



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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November 17, 2023

Miles Stagemeyer, Chairperson
Verdigris Township Holt County
P.O. Box 124
Page, NE 68766

Dear Chairperson Stagemeyer:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Verdigris Township Holt County (Township) for the fiscal year ending 2023. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2023), 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 Township.

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

Comments and Recommendations

1. Possible Violation of the Open Meetings Act

During review of the meeting minutes submitted by the Township Board (Board), the APA noted that the Board meetings held in April 2023 and May 2023 were conducted via text message.

The following is an excerpt from the May 2023 meeting minutes:

May, 2023

Meeting with board members by text to approve monthly bills. Motion to approve following bills by Miles Stagemeyer, 2nd by Jeff Mudloff. Motion carried. All Ayes.

In addition to these two meetings, the APA noted that five other monthly meetings of the Board, held during the fiscal year ended June 30, 2023, were conducted via telephone call.

As a public body, the Board is subject to the provisions of the Open Meetings Act (Act), which is set out at Neb. Rev. Stat. § 84-1407 et seq. (Reissue 2014, Cum. Supp. 2022). The intent of the Act is set out at Neb. Rev. Stat. § 84-1408 (Reissue 2014), as follows:

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Neb. Rev. Stat. § 84-1409(2) (Cum. Supp. 2022) defines a meeting, for purposes of the Act, as follows:

Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body].

(Emphasis added.) Neb. Rev. Stat. § 84-1411(1)(a) (Cum. Supp. 2022) states the following:

Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

Further, § 84-1411(2)(a) specifies the entities that “may hold a meeting by means of virtual conferencing.” Neb. Rev. Stat. § 84-1409(3) (Cum. Supp. 2022) defines “virtual conferencing” as “conducting or participating in a meeting electronically or telephonically with interaction among the participants” Townships are not included among the list of public bodies permitted to engage in virtual conferencing.

Moreover, § 84-1411(3) states the following:

Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

Finally, in Op. Att’y Gen. No. 92019 (Feb. 11, 1992), the Nebraska Attorney General opined that the Act does not generally authorize public meetings to be held by telephone:

As a result, we do not believe that the Public Meetings Statutes authorize the use of telephone conference calls for non-emergency meetings of a public body. It necessarily follows that absent members of the public body may not be counted to achieve a quorum through the use of a conference call.

Good internal controls require procedures to ensure that all Township business is conducted at meetings open to the public, as required by State law. Without such procedures, there is an increased risk for not only loss or misuse of public funds but also violation of the Act.

We recommend the Township Board implement procedures to ensure that all Township business is conducted at meetings open to the public, as required by State law. Additionally, because the comments herein address possible violations of the Open Meetings Act, we are forwarding this information to the Nebraska Attorney General and the Holt County Attorney.

2. Lack of Oversight for Aid Payments

During review of the Township’s bank statements obtained as part of the audit waiver request, the APA noted that the Township makes an annual aid payment of \$2,500 to the Page Cemetery Association. According to the Township, this money is used to maintain Page Cemetery and the road that leads to the cemetery.

No documentation could be provided to support that these aid payments are being used both for an allowable government purpose and as intended by the Board.

Good internal controls require procedures to ensure that Township aid payments are used both for an allowable governmental purpose and as intended by the Board. Without such procedures, there is an increased risk for the loss or misuse of Township funds.

We recommend the Township Board implement procedures to ensure that aid payments are used both for an allowable governmental purpose and as intended by the Board.

3. Notice of Budget Hearing and Budget Summary

While reviewing the Township's budget document filed with our office for 2023-2024, we noted that the Notice of Budget Hearing, along with the required Budget Summary, was published after the date of the budget hearing.

The budget hearing was held on September 13, 2023; however, the publication was on September 28, 2023, 15 days after the hearing was held. The Township provided documentation to show that the Notice of Budget hearing and Budget Summary was emailed to the newspaper on September 1, 2023. The Township did not ensure, though, that the notice was actually published prior to the budget hearing.

Neb. Rev. Stat. § 13-506(1) (Reissue 2022) states, in relevant part, the following:

Each governing body shall each year or biennial period conduct a public hearing on its proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the governing body and shall not be limited by time. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. When the total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the proposed budget summary may be posted at the governing body's principal headquarters.

(Emphasis added.) Good internal controls require procedures to ensure that the Township's publication of the Notice of Budget Hearing, along with the required Budget Summary, is published in compliance with State statute.

Without such procedures, there is an increased risk for not only noncompliance with State statute but also lack of transparency regarding the Township's annual budget.

We recommend the Township Board implement procedures to ensure the Township's publication of the Notice of Budget Hearing, along with the required Budget Summary is in compliance with State statute.

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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 Township'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 Township.

This communication is intended solely for the information and use of the Township 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