



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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March 18, 2021

Travis Filing, Chairperson
Village of Panama
PO Box 117
Panama, NE 68419

Dear Chairperson Filing:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Panama (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 7, 2020. From this listing, the APA identified a potential conflict of interest involving the actions of Board member Travis Filing.

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

| Claim Date | Name/Vendor | Amount | Check # | Cleared Date |
|------------|----------------|----------|---------|--------------|
| 1/7/2020 | Shannon Filing | \$ 78.48 | 4638 | 1/13/2020 |

An excerpt from the January 7, 2020, Board minutes is provided below:

VILLAGE OF PANAMA
Minutes Regular Meeting
January 7, 2020

A regular meeting of the Board of Trustees of the Village of Panama, Nebraska was held on Tuesday, January 7, 2020 at 7:00 pm. Normal notification procedures were observed.

Chairman, Jim Craig publicly stated that a current copy of the Nebraska Open Meetings Act was available for review and indicated where the copy was posted. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Chairman, Jim Craig called the meeting to order at 7:00 pm. Roll call: Present: Hart, Watters, Brotherson, Filing & Craig. Also present: Dave Chilcoat, Jay Nutter

Bills approved for payment: Lancaster Rural Water 750.00; Uribe Refuse 1174.14; Norris Public 1352.42; Black Hills Energy 142.97; NE Public Health 15.00; Voice News 51.34; Menards 268.72; Verizon 97.93; Intuit 8.44; Midwest Labs 428.75; Diode 5.00; Home Depot 98.32; Amazon 110.60; Rita Shea 195.84 (reimb); League of Municipalities 95.00; One Call 9.62; Olsson Assoc 138.90; Ne Dept of Rev 743.89; Shannon Filing 78.48 (reimb) Farmers & Merchants Bank 25.00; Essink Repair 46.67; Payroll & Payroll Taxes 4800.00 (estimated)

The apparent failure of Board member Travis Filing 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. § 49-1499.03(2) (Cum. Supp. 2020) 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) Except as otherwise provided in subsection (3) of this section, 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. Lack of Dual Signatures

The APA obtained the bank statements for the Village’s accounts from its fiscal year 2020 audit waiver request. From these statements, the APA noted that 14 of the Village checks written during the examination period contained only one signature and one check had no signature. An example of such checks is shown below.



AM: 5.403.50 CK: 4554 DT: 10/07 SQ: 80201010 Paid



AM: 7.555.00 CK: 4559 DT: 10/08 SQ: 80302490 Paid

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. 2020) 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.

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 require dual signatures, from the Board Chairperson and the Village Clerk, on all Village checks, as required by law.

3. Lack of Claim Purpose

During our comparison of the Village’s bank account details to claims approved by the Board, the APA noted that most claims listed in the Board’s official proceedings lacked descriptions of their respective purposes.

The following is an example of the approved claims listing provided by the Village for January 7, 2020:

3. Watters moved and Brotherson seconded to approve payment of bills as presented. Roll call: All yeas. Motion carried

Bills approved for payment: Lancaster Rural Water 750.00; Uribe Refuse 1174.14; Norris Public 1352.42; Black Hills Energy 142.97; NE Public Health 15.00; Voice News 51.34; Menards 268.72; Verizon 97.93; Intuit 8.44; Midwest Labs 428.75; Diode 5.00; Home Depot 98.32; Amazon 110.60; Rita Shea 195.84 (reimb) ; League of Municipalities 95.00; One Call 9.62; Olsson Assoc 138.90; Ne Dept of Rev 743.89; Shannon Filing 78.48 (reimb) Farmers & Merchants Bank 25.00; Essink Repair 46.67; Payroll & Payroll Taxes 4800.00 (estimated)

Neb. Rev. Stat. § 19-1102 (Cum. Supp. 2020) requires publication of the Board’s official proceedings, which must include, among other things, the purpose of each claim allowed, as follows:

It shall be the duty of each city clerk or village clerk in every city or village having a population of not more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census to prepare and publish the official proceedings of the city council or village board of trustees within thirty days after any meeting of the city council or village board of trustees. The publication shall be in a legal newspaper in or of general circulation in the city or village, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in section 23-122.

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that the Board’s official proceedings describe the purpose of each claim allowed. Without such procedures, there is an increased risk of not only failure to comply with statutory publication requirements but also a lack of transparency regarding the nature of public expenditures.

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 the purpose of each claim allowed is included in the Board’s official proceedings and published in accordance with State statute.

4. 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 \$35,287 for highway allocation and motor vehicle fee monies; however, only \$13,424 was recorded for 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.

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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