



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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John Van Velson, Chairperson
Brule Rural Fire District
77055 Road 320
Brule, NE 69127

Dear Chairperson Van Velson:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Brule Rural Fire District (District) for the fiscal year ending 2021. **That request has been approved.**

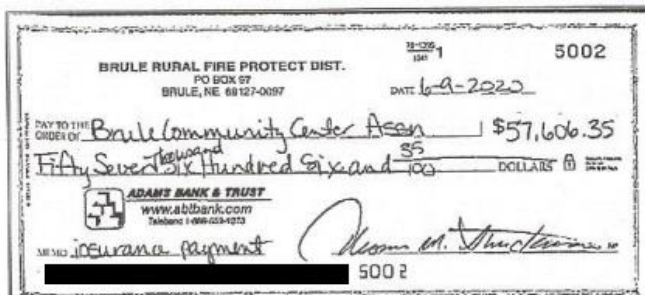
While performing, pursuant to Neb. Rev. Stat. § 84-304 (2021 Neb. Laws, LB 528, § 51), the preliminary examination necessary to determine whether further audit work would be required or the audit waiver should be allowed, the APA noted certain internal control or compliance matters, or other operational issues, within the District.

The following information is intended to improve internal controls or result in other operational efficiencies.

Comments and Recommendations

1. Brule Community Center Association Payments and Building Insurance

During our review of the bank statements accompanying the District's fiscal year 2021 audit waiver request, the APA noted that the District paid two checks, totaling \$117,436, to the Brule Community Center Association (Association), a nonprofit corporation. Images of those checks are shown below:



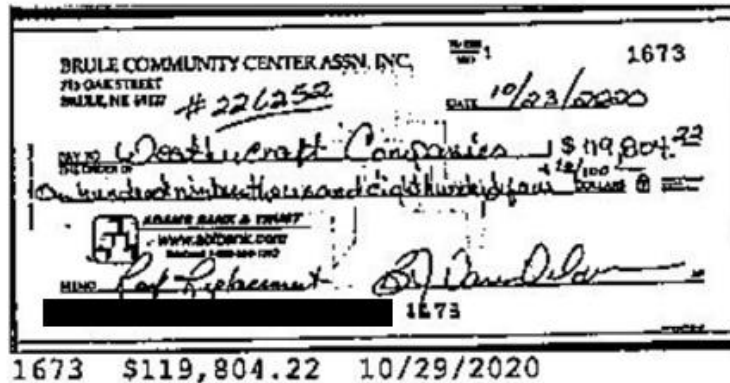
5002 \$57,606.35 6/10/2020



5004 \$59,829.86 7/8/2020

Those two payments consisted of insurance proceeds that the District received as a result of having purchased property damage coverage for the Brule Community/Activity Center (Center). The insurance provider made the payments because of damage suffered by the Center's roof in May of 2019. The Center belongs to the Brule Volunteer Fire Department (Department), per the Warranty Deed filed with the Keith County Register of Deeds, and is used for various local events, such as meetings, social gatherings, sports practices, recreational activities, etc. Despite belonging to the Department, the Center is managed by the Association.

Subsequent to receiving the two disbursements from the District, the Association paid Weathercraft Companies, a roofing contractor, \$119,804 for “Roof Replacement.” That payment came from the Association’s bank account. The following is an image of the cleared check:



While the insurance proceeds appear to have been used as intended, the APA questions the propriety of both (1) the District’s purchase of insurance coverage for the Center and (2) the delivery of the insurance proceeds to the Association, a nonprofit managerial entity.

To start, as with other statutorily created entities, the District “has only those powers which have been expressly conferred upon it by the legislature.” Op. Att’y Gen. No. 0970 (December 30, 2010). Such powers, the Nebraska Supreme Court has explained, “are appropriately limited to those delineated in the statute.” *Buckingham v. Creighton Univ.*, 248 Neb. 821, 826, 539 N.W.2d 646, 650 (1995).

Neb. Rev. Stat. § 35-508 (Reissue 2016) sets out the various powers of the District. They range from purchasing or leasing “such firefighting and rescue equipment, supplies, and other real or personal property as necessary and proper to carry out the general fire protection and rescue program of the district” to generally performing “all acts necessary to fully carry out the purposes of” the statutes governing such fire protection districts.

The APA’s examination of § 35-508, as well as other pertinent statutes, has failed to reveal any express authority for the District to pay the expenses, including the cost of insurance coverage, for a building that serves no apparent District purposes for fire protection or rescue programs. Despite being owned by the Department, the Center appears to be used, as noted above, primarily for community activities wholly unrelated to any District fire protection activities.

Secondly, § 35-508(4) invests the District’s board of directors (Board) with the exclusive power to “manage and conduct the business affairs of the district.” Even if the District were to enjoy the statutory authority to purchase insurance for the Center, the insurance proceeds received as a result of that coverage would belong to the District, making them “public funds” under Neb. Rev. Stat. § 13-503(7) (Cum. Supp. 2020) of the Nebraska Budget Act. That subsection of statute states, in part, “Public funds means all money, including nontax money, used in the operation and functions of governing bodies.” Consequently, it would be the responsibility of the Board to ensure that the insurance proceeds were disbursed and utilized properly, not entrusted blindly to a nonprofit third party with which the District has no direct relationship.

Moreover, good internal controls and sound business practices require procedures to ensure that any expenditure of District funds is not only made for an appropriate – i.e., statutorily allowable – purpose but also used in accordance with the underlying objective of that disbursement. Those same procedures should require the District to manage its own finances, including making payments directly to vendors and claimants, unless otherwise authorized expressly by law.

Without such procedures, there is an increased risk for noncompliance with State statute and the improper, if not prohibited, use of District funds.

We recommend the District seek legal guidance regarding the propriety of its purchase of insurance coverage for the Center. We also recommend the District implement procedures to ensure that all of its financial transactions, including payments to vendors and claimants, are conducted by the Board, unless provided otherwise by law.

2. Lack of Dual Signatures

The APA obtained the monthly statements for the District’s bank accounts from its fiscal year 2021 audit waiver request. From those statements, the APA noted that one District check written during the examination period did not contained dual signatures, as shown below.



Nebraska law requires both the Secretary-Treasurer and the President of the District to sign all checks approved by the Board. In particular, Neb. Rev. Stat. § 35-511 (Reissue 2016) states that those checks “shall bear the signature of the secretary-treasurer and the countersignature of the president of such district.”

In addition, good internal controls and sound accounting practices require procedures to ensure that District checks contain the statutorily required endorsements.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss or misuse of public funds.

We recommend the Board implement procedures to require dual signatures, from both the Secretary-Treasurer and the President, on all District checks, as required by law.

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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 District’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 District.

This communication is intended solely for the information and use of the District 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 that reads "Mark Avery". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Mark Avery, CPA
Assistant Deputy Auditor