



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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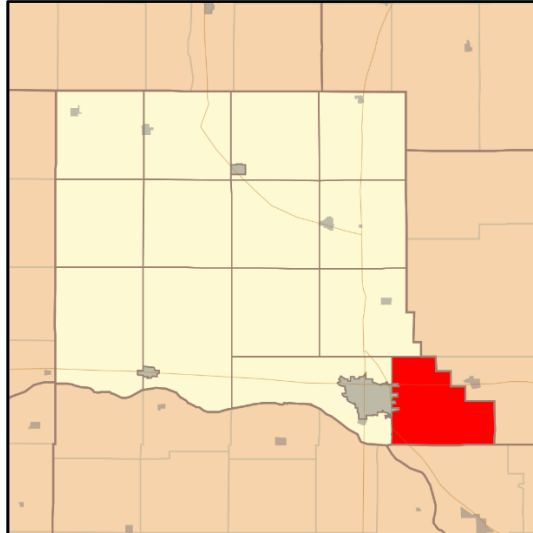
October 9, 2019

Nancy Schlotfeld, Chairperson  
Elkhorn Township Board of Dodge County  
P.O. Box 923  
Fremont, NE 68025

Dear Chairperson Schlotfeld:

As you may know, the Nebraska Auditor of Public Accounts (APA) received certain financial concerns related to the Elkhorn Township (Township) of Dodge County. Responding thereto, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. In doing so, the APA requested specific financial information from the Township Board (Board).

In the map below, the area highlighted in red represents the Township:



Based upon a review of the information received from the Board, the APA has determined that a financial audit or attestation by our office is not required at this time. Nevertheless, during the course of the preliminary planning work leading to that determination, the APA noted certain issues that merit corrective action, as presented below.

**1. Board Member Contract**

The APA found that the Township had paid Moss Services, a company owned by Board member Jeremy Moss, a total of \$138,794 during a five-month period between March 14, 2019, and August 6, 2019.

Those payments are detailed in the following table:

DATE	TRANSACTION	DESCRIPTION	AMOUNT
3/14/2019	Moss Services	Contract work (Flood)	\$ 250.00
3/29/2019	Moss Services	Contract work (Flood)	\$ 14,379.00
4/23/2019	Moss Services	Hauled Stocks	\$ 30,886.00
4/23/2019	Moss Services	Flood Work	\$ 19,333.00
5/8/2019	Moss Services	Flood work	\$ 11,116.00
5/20/2019	Moss Services	Emergency Road Repair	\$ 5,340.00
5/20/2019	Moss Services	Stocks	\$ 8,474.00
6/4/2019	Moss Services	Flood work	\$ 12,432.00
6/4/2019	Moss Services	Flood work	\$ 13,096.00
7/3/2019	Moss Services	Flood work	\$ 16,770.00
8/6/2019	Moss Services	Debris	\$ 6,718.00
		<b>Transaction Count: 11</b>	<b>\$ 138,794.00</b>

The Nebraska Political Accountability and Disclosure Act (Act), which is set out at Neb. Rev Stat. §§ 49-1401 to 49-14,142 (Reissue 2010, Cum. Supp. 2018), prohibits public officials and their businesses from entering into contracts with government bodies for contracts valued at two thousand dollars or more, unless the contract is awarded through an open and public process.

Specifically, § 49-14,102 of the Act states, in relevant part, the following:

*(1) Except as otherwise provided by law, no public official or public employee, a member of that individual’s immediate family, or business with which the individual is associated shall enter into a contract valued at two thousand dollars or more, in any one year, with a government body unless the contract is awarded through an open and public process.*

*(2) For purposes of this section, an open and public process includes prior public notice and subsequent availability for public inspection during the regular office hours of the contracting government body of the proposals considered and the contract awarded.*

(Emphasis added.) A Board member would fall within the definition of “public official,” which § 49-1443 provides as follows:

*Public official shall mean an official in the executive branch, an official in the legislative branch, or an elected or appointed official in the judicial branch of the state government or a political subdivision thereof; any elected or appointed member of a school board; and an elected or appointed member of a governing body of a state institution of higher education.*

(Emphasis added.) According to the Nebraska Supreme Court (Court), “A township is a political subdivision.” Steenblock v. Elkhorn Township Bd., 245 Neb. 722, 725, 515 N.W.2d 128, 130 (1994).

Likewise, § 49-1407 of the Act defines “business” as follows:

*Business shall mean any corporation, partnership, limited liability company, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust, activity, or entity.*

Per § 49-1408(1) of the Act, moreover, a “business with which the individual is associated” includes a business in “which the individual is a partner, limited liability company member, director, or officer[.]”

In light of all the above, it is reasonable to conclude that the prohibition in § 49-14,102 is applicable to Township officials, including Mr. Moss. Nevertheless, the APA’s review of the Board’s 2019 meeting minutes for January, February, April, May, and June failed to reveal any indication that the contracts at issue were “awarded through an open and public process,” as required by § 49-14,102(1).

Advisory Opinion #169, which the Nebraska Accountability and Disclosure Commission (Commission) adopted on December 13, 1996, states the following:

*In past advisory opinions, the Commission has taken the position . . . that an open and public process includes one in which the matter of awarding a contract is an agenda item for a meeting of a governing body if the meeting is publicized in the normal manner of the governing body.*

(Emphasis added.) The Open Meetings Act (OM Act) is found at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014, Cum. Supp. 2018). Section 84-1413(1) of the OM Act requires the following:

*Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.*

Per § 84-1409(1)(a) of the OM Act, the definition of “public body” includes “governing bodies of all political subdivisions of the State of Nebraska[.]” Thus, the Board is clearly subject to the provisions of the OM Act, including that referenced immediately above. Had any of the contracts with Mr. Moss been “awarded through an open and public process,” as mandated by § 49-14,102(1), such activity should be reflected in the relevant meeting minutes. As pointed out already, however, it is not.

It should be noted that the APA was unable to review the March 2019 meeting minutes because they were not provided. According to the Township’s Clerk, recent flooding destroyed those records. Although she claims to have asked other Board members for copies of the lost meeting minutes, the record of that month’s proceedings remains missing.

Records Retention and Disposition Schedule 24 (Schedule 24) (effective January 5, 2015), applicable to “Local Agencies,” was adopted pursuant to the Records Management Act, which is codified at Neb. Rev. Stat. §§ 84-1201 to 84-1227 (Reissue 2014). Item Number 24-57 in Schedule 24 establishes requirements for the retention of “meeting minutes and materials.” For entities covered under the OM Act, such records are to be “Retain[ed] permanently, subject to review by the State Archives for possible accession.”

Without procedures to ensure compliance with, among other things, requirements of the Act and the OM Act, as well as the applicable records retention and disposition schedule, there is an increased risk for not only violation of State law or pertinent administrative rules and regulations but also loss or misuse of Township funds.

We recommend the Township implement procedures to ensure compliance with requirements of the Act – particularly, in this instance, the prohibition therein against conflicts of interest by public officials – and the OM Act, as well as the applicable records retention and disposition schedule. Because

this comment addresses possible noncompliance with not only the Act but also the OM Act, as well as the applicable records retention and disposition schedule, the APA will forward the information herein to the Nebraska Accountability and Disclosure Commission and the Dodge County Attorney for further review.

*Township Response: A 500 year flood creates many emergencies that must be handled immediately. We were contacted by an emergency service provider and informed the ambulances would not come into our township unless we provided some safer access. Because we couldn't risk or endanger any of our people we needed to find a contractor to help. The contractors we contacted were hired by Dodge County and were unavailable to help, so Jeremy having a contractor business had to step in. Jeremy abstained from voting on this motion, he had no part of the decision to have him step in. I am given to understand in a emergency we can hire anyone we need to.*

**APA Response: We realize a flood of the magnitude the Township experienced presents unique circumstances. However, the notion that the Township can hire anyone needed in an emergency is incorrect given the statutes referenced herein. The APA is unaware of any allowance, statutory or otherwise, for noncompliance with the aforementioned statutes in the event of an emergency.**

**Additionally, as discussed in Comment Number 3, below, the meeting minutes provided did not record the roll call votes, so the Township's assertion the Mr. Moss abstained from voting is unsubstantiated.**

**2. Board Member Compensation**

Prior to 2019, members of the Board were paid \$600 per year. Beginning in April 2019, however, the APA found that the Board members have paid themselves an additional \$22,000 each.

The following table details the increased payments to the Board members:

DATE	TRANSACTION	DESCRIPTION	WITHDRAWAL
4/3/2019	Jeremy Moss	Administrative	\$ 4,000.00
4/17/2019	Jeremy Moss	Administrative	\$ 2,000.00
5/1/2019	Jeremy Moss	Administrative	\$ 2,000.00
5/19/2019	Jeremy Moss	Administrative	\$ 2,000.00
6/4/2019	Jeremy Moss	Administrative	\$ 3,000.00
6/19/2019	Jeremy Moss	Administrative	\$ 2,000.00
6/29/2019	Jeremy Moss	Administrative	\$ 2,000.00
8/6/2019	Jeremy Moss	Flood work	\$ 3,000.00
8/6/2019	Jeremy Moss	Flood work	\$ 2,000.00
	<b>Transaction Count: 9</b>		<b>\$ 22,000.00</b>
4/3/2019	Jody Delaney	Administrative	\$ 4,000.00
4/17/2019	Jody Delaney	Administrative	\$ 2,000.00
5/1/2019	Jody Delaney	Administrative	\$ 2,000.00
5/19/2019	Jody Delaney	Administrative	\$ 2,000.00
6/4/2019	Jody Delaney	Administrative	\$ 3,000.00
6/19/2019	Jody Delaney	Administrative	\$ 2,000.00

DATE	TRANSACTION	DESCRIPTION	WITHDRAWAL
6/29/2019	Jody Delaney	Administrative	\$ 2,000.00
7/20/2019	Jody Delaney	Administrative	\$ 3,000.00
8/6/2019	Jody Delaney	Flood work	\$ 2,000.00
	<b>Transaction Count: 9</b>		<b>\$ 22,000.00</b>
4/3/2019	Nancy Shlotfeld	Administrative	\$ 4,000.00
4/17/2019	Nancy Shlotfeld	Administrative	\$ 2,000.00
5/1/2019	Nancy Shlotfeld	Administrative	\$ 2,000.00
5/19/2019	Nancy Shlotfeld	Administrative	\$ 2,000.00
6/4/2019	Nancy Shlotfeld	Administrative	\$ 3,000.00
6/19/2019	Nancy Shlotfeld	Administrative	\$ 2,000.00
6/29/2019	Nancy Shlotfeld	Administrative	\$ 2,000.00
8/6/2019	Nancy Shlotfeld	Flood work	\$ 3,000.00
8/6/2019	Nancy Shlotfeld	Flood work	\$ 2,000.00
	<b>Transaction Count: 9</b>		<b>\$ 22,000.00</b>

When questioned about these other payments, the Board Chair explained that the additional funds were not related to the Board members' official duties. Rather, that money would be reimbursed by the Federal Emergency Management Agency (FEMA) as payment for disaster relief management services that the Board members performed in response to recent catastrophic flooding in the Township.

In April 2019, to help defray emergency response and repair costs resulting from the flooding, the Board received a \$500,000 commercial loan from the local First National Bank. That loan was to be repaid with emergency assistance funding provided by FEMA. According to the Board Chair, the FEMA Public Assistance Program authorized that repayment to include reimbursement for the extra remuneration paid to the Board members for the management costs related to the disaster.

The Board's decision to take out the First National Bank loan for emergency response and repair costs gives rise to the concerns described below.

Authority to Obtain the Loan

As pointed out in Comment 1 ("Board Member Contract") (pg. 2) herein, the Court has recognized that townships are political subdivisions of the State of Nebraska. In addition, the Court has explained that any townships activity must be authorized by State statute, as follows:

*A township does not have the authority to exercise any powers outside those explicitly given to it by statute. When enumerating the powers of a township, Neb. Rev. Stat. § 23-223 (Reissue 2012) explicitly states that "[e]very town shall have corporate capacity to exercise the powers granted thereto, or necessarily implied, and no others." (Emphasis supplied.) This statutory language has long been interpreted by this court to mean that the powers conferred upon a township by statute "are limited and confined to those which properly belong to the government of the state as a whole, and which are merely devolved upon the township as a portion of the state government."*

Butler Cty. Dairy, L.L.C. v. Butler Cty., 285 Neb. 408, 418, 827 N.W.2d 267, 278-279 (2013). Furthermore, the Court has added this important caveat:

*Because a township is a political subdivision of the state, the statutes granting a township certain powers must be strictly construed.*

Id. at 419, 827 N.W.2d 267 at 279. With this judicial guidance in mind, the APA has sought unsuccessfully for any express statutory authority that would allow the Board to act unilaterally in taking out a loan for whatever purpose.

Neb. Rev. Stat. § 23-231 (Reissue 2012) authorizes township electors to approve the raising of money for emergency purposes at special town meetings, as follows:

*The electors at special town meetings, when properly convened, shall have full power to . . . provide for raising money for repairing highways or buildings, or repairing bridges in case of emergency, and to direct the repairing or building thereof[.]*

Likewise, Neb. Rev. Stat. § 23-223 (Reissue 2012) states, in relevant part, the following:

*Every town shall have corporate capacity to exercise the powers granted thereto, or necessarily implied, and no others. It shall have the power . . . (3) to make all such contracts as may be necessary in the exercise of the powers of the town.*

According to the Court, however, “During annual town meetings, the electors of a township exercise the corporate powers of a township . . .” Butler Cty. Dairy, L.L.C. v. Butler Cty., 285 Neb. 408, 827 N.W.2d 267 (2013).

The Board’s meeting minutes provide no details regarding the process of obtaining the First National Bank loan. Thus, the APA is unable to ascertain whether that loan was pursued at the direction of the Township electors, as permitted by the relevant statutes, or through the unauthorized unilateral action of the Board.

### Increased Salaries

The statutes governing Nebraska townships allow the Board members to receive compensation for their services.

To start, Neb. Rev. Stat. § 23-258 (Reissue 2012) includes “[t]he compensation of town officers for services rendered their respective towns” among the general expenditures authorized as “town charges.”

More specifically, Neb. Rev. Stat. § 23-260 (Reissue 2012) says the following:

*The members of the town board shall be entitled to a per diem as fixed by the town board at its annual meeting.*

Additionally, Neb. Rev. Stat. § 23-224 (Reissue 2012) provides the following:

*The electors present at the annual town meeting shall have power:*

\* \* \* \*

*(8) To direct the raising of money by taxation, subject to approval by the county board . . . (e) for the compensation of town officers at the rate allowed by law and, when no rate is fixed for such amount, as the electors may direct[.]*

As indicated at the outset of this comment, the APA determined that each of the Board members received a \$600 annual payment in December 2018. The Board failed to provide documentation supporting the approval of this annual per diem amount. According to the Township Treasurer, however, the rate was approved sometime prior to 2009.

When it comes to increasing or decreasing the compensation of any public officer, Article III, § 19, of the Nebraska Constitution provides the following controlling principle:

*The compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to the Legislature or the judiciary, or officers elected or appointed to a board or commission having more than one member, and the terms of such members commence and end at different times, the compensation of all members of the Legislature, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.*

According to the Nebraska Attorney General, “It is established that the constitutional provisions regarding compensation of public officers with a fixed term of office are applicable to both the state and all political subdivisions.” Op. Att’y Gen. No. 92125 (Dec. 14, 1992). That same opinion contains the following observation:

*What is critical is that the compensation of a public officer be known and defined at the beginning of the term . . . .  
What the constitution prohibits is the increase or decrease effected . . . during, not prior to, an officer's term of office.*

Id. Per Neb. Rev. Stat. § 23-222 (Reissue 2012), “The officers of the township board shall be elected pursuant to the Election Act at the next general election held in November following appointment . . . .” Thus, the members of the Board were most recently elected in 2018, the year of the last general election in Nebraska. This means that the additional pay received by the Board members – which began in April 2019, as reflected in the table above – occurred during their terms in office and began prior to a new member beginning a full term.

As explained already, however, the additional remuneration at issue is supposed to have been for disaster relief management services performed by the Board members with the expectation of reimbursement of the management costs from FEMA. If such is indeed the case, the prohibition in Article III, § 19, would not be an issue. At the same time, though, such a scenario gives rise to other possible concerns.

For instance, the Board appears to have authorized these additional management costs to be paid and later reimbursed with FEMA funds. Such action by the Board could risk running afoul of the Act, which is discussed in some detail in Comment 1 (“Board Member Contract”) (pg. 2) herein.

Section 49-14,101.01(1) of the Act provides 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.*

By awarding themselves these management services without any apparent attempt to bid out the work or find other qualified individuals to perform it, the Board members may have violated the above statutory prohibition. Due to a complete lack of documentation regarding the decision to award the management costs, however, it is impossible to know what that process actually entailed.

That same lack of documentation is, in and of itself, another serious concern. When asked for any records to support the Board Chair’s assertion regarding the nature of the additional funds received by the Board members, none could be provided. Without such documents, it is impossible for the APA to verify the explanation provided by the Board Chair – meaning that concerns about a possible conflict with Article III, § 19, cannot be ruled out completely at present.

Furthermore, the APA reviewed the minutes for the October 2018, December 2018, January 2019 February 2019, and April 2019 meetings of the Board in an unsuccessful attempt to find any discussion or vote relating to the payment of the management costs to each of the officers. The lack of any such information in the meeting minutes indicates an apparent failure to have complied with the OM Act, which is discussed in greater detail in Comment 1 (“Board Member Contract”) (pg. 3) herein.

In particular, § 84-1413(1) of the OM Act requires meeting minutes to show “the time, place, members present and absent, and the substance of all matters discussed.” Contrary to current circumstances, therefore, any decision by the Board members to award themselves either a direct pay raise or the Federal disaster relief work should be reflected in the relevant meeting minutes.

Finally, the Board Chair could provide no documentary support for how the amount of the additional payments were determined for the disaster management costs. The Board has not maintained records of time worked to support the payment of these management costs. This is problematic in light of Federal regulations that require such documentation to be maintained. Specifically, 2 CFR § 200.403 (January 1, 2019) says the following:

*Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:*

\* \* \* \*

*(g) Be adequately documented.*

Additionally, FEMA has issued a publication titled “Public Assistance: Management Costs Standard Operating Procedures” (February 2019)<sup>1</sup>. Section D (“Tracking and Documenting Management Costs”) therein provides the following:

*Recipients and Subrecipients must provide documentation to substantiate costs claimed for eligible management activities. Additionally, costs claimed must be reasonable.*

\* \* \* \*

*In addition to the documentation noted in Table 10 of the Public Assistance Program and Policy Guide (PAPPG), the following documentation is required to substantiate the eligibility of management activities and associated costs. FEMA will publish a reasonable cost policy specific to management cost.*

*a. An explanation of work performed with a representative sample of daily logs/activity reports. The activity must be related to eligible projects. Therefore, management costs associated with an appeal that is ultimately denied are not eligible. If an eligibility determination is appealed and the appeal is ultimately granted, that project is eligible for inclusion in the calculation of the Category Z PW and management activities associated with the eligible project costs are eligible for reimbursement.*

*b. Documentation to substantiate the necessity of any claimed office supplies, equipment, or space.*

*c. For meetings or site inspections, the activity description needs to include the number and purpose of the meetings or site inspections.*

*d. Travel costs need to include the purpose of travel and a copy of the travel policy.*

*e. Training needs to include the location, date(s), and title of the course. The training must be related to PA and occur within the period of performance of the Category Z PW.*

*f. Recipients and Subrecipients need to certify that the management activities and associated costs claimed are eligible, consistent with the Interim Policy, and not related to ineligible projects. See Appendix D for a Certification of Management Cost Eligibility document.*

Thus, the Board’s lack of documentation for the additional payments received by the Board members gives rise to concerns regarding apparent lack of compliance with both State law and Federal regulations.

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<sup>1</sup> [https://www.fema.gov/media-library-data/1550159956698-ad232f56e33944a9041726527067fef5/PA\\_Mgmt\\_Costs\\_SOP\\_FINAL\\_2-8-2019\\_508.pdf](https://www.fema.gov/media-library-data/1550159956698-ad232f56e33944a9041726527067fef5/PA_Mgmt_Costs_SOP_FINAL_2-8-2019_508.pdf).



Without procedures to ensure that all actions of the Board are adequately documented in the minutes of the meetings during which they occurred, and mandatory records are kept of FEMA costs, there is an increased risk for not only improper activity, including possible violation of both State law and Federal regulations, but also loss or misuse of Township and Federal funds.

We recommend the implementation of procedures to ensure all actions of the Board are adequately documented in the minutes of the meetings during which they occurred, and mandatory records are kept of FEMA costs. Because this comment addresses possible noncompliance with not only the Nebraska Constitution but also the OM Act, the APA will forward the information herein to the Dodge County Attorney for further review. Additionally, the APA will forward the issue to the Nebraska Emergency Management Agency (NEMA), which is charged with administering FEMA funds.

*Township Response: Because of the recent flood, the extra work load increased exponentially for all of the board members. Because of the increased work load it was necessary to financially compensate the board members. FEMA allows a 5% administrative allowance for this purpose. The compensation is temporary and will be revisited by the board at different intervals.*

*As for the loan. Dodge county was attempting to keep the townships afloat. We were advised to take a loan out in the beginning in order to start the repair process, until arrangements could be made to handle all of the destruction. Because we were one of the townships that was hit very hard by the flood we needed to move forward with repairs as soon as possible. Our estimates are at least 3.7 million and that doesn't include the culverts and repair to our ditches. I am given to understand that a board can take out a loan if it is deemed necessary by the board members.*

*The \$600.00 payments to the board members per year has been a long standing, accepted procedure. We have put it in the minutes of our last meeting in order to give reference to it.*

*All the board members, having been dully sworn in January of 2019, were eligible for the financial compensation. Because the increased work load affected all the board members.*

**The APA understands the circumstances necessitating an increased work load for the Board members. However, as noted, the Federal government requires documentation to substantiate costs claimed for eligible management activities. To our knowledge, the Board members have not adequately documented the services provided, including the dates of those services, the number of hours involved, the specific activities performed, etc. We recommend the Board ensure its extra time worked is documented according to the Public Assistance Program and Policy Guide described herein.**

**Again, the Township's understanding that the Board members can act unilaterally to take out a loan in an emergency is inaccurate. As mentioned, only the electors of a township are able to exercise the corporate powers of that municipality. The APA found no provision that would allow the Township to take out a loan without approval from the township electors.**

**The Township mentions also that the \$600 annual payment to Board members was added to the meeting minutes at its last meeting. However, as noted herein, State statute requires the per diem paid to the Board to be fixed at the Township's annual meeting. Therefore, unless the last meeting was the annual town meeting, the notation in its minutes is insufficient, if not actually irrelevant.**

### 3. Other Internal Control or Compliance Issues

The APA noted other internal control or compliance issues, which are discussed below:

#### Meeting Minutes

Comment 1 (“Board Member Contract”) (pg. 3) herein explains in greater detail that the Board is subject to the provisions of the OM Act, including § 84-1413(1), which requires meeting minutes to show “the time, place, members present and absent, and the substance of all matters discussed.”

Additionally, § 84-1412(8) of the OM Act requires notice to be given of certain posted information, as follows:

*Public bodies shall make available at the meeting or the instate location for a telephone conference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.*

(Emphasis added.) Furthermore, § 84-1413(2) of the OM Act requires a roll call vote to be taken and recorded on any formal action taken by the Board. That subsection of statute says the following:

*Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.*

(Emphasis added.) The following is a copy of the Board’s June 2019 meeting minutes, which is representative of the other meeting minutes examined by the APA. This document indicates a lack of compliance with all of the above requirements of the OM Act:

Elkhorn Township  
Minutes of Meeting  
For June 5, 2019

Call to Order: 11:30 am @ The One-horse Saloon, Nickerson NE

Roll Call: Nancy Schlotfeld, Jody Delaney, Jeremy Moss

Treasurer's Report & Bills Paid: See attached

Road Conditions & Maintenance:

Jeremy and Scott are going to look at Bud Blvd

Ditches need to be finished getting the gravel and debris out of them

Morningside need gravel

Get Sawyers to start work

Motion was made to look into getting more contractors motion carried

Engineer report says we have \$3.7 million in damages for Elkhorn Township and Hills Farm Road was not included

Make a plan of action for contractors so they quit playing leap frog

Make county road T passable

Other Business:

Loan Balance: \$190,531.10

Need to fill out credit app for NMC Inc. Nancy is going to do that

Turn all emergency into Scott so we can start getting paid from the county

Fema has not made a phone call to start the 61 days as of June 5, 2019

Nancy made a motion to hire Voss Excavating Jeremy Second

Jody made a motion the hire Camden Excavating Nancy Second

Jody made a motion for pay raises for our road grader operators Riley will go to \$25.00 an hour and

Ryan will go to \$20.00. Nancy and Jeremy both second

Grader shed rental will stay the same at \$400.00 a month

Next Meeting: July 3, 2019 11:30 am Nickerson NE

Adjournment: 12:45 pm

Minutes respectfully submitted by Jody Delaney, Treasurer

In both the above example and the other meeting minutes examined by the APA, either the Board failed to comply with § 84-1412(8) by neglecting to provide the public notice required in that statute, or those minutes failed to include the “substance of all matters discussed,” as required by § 84-1413(1), by not recording that the obligatory notice was given.

In the above example, another way in which the minutes failed to include “the substance of all matters discussed,” as required by § 84-1413(1), was by lacking the amount of each contract approved. Although the minutes reference a Treasurer’s report and bills paid, moreover, copies of those documents were not attached as exhibits thereto or provided to the APA.

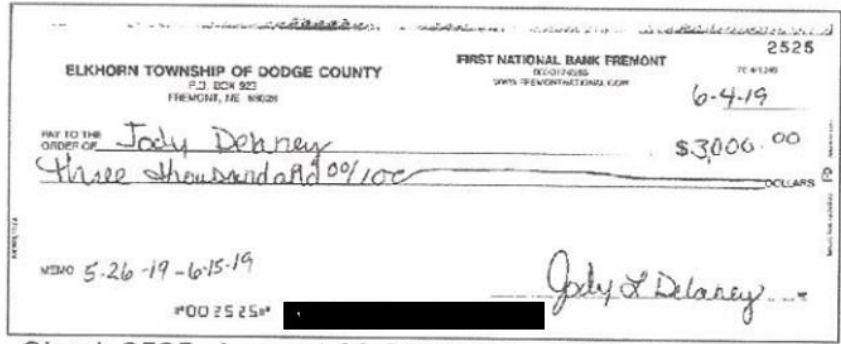
Finally, the minutes do not record a roll call vote for any of the actions taken by the Board. Again, the lack of that information indicates failure to comply with both § 84-1413(2), which mandates such vote to be taken and recorded, and § 84-1413(1), which directs the “substance of all matters discussed” to be included in the minutes.

Without procedures to ensure compliance with all applicable provisions of the OM Act, there is an increased risk for not only violation of State statute but also loss or misuse of Township funds.

Checks Signed by One Individual

The APA’s review of the Township bank statements from July 2018 to July 2019 revealed that only one person, the Clerk, signed Township checks during that period.

The following is an example of such Township checks:



Check 2525, Amount \$3,000.00 On 6/4/2019

Neb. Rev. Stat. § 23-255 (Reissue 2012) requires all Township checks and warrants to be signed by the Clerk and countersigned by the Board Chairperson, as follows:

*The town clerk shall draw and sign all orders upon the town treasurer for all money to be disbursed by the township, and all warrants upon the county treasurer for money raised for town purposes, or apportioned to the town by the county or state, and present the same to the chairman of the board, to be countersigned by him, and no warrant shall be paid until so countersigned. No warrant shall be countersigned by the chairman of the board until the amount for which the warrant is drawn is written upon its face. The clerk and chairman of the board shall keep a record in separate books furnished by the county, of the amount, date, purpose for which drawn, and name of person to whom issued, of each warrant signed or countersigned by them.*

Without procedures to ensure that all Township checks and warrants are signed by the Clerk and countersigned by the Board Chairperson, there is an increased risk for not only noncompliance with State statute but also loss or misuse of public funds.

We recommend the Township implement procedures to ensure the following:

- All requirements of the OM Act are obeyed.
- Township checks and warrants are signed by the Clerk and countersigned by the Board Chairperson.

Because this comment addresses possible violations of State statute, the APA will forward the information herein to the Dodge County Attorney for further review.

*Township Response: I have served on the Elkhorn Township Board 17 months before being elected to this board. At no time did anyone give us any reference or help with how the minutes of the meetings are supposed to be taken care of. We did not receive any support for the procedures we are suppose to be carrying out.*

*At no time were we told that 2 signatures were required on the checks we were paying bills with. We have ordered new checks with double signatures in order to rectify this problem.*

*Realize that the board members are every day people with full time jobs aside from the board we serve on. We are doing our best in the most difficult situation.*

**APA Response: The issues addressed in this comment pertain to statutory requirements. The APA suggests the Township board familiarize itself with relevant township statutes found in Neb. Rev. Stat. §§ 23-201 to 23-2,100 (Reissue 2012, Cum. Supp. 2018), the Open Meetings Act found at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014, Cum. Sup. 2018), and the Nebraska Political Accountability and Disclosure Act found at Neb. Rev. Stat. §§ 49-1401 to 49-14,142 (Reissue 2010, Cum. Supp. 2018), all which are referenced herein.**

\* \* \* \* \*

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 entity's policies or procedures.

Draft copies of this letter were furnished to the entity 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 the letter.

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

Sincerely,



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Special Audits and Finance Manager  
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mary.avery@nebraska.gov

cc: Nebraska Accountability and Disclosure Commission  
Dodge County Attorney  
Molly Bargmann, NEMA Recovery Section Supervisor