



# 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  
auditors.nebraska.gov

March 11, 2021

Eric Burgett, Chairperson  
Village of Lewiston  
P.O. Box 100  
Lewiston, NE 68380

Dear Chairperson Burgett:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Lewiston (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 21, 2020. From this listing, the APA identified a potential conflict of interest involving the actions of Board member Eric Burgett.

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

Claim Date	Name	Amount	Check #	Cleared Date
1/21/20	Shannon Burgett	\$ 75.00	2629	2/4/20

An excerpt from the January 21, 2020, Board minutes is provided below:

<p>January 21, 2020 Board Meeting Minutes</p> <p>Roll Call: E. Burgett, T. Howell, S. Nouzovsky, J. Thies –Present;  Chairman E. Burgett called meeting to order. Open Meeting Act was read by chairman. Chairman welcomed S. Burgett- clerk  Minutes from the December meeting were read. Motion was made by T. Howell to accept minutes read. S. Nouzovsky seconded motion. All voted aye, motion carried. Treasures report was presented. T. Howell made motion to accept treasure report. J. Thies seconded motion. All voted aye, motion carried. Claims were presented. T. Howell made motion to pay claims with exception of Gottula's weekend rates on the water. J. Thies seconded motion. All voted aye, motion carried.</p> <p style="text-align: center;">1. S. Burgett <span style="float: right;">\$475.19</span></p>
---

The apparent failure of Board member Eric Burgett 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.

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 20, 2019, which can be found on the APA's website.

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 four Village checks written during the examination period contained only one signature. An example of such checks is shown below.



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 20, 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 the 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 21, 2020:

1.	S. Burgett	\$475.19
2.	Seneca Sanitation	\$450.00
3.	Pawnee RWD	\$509.50
4.	NPPD	\$477.27
5.	EMC Ins.	\$279.40
6.	One Call Concepts	\$6.54
7.	Thoroughbred Systems LLC	\$1240.00
8.	DHHS	\$15.00
9.	Gottula Trenching	\$643.51
10.	Gottula Trenching	\$930.00
11.	Pawnee Republican	\$25.22

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.

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. 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 \$478, 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:

Name/Vendor	ACH Date	Amount
Pawnee Co RWD	2/10/2020	\$ 478.00

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.

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 20, 2019, which can be found on the APA’s website.

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. 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 \$788.90, were issued before the underlying claims were approved by the Board.

The table below provides a summary of the premature payments:

Claim Date	Name/Vendor	Amount	Payment Type	Cleared Date
1/21/20	Pawnee RWD	\$ 509.50	ACH	1/10/20
1/21/20	EMC Ins.	\$ 279.40	ACH	1/16/20
<b>Total</b>		<b>\$ 788.90</b>		

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.

\* \* \* \* \*

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,



Mark Avery, CPA  
Assistant Deputy Auditor