



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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February 23, 2023

Christopher L. Killin, Chairperson
Village of Chapman
PO Box 141
Chapman, NE 68827

Dear Chairperson Killin:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Chapman (Village) for the fiscal year ending 2022. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Cum. Supp. 2022), 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. Payment of Unapproved Claims

During our comparison of the Village's bank account details to claims approved by the Village Board (Board), the APA identified multiple payments, totaling \$25,935, that were paid but not included on the claims listing approved by the Board. All of the unapproved payments were made to Laurie Killin, the Village Clerk and spouse of Christopher L. Killin, the Board Chairperson.

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

Name/Vendor	Month	Amount Paid
Laurie Killin	October 2021	\$ 2,443.18
Laurie Killin	November 2021	2,944.31
Laurie Killin	December 2021	2,443.18
Laurie Killin	January 2022	2,443.18
Laurie Killin	February 2022	2,443.18
Laurie Killin	March 2022	2,944.31
Laurie Killin	April 2022	2,443.18
Laurie Killin	May 2022	2,944.31
Laurie Killin	July 2022	4,886.36
Total		\$ 25,935.19

Neb. Rev. Stat. § 17-614(1)(a) (Reissue 2022) 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.) The APA first pointed out the problem of the Board’s failure to approve claims paid to Ms. Killen, among others, in a letter dated October 10, 2019. The Village responded as follows:

The bills aren’t always all in by the meeting day. The checks to Laurie are always the same. We will put the bills in the following month if we don’t have them by the meeting date.

In a March 22, 2022, letter to the Village, the APA made note of this prior issue:

Prior to January 2021, claims to Ms. Killin were not being approved by the Village Board. Starting in January 2021, the Board started including claims to Ms. Killin in its monthly approval of claims.

A copy of both letters, including the Village’s response, are available on the APA’s website.

As indicated by the present comment, however, the Board appears to have discontinued its practice of approving Village claims paid to Ms. Killen, reverting to paying those claims without formal approval.

Good internal control requires procedures to ensure that all claims are approved by the Board prior to payment and are documented adequately in the meeting minutes of the month in which they are approved. Without such procedures, there is an increased risk for not only loss or misuse of Village funds but also noncompliance with State statute.

We recommend the Board implement procedures to ensure all claims, including those to the Village Clerk, are approved by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved.

2. Lack of Claim Purpose

During our comparison of the Village’s bank account details to approved claims, the APA reviewed Board meeting minutes dated July 5, 2022, and noted that the claims listed therein lacked descriptions of their respective purposes.

The following is an example of the approved claims listing provided by the Village for July 5, 2022:

Village \$123.30 Great Plains 191.79 US Cell \$169.56 S Power \$1,863.03 (school = 234.08)
Black Hills \$157.78 (school = 36.95) Water Samples \$237.00 DJ’s Heating & Air (288.00)
Robinson Well Drilling \$5,300.00 Dept. of Rev 3926.42 IRS 6409.33 Hobby Lobby 75.23
Insur 13,300.00 DJ’s heating 288.00

Neb. Rev. Stat. § 19-1102 (Reissue 2022) 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.) A similar concern regarding the Village’s failure to provide a purpose for each claim approved by the Board has been noted since the APA issued the October 10, 2019, letter referenced in Comment 1 (“Payment of Unapproved Claims”) above.

In response to the comment contained in the APA’s letter, the Village offered the following:

The monthly bills are usually pretty explanatory and if there is a question the Board asks to see the bill. We will be sure from now on to list exactly what the bill is for so the public knows.

However, as indicated by the present comment – as well as a similar comment included the March 22, 2022, letter also referenced in Comment 1 above – the same concern appears to have remained unresolved for approximately the past four years.

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. Possible Conflict of Interest

In both the October 10, 2019, and the March 22, 2022, letters sent to the Village by the APA, as referenced in Comment 1 (“Payment of Unapproved Claims”) above, the APA addressed the potential conflict of interest occasioned by the failure of Christopher L. Killin, the Board Chairperson, to abstain from voting to approve claims paid to his wife, Laurie Killin, the Village Clerk.

The following response was offered to the APA’s comment regarding that issue in the 2019 letter to the Village:

Village Response: Chris doesn’t approve the bills presented, I always put (All Ayes) so I won’t do that any more [sic]. I will be sure to say Chris abstained from the vote if it has anything to do with me. (Laurie Killin)

Nevertheless, per review of the Board’s meeting minutes, along with the accompanying claims listings, for fiscal year 2022 (October 2021 – September 2022), the APA is unable to verify that the potential conflict of interest no longer exists.

As discussed in Comment 1 above, \$25,935.19 in wages paid to Ms. Killin during fiscal year 2022 were omitted from the lists of claims presented to the Board for approval.

Illustrative of this exclusion is the following excerpt from the July 5, 2022, Board meeting minutes:

Killin called to order the regular meeting of the Chapman Village Board at 7:30 p.m. on July 5, 2022 at the Chapman Community Center

The following persons were present: Cepelcha, Quandt, and Killin

Bills were presented for payment

Motion by Quandt seconded by Ceplecha to pay the bills. Motion carried

Jeremy was present to give a report on the Eagle View Lake progress.

Motion by Quandt seconded by Ceplecha to approve VPG Group to prepare the Budget for the Oct. 2021-Sept.2022. Motion carried

As there was no further business, Motion by Quandt seconded by Ceplecha to adjourn.

Laurie Killin

Bills

Village \$123.30 Great Plains 191.79 US Cell \$169.56 S Power \$1,863.03 (school = 234.08)
Black Hills \$157.78 (school = 36.95) Water Samples \$237.00 DJ's Heating & Air (288.00)
Robinson Well Drilling \$5,300.00 Dept. of Rev 3926.42 IRS 6409.33 Hobby Lobby 75.23
Insur 13,300.00 DJs heating 288.00

Similar wording and approvals were noted for the other meeting minutes.

The Nebraska Political Accountability and Disclosure Act (Act), which is set out at Neb. Rev. Stat. §§ 49-1401 to 49-14,142 (Reissue, 2021, Cum. Supp. 2022), prohibits a public official from voting on a matter in which he or she, or a member of his or her immediate family, may have a financial interest.

To start, Neb. Rev. Stat. § 49-1499.03(2) (Reissue 2021) provides the following for 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.

(Emphasis added.) For claims associated with a contract, Neb. Rev. Stat. § 49-14,103.01 (Reissue 2021) provides, in relevant part, the following:

(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.) As explained in Comment 1 above, all Village claims should be approved by the Board prior to payment and be documented adequately in the meeting minutes of the month in which they are approved. When such is the case, however, a Board member who appears to have a conflict of interest regarding any such claim should adhere strictly to the provisions of the Act – doing so by, among other things, abstaining from voting on the matter.

Per, Neb. Rev. Stat. § 49-14,126(3), noncompliance with the Act is punishable by, among other things, “a civil penalty of not more than five thousand dollars for each violation . . . [.]”

It is worth noting also that the Nebraska Accountability and Disclosure Commission, which is responsible for administering the Act, provides formal guidance regarding compliance issues. Neb. Rev. Stat. § 49-14,100 (Reissue 2021) states the following:

Any person who is in doubt as to the propriety of action proposed to be taken by him may apply to the commission for an advisory opinion relating thereto, and the commission shall have authority to render such opinions. When an advisory opinion is issued pursuant to a complete and accurate request, such opinion shall be a complete defense to any charge of violation of sections 49-1493 to 49-14,104 as to any action taken strictly subject to the terms of such opinion.

Good internal control requires procedures to ensure compliance with the applicable provisions of the Act – especially, in this case, those pertaining to prohibited conflicts of interest.

Without such procedures, there is an increased risk for both statutory violations, accompanied by the civil penalties provided as a consequence thereof, 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 pertains to a possible violation of the Act, we are forwarding this information to the Nebraska Accountability and Disclosure Commission.

* * * * *

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,

A handwritten signature in black ink, appearing to read "Mark Avery". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark Avery, CPA
Assistant Deputy Auditor