



## 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](http://www.auditors.nebraska.gov)

September 11, 2019

Duane Waddle, Chairperson  
Village of Ericson  
P.O. Box 102  
Ericson, NE 68637

Dear Chairperson Waddle:

As you know, the Nebraska Auditor of Public Accounts (APA) has approved the fiscal year 2018 audit waiver for the Village of Ericson (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 4, 2018. From this listing, the APA identified a potential conflict of interest involving the actions of Board members Marty Seamann and Jerry Horwart.

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

Claim Date	Name/Vendor	Description	Amount	Check #	Cleared Date
9/4/2018	Marty Seamann	Wage, Mowing	\$ 675.00	2611	8/14/2018
9/4/2018	Jerry Horwart	Wage, Sewer, Mowing, Street	\$ 260.95	2625	9/10/2018
Total			\$ 935.95		

An excerpt from the September 4, 2018, Board minutes is provided below:

*Motion was made by Marty Seamann, second by Jerry Horwart to pay all claims. Kay Johnson – Yes, Jerry Horwart – Yes, Duane Waddle – Yes, Marty Seamann – Yes, William Curry – Absent. Motion Carried.*

The apparent failure of Board members Marty Seamann and Jerry Horwart 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: In the future Board Members will abstain on the payment of any claim they submit.*

## **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 seven Village checks, totaling \$2,923.62, written during the examination period contained only one signature. An example of such checks is shown below:



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: 9/4/18 Claim to Marty Seemann should have been \$25.00, the \$675 in the Board minutes was a typographical error.*

\* \* \* \* \*

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: Jack Poulson, Village Clerk  
Nebraska Accountability and Disclosure Commission