



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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Caes Linner, Chairperson
Village of Upland
PO Box 67
Upland, NE 68981

Dear Chairperson Linner:

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

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2021), 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 listings for August 10, 2021, and September 13, 2021. From these listings, the APA identified a potential conflict of interest involving the actions of Board member Jeff Linner.

According to the meeting minutes, Mr. Linner appears to have failed to abstain from voting on the following claims:

Name	Approval Date	Description	Amount
Jeff Linner	8/10/2021	Sprayer reimbursement	\$ 150.00
Jeff Linner	9/13/2021	Maintenance Wages	\$ 539.10
Total			\$ 689.10

An excerpt from the September 13, 2021, Board minutes is provided below:

Following the Budget meeting a regular Board Meeting came to order at 5:58PM. Present for the Board were J. Linner, H. Tallent, E. Lantis and J. Johnson. Also present was Belinda Tolle Village Clerk/Treas. Members of the public present were Doug Boldt, Steve Fires and Suzanne Fries.

Motion was made by Tallent to pay warrants, seconded by Lantis. Motion carried 4-0.
Old Business: discussed was the upcoming Fall clean-up for the Village. Tallent will hang posters. Update on the electric outlets on Prairie Ave. was given by Linner, Josh Johnson was called to give an estimate. Sewer lines need to be flushed, Tolle will coordinate with the fire dept. The old grocery store was again brought up. Not only is it following down, it doing damage to adjoining buildings.

The apparent failure of Board member Jeff Linner to abstain from voting on the motions 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 2021) 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 related to claims not associated with a contract:

(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.

Additionally, Neb. Rev. Stat. § 49-14,103.01 (Supp. 2021) provides the following, in relevant part, for claims associated with a contract:

(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. Bank Reconciliation Procedures

During review of the Village's audit waiver request, the APA noted that the September 30, 2021, reconciliation provided by the Village was inaccurate. In addition, the book balance submitted with the audit waiver request of \$300,976 did not agree to the book balance on the reconciliation provided of \$301,525, a variance of \$549. The reconciliation included the following errors:

Description	Amount
Amount was shown on the Village's 9/30/2021 reconciliation as an outstanding deposit. However, this was a journal entry dated 9/30/2020, and does not appear to be a true outstanding deposit.	\$ 5,500
Amount was shown on the Village's 9/30/2021 reconciliation as an outstanding check. However, this was a journal entry dated 9/30/2020, and does not appear to be a true outstanding check.	\$ (1,857)
Amount was shown on the Village's 9/30/2021 reconciliation as an outstanding deposit. However, this was a journal entry made on 10/31/2020, and does not appear to be a true outstanding deposit.	\$ 1,857
Amount was shown on the Village's 9/30/2021 reconciliation as an outstanding deposit. However, this was a journal entry made on 10/31/2020, and does not appear to be a true outstanding deposit.	\$ 800
Amount was shown on the Village's 9/30/2021 reconciliation as an outstanding deposit. However, this deposit cleared the bank on 11/10/2020, and does not appear to be a true outstanding deposit.	\$ 2,550
Total	\$ 8,850

Good internal controls require procedures to ensure that accurate monthly reconciliations are performed, the Village's financial information is recorded properly, and any variances are researched identified and resolved in a timely manner.

Without such procedures, there is an increased risk of not only the financial statements being misstated but also loss, misuse, or theft of Village funds.

We recommend the Village implement procedures to ensure accurate monthly reconciliations are performed, the Village's financial information is recorded properly, and any variances are researched, identified, and resolved in a timely manner.

3. Petty Cash Procedures

During our review, the APA noted that the Village maintains a petty cash fund; however, the Village does not reconcile the petty cash balance to an approved amount set by the Village Board. Furthermore, no reimbursements to replenish the petty cash balance are made. The Village's petty cash fund is replenished by using utility bills paid in cash.

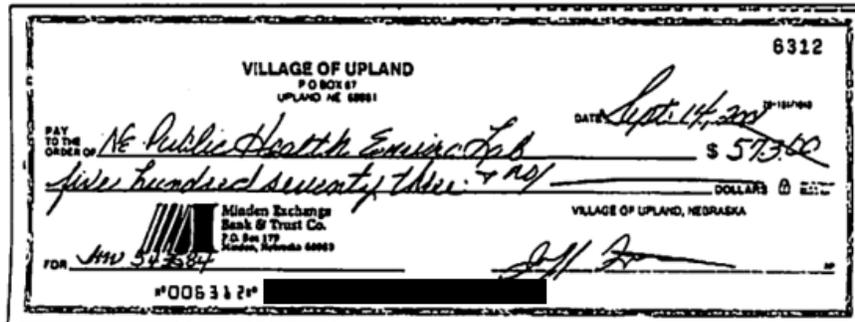
Good internal controls require procedures to ensure that petty cash funds are maintained at an authorized amount, and reimbursements to replenish the fund are based on actual petty cash expenses. Further, good internal controls require procedures to ensure that all utility payments are deposited into a Village bank account.

Without such procedures, there is an increased risk of loss or misuse of Village funds.

We recommend the Village implement procedures to ensure that petty cash funds are maintained at an authorized amount, and reimbursements to replenish the fund are based on actual petty cash expenses. We further recommend the Village implement procedures to ensure that all utility payments are deposited into a Village bank account.

4. Lack of Dual Signatures

The APA obtained the bank statements for the Village's accounts from its fiscal year 2021 audit waiver request. From these statements, the APA noted that 22 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 March 4, 2021, which can be found on the APA’s website. However, it does not appear this issue was corrected after the APA’s notification.

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.

5. Lack of Claim Purpose

During our comparison of the Village’s bank account details to claims approved by the Board, the APA observed meeting minutes dated January 11, 2021, and 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 11, 2021:

WARRENTS TO BE PAID	
GENERAL ACCOUNT	
Salaries	1051.20
Glenwood	125.13
Black Hills	238.86
Sothern Public	162.45
South Central Sani	1159.15
One Call 811	0.00
Federal Tax Pymt	337.60
Franklin Chronicle	132.30
Minden Hardware	44.05
Dept of Labor UI	19.80
Dana Cole	1675.00
Franklin Co Sheriff	33.75

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.

6. 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 \$1,501.30, 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:

Name/Vendor	Check Date	Check #	Amount
NE Department of Revenue	1/1/2021	6186	\$ 230.00
NE Department of Revenue	1/12/2021	6185	\$ 904.35
United States Postal Service	1/20/2021	ACH	\$ 315.95
United States Postal Service	2/2/2021	6187	\$ 51.00
Total			\$ 1,501.30

Neb. Rev. Stat. § 17-614(1) (Supp. 2021) 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