



# 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 20, 2019

Eric Burgett, Chairperson  
Village of Lewiston  
P.O. Box 100  
Lewiston, NE 68380

Dear Chairperson Burgett:

As you know, the Nebraska Auditor of Public Accounts (APA) has approved the fiscal year 2018 audit waiver for the Village of Lewiston (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 August 21, 2018. From this listing, the APA identified a potential conflict of interest involving the actions of Board Chairperson Eric Burgett and Board member Wayne Zimmerman.

According to the meeting minutes, these individuals appear to have failed to abstain from voting on the following two claims:

Claim Date	Name/Vendor	Amount	Check #	Cleared Date
8/21/2018	S. Burgett	\$ 398.75	2543/2810	8/23/2018
8/21/2018	W. Zimmerman	\$ 9.79	2816	9/28/2018
<b>Total</b>		<b>\$ 408.54</b>		

An excerpt from the August 21, 2018, Board minutes is provided below:

*Claims were presented. W. Zimmerman made motion to pay claims J. Kinghorn seconded motion. All voted aye, motion carried.*

The apparent failure of Board Chairperson Eric Burgett and Board member Wayne Zimmerman 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.

## **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 all Village checks, including 24 checks to the Village Clerk, totaling \$4,785, written during the examination period contained only one signature. Examples of such checks are shown below:



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.

### 3. Payment of Unapproved Claims

During our comparison of the Village’s bank account details to claims approved by the Board, the APA identified numerous checks, totaling \$14,047.27, which were paid but not included on the claims listing to be approved by the Board.

These disbursements are summarized in the table below:

Name	Check #	Cleared Date	Amount
EMC Insurance	ACH	8/16/2018	\$ 196.99
LMN	2815	9/6/2018	\$ 210.00
Gilmore & Assoc.	2	9/10/2018	\$ 771.97
Gilmore & Assoc.	1	9/10/2018	\$ 3,100.00
Gilmore & Assoc.	3	9/10/2018	\$ 9,768.31
<b>Total</b>			<b>\$ 14,047.27</b>

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.

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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. The Village declined to respond.

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: Shannon Burgett, Village Clerk  
Nebraska Accountability and Disclosure Commission