



# NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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September 20, 2019

Daniel West, Chairperson  
Village of Johnstown  
P.O. Box 24  
Johnstown, NE 69214

Dear Chairperson West:

As you know, the Nebraska Auditor of Public Accounts (APA) has approved the fiscal year 2018 audit waiver for the Village of Johnstown (Village). However, while performing our review to determine whether to approve the audit waiver, 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 Village Board (Board) meeting minutes and the accompanying claims listing for September 7, 2018. From this listing, the APA identified a potential conflict of interest involving the actions of Board members Brenda Goeken and Lynn Clay.

According to the meeting minutes, Ms. Goeken and Ms. Clay appear to have failed to abstain from voting on the following claims:

Name	Description	Amount
Steve Goeken	18 1/2 hrs. (contract service)	\$ 268.25
Jimmie L. Clay	Aug. 8 & 20 Park & Aug 3 & 20 Siren/FireHall area	\$ 160.00
<b>Total</b>		<b>\$ 428.25</b>

An excerpt from the September 7, 2018, Board meeting minutes is provided below:

*Motion by Daniel West and seconded by Brenda Goeken to approve the . . . Village and Program Income Treasurer's reports and bills. Roll Call: Ayes: Daniel West, Brenda Goeken, JoAnn Johnson Parker, Randy Welke and Lynn Clay. Nays: None. Motion carried*

(Emphasis added.) The apparent failure of these two Board members 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 (Cum. Supp. 2018) et seq.

To start, Neb. Rev. Stat. § 49-14,101.01(1) (Reissue 2010) 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 2010) 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) 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.

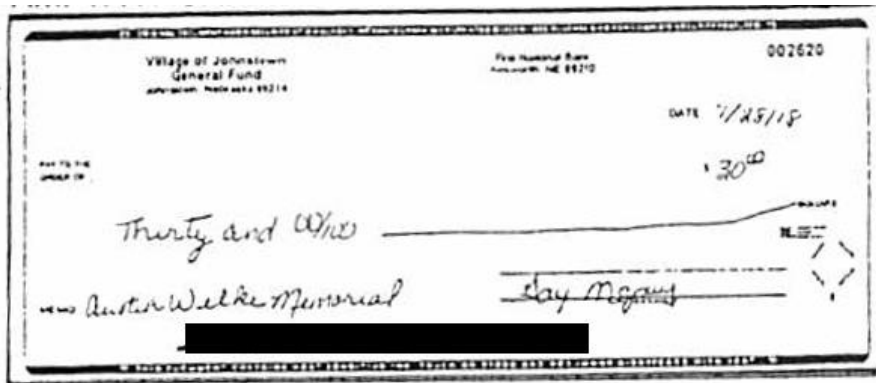
Without such procedures, there is an increased risk for both statutory violations and the loss of Village funds.

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.

*Village Response: The Board will implement procedures to ensure compliance with the applicable provisions of the Act.*

## **2. Unallowable Miscellaneous Expenses**

The APA obtained the bank statements for the Village's accounts from its fiscal year 2018 audit waiver request. From these statements, the APA identified one expenditure, totaling \$30, which appears to have been paid for a memorial, as stated in the check memo. An image of that check is shown below:



AM: 30.00 CK: 2620 DT: 08/07 RF: 00001649 Paid

The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. §§ 13-2201 through 13-2204 (Reissue 2012, Cum. Supp. 2018), addresses various expenditures, aside from those otherwise authorized by law, that constitute allowable uses of public funds by designated political subdivisions.

Section 13-2203 of the Act specifies the types of miscellaneous expenditures permitted by the governing bodies of local governments. Purchases for funerals, memorials, or other personal occasions are not found among that select statutory list of allowable expenditures. Because § 13-2203 does not expressly include the purchase for memorials among the permissible expenditures listed, such expenditures must be considered disallowed by law.

On September 17, 1993, the Nebraska Accountability and Disclosure Commission issued a document entitled “A Guideline to the Use of Public Funds by Cities and Villages – Revised” (Guideline). The Guideline includes a number of specific scenarios involving the expenditure of public funds. Although issued more than two decades ago, the Guideline remains relevant.

Regarding the issue of memorial purchases, the Guideline provides the following:

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

*Response – No.*

Good internal control requires procedures to ensure that all purchases are allowable under statute, policies, and other guidelines.

Without such procedures, there is an increased risk of not only noncompliance with applicable statutory requirements but also loss or misuse of Village funds.

We recommend the Board implement procedures to ensure all purchases are allowable.

*Village Response: The Board will implement procedures to ensure all purchases are allowable.*

**3. Dual Signatures Required on Checks**

The check addressed in **Comment and Recommendation #2 (“Unallowable Miscellaneous Expenses”)** above contained only one signature and cleared the bank without a payee.

State statute requires Village checks to be signed by both the Board Chairperson and the Village Clerk. Specifically, Neb. Rev. Stat. § 17-711 (Cum. Supp. 2018) 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.*

Good internal control and sound accounting practices require procedures to ensure that Village checks not only contain the statutorily required endorsements but also identify the payee.

Without such procedures, there is an increased risk of not only failure to comply with State statute but also the 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. Those same procedures should ensure also that all Village checks identify the payee.

*Village Response: All checks will be required to have dual signatures by both the Board Chairman and the Village Clerk going forward.*

**4. Lack of Claim Purpose**

During our comparison of the Village’s bank account details to claims approved by the Board, the APA noted that two of the claims listed in the Board’s official proceedings lacked descriptions of their respective purposes.

The following is an example of the approved claims listing provided by the Village for September 7, 2018:

<b>Name</b>	<b>Description</b>	<b>Amount</b>
Farmers & Ranchers Co-op		\$ 67.33
Threeriver Telco		\$ 84.60
	<b>Total</b>	<b>\$ 151.93</b>

Neb. Rev. Stat. § 19-1102 (Cum. Supp. 2018) 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 village or city clerk in every village or city 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 village or city board, council, or commission within thirty days after any meeting of the board, council, or commission. The publication shall be in a newspaper in or of general circulation in the village or city, 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 official proceedings describe the purpose of each claim allowed.

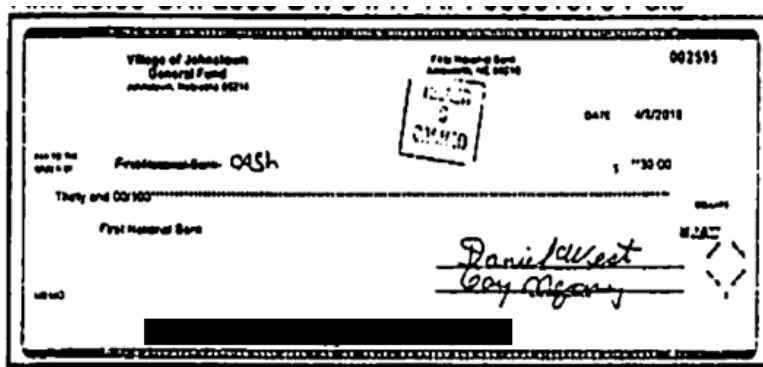
Without such procedures, there is an increased risk of not only failure to comply with statutory publication requirements but also a lack of transparency regarding the nature of public expenditures.

We recommend the Board implement procedures to ensure the purpose of each claim allowed is included in the Board’s official proceedings and published in accordance with State statute.

*Village Response: The two claims show the purpose: Farmers & Ranchers Coop was listed as fuel and ThreeRiver Telco was listed as telephone expense. Claim purpose will be listed in the minutes on all claims approved by the Village Board and published in accordance with state statutes.*

**5. Other Issues**

During review of the Village’s bank statements, the APA noted that five municipal checks, each for \$30, were made out to “cash” or “petty cash.” An example of such checks is shown below:



AM: 30.00 CK: 2595 DT: 04/10 RF: 00001531 Paid

Good internal controls require procedures to ensure that the Village Board is adequately reviewing and monitoring any petty cash reimbursements. Those same procedures should provide for monitoring payments to replenish the Village’s petty cash fund and carrying out periodic counts of cash on hand in the fund.

We recommend the Village formalize policies and procedures with regard to petty cash, such as the amount to be maintained in the fund, the level at which the fund is to be replenished, and the documentation to be maintained for petty cash expenditures and replenishment alike.

*Village Response: The Board will set policies and procedures regarding petty cash.*

\* \* \* \* \*

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. Any formal responses received have been incorporated into this letter. Such responses have been objectively evaluated and recognized, as appropriate, in the letter. Any response indicating that corrective action has been taken was 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: Gay Magary, Village Clerk/Treasurer  
Nebraska Accountability and Disclosure Commission