



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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April 27, 2020

Neil Riley, Chairperson
City of Harvard
309 N. Clay Avenue
Harvard, NE 68944

Dear Mr. Riley:

As you may know, the Nebraska Auditor of Public Accounts (APA) has received allegations that the Maintenance Superintendent for the City of Harvard (City) retained proceeds from the sale of municipal scrap metal, failing to remit those funds to the City. Consequently, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. Pursuant thereto, the APA received certain financial information from the City. Based upon the outcome of this preliminary planning work, including an analysis of the information provided, the APA has determined that a separate financial audit or attestation is unnecessary at this time.

Nevertheless, during the course of our preliminary planning work, we noted a certain internal control or compliance matter within the City, which is presented below.

The following information is intended to improve internal controls or result in other operational efficiencies.

1. Scrap Metal Proceeds

The APA was informed that Eric Cox, the Maintenance Superintendent for the City, sold municipal scrap metal to a company, located in Hastings; however, instead of remitting all of the proceeds of those sales to the City, Mr. Cox is alleged to have kept a portion of the funds for himself.

On March 18, 2020, in an attempt to determine whether municipal scrap metal had indeed been sold as alleged, the APA contacted a representative of City Iron & Metal Company, located in Hastings, Nebraska. As result of that inquiry, the APA received documentation showing that the company had purchased 69,700 pounds of scrap metal, which was located in the municipal dump, during the past two calendar years.

The table below provides a summary of those scrap metal purchases in 2018 and 2019:

Delivery Date	Description	Quantity In Pounds	Unit Price	Total	Vendor
5/1/2018	Uncut Steel	12,880	0.05	* \$ 644.00	City of Harvard
10/19/2018	Uncut Steel	13,900	0.035	\$ 486.50	Eric Cox – City of Harvard
10/22/2018	Uncut Steel	13,780	0.035	\$ 482.30	Eric Cox – City of Harvard
Subtotal – Eric Cox		27,680		\$ 968.80	
12/11/2019	Uncut Steel	20,400	0.025	* \$ 510.00	City of Harvard
12/12/2019	Uncut Steel	8,740	0.025	* \$ 218.50	City of Harvard
Totals		69,700		\$ 2,341.30	

**Unlike the receipts for the two transactions designated in red print, these funds were remitted to the City.*

After receiving this information, the APA asked City Iron & Metal Company to provide a check image for the \$968.80 payment made for the scrap metal purchases at issue. On April 1, 2020, the APA received the following copies of the front and back of the cleared check, which was made personally payable to Mr. Cox.

Front Image of Check #96820

CITY IRON & METAL CO.
200 S. BURLINGTON AVENUE
HASTINGS, NE 68901-5904
PH. (402) 462-6016

FIVE POINTS BANK
OF HASTINGS
Member FDIC
76-561/1049

96820

Memo: 1

DATE
Oct 22, 2018

AMOUNT
*****\$968.80

PAY Nine Hundred Sixty-Eight and 80/100 Dollars

TO THE ORDER OF: ERIC COX

Kathy Deas
AUTHORIZED SIGNATURE

⑈00096820⑈ ⑆104905616⑆

Back Image of Check #96820

Security Features: Microprint, Watermark, Security Thread, Security Features, Double or Back

DO NOT WRITE STAMP ON SIGN BELOW THIS LINE
RESERVED FOR MICR USE ONLY

CHECK HERE AFTER MOBILE OR REMOTE DEPOSIT

DATE 10/23/2018 9:49 AM
Br# 35 Tr# 223 Sec# 9
XXXXXX5231
968.80

icelotte

Cornerstone Bank
>104900349< Harvard
2018-10-23 3548205246

As shown by the above image, Mr. Cox cashed this check on October 23, 2018, at 9:49 a.m. Moreover, the cashed check was tied to his personal bank account (number ending in 5231), which is located at the Cornerstone Bank in Harvard, NE.

According to his municipal time card, Mr. Cox was on duty as the Maintenance Superintendent for the City when he cashed this check. The APA contacted the City Treasurer to determine whether the City received any of the proceeds from the scrap metal sales in question. Per the City's records, none of the \$968.80 that City Iron & Metal Company paid to Mr. Cox was deposited to the municipality's bank accounts.

The APA has included below the individual date and time-stamped scale tickets, as provided by City Iron & Metal Company, for the scrap metal purchases on October 19, 2018, and October 22, 2018:

SCALE TICKET INFORMATION		
ID	333	
GROSS	51600	lb
INBOUND		
10/19/2018	02:42P	
GROSS	51600	lb
RECALLED		
TARE	37700	lb
NET	13900	lb
10/19/2018	03:03P	

SCALE TICKET INFORMATION		
ID	222	
GROSS	38120	lb
INBOUND		
10/22/2018	10:26A	
ID	222	
GROSS	51900	lb
TARE	38120	lb
RECALLED		
NET	13780	lb
10/22/2018	11:43A	

See **Attachments A** herein for the entire scrap metal ticket forms.

Also included in the information received from City Iron & Metal Company was a copy of the check remittance stub for the “Uncut Steel” purchased on October 19, 2018, and October 22, 2018, as shown below:

CITY IRON & METAL CO.		96820
Vendor: <i>Eric Cox</i>	Check Number	96820
	Check Date	Oct 22, 2018
Item to be Paid - Description	Check Amount	\$968.80
135407	Discount Take	
<i>City of Harvard</i>	Amount Paid	968.80

On April 1, 2020, the APA emailed Mr. Cox to ask about both the general process for selling municipal scrap metal and the specific purchases by City Iron & Metal Company in 2018. He responded on April 3, 2020, by telephoning an APA staff member. During the ensuing conversation, Mr. Cox explained that scrap metal accumulates over time at the municipal dump, and the City notifies City Iron & Metal Company when certain loads are ready for pickup. At the time of such pickups, he added, municipal employees use City equipment to stack the sold scrap metal onto the purchaser's trucks. Although unable to recall the 2018 transactions specifically, Mr. Cox did describe them as “semi-sized loads,” based on the poundage reported.

On April 3, 2020, the APA contacted another City employee, who confirmed Mr. Cox's account of the process for accumulating and selling municipal scrap metal to City Iron & Metal Company. This employee claimed no knowledge, however, regarding the ultimate remittance of any proceeds from such sales.

On April 6, 2020, the APA contacted Mr. Cox again to ask once more about the \$968.80 check from City Iron & Metal Company. Unlike during the previous conversation only three days earlier, this time he remembered the specific scrap metal sales for which that payment was received. Mr. Cox explained that the scrap metal sold was from cars he personally owned, which were stored at the municipal dump – but not mixed with the City's metal scrap. Additionally, Mr. Cox acknowledged using City equipment to load all of his personal scrap sold onto the City Iron & Metal Company trucks.

The APA obtained records for the hours that Mr. Cox worked as the Maintenance Superintendent for the City on those days in October 2018 when City Iron & Metal Company purchased and hauled away from the municipal dump what he claims to have been his personal scrap metal. According to the records, Mr. Cox was on duty at those times.

The following is an image of Mr. Cox's time card for the week of October 15-21, 2018, which includes Friday, October 19, 2018, a day on which he sold 13,900 pounds of alleged personal scrap metal from the municipal dump to City Iron & Metal Company:

WEEKLY TIME CARD SS 18

Name Eric From 10-15 to 10-21

	A.M.		P.M.		Over-time		Total Hours
	In	Out	In	Out	In	Out	
Monday	730	1200	1230	400			8hr
Tuesday	730	1200	1230	400			8hr
Wednesday	730	1200	1230	400			8hr
Thursday	730	1200	1230	400			8hr
Friday	730	1200	1230	400			8hr
Saturday							
Sunday							

S.S. No. _____ Total Hours for Week 40hr

By Form No. 111 Rev. 1-15-18

The following excerpt from the “Daily Equipment & Work Sheet” for the City, which Mr. Cox completed for Friday, October 19, 2018, shows that he was on duty at the municipal dump and used the City’s equipment there on that day:

CITY OF HARVARD--MAINTENANCE DEPARTMENT
Daily Equipment & Work Sheet

Eric

DATE	EQUIPMENT USED	LOCATION	PERSONNEL-HRS
Friday	#1 #8 #13.	Check L.S. ND 66. Main holes for Pumps Dump Jet Sumps	1hr 3hr 2hr 2hr <u>8hr</u>

Note: Equipment #8 is the City Loader.

The following is an image of Mr. Cox’s time card for the week of October 22-28, 2018, which includes Monday, October 22, 2018, a day on which he sold 13,780 pounds of alleged personal scrap metal from the municipal dump to City Iron & Metal Company:

WEEKLY TIME CARD 25.18

Name Eric Emp No 1072 Date 10-28

	A.M.		P.M.		Over-time		Total Hours
	In	Out	In	Out	In	Out	
Monday	730	1200	1:30	400	1hr VAC		8hr 72 ^{day} vac
Tuesday	730	1200	1230	400	730	830	9hr
Wednesday	730	1200	1230	400			8hr
Thursday	730	1200	1230	400			8hr
Friday	730	1200	1230	400			8hr
Saturday							
Sunday							

S.S. No. 1072 Total Hours for Week 41hr

The following excerpt from the "Daily Equipment & Work Sheet" for the City, which Mr. Cox completed for Monday, October 22, 2018, shows that he was on duty at the municipal dump on that day:

CITY OF HARVARD--MAINTENANCE DEPARTMENT

Daily Equipment & Work Sheet

Eric

DATE	EQUIPMENT USED	LOCATION	PERSONNEL-HRS
Monday	H1	Check C.S. Locates Hand off Locates Dump	1hr 1hr 2hr 3hr 1hr VAC

The scrap metal sales by Mr. Cox to City Iron & Metal Company on October 19 and October 22, 2018, give rise to certain concerns.

To start, the APA has no evidence to support Mr. Cox's claim that those transactions involved the transfer of his own personal property, as opposed to that belonging to the City. Rather, circumstantial evidence might tend to indicate the contrary. Given that the present inquiry was occasioned by a complaint lodged with the APA, for instance, it is clear that at least one community member believes the City owned the scrap metal sold. Furthermore, it seems odd that the City sold only 12,880 pounds of scrap metal during 2018, while the Superintendent sold 27,680 of personal scrap metal – all of the sales originating from the same municipal dump. On both of the City Iron & Metal Company Metal Tickets (as shown in **Attachments A** herein), moreover, the customer is designated as the City of Harvard.

The unauthorized sale of City property, such as scrap metal from a municipal dump, for personal gain would constitute theft. Neb. Rev. Stat. § 28-511 (Reissue 2016) provides, in relevant part, the following:

(1) A person is guilty of theft if he or she takes, or exercises control over, movable property of another with the intent to deprive him or her thereof.

(2) A person is guilty of theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

While not proof of any crime, including theft, the present lack of support for Mr. Cox's claim that he sold only his own scrap metal, which was being stored at the municipal dump, could continue to arouse suspicions of possible misconduct nonetheless.

It should be noted also that Mr. Cox was using City property by storing his scrap metal at the municipal dump – ostensibly without either receiving a documented authorization to do so or providing any payments to the City for that privilege. Furthermore, along with Mr. Cox, another City maintenance employee was working at the municipal dump when the problematic scrap metal sales occurred. It is likely, therefore, that significant City resources, including both equipment and labor, were utilized to transfer 27,680 pounds (13,900 for the first sale and 13,780 for the second sale) of scrap metal on those days.

Neb. Rev. Stat. § 49-14,101.01 (Reissue 2010), which is found in the Nebraska Political Accountability and Disclosure Act (Act), states, in relevant part, the following:

(1) 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.

(2) A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain.

* * * *

(7) Except as provided in section 23-3113, any 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.

These, and possibly other, potential statutory concerns aside, good internal controls require procedures to ensure that authorized municipal personnel properly track and deposit all amounts due to the City. Those same procedures should also safeguard municipal property and resources, ensuring that they are not subject to either misappropriation or any other form of misuse.

Without such procedures, there is an increased risk for fraud or the mishandling of City property and resources.

We recommend the City implement procedures to ensure that: 1) authorized municipal personnel properly track and deposit all amounts due to the City; and 2) municipal property and resources are protected from misappropriation or any other form of misuse. Finally, because this comment addresses possible violations of State statute, including at least one provision of the Act, we are forwarding the information herein to the Nebraska Attorney General, the Clay County Attorney, the City of Harvard Attorney, and the Nebraska Accountability and Disclosure Commission.

City Response: The City of Harvard stands behind our Maintenance Superintendent as he was doing the City and Fire Department a service. The City never owned any of the vehicles that were sent to the junkyard. The City never gave money for the vehicles, never signed a bill of sale, or had any kind of paperwork. Because Mr. Cox was donating the use of these vehicles for the fire department for jaws training, prior City officials told him verbally that he could store them at our municipal dump. Since Mr. Cox was the owner of the vehicles and the Fire Department was done training on them, he decided to send them to the junkyard to scrap them.

The City will be taking the State Auditor's Office's guidance and implementing procedures to protect our employees who are doing the City & our Fire Department a service.

APA Response: While the Maintenance Superintendent may have been providing a service to the City and Fire Department, using his City work hours – as well as, possibly, that of others – and City equipment for personal financial gain conflicts with certain statutory prohibitions, as outlined in the letter.

* * * * *

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 City'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 City.

Draft copies of this letter were furnished to the City to provide its management with an opportunity to review and to respond to the comment and recommendation contained herein. Any formal response received has been incorporated into this letter. Such response has been objectively evaluated and recognized, as appropriate, in the letter. A 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 City 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: Nebraska Attorney General
Clay County Attorney
City of Harvard Attorney
Nebraska Accountability and Disclosure Commission

October 19, 2018 Metal Ticket

CITY IRON & METAL COMPANY, INC. METAL TICKET						
200 S. BURLINGTON AVE. HASTINGS, NE 68901 (402) 462-6016						
CUSTOMER NAME:					#	
DRIVER:						
ALUMINUM		POUNDS		LB PRICE		TOTAL
ALUM-A/CR	ALUMINUM/COPPER RADIATORS		@	=		
ALUM-A/CR DIRTY	ALUMINUM/COPPER RAD DIRTY		@	=		
ALUM-CAN	ALUMINUM CANS		@	=		
ALUM-CAST E P	CAST ALUMINUM		@	=		
ALUM-SHEET	SHEET ALUMINUM		@	=		
ALUM-DIRTY	ALUMINUM BREAKAGE		@	=		
ALUM-ACSR	ACSR ALUMINUM WIRE		@	=		
ALUM-EC	E.C. ALUMINUM WIRE		@	=		
ALUM-EXTR E P	CLEAN ALUMINUM EXTRUSION		@	=		
ALUM-IRR	CLEAN IRRIGATION PIPE		@	=		
ALUM-MLCC	MIXED LOW COPPER CLIP		@	=		
ALUM-PAINT E P	PAINTED ALUMINUM		@	=		
ALUM-RADS	ALL ALUMINUM RADIATORS		@	=		
ALUM-RADS DIRTY	ALL ALUMINUM RAD DIRTY		@	=		
ALUM-RIMS	AUTO RIMS / TRUCK RIMS		@	=		
ALUM-DIE	DIE CAST		@	=		
FINGERPRINT		NOTES/ADDITIONAL INFO		SCALE TICKET INFORMATION		
Check to Eric Cox		UNCUT		ID 333		
		6000		GROSS 51600 lb		
				INBOUND		
				10/19/2018 02:42P		
				GROSS 51600 lb		
				RECALLED		
				TARE 37700 lb		
				NET 13900 lb		
				10/19/2018 03:03P		
COPPER		POUNDS		LB PRICE		TOTAL
COPP-1 CLEAN	#1 COPPER		@	=		
COPP-2 CLEAN	#2 COPPER		@	=		
COPP-D 1 L H	UNCLEANED #1 COPPER		@	=		
COPP-D 2 L H	UNCLEANED #2 COPPER		@	=		
COPP-LIGHT	LIGHT COPPER		@	=		
BRASS						
BRAS-H CORE	HEATER CORES		@	=		
BRAS-RADS	BRASS AUTO RADIATORS		@	=		
BRAS-RADS DIRTY	BRASS AUTO RADS DIRTY		@	=		
BRAS-RED / E P	RED BRASS SOLIDS		@	=		
BRAS-SEMI / E P	SEMI BRASS		@	=		
BRAS-YELLOW / E P	YELLOW BRASS		@	=		
BRAS-DIRTY	BRASS BREAKAGE		@	=		
LEAD						
LEAD-SOFT / WW	SOFT LEAD - WHEEL WEIGHTS		@	=		
LEAD-BAT	LEAD BATTERIES		@	=		
STAINLESS						
STAIN-MAG	MAGNETIC STAINLESS		@	=		
STAIN-NON	NON MAGNETIC STAINLESS		@	=		
IRON						
IRON-CAST / SM LG	#1 CAST IRON CLEAN		@	=		
IRON-ST	#2 STEEL		@	=		
IRON-UNCUT	UNCUT/UNPREPARED		@	=		
IRON-MIX / CAT.CONVERT	IRON MIXED / CONV. SM LG		@	=		
IRON-TIN / AUTO / APPL	TIN / AUTO / APPLIANCES		@	=		
IRON-STOVE	#2 STOVE CAST IRON		@	=		
IRON-ELEC MOTORS	ELECTRIC MOTORS		@	=		
IRON-MOTORS	WHOLE MOTORS		@	=		
CUSTOMER SIGNATURE				TOTAL		

October 22, 2018 Metal Ticket

Cody driver

CITY IRON & METAL COMPANY, INC. METAL TICKET						
200 S. BURLINGTON AVE. HASTING, NE 68901 (402) 462-6016						
CUSTOMER NAME:		DRIVER:				#
ALUMINUM		ON OR OFF #OF PASS				222
Eric Cox				POUNDS	LB PRICE	TOTAL
ALUM-A/CR	ALUMINUM/COPPER RADIATORS		@		=	
ALUM-A/CR DIRTY	ALUMINUM/COPPER RAD DIRTY		@		=	
ALUM-CAN	ALUMINUM CANS		@		=	
ALUM-CAST E P	CAST ALUMINUM		@		=	
ALUM-SHEET	SHEET ALUMINUM		@		=	
ALUM-DIRTY	ALUMINUM BREAKAGE		@		=	
ALUM-ACSR	ACSR ALUMINUM WIRE		@		=	
ALUM-EC	E.C. ALUMINUM WIRE		@		=	
ALUM-EXTR E P	CLEAN ALUMINUM EXTRUSION		@		=	
ALUM-IRR	CLEAN IRRIGATION PIPE		@		=	
ALUM-MLCC	MIXED LOW COPPER CLIP		@		=	
ALUM-PAINT E P	PAINTED ALUMINUM		@		=	
ALUM-RADS	ALL ALUMINUM RADIATORS		@		=	
ALUM-RADS DIRTY	ALL ALUMINUM RAD DIRTY		@		=	
ALUM-RIMS	AUTO RIMS / TRUCK RIMS		@		=	
ALUM-DIE	DIE CAST		@		=	
FINGERPRINT		NOTES/ADDITIONAL INFO		SCALE TICKET INFORMATION		
<i>check to Eric Cox</i>				ID 222		
				GROSS 38120 lb		
				INBOUND		
				10/22/2018 10:26A		
				ID 222		
				GROSS 51900 lb		
				TARE 38120 lb		
				RECALLED		
				NET 13780 lb		
				10/22/2018 11:43A		
COPPER				POUNDS	LB PRICE	TOTAL
COPP-1 CLEAN	#1 COPPER		@		=	
COPP-2 CLEAN	#2 COPPER		@		=	
COPP-D 1 L H	UNCLEANED #1 COPPER		@		=	
COPP-D 2 L H	UNCLEANED #2 COPPER		@		=	
COPP-LIGHT	LIGHT COPPER		@		=	
BRASS						
BRAS-H CORE	HEATER CORES		@		=	
BRAS-RADS	BRASS AUTO RADIATORS		@		=	
BRAS-RADS DIRTY	BRASS AUTO RADS DIRTY		@		=	
BRAS-RED / E P	RED BRASS SOLIDS		@		=	
BRAS-SEMI / E P	SEMI BRASS		@		=	
BRAS-YELLOW / E P	YELLOW BRASS		@		=	
BRAS-DIRTY	BRASS BREAKAGE		@		=	
LEAD						
LEAD-SOFT / WW	SOFT LEAD - WHEEL WEIGHTS		@		=	
LEAD-BAT	LEAD BATTERIES		@		=	
STAINLESS						
STAIN-MAG	MAGNETIC STAINLESS		@		=	
STAIN-NON	NON MAGNETIC STAINLESS		@		=	
IRON						
IRON-CAST / SM LG	#1 CAST IRON CLEAN		@		=	
IRON-ST	#2 STEEL		@		=	
IRON-UNCUT	UNCUT/UNPREPARED		@		=	
IRON-MIX / CAT.CONVERT	IRON MIXED / CONV. SM LG		@		=	
IRON-TIN / AUTO / APPL	TIN / AUTO / APPLIANCES		@		=	
IRON-STOVE	#2 STOVE CAST IRON		@		=	
IRON-ELEC MOTORS	ELECTRIC MOTORS		@		=	
IRON-MOTORS	WHOLE MOTORS		@		=	
CUSTOMER SIGNATURE				TOTAL		