



# 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

April 6, 2022

Linda Hudson, Chairperson  
Village of Belvidere  
402 C Street  
Belvidere, NE 68315

Dear Chairperson Hudson:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Belvidere (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. Village Maintenance of Vacant Lot Owned by Board Chairperson**

During the APA's review of the fiscal year 2021 audit waiver request for the Village, the APA received a complaint regarding the Village maintenance employee maintaining and mowing property owned by the Board Chairperson Linda Hudson (Chairperson).

As a result, the APA inquired with the Village to obtain additional information and documentation. The APA was informed by the Village Attorney that the Village maintenance employee mows and maintains several vacant lots and properties throughout the Village, including one vacant lot owned by the Chairperson. Also, per the Village Attorney, this has been an ongoing practice for the Village and was done by the previous maintenance employee. However, the Village was unable to provide an agreement between the Village Board and the Chairperson for this arrangement.

Furthermore, the APA noted that the Village maintenance employee worked hours for the Village each month during fiscal year 2021 and received a monthly paycheck for the work performed. The total amount received by the employee was \$6,772 for fiscal year 2021. However, per the Village Attorney, the Chairperson may have personally paid the employee for the work as well.

The Chairperson's personal use of the Village maintenance employee to maintain her vacant property 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.

Neb. Rev. Stat. § 49-14,101.01 (Reissue 2021) states, in relevant part, the following:

*(1) 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.*

*(2) A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain.*

(Emphasis added.) The penalty for violating the above-cited 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.*

It is important to note that it is a violation of § 49-14,101.01 not only to use public personnel or resources for personal benefit but also to authorize such use.

Good internal control requires procedures to ensure that Village personnel or resources are used in strict accordance with governing statutory provisions. Without such procedures, there is an increased risk for the improper use thereof.

We recommend the Village Board work with the Village Attorney to review the arrangement of using the Village maintenance employee to mow and maintain the Chairperson’s vacant lot on Village time and determine the legality of such arrangement. The APA will refer this matter to the Nebraska Accountability and Disclosure Commission.

**2. Possible Conflict of Interest**

The APA received Village Board (Board) meeting minutes and the accompanying claims listing for January 12, 2021. From this listing, the APA identified a potential conflict of interest involving the actions of Board members Randy and Dianne Waldmeier, and the approval of claims to their personal business, Waldmeier Well Repair.

According to the meeting minutes for January 12, 2021, Mr. and Mrs. Waldmeier appear to have failed to abstain from voting on the claim payable to Waldmeier Well Repair, totaling \$169.86. The following is an excerpt from the January 12, 2021, Board minutes:

The Belvidere City Council met on 1-12-21 at 7:10. Chairman Hudson called the meeting to order and declared this an open meeting to anyone wishing to attend. All members were present.

The minutes of the last meeting were read and approved. Treasurer’s report was as follows, bills to be paid: Salaries.....1384.27 – H-L Asphalt.....1875.00 (down payment) – Thayer Central School.....30.00 (Door Ribbons) – Reinboth Plumbing.....667.50 (repairs on water main) – Petersen LP.....104.74 (propane) – Norris Public Power.....1200.89 (electricity) – Thayer County Register of Deeds.....50.00 (election) – Hebron Journal.....46.29 (publish minutes) - NE. Public Health.....294.00 (water tests) – Waldmeier Well Repair.....169.86 (part for water main) – US Treasury.....548.12 (4<sup>th</sup> qtr Tax) – S. Friedley made a motion to pay all bills, T. Priefert 2<sup>nd</sup>, motion carried.

The minutes above note that all members were present; however, the minutes do not reflect the Board members that voted on the approval of bills. As a result, the APA is unable to determine if Mr. and Mrs. Waldmeier abstained from voting on the claim payable to their personal business, Waldmeier Well Repair. Per the Village Attorney, Randy Waldmeier abstains from votes on payments to their personal business; however, he states, “that may not have been indicated on the minutes.”

The APA also noted three more payments to Waldmeier Well Repair, totaling \$811.36, during fiscal year 2021; however, the APA did not obtain meeting minutes for the approval of these claims.

The apparent failure of Board member Randy and Dianne Waldmeier 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 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. § 49-14,103.01 (Supp. 2021) 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*

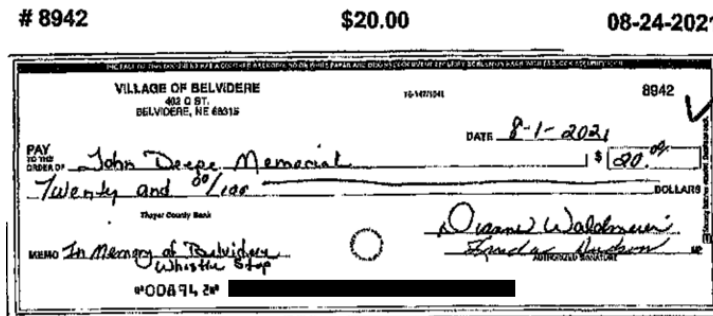
*(c) Does not act for the governing body which is party to the contract as to inspection or performance under the contract in which he or she has an interest.*

(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.

**3. Potentially Disallowed Payment**

During our review of the bank statements accompanying the Village’s audit waiver request, the APA noted that the Village made one payment, totaling \$20, to the John Deepe Memorial in August 2021, as shown below. Per the Village, this payment was approved by the Village Board for the purchase of a bench as a memorial of Mr. Deepe, but the funds were later returned to the Village’s checking account as the club in charge of the memorial was not ready to purchase the bench.



The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. § 13-2201 (Reissue 2012) et seq., specifies various expenditures, aside from those otherwise authorized by law, that constitute allowable uses of public funds by designated political subdivisions. The provisions of the Act are made applicable to Villages, among numerous other public entities, by both subsections (2) and (3) of Neb. Rev. Stat. § 13-2202 (Cum. Supp. 2020).

Neb. Rev. Stat. § 13-2203 (Cum. Supp. 2020) of the Act enumerates the miscellaneous expenditures permitted by governing bodies of local governments. Payments for memorials are not found among that select statutory list of permissible expenditures. As a result, such disbursements must be considered disallowed by law.

On September 17, 1993, the Nebraska Accountability and Disclosure Commission adopted a document entitled “A Guideline to the Use of Public Funds by Cities and Villages – Revised” (Guideline). The Guideline addresses a number of different scenarios involving the expenditure of public funds. Though issued almost three decades ago, the Guideline remains relevant to villages.

Regarding the issue of flower and memorial purchases, the Guideline provides the following:

*Question #6 – May municipal funds be expended for flowers and memorials for deceased elected officials, employees or their families?*

*Response – No.*

Good internal control requires procedures to ensure compliance with the provisions of the Act.

Without such procedures, there is an increased risk for not only noncompliance with applicable statutory requirements but also loss or misuse of Village funds.

We recommend the Board implement procedures to ensure all Village purchases are allowable under State statute, including the provisions of the Act.

**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 \$104.57, were issued before the underlying claims were approved by the Board.

The table below provides a summary of the premature payments:

Name/Vendor	Amount	Approval Date	Check Date	Days Paid Before Approval
Bruning Grocery	\$ 88.00	7/13/21	6/8/21	35
Hebron True Value	\$ 16.57	7/13/21	6/8/21	35
<b>Total</b>	<b>\$ 104.57</b>			

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.

\* \* \* \* \*

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