



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Charlie Janssen
State Auditor

Charlie.Janssen@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
www.auditors.nebraska.gov

September 10, 2019

Denise Swenson, Chairperson
Village of Manley
115 Cherry Street
P.O. Box 97
Manley, NE 68403

Dear Chairperson Meyer:

As you know, the Nebraska Auditor of Public Accounts (APA) has approved the fiscal year 2018 audit waiver for the Village of Manley (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 October 12, 2017. From this listing, the APA identified a potential conflict of interest involving the actions of Board member Mickey Dalton.

According to the meeting minutes, it is unclear whether Mr. Dalton abstained from voting on the following claim:

| Claim Date | Name/Vendor | Description | Amount | Check # | Cleared Date |
|------------|-------------|----------------------|----------|---------|--------------|
| 10/12/2017 | MDalton | 4 hour lagoon mowing | \$ 60.00 | 1764 | 10/16/2017 |

An excerpt from the October 12, 2017, Board minutes is provided below:

The Monthly Reports accepted &/or approved with the approval of the Agenda will be attached to the official copy of these minutes.

The apparent failure of Board member Mickey Dalton 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.

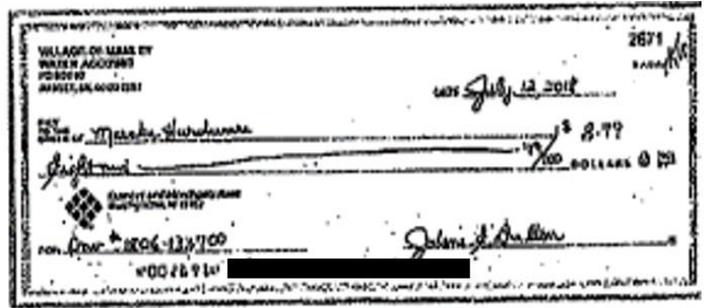
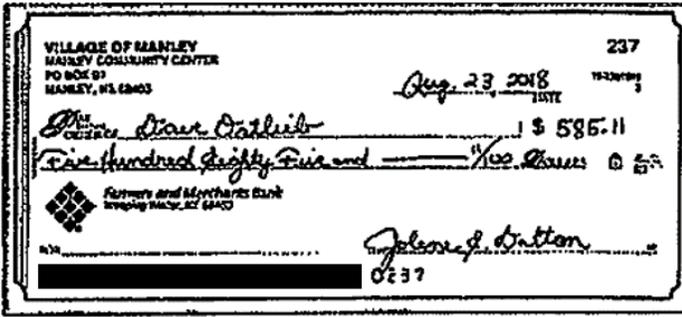
Without such procedures, there is an increased risk for both statutory violations and the loss of Village funds.

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: Since Mr. Dalton is only 1 of 5 Board members who approve the Consent Agenda, it did not occur to the Board that this would be a problem. Now aware of this, the Board will determine a new procedure so any Board member will not be a part of a vote approving payment for a claim for themselves, a family member or their business.

2. Dual Signatures Required on Checks

The APA obtained the bank statements for the Village's accounts from its fiscal year 2018 audit waiver request. From these statements, the APA noted that two Village checks, totaling \$593.90, written during the examination period contained only one signature. Examples of such checks are shown below:



AM: 585.11 CK: 237 DT: 08/27 SQ: 80401030 Paid

AM: 8.79 CK: 2671 DT: 07/18 SQ: 60400560 Paid

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 contain the statutorily required endorsements.

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.

Village Response: Our policy is to have two signatures on all checks. Somehow these slipped by but our internal audit committee did catch the error during their semi-annual audit of our books and reminded the Clerk to make sure all checks have two signatures.

3. Payment of Claims Prior to Board Approval

During our comparison of the Village’s bank account details to claims approved by the Board, the APA noted that multiple Village checks, totaling \$16,393.90, were issued before the underlying claims were approved by the Board.

The table below provides a summary of those premature payments:

| Name | Payment Type | Claim Date | Cleared Date | Amount | Days Paid Before Approval |
|------------------------------|--------------|------------|--------------|---------------------|---------------------------|
| Black Hills Energy | EFT | 10/12/2017 | 10/3/2017 | \$ 46.60 | 9 |
| OPPD | EFT | 10/12/2017 | 10/3/2017 | \$ 189.80 | 9 |
| WWPS Bldg Fund | EFT | 10/12/2017 | 10/2/2017 | \$ 350.00 | 10 |
| WireBuilt | EFT | 10/12/2017 | 10/3/2017 | \$ 50.00 | 9 |
| A/C Depository Trust Company | ACH | 10/12/2017 | 9/29/2017 | \$ 15,757.50 | 13 |
| Total | | | | \$ 16,393.90 | |

Neb. Rev. Stat. § 17-614(1) (Cum. Supp. 2018) sets out the proper method for the appropriation or payment of money by the Village, as follows:

All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the city council in a city of the second class or village board of trustees

(Emphasis added.) 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.

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.

Village Response: Weeping Water Public Schools, WireBuilt, & the bond payment (A/C Depository Trust Co) claims could be approved the month before because we know the amount. However, because the monthly Board meeting is held 1-2 weeks before the Utilities (Black Hills Energy, OPPD, Windstream) claims come in, we do not know their amounts and don't know how we could approve timely payment any differently than we do now. The Board has pre-approved the recurring EFT monthly payments & then the actual amounts are reported the following month.

4. Other Issues

We also noted the following issue during our review of the Village's audit waiver request form:

Village property tax receipts held by the County Treasurer were not reported, along with other property taxes received by the Village, on Exhibit A of the Village's audit waiver request form.

Good internal control requires procedures to ensure: 1) Village payments are made for the amounts approved by the Board; and 2) the Village's audit waiver request forms are filled out completely – including, on Exhibit A thereof, accurate balances reflecting all property tax amounts collected.

Without such procedures, there is not only an increased risk for the loss or misuse of Village funds but also a lack of transparency regarding the Village's financial activity and the denial of the Village's audit waiver request due to deficiencies noted in the content of the request form submitted.

We recommend the implementation of procedures to ensure all Village payments are made for the amounts approved by the Board, and the Village's audit waiver request forms are filled out completely – including, on Exhibit A thereof, accurate balances reflecting all property tax amounts collected.

Village Response: It is something we never filled out in the past & were unaware that it was a number we needed to plug in.

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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,



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

cc: Jolene Dalton, Village Clerk
Nebraska Accountability and Disclosure Commission