



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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March 18, 2021

Tina Langseth/Beacom, Chairperson
Village of Waterbury
PO Box 25
Waterbury, NE 68785

Dear Chairperson Langseth/Beacom:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Waterbury (Village) for the fiscal year ending 2020. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Cum. Supp. 2020), the preliminary examination necessary to determine whether the audit waiver should be allowed or further audit work would be required, 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 January 15, 2020. From this listing, the APA identified a potential conflict of interest involving the actions of Board member Gene Sorensen.

According to the meeting minutes, Gene Sorensen appears to have failed to abstain from voting on the following claim:

Claim Date	Name/Vendor	Amount	Check #	Cleared Date
1/15/20	Gene Sorensen	\$ 45.00	2827	1/22/20

An excerpt from the January 15, 2020, Board minutes is provided below:

Bills were read, presented and paid
Additional bills: G. Sorensen 4 ½ Hrs Snow removal

Motion by T. Beacom and 2nd. By G. Sorensen
Approved

The apparent failure of Board member Gene Sorensen 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. 2020) 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. § 49-14,103.01 (Cum. Supp. 2020) provides the following, in relevant part:

(1) For purposes of sections 49-14,103.01 to 49-14,103.06, unless the context otherwise requires, officer means . . . (c) a member of any board or commission of any county, school district, city, or village which spends and administers its own funds, who is dealing with a contract made by such board or commission, (d) any elected county, school district, educational service unit, city, or village official

(2) Except as provided in section 49-1499.04 or 70-624.04, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party

* * * *

(4) The prohibition in this section shall apply only when the officer or his or her parent, spouse, or child (a) has a business association as defined in section 49-1408 with the business involved in the contract or (b) will receive a direct pecuniary fee or commission as a result of the contract.

(5) The prohibition in this section does not apply if the contract is an agenda item approved at a board meeting and the interested officer:

(a) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(b) Does not vote on the matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the matters; and

(c) Does not act for the governing body which is party to the contract as to inspection or performance under the contract in which he or she has an 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.

3. Payment of Unapproved Claims

During our comparison of the Village’s bank account details to claims approved by the Board, the APA identified one check, totaling \$402.50, which was paid but not included on the claims listing to be approved by the Board.

Details of the unapproved payment are included in the table below:

Check Date	Name/Vendor	Amount	Check #	Cleared Date
1/18/20	NE Dept. of Rev.	\$ 402.50	2579	1/24/20

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.

4. 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 the following checks, totaling \$63,921.65, were issued before the underlying claims were approved by the Board.

The table below provides a summary of the premature payments:

Approval Date	Name/Vendor	Amount	Check Written Date	Days Paid Before Approval
1/15/20	Heine Electric	\$63,811.65	12/23/19	23
1/15/20	USPS	\$ 110.00	1/8/20	7
	Total	\$63,921.65		

Neb. Rev. Stat. § 17-614(1) (Cum. Supp. 2020) 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.

5. Expenditure in Excess of Budget

For the fiscal year ended September 30, 2020, actual expenditures exceeded the adopted budget by \$134,711. No amended budget was filed with our office for these additional expenditures.

Neb. Rev. Stat. § 13-510 (Reissue 2012) states, in relevant part, the following:

No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in section 13-511, or by state law. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

Neb. Rev. Stat. § 13-511 (Cum. Supp. 2020) sets out the procedures for amending the adopted budget accordingly.

When expenditures are made in excess of the amounts budgeted with no appropriate budget amendment by the Board to address those excesses, the Village is noncompliant with State statute, further increasing the risk for loss and/or misuse of funds.

We recommend the Board implement procedures for monitoring closely its budget status on an ongoing basis to avoid incurring expenditures in excess of the amount budgeted, amending the budget as necessary to accommodate any unforeseen expenses.

6. Village Funds

On Exhibit A of the Village’s audit waiver request form, the APA noted that the Village reported balances and activity only under the General Fund column. However, as certain receipts, such as highway allocation monies, are restricted for street or road purposes, the Village must report these monies under a separate restricted fund, such as the Street Fund, unless these monies are reimbursing certain street or road expenditures out of the General Fund. During the fiscal year 2020, the Village recorded \$14,890 for highway allocation and motor vehicle fee monies; however, the Village did not report any street expenses on the Village’s Exhibit A.

Good internal control requires procedures to ensure that all Village funds, along with their respective activities, are reported correctly on the Village’s audit waiver request form. Without such procedures, there is an increased risk of not only loss, misuse, or theft of Village monies but also a lack of transparency regarding the financial activity and position of the Village.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA’s letter dated September 16, 2019, which can be found on the APA’s website.

We recommend the Board implement procedures to ensure all Village funds, along with their respective activities, are reported correctly on the Village’s audit waiver request form.

7. Book Balance and Bank Reconciliations

During our review of the Village’s audit waiver request, the APA noted the Village does not maintain a book balance or complete accurate bank reconciliations. When the APA attempted to complete its own reconciliation from the bank balances to the book balance reported on the Village’s Exhibit A, the APA identified a variance over \$1,400. The Village Clerk was unable to explain this variance.

Good internal controls and sound accounting practices require procedure to ensure book balances are maintained and accurate reconciliations from the bank balances to the book balances are completed. When such procedures do not exist, there is an increased risk of loss, misuse, or theft of Village funds.

We recommend the Board implement procedures to ensure book balances are maintained and accurate reconciliations from the bank balances to the book balances are completed.

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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.

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, please contact **Dakota Christensen at 402-499-8702 or dakota.christensen@nebraska.gov.**

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Avery", with a long horizontal flourish extending to the right.

Mark Avery, CPA
Assistant Deputy Auditor