely, complete, and accurate publication of all Board proceedings and other disclosures as required by law. The Village needs to be compliant with State Statute publication requirements.

Village's Response: Will now begin publishing the official proceedings for the board meeting and minutes in the local newspaper. Employee job titles and salaries will be published annually.

VILLAGE OF MILLER
ATTESTATION REVIEW

2. Accounting Reports to the Village Board

Neb. Rev. Stat. § 17-606 (Reissue 2007) requires the Village Treasurer to submit to the Village Board at the end of every month a report showing the state of the treasury at the date of such report, the balance of monies in the treasury, and details of such.

Review of Board proceedings and discussion with the Clerk/Treasurer noted comprehensive monthly accounting reports were not presented to the Village Board as required by State Statute. The Clerk/Treasurer indicated that she provided the Village Board with fund balance information only “when asked” to do so, most recently in April 2009.

When not completely and accurately informed on the status of the treasury on a monthly basis, the Village Board’s ability to make informed management decisions is impaired. There is an increased risk of loss, theft, or misuse of Village funds, and the Village Clerk/Treasurer is non-compliant with Neb. Rev. Stat. § 17-606 (Reissue 2007).

This finding is a significant deficiency.

We recommend monthly accounting to the Village Board be done in accordance with Neb. Rev. Stat. § 17-606 (Reissue 2007). A complete state of the Village treasury and balance of money in the treasury should be provided to the Village Board every month.

Village’s Response: The treasurer will now provide complete and detailed report to account for all fund balances at each monthly meeting.

3. Sale of Personal Property

Neb. Rev. Stat. § 17-503.02 (Reissue 2007) sets out the procedures villages are to follow when selling their personal property. These procedures are required to include:

- The passage of a resolution authorizing the sale and the manner and terms of the sale.
- Following the resolution, a notice of the sale shall be posted in three prominent places within the village for a period of not less than seven days *prior* to the sale. If the fair market value of the property is greater than five thousand dollars, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in such city or village at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of the sale.

The May 1, 2008, Board proceedings noted Village Board approval for the sale of old culverts. On June 11, 2008, the Village received \$100 from Troy Nichols for the purchase of culverts, with subsequent deposit to the Village’s Street bank account on June 24, 2008. No documentation was available indicating prominent notice of the culvert sale; outside of inclusion of the approved Village Board motion in the May 1, 2008, Village Board proceedings.

VILLAGE OF MILLER
ATTESTATION REVIEW

When a political subdivision cannot document full compliance with all statutory provisions related to the sale of personal property, there is an increased public perception of unfairness, as well as, a perceived lack of transparency in government. It also indicated the Village is non-compliant with State Statutes.

We recommend the sale of any personal property owned by the Village be conducted in accordance with Neb. Rev. Stat. § 17-503.02 (Reissue 2007), and such transactions be fully disclosed and documented for subsequent inspection.

Village's Response: If the village sells any village personal property again we will follow Stat 17-503.02 for all sale proceedings. A copy of the stat will be put in the village files.

4. Payroll Procedures

The Fair Labor Standards Act (FLSA) of 1938, codified at 29 U.S. Code Chapter 8, prescribes standards affecting most private and public employment. The FLSA requires every covered employer to keep certain records for each covered, non-exempt worker. While there is no required form for the records, the records must include accurate information about the employee and data about the hours worked and wages earned. Furthermore, the basic records must include records of the hours worked each day and total hours worked each workweek. In addition, good internal control procedures require payroll expenditures be adequately supported by signed time sheets, logs, and/or similar evidence of the actual number of hours worked. Furthermore, good internal control requires non-hourly employment be supported by formal work contracts/agreements detailing rights, responsibilities, rate of pay, etc.

Review of Village payroll expenditures noted the following:

- The Village has three part-time employees. The Clerk/Treasurer is paid a flat rate of \$600 per month. The Village Street/Maintenance worker is paid \$13.00 per hour. The Community Hall caretaker is paid varying flat rates based on specific services provided such as opening/closing of Hall, cleaning of Hall, etc.
- The Clerk/Treasurer indicated there are no formal employment contracts with herself or the Community Hall caretaker for personal services. Rather, their employment, while approved by formal action of the Village Board, is entirely verbally based.
- The Village Street/Maintenance worker did not maintain detailed timesheets, logs, and/or similar evidence of the actual number of hours worked. Rather, this employee's payroll is supported by monthly submission of a piece of paper which contains only the employee's name and gross total amount to be paid.

When payroll expenditures are not adequately documented, there is an increased risk of loss or misuse of Village funds, as well as an increased exposure to potential litigation should employees dispute the pay they have, or have not, received from the Village.

This finding is a significant deficiency.

VILLAGE OF MILLER
ATTESTATION REVIEW

We recommend the Village adequately document all expenditures, including those related to payroll. Such documentation would include, in part, retention of detailed timesheets for all hourly employees, employment contracts/agreements for non-hourly employees, etc. Details of what the flat rates are should be formalized and appropriate documentation maintained prior to payment, such as disclosing dates, reason, and times services were provided.

Village's Response: Will now purchase a time clock machine and all hourly employees will clock in and out. Also, the village will get new employment contracts for all non-hourly employees. A record of these contracts will be kept in the village office.

5. Bank Account Authorizations

Good internal control requires that, in the absence of a proper segregation of duties, dual signatures be required on all bank accounts in order to reduce the risk of loss, theft, or misuse of funds.

As the Village is a small municipality with only three part-time employees, there is an obvious lack of segregation of duties. As a result, we noted one person handling transactions from beginning to end. A review of cancelled checks included on Village bank statements noted the Village checking accounts only require one authorized signature, which is that of the Clerk/Treasurer.

When there is a lack of segregation of duties, and dual signatures are not required on all bank accounts, there is an increased risk of loss, theft, or misuse of Village funds.

We strongly recommend the Village require dual signatures on all Village checking accounts. We further recommend that one of the signatures on the checking account be that of one of the Village Board as they are the officials elected by the constituents to govern the Village.

Village's Response: The Village of Miller will now have 2 signatures on all checks.

6. Utility Accounts

Sound accounting practices require maintenance of comprehensive, detailed customer utility accounting records which document customer utility history, including customer billings and payments.

During review of Village utility accounting procedures, it was noted that individual customer utility account history is not maintained by the Village. The Clerk/Treasurer stated there was such a computerized program being used prior to her hire in August 2008; however, she was

VILLAGE OF MILLER
ATTESTATION REVIEW

unable to “get it to reconcile” and quit using the program. As a result, utility customer account history is now unavailable. The program, as currently being used, only indicates the most recent month of activity and balance due. The Clerk/Treasurer indicated that, in order to verify customer payments, itemized Village bank deposit slips would need to be reviewed. In addition, the Clerk/Treasurer indicated that she also makes photocopies of all check payment types received in an effort to document payments.

When comprehensive, detailed customer utility accounting records which document customer utility history, including customer billings and payments, are not maintained, there is an increased risk of loss, theft, or misuse of Village funds. Without an adequate history of records, the Village Board may not be able to adequately determine when it needs to take action for unpaid utility bills.

This finding is a significant deficiency.

We recommend the Village implement comprehensive, detailed customer utility accounting records which document customer utility history, including customer billings and payments. The Village should review its computerized program which is capable of accounting for individual customer utilities and use if appropriate.

Village’s Response: The village will require each water bill to be paid separately for easier accountability. This was announced at the village meeting on June 4, 2009. The village will check into a computer friendly program for this purpose.

7. Bonds or Insurance Coverage of Municipal Officers

Neb. Rev. Stat. § 11-104 (Reissue 2007) requires all official bonds of officers of cities, towns, and villages to be executed pursuant to Neb. Rev. Stat. § 11-103 (Reissue 2007), except that they are to be made payable to the city, town, or village in which the officers giving the bonds are elected or appointed. In addition, sound business practices require that any person entrusted with, and paid from, public funds for his or her services should be required to provide a surety bond or equivalent insurance policy to protect the employer from the risk of loss, theft, or misuse of funds under that person’s control.

During review of Village operations, the Clerk/Treasurer stated that she was not able to be bonded due to problems with her personal finances.

When surety bonds or equivalent insurance policies are not required of municipal officers who have public funds or property under their control, there is an increased risk of non-recoverable loss in the event of theft or misuse of funds or property, specifically when that person is in a place of control over public funds and is unable to be bonded.

VILLAGE OF MILLER
ATTESTATION REVIEW

We recommend the Village become compliant with Neb. Rev. Stat. § 11-104. We further recommend the Village Board strictly enforce the posting of bond or an equivalent insurance policy for any person who has control of public funds or property. Finally, if the current Clerk/Treasurer cannot be bonded, the Village Board needs to take appropriate action to ensure they have a Clerk/Treasurer for the Village that is bonded so the Village's public funds are protected.

Village's Response: Enclosed please find documentation of a current bond number for the Village Clerk and Treasurer. Effective date was 10-29-2008.

APA's Response: The only documentation provided to APA in this matter was a General Application for a \$20,000 surety bond for Lynn Weston signed by her on June 5, 2009. While the Board indicated in its response that this bond was effective October 29, 2008 no evidence was provided to support the execution of a surety bond as of that date. (See Exhibit 1)

8. Nuisance Abatement

Neb. Rev. Stat. § 84-1413(1) (Reissue 2008) requires each public body to keep minutes of all meetings. Such minutes are to include, in part, the substance of all matters discussed. In addition, Neb. Rev. Stat. § 18-1720 (Reissue 2007) grants all cities and villages in Nebraska the power and authority by ordinance to define, regulate, suppress and prevent nuisances, and to declare what shall constitute a nuisance, and to abate and remove the same. Lastly, Neb. Rev. Stat. § 17-611 (Reissue 2007) states that no officer is to receive any pay or perquisites other than his or her salary.

The May 1, 2008, Board proceedings noted discussion regarding abatement of nuisances located at Lots 5 & 6 Block 39 Old Town Miller (OTM), in which an order of default judgment had been entered in Buffalo County District Court on April 14, 2008. The Court Order required the Village to abate the nuisances by July 15, 2008, with the Village disposing of nuisances (overgrown trees, junked vehicles and machinery, excessive growth of worthless vegetation, and litter) in any manner available under the Ordinances of the Village, including public sale. Furthermore, the order required all costs of the abatement be assessed against the defendant's property following application and further hearing. In a written statement to the APA, the Clerk/Treasurer stated, "Glen Nichols was authorized to remove the existing trash and debris and metal from the Mayo property. He provided his own equipment and time to do this removal. His payment was whatever he received from this stuff. If the Village would of hired an individual or a company to do this removal, it would of cost more than the salvage value of this debris, metal and trash." Discussion of how nuisance abatements were to be handled, including any authorization to allow Glen Nichols to do the work in return for keeping all sale proceeds, was not noted during review of Board proceedings. As was previously noted above in Finding and Recommendation 4 (Payroll Procedures), Glen Nichols did not complete detailed timesheets,

VILLAGE OF MILLER
ATTESTATION REVIEW

logs, or evidence of his actual number of hours worked. As a result, we were unable to determine if Glen Nichols was paid for his labor by the Village in addition to his having personally benefited from the sale of the nuisance property.

When citizens do not have full access to information on the public finances and decisions of government, there is an increased mistrust of government.

We recommend the Village minutes fully disclose the substance of all matters discussed, particularly those which are likely to be controversial in nature. We further recommend the Village Board review Neb. Rev. Stat. § 17-611 (Reissue 2007) and determine the legal impact of their potential noncompliance regarding the sale of property from the above-noted nuisance abatement.

Village's Response: The village will now provide a more detailed report of any village matters discussed. This will be noted in the minutes of the monthly meetings.

Overall Conclusion

The Village is not able to adequately segregate duties so no one person is in a position to misuse Village funds; therefore, the Village Board has the increased responsibility to provide proper monitoring and oversight of Village financial transactions and publications. Lack of monitoring of Village transactions and publications significantly increases the risk to Village funds, including the risk of loss, theft, or misuse not being detected in a timely manner. The Village Board needs to implement stronger guidelines for monitoring and oversight of all Village financial transactions, specifically including payroll timesheets, service contracts and agreements, dual signatures on all Village checking accounts, and bonding issues. The Village Board also needs to ensure all Board proceedings are complete, accurate, and properly published in accordance with State Statutes. Since several issues of statutory noncompliance were noted in this evaluation, this report will be forwarded to the Buffalo County Attorney's office for any action they deem appropriate.

The APA staff members involved in this attestation review were:

Sandra Steinbrecher, Audit Manager
Mary Avery, Special Audits and Finance Manager
Lance Lambdin, Legal Counsel

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



Allied Insurance
 a Nationwide® company
 On Your Side®

General Application

Nationwide Mutual Insurance Company
 AMCO Insurance Company
 Allied Property & Casualty Insurance Company
 Depositors Insurance Company
 1100 Locust Street, Dept. 2004
 Des Moines, Iowa 50319-2004

Bond Number 7900337314

AGENT BARNEY INSURANCE, INC.

ADDRESS PO BOX 3179 KEARNEY, NE 68848-3199

1. Name of Applicant Lynn A. Weston S.S.# [REDACTED]
 FED ID# [REDACTED]

Address P.O. Box 31 City KEARNEY State NE Zip 68848

2. Amount of Bond \$20,000.00

3. Type of Bond (if a special form is required please attach form) NE Treasurers, Tax Collectors and Clerks - Annual

4. To Whom Payable Village of Miller

INDEMNITY AGREEMENT

The undersigned applicant and indemnitors (collectively referred to as Indemnitors) hereby request Nationwide Mutual Insurance Company, and/or AMCO Insurance Company, Allied Property and Casualty Insurance Company, and/or Depositors Insurance Company (collectively referred to as Company) to become surety for the above bond(s), or any bond(s) in substitution for or in succession of the said bond(s). The Indemnitors certify that the information and statements provided to the Company for the purpose of securing this bond(s) are true and correct and further jointly and severally agree:

1. the Company is authorized and empowered, without notice to or knowledge of the Indemnitors, to assent to any change whatsoever in the bond(s), to execute or consent to the execution of any continuations, extensions, renewals, enlargements, modifications, changes, or alterations of the bond(s) and to execute any substitute or substitutes therefor, with the same or different conditions, provisions, and obligations and with the same or larger or smaller penalties, it being expressly understood and agreed that the indemnitors shall remain bound under the terms of this Agreement even though any such acts by the Company does or may substantially increase the liability of said indemnitors.
2. that the Company is hereby authorized to make any inquiry as may be necessary from financial institutions, persons, firms, credit reporting agencies and other entities in order to confirm and verify information provided to the Company by the indemnitors as an inducement for the issuance of the bond(s) or for the continuance of such bond(s).
3. to pay to the Company the usual annual premium until such time as the Company has been provided with satisfactory and conclusive evidence that all liability under the bond(s) has been terminated and no further liability exists.
4. to perform all the conditions of such bond(s) and to indemnify and save the Company harmless from any and all liability, demands, losses, costs, damages and expenses, including attorney and counsel fees, which the Company may sustain or incur by reason of or in consequence of the execution of such bond(s) by the Company, or incurred in obtaining a release of liability or evidence of termination under such bond(s) or incurred by the company in enforcing any provision of this agreement.
5. that upon demand by the Company for any reason whatsoever, to deposit funds with the Company in an amount sufficient to satisfy any claim against the Company by reason of such bond(s).
6. that the Company shall have the exclusive right to adjust, settle or compromise any claim under such bond(s) unless one or more of the Indemnitors shall, in writing, request the Company to litigate such claim and shall deposit immediately with the Company collateral satisfactory to the Company in kind and amount.
7. that the itemized statement of loss and expenses incurred by the Company, sworn to by an officer of the Company, shall be prima facie evidence of the fact and extent of the liability of the Indemnitors to the Company.
8. that the Company may decline to become surety on any bond(s), and in case it does issue a surety the Company shall have the right to withdraw or cancel any bond(s) whenever it shall see fit, and in any event the Company shall not be required to disclose the reason upon which its action is based and shall not be responsible for any loss or damage that may be sustained by reason of such action.
9. that in the event of any payment by the Company, the indemnitors shall pay the Company interest on such amounts at the maximum legal rate from the date such payments are made.

This agreement of indemnity shall be deemed effective as of the date of execution of the bond(s) even though it may be signed subsequent to this date.

Lynn A. Weston
(Name of Applicant)

6-5-09 by Lynn A. Weston SS# [REDACTED]
(Date Signed) (Indemnitor) Lynn A. Weston

(Date Signed) (Indemnitor) SS# _____

(Date Signed) (Additional Indemnitor) SS# _____

(Date Signed) (Additional Indemnitor's Spouse) SS# _____

NOTE: If Applicant or Indemnitor is a corporation, the corporate name must be signed on full, with the officer's name and title on the line below and the seal of the corporation affixed. If a co-partnership, the firm name must be signed and each member of the firm must sign individually.