



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 8, 2021

Sherry Yacks, Chairperson
Village of Hubbell
P.O. Box 42
Hubbell, NE 68375

Dear Chairperson Yacks:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Hubbell (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 25, 2020. From this listing, the APA identified a potential conflict of interest involving the actions of Board members Lyle Welch and Kelli Svoboda.

According to the meeting minutes, Lyle Welch and Kelli Svoboda appear to have failed to abstain from voting on the following claims:

Claim Date	Name/Vendor	Amount	Check #	Cleared Date
1/25/20	Bonnie Welch	\$ 544.86	7346	1/30/20
1/25/20	David Svoboda	\$ 115.43	7352	1/28/20

An excerpt from the January 25, 2020, Board minutes is provided below:

Financial Reports and Bills: The following motions were approved on a 4/0 yes vote:	
Receipts for December, 2019:	
Electric	\$ 9,568.41
Water	1,465.00
Sewer	380.00
Sales Tax	726.10
Garbage	571.00
Street (highway allocation)	1,506.05
General	\$ 115,802.16
TOTAL RECEIPTS GENERAL FUND	\$ 130,018.72
IMPROVEMENT FUND	\$ 1,423.97
BILLS FOR JANUARY, 2020:	
GARBAGE COMPANY SOUTH-Trash Removal	445.00
GREAT PLAINS COMMUNICATION-Telephone Service	146.77
NE DEPARTMENT OF REVENUE (electronic) December- Sales Tax	743.90
EDITH LAUE-Clerk Wages	715.71
BONNIE WELCH-Assistant Clerk Wages	544.86
HEBRON JOURNAL REGISTER-Publish Proceedings	71.91
UNITED STATES TREASURY-Quarter 4 2019 Employee Withholding	1192.38
BLOBAUM & BUSBOOM PC Accounting Service	650.00
ONE CALL CONCEPTS INC-Locates Q. 4-2019	1.15
EDITH LAUE-Reimbursement 2019 King Street LABS Annual Fee-Tax Forms	89.00
KING STREET LABS-2020 Annual Fee-Tax Forms-Electronic	89.00
NORRIS PUBLIC POWER-Electricity for Re-Sale	8208.00
DAVID SVOBODA-Electricity Meter Reader Wages	92.35
NORRIS PUBLIC POWER-North City Well-Electricity	62.00
NORRIS PUBLIC POWER-South City Well-Electricity	108.00
GENE TROXEL-Wages Well & Tower & 28 water samples	627.98
HUBBELL CPO-Water Sample Postage	94.05
DAVID SVOBODA-Water Meter Reader Wages	23.08
NEBRASKA PUBLIC HEALTH ENVIROMENTAL LAB- Water Samples Testing	170.00
GEMPLERS-Marking Flags	22.04

The apparent failure of Board members Lyle Welch and Kelli Svoboda 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

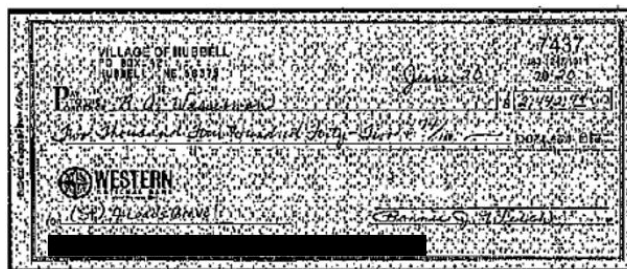
(c) *Does not act for the governing body which is party to the contract as to inspection or performance under the contract in which he or she has an interest.*

(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.

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 one Village check written during the examination period contained only one signature. An image of the check is shown below.



Ck#:7437, Amount:\$2,442.74, Date:6/26/2020

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.

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. 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 \$114,256.09, 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	Cleared Date	Days Paid Before Approval
1/25/2020	NE Dept. of Rev	\$ 743.90	1/17/2020	1/17/2020	8
1/25/2020	Hebron Journal Register	\$ 71.91	12/21/2019	1/7/2020	35
1/25/2020	King Street Labs	\$ 89.00	1/15/2020	1/15/2020	10
1/25/2020	Gemplers	\$ 22.04	1/9/2020	1/9/2020	16
1/25/2020	Western Nat’l Bank	\$ 113,329.24	1/3/2020	1/3/2020	22
Total		\$ 114,256.09			

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