



# NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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March 11, 2021

Kevin Ross, Chairperson  
Village of McGrew  
PO Box 48  
McGrew, NE 69353

Dear Chairperson Ross:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of McGrew (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 9, 2020. From this listing, the APA identified a potential conflict of interest involving the actions of Board member Kevin Ross.

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

Claim Date	Name/Vendor	Amount	Check #	Cleared Date
1/9/20	Kevin Ross	\$ 142.50	3424	1/10/20

An excerpt from the January 9, 2020, Board minutes is provided below:

IV. **Payment of Bills** – K. Fiscus 833.40; K. Ross 142.50; C. Ross 25.00; Western States Bank 15.00; NDEQ 1,632.47; Ellison, Kovarik 67.40; Frank Parts 213.03; Menards 42.62; Minatare, Melbeta Fire 3,000.00; NPPD 575.21; Sanberg 157.42; Waste Connection 1,776.78; D Luna 232.50; Vistabeam 60.00. Keno Account: NE Dept of Rev 88.70. Buskirk made a motion to pay the bills, with a second by Staab. YES: Doty, Buskirk, Cooper, Staab, Ross: NAYS: None. Motion carried.

The apparent failure of Board member Kevin Ross 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 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 9, 2020:

IV. **Payment of Bills** – K. Fiscus 833.40; K. Ross 142.50; C. Ross 25.00; Western States Bank 15.00; NDEQ 1,632.47; Ellison, Kovarik 67.40; Frank Parts 213.03; Menards 42.62; Minatare, Melbeta Fire 3,000.00; NPPD 575.21; Sanberg 157.42; Waste Connection 1,776.78; D Luna 232.50; Vistabeam 60.00. Keno Account: NE Dept of Rev 88.70. Buskirk made a motion to pay the bills, with a second by Staab. YES: Doty, Buskirk, Cooper, Staab, Ross; NAYS: None. Motion carried.

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.

**3. Payment of Unapproved Claims**

During our comparison of the Village’s bank account details to claims approved by the Board, the APA identified the following checks, totaling \$1,818.96, which were paid but not included on the claims listing to be approved by the Board.

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

Check Date	Name/Vendor	Amount	Check #	Cleared Date
1/14/20	NE Dept. of Rev	\$ 147.96	EFT	1/14/20
1/17/20	NE Income Tax	\$1,671.00	EFT	1/17/20
	<b>Total</b>	<b>\$1,818.96</b>		

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 \$1,736.17, 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
1/9/2020	Western States Bank	\$ 15.00	1/2/2020	7
1/9/2020	NDEQ	\$ 1,632.47	12/27/2019	13
1/9/2020	NE Dept. of Rev.	\$ 88.70	12/5/2019	35
	<b>Total</b>	<b>\$ 1,736.17</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.

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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,



Mark Avery, CPA  
Assistant Deputy Auditor